UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

New York Independent System	**)**	**Docket No. ER00-3591-000**
Operator, Inc.	**)**	**ER00-1969-000**
	)	**ER01-94-000**
	)	**and ER01-180-000**

INITIAL COMMENTS OF THE NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.

In response to the Commission Staff's request at the technical conference held on January 22 and 23 in the above-captioned proceedings, the New York Independent System Operator, Inc. ("NYISO"), hereby submits its initial comments. The NYISO appreciates this opportunity to:(i) respond to specific questions posed by Commission Staff at the technical conference; and (ii) highlight the most important points that the NYISO emphasized at the technical conference.

I. Copies of Correspondence

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II. The Overall State of the NYISO's Markets

As might be expected during the early life of markets as sophisticated as those administered by the NYISO, the first year of NYISO operations has largely involved identifying, addressing and curing problems in the initial market design. Most New York market participants recognize that these efforts

are achieving success.[1] NYISO staff, and the NYISO's independent Market Advisor, believe that the markets are generally workably competitive and that they are becoming increasingly more efficient as initial problems are corrected.

Certain market participants have argued, in this and other proceedings, that the NYISO markets are not yet workably competitive and that prices too often do not rationally reflect the interplay of market forces. Others have complained that the NYISO's market design is fundamentally flawed. Although the NYISO-administered markets have to some extent been adversely affected by design flaws, allegations that the markets are dysfunctional are greatly exaggerated. The truth is that the NYISO-administered markets have been workably competitive under most circumstances and have generally produced rational prices. Their performance has improved over time as market design flaws have been eliminated and will continue to get better both in the short-term, as additional software and rule modifications are implemented, and in the long-term, as generation and transmission infrastructure deficiencies are addressed.

As the NYISO staff emphasized at the technical conference, the NYISO has the most theoretically efficient market design in the United States. The market design successfully co-optimizes energy and ancillary service prices, resulting in rational relationships between them, while satisfying the locational reserve requirements needed to maintain reliability in New York. The NYISO also administers more markets than any other ISO. In addition to its day-ahead and real-time energy

[1] A list of the market improvements recently implemented by the NYISO staff is appended to this filing as Attachment I.

markets, the NYISO provides five ancillary service products, administers an installed capacity ("ICAP") market and auctions transmission congestion contracts.

Approximately 50% of energy transactions are settled through the NYISO-administered energy markets, with the other 50% settling privately through bilateral contracts. Of the transactions that settle through the NYISO-administered markets, more than 90% take place in the day-ahead market. The total volume of energy and ancillary services transactions that settle through the NYISO-administered markets, $5.5 billion in 2000, is substantially greater than the transaction volume in the markets administered by ISO New England, Inc ("ISO-NE") or the PJM Interconnection, L.L.C. ("PJM").[2] It is important to note that some of the power traded through the NYISO energy markets may be hedged through financial bilateral contracts, such as contracts for differences. The NYISO staff therefore questions the assertion that the current division between bilateral and centralized market transactions is unreasonable or that it suggests that New York market participants are unduly exposed to spot market volatility.[3]

Although the NYISO has experienced a number of brief but severe price spikes attributable to the tightness of supply, anomalous bidding behavior, lack of demand-side response mechanisms, and certain market design flaws, energy prices have, on the whole, been reasonable. The average statewide daily locational based marginal price ("LBMP") in 2000, including energy and ancillary services, was

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[2] *See* Attachment II, which compares the annual volume of transactions in the markets administered by the three Northeastern ISOs.

[3] In particular, the NYISO staff respectfully disagrees with the Commission Staff's suggestion that the share of overall energy traded in the NYISO-administered markets may be too high. *See Staff Report to the Federal Energy Regulatory Commission on the Bulk Power Markets in the United*

(continued . . .)

$58.15/MWh.[4] The average day-ahead energy market price statewide was $43.99/MWh, the average day-ahead price in New York City was $48.80/MWh and the average day-ahead price on Long Island was $52.56/MWh. While these prices are generally higher than 1999 prices, the NYISO's independent Market Advisor has determined that the increases are, for the most part, the legitimate result of higher fuel costs and a major plant outage, not the result of market design flaws or systemic market power abuse. The Market Advisor found that, with the exception of certain isolated instances, suppliers have bid in a manner consistent with the existence of workable competition. A preliminary version of the Market Advisor's study is appended to these comments as Attachment IV.[5] Furthermore, although anomalous bidding and market structure flaws caused severe price spikes in the 10-Minute Non-Synchronized Reserves markets ("NSR") in early 2000, prices in all of the NYISO-administered ancillary service markets have behaved rationally since the NYISO implemented emergency corrective measures.[6]

Moreover, the NYISO staff believes that criticism regarding both the frequency of price corrections in the NYISO-administered markets, and the NYISO's market rules' and software's supposed negative effects on inter-regional transactions, is not well founded. These topics are discussed in greater detail below in Section IV.

States, Part II of Staff Report on U.S. Bulk Power Markets, Northeast Region ("Northeast Report") at I-44 (November 1, 2000).

4 *See* Attachment III.

5 The NYISO's independent Market Advisor will submit a final version of his market study in late February.

6 *See* Attachment V.

In short, there is no crisis in the NYISO-administered markets that would necessitate radical Commission action. The NYISO's market design is fundamentally sound and provides a solid foundation for further improvements. Overall market performance has improved consistently with time. It is true that higher prices remain a possibility in Summer 2001, chiefly due to the tightness of supply, particularly in New York City, and the frequency with which the Central-East transmission constraint is binding. But, as is discussed below, the NYISO staff intends to implement a number of demand-side response mechanisms, market protection measures and other market rule changes that will help to prevent spikes that do not reflect the rational interplay of market forces.[7] In the longer-term, the NYISO staff is committed to doing everything it can to make the New York markets, and the larger Northeastern markets, work efficiently. This includes working with ISO-NE and PJM to address inter-control area "seams" issues by identifying, and having all three ISOs adopt, the best available market rules and systems currently in use, or under development.

The Commission staff can facilitate these efforts by relying on the NYISO to implement needed improvements pursuant to priorities and timetables established by the newly created Project Prioritization Team ("PPT"). The PPT receives input from all market participant sectors, and the NYISO staff, and uses it to develop project implementation plans that balance the priorities of various competing interests. The NYISO staff respectfully requests that the Commission staff defer to the PPT's implementation decisions, which reflect the desires of a majority of the NYISO's market

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[7] Moreover, the NYISO expects that NYPA's placement of 440 MW of new gas turbine capacity in New York City, together with the return of the Consolidated Edison Company's of New York, Inc.'s 1,000 MW Indian Point 2 nuclear facility will help to alleviate supply shortages and thus ensure that the NYISO-administered markets remain workably competitive.

participants. The Commission staff should also take a skeptical view of self-interested proposals from seemingly aggrieved market participants, or sectors, that would overturn PPT plans and impose their own preferences on the rest of the market.

III. Response to Questions Posed By Commission Staff at the Technical Conference

A. Status Report on the NYISO's "Hybrid" Fixed Block Generation Pricing Proposal

At the technical conference, Commission staff asked participants to submit comments on the "hybrid" fixed block pricing proposal that the NYISO first proposed in its August 25, 2000 request for partial rehearing[8] of the Commission's July 26, 2000 order imposing temporary bid caps on certain NYISO-administered markets ("Bid Cap Order").[9] The Bid Cap Order directed the NYISO to revise its fixed block pricing rules, which treated all fixed block units as flexible for price-setting purposes, and instead treat all fixed block units as dispatched at their upper operating limits when energy prices were determined. Under this approach, prices would be set at the final dispatch stage[10] where only dispatchable units would be able to set price. The NYISO's hybrid proposal fell somewhere between the NYISO's previous pricing rule and the one mandated by the Commission.

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8 *See New York Independent System Operator, Inc.'s Request for Partial Rehearing*, Docket No. ER00-3038-002, *et. al.* (August 25, 2000).

9 *New York Independent System Operator, Inc., et. al.,* 92 FERC ¶ 61,073 (2000).

10 "Final dispatch" is the second of two NYISO dispatching step where the output of other dispatchable generators are adjusted according to their schedules to account for block loaded units.

The Commission expressed its interest in the hybrid proposal in the November 8, 2000 order which established the technical conference ("November 8 Order").[11] However, some market participants have criticized certain aspects of the hybrid proposal, while the Commission staff has indicated that it requires additional information about it.

As of this writing, the NYISO staff is still engaged in discussions with interested parties aimed at developing consensus support for a hybrid proposal. Two variations on the hybrid proposal are currently being actively considered. A common element of both variations is an initial commitment dispatch that ensures no unnecessary lower cost fixed block units are committed at times when more expensive fixed block units must continue to operate, even though they are more expensive, in order to fulfill their minimum run-time requirements. To achieve this, all fixed block capacity that has not met its minimum run-time requirement would be treated like a minimum generation block on a steam unit. In both variations, these units would be blocked on at their upper operating limits and moved to the bottom of the supply curve. Additional fixed block units would only be turned on if they were dispatched in this initial commitment dispatch. Both variations on the hybrid proposal would result in the same set of units being committed and the same set of final schedules being communicated to the units. Where the variations would differ is in how they determine prices.

Under the first variation of the hybrid proposal, the NYISO's Security Constrained Dispatch [12] would be run in one of two states based on an operator-defined assessment of

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[11] *New York Independent System Operator, Inc.*, 93 FERC ¶ 61,142 (2000).

[12] SCD is a computerized algorithm that performs the NYISO's real time dispatch by evaluating the New York Control Area contingency set against the system conditions expected for the next 5

(continued . . .)

whether the system requires more capacity, indicating a need for a higher short-run price signal, or does not need all the capacity it has, indicating a need for a lower short-run price signal. If the operator determines that it needs all the capacity it has on line, prices will be set consistent with the NYISO's current pricing methodology in the ideal dispatch,[13] in which all fixed block units are considered flexible regardless of minimum run-time constraints. If the operator determines that it does not need all the capacity it has online, prices will be set using the initial commitment dispatch, where all fixed block units that are minimum run-time constrained are blocked on at their upper operating limits.

Under the second variation, only fixed block capacity that is uneconomic and on because of minimum run-time requirements is blocked on at its upper operating limit. Instead of setting prices either at the commitment dispatch or the current ideal dispatch price based on an operator defined parameter as the first variation would do, the second variation would require an additional dispatch after the existing ideal dispatch. In the additional dispatch any fixed block units that are uneconomic and minimum run-time constrained in the ideal dispatch would be blocked on at their upper operating limits. This methodology would generate prices falling between the prices determined by the two states of the first variation

In the course of evaluating these two variations, the NYISO staff and market participants are focused on a number of technical questions, including the implications of:

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minutes, or a shorter period under certain circumstances. SCD's results are a key input in the calculation of real-time market-clearing prices.

[13] The "ideal dispatch" is the first of two distinct dispatching steps, in which all dispatchable units are considered and fixed block units are treated as if they could bid any level between zero and their maximum capacity.

- How to avoid turning on additional fixed block units when there are uneconomic units still in their minimum run times;

- Turning off fixed block units when they are no longer needed; and

- Not backing down large quantities of steam capacity in the final dispatch steps.

Other issues include:

- Whether SCD will be able to send appropriate short-run price signals so that when the NYISO needs capacity on or wants more imports, the price will be high, and so that when the NYISO is past a day's peak, and needs less capacity and fewer imports the price will be lower; and

- What price signal should be sent when the NYISO wants to turn a fixed block unit off but cannot because of reserve restrictions (ideally, the price would be at least as high as the bid of the unit that the NYISO wants to run.)

The NYISO staff expects that the debate over these issues will be resolved in the next week or so and that there will then be strong market participant support for one of the two hybrid variations. The NYISO intends to file a final hybrid fixed block pricing proposal with the Commission no later than February 28, 2001.

B. Non-Spinning Reserves

At the technical conference, Commission staff sought comments on the NYISO's approach to the self-supply of operating reserves, whether this approach was consistent with Order No. 888, and the NYISO's locational reserve pricing proposal.

1. Self-Supply

The NYISO staff believes that its Open-Access Transmission Tariff ("OATT") and Market Administration and Control Area Services Tariff ("Services Tariff") have self-supply provisions that are consistent with Order No. 888. However, the NYISO staff has not yet been able to implement physical self-supply mechanisms for operating reserves using transmission service across constrained

interfaces. It is considerably more complex for the NYISO to establish such arrangements than it is for other ISOs, which do not administer reserves markets, whose member utilities have not divested their generation to the same extent as the New York transmission owners, which do not allow availability bids for reserves, and which do not face the binding locational reserve constraints that exist in New York. In particular, the NYISO's locational reserve requirements require the NYISO to obtain operating reserves predominantly from generation located in the area east of the Central-East constraint. This will continue to be the case for the foreseeable future given the geographic locations of generation and load.

Moreover, when the NYISO's market participant committees and working groups have discussed creating physical self-supply mechanisms based on transmission service across constrained interfaces they have attached a relatively low priority to them. This is because the NYISO staff, and a majority of market participants, believe that operating reserves benefit all New York customers and that any individualized allocation of reserve requirements should therefore result in each individual load being assigned a locational reserve obligation, even in the case of loads located west of Central-East. Thus, the self-supply proposals that have been developed to date would assign each load an individual locational reserve requirement and require it to pay for transmission capacity needed to ensure the deliverability of self-supplied reserves. However, because Central-East is frequently congested, it is necessary to reserve transmission capacity at Central-East in order to assure the deliverability of reserves. This reduces the amount of energy that can be scheduled across Central-East placing upward pressure on energy prices east of Central East. Parties self-supplying reserves across Central-East would have to pay the congestion charges for reserved transmission capacity, and because the price of energy should always exceed the price of reserves (assuming that the energy and reserves markets are

workably competitive), the NYISO staff, and most market participants, believe that, absent the existence of market power in reserve markets, it would rarely make economic sense to self-supply operating reserves across Central-East. Consequently, it seems unlikely that creating physical self-supply mechanisms based on transmission service across Central-East will do much to reduce market power in the 10-Minute NSR portion of the NYISO's reserve markets or bring significant financial benefits to market participants.

The NYISO staff recognizes that the Commission expects it to comply with Order No. 888's requirements and to establish physical self-supply mechanisms despite the differences between the NYISO's system and the traditional vertically integrated systems that Order No. 888 contemplated. At the same time, there is clear reason to believe that the benefits of establishing physical self-supply arrangements based on transmission service across Central-East will be relatively small, especially in comparison with various other urgent projects that the NYISO committees have assigned a higher priority, *e.g.*, the implementation of effective demand-side response mechanisms. The NYISO staff respectfully suggests that the Commission staff accept the relatively low priority that the NYISO's Commission-approved governance structures, and the PPT, have attached to the establishment of physical self-supply mechanisms based on transmission service across Central-East and not compel the NYISO to place a super-priority on this task. The NYISO staff will continue to work with market participants to find ways to enhance the competitiveness of the 10-Minute NSR portion of the reserves market, such as developing reserve sharing arrangements with ISO-NE, and attempting to institute a transmission optimization system that would use capacity at Central-East to deliver additional western reserves when that interface is not congested. These measures should lead to greater participation in the operating reserves markets by western suppliers and create a market that is more competitive overall.

2. Locational Reserve Pricing

For all the reasons expressed in its prior filings, the NYISO staff continues to strongly support its locational reserve pricing proposal, but has no further comments on it at this time.[14] However, the NYISO staff reserves the right to address the issue in its reply comments.

C. Upcoming NYISO Filings and Projects

The Commission Staff requested that the NYISO staff provide it with a list of the market improvement projects that are to be in place for Summer 2001, including estimated completion dates and whether the projects would require Commission action to become effective. The NYISO staff was also asked to provide the Commission with a separate list identifying the filings that the NYISO intended to make in order to implement its Summer 2001 projects and specifying when those filings would be made. The NYISO staff has previously submitted both of these lists to the Commission and has appended the current versions to these comments as Attachments VI and VII.

D. Short-Term Market Corrections and Market Improvements

As a supplement to the lists described above in Section III.C, short descriptions of the NYISO's major Summer 2001 projects are set forth below.

1. Price Responsive Load Programs

First and foremost, the NYISO is working diligently to implement three demand-side response mechanisms prior to the summer peak period. First, the NYISO staff will make the necessary software

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[14] The NYISO described its locational reserve pricing proposal in detail in its September 1, 2000 (as corrected September 8, 2000) *Combined Compliance Filing and Report* in Docket No. ER00-3591-000 ("September 1 Report") and its November 3, 2000 *Request for Leave to Answer and Answer to Comments and Protests* in that proceeding.

and market rules modifications to expand New York market participants' ability to submit zonal price-capped load bids, *i.e.*, to specify the price above which they would no longer be willing to purchase day-ahead energy. The NYISO staff intends to have this improvement in place by May 1, 2001. The NYISO's outside counsel is currently reviewing whether it will be necessary to make a tariff filing in order to implement this change. If a tariff amendment is necessary, the NYISO will make the requisite filing by March 1, 2001.

Second, the NYISO staff is creating an emergency demand response program that will be open to interruptible loads, emergency backup generators, Load-Serving Entities ("LSEs"), direct NYISO customers, aggregators and others during operating reserves deficiency periods. Under the program, the NYISO would pay participants the higher of the real-time LBMP or $500/MWh for agreeing to reduce their consumption or for using their own back-up emergency supplies. Participants would have to make themselves available to perform these load-reducing efforts for a minimum of four hours on any day during which they wish to participate. The NYISO staff intends to make the tariff filings necessary to implement this program by February 28, 2001 so that it can be operational by May 1, 2001. All necessary software modifications, and testing, should be complete by that time.

Third, the NYISO staff is developing a day-ahead load bidding program, pursuant to which interruptible loads will be modeled as bus-specific pseudo generators. The interruptible loads will be permitted to bid into the day-ahead market, a set of prices at which it would agree to reduce its demand in real-time on the following day in exchange for being paid the day-ahead LBMP for the amount of the demand reduction. The NYISO staff expects to make the requisite tariff filing by March 2, 2001 so that the program can be implemented in early May and will complete its work on all necessary software modifications and testing by that time.

Taken together, these three initiatives will help enable demand to respond to price signals. If they are implemented, the NYISO-administered markets will function more efficiently and avoid artificial price spikes that fail to reflect the interplay of competitive market forces.

2. Permanently Incorporating Major Extraordinary Corrective Actions Into the NYISO Tariffs

One of the NYISO staff's most important recent successes has been its correction, pursuant to its authority to implement "Extraordinary Corrective Actions" ("ECAs"), of two significant problems that were disrupting the scheduling of external transactions and causing significant market problems. Both ECAs were necessary because the NYISO's Balancing Market Evaluation ("BME") software schedules transactions an hour-ahead of the real-time dispatch based on the prices that it computes while the NYISO's SCD software uses different algorithms to produce the real-time prices that actually settle such transactions.

The first of the two ECAs ("ECA A") eliminated market participants' incentive to enter into "sham" external transactions in order to game the differences in the results produced by BME and SCD. ECA A requires a market participant whose transaction is accepted by BME but which subsequently fails the inter-ISO transaction "checkout" review process due to the participant's failure to properly schedule the transaction with one of the two affected ISOs to pay the NYISO the difference between its BME bid/offer and the SCD price. The NYISO staff's evaluation of bidding practices led it to conclude that prior to the issuance of ECA A, some market participants were deliberately submitting sham transactions as a gaming mechanism.

The second ECA ("ECA B") provides that transactions will be settled at the BME price when constraints are binding in the BME at external interfaces. It therefore ensures that congestion costs at

external proxy buses will be properly reflected in real-time prices. This has substantially reduced market participants' risk that accepted day-ahead transactions would be cut by the BME at one price and that the market participant would then have to settle the transaction at a much different price in real-time. The rule has also facilitated the NYISO's scheduling of counter-flow transactions, which permits the NYISO to provide firm transmission service for day-ahead schedules even when transfer capability is reduced in real-time.[15]

The NYISO staff intends to amend the NYISO tariffs to incorporate both of these ECAs. It will make the necessary tariff filings by March 30, 2001 and request an effective date no later than May 31, 2001. Including these rules in the tariffs will reinforce their positive effects and help to strengthen the NYISO-administered markets.

3. Out-of-Merit Commitment

Due to local reliability rules, generating units located in highly constrained areas, most notably New York City, are sometimes called on to operate out-of-merit. The implementation of New York City's local reliability rules is normally administered in the NYISO's day-ahead market. However, on occasion additional local reliability rule commitments may occur at the direction of an individual transmission owner, rather than the NYISO. This may cause inconsistencies between the day-ahead Security Constrained Unit Commitment ("SCUC") solution, the hour-ahead BME schedule and the real-time dispatching operation. Furthermore, some market participants believe that the incidence of

[15] See Section IV.B.1 below, and Attachment XII for additional discussion of counterflow transactions.

out-of-merit commitments is largely predictable and therefore (allegedly) enhances generators' ability to exercise market power.

The NYISO staff is working to correct out-of-merit commitment problems. It recently reached an agreement with the Consolidated Edison Company of New York, Inc. ("ConEd") concerning the modeling of operating rules and other protocol changes in both the NYISO and ConEd control centers that will establish greater consistency between the NYISO's scheduling software conclusions and operational reality. NYISO staff has also made related changes to its own software to reduce the need for out-of-merit local reliability commitments. No tariff changes will be required in connection with these modifications.

4. Out-of-Merit Dispatch

Like the out-of-merit commitment issue, out-of-merit dispatch problems generally arise in the New York City area as a result of the unique operating practices and transmission system capabilities of local transmission owners. Problems occur when units are directed to increase their output levels out-of-merit, in real-time, generally in order to solve constraints involving either local reliability requirements or the NYISO system. This creates situations in which the constraints modeled in the NYISO's day-ahead unit commitment and scheduling software are inconsistent with the actual real-time management of certain constraints by ConEd. As noted above, the NYISO and ConEd recently concluded an agreement that will enable the NYISO's software to more accurately account for real-time conditions. These improvements should eliminate out-of-merit dispatch for constraints involving the NYISO-secured system.

5. NO_x Issues

Certain market participants have complained that the NYISO's market rules are not properly attuned to the environmental regulations (particularly NOx emissions criteria) that affect generators' ability to supply energy. The NO_x rules require some suppliers to run steam units when certain combustion turbines are running in order to meet average NO_x emissions standards. This has reportedly caused severe scheduling problems for some suppliers.

The NYISO staff, affected transmission owners and other New York market participants have been meeting to address these issues and develop a compromise solution. Under the approach currently being considered, the NYISO, transmission owners and suppliers will designate scheduling periods that are environmentally sensitive. If an affected unit is not committed by the NYISO's SCUC software during an environmentally sensitive period it will be committed as a supplemental resource, after the SCUC software finishes creating the day-ahead market. Units that are committed during an environmentally sensitive period on an essentially must-run basis will be paid a bid production cost guarantee and may receive a mitigated start-up and minimum generation bid. The NYISO plans to file any necessary tariff changes by March 30, 2001 and to request a May 30, 2001 effective date.

6. Other Supply Enhancement Proposals

The NYISO staff is pursuing a number of projects in the hope of reinforcing generators' incentives to maximize their output and of eliminating artificial disincentives that might otherwise dissuade them from selling in New York. For example, the NYISO staff plans to submit tariff amendments that would suspend all regulation performance penalties and replace them, where needed, with incentives designed to encourage the provision of regulation and dispatch service and to ensure good control performance. This reform is based on an assessment that the existence of regulation penalties did not contribute in a major way to the NYISO staff's success in improving the NYISO's control performance

but that penalties may have given suppliers an incentive to under-generate, or, at the very least, made them less willing to regulate and go on dispatch.

Similarly, the NYISO staff intends to change current rules dictating that generators which inadvertently over-generate and exceed their dispatch instructions are not paid for the over-generation, even if it were helpful to the NYISO. Under the NYISO staff's proposal, any unit with a BME schedule would be paid for its actual output, provided that the output was consistent with the prevailing LBMP, the generator's bid curve, the unit's ramp constraints and a deadband around the final basepoint communicated to the unit. Payments to off-dispatch units would be limited to the metered output of the unit at the time that SCD runs. The NYISO staff is also considering the use of incentive payments to encourage units to be on dispatch.

Finally, the NYISO staff is considering changes to the NYISO's bidding rules that would make it unnecessary for ICAP suppliers, who are subject to a mandatory bidding requirement, to bid very high costs for the last segment of their bid curves in an attempt to avoid being scheduled in that range. Under the current bidding rules, if the energy is requested despite a high bid the result may be a real-time price spike that does not send accurate price signals.[16] The NYISO staff, will therefore propose to amend the NYISO tariffs so that such suppliers may identify an upper point on their bid curve that would indicate the point above which energy would not be scheduled or dispatched under normal

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[16] This occurred on May 8, 2000 with respect to an energy limited resource owned by the New York Power Authority. *See Answer of New York Independent System Operator, Inc. to Complaint of H.Q. Energy Services (U.S.), Inc.*, Docket No. EL01-19-000 (January 17, 2001) ("Answer to HQUS"). The question under consideration by the NYISO staff is thus whether all units should have the same bidding flexibility, discussed in the NYISO's Answer to HQUS, that has been given to energy limited resources, *i.e.* resources that require a recharge period (*e.g.*, hydro) or are subject to environmental restrictions.

conditions. In shortage or emergency conditions this upper range would be released to the system after manual operator intervention. This rule should eliminate economic withholding and give the NYISO staff a more realistic understanding of the resources available to it.

All of these proposals are still being discussed in the market participant committees and would require tariff changes. These discussions should conclude shortly and NYISO staff intends to submit the requisite amendments for the Commission's review by March 30, 2001 so that they may become effective by May 30, 2001 and thus come into play during Summer 2001.

7. *Pro Rata* Curtailment

In the Bid Cap Order, the Commission found that the NYISO's practice of curtailing transactions with equal decremental bids using a random, automated process was inconsistent with the NYISO's OATT and directed the NYISO to start curtailing such transactions on a *pro rata* basis. In the November 8 Order, the Commission expressed concern that the NYISO was "still not curtailing transactions with equal decremental bids on a *pro rata* basis as required by the tariff due to software implementation problems."[17] "Prorata Curtailments" was also listed as a short-term market issue in the technical conference agenda that the Commission issued on January 11, 2001.

The NYISO staff respectfully clarifies that it has already successfully implemented the software changes required to curtail transactions with equal NERC priority and equal decremental bids on a *pro rata* basis. This change was put in place in November, 2000 and has worked correctly since its implementation.

8. Other Summer 2001 Projects

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[17] November 8 Order, *slip op.* at 21.

In addition to the items discussed above, the NYISO staff is pursuing a number of other objectives that it hopes to have ready for the summer. These include: (i) establishing a reserve sharing group with ISO-NE; (ii) revising the import/export scheduling rules between the NYISO and ISO-NE; (iii) implementing certain market protective mechanisms (which are discussed below in Section IV.C); and (iv) a variety of billing, communications and data posting requirements. Some additional information concerning these, and other, Summer 2001 projects are set forth in Attachment VI.

E. Virtual Bidding

The Commission staff requested that the NYISO provide a detailed update on its implementation of virtual bidding (*i.e.*, the introduction of procedures that would permit non-LSEs to bid load and non-generators to bid energy into the day-ahead market) including its progress to date, an implementation schedule and a justification for that schedule. This is a key project intended to increase the liquidity of the NYISO-administered markets. Accordingly, NYISO staff has appended a copy of its February 2, 2001 filing in Docket No. EL00-90-000, which includes a full report on the NYISO staff's implementation of virtual bidding, to this filing as Attachment VIII.

The NYISO staff notes that New York market participants already have the ability to engage in virtual bidding at the NYISO's external proxy buses by submitting imports or exports in the day-ahead market and buying or selling the scheduled power back in real-time.[18]

IV. Additional Comments

A. The NYISO's Software and Market Rules

[18] *See* September 1 Report at 53, n. 75.

Certain market participants, as well as the Commission's Staff, have criticized the NYISO's software and market rules. There have been complaints that the NYISO's software and cannot be modified quickly. Some have therefore suggested that the software and market rules should be replaced wholesale by PJM's software and systems, even if that would require the NYISO to stop administering certain ancillary services markets.[19]

Notwithstanding these claims, the NYISO's software generally works well and is, on the whole, no less flexible than PJM's software. This is as true of the BME software, which is discussed in more detail in Section IV.B.2 below, as it is of other NYISO software. With the exception of billing-related changes, the NYISO and its software vendors have usually been able to complete software changes quickly. Software modification delays have generally had more to do with the need to review proposed changes with relevant market participant committees than with actual programming issues. Indeed, although it is undeniable that PJM's software works well, and satisfies PJM's needs, there are many ways in which the NYISO's software is better suited -administered markets', needs. For example, PJM's day-ahead reserve scheduling software does not optimize energy and reserves based on availability bids, is not currently capable of accounting for New York's locational reserve needs (which are much greater than PJM's) and cannot easily be modified in a way that would permit it to meet them.

Similarly, although PJM's market rules are well-suited to PJM's needs and the physical realities of its transmission system, they do not have all of the features necessary to successfully operate the New York State transmission grid or administer workably competitive markets in New York. For

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[19] *See, e.g.*, Northeast Report at I-48, I-71 and I-77.

example, PJM's market rules do not price reserves, do not provide for availability bids for reserves and do not provide for locational reserve constraints. This approach works well for PJM, given its current reliability constraints and generation mix, but would have serious reliability effects if it were relied upon in New York.

Nevertheless, the NYISO staff is not asserting that the existing NYISO software and market rules are necessarily superior in all cases. Indeed, the NYISO staff is working closely with neighboring ISOs, including PJM, to agree upon a set of "best practices" that all of the Northeastern ISOs could adopt as expeditiously as possible. In the appropriate circumstances, and after obtaining the concurrence of market participants through the normal NYISO governance process, the NYISO staff is fully prepared to replace the NYISO's own software or market rules with another ISO's. However, the NYISO staff opposes proposals that would simply impose one ISO's software and market rules on another without thinking through the market and reliability implications.[20] Such decisions should instead be made by the Northeastern ISOs themselves. The assessment of best practices is already underway through the MOU process.

The NYISO staff also recognizes that its software was consciously developed around a "legacy" system that had proven capable of adequately maintaining reliability in the past, in order to meet an ambitious start-up schedule. However, it was understood from the beginning that it would be desirable to migrate to a more modern software architecture and a transition to these systems is

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[20] The NYISO recently took this position in its January 29, 2001 *Motion for Leave to File Comments Out-of-Time and Comments of New York Independent System Operator, Inc. In Support of ISO-New England*, in Docket No. EL00-62-014. A copy of these comments is appended hereto as Attachment X.

expected to begin soon. This migration will bring a number of important benefits and is discussed in Attachment IX.

B. Long-Term Energy Market Issues

1. The Alleged Impact of the NYISO's Practices and Procedures on Other Northeastern Markets

Various commenters have argued that the NYISO's transaction scheduling rules, including its BME process, have acted as barriers to trade in the Northeast and are responsible for numerous, unpredictable transaction curtailments.[21] Much criticism has been directed at the NYISO's use of a financial scheduling system, pursuant to which all transactions, including bilaterals, are subject to economic evaluation and possible economic curtailment, as opposed to the physical rights systems currently used by PJM and New England for inter-regional transaction scheduling.[22] The NYISO's economic evaluation rules have been blamed for impeding imports and exports into and out of New York and for preventing market participants from efficiently arbitraging expected price differences between New York and neighboring markets.

The reality is that the NYISO's transaction scheduling rules do not impede interstate commerce or otherwise interfere with trade in the Northeast. Imports into New York have not been discouraged, indeed, as Attachment XI demonstrates, New York imported more energy and exported less in 2000 than it did it 1998 or 1999. Similarly, BME does not prevent market participants from arbitraging

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[21] *See, e.g.*, Northeast Report at I-4 (asserting that the NYISO "has proven to have a market structure, market rules and software procedures that impede the ability to transfer power throughout the Northeast. This has implications not only for the broad wholesale market and prices, but also for consumers within New York State.") *See also* Northeast Report at I-72, I-87.

[22] *See, e.g.*, Northeast Report at I-72.

expected price differences between ISO-administered markets in the Northeast. This is demonstrated, as is explained in detail in the white paper appended to these comments as Attachment XII, by the fact that between August 1 and December 31, 2000, BME never failed to schedule: (i) an import bid into the NYISO market at a price of -$100 or less, except when imports were transmission or ramp rate constrained; or (ii) an export bid into the NYISO-administered markets at a price greater than $900, except when exports were transmission or ramp rate constrained.

Nevertheless, it is true that external transactions have not fully utilized the interfaces linking New York with PJM and New England at times when it appears, in retrospect, that transactions would have been profitable. The situation is especially acute with respect to the New England interface. An analysis conducted by the NYISO's independent Market Advisor also suggests that the markets have not always been efficiently arbitraged.[23] However, the Market Advisor's review suggests that factors other than the NYISO's software and transaction scheduling rules system are the primary cause of the underutilization of the interfaces, especially in the months since the NYISO implemented ECAs A and B. This assessment is corroborated by the analysis set forth in Attachment XII.[24] In particular, it appears that the underutilization is mainly the result of the bids and offers, or the lack of such bids and offers, submitted by market participants. Market participants that wanted their transactions to be scheduled without regard to BME price assessments have consistently been able to do so, and such transactions, *i.e.*, low priced generation bids and high priced load bids, have been scheduled by BME up to the limits of the NYISO's transfer capability.

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[23] *See* Attachment IV at 27-44.

[24] *See* Attachment X at 1-11.

Other factors contributing to the underutilization include: (i) ISO-NE's and PJM's use of physical transmission rights systems for inter-regional transaction scheduling, which hinders traders' ability to counter-schedule transfers across interfaces and thus do not permit the interfaces' full utilization; (iii) withholding of physical transmission rights in New England; (iv) New England market rules that hinder hourly imports into New York; (iv) the fact that the costs and risks associated with congestion at external interfaces are higher than those associated with internal congestion due to the current lack of coordinated ISO procedures governing scheduling at the interfaces and transmission rights that span the external interfaces;[25] (v) concurrent scheduling in New York and New England, which makes arbitrage more difficult; and (vi) unpredictable real-time price differences.

Finally, the NYISO's use of a financial reservation system has two important advantages relative to physical rights systems, which help to explain why both ISO-New England and the Ontario Independent Electric Market Operator ("IMO") intend to follow the NYISO's example and adopt financial reservation systems.

First, financial reservation systems do not give market participants an inefficient incentive to withhold transmission capacity. Under the NYISO's system, all transfer capability is available for use by market participants in both the day-ahead and real-time markets. If any participant wishes to use the capacity it is able to do so, unless there is congestion in which case the use must be allocated. Conversely, under a physical rights system, it is possible and potentially profitable to withhold capacity.

[25] NYISO staff is working through the MOU process, as well as the recently executed Joint Agreement between the ISO-NE and NYISO boards, to address these deficiencies.

Second, a physical rights system would not allow New York market participants to schedule counterflow transactions that can reduce the need for transaction curtailments. Since the implementation of ECA B, the NYISO has been able to use counterflows to accommodate day-ahead interchange schedules even when real-time transfer capacity falls below the day-ahead schedules. The NYISO has been especially successful at using counterflow scheduling to avoid reducing transactions at the New York - PJM interface. Additional information on the counterflow scheduling is included in Attachment XII.[26]

2. BME Performance and Improvements

Some have criticized the NYISO's BME. In addition to raising questions concerning BME's supposed effects on external transaction scheduling, BME's detractors have argued that the BME process does not play a useful function and should be eliminated. They have also complained about BME's allegedly poor performance as a predictor of real-time prices and asserted that the inaccuracies could lead to the market inefficiencies. The Commission itself has expressed serious concerns with BME's performance and asked participants at the January technical conference to consider whether BME, along with other NYISO software programs, was fixable or should be replaced.[27]

A good part of this criticism is based on a misunderstanding of what BME is and does. Stated simply, every control area has an hour-ahead process for scheduling transactions with adjacent control areas. Every control area also has a process for evaluating reserves and taking actions to maintain them for the next hour. In New York, where these functions are particularly important given the prevalence

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[26] *See* Attachment XII at 12-17.

[27] *See* November 8 Order, *slip op*. at 21.

of transmission congestion and the existence of substantial locational reserve requirements, they have been automated, based on objective criteria and bids, and are conducted through the BME process. Thus, even if the NYISO were directed to stop using BME for these purposes it would be necessary to implement a substitute system. The NYISO staff believes that it should not be compelled to adopt new scheduling rules at this time since BME is performing its functions, and as noted below, the evidence suggests that its performance is improving substantially. At the same time, the NYISO staff is open to the possibility of improving or modifying the BME with scheduling process with a mechanism that better meets New York's scheduling and reliability needs, and is working with its neighbors to identify, or if necessary, develop, common scheduling rules that could be implemented by all three Northeastern ISOs.

With respect to BME's performance, the NYISO staff has previously acknowledged that a variety of market flaws previously led BME to predict prices that at times were markedly different from those actually occurring in real-time.[28] BME's inaccurate forecasts caused problems for some market participants scheduling external transactions. However, the NYISO staff also explained that these problems were largely due to BME's receiving inaccurate input information on expected generation and load rather than problems with the BME software itself. Most of these problems have now been corrected and, as the NYISO staff anticipated, BME and real-time prices are becoming much more consistent. BME price volatility decreased significantly in the fourth quarter of 2000. Attachment XIII depicts The effect of these improvements, which include the implementation of ECAs A and B and software enhancements that will permit BME to more accurately account for off-dispatch changes by

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[28] *See, e.g.*, September 1 Report at 3. 31.

PURPA qualifying facilities and intermittent units. Several other market design fixes are underway which should further enhance BME's performance. These include: (i) the recent addition of software and rule changes that will allow SCD to secure ConEd's high voltage transmission system for the first time; and (ii) automated procedures to allow BME to account for scheduled out-of-merit energy. These two enhancements should be in place by Summer 2001.

Moreover, it needs to constantly be kept in mind when evaluating criticism of BME that the empirical data shows that market participants are confident of their own evaluation of market prices have been able to use the flexibility of the BME mechanism to bid so that their transactions will be accepted, while other market participants are able to submit price sensitive load and generation offers.

3. Seams Issues

A number of market participants, as well as the Commission's staff, have questioned the commitment of the NYISO, and its ISO neighbors, to eliminate seams issues and harmonize their market rules.[29] There have also been complaints that the Memorandum of Understanding ("MOU") process created by the three Northeastern ISOs and the Ontario Independent Electric Market Operator to address these matters has done its work too slowly.[30]

The NYISO staff disagrees with such assertions and respectfully reminds the Commission that it has played a leading role in ongoing efforts to promote greater inter-regional coordination and the creation of a virtual Regional Transmission Organization ("RTO") and seamless trading area in the Northeast. These efforts include the NYISO's: (i) participation in the MOU process, including an

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[29] *See, e.g.,* Northeast Report at I-4, I-94 ("Thus far, the ISOs have made little significant progress on inter-ISO issues; there is really no motivation for the ISOs to do so.")

increasingly active "seams team" that has identified eight high priority seams issues and is working to determine what are the "best practices" among the ISOs' on these issues; (ii) execution of a joint agreement between the NYISO and ISO-NE Board's designed to expedite certain aspects of the MOU process; (iii) co-sponsorship of a feasibility study concerning the development of a day-ahead Northeastern energy market; and (iv) efforts to create inter-regional regulation, reserves sharing and congestion management mechanisms. The NYISO staff is also committed to working with neighboring ISOs to identify which of their rules and market design features work best, and to ensure that all of the Northeastern ISOs implement the "best in class" procedures to the greatest extent possible.

4. Other Liquidity Enhancing Proposals

In addition to working toward the introduction of virtual bidding, the NYISO staff has been pursuing a number of other liquidity enhancing measures, such as creating trading hubs and introducing a market participant interface system, such as PJM's eSchedules. These projects have generally not been assigned the highest priority and will not be implemented until after Summer 2001.[31] The NYISO staff recognizes that these projects are important but has concluded that other matters, *e.g.*, establishing demand-response mechanisms, must have a higher priority. The PPT has come to a similar conclusion as evidenced by its decision not to put these projects on the "Group 1" summer implementation list.

5. The Central-East Constraint and Generation Deficiencies

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30 *See, e.g.*, Northeast Report at I-85.

31 The NYISO staff actively considered the possibility of simply adopting PJM's existing eSchedules software. However, it became apparent that PJM's eSchedules system was so inextricably intertwined with PJM's market structure and market rules that it could not be "transplanted" to New York. Nevertheless, NYISO staff has plans to develop a New York version of eSchedules that will emulate PJM's to the greatest extent possible.

The NYISO wishes to re-emphasize that the greatest difficulties facing the NYISO-administered markets have to do with transmission and generation infrastructure deficiencies that are beyond the NYISO's ability to control. Specifically, the Central-East transmission constraint and the tightness of generating capacity, particularly in New York City.

The Central-East constraint limits all energy transfers from western to eastern New York and imports from PJM, Ontario and Hydro Quebec and makes the NYISO's eastern locational reserve requirements necessary. The transfer limit at Central-East averages was binding 70% of the time during Summer 2000. Although the NYISO has sometimes been criticized for failing to "solve" the Central-East constraint,[32] the fact is that the only real solution is transmission system reinforcement. Unfortunately, no major reinforcement projects are currently planned, although the New York Power Authority is expected to complete a 60 MW improvement before summer and other, smaller, projects will follow. The NYISO itself currently has neither the authority nor the resources to undertake transmission reinforcements on its own. In the long-term, the NYISO staff hopes that additional transmission improvements will be constructed, in response to price signals sent by the NYISO's LBMP pricing system, pursuant to the revised transmission expansion planning process that was included in the NYISO's joint Order No. 2000 compliance filing, that will help to resolve the Central-East constraint.[33]

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[32] *See, e.g.*, Northeast Report at I-73.

[33] In addition, the NYISO will attempt, with the help of its market participants, to develop transmission optimization protocols that would make it possible for market participants to reserve capacity at Central-East when the interface is not constrained.

Similarly, there is little that the NYISO can do directly to accelerate the construction of planned generating facilities in New York State. However, as was explained above in Sections III.D.3, 4 and 6, NYISO staff is proposing a number of rule changes designed to encourage suppliers' participation in its markets. In the longer-term, the NYISO staff is optimistic that developers, responding to price signals produced by the NYISO-administered markets and aided by state reforms to its generation siting procedures, will carry through with their announced plans to construct substantial amounts of new capacity.

C. Price Corrections and Market Protection Measures

Although the NYISO staff has confidence that its markets have been and will continue to be workably competitive in almost all situations it nevertheless believes that prudence requires it to retain its existing market protection measures, such as its ability to correct prices pursuant to its Temporary Extraordinary Procedures ("TEPs") and its prospective market power mitigation authority, and to develop a few new narrowly-tailored mechanisms that would mitigate market power without unduly chilling market activity. In this way, New York customers will be protected from artificial price spikes that might arise if the markets were to temporarily cease to be workably competitive.

1. The NYISO's Use of Its Price Correction Authority

A number of market participants, as well as the Commission staff,[34] have criticized the NYISO for its perceived overuse of its price correction authority. Some maintain that the allegedly excessive frequency of corrections in New York produces substantial market uncertainty and is a sign of

[34] *See, e.g.,* Northeast Report at I-4.

fundamental market design and software flaws. The NYISO staff respectfully disagrees with these claims.

As an initial matter, the NYISO has only corrected day-ahead energy prices four times since it commenced operations in late 1999. Real-time price corrections have been more frequent, but the NYISO's performance in this area has improved greatly and the NYISO only had to correct 2.92% of five-minute price intervals in 2000.[35] This number was inflated by early problems that have since been corrected and is likely to be considerably lower for 2001, although the NYISO does not expect that the need for corrections will ever be eliminated entirely. Contrary to what some commenters have implied, other Northeastern ISOs have had to validate and correct real-time settlement prices and it seems certain that future RTOs that operate real-time energy markets will need to do the same. This is because any real-time process will always be subject to human and computer error and the filed rate doctrine requires that such errors be corrected.[36] The NYISO staff therefore expects that some sort of price correction authority will need to be a permanent feature of its operations and believes that the continued need for a low level of price corrections is not a sign of fundamental market problems. The NYISO staff intends to make a tariff filing to extend its price correction authority under the TEPs so that the extension can become effective by early May.

The NYISO's real-time price correction process was developed in consultation with PJM and modeled after procedures that PJM still uses. PJM currently completes these price correction efforts

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35 *See* Attachment XIV.

36 *See, e.g., NRG Power Marketing, Inc. v. New York Independent System Operator, Inc.*, 91 FERC ¶ 61,346 (2000) (holding that the filed rate doctrine requires that erroneously calculated market-based prices be corrected.)

more quickly than the NYISO, *i.e.*, PJM's process is complete by the next business day, but the NYISO is moving to expedite its own procedures. Since January 1, 2001 the NYISO has shortened its day-ahead price correction process from five to two business days. Once the market design correction initially implemented by "ECA B" is fully integrated into the NYISO's software, the NYISO will be able to complete its real-time price review process in three business days. Additional timing improvements are possible in the future.

Moreover, the NYISO staff does not believe that its price reservation and correction activities create as much market uncertainty as its critics claim. For several months, the rate of real-time price corrections has been less than 1%. The rate of price reservations, *i.e.*, announcements that prices in a particular hour are under review for possible correction, has been higher, in part because market participants have asked the NYISO to reserve all prices above a certain level, even when there is no evidence that the prices are attributable to market design flaws. However, the NYISO staff anticipates that market participants will gain confidence that the rate of actual corrections will continue to be extremely low and that posted prices can therefore be depended on.

Additional detailed information on the NYISO's price review and correction procedures, and the kinds of problems that necessitate price corrections is included in Attachment XII.[37]

2. Circuit-Breaker

Electric markets that are generally competitive may not be workably competitive for temporary periods when one or more participants have the ability to raise prices significantly by withholding capacity. This may occur when supply conditions become extremely tight in the New York Control

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[37] *See* Attachment XII at 18-23.

Area or when transmission constraints result in tight conditions in smaller areas. The current mitigation measures address these conditions, but the current process for implementing the measures results in a one day lag for imposing the mitigation in the day-ahead markets. The NYISO staff believes that it is inappropriate to let prices soar to supra-competitive levels during this one day "window of opportunity", which can result in hundreds of millions in costs for each occurrence.

To ensure that prices remain competitive during the first day under these conditions, the NYISO staff and the NYISO's independent Market Advisor have been working with the market participants to develop a revised implementation process (*i.e.*, a "circuit breaker") that would automatically apply the default bid mitigation measure consistent with the market mitigation plan. Under the NYISO staff's proposal, this automatic process would apply only to the day ahead market and would exempt hydroelectric resources, import or export bids, and entities withholding relatively small amounts of resources. In addition, a consultation process would allow any supplier to justify economic withholding in advance and become exempt from the automatic mitigation process.

The NYISO staff expects to implement the automatic process this summer and intends to do so using its existing authority under the market power mitigation plan. Thus, it will not need to make a filing.

3. Expanded Price Correction Authority

As a complement to its planned introduction of a circuit-breaker mechanism, to further protect customers from market power abuses the NYISO staff is considering possible changes to its Commission-approved market power mitigation plan. Specifically, the NYISO may ask the Commission to give it expanded price correction authority so that, in the event that the NYISO detects

anti-competitive conduct in a day-ahead market that was not picked up by the circuit breaker, the NYISO could not only take prospective action to mitigate it, but could also apply its mitigation measures to the initial day-ahead market, which would otherwise be subject to unmitigated prices. The NYISO's current mitigation authority is prospective only, which means that there may be a one-day window to reap supracompetitive profits and realize unjust enrichment during the time it can take NYISO staff to investigate questionable conduct and implement mitigation measures. The NYISO staff has observed that a number of market participants that were eventually subjected to mitigation measures have unjustifiably benefited from the existence of this window, to the detriment of New York consumers. The NYISO staff therefore believes that this window of opportunity should be closed.

Under the NYISO staff's draft proposal, which is still being reviewed by the NYISO's Business Issues Committee, the need for expanded price correction authority would be re-evaluated not later than December, 2002 to determine if the effectiveness of the NYISO's proposed circuit-breaker, and other market-monitoring improvements, make its continuation unnecessary. To avoid undue market uncertainty, the NYISO staff's use of its expanded authority would also be strictly limited. The NYISO staff would be required to announce its intention to apply corrective measures by the close of the business day on which prices are first subject to prospective mitigation. Final revised prices would have to be calculated by the end of the fifth business day after the announcement. By adopting these restrictions, the NYISO staff believes that it would avoid the concerns that have caused the Commission to reject similar mitigation proposals in the past.

D. The Project Prioritization Process

Finally, and perhaps most importantly, the NYISO has reformed and significantly improved the procedures by which it assigns relative priorities to various market improvement projects. Under the new regime, the PPT, comprised of senior NYISO staff and the chairs and co-chairs of all three major NYISO governance committees, develops an integrated project priority list pursuant to agreed upon project review and prioritization procedures. The PPT has already drawn up the first such lists. The creation of the PPT ended the confusion that previously characterized the NYISO's prioritization arrangement which divided priority-setting responsibilities among the different market participant committees and thus often produced inconsistent and illogical priority assignments. It also effectively incorporated the NYISO's budgeting and resource allocation systems into the prioritization process for the first time.

The priorities established by the PPT were presented by the NYISO staff at the technical conference and were accepted by many market participants. It was the PPT process that determined which projects would be selected for implementation by Summer 2001. The Commission should therefore afford the decisions of the PPT as much deference as it would any other decision made by the NYISO's Commission-approved governance structure.[38] The Commission should resist the urge to

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[38] *See, e.g., New York Independent System Operator, Inc.*, 90 FERC ¶ 61,319 (2000) (rejecting alternative ICAP recall bid proposal that a single party attempted to propose even though another system had been endorsed by the NYISO Committees.) *See also USGen New England, Inc.*, 90 FERC ¶ 61,323 (2000) (rejecting unilateral contract for system restoration services); *New England Power Pool*, 90 FERC ¶ 61,168 (2000) (expressing preference for consensus CMS/MSS proposal in New England); *Sithe New England Holdings, LLC and Sithe New Boston, LLC v New England Power Pool, and ISO New England, Inc.*, 86 FERC ¶ 61,283 (1999), *reh'g denied*, 88 FERC ¶ 61,080 (1999) (rejecting a market participant's attempted unilateral revision of a complex arrangement developed by an ISO); *PJM Interconnection, L.L.C.*, 84 FERC ¶ 61,212 at 62,035 (1998) ("[W]e emphasize that in accepting PJM's proposed revisions . . . we deferred to the judgment

(continued . . .)

intervene and permit the NYISO staff, and the NYISO market participants, to make difficult, but necessary, project development and implementation decisions through the PPT. The Commission should also be highly skeptical of complaints brought by individual market participants who are unhappy with the PPT's decisions and wish to impose their own preferences on all other New York market participants.

V. Attachments

For the Commission staff's convenience, NYISO staff has prepared the following list of the attachments appended to these comments.

- Attachment I List of market improvements recently implemented by NYISO staff.[39]
- Attachment II Graph comparing the annual energy market transaction volume of ISO-NE, PJM and the NYISO.
- Attachment III Graph depicting average daily LBMP in 2000.
- Attachment IV Preliminary *Annual Assessment of the New York Electric Markets*, prepared by David B. Patton, Ph.D., New York ISO Market Advisor.
- Attachment V Graph depicting NYISO monthly average ancillary service prices in 2000.
- Attachment VI List of NYISO projects to be implemented by Summer 2001.
- Attachment VII List of major filings the NYISO staff expects to make for implementation in Summer 2001
- Attachment VIII NYISO's February 2, 2001 *Report on the Implementation of Virtual Bidding and Zonal Price-Capped Load Bidding* in Docket No. EL00-90-000.
- Attachment IX Description of the NYISO staff's planned information technology migration.

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of the PJM ISO and its Board concerning a regional solution to an identified regional problem based on what we understand is a broad, if not unanimous, consensus.")

[39] NYISO staff intends to separately file Attachment I on February 9.

- Attachment X *Motion for Leave to File Comments Out of Time and Comments of New York Independent System Operator, Inc. In Support of ISO New England, Inc.* in Docket No. EL00-62-014. (January 29, 2001).

- Attachment XI Table comparing New York's energy imports and exports in 2000 with those in 1998/1999.

- Attachment XII White paper on the NYISO's inter-regional transaction scheduling and price correction procedures

- Attachment XIII Graph depicting improvements over time in the accuracy of BME's forecasts.

- Attachment XIV Graph depicting the percentage of real-time price intervals requiring correction in 2000.

VI. Conclusion

WHEREFORE, the New York Independent System Operator, Inc. respectfully requests that the Commission consider its initial comments in this proceeding.

Respectfully submitted,

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February 8, 2001

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure 18 C.F.R. § 2010 (1999).

Dated at Washington, D.C. this 8th day of February, 2001.

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