

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

In Reply Refer To:
New York Independent System Operator, Inc.
Docket Nos. ER01-3001-021, ER03-647-012,
ER01-3001-022, and ER03-647-013
April 2, 2009

William F. Young, Esq.
Counsel to New York Independent System Operator, Inc.
Hunton & Williams LLP
1900 K St., NW
Washington, DC 20006-1109

Gloria Kavanah, Senior Attorney
New York Independent System Operator, Inc.
10 Krey Blvd.
Rensselaer, NY 12144

Reference: Compliance Filings Regarding Reports on Installed Capacity
Demand Curves

Dear Mr. Young and Ms. Kavanah:

On July 25, 2008, New York Independent System Operator, Inc. (NYISO) filed a Compliance Filing and Request for Confidential Treatment (July 25, 2008 Filing) regarding an analysis of Rest of State (ROS) capacity offers that were not accepted in order to comply with the Commission's May 27, 2008 Order.¹ In addition, on January 15, 2009, NYISO filed its annual Report on Installed Capacity Demand Curves, among other reports (January 15, 2009 Filing). One purpose of the required report is to determine whether economic withholding occurred in the ROS region. Please be advised that NYISO's submittal is deficient and that additional information will be required before the Commission can act on your filings.

¹ *New York Independent System Operator, Inc.*, 123 FERC ¶ 61,206 (2008) (May 27, 2008 Order).

In its July 25, 2008 Filing, NYISO provides estimates of ROS Installed Capacity (ICAP) supplier going-forward costs by generator class and adjustments to those going-forward costs based on representations by owners of ROS generating units whose capacity offers were not accepted in the 2006 capability year to demonstrate that ROS withholding did not occur. However, the information provided in your submittal lacks sufficient explanation to support this conclusion. Therefore, further information is required as detailed below:

1. Please provide a revised analysis of the going-forward costs of the ROS generating units whose capacity offers were not accepted in the applicable capability years, based on the revisions described in (A) and (B) (below). Also, based on this revised analysis of going-forward costs, provide a revised analysis of the implications for whether any capacity was economically withheld in the NYISO capacity markets during the period covered in the July 25, 2008 Filing, and if so, the effect of the withholding on capacity market prices.

A. Please provide NYISO's estimates of going-forward costs of ROS generators without the adjustments for costs associated with the risks of Day-Ahead Market bidding and for burning Power River Basin coal.

B. NYISO states that it did not include an adjustment to its estimated going-forward costs for energy and ancillary services revenues because it had no basis to quantify them. However, to account for the uncertainty in estimating the energy and ancillary service revenues that a generator owner (at the time it submits its bid into the capacity market) could expect to receive during the applicable capacity delivery month, please revise your analysis to include a reasonable range of values for such expected energy and ancillary service revenues. Provide the results of your analysis, including the associated range of capacity prices and an analysis of which capacity would be accepted in the auction, with this adjustment to the estimated going-forward costs.

2. NYISO states that the ROS ICAP MW that were offered but not sold were generally at the upper output levels of the relevant units. Please explain why the generating units' high end bids are consistent with competitive bidding behavior. In addition, please explain whether the high end bids reflect the actual going-forward costs of the associated "tail-end" portion of the capacity.

In its January 15, 2009 Filing, NYISO explains that ROS withholding did not occur and refers to its analysis of estimated going-forward costs in the July 25, 2008 Filing to further confirm this conclusion. However, the information provided in your submittal lacks sufficient explanation to support your assertion that you have complied with the Commission's directive in an October 26, 2007 order to examine the ROS capacity offers that were not accepted by comparing the capacity offers submitted to a reasonable estimate of the resources' going-forward costs.² Please provide the required analysis including the additional adjustments as requested in (1) and (2) above. In addition, please submit a legible version of "Table 1: Breakout of Unoffered and Unsold Capacity MW by type of Market Participant."³

The information requested in this letter will constitute an amendment to your compliance filing. A notice of amendment to the filing will be issued upon receipt of your response. Accordingly, you are directed to submit a form of notice of amendment to the filings, pursuant to section 35.8 of the Commission's regulations (18 C.F.R. § 35.8(b) (2008)).

This letter is issued pursuant to 18 C.F.R § 375.307(k)(2) (2008) and is interlocutory. This letter is not subject to rehearing, pursuant to 18 C.F.R § 385.713 (2008), and a response to this letter must be filed within thirty days of the date of this letter. Submit seven copies of your response to this deficiency letter. Six copies of your response should be sent to:

Federal Energy Regulatory Commission
Office of the Secretary
888 First Street, N.E.
Washington, DC 20426

The seventh copy should be sent to:

Federal Energy Regulatory Commission
Attention: Ms. Katie Williams
Office of Energy Market Regulation
Division of Tariffs and Market Development - East
888 First Street, N.E. (Room 82-38)

² *New York Independent System Operator, Inc.*, 121 FERC ¶ 61,090 at P 37 (2007).

³ January 15, 2009 Filing at 60.

Washington, DC 20426

Pending receipt of the above information, a filing date will not be assigned to your filing. Failure to respond to this letter within the time period specified may result in an order rejecting your filing.

Sincerely,

Larry D. Gasteiger, Director
Division of Tariffs and Market
Development – East

cc: All Parties