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September 4, 2001

FILE NO: 55430.000042

BY HANDThe Honorable David P. Boergers, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

ER01-3001-000

New York Independent System Operator, Inc.'s
Request for Extension of Bid Caps and Temporary Extraordinary Procedures
and Request for Waiver of Sixty Day Notice Period

Dear Mr. Boergers:

The New York Independent System Operator, Inc. ("NYISO"), by counsel, hereby respectfully requests authority to: (i) amend Attachment F of the NYISO Market Administration and Control Area Services Tariff ("ISO Services Tariff") to extend the duration of its currently effective \$1,000/MWh Bid Caps ("Bid Caps") on certain NYISO-administered markets; and, (ii) amend Attachment Q to the NYISO's Open Access Transmission Tariff ("OATT") and Attachment E of the ISO Services Tariff (which are identical in terms) to extend its Temporary Extraordinary Procedures for Correcting Market Design Flaws and Addressing Transitional Abnormalities ("TEP"). The NYISO seeks authority to extend both measures through the end of the 2001-2002 Winter Capability Period,¹ i.e., until April 30, 2002.

Documents Submitted

Pursuant to Section 205 of the Federal Power Act and 18 C.F.R. § 35.13 (2000), the NYISIO is filing six copies of:

1. This filing letter;
2. Clean revised tariff sheets amending Attachment F of the ISO Services Tariff to extend the duration of the NYISO's current Bid Caps to April 30, 2002, ("Attachment A");

¹ Capitalized terms not otherwise defined herein are defined in Article 2 of the NYISO's Market Administration and Control Area Services Tariff.

ATLANTA BANGKOK BRUSSELS CHARLOTTE HONGKONG KNOXVILLE LONDON MULLAN MAY
NEW YORK NORFOLK RALLIGH RICHMOND WARSAW WASHINGTON
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010910-0038-1

DOCKETED



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3. Redlined revised tariff sheets depicting the changes that the NYISO proposes to make to Attachment F of the ISO Services Tariff ("Attachment A-1");
4. A clean revised copy of Attachment Q to the NYISO's OATT setting forth the TEP tariff provisions with the NYISO's proposed April 30, 2002 expiration date ("Attachment B");
5. A redlined revised Attachment Q to the NYISO's OATT depicting the changes proposed by the NYISO ("Attachment B-1");
6. A clean revised copy of Attachment E to the ISO Services Tariff -- setting forth the TEP tariff provisions with the NYISO's proposed April 30, 2002 expiration date) ("Attachment C");
7. A redlined revised Attachment E to the ISO Services Tariff depicting the changes proposed by the NYISO ("Attachment C-1"); and,
4. A draft *Federal Register* Notice ("Attachment D").

Copies of Correspondence

Communications regarding this proceeding should be addressed to:

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Parties on Whom Copies Have Been Served

Copies of this filing have been served on market participants that have executed service agreements under the NYISO OATT or the NYISO Services Tariff and on the electric utility regulatory agencies in New York, New Jersey, and Pennsylvania.

Request for Extension of Bid Caps

As it stated in its previous March 12, 2001, request to extend the Bid Caps, the NYISO remains sensitive to the Commission's concerns regarding inappropriate interventions in the New York energy markets. While many stakeholders are exploring ways to expedite the licensing and siting process in New York, the NYISO notes that persistent delays in New York State's "Article X" process for reviewing proposed new generation projects are still inhibiting supply from increasing to match continued demand growth,² despite the fact that market signals are drawing new supply to New York State.³ Lacking any legal or regulatory authority to expedite licensing, the NYISO can only seek to mitigate the effect of the delays by enhancing its own market rules and software. Although the NYISO has recently implemented an Emergency Demand Response Program ("EDRP") and a Day-Ahead Demand Response Program ("DADRP"), which appear to have worked well thus far, more experience is required before the NYISO can determine whether they are sufficiently effective to eliminate the need for bid caps. In short, because the balance of supply and demand in New York remains in question there is a need to continue the currently effective bid caps.

In the near term, the generating resources available to meet growing demands appear to

² There are currently many developers interested in building new power plants in New York. See <<http://www.nyiso.com/services/planning.html>> for more information on proposed plants in the state. The problem is that the Article X process is substantially delaying the construction of new projects.

³ The queue of 33,000 MW of proposed new generation in New York confirms the NYISO's belief that the \$1,000 Bid Caps, which will have been in place for nearly a year and a half at their scheduled expiration of October 31, 2001, has not interfered with price signals to potential new suppliers. Indeed, the uncertainty that would be created if Bid Caps were to be removed, subject to the very real possibility of being re-imposed for so long as New York's supply-demand imbalance exists, would be much more disruptive to the marketplace.



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be seriously insufficient, both within specific parts of the state and throughout the state as a whole. The New York Power Authority ("NYPA") was able, despite intense local opposition and several litigation challenges, to complete approximately 400 MW of gas turbines in the New York City area. These turbines provided some improvement in critical reliability during peak demand periods, and were essential to the NYISO's avoidance of major disruptions this summer, but supply shortages under high load conditions in New York City will likely persist in the future, particularly as loads continue to grow.

As stated in the NYISO's March 12, 2001, Bid Caps filing, New York State as a whole currently meets its 18% installed reserve reliability requirement, although it is doing so through increased dependence on out-of-state resources. Between 1995 and 2000, statewide demand for electricity grew by 2,700 MW, while generating capacity increased by only 1,060 MW. Although 85 new generating projects have been proposed or announced for New York representing almost 33,000 MW of new generation in total, only two of these planned projects has even completed the lengthy and contentious Article X process. In the meantime, electricity demands continue to increase at the rate of approximately 1.4% annually, and are expected to continue to do so over the next few years. In addition to the important reliability questions raised by the tightness of supply, the NYISO remains concerned that diminishing supplies of critical hourly generation and generation reserves will make the NYISO-administered markets vulnerable to artificial price spikes or gaming.

Nor has there been any improvement in the picture for adequate transmission capacity in New York State since the NYISO's previous request to extend the Bid Caps. The Commission is well aware that it has always been difficult to move the more abundant energy supplies from upstate New York down to the more supply-limited downstate area, principally due to capacity and operating constraints at the Central-East interface. Unfortunately, no major improvements in either capacity or operating limitations are currently planned at Central-East, reflecting the fact that the addition of new transmission capacity anywhere in New York is extremely difficult. Right of way acquisition and the siting of transmission lines typically face even more opposition than proposed generating projects.

Much of New York's existing generation base and the vast majority of planned generation additions is or will be fueled by natural gas and additional pipeline capacity will be required if new gas-fueled generation is to operate year around. Planned enhancements to



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interstate gas pipeline capacity, however, remain short of what will be needed in the near term to support new electric generation in New York.

The NYISO's recent experience starkly demonstrated that the kind of balance between supply and demand necessary to encourage a fully competitive market does not yet exist. The New York City area and the rest of New York State experienced high levels of temperatures and humidity, and three successive days of record peak loads in August. While the NYISO was able to maintain grid security during this trying period, its system operators had little room to spare. The NYISO's new demand-response programs were called upon for the first time and provided approximately 400 MW of peak reduction. Despite these measures, the NYISO was eventually forced to institute controlled voltage reductions to balance demands with supply.

In its May 8, 2001, Bid Caps Order, the Commission stated that it thought that a tight supply situation exists only in some parts of New York and that the NYPA's proposed New York City turbines would help to fulfill locational installed capacity ("ICAP") requirements for the Summer 2001. The Commission also cited the Northeast Power Coordinating Council's forecast that New York State should have an adequate supply of electricity and the renewed availability of the Indian Point 2 Nuclear Unit as reasons for extending Bid Caps only through October 31, 2001, rather than through the end of Summer 2002 as had been requested.

Despite this additional generation, however, the NYISO's actual experience during the Summer 2001 confirms that supply and demand during peak periods remains only very precariously balanced, with little margin for unpredictable system emergencies. The NYISO, therefore, urges the Commission to again conclude that the currently effective \$1000/ MWh Bid Caps be extended. The NYISO also continues to believe that suppliers will not be materially harmed by the continuation of Bid Caps, because they are set at levels that prevent only artificially high run-ups in prices. A six-month extension of time will allow the NYISO and the Commission to gauge whether actual near-term additions to supply will keep pace with growth in demand, and to evaluate the continued need for bid caps.

In the Bid Caps Order, the Commission also favorably cited the consistent presence of \$1,000/MWh Bid Caps across the NYISO, PJM Interconnections, Inc. and ISO New England⁴,

⁴ It is the NYISO's understanding that ISO New England, Inc. intends to seek an extension of its currently effective bid caps.



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Inc. control areas. The NYISO's request here for a short-term extension for its Bid Caps will leave all three grid operators on equal footing and our respective markets uniform in this regard.

Request for a TEP Extension

The NYISO remains committed to the use of its TEP authority as a last and temporary resort and expects to have relatively little need for it in the future. Nevertheless, the TEP remains a necessary tool in the event of serious market aberrations associated with market design flaws and the capacity tight, highly congested nature of New York's bulk power system. While the Commission has recognized that the NYISO has rectified a number of market design flaws during its initial twenty months of operation the TEP is still needed to respond in case new market design flaws emerge in connection with the NYISO's implementation of virtual bidding or other major market improvements, including those related to the development of common energy markets in the Northeast. Under the circumstances, the NYISO believes that its TEP authority should not be permitted to expire at this time.

The NYISO has consistently demonstrated restraint and caution in exercising its TEP authority. Over time, the NYISO's use of this authority has dramatically declined. Moreover, to the extent that ECAs have necessitated permanent tariff changes, Market Participants have supported the development of such changes. This further indicates that the NYISO has invoked the TEP only where it was appropriate.

While the NYISO shares the Commission's optimism that the NYISO's ability to anticipate and minimize market flaws resulting from incremental market changes is much improved⁵, the NYISO is concerned that the possibility of unexpected market design problems or anomalies will always be present to some extent. Even as its markets mature, the NYISO will continue to implement software or market improvements, whether from improved technology, new market products, or requests for market changes from Market Participants.

The NYISO has only recently implemented demand-side responsive mechanisms for price responsive loads and has not accumulated a sufficient body of experience with this change to be able to conclude that no flaws may be present. More imminently, the NYISO will soon be implementing a virtual bidding initiative designed to enhance liquidity in the New York energy

⁵ See, *New York Independent System Operator, Inc.*, 95 FERC ¶ 61,185 (2001), at page 6.



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markets. Despite extensive pre-operational testing, it has been the NYISO's previous experience that the implementation of such major and complex initiatives will likely uncover unforeseeable market problems that may need to be addressed quickly through the exercise of TEP authority. This is especially true in the case of virtual bidding, which is likely to introduce a host of new bidding strategies, and possible gaming opportunities into the NYISO-administered markets, greatly increase the computational burden borne by NYISO's software and dramatically expand the financial exposure of the NYISO and other market participants in the event of a market disruption. Moreover, the effects of even relatively small market flaws can be great given New York's current supply and congestion situation. The NYISO, therefore, continues to require the authority provided under the TEPs as a means to take prompt action.

Indeed, the speed and flexibility afforded by its TEP authority has enabled the NYISO to more aggressively develop and implement complex and creative market mechanisms such as virtual transactions. Absent the ability to quickly respond to unforeseeable problems, it is very likely that the NYISO would be compelled to take a much more conservative approach to market enhancements, which would only delay and diminish the benefits of market improvements for all New York energy consumers. Without the TEP, the NYISO would have to obtain the approval of its independent Board of Directors to submit an exigent circumstances tariff filing whenever a new market flaw arises, which cannot always be accomplished quickly. Moreover, once an exigent circumstances filing is made, the NYISO would have to either await Commission approval of the filing, and allow the market flaw to go uncorrected until such time as the Commission issued an order, or make the filing effective prior to Commission approval, which poses legal risks and engenders great controversy. In short, the NYISO needs the flexibility that the TEPs provide to address market flaws effectively and the TEP is relatively unintrusive in comparison to the protections afforded.

Extending the TEP through April 30, 2002, will not result in extensive changes to posted prices. While some price corrections in the real time market are inevitable to some degree, as discussed above, such corrections are becoming less frequent. Moreover, the NYISO already has price correction authority under the filed rate doctrine and, as the NYISO stated in its previous extension request, the TEP simply provide a well-defined procedural framework for the exercise of this authority when market flaws are detected. Price certainty has been further enhanced with the improvements to the price correction process that were outlined by the NYISO at the January 2001 Technical Conference and have been completed. These improvements have greatly



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shortened the time frame for the correction process, which has been one of the primary price certainty concerns of Market Participants.

Stakeholder Approval

The request to extend the effective date of the Bid Caps was approved by the Management Committee of the NYISO with a 65.71% vote in favor⁶ and the extension of the Temporary Extraordinary Procedures was approved by the Management Committee of the NYISO with a 64.79% vote in favor at its Meeting on August 2, 2001, pursuant to the provisions of Section 19.01 of the NYISO's Independent System Operator Agreement.

Effective Date

The NYISO requests an effective date of November 1, 2001, the day following the expiration of the currently approved Bid Caps and the Temporary Extraordinary Procedures. The NYISO respectfully submits that good cause exists for a limited waiver of the usual sixty-day notice period given the importance of the proposed extensions to the efficiency of the NYISO-administered markets.

⁶ 58% is required for approval.



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Federal Register Notice

A form of Federal Register Notice is provided as Attachment D hereto. A diskette of the notice is also provided.

Respectfully submitted,

NEW YORK INDEPENDENT
SYSTEM OPERATOR, INC.

By

A handwritten signature in dark ink, appearing to read "Robert E. Fernandez", written over a horizontal line.

Counsel

Robert E. Fernandez, General Counsel and Secretary
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cc: Mr. Joshua Z. Rokach, Advisor to Chairman Hebert, Suite 11-E,
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Tel. (202) 208-0377
Mr. Wilbur C. Earley, Advisor to Commissioner Massey, Suite 11-D,
Tel. (202) 208-0100



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Mr. Daniel L. Larcamp, Director Office of Markets, Tariffs and Rates, Room 8A-01,
Tel. (202) 208-2088
Ms. Alice M. Fernandez, Director Office of Markets, Tariffs and Rates – East
Division, Room 82-15, Tel. (202) 208-0089
Ms. Andrea Wolfman, Office of the General Counsel, Room 101-29,
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ATTACHMENT A

New York Independent System Operator, Inc.
FERC Electric Tariff
Original Volume No. 2
Attachment F

Second Revised Sheet No. 457
Superseding Substitute First Revised Sheet No. 457

II. Supremacy of Attachment F

During the period that this Attachment F is in effect, the provisions set forth herein shall be deemed incorporated by reference into every provision of the ISO Services Tariff affected by this Attachment F, including each of the ISO Services Tariff's Rate Schedules and Attachments. In the event of a conflict between the terms of this Attachment F and the terms of any other provision of the ISO Services Tariff, the terms of Attachment F shall prevail.

III. Effective Date

Attachment F shall become effective on July 25, 2000 for Suppliers submitting Day-Ahead Bids to sell Energy in the July 26, 2000 Day-Ahead market, and on July 26, 2000 for all other Suppliers and for any Dispatchable Loads that submit Bids which are subject to Sections V and VI below.

IV. Expiration Date

Attachment F shall expire no later than April 30, 2002 and shall not be extended, except as may be ordered by the Commission.

V. Establishment of Temporary Bid Caps

During the period that Attachment F is in effect, the Bid Cap for all Bids referenced in Section VI.A below shall be \$1,000/MWh. If a Bid exceeds an applicable Bid Cap, the Bid shall

Issued by: William J. Museler, President
Issued on: September 4, 2001

Effective: November 1, 2001

ATTACHMENT A-1

New York Independent System Operator, Inc. ~~Substitute First~~ Second Revised Sheet No. 457
 FERC Electric Tariff ~~Superseding Original~~ Substitute First Revised Sheet No. 457
 Original Volume No. 2
 Attachment F

II. Supremacy of Attachment F

During the period that this Attachment F is in effect, the provisions set forth herein shall be deemed incorporated by reference into every provision of the ISO Services Tariff affected by this Attachment F, including each of the ISO Services Tariff's Rate Schedules and Attachments. In the event of a conflict between the terms of this Attachment F and the terms of any other provision of the ISO Services Tariff, the terms of Attachment F shall prevail.

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IV. Expiration Date

Attachment F shall expire no later than ~~October 31, 2001~~ April 30, 2002 and shall not be extended, except as may be ordered by the Commission.

V. Establishment of Temporary Bid Caps

During the period that Attachment F is in effect, the Bid Cap for all Bids referenced in Section VI.A below shall be \$1,000/MWh. If a Bid exceeds an applicable Bid Cap, the Bid shall

Issued by: William J. Museler, President
 Issued on: ~~May 18~~ September 4, 2001
 Effective: ~~May~~ November 1, 2001
 Filed to comply with order of the Federal Energy Regulatory Commission in Docket Nos. ER01-1517-000, *et al.*, issued on May 8, 2001, 95 FERC ¶ 61,186 (2001).

ATTACHMENT B

New York Independent System Operator, Inc.
FERC Electric Tariff
Original Volume No. 1
Attachment Q

Third Revised Sheet No. 648
Superseding Substitute Second Revised Sheet No. 648

3. Replacement or Removal of Extraordinary Corrective Actions

During the time that an Extraordinary Corrective Action is in effect, the ISO, Market Participants and other interested parties shall cooperate to develop a new or modified ISO Procedure or other remedial measure, if needed, before the termination of the Extraordinary Corrective Action.

D. Termination of these Temporary Extraordinary Procedures

These Extraordinary Procedures shall terminate on April 30, 2002, unless they have been re-approved as filed or as amended by the Management Committee and the Federal Energy Regulatory Commission ("FERC").

Issued by: William J. Museler, President
Issued on: September 4, 2001

Effective: November 1, 2001

ATTACHMENT B-1

New York Independent System Operator, Inc. ~~Substitute Second~~Third Revised Sheet No. 648
 FERC Electric Tariff Superseding ~~First~~Substitute Second Revised Sheet No. 648
 Original Volume No. 1
 Attachment Q

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During the time that an Extraordinary Corrective Action is in effect, the ISO, Market Participants and other interested parties shall cooperate to develop a new or modified ISO Procedure or other remedial measure, if needed, before the termination of the Extraordinary Corrective Action.

D. Termination of these Temporary Extraordinary Procedures

These Extraordinary Procedures shall terminate on ~~October 31, 2001~~April 30, 2002, unless they have been re-approved as filed or as amended by the Management Committee and the Federal Energy Regulatory Commission ("FERC").

Issued by: William J. Museler, President Effective: ~~May~~November 1, 2001
 Issued on: ~~May 18~~September 4, 2001
 Filed to comply with order of the Federal Energy Regulatory Commission in Docket No. ER01-1489-000, issued on May 8, 2001, 95 FERC ¶ 61,185 (2001).

ATTACHMENT C

New York Independent System Operator, Inc.
FERC Electric Tariff
Original Volume No. 2
Attachment E

Second Revised Sheet No. 448
Superseding Substitute First Revised Sheet No. 448

D. Termination of these Temporary Extraordinary Procedures

These Extraordinary Procedures shall terminate on April 30, 2002, unless they have been re-approved as filed or as amended by the Management Committee and the Federal Energy Regulatory Commission ("FERC").

Issued by: William J. Museler, President
Issued on: September 4, 2001

Effective: November 1, 2001

ATTACHMENT C-1

New York Independent System Operator, Inc. ~~Substitute First~~Second Revised Sheet No. 448
FERC Electric Tariff Superseding ~~Original~~Substitute First Revised Sheet No. 448
Original Volume No. 2
Attachment E

D. Termination of these Temporary Extraordinary Procedures

These Extraordinary Procedures shall terminate on ~~October 31, 2001~~April 30,
2002, unless they have been re-approved as filed or as amended by the Management
Committee and the Federal Energy Regulatory Commission ("FERC").

Issued by: William J. Museler, President Effective: ~~May~~November 1, 2001
Issued on: ~~May 18~~September 4, 2001
~~Filed to comply with order of the Federal Energy Regulatory Commission in Docket No. ER01-1489-000,~~
~~issued on May 8, 2001, 95 FERC ¶ 61,185 (2001).~~

ATTACHMENT D

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

New York Independent System Operator, Inc.) Docket No. ER01-_____

NOTICE OF FILING

Take notice that on September 4, 2001, the New York Independent System Operator, Inc. ("NYISO") filed revisions to: (i) amend Attachment F of the NYISO Market Administration and Control Area Services Tariff to extend the duration of its currently effective \$1,000/MWh Bid Caps on certain NYISO-administered markets; and, (ii) amend Attachment Q to the NYISO's Open Access Transmission Tariff and Attachment E of the ISO Services Tariff to extend its Temporary Extraordinary Procedures for Correcting Market Design Flaws and Addressing Transitional Abnormalities. The NYISO has requested an effective date of November 1, 2001 for the filing and requests a waiver of the Commission's notice requirements.

Copies of this filing have been served on market participants that have executed service agreements under the NYISO OATT or the NYISO Services Tariff and on the electric utility regulatory agencies in New York, New Jersey, and Pennsylvania.

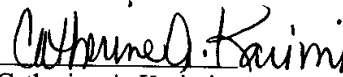
Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 C.F.R. §§ 385.211 and 385-214). All such motions or protests should be filed on or before _____. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this application are on file with the Commission and are available for public inspection.

David P. Boergers
Secretary

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon market participants that have executed service agreements under the NYISO OATT or the NYISO Services Tariff and on the electric utility regulatory agencies in New York, New Jersey, and Pennsylvania in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 2010 (2000).

Dated at Washington, D.C. this 4th day of September, 2001.



Catherine A. Karimi
Senior Professional Assistant
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