

**Market Participant Comments regarding the proposed Final Bill
Challenge Procedure**

**Comments regarding current proposed 24-Month Final Bill Challenge Procedure
From Dave Hall of NYSEG:**

Point 1: Double Cost Indemnity LSE's

Background: An LSE has 10% of the total ancillary services billing load in the NYISO. The LSE presents a final bill challenge for a given month that has a value of \$50,000.00. There are already 5 challenges by other Market Participants when the LSE files its challenge. These challenges result in the NYISO approving payments to the MP's in the first 5 challenges of \$600,000.00 that, under this draft policy, will be socialized on LSE's through an increase in Ancillary Services Schedule 1.

Resolution under current proposed policy: The NYISO reviews each claim in the order received. When the NYISO gets to the LSE's claim (Claim 6) the NYISO will take into account the settlements/billing code corrections made under the first 5 claims. The NYISO verifies the LSE has a legitimate claim for \$50,000.00 for the specific event challenged. However, since the NYISO is permitted to review the entire LSE's invoice, the NYISO indicates it has discovered other errors in the LSE's invoice or increased charges that result in an increase in costs to the LSE in excess of the \$50,000.00 (it is unclear in the current proposed challenge procedure if the NYISO is required to provide specific documentation to the LSE on exactly what were these increased costs). The NYISO negates the valid \$50,000.00 claim by these recently discovered additional charges down to \$0.00. Then, the NYISO intends to collect from the LSE its proportionate share of the challenge costs it already used to deny the LSE's valid \$50,000.00 claim (which, in this example, would be a minimum of \$60,000.00) through a socialized Schedule 1 charge.

The LSE is not getting any revenue for its valid \$50,000.00 claim. First the NYISO offsets a valid claim due to other "increased costs" and then charges the same LSE for these same "increased costs". In this example the total dollar impact to the LSE would be \$110,000.00 when it should only be \$60,000.00 (\$60,000.00 increased uplift charge and \$50,000.00 lost revenues).

Point 2: Billing Code/Metering/Calculation Errors

Under this proposed policy, if a billing code error\calculation error is discovered while evaluating one MP's challenge that impacts other MP's or the entire NYISO market, the other MP's would not see any benefits from this impact unless the MP had specifically challenged the exact billing code, date, hour, zone, etc. This is unfair to all MP's who, by the nature of the data provided them by the NYISO, may not have enough information to be able to see the specific error and therefore provide an appropriate challenge.

Point 3: Pancake Analysis of Challenges

Under this policy the NYISO intends to evaluate claims on a first come, first serve basis. All claims will be evaluated based on unknown adjustments/agreements made by MP's/NYISO Staff for prior challenges. The NYISO has admitted they may rerun the entire billing system for specific challenges should they deem appropriate without making these billing reruns available to MP's who might be impacted by the results of this rerun. The NYISO intends to use these revised reruns in evaluating future MP's claim. This puts all MP's at a distinct disadvantage by not knowing on what basis the challenge will be evaluated.

Point 4: NYISO Posting of BAS Reruns Due to Challenges

The NYISO does not intend to post revised BAS runs due to the evaluation of challenges under this procedure. This will leave MP's with "Final" NYISO Hourly/Daily Billing Statements that will not match the final resolution of a MP's charges/payments. From an audit perspective and an accounting perspective this is not acceptable.

Point 5: "Catch-Me-If-You-Can"

Without a rebill there is double indemnity for the LSE. The largess of generators, marketers and retail suppliers who are exempt from Schedule 1 charges in supporting socialization versus rebill is not surprising. A rebill is a must in order to ensure all MP's are fairly treated in the NYISO. Cost causation should be the guiding principle in the evaluation of all challenges. Absent a rebill methodology the NYISO is promoting a "catch me if you can" philosophy that encourages MP's to see what they can get away with.

Point 6: Fiduciary Responsibility

The NYISO has a fiduciary responsibility to all MP's who participate in its markets to ensure those MP's that costs/revenues are being allocated properly to the appropriate MP's. Socialization of costs to one segment of the market while not holding the other market segments responsible for their appropriate share of the costs is not acceptable.

Comments of Consolidated Edison Company of New York, Inc.
On Final Settlement Challenges

The following represent the comments of Consolidated Edison Company of New York, Inc. ("Con Edison") with respect to the NYISO's proposed policy and procedure on Final Settlement Challenges (the "Procedure"). Specifically, Con Edison takes issue with: (1) the Procedures proposal to socialize all settlement costs that occur during the final bill challenge period; and (2) the ability of parties to retain inappropriate windfall gains resulting from billing errors.

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Con Edison does not support the proposal to socialize charges resulting from the settlement of individual bill challenges through Rate Schedule 1. The result of this proposal would require large load serving entities to, in effect, subsidize the final bill challenges of all market participants, including those that pay a de minimus amount (if any) of Rate Schedule 1 charges. Instead, the NYISO should be required to re-compute the bills of all affected market participants.

Second, the Procedures as written would allow parties to retain monies that they received as a result of NYISO billing errors. Instead of adjusting those parties' bills to eliminate this unjust enrichment, the Procedures seek to pass the costs of the NYISO's error on to large load serving entities. Rather than allowing such an unjust enrichment to perpetuate at the expense of customers, the NYISO should correct these mistakes and issue new accurate bills.

Thus, Con Edison requests that the Procedure be modified consistent with its comments herein.

Comments from Barney Farnsworth of Energetix:

Hi Kathy,

Energetix really has a couple concerns with regard to Wed. (5/8/02) conversation. We repeatedly asked for the TOL data to be included in the "hrlyLoad" file for the past year. Socialization is another issue, that based on our past experience can't happen. The TOL data has yet to be sent and this is a required item of an LSE to know exactly what the LDC's have sent to the NYISO for load data and in turn compare to what the NYISO has billed us. I still think, we're opening ourselves up for a whole new set of problems in the near future and we haven't solved the first ones. However, enough of my soapbox. Energetix can support this IF LSE loads are provided one month prior to a true-up and there is NO socialization of charges.

Thanks,
Barney Farnsworth
Energetix, Inc.