

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

New York Independent System Operator, Inc.) Docket No. ER05-727-000
)

**MOTION FOR LEAVE TO ANSWER AND ANSWER
OF THE NEW YORK INDEPENDENT SYSTEM OPERATOR
TO RESPONSE OF LONG ISLAND POWER AUTHORITY AND LIPA**

Pursuant to Rules 212 and 213 of the Commission’s Rules of Practice and Procedure,¹ the New York Independent System Operator, Inc., (“NYISO”) respectfully requests leave to respond, and responds to the May 16, 2005 “Motion for Leave to Respond and Response to Answer of the NYISO” (“Response”), filed by the Long Island Power Authority and LIPA (collectively “LIPA”).

I. MOTION FOR LEAVE TO SUBMIT ANSWER

The NYISO recognizes that the Commission generally discourages chains of responsive pleadings. The Commission has, however, allowed such responses when they help to clarify complex issues, provide additional information that will assist the Commission, correct inaccurate statements, or are otherwise helpful in developing the record in a proceeding.² The NYISO’s answer meets this standard. The NYISO’s answer does not introduce new arguments, but instead is submitted for the limited purpose of clarifying certain factual matters and correcting inaccurate or misleading statements in LIPA’s Response, thereby assisting the Commission in its review and

¹ 18 C.F.R. §§ 212, 213 (2004).

² See, e.g., *Morgan Stanley Capital Group, Inc. v. New York Independent System Operator, Inc.*, 93 FERC ¶ 61,017 at 61,036 (2000) (accepting an answer that was “helpful in the development of the record . . .”); *New York Independent System Operator, Inc.*, 91 FERC ¶ 61,218 at 61,797 (2000) (allowing “the NYISO’s Answer of April 27, 2000, [because it was deemed] useful in addressing the issues arising in these proceedings . . .”); *Central Hudson Gas & Electric Corp.*, 88 FERC ¶ 61,138

consideration of the complex issues presented in this proceeding. The NYISO therefore respectfully requests that the Commission exercise its discretion and accept the NYISO's response. It is the NYISO's understanding that LIPA will not object to the NYISO's submission of an answer to its Response.³ The NYISO therefore respectfully requests that (if and to the extent that the Commission considers permission to answer necessary) the Commission exercise its discretion and accept this answer.

II. ANSWER

A. Summary of Answer to LIPA's Response

LIPA's Response shows that it does not fully understand how the NYISO's software is integrated or how it processes information and evaluates proposed External Transactions. LIPA's proposed tariff revisions (that would require the NYISO to implement a "tiebreaker") are not consistent with the NYISO's scheduling software and would require the NYISO to accept and process significant new inputs (timestamps and NERC reservation priority) that are not presently considered in the NYISO's firm bid evaluation process.

The costs and benefits associated with implementing LIPA's proposed "tiebreaker" in New York must be considered in determining how the NYISO should

at 61,381 (1999) (accepting prohibited pleadings because they helped to clarify the issues and because of the complex nature of the proceeding).

³ As the NYISO explained on page 3 of its March 25, 2005 Scheduled Lines filing:

The NYISO agreed with LIPA that, rather than delaying the generic implementation of the Scheduled Lines software and/or the implementation of the Cross-Sound Scheduled Line, the parties would explain their positions and permit the Commission to decide this issue. It is the NYISO's understanding that: (a) LIPA will explain its position on the "tiebreaker" issue in a protest it will file in response to this application; and (b) LIPA has agreed not to object when the NYISO files an answer responding to LIPA's protest. The NYISO's answer to LIPA's protest will include a request that the Commission waive its usual prohibition against such answers in light of the special circumstances presented here.

See also, LIPA Response at note 4.

apportion its scarce resources. LIPA's concern that the Cross-Sound Scheduled Line will be underutilized could be addressed without significant and expensive software modifications if: (a) the NYISO defers to the New England Independent System Operator's ("ISO-NE's") schedules when the Cross-Sound Scheduled Line is congested and a transmission limitation exists in New England or on the Line itself, and (b) ISO-NE defers to the NYISO's schedules when the Cross-Sound Scheduled Line is congested and a transmission limitation exists in New York.

In response to LIPA's assertions that an affidavit is necessary to support the cost estimate contained in section II.B.6 of its May 2, 2005 Motion for Leave to Answer and Answer the NYISO has attached the Affidavit of John E. Hickey. The NYISO also explains the approach it took in preparing its estimate of what it would cost to implement the tariff revisions that LIPA has proposed.

Finally, the NYISO explains the nature of the discussions that have occurred between LIPA and the NYISO regarding the issues on which the parties previously agreed to disagree and bring before the Commission for resolution.

B. LIPA's Proposal is Not Consistent with the Software that Runs the NYISO's Markets

On page 9 of its Response, LIPA alleges that it is not necessary for the NYISO to 'enhance the process that gets data from the CSC OASIS to include reservation type, reservation time and reservation service type.' LIPA's claim that the NYISO's software platform should already incorporate parameters needed for transmission reservation based functional design reflects a lack of understanding of the NYISO's software design. The concept of reserving physical transmission capacity does not exist in New York. Rather, transmission rights are awarded as a function of a transaction having been

scheduled by the optimization processes in the NYISO's Day-Ahead and Real-Time scheduling functions. The addition of a transmission reservation-based tiebreaker process into the NYISO's software platform would require a substantial software and testing effort.

Along a similar vein, on page 5 of its Response LIPA claims that its proposed tariff language is "consistent with the NYISO markets." This statement is not correct. The NYISO handles economic ties via pro-rata apportionment.⁴ The NYISO's Day-Ahead and Real-Time firm transaction scheduling software do not receive as an inputs and are not presently designed to accommodate or utilize timestamps or NERC transmission priorities⁵ in determining appropriate schedules.

C. The Costs and Benefits Associated with a Software Project Are Relevant Concerns

On pages five through eight of its Response, LIPA questions the NYISO's reliance on a cost-benefit type of analysis as a basis for determining how to apportion its scarce IT resources among the numerous desirable and beneficial projects that the NYISO and/or its Market Participants have proposed. Instead, LIPA suggests that the Commission should require the NYISO to address a narrow seams issue that is of particular interest to LIPA immediately, at the expense of other NYISO software projects that are also desirable and that will provide benefits to the broader markets the NYISO administers.⁶

⁴ See *New York Independent System Operator, Inc.*, 92 FERC ¶ 61,073 *mimeo* at pp. 20-21 (2000); 93 FERC 61,142 *mimeo* at p. 19 (2000) (the "Bid Cap Orders").

⁵ The NYISO permits Market Participants to designate transactions as "firm" or "non-firm." Non-firm means not willing to pay congestion at all. As LIPA recognizes in its Response (at 6), Market Participants rarely use the non-firm designation in New York.

⁶ With regard to the appropriateness of requiring CSC, LLC or LIPA to pay for the additional software development necessary to implement LIPA's proposed "tiebreaker," unlike the projects that LIPA

On pages five and six of its Response, LIPA suggests that Real-Time users of the Cross-Sound Scheduled Line will be submitting “pure” price taking bids for transactions over the Cross-Sound Scheduled Line. If a Market Participant’s goal is to arbitrage the prices between New York and New England, the submission of a bid to flow at any price (up to the bid cap) would be a very blunt mechanism for achieving this goal. Such a strategy could backfire and result in an economically undesirable commitment. Market Participant behavior at the NYISO’s existing Proxy Generator Buses suggests that Market Participants will submit price sensitive bids and will not all offer to flow at any price, contrary to LIPA’s assertion.

On the bottom of page six of its Response, LIPA states that during peak hours when there is a transmission limit in New York there will be multiple parties “interested in scheduling” transactions over the Cross-Sound Scheduled Line. The NYISO agrees, but notes that one of those parties will be LIPA, the firm rights holder. If LIPA knows in advance that the conditions it identifies in its Response are likely to occur, LIPA will rationally retain the Advance Reservations for its own use.

On page seven of its Response, LIPA states that the primary purpose of its proposal is to ensure the maximum interchange of energy between Control Areas. LIPA’s goal could be accomplished without the need for significant software expenditures if: (a) the NYISO defers to ISO-NE’s schedules when the Cross-Sound Scheduled Line is congested and transmission limitation exists in New England or on the Line itself, and (b) ISO-NE defers to the NYISO’s schedules when the Cross-Sound

identifies on page 12 of its Response, which benefit an entire class or group of Market Participants, the “tiebreaker” mechanism may only apply to one transmission facility—the Cross-Sound Scheduled Line and will primarily benefit one Market Participant—LIPA.

Scheduled Line is congested and transmission limitation exists in New York. *See* the NYISO's May 2, 2005 Answer at 12.

D. Affidavit Supporting Cost Information

LIPA next argues that the NYISO's estimate of the cost of implementing LIPA's proposed tariff revisions is inaccurate and should be disregarded because it was not submitted with a supporting affidavit or documentation. The NYISO notes that both parties' pleadings contain significant factual assertions that are not supported by an affidavit. Instead, they are supported by the signature of counsel. In response to LIPA's suggestion that an affidavit is necessary, the NYISO has separately provided an affidavit from Mr. John E. Hickey, the NYISO's Manager of Business Requirements, who supervised the preparation of the cost estimate set forth in Section II.B.6 (pages 18-22) of the NYISO's May 2, 2005 answer to LIPA's Limited Protest in this docket.⁷

Contrary to LIPA's assertions, the NYISO did not take a "worst-case approach" in preparing its cost estimate and carefully identified and selected the software systems that would need to be modified to implement the tariff language that LIPA has proposed. As the NYISO explained on pages seven and eight of its May 2, 2005 answer to LIPA's Limited Protest, the NYISO will use manual procedures to curtail in-hour transactions between the New York and New England control areas, but must rely on its scheduling software outside the two-hour curtailment horizon. Therefore, scheduling and curtailment are two very different processes.

LIPA possesses only a limited understanding of the NYISO's software and the functions each program performs. For example, on page 10 of its Response, LIPA

suggests that no changes to the NYISO's Day-Ahead Security Constrained Unit Commitment ("SCUC") program are necessary. LIPA's statement is wrong for several reasons. First, the NYISO's SCUC and Real-Time Commitment ("RTC") programs share the same software "core." As a result, changes made to the NYISO's RTC must be mirrored in SCUC, even if the changes are not used to run the NYISO's Day-Ahead Market.

Second, if the NYISO is aware of a New York facility outage in advance that affects the Cross-Sound Scheduled Line, the outage may be reflected in its SCUC model. Under these circumstances it may be necessary to implement the "tiebreaker" in the Day-Ahead Market. Otherwise, the NYISO would be applying inconsistent rules and bid evaluation requirements between its Day-Ahead and Real-Time markets that could create an unwarranted divergence between Day-Ahead and Real-Time results.

E. LIPA's Claim that it Lacked Prior Knowledge of Technical or Financial Issues Raised in the NYISO's Answer is In Error

On page two of its Response, LIPA claims that the NYISO "never" articulated to LIPA or its Market Participants "any of the technical or financial issues raised in the NYISO's Answer." In fact, the NYISO held meetings with LIPA and representatives of ISO-NE at which the NYISO explained to LIPA why it would not and could not implement the ISO-NE tiebreaker rules in New York and LIPA has responded to the NYISO regarding these discussions.⁸ At those meetings the NYISO explained to LIPA what it could and could not do to accommodate LIPA's concerns. Hence, LIPA's

⁷ An executed electronic copy of Mr. Hickey's affidavit is being submitted simultaneous with this filing. Mr. Hickey's original, executed affidavit will be submitted to the Commission within two business days.

⁸ For LIPA's reference, one of the relevant e-mails, sent by LIPA's counsel, was dated November 22, 2004.

suggestions in its pleading that it had not previously articulated its concerns to LIPA are not accurate. It also appears to the NYISO that LIPA's statements on the top of page 11 of its Response, at least implicitly, contradict the claims made on page two thereof.

In order to avoid inordinate delays in the implementation of the Cross-Sound Scheduled Line, LIPA and the NYISO jointly agreed not to address the issues that were raised in LIPA's Protest, the NYISO's Answer or LIPA's Response before the NYISO's Market Participant committees and informed the other Market Participants of their agreement.⁹ From the NYISO's perspective, this agreement was made to assist LIPA and to implement the Cross-Sound Cable as a Scheduled Line as quickly as possible, consistent with the NYISO's commitment to a June, 2005 implementation date.

III. CONCLUSION

For the reasons set forth above, the NYISO respectfully requests that the Commission consider this answer, reject LIPA's Limited Protest and Response in the above-captioned proceeding, and accept the NYISO's proposed tariff revisions as filed by the NYISO.

Respectfully submitted,

/s/ Alex M. Schnell
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⁹ The NYISO did not agree to limit its legal arguments to those discussed with LIPA, or to pre-screen its arguments with LIPA before presenting them to the Commission.

CERTIFICATE OF SERVICE

I hereby certify that I have this day electronically served the foregoing document upon each person designated on the official service lists compiled by the Secretary in this proceeding in accordance with the requirements of Rule 2010 of the Rules of Practice and Procedure, 18 C.F.R. § 385.2010.

Dated at Albany, New York this 23rd day of May, 2005.

/s/ Alex M. Schnell _____
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