

**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 PROTESTS AND COMMENTS**

Pursuant to Rules 212 and 213 of the Commission’s Rules of Practice and Procedure,¹ the New York Independent System Operator, Inc., (“NYISO”) hereby explains the legal basis for its right to respond, respectfully requests leave to respond, and responds to the comments and protests, filed in response to the NYISO’s March 25, 2005 filing in the above-captioned docket titled “Proposed Tariff Revisions Enabling Generic Implementation of Scheduled Lines and Implementing the Cross-Sound Cable as a Scheduled Line of the New York Independent System Operator, Inc.” (the “Scheduled Lines Filing”). In this “Answer” the NYISO seeks leave to respond to the comments submitted by the Indicated New York Transmission Owners (the “NY Transmission Owners”) and to the Limited Protest of the Long Island Power Authority and LIPA (collectively, “LIPA”).

In its Scheduled Lines Filing, the NYISO proposed revisions to its Market Administration and Control Area Services Tariff (“Services Tariff”) and to its Open Access Transmission Tariff (“OATT”) (collectively, the “Tariffs”) that will enable the NYISO to put in place additional Proxy Generator Buses² representing the interfaces between the New York Control Area (“NYCA”) and neighboring Control Areas; to

¹ 18 C.F.R. §§ 212, 213 (2004).

² Capitalized terms not specifically defined herein shall have the meaning set forth in the NYISO’s Tariffs, as amended by the Scheduled Lines Filing.

schedule on a facility-by-facility basis, certain “controllable” Transmission Facilities separately from the existing Proxy Generator Buses that each represent the entire transfer capability between the NYCA and a neighboring Control Area; and to implement the Cross-Sound Cable as the NYISO’s first Scheduled Line (the “Cross-Sound Scheduled Line”).

I. EXPLANATION OF RIGHT TO SUBMIT ANSWER/MOTION FOR LEAVE TO SUBMIT ANSWER

LIPA’s Limited Protest does not confine itself to commenting on the merits of the Scheduled Lines Filing that was submitted by the NYISO. Instead, LIPA’s Limited Protest requests that the Commission accept the NYISO’s filing as submitted, with the addition of specific, substantively new, tariff language that LIPA proposes in its Limited Protest. While LIPA styles its pleading a “Limited Protest,” it is, in fact, a motion that seeks affirmative relief (the addition of LIPA-suggested, substantive requirements to the NYISO’s tariff) from the Commission. While Rule 213(a)(2) of the Commission’s Rules of Practice and Procedure provide that an answer may not be made to a protest unless approved by the Commission, Rule 213(a)(3) allows the NYISO to answer any other pleading, including motions that seek affirmative relief from the Commission. Because LIPA’s pleading seeks affirmative relief from the Commission, the NYISO submits that the Commission’s Rules of Practice and Procedure authorize this Answer to LIPA’s Limited Protest. However, out of an abundance of caution, the NYISO also requests permission to answer LIPA’s Limited Protest for the reasons set forth below.

The NYISO recognizes that the Commission generally discourages answers to comments and protests. 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.³ The NYISO's Answer meets this standard. The NYISO's response does not introduce new issues, but instead is submitted for the limited purpose of clarifying certain factual matters, correcting an inadvertent omission from the NYISO's proposed tariff sheets, and responding to proposed substantive additions to the NYISO's Services Tariff that are set forth in LIPA's Limited Protest, thereby assisting the Commission in its review and consideration of the complex issues presented in this proceeding. It is the NYISO's understanding that LIPA does not object to the NYISO's submission of an answer to its Limited Protest.⁴ 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 the NYISO's Answer.

II. ANSWER

A. Answer to the Comments of the NY Transmission Owners

The NYISO appreciates the NY Transmission Owners support for the Scheduled Lines Filing and agrees that on Sheet No. 335B of the Services Tariff it inadvertently deleted the word "RTD" from a section of the tariff that the NYISO did not intend to

³ 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 at 61,381 (1999) (accepting prohibited pleadings because they helped to clarify the issues and because of the complex nature of the proceeding).

⁴ As the NYISO explained on page 3 of its 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

revise. The NYISO proposes to replace the inadvertently omitted term in a compliance filing, or by filing a substitute sheet should the Commission determine that no compliance filing is necessary because the omission affects a provision of the Services Tariff that the NYISO has not requested the Commission's leave to revise.

B. Answer to LIPA's Limited Protest

1. Summary of argument.

LIPA's Limited Protest argues that the Commission should require the NYISO to apply New England transmission reservation priorities and New England scheduling rules to determine how a small subset of transactions will flow within the NYCA. LIPA's proposal would require the NYISO to revise bedrock market concepts, such as distinguishing between firm and non-firm transmission priority based on a physical "Advance Reservation" in ISO New England ("ISO-NE"), rather than the transaction's willingness to pay congestion charges in New York. LIPA's proposed tariff revisions are directly at odds with the New York tariffs and market rules and should be rejected. As the Commission recognizes in its Cross-Sound Cable Company, LLC orders⁵ the rules for using and determining scheduling priority over the Cross-Sound Cable in New England are tied to specific New England tariff rules that do not exist in New York. The NYISO's implementation of the Cross-Sound Scheduled Line will ensure that users of the Cross-Sound Scheduled Line receive the transmission priority they are entitled to in New England and over the Cross-Sound Scheduled Line, and will appropriately apply the New

Commission waive its usual prohibition against such answers in light of the special circumstances presented here.

⁵ *Cross-Sound Cable Company, LLC*, 106 FERC ¶ 61,116 at P 24 (2004); *on reh'g*, 109 FERC ¶ 61,223 at P 28 (2004).

York tariffs and market rules to determine how the same users are entitled to flow over the New York transmission grid.

The NYISO is already proposing to treat the Proxy Generator Bus that will be associated with the Cross-Sound Scheduled Line differently from all of its other external Proxy Generator Buses for scheduling purposes for two reasons. First, the NYISO has implemented unique software capability to accommodate the “physical rights” transmission reservations (called Advance Reservations) implemented in ISO-NE. Second, to ensure that when the capability of the Cross-Sound Scheduled Line must be reduced due to system conditions in New England, or due to problems with the Line itself, the rules that will be applied to reduce schedules will be the ISO-NE tariff rules. The NYISO does not use physical transmission reservations when scheduling transactions internally or between the NYISO and neighboring Control Areas. The NYISO utilizes a very different set of operating procedures to accommodate scheduling at all of its other external Proxy Generator Buses.

The new rules and operating procedures that the NYISO proposed to implement in the Scheduled Lines Filing require complicated and expensive software upgrades and manual processes, some of which are only necessary to accommodate the unique requirements of the Cross-Sound Scheduled Line. The accommodations that the NYISO proposed in its Scheduled Lines Filing ensure that in every circumstance, except the rare situation identified by LIPA in its protest, holders of Advance Reservations over the Cross-Sound Scheduled Line will receive the same transmission priority in New York that they are provided in the ISO-NE Control Area. The NYISO estimates that it would cost approximately \$2.2 million to implement the tariff revisions that LIPA argues the

NYISO should be required to make. Setting aside the fact that New England scheduling priority rules apply in New England, not New York, for the reasons explained below, the ISO-NE tie breaker would apply so rarely that no reasonable cost benefit analysis could possibly justify its implementation in New York. Accordingly, the NYISO requests that the Commission reject LIPA's proposed revisions to the NYISO's tariffs in their entirety.

2. The NYISO has already undertaken all reasonable efforts to accommodate external transactions to and from the Cross-Sound Scheduled Line.

The Scheduled Lines Filing, and supporting implementation efforts, reflects a significant, good faith effort by the NYISO to accommodate the Cross-Sound Cable's unique operating and scheduling needs. The software functionality and operating protocols that the NYISO is proposing to add specifically to implement the Cross-Sound Cable as a Scheduled Line (excluding the "generic" software that the NYISO also expects to use to support future Scheduled Lines) is not functionality that is used anywhere else on the NYISO's system at the present time. While additional uses may be found for the work that the NYISO has done to accommodate the Cross-Sound Scheduled Line at some point in the future, the NYISO does not, at present, have any plans to apply the Cross-Sound Scheduled Line specific functionality for any purpose than permitting transactions to flow over the Cross-Sound Scheduled Line.

The NYISO is implementing the following significant operating protocols and software functionality specifically to accommodate the operation of the Cross-Sound Scheduled Line:

First, the NYISO has accommodated the ISO-NE requirement that only Market Participants holding Advanced Registrations may be scheduled over the Cross-Sound

Scheduled Line, even though NYISO does not employ a physical reservation-based system to schedule transactions over any other interface. The NYISO is closing both its Day-Ahead and Real-Time markets ten minutes early for External Transactions submitted at the Proxy Generator Bus that is associated with the Cross-Sound Scheduled Line so that it can conduct a programmatic search of the CSC, LLC node of the ISO-NE OASIS and verify that each bid it receives that seeks to schedule an External Transaction over the Cross-Sound Scheduled Line is adequately supported by an Advance Reservation. The only reason the NYISO undertakes this exercise is to preserve the sanctity of the CSC, LLC Advance Reservation process.

Second, because the flows over the Cross-Sound Scheduled Line are limited in each direction by the available Advance Reservations, the NYISO had to implement a Special Pricing Rule to protect NYCA loads (including loads served by LIPA) from paying extra-market prices to purchase counterflow, or to cancel Day-Ahead transactions when the Cross-Sound Scheduled Line is subject to a transfer limit constraint. Depending upon the rules that apply to future Scheduled Lines, the Special Pricing Rule may or may not remain specific to the Cross-Sound Scheduled Line.

Third, as LIPA noted in its Limited Protest (at 19), the NYISO has proposed to change the Commission mandated *pro rata* curtailment priority it applies to all External Transactions⁶ to permit the NYISO to curtail in-hour External Transactions flowing over the Cross-Sound Scheduled Line based on the NERC transmission priority. Unlike the scheduling of External Transactions, which is performed by the NYISO's Security Constrained Unit Commitment ("SCUC") or Real-Time Commitment ("RTC") programs,

⁶ 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").

the in-hour curtailment of External Transactions is a (software assisted) manual process that the NYISO operators can implement differently for the Cross-Sound Scheduled Line than for any other curtailments. The NYISO operators will have to manually determine the NERC transmission priority of each of the scheduled transactions and reduce or eliminate transactions accordingly.

Finally, ISO-NE has operational control of the Cross-Sound Scheduled Line and will determine the appropriate schedules to curtail when the curtailment of schedules is necessary due to system conditions in New England. In order to ensure that the NYISO does not interfere with the scheduling rules that apply in ISO-NE, for scheduling purposes (outside the curtailment horizon⁷), the NYISO will not derate the Cross-Sound Scheduled Line due to system conditions in New England (including, but not limited to, the status of the Cross-Sound Scheduled Line itself). For scheduling purposes, the NYISO will not derate the Cross-Sound Scheduled Line based on system conditions in New York, except when it is necessary to avoid, or in response to a system emergency.⁸

⁷ In New York, the “curtailment horizon” extends from the time at which a contingency that requires the curtailment of schedules occurs until the time when the NYISO’s RTC is able to issue schedules that account for and respond to the contingency. External Transactions are scheduled on an hourly basis, commencing at the top of each hour. Real-Time bids must be submitted and the RTC program begins its evaluation 75 minutes prior to the relevant dispatch hour. Once RTC has begun its evaluation, it is no longer possible to revise the system conditions that RTC is relying on to conduct its resource evaluation. Therefore, the curtailment horizon will include the hour in which the curtailment occurs, the next hour and, possibly, a third hour (if a contingency event takes place in the last 15 minutes of an hour).

⁸ As LIPA’s Limited Protest notes (see page 13 and note 21 thereof), the NYISO’s proposed method of reducing schedules over the Cross-Sound Scheduled Line is different from the practice ISO-NE employs. More significantly, it is also different from the scheduling practice that the NYISO employs at its other Proxy Generator Buses (the practice the NYISO employs at its other Proxy Generator Buses is similar to the ISO-NE practice that LIPA identifies in footnote 21 of its Limited Protest). The reason the NYISO has elected to treat the Cross-Sound Scheduled Line differently from all of its other external Proxy Generator Buses is to ensure that holders of Advance Reservations over the Cross-Sound Scheduled Line receive the transmission priority that they are entitled to within the ISO-NE Control Area, in accordance with ISO-NE’s rules.

Each of the changes described above have been proposed to accommodate the scheduling of transactions between the NYCA and the Cross-Sound Scheduled Line. The cost of implementing all of the above changes is being borne by the NYISO's Market Participants as a whole, including many Market Participants that may never schedule an External Transaction over the Cross-Sound Scheduled Line. CSC, LLC is not bearing any of the costs incurred by the NYISO to implement the above measures because it is not a Market Participant in New York (LIPA and some of CSC, LLC's affiliates are New York Market Participants).

As LIPA states in its Limited Protest (at pages 8 and 9), the NYISO's efforts are satisfactory to LIPA, with the sole exception of the manner by which the NYISO will apportion the Cross-Sound Scheduled Line's available capability between competing users in the unlikely event that all of the following prerequisite conditions occur: (a) the Cross-Sound Scheduled Line must be oversubscribed for the relevant hours, (b) the bids submitted in New York by two or more market participants must have the same economic priority (there must be a "tie"), (c) the bids submitted in New England must also have equal economic priority (but for the application of ISO-NE's "tie breaker" rules⁹), (d) the NYISO must derate the Cross-Sound Scheduled Line in order to prevent or avoid a system emergency in New York, and (e) the adverse system condition in New York must persist for approximately two hours.¹⁰ The NYISO expects that these conditions will occur very rarely, if ever. A detailed explanation of the circumstances under which all five prerequisite conditions can occur is provided in Section II.B.4, below.

⁹ See ISO New England FERC Electric Tariff No. 1, Section II, Open Access Transmission Tariff, Section II.44.

¹⁰ As noted above, if the problem persists for less than two hours, the problem will be dealt with via curtailment rather than scheduling.

Rather than requiring the NYISO to apply every nuance of New England’s Cross-Sound Scheduled Line scheduling procedure to power flowing over the New York transmission grid, the Commission should accept the Scheduled Lines tariff language proposed by the NYISO.

3. The NYISO has developed operating protocols that accommodate ISO-NE reservation priorities over the Cross-Sound Scheduled Line.

LIPA’s Limited Protest argues that the NYISO is not respecting the Advance Reservation priority it is entitled to in ISO-NE and over the Cross-Sound Scheduled Line. LIPA’s argument is not correct. In order to ensure that the NYISO does not interfere with the scheduling rules that apply in ISO-NE, the NYISO will implement a two-part operating protocol¹¹ that will apply to transactions over the Cross-Sound Scheduled Line. First, the NYISO has determined that, for scheduling purposes (outside the curtailment horizon¹²), it will not derate the Cross-Sound Scheduled Line based on system conditions in New England (including, but not limited to, the status of the Cross-Sound Scheduled Line itself). Rather, the NYISO will leave these operating decisions to ISO-NE. This first provision of the operating protocol ensures that when the capability of the Cross-Sound Scheduled Line must be reduced due to system conditions in New England or problems with the Line itself, the rules that will be applied to reduce schedules will be New England’s rules, not the NYISO’s and the “mismatch” that LIPA fears will not occur.

¹¹ The NYISO’s proposed operating protocol is described on page 8 of the transmittal letter describing its Scheduled Lines Filing.

¹² See note 7.

In the event that a reduction in schedules is necessary, the first part of the operating protocol will work as follows: the NYISO will conduct inter-Control Area check-out with ISO-NE based on a schedule that assumes that all transactions over the Cross-Sound Scheduled Line will flow. ISO-NE will apply the rules set forth in Section II.44 of its OATT¹³ to determine the transactions that should flow and will determine a reduced portfolio of transactions that reflects ISO-NE's application of its rules. The two ISOs will check out based on the lesser of the two schedules. There will not be any "mismatch" between New York and New England.

The second part of the operating protocol is a predetermination by the NYISO that, for scheduling purposes, it will not derate the Cross-Sound Scheduled Line based on system conditions in New York, except when derating the Cross-Sound Scheduled Line is necessary to avoid or respond to a system emergency in New York. Under these unusual circumstances, the NYISO will determine which transactions have transmission priority because the transmission limitation is in New York, rather than in New England or on the Cross-Sound Scheduled Line itself. If and when a prerequisite condition occurs, the NYISO's scheduling program (RTC) will apply the New York scheduling rules, including the *pro rata* tiebreaker if there are two bids under evaluation that possess equal economic priority.

The application of the New York scheduling rules is appropriate under these circumstances because the transmission limitation is not occurring in New England or on the Cross-Sound Scheduled Line, where holders of Advance Reservations with higher priority are granted a limited scheduling preference over Advance Reservation holders

¹³ See ISO New England FERC Electric Tariff No. 1, Section II, Open Access Transmission Tariff, Section II.44.

with lower priority. Instead, the limitation is on the New York transmission grid, where Advance Reservations do not exist, almost all transactions are bid as firm, scheduling priority is determined based on economics, and the schedules of transactions with equal economic priority are reduced *pro rata* consistent with the Commission's Bid Cap Orders.

When an Export is reduced due to a transmission limitation on the New York transmission grid, only the reduced schedule is available to flow over the Cross-Sound Scheduled Line. With regard to Imports, New England may be capable of delivering the full output of the Scheduled Line, but New York may determine a reduced schedule that reflects transmission limitations in New York. Again, the New York rules should determine scheduling priority for the New York transmission grid. Holders of firm Advance Reservations over the Cross-Sound Scheduled Line are not entitled to require the NYISO to evaluate their transaction using ISO-NE tariff rules to address a New York transmission limitation. Indeed, the best method of avoiding a mismatch in schedules between the NYISO and ISO-NE may be for ISO-NE to defer to the NYISO's scheduling determination when system conditions in New York are the reason that schedules over the Cross-Sound Scheduled Line must be reduced. This result would appropriately parallel the NYISO's decision that it will defer to ISO-NE when Cross-Sound Scheduled Line schedules need to be reduced due to system conditions in New England or limitations on the Cross-Sound Scheduled Line, itself.

- 4. The circumstances under which the NYISO will be required to determine reduced schedules that affect transmission reservations over the Cross-Sound Scheduled Line will be very rare.**

LIPA's Limited Protest does not address the likelihood that the concerns LIPA raises will occur, in practice. Given the rules and operating protocols that the NYISO is proposing to implement, it should only be possible for a holder of an Advance Reservation to receive a different schedule in New York than it does in New England if all of the following prerequisites are satisfied:

(a) the Cross-Sound Scheduled Line is oversubscribed for the relevant hours;

The physical capability of the Cross-Sound Cable is 330 MW (excluding losses) in each direction (Long Island to Connecticut and vice-versa). Only parties that hold Advance Reservations are permitted to schedule transactions on the Cross-Sound Scheduled Line, and there are only 330 MW of firm Advance Reservations available over the Cross-Sound Scheduled Line in each direction. LIPA presently holds all of the firm Advance Reservations on the line, but is permitted to voluntarily release both firm and non-firm service for purchase by third parties. Any capacity that LIPA does not schedule or release by noon on the day before the relevant dispatch day is automatically default released—made available for use by third parties on a non-firm basis.

There are only two ways the Cross-Sound Scheduled Line can become oversubscribed. First, the line can become oversubscribed if a transmission limitation physically limits either access to the line in New York or New England, or the capability of the line itself, and the reduced capability is not sufficient to flow all of the bids that are supported by Advance Reservations. New York transmission limitations of the types described rarely affect the Cross-Sound Scheduled Line. In addition, as prerequisite (d), below and Section II.B.3, above, each explain, a mismatch in schedules between the NYISO and ISO-NE can only occur when a transmission limitation within the NYCA is

the reason that the transmission capacity available on the Cross-Sound Scheduled Line must be reduced.

Second, the line can become oversubscribed if: (i) the holder of firm Advance Reservations elects to submit schedules “over the top”¹⁴ of the holders of non-firm Advance Reservations, (ii) the ISOs schedule more than 330 MW of transactions in a single direction because there is supporting counterflow available (there must be actual schedules in the opposite direction, Advance Reservations alone are not adequate) to support scheduling beyond 330 MW, and (iii) the supporting counterflow transactions are cancelled, or otherwise disappear. Because LIPA has stated that it has no intention of scheduling “over the top” of non-firm transactions, this second possible method by which the Cross-Sound Scheduled Line could become oversubscribed should never occur.

(b) the bids submitted in New York by two or more market participants must have the same economic priority (there must be a “tie”);

The first required criterion is that there be two competing bidders. If LIPA is accurately arbitraging the price differentials between New York and New England, the Advance Reservations that LIPA releases, rather than retaining for its own use, should be

¹⁴ The fact that a non-firm Advance Reservation has been voluntarily or default released does not preclude the firm Advance Reservation holder from submitting economic bids in competition with the non-firm Advance Reservation holder(s). Thus, a holder of firm Advance Reservations could release a non-firm Advance Reservation and the non-firm Advance Reservation could be purchased by a third-party at the price that is posted on the CSC, LLC node of the ISO-NE OASIS. The firm Advance Reservation holder could then submit transactions that exceed the capacity it has withheld for its own use. Under these circumstances, even though the non-firm Advance Reservation holder has already assumed a non-contingent obligation to pay for its non-firm Advance Reservation, the proposed schedules submitted by the firm and non-firm Advance Reservation holders will compete economically for the right to flow. If the firm Advance Reservation holder’s bid is more economically attractive than the bid submitted by the non-firm Advance Reservation holder, a portion or all of the non-firm Advance Reservation holder’s desired schedule may be “bumped” by the schedule submitted by the firm Advance Reservation holder. In part because the non-firm Advance Reservation holder will not be due any refund for the “bumped” portion of its non-firm Advance Reservation, LIPA has represented that it will assiduously avoid engaging in this practice due to the

of limited value. The NYISO suspects that in many hours LIPA will be the only user of the Cross-Sound Scheduled Line. In those hours, it will not be possible for there to be a “mismatch” between NYISO and ISO-NE schedules.

As LIPA’s Limited Protest suggests, an economic tie among bidders would be most likely to occur when all of the bidders submit the lowest or highest, as appropriate, possible bid in order to ensure that their transactions flow. Bids that are designed to ensure that a transaction flows, without regard to price, are called “price taker” bids. Bids submitted in the day-ahead market that are permitted to become real-time bids will ordinarily (but not always) have price-taker bid priority. Without a bidding history on the Cross-Sound Scheduled line, the NYISO cannot accurately estimate the percentage of bids in New York that will have equal economic priority.

(c) the bids submitted in New England must also have equal economic priority (but for the application of ISO-NE’s so-called “tie breaker” rules);

LIPA’s Limited Protest addresses only those hours in which the ISO-NE “tiebreaker” rules would apply. If the bids in New England are not of equal economic priority, then any scheduling mismatch that occurs between the NYISO and ISO-NE should be due to inconsistent bidding by Market Participants in the two Control Areas, rather than a mismatch between the NYISO and ISO-NE tariff rules.

Without any historical data, the NYISO cannot project how often economic ties will occur in New England.

detrimental effect scheduling “over the top” would be expected to have on the perceived value of non-firm Advance Reservations.

(d) the NYISO must derate the Cross-Sound Scheduled Line in order to prevent or avoid a system emergency in New York;

As explained in Section II.B.3, above, for scheduling purposes the NYISO will not derate the Cross-Sound Scheduled Line to reflect system conditions in New England, or on the Line itself. Instead, the NYISO will defer to ISO-NE's determination of appropriate schedules under these circumstances. Result—the two ISOs will agree to use the ISO-NE schedules at checkout and no mismatch will occur.

(e) the adverse system condition in New York must persist for approximately two hours.

The NYISO's Scheduled Lines Filing contains curtailment rules that are nearly identical to the rules ISO-NE adopted. LIPA's Limited Protest (at 19) makes clear that LIPA's concern is scheduling, not curtailment. The difference between scheduling and curtailment in New York is discussed in Section II.B.3 and in footnote 7, above. A transmission limitation in New York can only result in a mismatch between the NYISO and ISO-NE schedules if it is of approximately two hours or longer duration. This prerequisite means that only ongoing/continuing transmission limitations in New York will create the possibility of a divergence between the NYISO and ISO-NE schedules for the Cross-Sound Scheduled Line.

Unless all five of the prerequisites described above are satisfied, the "mismatch" between New York and New England that is the subject of LIPA's Limited Protest will not occur, LIPA's power will flow as scheduled, and all of the expensive and time consuming modifications that LIPA is requesting that the Commission require the NYISO to make to address LIPA's concern will be for naught. The NYISO expects that all five prerequisite conditions will arise very rarely, if ever.

5. How the hypothetical included in LIPA’s Limited Protest would be handled by the NYISO and ISO-NE

On pages 12 and 13 of its Limited Protest LIPA provides a sample “scenario” to illustrate its concern. LIPA’s scenario opens with the assumption that all of the five prerequisite conditions identified in Section II.B.4 (above) have occurred, without addressing how *likely* the simultaneous occurrence of all five conditions is. LIPA’s scenario does not address the distinction between scheduling and curtailment at all. LIPA is correct that, assuming its scenario occurred as posed, 150 MW of the 200 MW would flow. The two ISOs would agree to accept the lower of the two schedules for each of the two Market Participants, so the firm Advance Reservation Holder would receive a schedule of 100 MW and the non-firm Advance Reservation holder would receive a schedule of 50 MW. The NYISO does not agree with LIPA’s assertion that it is possible that no power would flow, as the checkout process employed by the NYISO and ISO-NE would prevent such an occurrence.¹⁵

¹⁵ The NYISO also disagrees with LIPA’s proposed method of allocating NYCA transmission capacity between internal NYISO resources and External Transactions flowing over the Cross-Sound Scheduled Line when there is a tie in economic priority between one or more internal resources and two or more Cross-Sound Scheduled Line external transactions that have mixed (firm and non-firm) Advance Reservation priority in New England. On pages 14 and 15 of its Limited Protest LIPA proposes that the NYISO should first prorate transactions between internal resources and Cross-Sound Scheduled Line bids/offers and then apply the ISO-NE scheduling rules to permit holders of Firm Advance Reservations to “usurp” the schedule that the NYISO has allocated to the non-firm rights holder, thus granting the firm Advance Reservation holder a larger share of the overall “pie” that is available for *pro rata* division. If the Commission requires the NYISO to apply the ISO-NE scheduling rules to the allocation of schedules within the NYCA, then the NYISO believes that it should apply the ISO-NE priority rules first (to limit the schedules over the Cross-Sound Scheduled Line) and then prorate the available transmission capacity among all scheduled transactions that possess equal economic priority in New York.

6. The costs of revising the NYISO's scheduling (and related) systems to implement the New England priority rules would vastly exceed the benefits.

In its Limited Protest LIPA argues that because CSC, LLC constructed a merchant transmission facility within the ISO-NE Control Area (as opposed to a New England Pool Transmission Facility) and LIPA has purchased the right to use that facility, the Commission should now require a neighboring Control Area (the NYCA) to conform all of its operating practices and market rules to those of the Control Area within which the merchant transmission facility resides. Setting aside the fact that LIPA's Advance Reservations and associated rights exist in New England, not in New York, LIPA's Limited Protest does not address either the cost of conforming the NYISO's practices to the rules that have been implemented in ISO-NE, or the true value of the benefits that might be derived from the NYISO's additional efforts.

In Sections II.B.2, 3, 4 and 7 of this Answer, the NYISO explains that the software that would be necessary to implement the tariff revisions that LIPA argues the NYISO should be required to implement will rarely, if ever, be triggered. Thus, the benefit that will accrue to LIPA will be slight or nonexistent. In this section, the NYISO estimates the costs it would incur were the Commission to require the NYISO to implement LIPA's request.

From a technical standpoint, the software functionality that would be necessary to permit the NYISO to implement the tariff revisions that LIPA requests is very complex.

LIPA's changes would require modifications to multiple software programs that are fundamental to the operation of the NYISO's market, including its:

- (i) Market Information Systems ("MIS") software, where bids are submitted;
- (ii) Day-Ahead Security Constrained Unit Commitment (SCUC) program, that is used to evaluate bids in the NYISO's Day-Ahead Market;
- (iii) four-month old Real-Time Commitment (RTC) program, that is used to evaluate Real-Time bids;
- (iv) Real-Time Commitment Automated Mitigation Procedures ("RTC-AMP") program, that is used to evaluate and mitigate Real-Time bids;
- (v) Interchange Scheduling applications that are used to facilitate checkout and keep accurate account of compensable flows between control areas and to perform in-hour curtailments to address reliability concerns; and
- (vi) Facilitated Check Out program that is used by the NYISO's operators for hourly check out with neighboring Control Areas.

Setting aside, for the moment, LIPA's request that the NYISO utilize timestamps to evaluate economically tied non-firm transactions (addressed in Section II.B.7, below), LIPA's request would require the NYISO to add to its various integrated computer systems the following capabilities:

1. the ability to permit the NYISO's MIS, SCUC, RTC and RTC-AMP programs to distinguish bids that are associated with non-firm Advance Reservations over the Cross-Sound Scheduled Line from bids that are associated with firm Advance Reservations over the Cross-Sound Scheduled Line, in accordance with the priority assigned by ISO-NE. All of these bids will be submitted as firm bids in New York;¹⁶ and

¹⁶ While it is possible to submit a non-firm bid in New York (the NYISO receives approximately six hourly non-firm bids per month). Non-firm bids in New York indicate that the bidder is not willing to pay for any congestion to get its power to flow; if congestion exists, the bid should not be accepted. CSC, LLC does not provide refunds to purchasers of non-firm Advance Reservations if the associated transactions do not flow. For this reason, it would not make economic sense for a purchaser of a non-firm Advance Reservation in New England to submit a non-firm bid in New York. The Long Island Zone of the NYCA (Zone K) is a relatively constrained region of the NYCA. Transactions that elect not to pay congestion would rarely, if ever, flow in Zone K. If a purchaser is willing to spend the money to purchase an Advance Reservation, it will almost certainly be willing to pay for at least some minimal amount of congestion in order to get its transaction to flow in New York.

2. in the event of an economic tie between resources, the ability to determine if two or more of the resources that have equal economic priority are External Transactions that are flowing in the same direction (Import or Export) over the Cross-Sound Scheduled Line and to apply the ISO-NE tiebreaker rule to only those transactions. Implementing this function will be extremely complex because the NYISO's integrated systems will need to be able to distinguish between: (a) internal NYCA resources (e.g., generators), to which the ISO-NE "tiebreaker" rule should not be applied; (b) New England resources flowing in to or out of the NYCA at Sandy Pond, to which the ISO-NE "tiebreaker" rule should not apply; and (c) transactions flowing into the NYCA over the Cross-Sound Scheduled Line, to which the ISO-NE "tiebreaker" rule should apply.

The NYISO software would only apply the ISO-NE "tiebreaker" rule when two or more of the resources that have tie bids are External Transactions over the Cross-Sound Scheduled Line. When there are economic ties that involve "firm" Cross-Sound Scheduled Line resources, "non-firm" Cross Sound Scheduled Line resources and any other type of resource (a Zone K generator, or an External Transactions at Sandy Pond, for example) the NYISO's software would have to aggregate all of the Cross-Sound Scheduled Line transactions holding equal economic priority into a single "resource" for purposes of performing the proration of available transmission capability. Once the proration had occurred, the software would then need to distribute the Cross-Sound Scheduled Line's "share" of the prorated transmission capability based on the ISO-NE "tiebreaker" rule.

As LIPA explains on page 14 of its Limited Protest, the complex evaluation process described above is necessary to ensure that “the allocation of CSC-related flows does not affect other users of the New York power system.” In other words, LIPA recognizes that it would not be fair to apply ISO-NE rules to give External Transactions over the Cross-Sound Scheduled Line priority over internal New York resources, or over External Transactions at any other Proxy Generator Bus, so LIPA is proposing that the Commission require the NYISO to single out for special evaluation transactions that flow over the Cross-Sound Scheduled Line. Instead, the Commission should determine that the ISO-NE scheduling priority rules apply in the New England Control Area and over the Cross-Sound Scheduled Line, and the NYISO’s scheduling priority rules apply in the NYCA.

As complicated as the NYISO’s implementation of LIPA’s proposed ISO-NE “tiebreaker” rule appears, the precedent that the Commission would set by granting LIPA’s request could become even more unmanageable if owners or customers of future Scheduled Lines were to convince the Commission to require the NYISO to add line-specific procedures to evaluate External Transactions over each new Scheduled Line that were not agreed to by the NYISO or considered by its Market Participants during the stakeholder review of the proposal. All of the NYISO’s existing Proxy Generator Buses are subject to the same basic procedure for the economic evaluation of bids submitted in New York. Requiring the NYISO to implement line-specific evaluation measures for new Proxy Generator Buses at great expense, in terms of both time and resources, is not a solution that is likely to incent the NYISO’s Market Participants to support the implementation of additional Scheduled Lines.

The NYISO's Information Technology ("IT") Business Analysis Department offered the following estimate of what it might cost to implement the requirements that LIPA proposes in its Limited Protest. The estimated cost of implementation (including all the resource costs for design, development and testing) is \$2.2 million, broken down as follows:

- \$800,000 to enhance the process that gets data from the CSC OASIS to include reservation type, reservation time and reservation service type; (2) build the appropriate data tables, storage, archive requirements for the MIS; and (3) develop the data transfer and tables to pass the information to the SCUC, RTC and RTC-AMP processes.
- \$900,000 to modify all the scheduling applications (SCUC, RTC, RTC-AMP) to address the scheduling criteria as defined by LIPA. Essentially, determine firm and pro-rate (if necessary) re-evaluate the ability to schedule non-firm and schedule using time and class priority criteria.
- \$300,000 to modify the Interchange Scheduling and Facilitated Check Out applications to account for the various transaction criteria for day-ahead and in-hour curtailment criteria.
- \$200,000 for documentation, training, legal, and other miscellaneous expenses.
- **\$2,200,000 total estimated cost of implementation.**

The above \$2.2 million cost estimate does not reflect the delay such a project would impose on existing NYISO projects that are high priorities for other New York market participants. The NYISO is in the process of completing several high priority projects at this time.

If the Commission determines that the NYISO should be required to add the ISO-NE rules LIPA proposes to its Services Tariff, the implementation of the new tariff rules would have to be phased in (the new functionality cannot be available in June of 2005) and would be expected to take no less than a full year to implement.

7. LIPA’s proposed method of handling ties between non-firm Advance Reservation holders would create more problems than it would solve.

On page 11 of its Limited Protest LIPA proposes “[i]n the case of a tie within a category of transmission service: (i) transactions within a given sub-category of non-firm transmission priority shall be scheduled on the basis of the Real-Time Energy Market timestamp order...” The NYISO does not use timestamps to determine scheduling priority in its Day-Ahead or Real-Time markets. The complexity and cost of adding this capability to the NYISO’s markets would be significant (an estimate of the total cost of implementing LIPA’s proposed tariff language is provided in Section II.B.6 of this Answer). There are only two categories of transmission priority in New York, firm and non-firm. It is exceptionally rare for Market Participants to request non-firm transmission service in New York and there is only one “sub-category” of non-firm transmission service available. The tariff provision LIPA is proposing simply isn’t applicable to the markets that are administered by the NYISO.

However, assuming the NYISO were to go to ISO-NE’s OASIS to obtain the NERC priority of the bids over the Cross-Sound Scheduled Line that are non-firm in New England (but are firm in New York), there are still two obvious problems with LIPA’s proposal. First, the timestamp order of real-time bid submission may vary between New York and New England. The possibility that the “Real-Time Energy Market” timestamp order could vary between New York and New England means that mismatches and failed schedules may result even if the NYISO adopted the LIPA suggestion and spent \$2.2 million to add the Cross-Sound Scheduled Line functionality. Second, bids that are scheduled Day-Ahead in New York flow into real-time without requiring the Market

Participant to submit a second bid in the NYISO’s Real-Time Energy Market; this is not the case in New England, where a second bid is required. Presumably, each of the New York Day-Ahead bids would be assigned the same Real-Time timestamp, and thus be of no value as a “tiebreaker.” In the alternative, New York could use its Day-Ahead timestamp. Regardless of whether one were to use the Day-Ahead or Real-Time timestamp in New York, it is safe to assume that the timestamp order in the NYISO would not necessarily bear any resemblance to the timestamp order in New England.

A final alternative would be to use both the ISO-NE non-firm bid priority and the ISO-NE timestamp to determine which transactions will flow in New York. Setting aside the obviously illogical nature of this scenario—determining transmission priority in New York based on bids submitted in New England—the NYISO must ask the obvious question—how can LIPA possibly justify the NYISO’s expenditure of over two million dollars just so that the NYISO can duplicate the analysis that ISO-NE already performs?

8. If the NYISO is ordered to implement the tariff revisions that LIPA has proposed, then LIPA or CSC, LLC should be required to pay all costs incurred by the NYISO to implement the ISO-NE “tiebreaker” measures in New York.

One of the bases upon which the Commission granted TransEnergie U.S. Ltd.’s¹⁷ request for Commission approval to offer transmission service over the Cross-Sound Cable and TransEnergie’s request for blanket authority to make sales of firm transmission capacity was TransEnergie’s representation that “because transmission users in New York and New England will financially support the project only to the extent they voluntarily elect to purchase transmission service over the project, ‘all of the market risks

¹⁷ TransEnergie, U.S., Ltd. was one of the legal entities used to develop the Cross-Sound Cable merchant transmission facility and was either a predecessor of or was/is directly or indirectly related (via common ownership) to CSC, LLC.

of the project (and the associated stranded cost risks) lie with the project's owners.”
TransEnergie, U.S. Ltd., 91 FERC ¶ 61,230 *mimeo* at p. 3 (2000). In its order the Commission concluded “[t]hus, TransEnergie’s project will provide benefits to electric consumers and producers in both markets while imposing no risk or cost on captive customers in any market.” *Id.* at p. 7.

The NYISO recovers its costs of operation, including any costs it might incur to implement the tariff revisions that LIPA proposed in its Limited Protest, from the New York Market Participants. A significant share of the NYISO’s costs of operation are recovered from New York Market Participants that are Transmission Owners and/or Load Serving Entities. Transmission Owners and/or Load Serving Entities must, ultimately, recover the NYISO-related charges from their customers.

Therefore, contrary to the Commission’s understanding of TransEnergie U.S.’s representations in Docket No. ER00-1-000, Market Participants that do not schedule transactions on the Cross-Sound Scheduled Line and captive customers across New York State will, ultimately, “financially support” a substantial portion of the cost of implementing Cross-Sound Scheduled Line-specific tariff modifications LIPA is asking the Commission to require the NYISO to add to its Services Tariff, and from which LIPA will principally benefit.

While the NYISO agreed to implement the Cross-Sound Cable as a Scheduled Line without charging CSC, LLC or LIPA for the work, the NYISO’s commitment did not contemplate a “gold plated” solution of the sort that LIPA is requesting in this docket. If the NYISO is required to implement LIPA’s request, LIPA and/or CSC, LLC should pay for the additional work in accordance with the representations that resulted in the

Commission's approval of TransEnergie U.S. Ltd.'s request for authorization offer transmission service over the Cross-Sound Cable and request for blanket authority to make sales of firm transmission capacity over the Cross-Sound Cable.

III. CONCLUSION

For the reasons set forth above, the NYISO respectfully requests that the Commission consider this Answer, permit the NYISO to file a corrected tariff sheet as requested by the NY Transmission Owners, reject LIPA's Limited Protest and accept the NYISO's proposed tariff revisions as filed by the NYISO.

Respectfully submitted,

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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 second day of May, 2005.

/s/ Alex M. Schnell _____
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