95 FERC ¶ 61,484
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Curt Hébert, Jr., Chairman;
William L. Massey, Linda Breathitt,
Pat Wood, III and Nora Mead Brownell.

New York Independent System Operator, Inc. Docket Nos. ER00-3591-006, ER00-1969-007

ORDER ACTING ON COMPLIANCE FILING

(Issued June 29, 2001)

In this order, we accept for filing, subject to modifications, the tariff sheets[1] submitted by the New York Independent System Operator, Inc. (NYISO) to implement locational reserves pricing (LRP), to be effective September 30, 2001.

I. Background

The LRP was first proposed by NYISO in its comprehensive report of September 1, 2000, as revised on September 8, 2000 (September Report), on its progress on various Commission directives.

In its September Report, NYISO proposed to institute an LRP system as a short-term measure to improve the operation of its reserves markets. The main objective of the proposed LRP system is to ensure that, in constrained conditions, reserves suppliers will not be able to exercise market power to set reserves prices state-wide. The LRP methodology divides the NYISO control area into three markets during constrained periods for the purpose of calculating spinning reserves, non-spinning reserves, and 30-minute operating reserves prices. These markets are: (1) the area west of the central-east constraint; (2) the area east of the central-east constraint, excluding Long Island; and (3) Long Island. When constraints are not present, all reserves suppliers will receive the same clearing price. However, during constrained times, suppliers of the reserves located in the highly concentrated Long Island area will not receive a market-clearing price higher than the one cleared in the rest of the central-east area market. In addition, bid production cost guarantee payments made to Long Island resources to meet Long Island-specific problems would be borne by Long Island customers. NYISO hopes that this methodology will reduce the possibility of market power abuse. NYISO does not propose to change the way it currently allocates reserves costs among all load.

[1] See Appendix.

By order issued on November 8, 2000 (November 8 Order),[2] the Commission accepted for filing NYISO's LRP proposal, but suspended it for five months and directed the staff to address the LRP proposal at the technical conference held on January 22-23, 2001. NYISO removed the tariff language that would implement its proposed LRP system when on January 18, 2001, in Docket No. ER99-4235-002, et al., it filed, to comply with Order 614,[3] tariff sheets containing only those provisions that were in effect on that date.

The Commission's order issued on March 29, 2001 (March 29 Order)[4] accepted NYISO's proposal to implement LRP for its operating reserves by permitting the tariff sheets to become effective upon the expiration of the suspension period. The Commission directed NYISO to resubmit the tariff sheets implementing the LRP within 15 days of the date of issuance of the order.

II. Instant Filings

On April 13, 2001, NYISO submitted for filing a compliance filing to implement the LRP, effective May 1, 2001. On April 30, 2001, NYISO filed a motion requesting an extension of time until September 30, 2001 to implement its proposed LRP methodology.

In support of its request for deferral of the implementation of the LRP, NYISO states that when the November 8 Order suspended the LRP proposal, NYISO shifted its resources to other high-priority projects. NYISO asserts that its staff is working at maximum capacity to implement a series of high priority reliability and market enhancement programs, such as demand-side management programs, in time for Summer 2001. NYISO also states that it is working on other programs that will be implemented over the next few months, such as virtual bidding. Furthermore, NYISO argues that implementation of the LRP at this time would render worthless the testing of the high-priority summer programs that has been conducted so far. Finally, NYISO contends that the LRP is not as important to effective functioning of operating reserves markets as it was when first proposed in September, 2000, due to the currently effective $ 2.52 per MWh bid cap and mandatory bidding requirements.

III. Notice of Filing, Interventions, Comments and Protests

Notice of this filing was published in the Federal Register, 66 Fed. Reg. 20,979 (2001), with protests, answers, and motions to intervene required to be filed on or before May 4, 2001. Timely

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[2] New York Independent System Operator, Inc., 93 FERC ¶ 61,142 (2000).

[3] Designation of Electric Rate Schedule Sheets, Order No. 614, 65 Fed. Reg. 18221 (January 6, 2000), FERC Stats. & Regs. ¶ 31,096 (2000).

[4] New York Independent System Operator, Inc., 94 FERC ¶ 61,371 (2001).

motions to intervene were filed by New York State Electric & Gas Corporation, Rochester Gas and Electric Corporation and Niagara Mohawk Power Corporation (collectively, Companies); the New York Power Authority; Consolidated Edison Company of New York, Inc. and Orange & Rockland Utilities, Inc.; and Long Island Power Authority and LIPA (LIPA). Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2000), the filing of a timely motion to intervene that has not been opposed makes the movant a party to the proceeding.

The Companies address substantive aspects of NYISO's proposed tariff revisions, rather than the implementation schedule of the proposal. In particular, the Companies request clarifications with respect to three specific points. First, they propose that the Commission require NYISO either to revise the tariff language to explicitly require the recovery of bid production cost guarantee (BPCG) payments[5] made to Long Island resources to meet Long Island-specific problems only from Long Island customers or to specifically identify and justify each circumstance in which any such cost will be allocated to customers outside of Long Island. Second, the Companies request that NYISO's tariff be revised to more clearly articulate the formula for calculating availability payments[6] for suppliers in different regions when reserve constraints are binding and to differentiate availability payments. The Companies also propose to revise NYISO's tariff to include, to the extent they are necessary, examples contained in an attachment to the September Report. Third, the Companies request that the Commission require NYISO to clarify that if the Long Island Reserve Constraint is binding, but the east of Central-East Reserve Constraint is not binding, reserve suppliers east and west of the Central-East Constraint shall receive the same availability payments.

LIPA urges the Commission to reject NYISO's request for extension of time and direct NYISO to implement LRP by June 30, 2001. LIPA states that NYISO's statements and representations to the Commission are misleading. It remarks that NYISO ceased its implementation efforts in November but failed to mention this to the Commission and market participants. LIPA also notes that on April 13, 2001, 18 days before the proposal's effective date, NYISO again did not inform the Commission that it is in no position to implement LRP by May 1, 2001, but assured the Commission of the contrary. In support of its position, LIPA offers an annual assessment of NYISO-administered energy markets performed by the NYISO independent market advisor and released on April 17, 2001 that concludes that NYISO should implement LRP. Furthermore, LIPA states that NYISO's request for an extension of time is an attempt to reorganize, in violation of NYISO governance procedures, the priorities that have been developed with much effort and expense to other

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[5] BPCG payments are designed to ensure that generators recover their minimum generation and start-up costs.

[6] An availability payment is calculated as the product of: (a) the market clearing price for the applicable reserve; and (b) the MW to be provided by the suppliers, as selected by NYISO, in the associated reserve category.

market participants and that NYISO has agreed upon with the Commission and with NYISO market participants.

IV. NYISO's Answer

On May 22, 2001, NYISO submitted an answer to the comments filed by the Companies and to LIPA's response and opposition to NYISO's motion for extension of time. Although our Rules of Practice and Procedure generally prohibit answers to protests,[7] we will allow NYISO's answer to the extent that it provides certain clarifications.

In response to the concerns raised by the Companies, NYISO states that it disagrees with their proposed tariff clarifications. In particular, NYISO disagrees with the first proposed tariff revision that would limit NYISO's discretion to allocate BPCG payments to Long Island customers when Long Island constraints are binding. NYISO argues that this language is consistent with tariff sheets reviewed by market participants before they were submitted to the Commission as part of the September Report. Moreover, NYISO states that a discretionary approach to the allocation of costs associated with BPCG payments reflects the reality that those costs are generally not high; thus, there is little reason to require NYISO to make extensive billing modifications in order to apply special Long Island rules when the Long Island constraint is binding. NYISO also argues that its proposed tariff language will allow NYISO to impose BPCG charges on Long Island customers due to problems with locational market power on Long Island.

NYISO also disagrees with the second proposed tariff revision concerning the formula for calculating availability payments. NYISO states that the LRP rule is not a price calculation formula, but a description of the way in which price calculation rules will be applied when particular constraints are binding. In regard to incorporating into the tariff the examples describing the calculation methodology under the proposal, NYISO states that this might create the false impression that the examples are all-inclusive, rather than representative of possible scenarios. In addition, NYISO states that it intends to post on its website a Technical Bulletin, which eventually will be incorporated into NYISO's manuals, describing the LRP rules' operation in detail. NYISO finds the third proposed tariff clarification also to be unnecessary and states its intention to include it in the Technical Bulletin and later incorporate it into its manuals.

In response to LIPA's concerns regarding the implementation schedule for NYISO's proposal, NYISO states that at the time of the filing, the NYISO staff, although aware of the problems with implementation, had not yet concluded that the obstacles could not be overcome. NYISO notes that it was prepared to implement LRP in November, 2000 within the market rule framework that existed at

[7] 18 C.F.R. § 385.213(a)(2) (2000).

the time. NYISO explains that because of the uncertainty created by the November 8 Order as to whether the LRP proposal would be made effective after the suspension period, NYISO could not afford to expand resources to ensure that the software modifications necessary to implement LRP were continuously updated. NYISO states that its staff mistakenly believed it possible to quickly make the necessary changes once the Commission approved the proposal. NYISO states further that once it became clear that implementation of LRP would require a substantial amount of updating, it decided to temporarily postpone its implementation efforts so as not to interfere with the implementation of other projects critical for summer operation.

V. Discussion

The Companies raise three tariff-related issues with regard to the LRP proposal. The Companies' first concern is that the proposed tariff language affords NYISO discretion in determining when the BPCG costs will be allocated to Long Island customers and when they will be allocated to all New York State customers. We agree that the proposed tariff language provides too much discretion to NYISO. Accordingly, we direct NYISO to file revised tariff sheets to set forth the criteria for when BPCG costs will be allocated only to Long Island customers and when these costs will be allocated to all customers.

The Companies's next contention is that the proposed tariff does not adequately articulate the formula for calculating availability payments for suppliers in different regions when constraints are binding. They note that the tariff directs customers to examples contained in the attachment to NYISO's September Report. The attachment referred to by the Companies is a White Paper, which is a technical document providing examples of how locational prices could be calculated when constraints are binding.[8] We are satisfied with NYISO's response that it will post on its website a Technical Bulletin[9] based on the LRP White Paper to describe the operation of the LRP rules in the detail that the Companies request. NYISO explains that this Technical Bulletin will eventually be incorporated in the appropriate NYISO manual. We agree with NYISO that inclusion of detailed and complex calculations in the tariff is not necessary, as the tariff sufficiently describes the manner in which LRP will be implemented. However, when the Technical Bulletin is issued, NYISO should update its tariff to reference the Technical Bulletin and the manual detailing the LRP example calculations.

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[8] See NYISO's Combined Compliance Filing and Report, Docket Nos. ER00-3591-001, et al., Attachment IV (September 8, 2000). Also, the White Paper is referenced in NYISO's proposed First Revised Sheet 295 and Original Sheet 298A.

[9] The NYISO staff issues informal Technical Bulletins from time to time in order to describe its processes and procedures. Technical Bulletins are eventually incorporated into NYISO's manuals as they are periodically updated.

Third, the Companies suggest that the tariff be modified to make clear that if the Long Island Reserve Constraint is binding, but the east of Central-East Reserve Constraint is not binding, reserve suppliers east and west of the Central-East Constraint shall receive the same payments. In its answer, NYISO explains that this is consistent with the intent of the proposed tariff language. NYISO contends that it does not believe that this requires a tariff revision, but explains that it will clarify this point in a Technical Bulletin, and eventually, in a NYISO manual. We are satisfied with NYISO's response and will not require a new tariff amendment.

To address LIPA's concern regarding NYISO's motion requesting a September 30, 2001 effective date, we will not second guess NYISO regarding this issue. At this juncture, NYISO states that it is unable to reallocate the resources necessary to update its software to have the locational pricing in place on May 1, 2001, as intended, without postponing other projects. However, NYISO states that it can implement locational pricing on September 30, 2001, without disrupting other projects. We recognize that NYISO has been busy implementing new demand-side management programs,[10] pricing mechanisms,[11] and protective measures[12] to ensure a functioning market for Summer 2001. Accordingly, we approve the request for a September 30, 2001 effective date. For these reasons, we accept for filing the tariff sheets submitted by NYISO, to become effective on September 30, 2001, subject to NYISO filing, within 30 days of this order, revised tariff sheets to make the changes directed herein.

<u>The Commission orders</u>:

(A) NYISO is hereby permitted to implement locational operating reserves pricing on September 30, 2001, as requested.

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[10] <u>See</u> New York Independent System Operator, Inc., 95 FERC ¶ 61,223 (2001) (approving an Incentivized Day-Ahead Economic Load Curtailment Program); New York Independent System Operator, Inc., 95 FERC ¶ 61,136 (2001) (approving an Emergency Demand Response Program). Also, NYISO intends to introduce the zonal price-capped load bidding under its existing tariff authority. <u>See</u> New York Independent System Operator, Inc.'s Report on Implementation of Virtual Bidding and Zonal Price-Capped Load Bidding, Docket No. EL00-90-000 (February 2, 2001).

[11] <u>See</u> New York Independent System Operator, Inc., 95 FERC ¶ 61,121 (2001) (approving a Hybrid Fixed Block Pricing Rule).

[12] <u>See</u> New York Independent System Operator, Inc., 95 FERC ¶ 61,186 (2001) (extending the $ 1,000 bid cap on energy markets) and New York Independent System Operator, Inc., 95 FERC ¶ 61,185 (2001) (extending Temporary Extraordinary Procedures).

(B) NYISO's tariff sheets implementing locational operating reserves pricing are hereby accepted for filing, to become effective September 30, 2001 subject to NYISO filing, within 30 days of the date of issuance of this order, tariff revisions setting forth the criteria for when BPCG costs will be allocated only to Long Island customers and when these costs would be allocated to all customers, and to file revised tariff sheets reflecting the September 30, 2001 effective date.

By the Commission.

(S E A L)

David P. Boergers,
Secretary.

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