

November 28, 2011

Air and Radiation Docket and Information Center  
U.S. Environmental Protection Agency  
Mailcode: 2822T  
1200 Pennsylvania Avenue, NW,  
Washington, D.C. 20460.

Re: EPA-HQ-OAR-2009-0491; Final Interstate Transport of Fine Particulate  
Matter and Ozone Rule

U.S. Environmental Protection Agency;

Attached please find the comments of the New York Independent System Operator, Inc. (“NYISO”) in the above captioned proceeding. The NYISO is the independent body responsible for maintaining reliability, providing open access transmission service, and administering competitive wholesale markets for electricity, capacity, and ancillary services in New York State. The NYISO regularly reviews proposed rulemakings by Federal and State agencies for their impact on generation, transmission and demand side resources. Among other reasons, the NYISO reviews these proposals to understand potential compliance strategies, including retirement, that impacted facilities may pursue. In turn, the NYISO uses this information to develop strategies for maintaining future reliability should the rules become final.

The NYISO is pleased to respond in support of the Environmental Protection Agency’s (“EPA’s”) revision to its Final Transport Rule published at Federal Register Volume 76, Number 199 (Friday, October 14, 2011) with regard to the revised New York budget of annual nitrogen oxides (“NOx”) and sulfur dioxide (“SO2”) allowances and ozone season NOx allowances. The NYISO also supports the EPA’s proposal to delay the effective date for the assurance penalty provisions.

The NYISO suggests that the EPA use the two-year delay in the assurance penalty effective date to develop methods by which actual statewide emissions data can be made publically available on a monthly or bi-monthly time line. Since the assurance penalty provisions impact individual generation owners with emissions in excess of their assurance levels only to the extent that statewide emissions have also reached the statewide assurance level, knowledge of the latter is essential to comprehensive compliance planning. It is also necessary to support informed decision-making by the ISOs/RTOs in whose regions these impacted generation facilities reside.

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The NYISO's specific comments are attached.

Respectfully submitted,

/s/ Mollie Lampi  
Mollie Lampi  
Assistant General Counsel  
[mlampi@nyiso.com](mailto:mlampi@nyiso.com)

COMMENTS OF THE NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.  
IN SUPPORT OF THE REVISIONS TO THE FINAL TRANSPORT RULE  
PROMULGATED ON AUGUST 8, 2011 TO ADDRESS DISCREPANCIES IN  
UNIT-SPECIFIC MODELING ASSUMPTIONS

EPA promulgated a Final Transport Rule on August 8, 2011 to limit the interstate transport of emissions of nitrogen oxides (“NO<sub>x</sub>”) and sulfur dioxide (“SO<sub>2</sub>”) that contribute to harmful levels of fine particle matter (“PM<sub>2.5</sub>”) and ozone in downwind states. EPA identified emissions within 27 states in the eastern United States that significantly affect the ability of downwind states to attain and maintain compliance with the 1997 and 2006 fine particulate matter national ambient air quality standards (“NAAQS”) and the 1997 ozone NAAQS. EPA’s Final Rule is intended to limit these emissions through Federal Implementation Plans (“FIPs”) that regulate electric generating units in the 27 states.

EPA has indicated that this action will substantially reduce adverse air quality impacts in downwind states from emissions transported across state lines. EPA has determined that this Final Rule, in conjunction with other federal and state actions, will help assure that all but a handful of areas in the eastern part of the country achieve compliance with the current ozone and PM<sub>2.5</sub> NAAQS by the deadlines established in the Clean Air Act (“CAA” or “Act”).

The NYISO supports the revisions EPA is proposing to the final Transport Rule to address discrepancies in unit-specific modeling assumptions that affect the proper calculation of Transport Rule state budgets and assurance levels for New York. Among other revisions, EPA proposes to revise New York’s SO<sub>2</sub>, annual NO<sub>x</sub>, and ozone season NO<sub>x</sub> budgets to account for operational constraints that are likely to necessitate generation beyond what the EPA model predicted.

Two operational constraints that require operation of several specific units in New York City and an error in the modeled transfer limit onto Long Island from upstate and New York City regions resulted in EPA’s model predicting a lower than reasonable energy output from New York City and Long Island generation. This understated energy output produced understated and inadequate allocations of NO<sub>x</sub> and SO<sub>2</sub> to New York. The NYISO is pleased the EPA recognized the need for revision.

New York needed an increase in its ozone-season NO<sub>x</sub>, annual NO<sub>x</sub>, and SO<sub>2</sub> budgets to adequately plan for and manage the two New York City operational constraints—the N-1-1 Contingency and the Minimum Oil Burn Rules—and to accurately represent the generation from Long Island units. Managing Load Zone J (New York City) to the N-1-1 contingency is required by the New York State Reliability Council’s (“NYSRC”) Local Reliability Rule I-R1.<sup>1</sup>

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<sup>1</sup> The NYSRC is authorized by the Federal Energy Regulatory Commission (“FERC”) to develop reliability rules for New York State that, in addition to the reliability rules established by the North American Reliability Organization (“NERC”) and the North American Planning Coordinating Council (“NPCC”), direct actions by the NYISO and the New York Transmission Owners to maintain reliability.

Operating to this rule requires the NYISO to ensure sufficient generation remains immediately available to serve load in the event that there is a simultaneous or near-simultaneous loss of two or more generation and/or transmission facilities. That is, as EPA indicated, certain units must be available to deliver energy with advance notice of between ten (10) and thirty (30) minutes (not seconds) at certain times during the year.<sup>2</sup> Managing the N-1-1 contingency can require the regular operation of affiliated steam generating facilities in order to allow gas turbines to operate immediately if a contingency is triggered. These affiliated units require several hours to reach their necessary level of generation. EPA correctly identified Arthur Kill Generating Station, Ravenswood, and Astoria Generating Station as affiliated units at which minimum generation levels are regularly required to meet the N-1-1 Contingency constraint.<sup>3</sup>

The NYSRC Local Reliability Rules I-R3 and I-R5, known as the Minimum Oil Burn Rules, require that the NYISO and Consolidated Edison Co. of New York, Inc. (“Con Edison”) or the Long Island Power Authority (“LIPA”) manage the electric transmission system in New York City or Long Island so that the loss of a gas facility does not result in the loss of electric load.<sup>4</sup> As a result, for New York City, Con Edison requires that certain units be able to immediately switch their fuel from gas to oil in the event of a natural gas supply disruption. The rules are tied to certain New York City load levels. Since some units are incapable of immediately switching fuel, they must burn a minimum amount of oil when directed to comply with this requirement because loads have reached these pre-designated levels. EPA is correct in its determination that the Minimum Oil Burn Rules require residual fuel oil consumption at the Ravenswood, Astoria Generating Station, and Northport facilities. The Arthurkill Generating Station did not participate in the 2011 Minimum Oil Burn Rule and is not expected to in the future although the East River units 6 and 7 do. Notwithstanding the inconsistent naming of impacted resources, the EPA’s representation of the additional allowances needed to accommodate New York’s reliability rules IR-3 and IR-5 is reasonable.

The NYISO data presented in the NYISO 2010 Comprehensive Area Transmission Review Study and the NYISO Operating Study, Summer 2011, demonstrate that the transfer capability from upstate New York and New York City onto Long Island is more limited than EPA had modeled. EPA’s overstated Long Island transfer capability led to the model’s erroneous conclusion that Long Island could depend on more upstate generating resources to supply its energy needs than it actually could. Long Island’s on-Island generating facilities

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<sup>2</sup> EPA’s rulemaking mistakenly cited the need to replace energy in 30 seconds. These are gas turbine units that can come on-line at full output with a ten-minute or thirty minute notice from the Transmission Owner (Con Edison) through the NYISO. Each of the three companies with generation located in New York City own ten and thirty-minute gas turbines.

<sup>3</sup> The operation of affiliated units is required when the Title V air permits of New York City generation owners depend on an averaging plan for NOx RACT compliance. When utilizing an averaging plan, New York City generation owners have indicated to the New York State Department of Environmental Conservation that they will meet their NOx RACT compliance obligations by averaging the emissions from their steam generating facilities with emissions from their ten and thirty-minute gas turbines.

<sup>4</sup> These NYSRC Reliability Rules can be found at:  
<http://www.nysrc.org/pdf/Reliability%20Rules%20Manuals/RR%20Manual%2030%20Nov.%2010-11%20final.pdf>

actually operate more frequently than EPA's models concluded. Long Island units are dispatched economically within the NYISO's security constrained economic dispatch. EPA's corrective action, to assume three units at the Northport facility will run more frequently than its model had predicted, is a reasonable approach to correcting for the overstated transfer capability.

The NYISO also supports the EPA proposal to extend the effective date for its assurance penalty provisions to January 1, 2014. The NYISO agrees that early trading can promote a robust market in Cross-State Air Pollution Rule ("CSAPR") allowances. Robust markets demand liquidity and the accessibility of price information, characteristics that become apparent only through actual market-driven trades. The NYISO agrees with the EPA that extending the assurance penalty effective date will assist in allowing the Transport Rule allowance markets to flourish and, in turn, instill confidence that a robust market in CSAPR allowances will be available to support compliance planning.

Regarding the assurance penalty, the NYISO stresses the need for EPA to assure the timely availability of actual SO<sub>2</sub> and NO<sub>x</sub> emissions, by state, in order to accurately forecast the likelihood that any state's assurance level will or will not be exceeded. Once the assurance penalty is effective, generators will need access to statewide emission levels to adequately plan their allowance purchase strategies. Similarly, ISOs/RTOs will need to track the status of SO<sub>2</sub> and NO<sub>x</sub> emissions to understand the potential that assurance level penalties will become applicable. Today, this information is not available in real-time or near-real-time. As states reach their assurance levels, however, this information will become absolutely vital for understanding unit availability and cost to operate. The NYISO stands ready to assist the EPA in any way it can over the next two years to design an information system that would provide this information in the timeframe in which it is needed.

All communications should be directed to:

\*Mollie Lampi, Assistant General Counsel  
Raymond Stalter, Director, Regulatory Affairs  
New York Independent System Operator, Inc.  
10 Krey Boulevard  
Rensselaer, NY 12144  
Tel: (518) 356-7530  
Fax: (518) 356-7678  
mlampi@nyiso.com  
[rstalter@nyiso.com](mailto:rstalter@nyiso.com)

\* primary contact

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