

November 4, 2008

BY HAND DELIVERY

Kimberly D. Bose
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

Re: New York Independent System Operator, Inc.'s Submission of Tariff Sheets Supplementing its October 31, 2008 Filing, Request for Shortened Notice and Comment Periods, and Request for Expedited Commission Action; Docket No. ER09-198-000.

Dear Secretary Bose:

Pursuant to Section 205 of the Federal Power Act¹ and the Federal Energy Regulatory Commission's ("Commission's") August 21, 2008 Order in Docket No. ER08-1281-000 ("August 21 Order")², and consistent with its October 31, 2008 filing in Docket No. ER09-198-000, the New York Independent System Operator, Inc. ("NYISO"), hereby provides this *Submission of Tariff Sheets Supplementing its October 31, 2008 Filing, Request for Shortened Notice and Comment Periods, and Request for Expedited Commission Action*, and respectfully requests that the Commission permit the amendments to Attachment J to its Open Access Transmission Tariff ("OATT"), and to Attachment B to its Market Administration and Control Area Services Tariff ("Services Tariff") that were temporarily accepted in the Commission's August 21 Order (at PP. 2, 20) to become "permanently"³ effective.

The NYISO also requests that the Commission retain the shortened comment period already established for this docket, or otherwise shorten or waive the customary comment period in order to permit it to act on the NYISO's filing expeditiously.

¹ 16 U.S.C. § 824d (2007).

² *New York Independent System Operator, Inc.*, 124 FERC ¶ 61,174.

³ When the NYISO says "permanently" effective in this filing it really means "effective until the NYISO's Tariffs are revised in accordance with either Section 205 or Section 206 of the Federal Power Act." As explained below, consistent with Paragraph 28 of the Commission's August 21 Order the NYISO has begun the process of working with its Market Participants to develop potential alternative solutions to loop-flow concerns. The NYISO intends to engage its sister ISOs and RTOs around Lake Erie in discussions on loop-flow issues in 2009.

In order to ensure compliance with the requirements of Commission's Order No. 614,⁴ the NYISO hereby supplements its October 31, 2008 filing with revised Tariff sheets that are substantively identical, in pertinent part,⁵ to the Tariff sheets that the NYISO submitted on July 21, 2008, but that have had their administrative designations (version, issued by, issue date and effective date) modified to account for the expiration of the temporary revisions to Section 3.6 of Attachment B to the NYISO's Market Administration and Control Area Services Tariff ("Services Tariff"), and to Section 5.0 of Attachment J to its Open Access Transmission Tariff ("OATT") on November 18, 2008.

For the reasons stated in its October 31, 2008 filing in the above docket, the NYISO requests expedited consideration of this filing so that the revisions to Section 3.6 of Attachment B to the NYISO's Services Tariff and to Section 5.0 of Attachment J to the NYISO's OATT that the Commission permitted to become temporarily effective in its August 21 Order, remain in place following the expiration of the temporary effective period on November 18, 2008. In accordance with Section 35.11 of the Commission's Regulations, the NYISO requests waiver of the 60-day prior notice period set forth in Section 205(d) of the Federal Power Act and Section 35.3 of the Commission's Regulations.⁶ The NYISO also requests that this amended filing be assigned the same comment date that the Commission assigned to the NYISO's October 31, 2008 filing.⁷ Adequate notice of the Tariff revisions that the NYISO is proposing in this filing has been provided because (i) the substantive Tariff provisions proposed in this filing were considered, and temporarily accepted, by the Commission in its August 21 Order following comment by interested parties, and (ii) the NYISO's October 31, 2008 filing made clear that the NYISO is seeking to extend the Tariff revisions that were considered by the Commission and temporarily accepted in the August 21 Order, which is what this supplemental filing also proposes to do. Shortened notice and comment periods are necessary order to permit the Commission to act on the NYISO's filing expeditiously.

Unless it is instructed to do otherwise by the Commission, the NYISO will continue to apply the prohibitions set forth in Section 3.6 of Attachment B to its Services Tariff and Section 5.0 of Attachment J to its OATT after November 18, 2008.

Should the Commission determine it must reject the NYISO's request that its temporarily effective revisions to Sections 3.6 of Attachment B to its Services Tariff and Section 5.0 of Attachment J to its OATT, be permitted to become permanently effective, the NYISO

⁴ *Designation of Electric Rate Schedule Sheets*, 90 FERC ¶ 61,352 (2000).

⁵ Sheet No. 355.01 of Attachment B to the NYISO's Market Services Tariff also reflects pending Tariff revisions that are not related to the NYISO's July 21, 2008 filing in Docket ER08-1281-000. The pending Tariff revisions were submitted by the NYISO on October 16, 2008 to comply with a Commission Order in Docket Nos. ER07-521-000 and -001. *See New York Independent System Operator, Inc.*, 123 FERC ¶ 61,235 (2008).

⁶ 16 U.S.C. § 824d(d); 18 C.F.R. §§ 35.3, 35.11 (2008).

⁷ The Commission's November 3, 2008 Notice of Filing in Docket No. ER09-198-000 set a November 10, 2008 comment date for the NYISO's October 31, 2008 filing.

respectfully requests that any such rejection be prospective in nature. If the NYISO continues implementing the identified Tariff rules post November 18, 2008, it will not be possible for the NYISO to retroactively go back and undo the effect of its implementation on already completed market outcomes. With approximately three business days advance notice, the NYISO can prospectively disable the software it uses to enforce the proposed new market rule if the Commission instructs it to do so.

I. Documents Submitted

1. This filing letter;
2. Redlined revised Tariff sheets reflecting the NYISO's proposed change to Section 3.6 of Attachment B to the NYISO's Services Tariff and Section 5.0 of Attachment J to its OATT that the NYISO requests be permitted to become effective on November 19, 2008 when the revisions that the Commission temporarily accepted in its August 21 Order cease to be effective ("Attachment A"); and
3. Clean revised Tariff sheets reflecting the NYISO's proposed change to Section 3.6 of Attachment B to the NYISO's Services Tariff and Section 5.0 of Attachment J to its OATT that the NYISO requests be permitted to become effective on November 19, 2008 when the revisions that the Commission temporarily accepted in its August 21 Order cease to be effective ("Attachment B").

II. Reasons and Basis for this Filing

The reasons the NYISO proposed the revisions to Attachment B to its Market Services Tariff and Attachment J to its OATT are described in detail in the NYISO's July 21, 2008 filing in Docket No. ER08-1281-000, and in the October 31, 2008 filing in Docket No. ER09-198-000 that this filing supplements. These reasons persist, spurring this filing.

III. Description of Proposed Tariff Changes

The NYISO proposes to amend Section 5.0 of Attachment J to its OATT and Section 3.6 of Attachment B to its Services Tariff to make permanently effective the Tariff revisions that the Commission's August 21 Order permitted to become temporarily effective commencing July 22, 2008. The revisions to section 5.0 of Attachment J to its OATT and Section 3.6 of Attachment B to its Services add a statement that the NYISO "shall not permit Market Participants to schedule External Transactions over the following eight scheduling paths," followed by a description of each of the eight paths identified on pages two and three of the NYISO's October 31, 2008 filing letter in this docket. Clean and redlined versions of the proposed Tariff sheets that reflect a

November 19, 2008 effective date and other conforming ministerial revisions are provided in Attachments A and B to this filing letter.

The NYISO's proposal to permit the temporarily effective changes to Section 15.1 of its OATT to expire on November 19, 2008 is addressed in the NYISO's October 31, 2008 filing in this docket.

IV. Requested Effective Date and Request for Expedited Commission Action

For the reasons explained on page 2 of this filing letter and in Section IV. of the NYISO's October 31, 2008 filing letter in this docket, and in accordance with Section 35.11 of the Commission's Regulations, the NYISO requests waiver of the 60-day prior notice period set forth in Section 205(d) of the Federal Power Act and Section 35.3 of the Commission's Regulations⁸ to permit the NYISO's proposed Tariff revisions to become effective on November 19, 2008. The NYISO also requests that the Commission retain the shortened comment period already established in this docket, or otherwise shorten the customary comment period in order to permit it to act on the NYISO's filing expeditiously.

Good cause exists for the Commission to grant the requested waivers and act on an expedited basis because waiting the full sixty days to make the proposed Tariff revisions effective could leave the NYCA and neighboring Control Areas without any deterrent against the scheduling of External Transactions over Scheduling Paths that are not closely tied to the expected physical flow of Energy and that may adversely affect both market prices and the reliability of the interconnected transmission grid. Under the circumstances, it is entirely appropriate for the Commission to take expedited action in this proceeding.

Unless it is instructed to do otherwise by the Commission, the NYISO will continue to apply the rules that were temporarily added (effective from July 22, 2008 to November 18, 2008) to Section 3.6 of Attachment B to its Market Services Tariff, and in Section 5.0 of Attachment J to its OATT post November 18, 2008. Should the Commission determine it must reject the NYISO's proposed Tariff revisions, the NYISO respectfully requests that any rejection be prospective in nature. If the NYISO continues implementing its proposed Tariff rules after November 18, 2008 it will not be possible for the NYISO to retroactively go back and undo the effects of its implementation on already completed market outcomes. Given adequate advance notice (approximately three business days), the NYISO can prospectively disable the software it will use to enforce the proposed new market rule if the Commission instructs it to do so.

V. Stakeholder Process and Board of Directors Approval

The NYISO has worked with its stakeholders to obtain Management Committee ratification of the Tariff revisions that it filed under exigent circumstances on July 21, 2008 and that the Commission's August 21 order permitted to become temporarily effective. On

⁸ 16 U.S.C. § 824d(d); 18 C.F.R. §§ 35.3, 35.11 (2008).

September 25, 2008 the NYISO's Management Committee ratified the NYISO's proposed revisions to Section 3.6 of Attachment B to the NYISO's Market Services Tariff and to Section 5.0 of Attachment J to the NYISO's OATT. On October 21, 2008 the NYISO's Board of Directors authorized the NYISO to act to effectuate the Management Committee's ratification of these Tariff revisions.

VI. Service

The NYISO will electronically send a copy of or link to this filing to every party included on the Secretary's official service list in Docket Nos. ER08-1281-000 and ER09-198-000, to the official representative of each of its Customers, to each participant on its stakeholder committees, to the New York Public Service Commission, and to the electric utility regulatory agencies of New Jersey and Pennsylvania. In addition, the complete filing will be posted on the NYISO's website at www.nyiso.com. The NYISO will also make a paper copy available to any interested party that requests one. To the extent necessary, the NYISO requests waiver of the requirements of Section 35.2(d) of the Commission's Regulations (18 C.F.R. § 35.2(d) (2008)) to permit it to provide service in this manner.

VII. Conclusion

For the reasons explained in this filing letter, in the NYISO's October 31, 2008 filing letter in this docket, and in the NYISO's July 21, 2008 filing letter in Docket No. ER08-1281-000, the NYISO respectfully requests that the Commission: (a) permit to become "permanently" effective under Section 205 of the Federal Power Act the proposed revisions to Section 3.6 of Attachment B to the NYISO's Market Services Tariff and to Section 5.0 of Attachment J to the NYISO's OATT that are provided herewith; and (b) permit the revisions to Section 15.1 of the NYISO's OATT to expire on November 19, 2008 (which will naturally occur in the absence of further Commission action to continue the effectiveness of these Tariff revisions), consistent with the Tariff sheet that the NYISO submitted on October 31, 2008.

Respectfully submitted,

/s/ Alex M. Schnell
Robert E. Fernandez, General Counsel
Alex M. Schnell
New York Independent System Operator, Inc.

November 4, 2008

ATTACHMENT A

**Proposed Redlined Tariff Revisions
Services Tariff, Attachment B, Section 3.6, and
OATT, Attachment J, Section 5.0**

The ISO will not schedule a Bilateral Transaction which crosses an Interface between the NYCA and a neighboring Control Area if doing so would cause the DNI to exceed the Transfer Capability of that Interface.

The ISO shall not permit Market Participants to schedule External Transactions over the following eight scheduling paths:

1. External Transactions that are scheduled to exit the NYCA at the Proxy Generator Bus that represents its Interface with the Control Area operated by the Independent Electricity System Operator of Ontario (“IESO”), and to sink in the Control Area operated by PJM Interconnection, LLC (“PJM”);
2. External Transactions that are scheduled to exit the NYCA at the Proxy Generator Buses that represent the NYCA’s common border with the Control Area operated by PJM, and to sink in the Control Area operated by IESO;
3. External Transactions that are scheduled to enter the NYCA at the Proxy Generator Buses that represent the NYCA’s common border with the Control Area operated by PJM, and to source from the Control Area operated by IESO;
4. External Transactions that are scheduled to enter the NYCA at the Proxy Generator Bus that represents the NYCA’s Interface with the Control Area operated by IESO, and to source from the Control Area operated by PJM;
5. Wheels Through the NYCA that are scheduled to enter the NYCA at the Proxy Generator Buses that represent the NYCA’s common border with the Control Area operated by PJM, and to sink in the Control Area operated by the Midwest Independent Transmission System Operator, Inc. (“MISO”);
6. Wheels Through the NYCA that are scheduled to exit the NYCA at the Proxy Generator Buses that represent the NYCA’s common border with the Control Area operated by PJM, and to source from the Control Area operated by the MISO;
7. Wheels Through the NYCA that are scheduled to enter the NYCA at the Proxy Generator Bus that represents the NYCA’s Interface with the Control Area operated by IESO, and to sink in the Control Area operated by the MISO; and
8. Wheels Through the NYCA that are scheduled to exit the NYCA at the Proxy Generator Bus that represents the NYCA’s Interface with the Control Area operated by IESO, and to source from the Control Area operated by the MISO.

External Transactions at the Proxy Generator Buses that are associated with the Cross-Sound Scheduled Line and Neptune Scheduled Line shall also be governed by Attachment N to the ISO Services Tariff.

IV. SALE AND AWARD OF TRANSMISSION CONGESTION CONTRACTS ("TCCs")

1.0 Overview of the Sales of TCCs

TCCs will be made available through both (i) the Centralized TCC Auction ("Auction") and Reconfiguration Auction, which will be conducted by the ISO; (ii) Direct Sales by the Transmission Owners, which will be non-discriminatory, auditable sales conducted solely on the OASIS in compliance with the applicable requirements and restrictions set forth in Order No. 889 et seq.; (iii) the conversion of transmission capacity associated with certain Existing Transmission Agreements ("ETAs") pursuant to Section 2A of Part IV of this Attachment B; and (iv) the award of Incremental TCCs pursuant to Section 2C of Part IV of this Attachment B.

The ISO will not schedule a Bilateral Transaction which crosses an Interface between the NYCA and a neighboring Control Area if doing so would cause the DNI to exceed the Transfer Capability of that Interface.

The ISO shall not permit Market Participants to schedule External Transactions over the following eight scheduling paths:

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8. Wheels Through the NYCA that are scheduled to exit the NYCA at the Proxy Generator Bus that represents the NYCA's Interface with the Control Area operated by IESO, and to source from the Control Area operated by the MISO.

External Transactions at the Proxy Generator Buses that are associated with the Cross-Sound Scheduled Line and Neptune Scheduled Line shall also be governed by Attachment N to the ISO Services Tariff.

ATTACHMENT B

**Proposed Clean Tariff Revisions
Services Tariff, Attachment B, Section 3.6, and
OATT, Attachment J, Section 5.0**

The ISO will not schedule a Bilateral Transaction which crosses an Interface between the NYCA and a neighboring Control Area if doing so would cause the DNI to exceed the Transfer Capability of that Interface.

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3. External Transactions that are scheduled to enter the NYCA at the Proxy Generator Buses that represent the NYCA's common border with the Control Area operated by PJM, and to source from the Control Area operated by IESO;
4. External Transactions that are scheduled to enter the NYCA at the Proxy Generator Bus that represents the NYCA's Interface with the Control Area operated by IESO, and to source from the Control Area operated by PJM;
5. Wheels Through the NYCA that are scheduled to enter the NYCA at the Proxy Generator Buses that represent the NYCA's common border with the Control Area operated by PJM, and to sink in the Control Area operated by the Midwest Independent Transmission System Operator, Inc. ("MISO");
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8. Wheels Through the NYCA that are scheduled to exit the NYCA at the Proxy Generator Bus that represents the NYCA's Interface with the Control Area operated by IESO, and to source from the Control Area operated by the MISO.

External Transactions at the Proxy Generator Buses that are associated with the Cross-Sound Scheduled Line and Neptune Scheduled Line shall also be governed by Attachment N to the ISO Services Tariff.

CERTIFICATE OF SERVICE

I hereby certify that I have this day 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 Rensselaer, New York this 4th day of November, 2008.

/s/ Alex M. Schnell _____

Alex M. Schnell

New York Independent System Operator, Inc.

10 Krey Boulevard

Rensselaer, New York 12144

518-356-8707