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FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

August 4, 2005

In Reply Refer To:
New York Independent
System Operator, Inc.

Docket Nos. ER05-1098-000
EL05-125-000

Robert E. Fernandez
New York Independent System Operator, Inc.
290 Washington Avenue Extension
Albany, NY 12203

Michael E. Haddad
Hunton & Williams, LLP
1900 K Street, NW
Washington, DC 20006

Gentlemen:

1. On June 8, 2005, the New York Independent System Operator, Inc. (NYISO) submitted revisions to its Market Administration and Control Area Services Tariff (Services Tariff) to prospectively exempt Fixed Block Units that substantially achieve their scheduled output level from persistent undergeneration penalties. NYISO also requested a waiver of persistent undergeneration penalties to the extent that they were, or will be, imposed on Fixed Block Units for the period from June 1, 2003 to the effective date of the tariff revisions.

2. NYISO's Services Tariff includes provisions that establish undergeneration penalties for generators that do not provide regulation service, and that persistently fail to produce energy in real-time at a level consistent with their real-time schedules. At present, three categories of generating units are excluded from these undergeneration penalties due to operational characteristics that limit their ability to control their output at a sufficient level of certainty: (1) qualifying facilities selling energy within the New York Control Area under existing contracts; (2) existing topping or extraction turbine

generators (up to a specific megawatt level) that produce electric energy as a result of supplying steam to New York City steam districts; and (3) generators that are non-schedulable renewable resources (subject to specific timing requirements).

3. As part of the ongoing refinement of the NYISO markets, it was recognized that another category of generating units, Fixed Block Units, have operating characteristics that limit their ability to consistently control their output. Fixed Block Units are gas turbine generators that have a limited ability to vary their generation output. Further, weather conditions, in particular temperature, can greatly affect such units' actual output levels. Given their limited ability to vary their generator output and given the inexact nature of weather forecasting and variance of actual weather conditions, these Fixed Block Units have persistent generation fluctuations that expose these units to undergeneration penalties. The proposed amendments would exempt those Fixed Block Units that substantially achieve their scheduled output level from persistent undergeneration penalties.

4. Notice of the filing was published in the *Federal Register*, 70 Fed. Reg. 35,662 (2005) with protests or interventions due on or before June 29, 2005. The New York Transmission Owners¹ filed a timely motion to intervene. The Long Island Power Authority (LIPA) filed a timely motion to intervene and comments in support of the revisions. Reliant Energy, Inc. (Reliant) filed a motion to intervene out-of-time. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2005), the timely, unopposed motions to intervene serve to make the entities that filed them parties to the proceeding. We grant Reliant's motion to intervene out-of-time given its interest in this proceeding, the early stage of this proceeding, and the absence of any undue prejudice or delay.

5. Because of their intrinsic variability in output, the Commission finds that it is reasonable to exempt Fixed Block Units from persistent undergeneration penalties. Therefore, we accept the tariff revisions as filed, effective August 8, 2005. We also grant a waiver of the requirements of Rate Schedule 3-A of the Services Tariff to the extent

¹ New York Transmission Owners are comprised of: Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., New York Power Authority, New York State Electric & Gas Corporation, Rochester Gas and Electric Corporation, Orange and Rockland Utilities, Inc., and Niagara Mohawk Power Corporation, a National Grid Company

necessary to allow NYISO to forgive persistent undergeneration penalties that would otherwise be owed by Fixed Block Units from June 1, 2003 to the effective date of the tariff revisions accepted herein.

By direction of the Commission.

Linda Mitry,
Deputy Secretary.