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UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

New York Independent System Operator, Inc. Docket No. ER02-638-000

ORDER ACCEPTING, IN PART, AND REJECTING WITHOUT PREJUDICE, IN PART, PROPOSED TARIFF REVISIONS

(Issued February 26, 2002)

On December 28, 2001, the New York Independent System Operator, Inc. (New York ISO) proposed revisions to its Market Administration and Control Area Services Tariff (Services Tariff) and its Open Access Transmission Tariff (OATT), pursuant to section 205 of the Federal Power Act (FPA).[1] The New York ISO states that its proposed revisions provide new pre-scheduling options applicable to its locational-based marginal price (LBMP) markets, allowing market participants to reserve ramp capacity and transfer capability up to eighteen months in advance of a given dispatch day.

For the reasons discussed below, we will accept, in part, the New York ISO's proposed tariff changes, as they relate to pre-scheduled transactions made before the close of the day-ahead market. Allowing these revisions to go into effect will benefit customers by promoting inter-ISO transactions and thus fostering a more seamless market for energy transactions throughout the Northeast region. We will reject without prejudice the New York ISO's additional pre-scheduling options, as proposed. As the New York ISO concedes in its filing, the technical capability to implement these pre-scheduling options does not yet exist and the manner in which they would be implemented has yet to be specified by the New York ISO.

Background

The New York ISO states in its filing that its proposed tariff revisions will allow for reservation-based advance scheduling of transactions involving the purchase or sale

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[1]16 U.S.C. § 824d (1994).

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of energy in the New York ISO's LBMP markets at external proxy generator buses or for wheel throughs across the New York control area.

The New York ISO states that under its proposal, pre-scheduled transaction requests in the day-ahead market could be submitted up to 18 months in advance of the dispatch day and would be evaluated based on the availability of ramp capacity and transfer capability. Were the New York ISO to determine that ramp capacity or transfer capability was not available for any hour of the proposed transaction, the request would be rejected. If accepted, the request could not be withdrawn, absent approval by the New York ISO. The New York ISO states that the only reason that an approved request would not flow in real-time would be if a customer fails to properly schedule the transaction in the external control area (a practice that would not be sanctioned by the New York ISO), or if the New York ISO suffers a major failure to its transmission grid, reducing its transfer capability below the amount that has been reserved.[2]

The New York ISO states that pre-scheduling will initially be available only for individual day-ahead, pre-scheduled transaction requests that are accepted by the New York ISO prior to the close of the day-ahead market. The New York ISO states that its proposed tariff revisions also include three additional pre-scheduling enhancements (described below), which would become effective as soon as the technical capability necessary to implement these enhancements becomes available. The first enhancement would permit the New York ISO to accept pre-scheduling requests submitted for the first time in the balancing market evaluation (BME) to run in the real-time market. The second enhancement would permit customers to convert day-ahead external energy transactions and wheel throughs into pre-scheduled transactions, subject to the existence of ramp capacity and transfer capability. The final enhancement would enable customers to "batch" their pre-scheduled transaction requests.

The New York ISO states that pre-scheduled transaction requests would have a scheduling priority over other transactions bid into the day-ahead market or the BME. To effectuate this priority, the New York ISO proposes to initially assign all pre-scheduled transactions a bid price that would give these requests the highest economic

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[2]The New York ISO states that it will establish criteria to define the portion of inter-regional transfer capability that would be available for pre-scheduled transactions. Initially, the New York ISO would offer at least that portion of the inter-regional transfer capability with each ISO that reflects the operating limit developed for worst-case maintenance conditions.

priority available and effectively make them "price takers."[3] The New York ISO requests that its proposed tariff revisions be made effective February 28, 2002.

Notice of Filings and Responsive Pleadings

Notice of the New York ISO's filing was published in the Federal Register,[4] with interventions, comments or protests due on or before January 18, 2002. Motions to intervene were timely-filed by Mirant Americas Energy Marketing, L.P. and its affiliates[5] (Mirant), PJM Interconnection L.L.C. (PJM), KeySpan-Ravenswood, Inc. (KeySpan), Dynegy Power Marketing, Inc. (Dynegy), H.Q. Energy Services (U.S.), Inc. (H.Q. Energy), the Members of the Transmission Owners Committee of the Energy Association of New York State (Member Systems), and NRG Power Marketing, Inc.[6] (NRG, et al.)

PJM, in its comments, questions whether the tariff revisions proposed by the New York ISO would permit suppliers in New York to participate in PJM's installed capability (ICAP) market.[7] Member Systems, in its protest, suggests that the New York ISO has provided insufficient guidance regarding the implementation of its proposed pre-scheduling enhancements and requests clarification regarding the criteria that the New York ISO would use to evaluate requests to withdraw pre-scheduled transactions. Member Systems also argues that pre-scheduling priority should apply only with respect to external transactions and that these transactions should be subject to all applicable charges under the OATT.

On February 8, 2002, the New York ISO filed an answer responding to the comments submitted by PJM and Member Systems. With respect to PJM's concern

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[3]The bid prices for the New York ISO's day-ahead market would be as follows: (i) $1000 to sink price cap bids for energy purchases for delivery to another control area; (ii) $1000 to decremental bids for sales delivered from another control area; and (iii) $1000 to decremental bids for wheel throughs.

[4]66 Fed. Reg. 56,294 (2001).

[5]Mirant Bowline, LLC, Mirant Lovett, LLC and Mirant NY-Gen, LLC.

[6]Joined by Arthur Kill Power LLC, Astoria Gas Turbine Power LLC, Dunkirk Power LLC, Huntley Power LLC, and Oswego Harbor Power LLC.

[7]For the reasons discussed below, PJM subsequently withdrew these comments. See infra note 8.

regarding the ability of New York ISO resources to qualify as ICAP in PJM, the New York ISO clarifies that the intent of its filing is to address energy-related, not capacity-related, seams issues. The New York ISO adds that it intends to address ICAP deliverability matters in a separate filing.[8]

The New York ISO also submits certain clarifications, in its answer, which it says address the concerns raised by Member Systems. With respect to its proposed pre-scheduling conversion enhancement (i.e., its proposal to allow customers to convert into pre-scheduled transactions, external energy transactions and wheel throughs scheduled on a day-ahead basis), the New York ISO commits that it will make a filing to describe, in greater particularity, the manner by which day-ahead transactions may be converted into pre-scheduled transactions, including the priority that would attach to these requests. The New York ISO further commits that it will await Commission approval of that filing before implementing these pre-scheduling enhancements.

The New York ISO also clarifies that its existing tariff requirements provide penalties for customers who fail to properly schedule external transactions with external control areas and that other protections are in place to discourage the unauthorized withdrawals of pre-scheduled transactions. The New York ISO also commits to issuing technical bulletins and revising its operating manuals to specify the criteria it will use to review withdrawal requests. The New York ISO also clarifies that the enhanced priority allowed through pre-scheduling will only apply to external transactions (not internal transactions) and that all applicable OATT charges must be paid in connection with a pre-scheduled transaction.

Discussion

A. Procedural Matters

Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,[9] the timely-filed motions to intervene submitted by Mirant, PJM, KeySpan, Dynegy, H.Q. Energy, Member Systems, and NRG, et al. serve to make these entities parties to this

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[8]Given these representations, PJM, in a filing submitted February 8, 2002, withdrew its initial comments.

[9]18 C.F.R. § 385.214 (2001).

proceeding. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure,[10] prohibits an answer to a protest, unless otherwise permitted by the decisional authority. We will accept the New York ISO's answer given the important clarifications it makes, responsive to the concerns raised by PJM and Member Systems.

B. Analysis

We will accept for filing the New York's ISO's proposed tariff revisions, as they relate to pre-scheduled transactions made before the close of the day-ahead market. In support of these proposed revisions, the New York ISO states that its pre-scheduling program will help promote a "seamless" Northeast marketplace by reconciling the New York ISO's use of a financial-based reservation system with the physical reservation systems currently utilized by ISO New England, Inc. (to the north) and PJM (to the south).

While Member Systems seeks clarification regarding certain aspects of these proposed revisions (as discussed below), no party opposes the introduction of the New York ISO's pre-scheduling option. Moreover, we find that the clarifications sought by Member Systems have been sufficiently addressed by the New York ISO in its answer. Specifically, adequate protections are in place (and will be provided) regarding the withdrawal of a pre-scheduled transaction; the scheduling priority will apply to external transactions only; and the charges for pre-scheduled transactions will include all transmission-related or ancillary services charges, as provided in the New York ISO OATT. Based on our review of the New York ISO's proposed tariff changes, we find that these changes appear to be just and reasonable, and have not been shown to be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we will accept these tariff revisions for filing, effective February 28, 2002, as proposed.

We will reject, without prejudice, the three pre-scheduling enhancements proposed by the New York ISO. As the New York ISO notes in its filing, these pre-scheduling enhancements cannot be implemented at this time because the New York ISO lacks the technical capability to do so. Moreover, as the New York ISO notes in its answer, implementation issues relating to these enhancements, including scheduling priority, await a future filing. Given these circumstances, we think it best to consider these enhancements as part of a single, comprehensive proposal at such time as the New York ISO is prepared to move forward with this initiative.

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[10] Id. at 385.213(a)(2).

Accordingly, we will require the New York ISO to submit revised tariff sheets within 30 days of the date of this order, reflecting those provisions which have been accepted for filing herein, and omitting those provisions which have been rejected, without prejudice.

The Commission orders:

(A) The New York ISO's proposed tariff revisions are hereby accepted, in part, and rejected without prejudice, in part, as discussed in the body of this order.

(B) The New York ISO is hereby directed to make a compliance filing within 30 days of the date of this order, as discussed in the body of this order.

By the Commission.

(S E A L)

Linwood A. Watson, Jr.,
Deputy Secretary.