UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

New York Independent System Operator, Inc. **Docket No. ER07-521-000**

RESPONSE OF THE NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.

In compliance with ordering paragraph "A" of the Commission's July 27, 2007 *Order Establishing a Technical Conference* ("Technical Conference Order")[1] and the August 3, 2007 *Notice of Extension of Time,* the New York Independent System Operator, Inc. ("NYISO") respectfully responds to the Commission's questions regarding its pending Compliance Filing in the above-captioned proceeding.[2] The NYISO will be prepared to discuss the underlying issues further at the September 10 technical conference and looks forward to a constructive dialogue.

The NYISO appreciates the importance that the Commission places on timely compliance with the "LTFTR Orders."[3] The NYISO continues to believe that its Compliance Filing represents the best way for it to satisfy the Commission's requirements as soon as practicable. The NYISO hopes that the Commission will issue an order accepting its pending proposal soon so that it may commence the substantial effort that will be required for implementation.

To the extent that modifications are required the NYISO will, of course, do everything it can to effectuate them. The NYISO respectfully asks, however, that the Commission staff keep in mind that the practical, technical, and legal restrictions that shaped the Compliance Filing will also limit the adjustments that the NYISO can make within the timeframe envisioned by the Commission. In particular, the NYISO, supported by the vast majority of its stakeholders, wishes to comply with the LTFTR Orders, preserve the robust auctions for shorter-term Transmission Congestion Contracts ("TCCs") that exist in New York today, prevent inequitable cost shifts that would occur if LTFTRs were awarded at below market values and avoid costly investments in new software, billing and auction revenue allocation systems to support minor, if any, incremental improvements over the NYISO's pending Compliance Filing.

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[1] *New York Independent System Operator, Inc*., 120 FERC ¶ 61,099 (2007).

[2] *Compliance Filing of the New York Independent System Operator, Inc.,* February 5, 2007 ("Compliance Filing").

[3] *Long-Term Firm Transmission Rights in Organized Markets,* Order No. 681, FERC Stats. & Regs. ¶ 31,226 (2006), *affirmed,* Order No. 681-A, 117 FERC ¶ 61,201 (2006).

I. Guideline Five Issues

A. Introduction

The Technical Conference Order posed several questions relating to "Guideline Five" of the LTFTR Orders. Guideline Five specifies that:

> Load-serving entities must have priority over non-load serving entities in the allocation of long-term firm transmission rights that are supported by existing transmission capacity. The transmission organization may propose reasonable limits on the amount of existing transmission capacity used to support long-term firm transmission rights.

The Commission has interpreted Guideline Five as allowing transmission organizations[4] to impose reasonable limits on the amount of transmission capacity that they will use to support long-term firm transmission rights ("LTFTRs") provided that enough is set aside to permit Load-Serving Entities ("LSEs") to meet their "reasonable needs." As an example, the LTFTR Orders suggested that "reasonable needs" would be met if LSEs received enough LTFTRs to hedge their "base load levels."[5] At the same time, the LTFTR Orders gave transmission organizations flexibility to develop compliance proposals that were compatible with their existing market designs, stakeholder preferences, and the needs of State retail access programs.[6] They also established that transmission organizations could impose additional limits on LSEs' ability to nominate LTFTRs when there is insufficient transmission capacity for them all to hedge their base loads with long-term rights.[7]

The NYISO's earlier filings in this proceeding, and its responses to the questions below, demonstrate that its pending Compliance Filing satisfies Guideline Five. As is addressed below, the Compliance Filing allocates 55% of New York State's transmission capacity to support LTFTRs.[8] What would be set aside in New York is comparable to the total amounts set aside by

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[4] As in the LTFTR Orders, the NYISO will use the term "transmission organization" to refer to Commission-jurisdictional Independent System Operators and Regional Transmission Organizations, including the NYISO itself.

[5] Order No. 681-A at P 69. The LTFTR Orders noted that "reasonable needs" could be defined in "a variety of ways," Order No. 681 at P 322, and that "in most cases" an LSE's reasonable needs would be met if it had the option to obtain "a quantity of long-term firm transmission rights sufficient to hedge its long-term power supply arrangements at a base load level." Order No. 681-A at P 88.

[6] *See, e.g.,* Order No. 681-A at 2.

[7] *See* Order No. 681-A at P 70 (allowing transmission organizations to give a priority to LSEs that need long-term rights with service obligations to cover longer-term power supply arrangements.)

[8] As measured by the amount of transmission capacity allocated as AARs across NYISO's nine inter-zonal interfaces. *See* Figure 3 in Section I.B.2, below.

other transmission organizations whose compliance proposals have been approved by the Commission.[9] Moreover, as is shown below, the individual LSEs that have shown the greatest interest in LTFTRs will be able to obtain them to cover their reasonable needs.

B. Responses to Questions Under Paragraph Five of the Technical Conference Order

1. The definition of "reasonable needs" that NYISO proposes to use and whether it would be useful and practical for NYISO to base its LTFTR allocations on a reference year or baseline quantity

The NYISO's definition of "reasonable needs" acknowledges, and "largely" maintains, historic uses of transmission capacity to serve load.[10] Consequently, it also recognizes that there are limits on the amount of transmission capacity that remains available to support newly defined LTFTRs[11] in New York. An individual LSE's "reasonable needs" would therefore be defined as its historic use of the transmission system, as identified by its expired or ongoing "grandfathered transmission rights,"[12] and its share of the maximum amount of capacity that the NYISO can practically make available to support new LTFTRs.

The Compliance Filing acknowledges historic uses by allocating Auction Allocation Rights ("AARs") to grandfathered rights holders and across interfaces that were historically used by the New York Transmission Owners ("NYTOs") to serve native load.[13] As the NYISO has previously explained, between forty and fifty percent of New York State's total transmission

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[9] *See, e.g., California Independent System Operator Corporation*, 120 FERC ¶ 61,023 (2007) (approving an LTFTR compliance proposal under which fifty percent of system transmission capacity would be set aside to support LTFTRs after a four year phase in (and after netting out California's version of grandfathered transmission rights)).

[10] For instance, for three large New York Association of Public Power members, the NYISO proposal offers LTFTRs over the transmission capacity they currently use to serve their load (when those agreements expire). This capacity covered 90% of the load they consumed in the hour of the 2006 summer peak.

[11] For ease of reference, the NYISO will use the term "LTFTR" rather than "LTTR" or "LTTCC" throughout this filing.

[12] When the NYISO was established, customers taking service under grandfathered transmission rights were given a choice. They could retain "Grandfathered Rights" and continue taking physically firm transmission service without any exposure to congestion charges. Alternatively, they could convert their contracts into "Grandfathered TCCs." For ease of reference, the term "grandfathered transmission rights" will be used to refer to both Grandfathered Rights and Grandfathered TCCs. Customers with grandfathered transmission rights continue to pay their original contract rate, which may be higher of lower than the TSC that would otherwise apply, until their contracts end.

[13] This issue is discussed in greater detail in the NYISO's response under Section I.B 3, below.

capacity is currently dedicated to supporting grandfathered transmission rights.[14] These grandfathered transmission rights have all of the attributes that the Commission requires of LTFTRs.[15] They should, therefore, under the terms of the LTFTR Orders, be counted as LTFTRs.[16] No party in this proceeding has objected to this aspect of the pending compliance proposal.[17] Unless the Commission were to abrogate grandfathered transmission rights, LSEs' ability to select new LTFTRs in New York must be limited to a reasonable portion of transmission capacity that is not supporting grandfathered transmission rights.

In setting aside a portion of this "net" transmission capacity for LTFTRs, the NYISO balanced the need to preserve enough capacity to support viable shorter-term TCC auctions with the need to ensure that both short- and long-term transmission rights remain feasible over their entire durations. New York is a retail access state and viable short-term auctions are strongly desired by many LSEs whose load obligations are subject to significant change every year or two, if not more frequently.

With one small exception, the NYISO currently makes all transmission capacity that is not used to support grandfathered transmission rights, or already outstanding TCCs, available for sale through the TCC auctions.[18] Only so much capacity can be taken from these short-term auctions without jeopardizing their continued viability. After extensive stakeholder discussions, the NYISO proposed to take as much capacity as it was generally agreed could be used to support LTFTRs without fatally compromising the auctions.

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[14] *See* Compliance Filing at 8.

[15] The vast majority of grandfathered transmission rights are held by LSEs or by the NYTOs on behalf of their end use customers.

[16] *See* Order No. 681-A at P 87**.**

[17] The New York Association of Public Power ("NYAPP") did not object in principle to the NYISO's proposal to count existing grandfathered transmission rights as LTFTRs, although it complained about alleged discrimination in favor of grandfathered transmission rights holders (which the NYISO disputed.) *See, e.g., Answer of New York Association of Public Power in Opposition to Motion for Leave to File Answer*, Docket No. ER07-521-000 at 8 (March 28, 2007).

[18] The only available transmission capacity that the NYISO does not offer for sale through auctions is that portion of the NYTOs' ETCNL TCCs and Residual Capacity Reservation Right ("RCRR") TCCs, normally five percent, that is held out of the auctions to help preserve feasibility under the Capacity Reservation Cap provisions of the NYISO OATT. *See* NYISO OATT, Attachment M at Sections 1.0, 5.0, 5.3, and 6.0. Thus, there is no significant untapped reserve of TCCs that could be used to support direct allocations without drawing capacity away from the TCC auctions, notwithstanding NYAPP's claims to the contrary. *See, e.g.,* NYAPP Answer at 6 ("[T]he direct allocation of LTTRs would not reduce the amount of capacity sold in the auctions, which is limited to the amount of ETCNL.")

In addition, as is noted below,[19] the stakeholder discussions that preceded the Compliance Filing confirmed that more New York market participants are concerned with the preservation of the short-term auction than are interested in obtaining LTFTRs outside of auctions. The relatively limited desire among LSEs as a whole for LTFTRs is relevant to any evaluation of whether the NYISO has set aside enough capacity to satisfy reasonable needs.

After accounting for all of these factors, the NYISO ultimately decided to create new AARs from 23.75%[20] of the transmission capacity associated with feasible Existing Transmission Capacity for Native Load ("ETCNL")[21] and Original Residual TCCs. As is demonstrated in the NYISO's response under Section I.B.2, below, a substantial amount of the ETCNL and Original Residual TCC capacity, that would be allocated for new LTFTRs, crosses some of the most congested, and therefore valuable, interfaces in New York.

In addition, in part because there are some interfaces where ETCNL and Original Residual TCCs exist in smaller quantities the NYISO proposed to allow holders of expired grandfathered transmission rights to convert 100% of them into new Fixed Price TCCs. The NYISO would also allow LSEs to create new AARs from 23.75% of the transmission capacity associated with expiring or previously expired grandfathered transmission rights that are not converted into Fixed Price TCCs by the holder of those rights. These additional features increase LSEs' ability to obtain new LTFTRs to cover transmission capacity historically used to serve load. Moreover, as is noted in the NYISO's response under Section I.B.3, below, these features have the effect of enabling those LSEs that generally have the greatest interest in LTFTRs, namely the municipal utility systems, to obtain more than they otherwise could.

Thus, although the NYISO does not define "reasonable needs" within the context of a particular "reference year" or "baseline quantity, a substantial portion of its transmission capacity already supports LTFTRs in the form of grandfathered transmission rights.[22] Moreover, the NYISO has allocated as much transmission capacity as it believes it can to support new

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[19] *See* Section I.B.3, below.

[20] The NYISO had originally proposed to set aside 45% of this amount but reduced the proposed set aside to 25% in response to stakeholder concerns about harm to shorter-term auctions. The 25% figure was then reduced to 23.75% to reflect the five percent of ETCNL TCCs and RCRR TCCs that are normally held out of the auctions under the Capacity Reservation Cap provisions of the NYISO OATT.

[21] Prior to the NYISO's formation, several NYTOs constructed transmission facilities to deliver energy from generation located outside of their territories to their native load. These historic uses were not memorialized in agreements that could later be expressly grandfathered because they did not involve multiple parties. It was understood, however, that these historic rights were functionally equivalent to the kinds of uses that were often protected by grandfathered rights. Accordingly, it was decided that the transmission capacity traditionally associated with these uses would be allocated to the NYTOs in the form of ETCNL reservations.

[22] The NYISO will provide detailed illustrations of the amount of load representative municipal systems could hedge with LTFTRs at the September 10, 2007 Technical Conference.

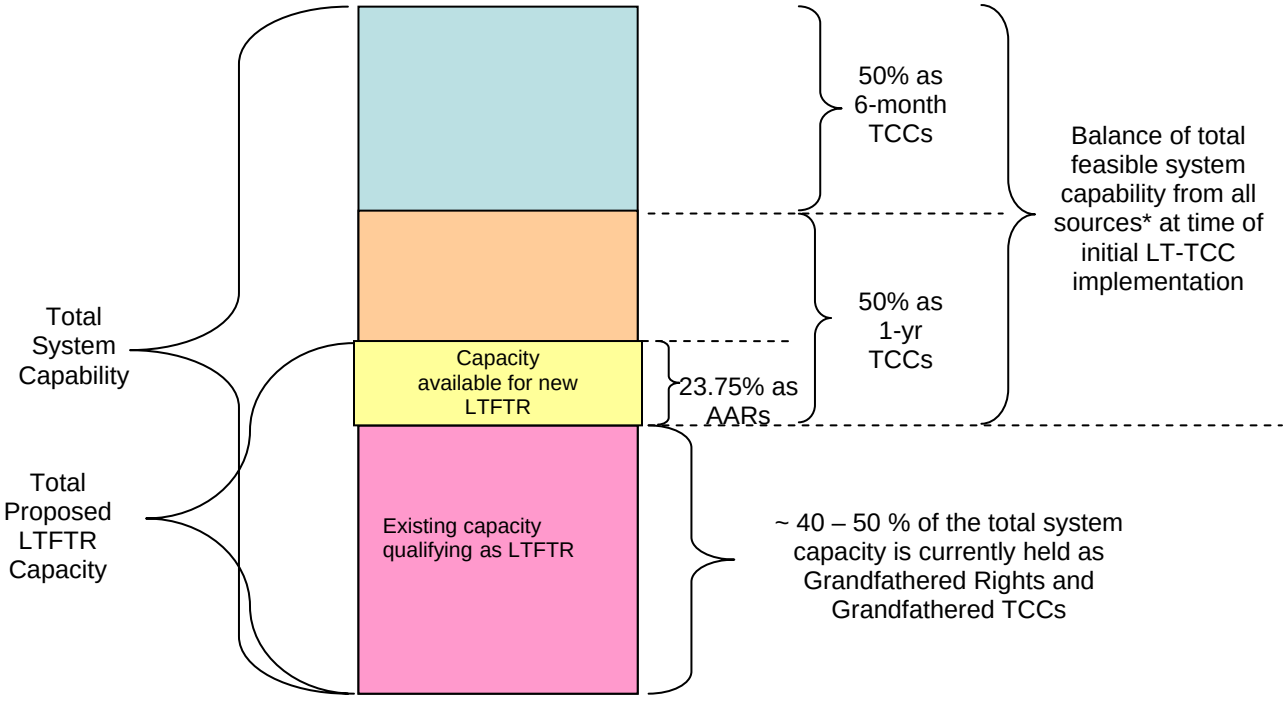
LTFTRs. By giving each LSE a share of the total amount that has been set aside, and by offering LSEs that most want LTFTRs greater access to them, the Compliance Filing provides for LSEs' "reasonable needs" consistent with the LTFTR Orders.

2. Detailed illustrations that show, under the existing proposal, how NYISO meets the reasonable needs requirement of Guideline Five

The following illustrations show: (i) how all of the transmission capacity in New York State would be allocated under the Compliance Filing ("Figure 1"); and (ii) how much transmission capacity at New York's key inter-zonal interfaces would be available as LTFTRs. More than half of New York State's total transmission capacity will be used to support LTFTRs, either in the form of grandfathered transmission rights or new rights. In addition, as Figure 3 illustrates, there are certain key interfaces where nearly all transmission capacity will be used to support such rights. In short, the NYISO has set aside sufficient capacity to permit LSEs to meet their "reasonable needs" for LTFTRs in New York.

Figure 1 illustrates how the total capacity of the New York State transmission system would be allocated under the Compliance Filing.

Figure 1: Allocation of New York's Total System Capability Under the Compliance Proposal



* including, ETCNL, Original Residual TCCs, expiring grandfathered transmission rights, and all other residual transmission capacity that may be used to support sales through the TCC Auctions.

Figure 2 is a map of the New York Control Area that identifies each of its eleven Load Zones (labeled A through K) and specifies the location of the major internal interfaces that are referenced in Figure 3.

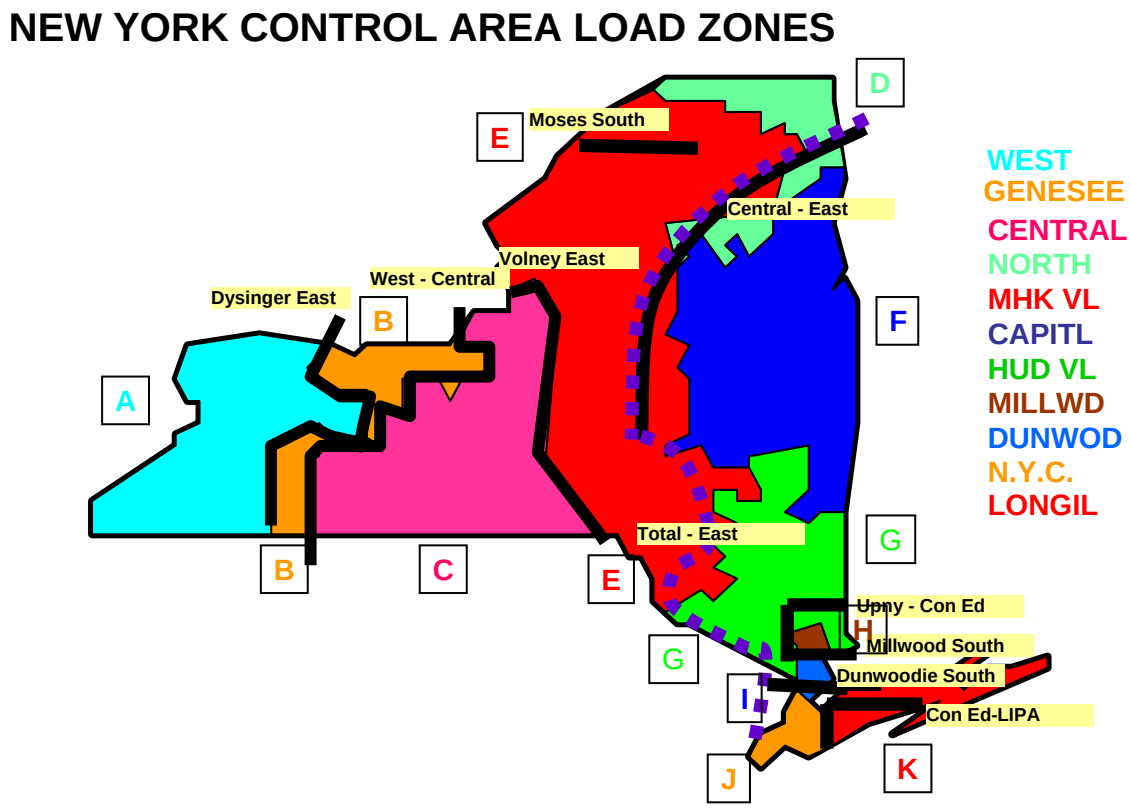


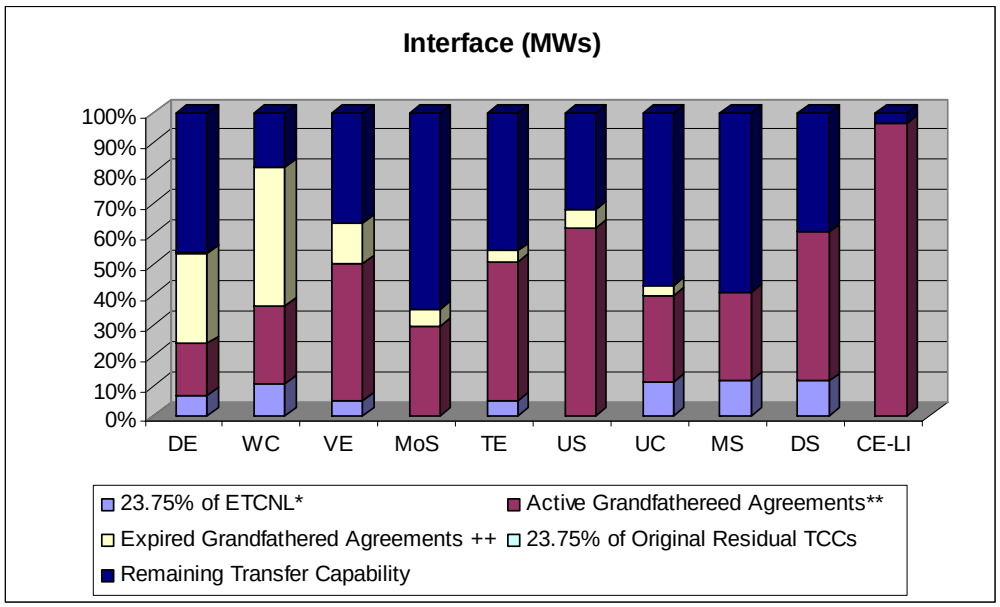
Figure 3 consists of a table, and a bar graph developed using data from the table, that illustrates how grandfathered transmission rights, expired grandfathered rights eligible for conversion into Fixed Price TCCs, and capacity associated with ETCNL and Original Residual TCCs that will be used to create AARs, are allocated across New York's major internal interfaces.

OATT Attachment L - ETA/ETCNL Interface Allocations

Compared to Comprehensive Area Transmission Review Transfer Limits (Study Year 2006)

	Interface (MWS)									
	DE	WC	VE	MoS	TE	US	UC	MS	DS	CE-LI
23.75% of ETCNL*	256.5	256.5	254.13	0	280.25	0	722.48	942.4	716.54	0
Active Grandfathereed Agreements**	624	620	2277	431	2429	2951	1857	2321	3085	1063
Expired Grandfathered Agreements ++	1099	1096	692	78	188	287	215	10	10	0
23.75% of Original Residual TCCs	16.63	0	0	0	0	0	0	0	0	0
Totals	1996.13	1972.5	3223.13	509	2897.25	3238	2794.48	3273.4	3811.54	1063
Normal Power Transfer Limits	3700	2400	5050	1450	5325	4750	6525	8025	6275	1100
% of Limits	54%	82%	64%	35%	81%	68%	43%	41%	61%	97%
Remaining Transfer Capability	1703.87	427.5	1826.87	941	2427.75	1512	3730.52	4751.6	2463.46	37

*MW values from NYISO OATT Attachment L
**MW values derived from the Original Grandfathered Agreement MWs as identified in the NY OATT Attachment L minus the expired Grandfathered Agreements MWs
++ Information provided by Transmission Owners



Where:

DE	**Dysinger East**	**US**	**UPNY/SENY**
WC	**West Central**	**UC**	**UPNY/Con Ed**
VE	**Volney east**	**MS**	**Millwood South**
MoS	**Moses South**	**DS**	**Dunwoodie South**
TE	**Total east**	**CE-LI**	**Con Ed/LIPA**

Finally, the NYISO is preparing illustrations that will show how many LTFTRs would be available to the municipal utility systems that have expressed the greatest interest in them; namely the members of the New York Association of Public Power ("NYAPP"). NYAPP's members were the only parties in this proceeding to argue that the Compliance Filing would not permit them to meet their reasonable needs. The NYISO has not yet been able to complete these

illustrations because it has had to collect data that is in the possession of other entities, but will file a supplement to this response that includes them in advance of the September 10 technical conference.[23] The NYISO has confirmed, however, that the three municipal utility systems on Long Island[24] hold grandfathered transmission rights that covered 90% of the energy they used during the peak demand hour of Summer 2006.[25] More generally, the NYISO's illustrations will demonstrate that the municipal utility systems that have expressed the greatest desire for LTFTRs are eligible to receive substantially more under the NYISO's proposal than they would absent the Compliance Filing's "preference" for holders of current or expired grandfathered transmission rights.

3. An explanation of how NYISO's proposed multiple methods of allocating LTFTRs to LSEs treat all LSEs comparably, *e.g.*, how LTFTRs allocated through conversions of expired grandfathered contracts are not preferential as compared to those afforded LSEs based on their zonal load ratio share. NYISO should explain how all LSEs will have the opportunity to meet their reasonable needs over transmission paths that they have historically used.

New York is a retail access state with numerous competitive Energy Service Companies ("ESCOs"), fifty one municipal utility systems and electric co-operatives, six Commission-jurisdictional NYTOs, and two non-jurisdictional NYTOs that are power authorities. All of these entities are LSEs. The NYISO's pending compliance proposal reasonably accommodates their diverse characteristics and thus offers reasonably comparable, not unduly preferential, service.

Retail customers that have chosen to buy energy from an ESCO still take service as retail delivery customers of the local NYTO and pay a bundled retail delivery charge against which TCC auction revenues are credited. These customers are free to migrate among ESCOs, or back to the NYTO, for their commodity service while remaining delivery customers of the local NYTO.[26] ESCOs tend to be primarily interested in securing short-term transmission rights

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[23] To the extent that the Commission deems it necessary, the NYISO respectfully requests leave to file this supplemental information under Rule 2008 (18 C.F.R. § 385.2008). There is good cause to allow the NYISO to file this supplemental information given the time that was required to collect the necessary data.

[24] To illustrate the relative size of the municipal utility systems on Long Island, by way of example, NYISO's billing records indicate that during 2006, they served approximately 2.4% of the energy consumed in Load Zone K (Long Island).

[25] During the hour in which the Summer 2006 peak demand occurred (8/2/06 HB 1300), the three municipal utility systems accounted for 1.44% of total energy withdrawals on Long Island.

[26] According to the latest version of the "Electric Retail Access Migration Report" compiled by the New York State Public Service Commission, 43.5% of eligible end-use load had migrated from the NYTOs to competitive ESCOs as of June, 2007. <http://www.dps.state.ny.us/Electric_RA_Migration.htm>.

because their load obligations are likely to vary under retail access. The NYTOs, which generally have larger and more diverse commodity-buying customer bases than the ESCOs, can also lose (and gain) energy customers via retail access (or regain them due to their provider of last resort status.) The NYTOs, therefore, are also generally more interested in shorter-term TCCs.

By contrast, retail customers of municipal utility systems[27] receive bundled retail delivery service without the opportunity to migrate to a competitive ESCO (unless they physically re-locate). Municipal utility systems in turn, receive unbundled wholesale transmission service either under the NYISO OATT, a NYTO OATT or under grandfathered transmission agreements. Therefore, in New York, municipal utility systems are the LSEs most likely to have a stable customer base, to have (and to favor) longer-term power supply arrangements, and to be interested in LTFTRs. The Commission should keep in mind, however, that municipal utility systems serve a smaller portion of the load in New York than they do in other ISO/RTO regions.

Commission precedent holds that similarly situated customers may be treated differently when there are legitimate justifications for the distinctions.[28] To the extent that the Commission believes that the pending proposal favors LSEs that are eligible to receive Fixed Price TCCs by converting expired grandfathered transmission rights, the Commission should find that the preference is not undue but appropriate, given the NYISO's circumstances, and the preferences of the different classes of LSEs.

The NYISO had valid reasons for proposing to allow holders of expired grandfathered rights to convert 100% of that capacity to Fixed Price TCCs[29] while basing the allocation of AARs to all other LSEs on a load ratio share basis. The NYISO discusses why limiting the offer of the Fixed Price TCCs to holders of expired grandfathered rights is not unduly preferential in its response under Section II.C.3 below.[30]

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[27] References to New York's municipal utility systems in this filing should, unless indicated otherwise, be construed as also referring to New York's electric cooperatives.

[28] *See, e.g., California Independent System Operator, Inc.,* 119 FERC ¶ 61,061 at P 69 (2007) ("The Commission has determined that discrimination is undue when there is a difference in rates or service among similarly situated customers that is not justified by some legitimate factor.") In that decision, the Commission accepted revisions to its interconnection policies that would apply only to a subset of generation projects, *i.e.*, location constrained resources, because they had different technical characteristics and other "siting and development factors" that justified treating them differently.

[29] Provided that the holder could certify that it expected to use its historic rights to serve its historic load for the entire ten year period.

[30] As a general matter, fixed price mechanisms introduce a substantial risk that LTFTRs may be purchased at prices significantly below their market value, resulting in the NYISO collecting insufficient auction revenues to pay holders of ETCNL and Original Residual TCCs at the levels currently required by the NYISO's tariffs. Fixed price mechanisms also introduce the potential for substantial wealth transfers. The larger the portion of the system's transmission capacity that is sold at fixed prices the greater the potential for sizable cost-shifts.

LTFTR allocation methods that differ for holders of grandfathered transmission rights and for all other LSEs is appropriate under Commission precedent allowing transmission organizations to develop LTFTR compliance proposals that give a priority to LSEs that need to hedge "longer-term power supply arrangements to meet a service obligation."[31] Most of the grandfathered transmission rights in New York are (or were) held primarily by municipal utility systems and NYTOs and are (or were) used to serve historical loads associated with service obligations from historical resources. They are also often associated with long-term power supply arrangements. While the correlation between grandfathered transmission rights and long-term historic uses is not exact for every individual LSE, it is generally very close.

The NYISO's pending proposal with respect to grandfathered transmission rights would respect these established historic uses by allowing LSEs to obtain new LTFTRs associated with them. The proposal reflects a determination that those LSEs that have historically favored LTFTRs should be allowed to receive them based on their previous (or on-going) transmission contracts rather than by the load ratio share approach that would apply to all other LSEs. The load-ratio share allocation methodology appropriately allocates remaining transmission capacity equitably among similarly situated LSEs.

In short, the NYISO is allocating the maximum amount of capacity that it can practically make available to support LTFTRs in a manner that best reflects the reasonable needs of differently situated LSEs. The different allocation methodologies legitimately accommodate distinctions in reasonable needs for long term transmission rights among otherwise similarly situated customers.

4. Verification that feasibility limitations will not prevent an LSE from meeting its reasonable needs with LTFTRs

When it posed this question, the Commission referred to its ruling addressing PJM Interconnection, L.L.C.'s ("PJM") compliance with the LTFTR Orders.[32] There the Commission was concerned that PJM's proposal to proration long-term rights when necessary to ensure simultaneous feasibility could result in inequitable reductions of LSEs' entitlements to long-term rights because LSEs whose loads were located closer to binding constraints were subject to proportionally greater reductions. The Commission believed that this approach could cause some LSEs to receive insufficient long-term rights to cover their reasonable needs.[33] PJM ultimately satisfied these concerns through a settlement, which provided that there would be no prorationing of LTFTRs absent "extraordinary circumstances" such as *force majeure* events.[34]

The problem that the Commission identified in the PJM proceeding will not arise under the NYISO's Compliance Filing. The NYISO's proposal provides that all allocated AARs will

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31 Order No. 681-A at P 70.

32 *PJM Interconnection, L.L.C.*, 117 FERC ¶ 61,220 at P 87 (2006) ("*PJM I*").

33 *See PJM I* at PP 78, 80.

34 *PJM Interconnection, L.L.C.*, 119 FERC ¶ 61,144 at P 76 (2007) ("*PJM II*").

be supported by feasible ETCNL, Original Residual TCCs, or transmission capacity associated with expired grandfathered transmission rights. The NYISO will perform a one-time feasibility analysis on its ETCNL and Original Residual TCCs and will use established proration methods to identify a set of ETCNL and Original residual TCCs that are feasible. It will then set aside 23.75% of that feasible set of ETCNL and Original Residual TCCs as ARRs.

In addition, the NYISO will confirm that LSEs may convert the full amount of expiring or expired grandfathered transmission rights into Fixed Price TCCs without undermining the feasibility of outstanding and valid TCCs. In the event that the establishment of a Fixed Price TCCs would affect the feasibility of an existing TCC the quantity of Fixed Price TCCs created would be reduced to a level necessary to preserve feasibility. This would not normally occur in the case of newly expired rights, as the transmission capacity represented by those rights was feasible at the time of the expiration of the grandfathered agreement. It is also very unlikely, for similar reasons, in the case of grandfathered transmission rights that expired prior to November 18, 1999 (the cut off date under the compliance filing). Moreover, once LTFTRs have been awarded, the NYISO's OATT, as revised by the Compliance Filing, does not provide for subsequent reduction.

Finally, as the NYISO has previously noted,[35] its planning processes accommodate both TCCs and LTFTRs, and ensure their feasibility. This will continue to be the case after the NYISO implements enhanced economic planning rules in compliance with the Commission's Order No. 890. Transmission Customers that nevertheless believe that new transmission facilities are needed to support LTFTRs have the right to request transmission expansions under the NYISO OATT.

Thus, under the NYISO's Compliance Filing, feasibility limitations should not prevent LSEs from securing LTFTRs to meet their reasonable needs.

5. An explanation and illustration of how particular Point of Injection and Point of Withdrawal paths will be determined under NYISO's proposal for LTFTR Auction Allocation Rights (AARs) that are allocated on a zonal load ratio share basis.

The NYISO's method for determining particular Point of Interconnection and Point of Withdrawal paths is fairly straightforward and was described in the Compliance Filing.[36]

ETCNL and Original Residual TCC sources and sinks are known, and are embodied in Attachment L to the NYISO OATT and spreadsheets that the NYISO uses to allocate auction revenues among the NYTOs. The NYISO OATT also directs the NYTOs to credit these revenues back to their Transmission Customers. For example, the following ETCNL rights held

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[35] *See Request for Leave to Answer and Answer of the New York Independent System Operator, Inc.,* Docket No. ER07-521-000 (March 13, 2007) at 15-17, *citing* Compliance Filing at 33-34.

[36] Compliance Filing at 4-5.

by the Consolidated Edison Company of New York, Inc. ("Consolidated Edison") sink in NYISO Load Zone H.

A	B	C	D	E	F
# ETCNL (in MWs)	**Source**	**PTID**	**Sink**	**PTID**	**Projected # AARs ****
16.5	Bowline 20	23995	Zone H	61759	3.9
16.5	Bowline 20	23526	Zone H	61759	3.9
71	Pleasant Valley 345	24000	Zone H	61759	16.9
9.5	Roseton 24	23587	Zone H	61759	2.3
9.5	Roseton 24	23588	Zone H	61759	2.3

** Prior to proration and based on multiplying # of ETCNL x 23.75% (and rounding to the nearest tenth.)

No Original Residual TCCs sink in Load Zone H.

Under the NYISO's proposal, the NYISO will determine a feasible set of ETCNL and Original Residual TCCs using the current proration methodology; and 23.75% of these source/ sink pairs would be permanently defined as AARs. In the most recent proration process, all of the ETCNL sinking in Load Zone H were feasible. Under these circumstances, the AARs listed in column F would be allocated on a load ratio share basis to load in Zone H.

Similarly, the following ETCNL sink in the New York State Electric and Gas Corporation's ("NYSEG's") Central Zone.

A	B	C	D	E	F
# ETCNL (in MWs)	**Source**	**PTID**	**Sink**	**PTID**	**Projected # AARs ****
980	PJM Proxy Bus	61847	Zone C	61754	232.8
100	Gardenville 115	24039	Zone C	61754	23.8

** Prior to proration and based on multiplying # of ETCNL x 23.75% (and rounding to the nearest tenth.)

None of these ETCNL were prorated in the most recent auction, so, under these circumstances, the Projected AARs in Column F above would be defined as AARs and allocated on a load ratio share basis to load in Load Zone C.

Each LSE would have an entitlement to convert its load ratio share of the AARs to annual TCCs in each Spring Centralized Auction.

In addition, the sources and sinks for the AARs created from grandfathered transmission rights that have already expired and from currently effective grandfathered rights are also specified in Attachment L. As noted above, however, these are not allocated on a load ratio share basis unless the grandfathered rights holder declines the AAR allocation. In that case, 23.75% of these rights are allocated to LSEs in the Load Zone where the rights sink.

II. Guideline Seven Issues

A. Introduction

The Technical Conference Order posed a number of questions regarding Guideline Seven of the LTFTR Orders, which specifies that the initial allocation of LTFTRs must not require "recipients" to participate in an auction. The Technical Conference Order expressed interest in learning more about the issues surrounding the possible implementation of "direct allocation" methods, such as the model used by PJM.

The NYISO considered adopting a PJM-like direct allocation system but opted not to do so because of significant differences between the New York and PJM systems.[37] In particular, the NYISO explained, and reiterates below, that neither it nor the NYTOs could move to a PJM-like model without sweeping changes to their billing and accounting systems. The NYISO also believes that there are many ways in which the existing Transmission Service Charge ("TSC") arrangements better suits New York's characteristics as a retail access state that, unlike PJM, no longer has traditional vertically integrated utilities.

Finally, Paragraph 10 expressed concern that both the NYISO's Fixed Price TCC proposal and NYAPP's direct allocation mechanism might result in LSEs obtaining "[LTFTRs] more valuable than the grandfathered rights that were due to expire," or "allocated rights at prices below market levels." The NYISO agrees that this is a real danger and believes that the Compliance Filing's avoidance of it is one of its most important advantages.

B. Questions Arising Under Paragraph Nine of the Technical Conference Order

1. Provide more detail on why the two-tier transmission service charge (TSC) structure is computationally intractable. Are there possible simplifying assumptions that would make the problem computationally tractable? What changes would be required in the billing and accounting procedures so that they can credit or allocate the purchase price of an LTFTR directly to the LSE paying the purchase price?

Crediting the purchase price of an LTFTR to the LSE paying the purchase price ("direct allocation of TCCs to LSEs") would require a complete overhaul of the NYTOs' existing bundled retail delivery rates and rate agreements. There are three primary reasons that direct allocation would require such a drastic change. First, auction revenues are not credited to LSEs; they are credited to retail delivery customers through reductions to TSC[38] that retail customers

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[37] *See* Compliance Filing at 21.

[38] In the case of the New York Power Authority ("NYPA"), surpluses and shortfalls are passed through to the New York Power Authority Transmission Adjustment Charge ("NTAC") equally to all NYCA wholesale load. References to the TSC in this filing should be understood as not referring to the NTAC.

pay. Second, direct allocation of TCCs to LSEs would require the NYTOs to abandon their use of a uniform TSC charged to all retail customers in their service territory and require that each NYTO calculate a separate TSC for each LSE. In addition, each NYTO would have to make monthly adjustments to the size of the TSC for each LSE and account for load shifts among them. Finally, direct allocation would require the NYTOs to change their retail billing and accounting systems, a significant investment when, as the NYISO proposal illustrates, the current process can appropriately and reasonably allocate LTFTRs. Each of these issues is explained in greater detail below.

a. New York's Existing TCC Auction Revenue Crediting Mechanism

Available transmission capacity (after accounting for grandfathered capacity agreements) is made available to the market in the form of TCCs. The NYTOs and their customers underwrite the risk associated with fully funding TCCs by agreeing to make-up, in the TSC, any shortfalls (net of congestion rent surpluses) between congestion rents received and payments to TCC holders. Auction revenues are also credited to the TSC paid by NYTOs' retail delivery customers. The TSC is the charge that recovers the embedded cost of the transmission system. Except for a small portion of the transmission capacity that serves wholesale transmission customers, and the capacity built by NYPA, the cost of the transmission system is recovered from retail customers through a retail TSC that is part of a bundled retail delivery rate.[39] Thus, in almost all cases, the TSC (including related credits) chargeable to retail native load is not charged to LSEs (who are only responsible for commodity costs and charges) but rather to their retail customers as part of their bundled retail delivery charge.

In addition, the retail rate agreements entered into by the NYTOs in retail rate proceedings at the state level, which determined the bundled retail delivery rates, include various assumptions concerning the level of credits that retail customers will receive with regard to TCC auction revenues. These retail rate agreements are of varying lengths and in some cases have several years remaining. Changing the allocation of auction revenues could jeopardize the validity of the assumptions underlying these retail rate agreements, exposing several NYTOs either to potential under-recoveries of embedded costs for several years or further rate proceedings at the state level.

Assigning transmission rights (and resulting auction revenues) to LSEs also introduces the possibility that competitive LSEs that are not subject to extensive state regulations will retain the revenue for their own use, rather than pass the benefits onto retail customers that are paying the TSC. The New York State Public Service Commission requires the NYTOs to pass these benefits on retail customers but does impose this obligation on all other LSEs.

b. Difficulties Associated with Administering Multiple TSCs

[39] *See* NYISO OATT, Attachment H, Section 2.1.

TCC auction revenue is credited to all load within a Transmission District[40] on an average or equal basis (under the NYISO tariff as well as existing retail rate agreements). Regardless of which entity supplies their commodity, all retail delivery customers in a NYTO's service territory pay the same TSC rate**.** Allocating transmission rights (and resulting auction revenues) to particular LSEs would require the NYTOs to disaggregate auction revenue and assign it LSE by LSE rather equally to all all retail delivery customers as they currently do. That is, since the auction value of individual TCCs differs depending on related congestion, direct allocation would require the NYTOs to adjust the TSCs charged to retail customers served by particular LSEs to reflect the auction value of the TCCs allocated to that LSE. Direct allocation would also require the NYTOs to adjust the TSC monthly to reflect customer migration from one LSE to another. The result would be differing net TSCs that would also be subject to continuing change as the terms of the TCCs expire. These burdensome administrative adjustments are not required in the NYISO proposal because all auction revenues are allocated directly to retail delivery customers as a credit to their TSC.

The administrative burdens identified above would exist even if the NYISO were to attempt to develop a two-tier system and allocate TCCs to a particular group of LSEs, *i.e.*, municipal utility systems. Each municipal utility system would get TCCs of differing value and their TSCs would have to be adjusted accordingly. With forty seven municipal utility systems in New York State, this could require at least that many municipal TSCs as well as a separate TSC for Load served in each Load Zone by LSEs other than the municipal systems.

Moreover, since all TCC revenues are currently credited to the TSCs of all the NYTOs' retail customers, even a limited reallocation of auction revenues for just the municipal utility systems would impact the TSCs of all other customers of the applicable NYTO. This would, therefore, disrupt the current retail bundled delivery rate agreements and lead to cost shifts between the customers of the municipal utility system and the NYTO.

In fact, the cost shifts could be significant because the TSC rate is not pancaked in New York. Customers pay only the TSC in the Transmission District where they take the energy (the point of delivery). However, ***all*** of the NYTOs and their customers benefit, under the allocation formulas found in Attachment N to the OATT, from the sale of TCCs. Therefore, TSC adjustments that would accompany a direct allocation of AARs to municipal utility system LSEs, would not be limited to the single TSC that the TCC holder pays at the point of withdrawal. Customers of other NYTOs along the rest of the TCC path, realizing the loss of TCC revenues previously allocated across all retail delivery customers, would need to adjust their TSC as well. The resulting cost shifts among Transmission Districts could be significant, unfair, and inequitable.

c. Billing and Accounting System Changes

Computationally, the NYISO and NYTO billing and accounting systems would have to change to accommodate a direct allocation methodology. In addition, the NYISO would have to make significant revisions to the auction revenue allocation mechanisms set forth in Attachment

[40] A Transmission District is the geographic area served by an individual NYTO.

N to its OATT. Developing procedures to track multiple TSCs within a Transmission District and load shifts among LSEs would also be burdensome. All of this effort would require significant time and money that is ultimately not warranted because the existing NYISO and NYTO systems are already capable of supporting effective and equitable LTFTR rules that do not depend on direct allocations.

2. Are there any examples now of LSEs that have directly allocated grandfathered TCCs and also obtained auction revenues? If yes, how is the TSC crediting done for such LSEs' auction revenues, and why would it be different for the case of directly allocated LTFTRs?

LSEs received grandfathered TCCs by converting transmission agreements that existed at the time that the NYISO began operations. The NYISO does not construe this method to be a "direct allocation of grandfathered TCCs" and would therefore answer that there are no examples of LSEs that have been directly allocated grandfathered TCCs. There are, however, a number of instances in which a given NYTO or municipal utility system may own a grandfathered TCC and also receive TCC auction revenue. This is discussed in greater detail below.

All current grandfathered TCCs, whether held by the NYTOs, other LSEs, or other market participants, reflect pre-NYISO grandfathered transmission agreements that were converted to TCCs under the NYISO tariff and related agreements at the time that the NYISO commenced operations and for which embedded cost transmission charges continue to be paid under the terms of the grandfathered agreement.

The following example illustrates how a given NYTO may own a grandfathered TCC and also receive TCC auction revenue. "NYTO #1" may own grandfathered TCCs reflecting a long-term contract for transmission service with another NYTO ("NYTO # 2") for which the NYTO # 1 continues to pay an embedded cost charge under the terms of that agreement.[41] The Transmission Customers of NYTO # 1 may also have an entitlement to ETCNL revenues, with the costs and benefits of the grandfathered TCCs and auction revenues being assigned to NYTO #1's wholesale Transmission Customers in the calculation of their TSC pursuant to the NYISO OATT.[42]

For example, Consolidated Edison has an entitlement to a number of grandfathered TCCs sinking in Load Zone J, for which it is obligated to make continuing payments under a grandfathered agreement with the New York Power Authority. In addition, Consolidated Edison has an entitlement to auction revenues associated with ETCNL sourced at historical Consolidated Edison generation and sinking in Load Zones H, I and J reflecting its historical entitlement to the use of its transmission system to serve its native load.

There are also several examples of municipal utility systems that continue to serve a portion of their load under the terms of grandfathered transmission agreements, for which they

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[41] Holders of grandfathered TCCs can also receive auctions revenues to the extent they sell those TCCs in a NYISO-administered auction, just like any other auction participant.

[42] NYISO OATT, Attachment H, Section 2.1.

pay no TSC and therefore receive no credit for auction revenues, and may also serve a portion of their load using transmission service for which they pay a TSC and receive a credit for a share of auction revenues. The transmission service utilized by the municipal utility systems therefore falls into two categories: transmission service under a grandfathered contract for which a contractual charge is paid and TCCs assigned, but no TSC is paid, and transmission service under the NYISO OATT for which the TSC is paid. To hedge the NYISO OATT service, the municipal utility system would have to either buy TCCs in a TCC auction or convert its share of AARs to LTFTRs.

Auction revenue is credited to an LSE's customers, not directly to the LSE, via the TSC that customers pay in their bundled retail delivery rate to their local NYTO. Each NYTO calculates a single TSC which is paid for all transmission service not covered by pre-NYISO grandfathered agreements. The NYISO's current system is therefore fundamentally different from any system in which some LSEs would be allocated valuable TCCs and pay a TSC that is adjusted in some manner to reflect the value of the allocated TCCs. This is discussed in greater detail in the NYISO's response in Section II.B.1. above.

3. Are there other ways to directly allocate LTFTRs that are easier to implement yet ensure that the value of the LTFTR will cover the cost of the long-term transmission rights and achieve price certainty?

The NYISO has not been able to identify an alternative way of directly allocating LTFTRs that would be easier to implement.

Any alternative system that sought to modify the existing TSC framework would encounter all of the problems described above in the NYISO's response in Section II.B.1, above. In addition, moving to a new direct allocation regime would require the NYISO to modify its existing transmission cost recovery system, which would require substantial time, effort, and expense. The NYISO's pending proposal accomplishes the Commission's goals without disrupting existing retail rates and rate agreements and without causing serious cost shifts among the various NYTOs' customers, or between NYTOs and their own customers. While it is also possible to allocate transmission rights to LSEs similar to the way they were allocated to grandfathered customers, the LSEs would have to pay the calculated value of those transmission rights (depending on the transmission path) so that remaining customers are not unfairly subsidizing them, or being discriminated against. Indeed, some of the grandfathered customers have terminated their grandfathered transmission rights presumably to avoid this result.

C. Responses to Questions Under Paragraph Ten of the Technical Conference Order

1. In order to assess the impact of NYISO's Fixed Price TCC proposal on LSEs, NYISO should provide an illustration of the potential costs of converting existing grandfathered agreements (GFAs) to LTFTRs for a representative sample of LSEs (including those with a source at Niagara and sink in Long Island). Specifically, NYISO should, and other parties may, provide an estimate of the current value of these GFAs, based on: (a) recent TCC auction prices (*e.g.*, last year); and (b) congestion prices during the same time period at the injection and withdrawal points of the GFAs. NYISO should also estimate the change in the cost of transmission service (*e.g.*, moving from pancaked rates to the TSC) for these LSEs, as well as the auction revenues that the LSEs may receive. (To protect the market confidentiality of these calculations, the identity of individual LSEs need not be revealed).

Below, the NYISO illustrates, for six representative LSEs, the change in the cost to the entity of moving from the embedded cost charges payable under their GFAs to the NYISO proposal under which they will pay a market-value based charge for the LTFTR and a TSC which reflects their load ratio share of the auction revenues received by the local NYTO. Tables A and B provide this information for granfathered agreements from Niagara to Long Island. Tables B and C provide this information for grandfathered agreements that previously existed in the Western portion of New York State.

Table A shows the per megawatt contract charges paid to each transmission owner (based on embedded cost) for the grandfathered TCCs sinking on Long Island and the total per megawatt charge for each source to sink TCC. These charges have been in the range of $100,000 per megawatt year. The LIPA TSC charge would continue to be paid following the expiration of the contract, so the incremental contract charges are around $65,000 per megawatt year.

Table A
2006 Charges to Long Island Municipal System TCC Holders

Requestor		Provider	Contract #	From	To	Grandfathered Contract Charge[1] ($ Per MW - Year)	Total Charge ($ Per MW - Year)
Masked	1	NYPA	65	Niagara	Con Ed - North	$ 28,795.03	
		Con Edison[2]	65	Con Ed - North	LIPA	$ 37,080.00	
		LIPA[3]	65 &160	LIPA	LIPA	$ 30,821.50	**$ 96,696.53**
	2	NYPA	65	Niagara	Con Ed - North	$ 26,680.66	
		Con Edison[2]	65	Con Ed - North	LIPA	$ 37,080.00	
		LIPA[3]	65	LIPA	LIPA	$ 32,938.47	**$ 96,699.13**
	3	NYPA	65	Niagara	Con Ed - North	$ 26,247.83	
		Con Edison[2]	65	Con Ed - North	LIPA	$ 37,080.00	
		LIPA[3]	65	LIPA	LIPA	$ 31,884.00	**$ 95,211.83**

Notes:
The unbundled TCC information was taken from Attachment L of the OATT while the charges were calculated base upon information provided by the relevant transmission owners.
(1) Charges were calculated for the unbundled TCC by provider.
(2) The contract charge for Con Edison was calculated based upon an existing rate under the Con Ed OATT.
(3) LIPA charges are equivalent to contract charges.

Table B shows the value on an annual basis of the TCCs associated with these Long Island contracts, based on both auction prices and payments to the TCC holder (based on congestion charges in the day ahead market). These values are in the range of $150,000 to $200,000 per year, so the current embedded cost charge for the grandfathered TCCs represents a substantial discount to the market value of the TCCs.

Table B
Rolling Average Annual period Auction Prices and DAM Payouts
Attachment L Contract 65 TCCs Starting November 2004[1]

TCC Start Date	TCC End Date	Nodal Auction Clearing Prices		Calculated DAM Payouts		Calculated TCC Prices and DAM Payouts	
		Niagara MCP	Long Island Zonal MCP	Niagara DAM Payout	Long Island Zonal DAM Payout	Niagara to Long Island TCC Price	Niagara to Long Island TCC DAM Payment
Nov-04	Oct-05	$ (1,279.13)	$ 147,596.26	$ 2,488.94	$ (152,659.42)	$ 148,875.39	$ 155,148.36
Dec-04	Nov-05	$ (1,593.70)	$ 150,688.04	$ 2,592.63	$ (158,900.19)	$ 152,281.74	$ 161,492.82
Jan-05	Dec-05	$ (1,750.35)	$ 157,115.53	$ 2,699.47	$ (164,629.58)	$ 158,865.88	$ 167,329.05
Feb-05	Jan-06	$ (1,752.73)	$ 164,392.32	$ 2,615.37	$ (163,989.32)	$ 166,145.05	$ 166,604.69
Mar-05	Feb-06	$ (1,930.81)	$ 168,841.08	$ 2,006.33	$ (168,420.36)	$ 170,771.89	$ 170,426.69
Apr-05	Mar-06	$ (1,846.28)	$ 171,312.02	$ 1,700.09	$ (175,159.53)	$ 173,158.30	$ 176,859.62
May-05	Apr-06	$ (1,707.93)	$ 178,991.49	$ 1,882.32	$ (184,627.00)	$ 180,699.42	$ 186,509.32
Jun-05	May-06	$ (1,704.12)	$ 187,935.40	$ 1,695.99	$ (187,268.14)	$ 189,639.52	$ 188,964.13
Jul-05	Jun-06	$ (1,806.44)	$ 193,171.36	$ 1,133.45	$ (188,406.64)	$ 194,977.80	$ 189,540.09
Aug-05	Jul-06	$ (2,058.92)	$ 194,751.02	$ 1,111.87	$ (210,711.96)	$ 196,809.94	$ 211,823.83
Sep-05	Aug-06	$ (1,949.06)	$ 203,564.00	$ 1,141.15	$ (222,350.31)	$ 205,513.06	$ 223,491.46
Oct-05	Sep-06	$ (1,916.90)	$ 212,848.85	$ 1,143.89	$ (214,877.26)	$ 214,765.75	$ 216,021.15
Nov-05	Oct-06	$ (1,686.76)	$ 212,304.90	$ 1,349.67	$ (200,561.06)	$ 213,991.66	$ 201,910.73
Dec-05	Nov-06	$ (1,430.64)	$ 206,744.97	$ 1,349.35	$ (202,249.49)	$ 208,175.61	$ 203,598.84
Jan-06	Dec-06	$ (1,350.62)	$ 203,509.98	$ 117.90	$ (210,016.78)	$ 204,860.60	$ 210,134.68

Notes:

1. TCCs sinking in Long Island are not sold in annual TCC auctions; therefore, auction values are based on monthly auction prices.

2. The POI and POW for TCCs in Contact 65 from Attachment L were taken from NYISO TCC award data (http://www.nyiso.com/public/webdocs/products/tcc/general_info/tcc_summary_07-31-07.CSV).

3. Nodal auction prices are calculated as the sum of the nodal prices from the monthly TCC auctions for 12 consecutive monthly auctions ($/MW).

4. DAM payouts are calculated as the sum of the congestion component from the DAM LBMP for 12 consecutive months ($/MW).

5. These calculations were performed using PTIDs 23760 (Niagara) and 61762 (Long Island Zonal).

6. TCC auction prices are calculated as POW - POI. TCC DAM payouts are calculated as POI - POW due to the negative congestion component sign convention.

Table C shows the contract charges per megawatt year that would have been payable to each transmission owner (based on embedded cost) for an illustrative grandfathered TCC sinking in western New York under a contract that has been terminated since the startup of the NYISO. These charges are in the range of $37,000 per megawatt year. At the time of termination, the maximum TSC payable on the contract quantities (assuming a 100% load factor) was around $21,000 per megawatt year.

Table C
Historical Per Unit Charge (Pancaked) for
Cancelled Contracts from Niagara (Load Zone A) to Genesee (Load Zone B)

Requestor	Provider	Grandfathered Contract Charge[1] ($ Per MW - Year)	Total Charge ($ Per MW - Year)
Masked	NYPA	$ 15,171.00	
	NMPC	$ 22,560.00	**$ 37,731.00**

Notes:

The charges were calculated base upon information provided by the relevant transmission owners.

(1) Charges were calculated for the unbundled TCC by provider.

Table D shows the value on an annual basis of the congestion rent payouts associated with the terminated grandfathered contract sinking in the Genesee zone, which was in the range of $1,000 to $2,000 per megawatt year, substantially less than the contract charges that were avoided by terminating the contract.

Table D
Annual Auction Prices and Day Ahead Market Payouts
Niagara to Genesee TCCs

TCC Start Date	TCC End Date	Nodal Auction Clearing Prices		Calculated DAM Payouts		Calculated TCC Prices and DAM Payouts	
		Niagara MCP	Genesee Zonal MCP	Niagara DAM Payout	Genesee Zonal DAM Payout	Niagara to Genesee TCC Price	Niagara to Genesee TCC DAM Payment
Nov-04	Oct-05	$ (520.84)	$ (231.45)	$ 2,488.94	$ 930.20	$ 289.39	$ 1,558.74
May-05	Apr-06	$ (1,225.77)	$ 470.81	$ 1,882.32	$ 366.74	$ 1,696.58	$ 1,515.58
Nov-05	Oct-06	$ (905.85)	$ (373.85)	$ 1,349.67	$ (326.09)	$ 532.00	$ 1,675.76

Notes:
1. The POI and POW for TCCs in Contact 65 from Attachment L were taken from NYISO TCC award data (http://www.nyiso.com/public/webdocs/products/tcc/general_info/tcc_summary_07-31-07.CSV).
2. TCC prices are the price from the final round of the annual TCC auction.
3. DAM payouts are calculated as the sum of the congestion component from the DAM LBMP for 12 consecutive months ($/MW).
4. These calculations were performed using PTIDs 23760 (Niagara) and 61753 (Genesee Zonal).
5. TCC auction prices are calculated as POW - POI. TCC DAM payouts are calculated as POI - POW due to the negative congestion component sign convention.

2. Because some of the current GFAs are clearly valuable rights, it is likely that in a full direct allocation approach, similar to that used by PJM, many LSEs would seek to nominate those paths within their eligible source and sink points. Hence, if all LTFTR megawatts in NYISO were to be awarded through direct allocation, eligible nominations for LTFTRs would likely need to be prorationed unless some additional priority was given to certain nominations. Therefore NYISO is to provide the Commission with an illustration of how current GFAs might be equitably treated in the allocation process if all LSEs were eligible for direct allocation.

As an initial matter, the NYISO does not understand the Commission to be suggesting that the NYISO modify or abrogate existing grandfathered transmission rights. The NYISO would therefore expect equitable treatment of such grandfathered transmission rights to consist, under any allocation system, of honoring them all in their entirety and for their entire durations.

Assuming that this understanding is correct, the only equitable way to directly allocate transmission capacity and related auction revenue that is associated with expiring, or expired, grandfathered transmission rights (as under PJM's approach) would be to pursue the complete overhaul that the NYISO discussed in its response in Section II.B.1, above. The NYISO's approach avoids the need to prorate LSE access to valuable transmission paths, a proration that would likely be necessary under a PJM-like approach, by allocating load ratio shares of all available AARs to each LSE. LSEs' customers receive the benefit of the auction revenue associated with those AARs through TSC credits.

3. With regard to the NYISO proposal for Fixed Price TCCs, it is not clear why this option is limited to LSEs with expiring GFAs. What are the problems associated with making such an option available to all LSEs?

The NYISO limited the availability of Fixed Price TCCs to holders of expired or expiring grandfathered rights primarily to limit the potential for broad negative financial consequences in the TCC market if Fixed Price TCCs were under-valued compared to the price determined in the auction for shorter term TCCs on the same path. By confining the opportunity to acquire TCCs at a fixed price to a small set of LSEs with a discrete set of expiring or previously expired grandfathered transmission rights, the NYISO intended to limit the financial impact of the potential subsidy that such an under-valuation would produce. [43]

Fixed Price but under-valued TCCs would enable some market participants to purchase TCCs at a price lower than the market clearing price in the auction, *i.e*. at a price that is less than the market value of the TCC. To the extent that the Fixed Price formula understates auction prices to a degree that will be recognized and anticipated by market participants, all LSEs eligible to obtain Fixed Prices TCCs would therefore do so.

If TCCs are sold for less than the market clearing price established by the auction, the NYISO would not collect enough auction revenues to make the payments to ETCNL and Original Residual TCC holders that are required by the NYISO tariff.

Under the NYISO's currently effective tariffs, the resulting auction revenue shortfalls would initially be allocated to the NYTOs who would recover these revenue shortfalls from their retail delivery customers through their individual TSCs. The NYISO does not believe that the regular and predictable shortfalls that would arise if Fixed Price TCCs are priced below market were envisioned by the NYTOs, or by other market participants, when they developed the current tariff provisions regarding the allocation of auction revenue shortfalls. Foregone auction revenue may require an increase in the TSC imposed on end use delivery customers while the LSEs benefit from receiving the under-valued TCC. These unexpected costs shifts may be seen as arbitrary and unacceptable. Expanding the access to directly assigned Fixed Price TCCs, or similar instruments not linked to current market prices, beyond the level proposed in the Compliance Filing, could also increase the market's uncertainty about the ability of the NYTOs to reasonably recover transmission-related costs.

Linking Fixed Price LTFTR access to grandfathered transmission rights also gives the NYISO the opportunity to implement this new set of LTFTR products in a shorter time frame and with a relatively straightforward administrative process. Grandfathered transmission rights generally exist along transmission paths, and in directions, that have proven to be feasible in the past. This was an important consideration for the NYISO given the various technical constraints that it faces in the TCC auction area. By contrast, if all LSEs were entitled to receive Fixed Price TCCs, the implementation burden on the NYISO's limited resources would be substantially

[43] On the other hand, if Fixed Price TCCs were overpriced, they would be seen as unattractive and rational LSEs would not opt to exercise an option to obtain them.

greater, particularly in the event that Fixed Price TCCs were undervalued and all LSEs elected that pricing scheme.

Moreover, a general allocation of Fixed Price TCCs would likely be discriminatory when applied to smaller retail access providers at times when the Fixed Price Option is undervalued. Small LSEs' share of ETCNL will generally be too small to quality for the right to obtain an entire TCC at the below market fixed price, but they would be obligated to pay the increased TSC resulting from the below cost award of TCCs to other LSEs and the resulting auction revenue shortfalls.

Finally, the NYISO's proposal regarding access to fixed price rights has the practical effect of making them available to the class of LSEs that has historically had long-term power purchase agreements and has generally expressed the greatest interest in obtaining LTFTRs. In particular, most of the New York municipal utility systems that have participated in this proceeding have, or have had, fixed price firm transmission service.

If the Commission nevertheless determines that the NYISO should not link access to new fixed price rights to entities that formerly held grandfathered transmission rights the NYISO could potentially implement the following alternative. LSEs could be given an option to price some quantity of the TCCs they receive through AARs conversions at a price, determined using the proposed methodology for Fixed Price TCCs. The NYISO believes that it would be able to implement such an alternative even given its resource constraints, but does not believe that could support more than two pricing methodologies at the same time.

4. NYISO states that it is currently limited by its manual auction process and that certain enhancements to existing procedures that are retained in this LTFTR proposal, as well as further enhancements to the LTFTR allocation process, cannot be made prior to the implementation of the End-State Auction, which is several years away. What are the enhancements to the LTFTR proposal that NYISO believes it would be able to make upon implementation of the End-State Auction, and what is NYISO's detailed schedule for implementing the End-State Auction?

A. Benefits of the End-State Process and Auction Automation

From an LTFTR compliance perspective, the NYISO benefits from the implementation of the End-State Auction process primarily because it would no longer need to "conduct sequential multi-round TCC auctions or define the duration of the TCCs to be sold in advance." Instead, the NYISO could conduct "a single, multi-period auction [and] . . . permit the bids submitted by market participants to determine the duration of the TCCs . . . ." that are sold by the NYISO. This also would increase the efficiency of the auction process for LSEs and allow them to more precisely meet their hedging needs.[44]

[44] Compliance Filing at 21.

For example, the End-State Auction would permit LSEs that desired TCCs with a duration of ten years or longer to obtain them through the NYISO-administered auctions without diminishing the options available to LSEs that preferred shorter term rights. To the extent that the Commission holds that historic auction outcomes may be used, together with other indices, to set the price of LTFTRs, as the Compliance Filing proposed with respect to Fixed Price TCCs, the End State Auction process would make it possible to value Fixed Price TCCs based on the market's valuation of a more comparable product. This would likely result in greater accuracy in pricing than is possible under the current proposal, which, by necessity, must look to historic prices of TCCs with shorter durations.

More generally, having the End-State software in place will free the NYISO's resources and increase its overall flexibility to add new LTFTR features that its stakeholders desire, or the Commission requires. The NYISO cannot yet be sure exactly what those features might be because the final capabilities and functions of the End-State Auction software have not yet been determined. The NYISO intends to solicit stakeholder input on these questions beginning in the second half of 2008 to try to ensure that the substantial investments that it has made, and will continue to make, in new auction software will deliver the benefits that its stakeholders most desire. That said, the NYISO will be prepared to discuss specific questions, or recommendations, at the September 10 technical conference.

In the same vein, once the NYISO's existing TCC auction mechanisms are automated, which is a necessary pre-requisite to the implementation of an End-State Auction process, the NYISO would no longer need to devote so many resources to carrying out the existing auctions for shorter-term TCCs. As the NYISO has previously indicated, this would allow the NYISO to restore TCC auction rounds that many stakeholders value but that must be eliminated so that the NYISO staff may support LTFTR auctions and allocations. It would also free NYISO staff to support additional LTFTR features that stakeholders might wish to develop in the future.

B. Implementation Timetable for the End State Auction Process

The NYISO has previously explained[45] that the further development of automated systems to administer its existing TCC auctions is a necessary pre-requisite to finalizing the design of the End State Auction model. Thus, the NYISO took its first step towards the implementation of the End-State Auction when it deployed the first phase of the automation project, an Auction Award Process, in June 2006. Additional related internal and market facing enhancements were deployed in January 2007.

The second phase of the automation project, the automation of the Inventory Management Database, began requirements definition in late 2006 with use case design work completed this month. Development has begun and will progress in parallel with quality assurance testing and user acceptance testing through early 2008. This will be followed by market trials and implementation, which are slated for mid-2008.

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[45] NYISO Answer at 5-6.

The third phase of the automation project, which involves the automation of bids and offers, is planned to begin requirements definition in early 2008. The NYISO plans to deploy the third phase sometime in 2009.

The NYISO does not plan to wait until the end of the automation project to commence more focused work on End-State Auction design issues. By late 2008 or early 2009, by which time the NYISO will have a much clearer understanding of the actual capabilities of the automated system, the NYISO will begin discussions with it stakeholders to determine exactly what functionality and features the End-State Auction model ought to have. When those discussions are complete, the NYISO will be in a position to commit to a specific implementation timetable for the End-State Auction.

III. Implementation Schedule

In the Compliance Filing, the NYISO stated that it would need a "number of months" before implementation to "institute new procedures, *e.g.*, the new mechanisms for allocating AARs and converting them into TCCs" and to "test new systems, provide for adequate quality assurance, train staff, and educate market participants about the new rules and the opportunities that they create."[46] The NYISO further explained that implementation would necessarily be tied to its Centralized Auction schedule, which requires the NYISO staff to devote months of preparation prior to the start of each Capability Period. The NYISO estimated that it would be able to implement the proposal in advance of the Spring 2008 Centralized Auction if the Commission approved it within a few months of the filing.[47]

Given the amount of time that has passed since the Compliance Filing, it is likely that the NYISO will need to ask the Commission for additional implementation time. The NYISO hopes that the Commission's staff will understand the reasons why an extension is likely to be requested and will not oppose it. The NYISO would also respectfully ask that the Commission staff keep in mind that major changes to the pending compliance proposal would be likely to lengthen the implementation timeline.

IV. Conclusion

The pending Compliance Filing satisfies the requirements of the LTFTR Orders and represents the best compliance model for New York given all of the considerations described in the NYISO's earlier filings and in its responses here. The NYISO hopes that its responses, and the dialogue at the technical conference, will help the Commission and its staff to reach the same conclusion.

Respectfully submitted,

/s/ *Ted J. Murphy*

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[46] Compliance Filing at 32-33.

[47] *Id.*

Counsel for the
New York Independent System Operator, Inc.

August 24, 2007

CERTIFICATE OF SERVICE

I certify that I have on this day served the foregoing document on the official service list compiled by the Secretary in this proceeding, in accordance with 18 C.F.R. § 385.2010 (2006).

Dated at Washington, DC this 24th day of August, 2007.

/s/ Ted J. Murphy
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