Compiled Comments on the Billing and Price Corrections Task Force
Comments submitted through July 8th, 2005

From Epic Merchant Energy:

Brad,

Here are comments with regard to price changing in NYISO Real Time Market.

Though NYISO is in many ways dissimilar to and therefore unique to their neighboring control areas, I have a few comments with regard to the methods used elsewhere that I believe are noteworthy. All of the ISO's seem to be very reluctant to change Day Ahead prices. I realize that the methodology used to calculate DA is not precisely the same as that used to determine RT. PJM does not change either DA or RT prices once they are audited and confirmed, which typically is completed by 1230 EPT the following business day. After the market run is complete, the ISO runs a “sanity check” before publishing the results which seems to be rather affective, evidenced by the stability in and the frequency of which prices are revised, almost never.

At 2359 EPT each night, NYISO has all RT price data for the current day. The NYISO staff should perform an audit on the RT prices at midnight and have corrected (if necessary) RT price data available for publishing no later than 1200 EPT the next day, every day. It is onerous on traders who rely on this price data to establish bids for the upcoming trading when they must wait several days for confirmation of prices.

I suggest NYISO audit RT price data prior to it being published. Once published, prices are final barring any major system problems that result in erroneous data. I understand that many will believe this proposal to be impossible to accomplish for a myriad of reasons, especially given current information systems, protocol and resources employed by NYISO. The markets operate all hours and the pricing data accuracy and availability should reflect that fact.

Sincerely,

Wade Sullivan

EPIC Merchant Energy, L.P.
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From Coral Energy:

Dear Mr. Kranz:
Shell Trading Gas & Power Company, through its affiliate, Coral Power, L.L.C. engages in the marketing and trading of power in and around the markets administered by the NYISO. The rules with respect to price corrections and bill corrections are critical to the

lines of business in which Coral is engaged and level of risk Coral is willing to take in these markets. Accordingly, Coral supports the comments of IPPNY on billing and price correction matters. These comments are being provided in response to your request for information on the impacts that price correction and bill correction procedures can have on its business. As a preliminary matter, Coral believes that the NYISO's authority to change prices was covered in FERC's May 9, 2005 in Docket No. ER05-230-009. The submission of comments here should not be construed as a waiver of any argument or position Coral may assert in the future with respect to the NYISO's authority to correct prices under its current tariffs.

ESCO Sales and Services

Coral offers sales, hedging and scheduling services to Energy Service Companies ("ESCOs") that operate in New York. The key contractual arrangements that are required to provide these sales and services are tied to or rely on energy prices in NYISO administered markets. The more time that NYISO is afforded to make price corrections or issue final bills, the more risk Coral assumes as creditor to these customers. This risk has to be factored into the price that Coral can offer for sales and services that it provides as well as the volume of business it is willing to undertake in NYISO administered markets. Certainly, the theory that any price could be corrected if found not to be calculated consistent with the filed rate no matter how old it is adds a significant degree of uncertainty to doing business in these markets. A couple of key arrangements that are impacted are as follows:

> --Provisions in contracts with Coral customers governing ability to make adjustments to their bills to account for NYISO corrections to prices and issuance of final bills. From a commercial perspective, it is difficult to say to a customer we have to have the ability to keep these provisions open for and indefinite period of time for potential price corrections. Also, some ESCOs may have gone out of business and may not be around to settle-up with when some new price correction is discovered. This can have an impact on how hedges perform as well as actual supply costs; and
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> --Determining default payments under supply contracts could be impacted. In wholesale power supply arrangements, the ability to terminate for default and settle accounts is critical. It allows counter-parties to exit a relationship where one party can't perform or has become insolvent or filed for bankruptcy. The lack of price finality can affect compensation under those provision if they are exercised.

Retail Sales

Coral may make some direct sales to end-use customers in NYISO administered markets. These arrangements can have some of the same risks as wholesale arrangements. In this business, there would be more counter-parties or customers so be the administrative burden of managing a large portfolio of accounts when billing and price correction issues can linger for a long time is significant. For mass marketers, it might be easier to price in this risk than actually spend the money to re-bill a customer one or two years later.

Ultimately, customers will pay more if pricing and bill uncertainty can remain in the market.

Real-Time Cross Border Trading

Real-time cross border trading or arbitraging price differences between regional markets is an activity in which Coral engages and one encouraged by FERC as it promotes the efficient operation of regional markets. The seams efforts of PJM, NYISO, ISO-NE and the IESO are all intended to help market participants transact across these various borders. The price correction issues with SMD2 have hurt the cross border trading environment and the ability to correct RT prices will always present a level of risk that will contribute to extremely tight equalization of real time prices or even could contribute to counter-intuitive transactions. An example of what can happen is set out below.

Trading Environment

-- NYISO Import Scenario

RTC for HE 16 shows $62 per MWhr MP Dec Bid at Proxy Bus for HE 16 of $60

RT price for HE 16 is $800, where will it settle?

If revised price is $59 get NYISO BPCG*

If revised price is $63, settle at $63

*With the Bid Production Cost Guarantee the risk of loss on a import is not present but lack of price certainty or confidence in posted prices makes it more risky for traders to determine strategies for subsequent hours if they sense pricing problems and potential corrective action. This has been a deterrent to more active cross border trading and better price convergence.

-- NYISO Export Scenario

RTC shows HE 16 RT price of $60 per MWhr

Submit Sink Cap Bid at proxy bus of $62

Transaction accepted in RTC, but RT Price is $602, where will it settle?**

**With no BPCG for an export, there is real risk that a corrected price can turn into a profitable transaction into a loss. Here a de minimus standard may be helpful for any corrections to provide some price certainty for export. The problem is acute with back-to-back bid based markets like IESO and NYISO. Transacting with IESO in this environment can be especially challenging due to the IESO's stringent failed-transaction guidelines and penalties. Assuming the current price correction procedure, or something which improves on it in terms of finalizing prices sooner, is used, the ultimate cure is for price reservations and corrections to be a rare event, like they seem to be in other markets like PJM and New England. Once that happens, the fear that the correction procedures pose a real threat to the market will diminish.

Finally, these comments focus on day-ahead and real time energy markets. This effort should be expanded to include other markets, like TCC markets, where finality with respect to auction results is also important. Coral will be proposing concepts to deal with finalizing auction results for TCC markets as well.

Please call if you have any question concerning these comments or would
like to discuss them.

Sincerely,
Matthew J. Picardi
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From Constellation:

Brad,

I have not participated in many BAWG meetings and some of what I am going to request might have already been discussed at BAWG.

I think it would be helpful for market participants to get a better understanding of the magnitude of the bill corrections ($ value) occur during all the billing cycles and challenges to bills after the 4 month true-up bills are issued.

My concern is that we have bills outstanding for 5 years, that we are chasing a few dollars and is costing millions to correct and verify and we, (as participants), don't know the magnitude of the changes that occur during these billing challenges and corrections.

It would be great if the NYISO can present some of the following information at the meetings of the B&PC TF:

The amount of bill corrections occur the after the 4 month true up and the 12 month bills is issued, both in actual numbers and $ value.

The causes of the challenges, for example, is it the meter tie out between the transmission owners that causes most of the challenges, and if so, how many transmission owners are involved in the corrections and what metering upgrades should be performed to eliminate the disputes.

Is there a metering issue in general that is causing most of the billing corrections.

What is the net $ value of the challenges from month to month, basically, if we close out all the bills after the 4 month true up, what is the net change from these bills and challenges to these bills. Is there one party that is constantly harmed by the billing errors and being corrected through these challenges and billing corrections? What would be the net over a 12 month period?

We definitely have to get a handle on these issues and shorten the billing cycle to get closure on the bills.

Unfortunately, I will be on vacation during the meeting and won't be able to participate in the first meeting of the TF.

Thanks,

Glen McCartney

Vice President, Constellation Energy Commodities Group

<u>From IPPNY:</u>

Independent Power Producers
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Gavin J. Donohue
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To: Brad Kranz - NYISO

From: Glenn D. Haake

Date: July 7, 2005

Re: IPPNY Comments on Billing and Price Correction Issues

Pursuant to the NYISO's email of June 27, 2005, soliciting market participant comments on billing and price correction matters, IPPNY is pleased to provide the following comments for the NYISO's consideration as t fashions a straw proposal to address these issues.

<u>Price Correction Considerations</u>

Price certainty resulting from clear rules defined in advance and applied consistently is critical to an efficient and robust competitive market. In addition to the impact on spot market transactions, contracts for differences also may be based on LBMPs, and, thus the bilateral markets also are adversely affected by price corrections. In both spot market and bilateral transactions, credit positions concomitantly are unnecessarily circumscribed. If buyers and sellers cannot have confidence that the clearing prices published by the NYISO can be relied upon and will not be subject to change, they will be less inclined to transact business in New York and likely will opt to participate to a much greater extent in the competitive markets in the surrounding regions where price certainty does exist.

It is IPPNY's position that the existing Attachment E provisions clearly identify the NYISO's sole recourse for price reservations and price corrections. To date, the NYISO has not agreed. With this in mind, it is crucial that clarifications be added to the NYISO's tariffs to make indisputably clear that the "filed rate doctrine" does not authorize the NYISO to effect price revisions other than pursuant to the specific price reservation and correction procedures set forth in its tariff.[1] To accomplish this result, IPPNY proposes that language should be included in the tariff to the effect of the following:

> "Notwithstanding anything to the contrary in the NYISO's tariff or any other principle of statutory or tariff interpretation, including but not limited to the "filed rate doctrine," the NYISO's sole and exclusive authority to revise clearing prices in any of its markets after they have been posted shall be as follows:"

IPPNY would propose retaining the current structure that affords the NYISO one calendar day to reserve prices and five calendar days to correct them. Language should be added to the tariff to ensure that it is unambiguously clear that: (1) if the NYISO fails to issue a notice to market participants reserving any clearing price by 5 PM the following day, or (2) if, after having timely reserved a particular clearing price, the NYISO fails to post a revised clearing price within five calendar days of the original posting, then the originally posted clearing price shall be final and shall not be subject to revision by the NYISO under any circumstance.

Equally important to the timing issue is a delineation of the bases upon which the NYISO may act. There currently is no clear statement of the exact circumstances under which the NYISO has authority to revise prices. Market Participants previously have requested that the NYISO clearly delineate these circumstances in a technical bulletin or other document but, to date, the NYISO has not done so. The NYISO's tariff should be revised to specify that the NYISO's ability to change clearing prices within the time frames set forth above should be limited to clearly and unambiguously defined causes to be enumerated in the tariff, so that market clearing prices accurately reflect system conditions and costs are not otherwise improperly allocated to uplift categories. For example, although not necessarily an exclusive list, price corrections should be limited to causes such as the following:

- Failure of the NYISO's software to function in accordance with the tariff
- A failure of the NYISO's software that causes pricing in the DAM or the RTM not to be consistent with the physical commitment and constraints of the system
- Metering errors

[1] IPPNY disagrees with many components of the tariff interpretation on both price correction provisions and bill correction provisions advanced by the NYISO at its Special Billing and Price Correction Meeting held on May 20, 2005. However, in the interest of making the tariff exceedingly clear and eliminating any potential uncertainties on a going forward basis, IPPNY is proposing several changes designed to address the NYISO's tariff construction.

- Improper classification of a resource as out of merit ("OOM") or failure to classify a resource as OOM that should have been so classified
  - o Clear details must be written into the tariff to identify the conditions under which OOM classification is warranted. In particular, it must be clarified that if a portion of a unit is classified OOM, other portions of the unit that are in merit remain eligible to set the clearing price.[2]
- Improper mitigation of a resource

It should be made clear that the NYISO is not authorized to revise prices under conditions in which a system operator commits an error in the dispatching of the system (e.g., erroneously sets a transfer limit too low), but the posted clearing prices are consistent with the actual physical dispatch of the system that resulted from the operator error. That is, the NYISO should not be able to revise clearing prices to render them consistent with what the system operator "should have done" instead of what actually was done.

Finally, a *de minimus* standard should be applied. That is, even if an enumerated error occurs, if its impact is below a certain threshold, the NYISO should not reserve and subsequently revise prices on its account.

Bill Correction Issues

As has been discussed at some length, there are two issues to be addressed concerning bill corrections: (1) satisfactory resolution of outstanding bills from the period March, 2000 through February, 2004; and (2) the development of tariff changes to address bill corrections on a going-forward basis in light of the NYISO's current interpretation of its tariff provisions in this regard. At the outset, it should be noted that IPPNY supports pursuing settling all outstanding bills in one fell swoop, subject to the potential need to space out recovery of amounts due over a reasonable period of time to ameliorate potentially large billing impacts on individual entities.

Concerning bill challenges, IPPNY believes that entities who challenge bills should be required to specifically identify the element of the bill that requires correction and the rationale supporting the need for the correction. Changes to bills should be limited solely and exclusively to the issues specifically identified by Market Participants in any bill challenges that are timely made. Once the Market Participant bill challenge period has elapsed, the NYISO should be required to correct and repost the bills within one month together with an explanation of the basis for the correction. Finally, the NYISO should not be authorized to "correct" bills for any items that were not specifically identified by a Market Participant in a timely bill challenge.

[2] It is IPPNY's position that this treatment of OOM resources currently is, and always has been, the only appropriate and valid treatment of such resources. However, the NYISO's existing policies do not explicitly define how such resources are to be treated.

From the Designated Transmission Owners, LIPA and NYPA:

Initial Comments of Designated New York Transmission Owners, LIPA and NYPA on Revisions to the NYISO's Price and Bill Correction Procedures

The following initial comments are submitted on behalf of the Designated New York Transmission Owners[1], LIPA and NYPA ("the Joint Commenting Parties"). The Joint Commenting Parties look forward to actively participating in the NYISO process to consider and revise its price and billing procedures, and to expand upon and add to these initial comments.

1. The Joint Commenting Parties support the NYISO's efforts to harmonize current provisions for price and bill corrections and to develop consistent and well-understood policies in this area.

2. The overarching issue confronting the NYISO is the degree of confidence that market participants have in the accuracy and legitimacy of the NYISO's data, calculations, prices and its explanation thereof. That level of confidence depends on the NYISO's ability to consistently demonstrate that it can accurately and timely calculate prices that are consistent with its filed tariffs. Thus, if market participants have a high level of confidence in the NYISO's ability to accurately produce prices that are consistent with its tariffs, then a relatively short period of time would be acceptable for prices to be made final. On the other hand, if market participants are not confident in the NYISO's ability to accurately produce prices that are consistent with

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1 The Designated New York Transmission Owners include Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., Orange and Rockland Utilities, Inc., and Niagara Mohawk Power Corporation, a National Grid Company.

its tariffs, then a much longer period of time would be needed for prices to be made final.

3. First and foremost, the NYISO needs a dramatic increase in pricing accuracy. A functional real time market cannot tolerate price corrections after the fact.

4. The foundation of the NYISO's price and bill correction authority must be the Filed Rate Doctrine (*i.e.*, the NYISO prices and bills must conform to its tariffs).

5. The Joint Commenting Parties, however, do not believe that compliance with the Filed Rate Doctrine would preclude reasonable limitations on the time and resources expended by the NYISO in order to determine the most precisely correct prices possible; or reasonable time limits for bill challenges and the issuance of final bills.

6. Prices should be corrected whenever they were based on a data input error, a calculation error or were not otherwise in conformity with the NYISO tariffs. Reasonable time limitations, that do not inhibit the NYISO from ensuring accurate prices, should be established for the posting and correction of prices. The NYISO should provide market participants with a flow chart that demonstrates that the NYISO has effective procedures in place to confirm and correct prices.

7. The Billing and Price Corrections Task Force should undertake a review of the pricing methodology under SMD2 to determine if it would be possible to simplify that methodology without interfering with appropriate price signals.

8. All prices should be verified by a separate group, and effective controls and audit procedures for all NYISO markets should be in place.

9. The Joint Commenting Parties would support making bills final at the conclusion of the current 12 month final bill period and the four month challenge period, provided that the NYISO has in place effective procedures to confirm the accuracy of bills and to make prompt corrections. Shorter final bill and challenge periods should be considered only after it has been demonstrated that the current billing procedures are working well and that a shorter bill period can be effectively implemented.

10. Consideration should be given to the establishment of firm dates for the issuance of closeout settlements.

11. The Task Force also should consider the establishment of a "deminimus" standard for billing, below which it would be acceptable for the NYISO not to expend time and resources. The NYISO should recommend a specific standard using examples of historical data; whether it would be based on a percentage of the market participant's bill or a dollar amount; and the extent to which the adoption of such a standard would reduce the burden on the NYISO and facilitate the issuance of prompt and accurate bills.

12. The Task Force should consider whether it would be feasible to implement a shorter final bill period for the Day Ahead Market, which is not dependent on metering, and which constitutes the great bulk of the NYISO's transactions.

13. Consideration should be given to comparable treatment of pricing errors that result from the incorrect mitigation of bids or the failure to properly mitigate bids. If different treatment for mitigation errors is warranted, the NYISO should explain why that is the case.

14. Revised procedures for price and bill corrections could eliminate the need for the TEPs.

From KeySpan:

Although KeySpan wants markets settled and bills paid in a timely manner, it does not want a system implemented whereby errors remain simply as a matter of expediency. Prices must be in accordance with the tariff and bills need to be in accordance with the prices.

The current process, although a long one, is acceptable to KeySpan. Discrepancies in prices and bills are being addressed and ultimately reflect the market rules and tariff. Tariff violations are being corrected and KeySpan identifies discrepancies in its bills and notifies the NYISO as soon as practicable for resolution.

Nevertheless, KeySpan is open to revisions that will expedite the process in an accurate manner.

Price Corrections - Prices must reflect the tariff and therefore if errors are made they should be corrected. However, market participants frequently do not have the information required to determine if tariff violations occur. KeySpan is open to a process whereby a complaint by a market participant that the tariff has been violated must be brought within 90 days from the end of the calendar quarter in which the violation has been alleged to have occurred, unless a complainant can show that it did not know or should not have known of the activity which forms the basis for its complaint within this time period. A reasonableness standard would apply to whether a complainant should have known of the alleged error. In other words, the 90-day time period to file a complaint does not begin to run until a reasonable person exercising due diligence should have known of the alleged violation. However, because the NYISO has greater access to information and understanding of the tariff, some higher standard could apply to the NYISO.

Billing Corrections - Market participants must review their bills in a timely manner and bring purported discrepancies to the NYISO's attention. The current process is acceptable to KeySpan but KeySpan would be open to discuss revisions.

Nothing should be intended to narrow the protections afforded to a contracting party under the Mobile-Sierra public interest standard of review in the case of a proposed contract revision.

Finally, KeySpan will participate in any meetings and can support the NYISO's proposed process to close out old bills as well as revising market rules.

From NYSEG/RG&E:

NYSEG/RG&E's Initial Comments on Revisions to the NYISO's Billing & Price Correction Authority and Procedures

The following initial comments are submitted on behalf of NYSEG/RG&E.

1. NYSEG/RG&E strongly support the NYISO's endeavor to strengthen the NYISO's tariff language regarding billing and price correction authority. The NYISO tariff should include specific language that details all aspects of billing and price correction processes and procedures. The goal should be to have specific tariff language written so that Market Participants know what to expect and when to expect it. A firm foundation of rules and procedures will increase market efficiency and the ease of doing business in the NYISO markets.

2. Market Participants need price certainty to run their businesses. Emphasis should be on getting the prices correct at the onset with no price corrections needed. The SMD2 software was designed to improve accuracy and lessen errors. The NYISO should take advantage of these enhancements. Once the initial "bugs" are worked out of the software, the NYISO should be ready to implement shorter or no price correction procedures. The NYISO feels confident it will have the initial bugs fixed by Fall 2005, as it is at this time the extended price correction authority it filed for at FERC expires. Market Participants and the NYISO should target late 2005 as the time to have developed and ready to implement new price correction procedures.

3. NYSEG/RG&E support a no price correction policy. The Lean Six Sigma model the NYISO is adopting allows for 3.4 errors in every million processes. This is a more than acceptable error rate as it translates to one error every 20 days [assuming <u>one interval correction for one zonal or generator price</u> is the defined error]. NYSEG/RG&E acknowledges this may be very difficult to achieve and suggests a threshold of 1-hour/month as an acceptable level of error. The NYISO management should have a threshold goal that reflects the agreed upon acceptable error rate, where if exceeded, no bonus or increases in pay for performance would be made. With an acceptable error rate of 1-hour/month NYISO Market Participants would have the price certainty needed to run their businesses.

4. Any new software deployments would require the NYISO to file an exception to the no price correction tariff language. The NYISO will need to fully test and troubleshoot any software prior to deployment. If the NYISO believes there may be issues once the software "goes live" a specific price correction procedure would need to be filed with FERC to allow for price corrections due to this software deployment. A specific time period for price corrections emphasizes the need for a robust testing period prior to deployment and also allows for MPs to adjust their business for the "go-live and troubleshoot" period. Again this should be linked into the pay for performance programs.

5. Once stable prices are achieved shorter Real-Time billing cycles could be established. The NYISO goal should be a 4-month Final for Real-Time settlements with a 2-month Market Participant Challenge period, and a 2-month NYISO review of challenges period. This should be followed with the NYISO issuing the Final Bill Closeout within a month.

6. During the interim period while price accuracy is being achieved, the NYISO will continue to issue twelve (12) month Final Bills followed by a four (4) Challenge. This will be followed by a four (4) month period during which the NYISO will review challenges with MP's and either accept or reject the challenges and post final daily/hourly billing settlement data to DSS. At this time the NYISO would give the market a 30 day notice and issue the Final Bill Closeout at the end of this 30 day notice period. This would result in an overall twenty one (21) month Final Bill Closeout period.

7. Day Ahead markets should be finaled after 1-month. Following a similar challenge procedure Market Participants should be given a 2-week period followed by 2-week NYISO review. After the 2-week NYISO review Final Bills should be posted. An alternative could be to post the Day Ahead market Final Bill Closeout at the 4-month invoice thus avoiding additional invoice review.

8. Zonal and Subzonal Metering (tie-line and generator readings) should not be an issue and should be locked down after 2-months. A separate challenge window should be run for metering issues. After the 2-month lock down is noticed to MPs, there should be a 1-month MP Challenge Period, and a 1-month NYISO review followed by lock down within a month for Retail Suppliers receiving wholesale power.