



**FERC Order 719 Compliance,  
Proposed Market Monitoring Structure**

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## FERC Order 719

- ◆ The Order adopted an approach that permits the NYISO's hybrid market monitoring structure to continue, but requires "core market monitoring functions" to be vested in a "Market Monitoring Unit" that reports directly to the non-management members of the NYISO's Board.

## Core Market Monitoring Functions

- ◆ Evaluate existing and proposed market rules, tariff provisions and market design elements and recommend proposed rule and tariff changes to the ISO, Commission staff and to other interested entities;
- ◆ Review and report on the performance of the wholesale markets to the ISO, the Commission, and other interested entities, on at least a quarterly basis and submit a more comprehensive annual state of the market report; and

## Core Market Monitoring Functions, cont.

- ◆ Identify and notify the Commission's Office of Enforcement staff of instances in which a Market Participant's, or the NYISO's, behavior may require investigation. Concerns that are to be reported include:
  - suspected "inappropriate dispatch that creates substantial concerns regarding unnecessary market inefficiencies,"
  - suspected violations of Tariffs, Commission orders, or Commission regulations, or
  - "perceived market design flaws" that the Market Monitoring Unit believes could be remedied by revising the ISO's Tariff or market rules.

## Proposed Structure

- ◆ Responsibility for performing all three of the core functions will be vested in the external Market Advisor who will become the NYISO's "Market Monitoring Unit," as that term is used in Order 719, and who will continue to report to the non-management members of the NYISO's Board.
- ◆ The NYISO's internal Market Monitoring Department (to be renamed "Market Mitigation & Analysis Department") will be responsible for administering the NYISO's Market Mitigation Measures, performing audits, responding to data requests from regulators, assisting the NYISO's efforts to implement the requirements of its Tariffs, and performing other Tariff defined roles while continuing to report to NYISO Management.

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## Market Advisor Role

- ◆ The Market Advisor's ("Market Monitoring Unit's") role in implementing the NYISO's Tariffs will be more limited.
- ◆ The Market Advisor will review existing Tariff provisions and market rules, and propose new ones.
- ◆ The Market Advisor will review and comment on the NYISO's proposed implementation of a new or improved Tariff rule or market design element.
  - The internal Market Mitigation & Analysis Department will continue to actively participate in the NYISO's efforts to implement its market rules and the requirements of its Tariffs.

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## Ethics Standards for Market Monitoring Unit

- ◆ Order 719 imposes specific ethics standards on Market Monitoring Units. One such requirement is:

“The Market Monitoring Unit and its employees must not be compensated, other than by the NYISO, for any expert witness testimony or other commercial services, in connection with any legal or regulatory proceeding or commercial transaction relating to the NYISO or to the markets that the NYISO administers.”
- ◆ The NYISO will incorporate these ethics standards into its Tariff
- ◆ Order 719 also permits ISOs and RTOs to propose additional ethics standards for Market Monitoring Units in their compliance filings.
- ◆ To address stakeholder comments at the March 25 MC, the NYISO is considering proposing an additional ethical standard that is not required by Order 719:

“If the Market Monitoring Unit, or any of its employees, provide services to entities other than the NYISO, the Market Monitoring Unit and its employees shall identify the entity or entities to which they provides such services and shall disclose any real or apparent conflicts of interest that might exist between their clients’ interests at the time the Market Monitoring Unit issue an opinion, report or recommendation.”

## Consolidating Core Market Monitoring Provisions

- ◆ Order 719 requires the NYISO to consolidate its “core Market Monitoring Unit provisions” into a single section of its Tariff.
- ◆ The NYISO intends to consolidate the core provisions into its Market Monitoring Plan and to incorporate the Market Monitoring Plan into its Services Tariff as Attachment O thereto.

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## Mitigation Under Order 719

- ◆ Under Order 719 mitigation will continue to be performed by the NYISO.
  - The Market Mitigation Measures will remain a discrete attachment to the Services Tariff.
  
- ◆ The Market Monitoring Unit may assist the NYISO's efforts to determine inputs to mitigation (such as reference levels), and may assist the NYISO's efforts to apply "retrospective" mitigation that does not change Bids that are used to determine market clearing prices, but the NYISO will be responsible for performing the mitigation function.
  
- ◆ The Market Monitoring Unit will be responsible for reviewing the effectiveness of the NYISO's application of the Market Mitigation Measures.

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## Protecting Confidential Information

- ◆ Order 719 includes provisions for enhancing State Public Service Commissions' access to data by permitting them to “request” data from the ISO or RTO.
  - Likely targets are the multi-state ISOs and RTOs.
  - The NYISO is still permitted to share Confidential/Protected Information with FERC, and with the Public Service Commission pursuant to its Orders issued August 14 and August 23, 2000 in Case No. 00-E-1380.
  
- ◆ Paragraphs 448 and 459 of Order 719 instruct the NYISO to work with its stakeholders outside the compliance filing process to develop confidentiality provisions to address the sharing of confidential materials by the MMU.
  - The NYISO is expected to submit the resulting proposed Tariff revisions to the Commission.

## Implementation Steps

- ◆ NYISO is soliciting stake holder inputs regarding its compliance filing.
- ◆ Compliance Filing for FERC Order 719 is due on April 28, 2009.