

Attachment A

**RESPONSE TO FERC DEFICIENCY LETTER
NYISO COMPREHENSIVE RELIABILITY PLANNING PROCESS FILING
DOCKET NO. ER04-1144-000**

1. Section 6.2 of the Planning Process states that “a period of time will be reserved for the development and review of market-based solutions only.” Please explain the basis for reserving a period of time for exclusively considering market-based solutions before considering “alternative regulated solutions” such as demand-side alternatives. Please explain why various regulated and market proposals are not reviewed simultaneously.

A. The entire relevant sentence from Section 6.2, which the Commission Staff partially quotes in its question, is the following: *“To the extent timing considerations allow, as the NYISO determines pursuant to Section 6.1.a above, and while continuing to ensure reliability, a period of time will be reserved for the development and review of market-based responses only.”* (emphasis added) The referenced Section 6.1.a provides that: “The first time a Reliability Need is identified in any RNA issued under this tariff, the NYISO shall request and the Responsible TO shall provide to the NYISO, as soon as reasonably possible, a proposal for a regulated solution that shall serve as a potential backstop.” (NYISO CRPP Section 6.1.a) This Section goes on to say, that, in this case “Contemporaneously with the request to the TO, the NYISO shall solicit responses using the two-step process defined below” (NYISO CRPP Section 6.1.a) This “two-step process” is a reference to the provisions of Sections 6.2 and 6.4.

Thus, the NYISO Planning Process is designed, in the first instance, to ensure that when a Reliability Need is identified by the NYISO there is a parallel process initiated to seek both market-based and regulated backstop proposals to meet that need. The NYISO will review both the market-based proposals and the regulated backstop proposal(s) at the same time. Once a viable regulated backstop solution has been confirmed to exist, in each subsequent planning cycle, assuming the same Reliability Need still exists, the provision cited by Staff’s question will come into play and the market-based proposals will be requested and reviewed prior to the solicitation of alternative regulated solutions. If market-based proposals are found to be viable to meet the identified Reliability Need, this finding is reported in the NYISO’s CRP and no further action need be taken.

In order to understand the reason for this particular aspect of the Planning Process, it is necessary to view this provision in the overall context of the NYISO’s proposal which utilizes a market-based approach in conjunction with a regulated backstop to ensure that reliability needs will be met. As the NYISO’s Filing Letter made clear:

The essential steps in the Planning Process include the identification of system needs, *the development of proposals for both market-based and regulated solutions* to those needs, the evaluation of these proposed solutions by the NYISO, *and the implementation of regulated solutions* by the New York Transmission Owners (“NYTOs”) *as a backstop when market-based projects do not resolve anticipated reliability deficiencies.*

(NYISO Filing Letter at 1, *emphasis added*)

In contrast to other, more centralized planning models, the NYISO Planning Process relies first on market solutions to meet reliability needs. It should also be noted that these market-based proposals are open to all resources, including, generation, demand response providers and merchant transmission developers. (NYISO CRPP Section 6.2) Accordingly, the NYISO’s Planning Process is designed to provide maximum opportunity for market forces to work and to produce viable solutions. At the same time, there are provisions for a regulated backstop to be undertaken by the responsible Transmission Owner when market-based proposals are not sufficient to meet identified reliability needs in a timely manner. In addition, in the event that no viable market-based solution comes forward, there is an opportunity for non-Transmission Owner developers to submit alternative regulated responses—which is also open to all resources. (NYISO CRPP Section 6.4)

2. Section 6.4 (b) states that alternative regulated responses, such as generation, demand side alternatives and/or other solutions to address a reliability need shall be submitted to the New York Department of Public Service (NYDPS). Please provide further description of the criteria, which the NYDPS will employ in reviewing these alternative regulated proposals prior to submitting them to NYISO.

A. The proposed NYISO Planning Process provides for the NYDPS review to be triggered when two circumstances are present. First, there has to be a failure of the market to produce a competitive solution for a reliability need identified in the CRP. (NYISO CRPP Section 6.4.a) Second, an Other Developer chooses to propose a project to solve the need on a regulated basis. (NYISO CRPP Section 6.4.b)

Discussions within the NYISO Electric System Planning Working Group (ESPWG) identified concerns by both the Responsible TOs and Other Developers related to these projects. To address these concerns, it was agreed that the NYDPS would facilitate the review of these non-TO projects to ensure they have provided sufficient information for the NYISO to perform the necessary technical studies to determine whether such proposals will meet the identified Reliability Needs. As indicated in the NYDPS’s *Notice of Intervention and Comments in Support* of the NYISO proposal, dated September 10, 2004, the NYDPS intends to seek stakeholder input in determining the criteria to be used for this review. (NYDPS Notice at 3) As indicated by the letter from the NYDPS, included as Exhibit A hereto, that process has already begun through the ESPWG.

3. In section 7.2 of the Planning Process describes the process of evaluating market based proposals. Specifically, this section states that “NYISO will not select from among the market-based solutions if there is more than one proposal which will meet the same Reliability Need.” Please explain the role that the state will have in determining the adequacy of the market-based solutions. In cases where two or more market-based solutions meet a certain reliability need, how is a solution selected and by which party?

A. As noted above, the NYISO’s Reliability Planning Process relies first on market-based solutions. A key to this proposal is that the NYISO itself does not propose or design solutions, nor does it choose among the viable market-based proposals. The NYISO’s critical role under the Planning Process (not that of “the state”) is to provide an independent assessment of all proposals submitted by market participants to meet the Reliability Needs that it has previously identified. The NYISO’s findings will be made known to all Market Participants in the final Comprehensive Reliability Plan Report that is issued at the culmination of each planning cycle. It is then the marketplace itself that will address the economic feasibility of the alternatives. Neither the NYISO nor the state will make an administrative selection from among the potential market-based solutions.

While the NYISO is careful to avoid interference in the marketplace, its role does not stop with the issuance of the CRP. There are specific provisions in the Planning Process which require the NYISO to monitor and report on the status of market-based solutions to ensure their continued viability to meet the identified Reliability Needs on a timely basis. (NYISO CRPP Section 9.0.a) In accordance with the provisions of this Section, the NYISO, in conjunction with its Market Participants, has already begun the development of the criteria to assess the continued viability of such projects. This monitoring responsibility is especially critical to ensuring reliability, since it provides that the NYISO will be in a position to quickly identify the regulated backstop solution or the need for a Gap Solution that can meet a Reliability Need in a timely manner in the event that a market-based project becomes no longer viable.

4. Please provide an update on the development of NYISO’s approach to planning for economic reasons.

A. As noted in its August 20, 2004 Filing Letter, the NYISO has developed a methodology for the analysis and reporting of historic congestion costs in conjunction with its Initial Planning Process. This effort will continue under Appendix A of the Comprehensive Reliability Planning Process filed with the Commission. Subsequent to the August 20, 2004 filing, the NYISO has initiated discussions with its stakeholders to address the extent to which the NYISO will address the potential need for economic enhancements to the NYCA system. These discussions include ways to build upon the historic congestion methodology previously developed in order to provide additional information to market participants and other stakeholders in the NY marketplace to make informed decisions concerning the development of future resources. Also under discussion is the role of the NYISO in providing estimates of future congestion and the potential scope of any such efforts. In

addition, and in keeping with the market-based focus of the NYISO's planning efforts, the NYISO is exploring with its stakeholders various enhancements to its current market design and market rules in order to provide additional incentives for resource expansion in New York. Pending completion of these current efforts, it is anticipated that the NYISO will make a filing with the Commission for its consideration.

Jpb
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