

New York Utility Intervention Unit Comments for NYISO's Reliability Must Run Proposal

Historically in New York, generating resources that are unable to obtain sufficient revenue from providing capacity, energy and ancillary services, but needed for reliability, have entered into Reliability Support Services (RSS) or Reliability Must Run (RMR) agreements. An RMR Agreement requires the resource to participate in the energy markets in return for compensation based on its cost, rather than market-based compensation. On February 19, 2015 FERC issued order EL-15-37-000 which requires NYISO to file certain tariff revisions to govern the retention of and compensation of generating units needed for reliability. NYISO must file with FERC a compliance filing by June 19, 2015. The New York State Utility intervention Unit (NYUIU) offers the following comments on the matter:

Notice of Deactivation

The initial phase of the RMR process entails the de-activation notice provided by the generator owner to NYISO. According to NYISO's proposal, the RTO needs twelve months as the minimum period to evaluate the potential deactivation, trigger the gap solution process, consider proposed alternatives and prepare the RMR agreement. We believe that the 12 month timeframe is lengthy when compared with other operators such as MISO (180 days), PJM (90 days) and CAISO (180 days). An evaluation process that is long can be damaging to the generator owner due to the additional financial burden incurred during this period. On the other hand, an evaluation process that is short may not provide enough flexibility for NYISO to conduct the reliability studies and identify potential gap solutions.

We propose that the NYISO develops a structure with two phases. During the first phase –which may be 2-3 months- NYISO planning would evaluate whether the generator in question is needed for reliability and if not, provide a notification of approval for its deactivation similarly to its neighbors. The second phase will be triggered only when the first phase concluded that the generator is needed for reliability. This would provide enough flexibility to complete processes, like the gap solutions study, while limiting the flaws of a shortened timeframe.

Evaluation of Alternatives

NYISO proposed to utilize the existing Gap Solution process included in Attachment Y of the OATT to evaluate and solicit alternatives to the resource needed for reliability. The established process provides a number of steps, which we believe are important in assessing accurately the need and the potential solutions to the reliability concerns emerging from a unit deactivation. NYISO's Reliability Needs Assessment (RNA) - conducted on an annual basis – is the result of a detailed assessment by NYISO of the reliability needs in the region and it may provide a proactive path to future retirements. In the RNA, NYISO states that it tracks units interconnecting to the transmission system, additions, mothballs or retirements and evaluates different scenarios of retirements such as the Indian Point Plant in the 2014 RNA. However, according to the NYISO, the RNA process is limited since it is only assessing a small number of units and not the whole fleet and concentrates on the result of potential retirements and not on the reason for their occurrence. Since it is impractical for NYISO to conduct a reliability study for all units on an annual basis, it would be prudent for NYISO to establish a process that identifies a subset of generators with a large

potentiality to exit the market either permanently or in the short term and have the most significant impact to the reliability system wide or local level. We propose that NYISO leverage system operations' experience to identify weak points in the system. Control room operators perform real time reliability assessments on a continuous basis and know where the potential reliability needs may arise due to generators outages over a range of system conditions. A close collaboration between control room operations and planning is prudent in enhancing this process.

Compensation for RMR services

The main premise of the RMR structure is for units that provide reliability services and do not currently receive adequate payments through the market structure for this service to be compensated at a level that adequately covers all of their costs. The NYISO proposal includes an accelerated cost recovery mechanism for potential system and generator upgrades needed to provide the reliability service added to compensation for the various costs. The proposal also includes a refund scheme, which will return the accelerated recovered costs after the conclusion of the RMR agreement if the investment is deemed beneficial beyond the RMR agreement's timeline. Even though the basis of this structure appears reasonable, it requires some enhancements to provide adequate safeguards to market participants.

First, since NYISO has an existing Going Forward Costs framework in place, we believe that it can be utilized as a basis for the process of calculating the various costs. Based on the presentation provided by NYISO, it is unclear whether the NYISO will use this process as a basis or establish a new approach. It would be beneficial if an example is presented in future meetings.

Also, NYISO's proposal includes availability performance incentives that are paid to the generator when it meets the targets specified in the RMR contract. We disagree with the notion that incentives be paid when a generator meets the performance and availability goals; rather we propose that a generator be penalized if it fails to meet the aforementioned targets. Since the RMR generator is needed to meet system reliability criteria, a lack of performance and availability places the NYISO electric grid under a risk that the RMR contract aims to eliminate. For instance, if a RMR contract compensates a unit \$10 million on an annual basis and it misses the performance targets by 5%, then the units should be penalized by \$500,000 since it did not meet its contractual obligation.

The NYISO is proposing to use NERC's Equivalent Availability Factor (EAF) and the Penalty Limit for Under (PLU) generation as metrics for assessing the RMR generators availability and performance. We do agree with the PLU framework but disagree with the EAF utilization. When it comes to availability it is more sensible for the NYISO to track actual availability of the unit on a daily basis. More specifically, NYISO will track the instances when the RMR generator is available and dispatched and when is not. If the unit is not available and fails to meet its contractual agreement, it should be penalized by a reduction to its reliability compensation, as described in the previous paragraph. Moreover, a termination of the RMR agreement should be triggered when the RMR generator fails both tests on a consistent basis, which can be structured as failure to meet a predefined threshold of availability and performance (for example: if the RMR contract mandates 80% availability and the unit's availability is less than 50% then a RMR contract review should be initiated).

Cost Allocation and Cost Recovery

The RMR services cost will be allocated to their beneficiaries according to the NYISO proposal. However, based on the NYISO presentations provided in various stakeholder meetings, this allocation has not been efficiently articulated.

NYISO's high level proposal claims that only local customers will be affected by the RMR Agreements cost since they are the only beneficiaries of the service. However, since the existing cost recovery mechanism through the NYISO tariff allocates cost on the zonal level, it is not clear how the NYISO will allocate this cost with more granularity than the existing one. We agree that the reliability concerns mitigated by the RMR agreements are localized at a level smaller than the existing zonal level in some cases; therefore a more robust structure that includes sub-zones is warranted but fail to see how the NYISO will do that. It will be beneficial for all stakeholders to see an example on how this process will be laid out and how the cost will flow through to the customers at the sub-zonal level.

Toggling between RMR and Market Rates

One of FERC's primary concerns related to proposed RMR regime is the potential toggling of units between market based and cost based compensation. To comply with the Commission's order, NYISO must implement rules to restrict the ability of generators to shift between the RMR agreement and NYISO's markets. NYISO's proposes the inclusion of a high level structure, where the generator will be required to return part of accelerated cost recovery it received for the time period that extends beyond the RMR agreement if it chooses to return to the marketplace after the conclusion of the RMR agreement. This components of the proposal is important and must be enhanced to provide better safeguards against toggling without limiting the ability of a generator that is under an RMR agreement to re-enter the market if the economic conditions change.

We propose that the generator will return all the revenue received through the RMR contract, including any capital expenditures and the incurred or committed transmission upgrades cost needed to alleviate the reliability issues of the unit's deactivation. For instance, a generator is awarded a two year RMR that includes a \$5 million per year cost compensation and \$4 million for additional capital expenditures. Also, the NYISO's planning process estimates that transmission upgrades of \$5 million are needed to reliably operate the system upon the de-activation of the unit. Therefore; as a matter of principle, if after the conclusion of the RMR contract, the generator chooses to return to the market place, it should return the \$4 million of additional capital expenditures, the \$10 million of cost compensation and the \$5 million expense for the transmission upgrades that are not needed since the unit is back in service.

Termination of the RMR contract

Lastly, NYISO's proposed changes focus on the initiation and structure of a RMR contract but fail to discuss RMR termination as a process. More specifically, it is prudent for the ISO to have rules in place that determine when and under what reasons a RMR contract may be terminated. For example, if a RMR unit

fails its target metrics included in the agreement by 20% after the first six month of the agreement, then the RMR agreement should be re-evaluated.