

**STATE OF NEW YORK
PUBLIC SERVICE COMMISSION**

CASE 07-E-0080 - In the Matter of the Adoption of an Installed Reserve Margin for the New York Control Area.

CASE 05-E-1180 - In the Matter of the Reliability Rules of the New York State Reliability Council and the Criteria of the Northeast Power Coordinating Council.

**COMMENTS OF
THE NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.**

I. Introduction

In response to the January 19, 2007 Notice Soliciting Comments on Adoption of an Installed Reserve Margin, the New York Independent System Operator, Inc. (“NYISO”) respectfully offers its comments in the above-captioned proceedings concerning the New York Public Service Commission’s (“PSC”) possible adoption of an Installed Reserve Margin (“IRM”). The NYISO urges the PSC to follow through on its stated intent to act expeditiously in this proceeding. Without an effective IRM by the first week of March 2007, the NYISO would be unable to calculate and post the minimum capacity requirements prior to the scheduled March 29, 2007 Installed Capacity (“ICAP”) auction for the Summer Capability Period. Without this basic information, the ability of the NYISO’s market participants to participate effectively in the auctions could be seriously prejudiced.

In addition, the NYISO respectfully requests that the PSC coordinate its decision in this proceeding with the actions that the Federal Energy Regulatory Commission (“FERC”) may soon take in response to the NYSRC’s filing at the FERC. Inconsistent determinations by the PSC and the FERC would create uncertainty about what IRM the

NYSRC should provide the NYISO to use, and, potentially, subject the NYISO to contradictory regulatory mandates. The NYISO is not taking a position on the merits of any federal/state jurisdictional issues at this time, but the NYISO respectfully requests that the PSC not allow jurisdictional considerations to delay a decision on the IRM.

Finally, in the event that the PSC does adopt an IRM, the NYISO believes that an IRM of 16.5 percent for the New York Control Area (“NYCA”) for the upcoming 2007/2008 Capability Year,¹ which begins on May 1, 2007, falls within a range of reasonable determinations for the level of installed capacity required to maintain the reliability of the NYCA bulk power system. Accordingly, the NYISO supports the New York State Reliability Council’s (“NYSRC”) IRM of 16.5 percent for the 2007/2008 Capability Year.

II. Interests of the NYISO in this Proceeding

The NYISO is the independent body responsible for providing open access transmission service, maintaining reliability, and administering competitive wholesale markets for electricity, capacity, and ancillary services in New York State. Pursuant to its FERC-approved tariffs, the NYISO is responsible for administering the ICAP auctions, including the strip auction scheduled for March 29, 2007.² The NYISO’s Services Tariff also requires LSEs within the NYCA to maintain sufficient levels of ICAP, including locational ICAP requirements for New York City and Long Island.

Together with the ICAP demand curves, the NYCA IRM is a critical input into the NYISO’s ICAP auctions because it is used to calculate the LSEs’ minimum NYCA-

¹ Capitalized terms have the meaning ascribed to them in the NYISO’s Market Administration and Control Area Services Tariff (“Services Tariff”).

² The ICAP auction processes are described in Sections 5.13 and 5.14 of the Services Tariff.

wide capacity requirements, and its methodology and data inputs are used to calculate the Locational Capacity Requirements (LCRs). Specifically, after the NYSRC provides the IRM to the NYISO, the NYISO uses that figure to determine the capacity margin for New York State as a whole. It then uses the methodology and data underlying the determination of the baseline for the IRM to calculate the LCRs for LSEs, and those LCRs, together with the ICAP demand curves, determine the minimum amount of capacity that must be procured by LSEs for a given capability year. The NYISO informs the LSEs of their minimum capacity procurement requirements and conducts strip auctions (for the six-month summer and winter capability periods), as well as monthly and spot market auctions.³

III. Background

Section 3.03 of the NYSRC Agreement, which was approved by the FERC as part of the formation of the NYISO and the NYSRC, obligates the NYSRC to submit any proposed revisions to the NYCA IRM to the FERC for approval before the beginning of the Capability Year to which the change would apply. Previously, the NYCA IRM was set at 18.0%,⁴ which means that that Load Serving Entities (“LSEs”) in the NYCA must procure ICAP equal to 118% of their forecast peak load.⁵ In addition, there are separate location-specific ICAP requirements for LSEs in New York City and Long Island, which reflect the existence of transmission constraints in those areas.

³ See Services Tariff §§ 5.12-5.14.

⁴ The IRM has remained at 18.0% since the 2000/2001 Capability Year. See *New York State Reliability Council*, 90 FERC ¶ 61,313 (2000), and subsequent informational filings submitted by the NYSRC in Docket Nos. ER00-1671, ER01-1490-000, ER05-371, and ER06-697.

⁵ For the 2006/2007 Capability Year, for example, the forecast peak load for the NYCA was 33,295 MW. The 18.0% IRM means the current ICAP requirement is 39,288 MW (*i.e.*, 18% more than 33,295 MW).

At the request of the NYSRC, the NYISO conducted a study to determine the NYCA IRM necessary to meet all applicable reliability criteria for the 2007/2008 Capability Year. The NYISO employed General Electric's Multi-Area Reliability Simulation (MARS) model to determine the amount of installed capacity that is required NYCA-wide to meet the resource adequacy criterion that the probability of a forced loss of load not exceeding one occurrence in ten years.⁶ The NYISO reported its results to the NYSRC's Installed Capacity Subcommittee (the "Subcommittee").

The Subcommittee reviewed and adopted the study results, with verification of the data inputs and modeling results by General Electric (GE). Based upon recommendations from the NYISO staff, the Subcommittee and GE, the NYSRC Executive Committee voted on January 5, 2007 to approve the final Technical Study Report, entitled "New York Control Area Installed Capacity Requirements for the Period May 2007 through April 2008." The NYSRC filed the Technical Study Report at the FERC and it has also been provided to the PSC. The NYISO's base case evaluation in the study yielded a minimum NYCA IRM of 16.0 percent for the 2007/2008 Capability Year. Using this result as the baseline for determining a final IRM, the NYSRC Executive Committee ultimately voted on January 5, 2007 to adopt a slightly higher 16.5 percent IRM level.

On January 12, 2007 the NYSRC filed its proposed NYCA IRM at the FERC for the 2007/2008 Capability Year. The NYSRC requested that the FERC act on its filing expeditiously and issue an order no later than March 1, 2007. On January 30, 2007, the NYISO filed a motion to intervene and comments at the FERC: (i) supporting the 16.5

⁶ This criterion is known as the "Loss of Load Expectation" or "LOLE" and is a standard contained in the reliability rules of the Northeast Power Coordinating Council (NPCC) and the NYSRC.

percent IRM as falling in a range of reasonable IRMs; (ii) asking the FERC to act expeditiously, and (iii) asking FERC to avoid any jurisdictional question that may delay its action, and to coordinate its action with the PSC. Other parties to the FERC proceeding have filed in support of the 16.5 percent IRM, or for approval of a higher or lower IRM. Prior to filing at the FERC in support of the IRM, the NYISO invited its Market Participants to submit comments with respect to this issue. Several such comments were received by the NYISO, but nothing in those comments was sufficient to change the position stated in the NYISO's comments to the FERC or in these comments.

On January 19, 2007, the PSC issued a Notice seeking comments on the NYSRC's proposed NYCA IRM. The NYPSC stated that it "is considering the adoption of an Installed Reserve Margin (IRM) for the New York Control Area" and that it "intends to act promptly, so that market participants are informed of the new NYCA IRM prior to the Installed Capacity . . . auction scheduled to be conducted by the [NYISO] on March 29, 2007."⁷

IV. Comments

A. The PSC Should Act Expeditiously

The NYISO respectfully requests that the PSC act in accordance with its stated intent to act quickly in this proceeding because the ICAP auction for the six-month Summer 2007 Capability Period is scheduled to occur on March 29, 2007. The outcome of the strip auction will directly affect the monthly and spot capacity auctions the NYISO will conduct in April for May 2007.

⁷ *Notice Soliciting Comments on Adoption of an Installed Reserve Margin*, Case 07-E-0080 and Case 05-E-1180 (Jan. 19, 2007), at 1.

The NYISO must know the NYCA IRM by early March so that it can calculate the minimum NYCA-wide and locational capacity requirements. Only if the NYISO has an IRM to use for these calculations by March 1, 2007 would the NYISO be confident that it could complete this work on time. Receiving an IRM after March 8, 2007, however, would delay the NYISO's calculations and the market participants' preparations for the March 29, 2007 strip auction.

Moreover, in accordance with its manuals and past practice, the NYISO should inform LSEs of their new minimum requirements by March 22, 2007. This information is conveyed one week in advance of the capacity auction for the six-month Summer Capability Period in order to provide Market Participants with sufficient notice of their capacity requirements so that they may develop or adjust their bidding strategies. The NYISO needs to start making the necessary calculations by March 8th or it will be unable to meet this deadline. Further, without timely information, it will be much harder for LSEs to make economically efficient capacity procurement decisions.

The NYISO recognizes that the parallel PSC and FERC reviews of the NYSRC's proposed NYCA IRM revisions may give rise to disagreement among the agencies as to whether the PSC or the FERC or both have jurisdiction over the NYCA IRM. Although the NYISO is not taking a position on the merits of any jurisdictional issue at this time, the NYISO believes that such disagreement about jurisdiction can be preserved for later resolution on rehearing of a FERC order or, if necessary, on appellate review. In any event, if a jurisdictional dispute arises that cannot be resolved expeditiously, the NYISO respectfully submits that the PSC should not allow delay in the resolution of

jurisdictional issues to interfere with ruling on the NYCA IRM by the first week of March.

B. The PSC Should Coordinate with the FERC to Avoid Imposing Inconsistent Requirements on the NYSRC

The NYISO respectfully requests that the PSC coordinate its review of the NYSRC's proposed NYCA IRM revision with the FERC's proceeding on the subject. To the extent that both the PSC and the FERC address common questions, the NYISO also asks that the PSC make every effort to ensure that its determinations are compatible with the FERC's review. Were the two agencies to issue conflicting or contradictory orders to the NYSRC concerning the IRM level, confusion may ensue as to what IRM level the NYSRC should provide to the NYISO to use in the NYISO's calculations. If conflicting regulatory directives are received, any decision on what IRM is effective will be susceptible to almost certain litigation. The probability of such litigation and the uncertainty as to its outcome will engender uncertainty about the LSEs' minimum requirements for the auction for the six-month Summer Capability Period (and possibly even the subsequent monthly and spot auctions). The resulting disruption and confusion would negatively affect the NYISO-administered markets and, potentially, threaten the reliability of the New York State transmission system.

Conflicting PSC and FERC rulings could also put the NYSRC, and potentially the NYISO, in the difficult position of trying to choose between inconsistent federal and state requirements. This would greatly complicate the NYISO's ability to fulfill its ICAP-related responsibilities under its tariffs. The NYISO could also be exposed to demands for refunds, and other legal claims, from LSEs claiming that the NYISO unlawfully required them to over-procure capacity and from generators alleging an unlawful under-procurement and lost revenues.

C. The NYSRC's Proposal to Establish a NYCA IRM of 16.5% is Reasonable

In the event that the PSC does adopt an IRM, the NYISO believes that the NYSRC's proposed 16.5 percent IRM falls within a range of potentially reasonable IRM levels. As was noted above, the NYISO's study yielded a base case that resulted in a minimum NYCA IRM of 16.0 percent to meet the LOLE resource adequacy criterion. The NYSRC Executive Committee concluded that an extra 0.5 percent should be added. The NYISO believes that it was reasonable for the NYSRC to have viewed 16.0 percent as a minimum level and to have added an extra 0.5 percent as a safety margin when dealing with a requirement that has such serious reliability implications.

The NYSRC's decision to add an extra margin to the minimum established by the NYISO's studies is consistent with its past practice. For example, for the 2004/2005 Capability Year, the NYSRC technical study's base case analysis resulted in a NYCA IRM of 17.1 percent.⁸ The NYSRC ultimately determined that an 18.0 percent NYCA IRM was appropriate. Similarly, for the 2005/2006 Capability Year, the base case study yielded a NYCA IRM of 17.6 percent, taking into account transmission constraints.⁹ The NYSRC again determined that an IRM of 18.0 percent was appropriate. Moreover, for the 2006/2007 Capability Year, the technical study concluded that the base case IRM was 17.5 percent.¹⁰ Again, the NYSRC concluded that the 18.0 percent NYCA IRM should be retained.

⁸ See NYSRC Informational Filing in FERC Docket No. ER00-1671-000, Technical Study Report at 1 (Jan. 16, 2004).

⁹ See NYSRC Informational Filing in FERC Docket No. ER05-371-000, Technical Study Report at 1 (Dec. 22, 2004).

¹⁰ See NYSRC Informational Filing in FERC Docket No. ER06-697-000, Technical Study Report at 2 (March 2, 2006).

Consequently, the NYSRC's determination for the upcoming 2007-2008 Capability Year is consistent with prior practice and falls within a range of reasonable IRM levels.

IV. Conclusion

WHEREFORE, for the foregoing reasons, the New York Independent System Operator, Inc. respectfully requests that the PSC (i) act expeditiously in this proceeding; and (ii) make every effort to coordinate its review with the FERC in order to avoid inconsistent federal and state rulings.

Respectfully submitted,

Robert E. Fernandez, General Counsel
Carl F. Patka, Senior Attorney
Joseph B. Williams, Senior Attorney
New York Independent System Operator, Inc.
10 Krey Boulevard
Rensselaer, New York 12144
Tel: (518) 356-6000
Fax: (518) 356-4702
rfernandez@nyiso.com
cpatka@nyiso.com
jwilliams@nyiso.com

Counsel for New York Independent System
Operator, Inc.

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