

February 1, 2007

Magalie Roman Salas
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

Re: Informational Report Setting Forth Specific Timetable for Completion of Guarantee
Payment Mitigation Based Bill Corrections; Docket No. ER06-185-005

Dear Secretary Salas:

In accordance with ordering paragraph A of the Federal Energy Regulatory Commission's ("Commission's") December 28, 2006 order in Docket No. ER06-185-005,¹ the New York Independent System Operator, Inc. ("NYISO") hereby provides this "Informational Report" that sets forth a specific timetable for completing all tasks associated with the computation and implementation of the billing corrections associated with Real-Time guarantee payment ("RTGP") mitigation covering the period from February, 2005 to April 7, 2006.

As the NYISO explained in its February 6, 2006 response to a Commission Staff data request (the "Data Response"), for the period from February 1, 2005, forward:

[t]he NYISO expects the correction methodology and manual procedures to be in place by the third quarter of this year, in time for the final settlement for the period beginning February, 2005. The appropriate settlement corrections will then be applied month-by-month as the final settlements for the months following February, 2005 become due.²

In its April 7, 2006 Order in Docket Nos. ER06-185-000 and 001 ("April 7 Order") the Commission stated that it would allow the NYISO to "correct errors in its computation of Guarantees, but not LBMPs, while implementing the mitigation measures in its Services Tariff, subject to the condition that the NYISO provide the Commission with details of the settlement corrections, consistent with the Staff data request of January 6, 2006."³ It did not impose an accelerated bill close-out schedule.

¹ *New York Independent System Operator, Inc.*, 117 FERC ¶ 61,349 (2006).

² *NYISO's Response to the Commission's Staff's Data Request*, Docket No. ER06-185-001 at 3 (February 6, 2006).

³ April 7 Order at P 47 and Ordering Paragraph B (emphasis added).

Since the issuance of the Commission's April 7 Order, the NYISO has been submitting the details of its settlement corrections to the Commission "month-by-month as the final settlements for the months following February, 2005 become due" in accordance with the commitment it made in its response and consistent with its understanding of its obligations under the April 7 Order.⁴

In a footnote to its November 3, 2006 Order in Docket No. ER06-185-002 ("November 3 Order") the Commission instructed the NYISO to "complete" the corrections to bills associated with the implementation of RTGP mitigation by January 1, 2007. In order to comply with the Commission's instruction, the NYISO assigned three members of its Market Monitoring and Performance Department ("MMP") staff, all of whom had significant experience working with the RTGP impact test, to engage in an all-out effort to process the RTGP impact test results for the remaining months. As a result of MMP's effort, with significant support from the NYISO Settlements and Data Services Departments, on December 29, 2007 the NYISO submitted hundreds of pages of Privileged and Confidential RTGP mitigation details, reflecting all known potential RTGP mitigation from May 1, 2005 to April 7, 2006 (the NYISO had previously submitted RTGP impact test results addressing the months of February, March and April of 2005). Unless the RTGP impact test results change (a) based on consultation with the affected Market Participant⁵ pursuant to Section 3.3 of the NYISO's Market Mitigation Measures,⁶ (b) due to changes in the metering data provided to the NYISO by the New York Public Service Commission approved Metering Authorities, (c) to reverse any mitigation that the NYISO may have inadvertently applied to supplemental event credit payments,⁷ or (d) to implement Commission-ordered changes, the impact test results it reported on December 29, 2006 correctly reflect the RTGP mitigation that will ultimately be imposed for the period from May 1, 2005 to April 7, 2006.

The mitigation consultation process necessarily relies on the active involvement of affected Market Participants, but the NYISO's Market Mitigation Measures do not set forth any specific limitation on the time available for potentially mitigated Generators to initiate consultation. The NYISO plans to raise and address the open-ended nature of the RTGP mitigation consultation process in its ongoing discussions with stakeholders.⁸ Thus, at present, Generators that have been advised of the preliminary results of the NYISO's RTGP impact test may arguably wait to request consultation regarding the results of the impact test up to the point when the relevant monthly invoice is closed out. Market Participants taking advantage of this loophole have placed at risk or delayed the NYISO's final bill close out process in order to consult regarding RTGP mitigation on at least three

⁴ *Data Response* at 3.

⁵ Capitalized terms not defined herein shall have the meaning ascribed to them in the NYISO's Market Administration and Control Area Services Tariff.

⁶ The Market Mitigation Measures are set forth in Attachment H to the NYISO's Market Administration and Control Area Services Tariff.

⁷ The inadvertent mitigation of supplemental event credits was discussed on page 2 and in footnote 3 of the NYISO's December 29, 2006 non-confidential Request for Privileged Treatment. In addition to the months identified in footnote 3 of the December 29 filing, the NYISO has completed the audits for July 2005 and January 2006. Neither audit identified any additional instances in which the RTGP impact test mitigated a supplemental event credit payment.

⁸ *See* Ordering Paragraph (C) of the November 3 Order.

occasions to date.⁹ For this reason, it is not presently possible for the NYISO to require potentially affected generators to complete all consultation with the NYISO by any date certain prior to the final close out of the relevant monthly invoice.

Changes to a Generator's metered hourly output automatically flow through the NYISO's billing system and affect all aspects of a Generator's settlement including, potentially, the results of the RTGP impact test. Changes to metering data can result in a new determination of RTGP impact, or the changes can negate an earlier determination of RTGP impact.¹⁰ The uncertainty created by late-submitted changes to metering data has long been of concern to the NYISO's generation sector Market Participants. Beginning January 1, 2007 metering data is required to be corrected and finalized within 131 days of the issuance of an initial monthly invoice. *See* Market Administration and Control Area Services Tariff § 7.4.2.A(iii). However, the rules that apply to invoices for months prior to January 1, 2007 do not include a firm deadline for finalizing metering data and metering authorities have waited significant lengths of time before revising inaccurate metering data that they initially reported. For monthly invoices that have not been finally closed out, the NYISO cannot be certain that the RTGP impact test results will not change until it is no longer possible to submit metering data changes.

In order to be absolutely certain that the RTGP impact test results that were reported to the Commission on December 29, 2006 are "final" results that cannot change, the NYISO must wait until bills are finally closed out for the February 2005 to April 2006 period. The NYISO's Tariff-driven¹¹ final bill close-out schedule for the period at issue (prior to January 1, 2007¹²) requires between (at minimum) 18 months + 25 days and (at maximum) 22 months + 50 days following the end of the relevant operating month to complete. Hence, in a worst case scenario, the first seven days of April, 2006 might not be finally closed out until (approximately) May of 2008. The February 2005 invoice has been finally closed out and the NYISO expects that the final close out invoice for March 2005 will be issued on February 6, 2007.

The NYISO submits that the Commission need not wait for each month's bills to be finally closed out in order to determine if the method that the NYISO has used to correct BPCG payments to reflect the impact of RTGP mitigation produces just and reasonable results and will not unduly benefit or prejudice any party. The information that the NYISO has already filed will enable the Commission to review the NYISO's RTGP impact calculation method. While some of the previously submitted data covering the March 2005 to April 7, 2006 period may subsequently be adjusted to reflect the results of consultation or changes to previously reported metering data, the method used to determine, calculate and apply RTGP mitigation will not change.

⁹ *See NYISO Response to Protest and Request for Relief of the NRG Companies*, Docket Nos. ER06-185-002 and 003, at 12-14 (October 27, 2006) (describing one instance in which the NYISO delayed its processing of final bill close-outs due to its receipt of a late consultation request).

¹⁰ The impact metering data changes can have on the RTGP impact test is explained in footnote 18 to the NYISO's November 29, 2006 Request for Rehearing in Docket No. ER06-185.

¹¹ *See* NYISO Market Services and Control Area Administration Tariff § 7.4.1.

¹² The Commission recently accepted changes to the NYISO's Tariffs that significantly reduce the time required to finally close out monthly invoices commencing January 1, 2007. The period required to finally close out 2007 monthly invoices ranges from a minimum of 9 months + 25 days to a maximum of 13 months + 50 days from the end of the relevant operating month. *See* NYISO Market Services and Control Area Administration Tariff § 7.4.2.

For the foregoing reasons, the NYISO respectfully requests that the Commission find that the Privileged and Confidential mitigation details that the NYISO filed on December 29, 2006 include all of the information necessary for the Commission to issue any further ruling it determines may be needed in this Docket with regard to the February 2005 to April 7, 2006 corrections to Generator invoices to reflect Tariff-required RTGP mitigation.

Respectfully submitted,

/s/ Alex M. Schnell

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing transmittal letter upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Rensselaer, New York this 1st day of February, 2007.

/s/ Alex M. Schnell
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