

106 FERC ¶ 61,095  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;  
Nora Mead Brownell, Joseph T. Kelliher,  
and Suede G. Kelly.

New York Independent System Operator, Inc.                      Docket No. ER04-294-000

ORDER CONDITIONALLY ACCEPTING THE CONGESTION RENT SHORTFALL  
REDUCTION METHODOLOGY

(Issued February 2, 2004)

1. In this order, the Commission approves tariff revisions submitted by the New York Independent System Operator, Inc. (NYISO) that would reduce the magnitude of revenue shortfalls that result when NYISO's obligation to pay congestion payments to holders of Transmission Congestion Contracts (TCCs) exceeds congestion rents actually collected by NYISO in the day-ahead market. This order benefits New York customers by allowing NYISO to more accurately match the amount of capacity sold in centralized TCC auctions with the capacity available in the day-ahead market, thus reducing charges to customers for congestion rent shortfalls.

**Background**

2. Pursuant to Section 205 of the Federal Power Act, NYISO submitted revisions to its Open Access Transmission Tariff (OATT) and its Market Administration and Control Area Services Tariff (Services Tariff) to reduce the magnitude of the revenue shortfalls related to congestion payments made to Primary Holders<sup>1</sup> of TCCs. Revenue shortfalls occur when payments to primary holders exceed the congestion rents actually collected by NYISO.

3. Transmission Congestion Contracts are financial obligations that provide an alternative to physical transmission reservations. A TCC from point A to point B entitles the Primary Holder to payments equal to the locational based marginal pricing (LBMP)

---

<sup>1</sup> A Primary Holder is either the owner of the TCC—who acquired the TCC through grandfathered rights or through ISO allocation—or the party that acquired the TCC rights via auction or direct sale.

congestion component at point B minus the LBMP congestion component at point A.<sup>2</sup> NYISO makes congestion payments to TCC Primary Holders for each hour of the day-ahead market. Congestion payments to TCC Primary Holders are based on the transmission system conditions as modeled at the time of the TCC auction. TCCs are available through NYISO-administered auctions and via direct sale.

4. Transmission customers pay congestion charges when there is congestion on the system and all scheduled transactions in the day-ahead market are charged the appropriate amount of congestion. The congestion revenues collected by NYISO in the day-ahead market are distributed to TCC Primary Holders.<sup>3</sup> These revenues are congestion rents and are collected based on actual transmission system conditions in the day-ahead market. Ideally, congestion payments to primary holders should equal the congestion rents collected by NYISO—this should be the case where the transmission grid conditions used to test the feasibility of the TCCs in the last auction matches the grid conditions in the day-ahead market (and that market is cleared at least cost based on LBMP). Primary Holders are paid the full difference between the LBMP congestion components, regardless of whether NYISO has collected sufficient congestion rents. In some cases, the amount of congestion rents collected for a particular hour is insufficient to cover NYISO's payment obligations to Primary Holders—the amount the ISO must pay out exceeds the amount the ISO collected. Transmission facility outages cause the majority of these shortfalls in revenues.

5. In each NYISO-administered TCC auction, available transmission capacity on the system is auctioned.<sup>4</sup> The capacity is auctioned as TCCs. The capacity amount is adjusted for known facility outages: A transmission facility is considered out-of-service for a particular auction if that facility will be out-of-service for the majority of the period covered by the auction. Because some transmission facility outages are not factored into the TCC auction, the transmission capacity actually available in the day-ahead market may not match the amount of capacity sold in earlier TCC auctions. Unaccounted for outages reduce the available capacity in the day-ahead market, meaning NYISO has auctioned too many TCCs. As a result, congestion rent collected in the day-ahead market may be

---

<sup>2</sup> Where the difference in congestion components yields a negative number, the holder of the TCC pays congestion rent.

<sup>3</sup> NYISO collects congestion rents for energy transactions in the day-ahead market and for bilateral transactions scheduled in the day-ahead market.

<sup>4</sup> There are two types of TCC Auctions: The Centralized Auction and Reconfiguration Auctions. Centralized Auctions are held every six months, prior to the winter and summer capability periods. NYISO administers monthly Reconfiguration Auctions, which allow participants to take into account monthly changes in transmission system capacity.

insufficient to support the congestion payments to TCC Primary Holders. Facility outages are responsible for the majority of congestion rent shortfalls.<sup>5</sup>

6. In a December 15, 2003 letter Order,<sup>6</sup> the Commission approved tariff revisions regarding the allocation of congestion revenue shortfalls and surpluses. In that order, the Commission approved NYISO's proposal to employ cost-causation principles in assigning responsibility for such shortfalls and surpluses to transmission owners. NYISO allocates shortfalls in congestion rent to NY Transmission Owners. However, such shortfalls are ultimately passed through to end users through each transmission owner's Transmission Service Charge and through the New York Power Authority's Transmission Adjustment Charge.

7. NYISO states that the filing in this docket is directed at reducing the magnitude of congestion rent shortfalls and results from work with market participants and consultants. NYISO's Independent Market Advisor has reviewed and generally supports the proposed tariff methodology. NYISO believes the proposed methodology will produce sets of TCCs in each Centralized TCC Auction that better match available transmission capacity in the day-ahead market. Better matched auction and day-ahead market conditions will reduce congestion rent shortfalls.

8. NYISO proposes to establish two mechanisms that will reduce congestion rent shortfalls by allowing NY Transmission Owners to reserve a specified amount of capacity. Reserved capacity would not be available in Centralized Auctions. The first mechanism would permit NY Transmission Owners that hold Existing Transmission Capacity for Native Load (ETCNL) to reserve a limited amount of this capacity.<sup>7</sup> Those holding ETCNL are required to release that capacity for each Centralized TCC Auction. Under the second mechanism, all Transmission Owners would be permitted to reserve a limited portion of the residual transmission capacity between contiguous pairs of load zones. In each case, Transmission Owners reserve transmission capacity by converting up to 5% into six-month TCCs. TCCs reserved by a particular Transmission Owner would entitle that owner to receive congestion payments as the Primary Holder. The congestion

---

<sup>5</sup> In other cases, a transmission facility may be modeled as out-of-service for the last Reconfiguration Auction (due to, for example, extended maintenance), but is in-service for an hour of the day-ahead market. Such a return-to-service may result in excess congestion rents.

<sup>6</sup> Docket No. ER04-54-000.

<sup>7</sup> ETCNL was allocated to the three Transmission Owners—Consolidated Edison Company of New York, Niagara Mohawk Power Corporation, and New York State Electric and Gas Corporation—prior to the first Centralized Auction, which was held in the Spring of 2000.

payments will help to offset the amount of the Transmission Owner's share of a Congestion Rent Shortfall.

9. The Capacity Reservation Cap<sup>8</sup> will be set by the NYISO prior to each Centralized TCC Auction and shall be no higher than 5%. NYISO intends to set the reservation cap at 5% in the first Centralized TCC Auction under the new provisions; NYISO presently intends to set that cap at the same level for subsequent auctions. However, NYISO will ultimately set the reservation cap below 5% if results from prior auctions or other information support a lower cap. NYISO's independent Market Advisor believes NYISO must have the authority to set the maximum amount of transmission capacity that can be reserved; without it the number of TCCs available to market participants may be unnecessarily reduced. NYISO is committed to working with market participants to examine tariff revisions that would vary the reservation cap for each Transmission Owner. NYISO will submit a report following the Summer 2004 auction regarding the Congestion Rent Shortfall reduction methodology.

10. NYISO requests that the proposed tariff revisions become effective on February 2, 2004. The Summer 2004 Capability Period Centralized TCC Auction begins on February 9, 2004. If the revisions become effective after February 2, 2004, market participants will not realize the benefits of reduced Congestion Rent Shortfalls until the Winter 2004-2005 Capability Period Centralized TCC Auction, which begins in August 2004. NYISO requests that the Commission issue an order no later than February 2, 2004, so that participants bidding in the February Centralized TCC Auction will have one week to consider the impact of the new revisions on their bidding strategies.

11. The NYISO Management Committee considered and approved the proposed methodology with an affirmative vote greater than 69% and instructed NYISO to make this filing. Subsequent to the committee's approval, NYISO circulated draft tariff language and accepted market participant comments.

### **Filings by the Parties, and Procedural Rulings**

12. NYISO's filing was noticed in the Federal Register, with interventions, comments or protests due by January 2, 2004. The Municipal Electric Utilities Association of New York State filed a timely motion to intervene. Mirant Americas Energy Marketing, LP, Mirant New York, Inc., Mirant Bowline, LLC, Mirant Lovett, LLC and Mirant NY-Gen, LLC (collectively, Mirant Parties) jointly filed a timely motion to intervene. Coral Power LLC filed a timely motion to intervene and comments. Central Hudson Gas & Electric

---

<sup>8</sup> This cap is the maximum percentage of a Transmission Owner's capacity that may be converted into TCCs as established by the ISO. The ISO shall determine the Capacity Reservation Cap prior to each Centralized TCC Auction, which shall be an amount less than or equal to five percent.

Corporation, Consolidated Edison Company of New York, Inc., LIPA, New York Power Authority, New York State Electric & Gas Corporation, Rochester Gas and Electric Corporation, Orange and Rockland Utilities, Inc. and Niagara Mohawk Power Corporation, a National Grid Company, (collectively, NY Transmission Owners) individually and collectively filed a timely motion to intervene and comments. The NY Transmission Owners required additional time to review the filing and filed supplemental comments on January 8, 2004.

### **Procedural Matters**

13. Pursuant to Rule 214(c) of the Commission's Rules of Practice and Procedure, 18 C.F.R. §385.214(c) (2003), the notices of intervention and timely unopposed motions to intervene serve to make the intervenors parties to this proceeding. We will accept NY Transmission Owners' supplemental comments.

### **Discussion**

14. The NY Transmission Owners support the NYISO's proposal to reduce congestion rent shortfalls. NY Transmission Owners assert that, currently, more transmission capacity is being sold than exists in the day-ahead market, exposing the transmission owners and their customers to significant risk, as congestion rent shortfalls are more likely. The NY Transmission Owners argue that without the proposed reform, there is no reasonable assurance that revenues from the sale of TCCs will be sufficient to offset congestion rent shortfalls. The NY Transmission Owners argue that the NYISO's proposal will reduce the exposure of its customers to such risk.

15. The NY Transmission Owners also support the NYISO's request that the Commission waive its 60-day notice requirement and to issue an order by February 2, 2004, conditionally accepting the NYISO's December 12 filing. The NY Transmission Owners argue that failure to act by February 2, 2004 would delay implementation of these measures until the fall TCC auction and would expose the New York Transmission Owners' customers to the same risks described above for the forthcoming summer capability period, and could impose millions of dollars of costs on those customers.

16. The NY Transmission Owners assert that NYISO should be ordered to make several minor changes, which NYISO does not oppose. The New York Transmission Owners note that several changes—which should not delay issuance of an order by or before February 2, 2004—are required to the NYISO's December 12 filing and have discussed these with the NYISO. NY Transmission Owners assert that NYISO has authorized the NY Transmission Owners to make this filing stating that the NYISO would not object to a Commission order requiring it to make the changes in a compliance filing as set forth below.

17. The NY Transmission Owners believe that certain provisions in OATT Attachment M and Services Tariff Attachment B are outside the scope of the proposal voted on by the Management Committee.<sup>9</sup> NY Transmission Owners state that the NYISO, without conceding the correctness of the New York Transmission Owners' position, has agreed to withdraw the sections in question (and make complementary changes to Attachment H of the OATT) and would not object to a Commission order to do so in a compliance filing.

18. Second, the NY Transmission Owners believe that language prohibiting the resale by a Transmission Owner of "the underlying economic value of its Residual Capacity Reservation Rights (RCRR) TCCs," as opposed to resale of the RCRR TCC itself, is outside the scope of the proposal voted on by the Management Committee.<sup>10</sup> NY Transmission Owners state that the NYISO, without conceding the correctness of the New York Transmission Owners' position and without limiting its future right to assert that the phrase is already implied by the language in Section 6.7 (in both Attachment M and Attachment B) has agreed to withdraw the phrase and would not object to a Commission order requiring it to do so in a compliance filing.

19. Third, Sheet 567 of Attachment M of the OATT and Sheet 361 of Attachment B of the Services Tariff contain a list of injections and withdrawals. To ensure clarity, the New York Transmission Owners believe that item (i) from these lists should be deleted and conforming changes should be made to renumber the remaining items. The New York Transmission Owners state that NYISO would not object to a Commission order requiring it to make this clarification in a compliance filing.

20. Fourth, with respect to Sheet 571F of Attachment M of the OATT and Sheet 364G of Attachment B of the Services Tariff, NYISO inadvertently omitted a subscript from the definition of the term "Interface Revenue." The NYISO has authorized the New York Transmission Owners to state that the NYISO would not object to a Commission order requiring it to correct the omission in a compliance filing.

21. Coral Power, LLC (Coral Power) neither objects to trying to match the amount of TCCs available in a given auction with the transmission system capacity that supports it, nor opposes the proposed approach, as a first step. Coral Power argues that the Commission should view this proposal as interim in nature as it needs to be refined to allow TCCs initially withheld from Centralized Auctions to be returned and included as part of the monthly reconfiguration auctions. Coral states that just as selling too many TCCs may be inefficient, retaining too many TCCs also can adversely impact the market

---

<sup>9</sup> See proposed Section 5.6 of Attachment M of the OATT (Sheet 571C) and Attachment B of the Services Tariff (Sheet 364D).

<sup>10</sup> See proposed Section 6.7 of Attachment M of the OATT (Sheet 571I) and Attachment B of the Services Tariff (Sheet 364I).

and argues that the proposal may unjustifiably leave a large amount of TCC capacity out of the market.

22. Coral Power asserts that NYISO has not identified the extent to which elements other than outages affect shortfalls and how these may be factored into the Capacity Reservation Cap process. Coral Power also argues that NYISO's proposal does not provide for an automatic mechanism to require the subsequent resale of TCCs in Reconfiguration Auctions if the capacity may no longer need to be reserved to address rent shortfalls. Coral argues that a resale mechanism should be developed and filed with the Commission as soon as is possible, as there now is the potential for too much capacity to be withheld. Coral Power notes that NYISO proposes to submit a report to the Commission following the Summer 2004 auction regarding the shortfall reduction methodology.<sup>11</sup> Coral Power requests that the Commission direct NYISO to file that report on or before December 1, 2004. Further, Coral Power states that if NYISO has not filed a proposal that mandates the return of TCCs to Reconfiguration Auctions prior to this date, it explain why it has not done so in the report.

### **Analysis**

23. The Commission will conditionally approve NYISO's proposed tariff revisions as discussed below. The Commission finds it appropriate and reasonable for NYISO to attempt to match as closely as possible the amount of capacity sold as TCCs in NYISO's Centralized Auctions with the available capacity in the day-ahead market. The Commission also notes that there appears to be broad support for the revisions as comments were generally in support of the filing and no protests were filed.

24. The Commission will, however, condition its approval of NYISO's tariff revision on NYISO making a compliance filing within 30 days of the date of this order to reflect the revisions recommended by the NY Transmission Owners. The Commission will also require NYISO to fulfill its commitment to submit a report following the Summer 2004 auction, on or before December 1, 2004, as requested by Coral Power.

25. The Commission will not, at this time, require the resale of TCCs in Reconfiguration Auctions as requested by Coral Power, as NYISO has already committed to work with market participants to examine tariff provisions that would require the resale of TCCs in Reconfiguration Auctions in cases where it is clear that capacity no longer needs to be reserved. The Commission directs NYISO to examine such provisions and provide an update of its work with participants in this regard in the report to be filed on or before December 1, 2004. NYISO is directed, if necessary, to explain in that report why tariff changes would not be necessary.

---

<sup>11</sup> NYISO transmittal letter at f/n 14.

The Commission orders:

(A) NYISO's proposal to reduce congestion rent shortfalls is accepted, effective February 2, 2004.

(B) NYISO is required to file, within 30 days of the date of this order, a compliance filing reflecting the tariff changes discussed in the body of this order.

(C) NYISO is directed to file a report regarding the Congestion Rent Shortfall reduction methodology or before December 1, 2004 as discussed in the body of this order.

By the Commission.

( S E A L )

Linda Mitry,  
Acting Secretary.