

April 28, 2005

**BY HAND**

The Honorable Magalie R. Salas, Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, DC 20426

New York Independent System Operator, Inc.'s Filing of Tariff Revisions to its Open Access Transmission Tariff and Market Administration and Control Area Services Tariff Proposing to Increase Eligibility for the Special Market Rules Applicable to Generators Serving the New York City Steam Distribution System from 365 MW to 499 MW

Dear Ms. Salas:

Pursuant to Section 205 of the Federal Power Act ("FPA"), the New York Independent System Operator, Inc. ("NYISO") hereby submits revisions to its Open Access Transmission Tariff ("OATT") and its Market Administration and Control Area Services Tariff ("Services Tariff").<sup>1</sup> These proposed changes would increase from 365 MW to 499 MW the applicability of special balancing rules and the exemption from undergeneration penalties to generation supplying the New York City steam distribution system. The NYISO requests an effective date of May 1, 2005 for these tariff amendments. These tariff amendments have been approved unanimously by the Management Committee.

**I. Documents Submitted**

The NYISO submits the following documents:

1. This filing letter;
2. Clean tariff sheets reflecting the revisions discussed herein ("Attachment I");

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<sup>1</sup> Capitalized terms not otherwise defined herein have the meaning ascribed to them in Article 1 of the OATT or Article 2 of the Services Tariff, as appropriate.

3. Redlined tariff sheets reflecting the revisions discussed herein (“Attachment II”);  
and
4. A form of *Federal Register* Notice (“Attachment III”).

## **II. Copies of Correspondence**

Copies of correspondence concerning this filing should be served on:

Robert E. Fernandez, General Counsel and Secretary  
Elaine D. Robinson, Director, Regulatory Affairs  
Mollie Lampi, Assistant General Counsel  
Karen Georgenson Gach, Esq.  
New York Independent System Operator, Inc.  
290 Washington Ave. Extension  
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kgach@nyiso.com

## **III. Service**

As it has done with numerous other filings, the NYISO will electronically serve a copy of this filing on the official representative of each of its customers, on each participant in its stakeholder committees, on the New York State Public Service Commission and on the New Jersey Board of Public Utilities. The NYISO will serve the Pennsylvania Public Utility Commission with a hard copy of this filing, as requested by that agency.

## **IV. Background**

The NYISO’s Tariffs currently apply special balancing rules and an exemption from undergeneration penalties to 365 MW of capacity from units supplying the New York City steam distribution system due to the operating characteristics of that capacity. Historically, 365 MW was the entire capacity of the generating units dedicated to the steam system. The steam distribution system is a utility service operated by Consolidated Edison Company of New York, Inc. (“Con Ed”) and regulated by the New York State Public Service Commission under Article 2 of the New York Public Service Law. The

Federal Energy Regulatory Commission (“FERC”) approved the current exemption level in Docket Nos. ER01-2251-000 and ER01-2251-001.<sup>2</sup>

The special balancing rules and the exemption are necessary because of the unique operating characteristics of the units serving Con Ed’s steam system. Con Ed dispatches these units to meet steam customers’ demand. Electricity, a byproduct of this steam production, is sold by Con Ed to the NYISO grid. The greater the steam demand, the greater the electric output. The electric output of these units, therefore, does not follow the NYISO’s dispatch schedule either on a five minute basis or as a fixed schedule for the next hour. Operating these units to follow the NYISO’s basepoint signals could require the units serving the steam system to produce too much or too little steam, thereby jeopardizing the reliability of service to the steam customers.<sup>3</sup>

Without the Tariffs’ special balancing rule and penalty exemption, the NYISO’s market rules would impose unavoidable financial harm on Con Ed for selling the electricity byproduct of these facilities to the grid. Specifically, units that generate less Energy than scheduled by the NYISO, by more than three percent of their total capacity, pay a penalty calculated as the product of the real-time price of regulation and the Energy scheduled but not delivered. Further, generators are not paid for Energy produced in excess of three percent of their maximum capacity above the output scheduled by the NYISO. These tariff rules were adopted to incentivize electric generating facilities to follow the basepoint signals sent by the NYISO,<sup>4</sup> something these units cannot do with or without the incentive.

Con Ed is replacing two of the three units serving its steam distribution system with new, more efficient units in a project known as the East River Repowering Project (“ERRP”).<sup>5</sup> The increased efficiency resulting from the ERRP will produce additional

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<sup>2</sup> *New York Independent System Operator, Inc.*, 96 FERC ¶ 61,112 (2001); *New York Independent System Operator, Inc.*, Docket No. ER01-2251-001, unpublished letter order (October 3, 2001). In the NYISO’s compliance filing in Docket No. ER01-2251-001, the NYISO submitted rationale for this exemption. See NYISO Compliance Filing, dated August 28, 2001, Filing Letter at 5-6.

<sup>3</sup> Con Ed can reconfigure its steam system to provide the NYISO with the output of these units in the event of a system emergency.

<sup>4</sup> See *Central Hudson Gas & Electric Corp.*, 86 FERC ¶ 61,062, 61,226 (1999).

<sup>5</sup> The New York State Board on Electric Generation Siting and the Environment approved the ERRP and issued a Certificate for the project under Article X of the PSL. Case 99-F-1314, *Application of Consolidated Edison Company of New York, Inc. for a Certificate of Environmental Compatibility and Public Need to Repower its East River Generating Station*, Opinion and Order Granting Certificate of Environmental

electric capacity of 134 MW, although the steam capacity will not change. Therefore, the total electric capacity of the units serving Con Ed's steam distribution system when both new units are operational will be 499 MW.

The tariff changes proposed herein would increase from 365 MW to 499 MW the applicability of special balancing rules and the exemption from undergeneration penalties so that they would continue to apply to those units' total maximum electric capacity. Without the increase, Energy produced from 134 MW of capacity serving Con Ed's steam distribution system could be subject to substantial and unavoidable financial penalties. The increase in the exemption is warranted to accommodate the increased electric capacity of units whose electric generation will continue to be a byproduct of their primary function, which is to service a regulated steam distribution system.

#### **V. Proposed Tariff Revisions**

The proposed tariff revisions increase the number of MW subject to the special balancing rules and exempted from undergeneration penalties so that the total electric capacity of the units serving Con Ed's steam distribution system will be exempt. Specifically, the NYISO proposes to amend Section 5(ii) of Attachment J to the OATT to replace the designated 365 MW with 499 MW. The NYISO proposes to make the same amendments to Section 4.5(ii) of the Services Tariff and Section 3.0(ii) of Rate Schedule 3-A of the Services Tariff.

#### **VI. Requisite Stakeholder Approval**

On April 6, 2005, the tariff changes proposed herein were approved by Market Participants through the Management Committee. The motion to make the proposed changes passed unanimously at the Management Committee, with some abstentions.

#### **VII. Effective Date and Request for Waiver of Notice Period**

The NYISO requests a waiver of the Commission's notice requirements so that the proposed tariff changes may become effective on May 1, 2005. Good cause exists to grant this waiver. One of the ERRP units became operational in April, and the second will be operational prior to June 1, 2005. Until the tariff revisions proposed herein are effective, Con Ed will not have the benefit of the existing exemptions for the full capacity of the units serving its steam distribution system and will, therefore, be subject to financial harm it cannot avoid. The motion approved by the Market Participants at the Management Committee meeting on April 6, 2005 contemplated an effective date for the proposed tariff changes of no later than May 1, 2005.

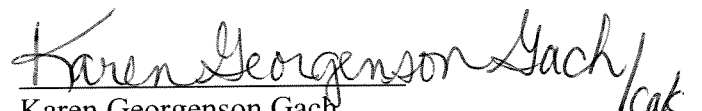
**VIII. Federal Register Notice**

A form of *Federal Register* Notice is provided herewith. A diskette of the Notice is also provided in Microsoft Word format.

**IX. Conclusion**

The NYISO respectfully requests that the Commission accept the amended tariff sheets filed herein with an effective date of May 1, 2005.

Respectfully submitted,

  
Karen Georgenson Gach  
(518) 356-8875

cc: Daniel L. Larcamp, Room 8A-01, Tel. (202) 502-6700  
Anna V. Cochrane, Room 81-11, Tel. (202) 502-6357  
Connie N. Caldwell, Room 52-55, Tel. (202) 502-6489  
Michael A. Bardee, Room 101-09, Tel. (202) 502-8068

Attachments

ATTACHMENT I

also use Decremental Bids supplied by Transmission Customers using External Generators to supply Wheels-Through to determine the amount of Energy these Generators are scheduled to produce in the RTC<sub>15</sub>, which, in turn, will determine the Transmission Service scheduled in the RTC to support those Transactions.

The amount of Transmission Service scheduled hour-ahead in the RTC for Transactions supplied by one of the following Generators shall retroactively be set equal to that Generator's actual output in each RTD interval:

- (i) Generators providing Energy under existing contracts (including PURPA contracts) in which the power purchaser does not control the operation of the supply source but would be responsible for penalties for being off-schedule;
- (ii) Existing topping turbine Generators and extraction turbine Generators producing electric Energy resulting from the supply of steam to the district steam system located in New York City (LBMP Zone J) and/or topping or extraction turbine Generators utilized in replacing or repowering existing steam supplies from such units (in accordance with good engineering and economic design) that cannot follow schedules, up to a maximum total of 499 MW of such units; and

- steam system located in New York City (LBMP Zone J) in operation on or before November 18, 1999 and/or topping or extraction turbine Generators utilized in replacing or repowering existing steam supplies from such units (in accordance with good engineering and economic design) that cannot follow schedules, up to a maximum total of 499 MW of such units; and
- (iii) Existing intermittent (i.e., non-schedulable) renewable resource Generators in operation on or before November 18, 1999 within the NYCA, plus up to an additional 500 MW of such Generators.

This procedure shall not apply to a Generator for those hours it has bid in a manner that indicates it is available to provide Regulation Service or Operating Reserves.

In subsections A, B, C, D, E and F of this Section 4.4.5, references to “scheduled” Energy injections and withdrawals shall encompass injections and withdrawals that are scheduled Day-Ahead, as well as injections and withdrawals that occur in connection with real-time Bilateral Transactions. In subsections A, C, D and F of this Section 4.4.5, references to Energy Withdrawals and Energy Injections shall not include Energy Withdrawals or Energy Injections in Virtual Transactions.

Generators that are providing Regulation Service shall not be subject to the real-time Energy market settlement provisions set forth in this Section, but shall instead be subject to the Energy settlement rules set forth in Section 6.0 of Rate Schedule 3 of this ISO Services Tariff.

Issued by: Mark S. Lynch, President  
Issued on: April 28, 2005

Effective: May 1, 2005



applies to the interval for which Regulation Service was provided in the Real-Time Market, or, if appropriate, the Day-Ahead Market.

In cases in which the Energy Difference that would be calculated using the procedure described above is less than the tolerance set forth in the ISO Procedures, the ISO shall set the Energy Difference for that interval equal to zero.

### **3.0 Exemptions**

The following types of Generator shall not be subject to persistent undergeneration charges, or, if they are restored by the ISO, to performance charges:

- (i) Generators providing Energy under contracts (including PURPA contracts), executed and effective on or before November 18, 1999, in which the power purchaser does not control the operation of the supply source but would be responsible for payment of the persistent undergeneration or performance charge;
- (ii) Existing topping turbine Generators and extraction turbine Generators producing electric Energy resulting from the supply of steam to the district steam system in operation on or before November 18, 1999 and/or topping or extraction turbine Generators utilized in replacing or repowering existing steam supplies from such units (in accordance with good engineering and economic design) that cannot follow schedules, up to a maximum total of 499 MW of such units;
- (iii) Existing intermittent (i.e., non-schedulable) renewable resource Generators within the NYCA in operation on or before November 18, 1999, plus up to an additional 500 MW of such Generators; and

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ATTACHMENT II

also use Decremental Bids supplied by Transmission Customers using External Generators to supply Wheels-Through to determine the amount of Energy these Generators are scheduled to produce in the RTC<sub>15</sub>, which, in turn, will determine the Transmission Service scheduled in the RTC to support those Transactions.

The amount of Transmission Service scheduled hour-ahead in the RTC for Transactions supplied by one of the following Generators shall retroactively be set equal to that Generator's actual output in each RTD interval:

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- (ii) Existing topping turbine Generators and extraction turbine Generators producing electric Energy resulting from the supply of steam to the district steam system located in New York City (LBMP Zone J) and/or topping or extraction turbine Generators utilized in replacing or repowering existing steam supplies from such units (in accordance with good engineering and economic design) that cannot follow schedules, up to a maximum total of 365-499 MW of such units; and

steam system located in New York City (LBMP Zone J) in operation on or before November 18, 1999 and/or topping or extraction turbine Generators utilized in replacing or repowering existing steam supplies from such units (in accordance with good engineering and economic design) that cannot follow schedules, up to a maximum total of ~~365~~499 MW of such units; and

- (iii) Existing intermittent (i.e., non-schedulable) renewable resource Generators in operation on or before November 18, 1999 within the NYCA, plus up to an additional 500 MW of such Generators.

This procedure shall not apply to a Generator for those hours it has bid in a manner that indicates it is available to provide Regulation Service or Operating Reserves.

In subsections A, B, C, D, E and F of this Section 4.4.5, references to “scheduled” Energy injections and withdrawals shall encompass injections and withdrawals that are scheduled Day-Ahead, as well as injections and withdrawals that occur in connection with real-time Bilateral Transactions. In subsections A, C, D and F of this Section 4.4.5, references to Energy Withdrawals and Energy Injections shall not include Energy Withdrawals or Energy Injections in Virtual Transactions.

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- (ii) Existing topping turbine Generators and extraction turbine Generators producing electric Energy resulting from the supply of steam to the district steam system in operation on or before November 18, 1999 and/or topping or extraction turbine Generators utilized in replacing or repowering existing steam supplies from such units (in accordance with good engineering and economic design) that cannot follow schedules, up to a maximum total of ~~365~~499 MW of such units;
- (iii) Existing intermittent (i.e., non-schedulable) renewable resource Generators within the NYCA in operation on or before November 18, 1999, plus up to an additional 500 MW of such Generators; and

Issued by: ~~William J. Museler~~Mark S. Lynch, President  
Issued on: ~~January~~April 28, 2005

Effective: ~~February~~May 1, 2005

Filed to comply with order of the Federal Energy Regulatory Commission, Docket No. ER04-230-000, *et. al.*, issued February 11, 2004, 106 FERC ¶ 61,111 (2004).

ATTACHMENT III

**UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

New York Independent System Operator, Inc. )                      Docket Nos. ER05-

NOTICE OF FILING

Take notice that on April 28, 2005, the New York Independent System Operator, Inc. ("NYISO") filed revisions to its Open Access Transmission Tariff ("OATT") and its Market Administration and Control Area Services Tariff ("Services Tariff"). These proposed changes would increase from 365 MW to 499 MW the applicability of special balancing rules and the exemption from undergeneration penalties to generation supplying the New York City steam distribution system. The NYISO has requested an effective date of May 1, 2005 for these revised tariff sheets.

The NYISO has electronically served a copy of this filing on the official representative of each of its customers, on each participant in its stakeholder committees, and on the New York State Public Service Commission. The NYISO has also served the electric utility regulatory agencies of New Jersey and Pennsylvania.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, D.C. There is an "eSubscription" link on the web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Comment Date: 5:00 pm Eastern Time on (insert date).

Magalie R. Salas  
Secretary