

100 FERC ¶ 61, 182
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

August 9, 2002

In Reply Refer to:
Docket Nos. ER00-3591-011,
ER00-1969-013, ER00-3038-006,
EL00-70-007, and
ER02-2081-000

Hunton & Williams,
Attn: Arnold H. Quint
Attorney for New York Independent System Operator, Inc.
1900 K Street, N.W.
Washington, D.C. 20006

Dear Mr. Quint:

1. On May 22, 2002, in Docket Nos. ER00-3591-011, ER00-1969-013, ER00-3038-006, and EL00-70-007, on behalf of the New York Independent System Operator, Inc. (NYISO), you submitted revised sheets to NYISO's Market Services and Open Access Transmission Tariffs in compliance with an order issued by the Commission on April 29, 2002.¹ On June 12, 2002, in Docket No. ER02-2081-000, on behalf of NYISO, you submitted proposed revised sheets to NYISO's Market Services and Open Access Transmission Tariffs to clarify the method by which NYISO calculates the price of energy with respect to fixed block generation. In the April 29 order, the Commission addressed NYISO's request for clarification that fixed block generators could set day-ahead energy market clearing prices; under the hybrid rule approved by the Commission, fixed block generators can only set real-time energy market clearing prices.² The Commission rejected NYISO's request but held that its denial was without prejudice to NYISO filing under Section 205 of the FPA a proposal for calculating day-ahead market clearing prices for fixed block generators due to changed circumstances. The Commission held that, if NYISO made such a filing, it should present evidence that supports its conclusion that the hybrid rule has an adverse impact on the day-ahead market.

¹See New York Independent System Operator, Inc., 99 FERC ¶ 61,126 (2002).

²See New York Independent System Operator, Inc., et al., 96 FERC ¶ 61,080 at 61,347 (2001).

2. Notice of NYISO's compliance filing was published in the Federal Register, 67 Fed. Reg. 37,798 (2002), with comments, interventions, and protests due on or before June 5, 2002. None was filed. Notice of NYISO's filing in Docket No. ER02-2081-000 was published in the Federal Register, 67 Fed. Reg. 42,770 (2002), with comments, protests, and motions to intervene due on or before July 3, 2002. On June 28, 2002, Independent Power Producers of New York filed a motion to intervene and comments. On July 2, 2002, Dynegy Power Marketing, Inc., filed a motion to intervene and comments. On July 3, 2002, NRG Companies, KeySpan-Ravenswood, LLC, Member Systems, and Reliant Energy Power Generation, Inc., filed motions to intervene and comments. Also on July 3, 2002, Mirant Americas Energy Marketing, LP, Mirant New York, Inc., Mirant Bowline, LLC, Mirant Lovett, LLC, and Mirant NY-Gen, LLC, filed a motion to intervene and comments.

3. By its revisions in ER02-2081-000, NYISO proposes certain clarifications to its tariffs regarding the use of fixed block units in the day-ahead market. The revisions would permit fixed block units to set the day-ahead prices, but it would also clarify why fixed block generators are called upon by the Security Constrained Unit Commitment (SCUC) software. Specifically, the revisions set forth the passes, or sequence of runs, conducted by the SCUC software in which it evaluates different criteria -- such as reliability forecasts, bid-in load, local constraints, etc., -- to ensure that there is enough generation scheduled to meet load. NYISO states that these clarifications would address the concern that NYISO's tariffs do not provide that fixed block units dispatched in the day-ahead market can set day-ahead prices. NYISO requests that the Commission grant an effective date of May 1, 2001, in order to provide continuity in the manner in which NYISO has been making these calculations.

4. In ER02-2081-000, NYISO also provides supplementary revisions to its tariffs and requests approval for them only if, it states, the Commission deems them necessary. Under the supplementary revisions, when fixed block units are scheduled in the day-ahead market, more economic units would no longer be backed down to accommodate the additional output of those fixed block units. Instead, NYISO proposes to keep the more economic units scheduled, to buy up the additional fixed block capacity above what is necessary, and resell it in the real-time market if possible. If the capacity can be resold, then NYISO will use the proceeds to pay down the cost of Rate Schedule 1 charges to customers state-wide. If the capacity cannot be resold, NYISO proposes to recover its cost from customers state-wide under Rate Schedule 1 of its Open Access Transmission Tariff. Should the Commission deem these additional revisions necessary, NYISO requests an effective date of 90 days after the Commission accepts them.

5. NYISO argues that there are a number of severe, adverse impacts associated with implementing a rule that precludes fixed block generators from setting day-ahead market clearing prices. First, NYISO claims that the rule would distort price signals because day-ahead prices would be artificially low if fixed block generators are needed to meet load, but their bids cannot set the price.³

³NYISO claims that there were 620 hours between May 1, 2001, and April 30, 2002,

Second, NYISO claims that market participants' bidding incentives would be impacted because, if the market-clearing price is below that used for settlements (where a fixed block unit is paid a price higher than the market-clearing price through uplift payments), then some participants may bid at the expected clearing price rather than at their marginal costs. Third, NYISO claims that the rule would require substantial alterations to its mitigation measures because of the changed bidding incentives and because fixed block generation would be effectively exempted from them if their bids do not trigger the impact test of the Automated Mitigation Measures.⁴ Fourth, NYISO claims that there would be significant cost-shifting among New York consumers as the higher bid prices of fixed block generators would be recovered state-wide as uplift costs rather than through LBMP. Finally, NYISO argues that the rule would require substantial revisions to prior day-ahead settlements dating back over a year if it were effective retroactively.⁵

6. All of the intervenors support the substance of NYISO's proposed revisions to its tariffs and also agree that the Commission should accept the supplementary revisions if it deems necessary.

where fixed block generators set the clearing price in the day-ahead market and other generation was backed down to accommodate their output. See Harvey-Hartshorn affidavit at 12-13.

⁴Under the NYISO's Automated Mitigation Procedures, a bidder may not be mitigated if its bid does not have an impact on the market-clearing price. See New York Independent System Operator, Inc., et al., 99 FERC ¶ 61,246 at 62,036-37 (2002).

⁵The hybrid rule was accepted to become effective May 1, 2001. See New York Independent System Operator, Inc., et al., 96 FERC ¶ 61,080 (2001).

Member Systems argue that the Commission should reject the supplementary revisions and requests that NYISO make certain revisions to the primary revised sheets for purposes of clarity. Member Systems request that NYISO: 1) clarify that the prices used to settle transactions day-ahead will be those calculated in Pass 5 of the SCUC software; 2) clarify that schedules are determined in Pass 6 of the SCUC software; 3) clarify that fixed block generation will only set LBMPs when they are selected in economic merit; 4) clarify that Passes 2 and 3 of the SCUC software are compared for purposes of determining uplift that is allocated state-wide versus locally; 5) clarify that Pass 4 is used for operational purposes only and not for setting prices; and 6) correct two errors on sheets 231 and 452.01.

7. We accept NYISO's tariff revisions, subject to NYISO correcting its tariff sheets to respond to Member Systems' requested clarifications. These corrections will better distinguish the SCUC passes from each other and help clarify when fixed block generators would be scheduled. With these corrections, NYISO should be in full compliance with our earlier direction to explain this aspect of its scheduling practices.⁶

8. We find persuasive NYISO's arguments that precluding fixed block generation from setting day-ahead prices will have adverse effects on its markets at this juncture. Therefore, we accept NYISO's revisions, effective May 1, 2001, as requested, to permit fixed block generation to set day-ahead market clearing prices when they are needed to meet load, avoid the operation of higher cost units or satisfy the requirements of the North Eastern Reliability Council.⁷ We will be addressing the

⁶See id., stating "we also direct NYISO to file revised tariff sheets to add language that provides a description of the multi-pass process that will be used by NYISO in determining whether a fixed block unit is necessary to meet load and is economic."

⁷In light of this action, we will dismiss the compliance filing filed in Docket No. ER00-3591-011, et al., as moot.

pricing of fixed block generators in day-ahead markets in our Standard Market Design proceeding⁸ and NYISO will have to satisfy the requirements of our final rule there.

⁸The Standard Market Design proceeding is the subject of RM01-12-000.

9. We decline to accept the supplementary revisions. NYISO has not justified these supplementary revisions and all intervenors do not appear in agreement on their necessity. As NYISO points out, their potential effect on state-wide uplift costs is unclear, but there is a possibility that they may increase those costs.⁹ One of our primary concerns with the issue of fixed block generation has been the uncompensated opportunity costs incurred by a generator backed down to accommodate the fixed block. But we are reluctant to approve this provision that may increase state-wide uplift costs, especially when it has not been shown that those costs cannot be allocated to the entities that benefit from those services,¹⁰ and because we will be addressing lost opportunity costs for generators backed down to accommodate fixed block generators in the Standard Market Design proceeding.

By direction of the Commission.

Linwood A. Watson, Jr.,
Deputy Secretary.

⁹See Harvey-Hartshorn affidavit at 17 ("there were 38,850 MW of fixed block unit output [...] in the day-ahead market over the period May 1, 2001, through April 30, 2002. If day-ahead prices exceeded real-time prices by an average of \$5/MWh, the change in uplift costs associated with buying an additional 38,850 MW of backed-down generation at day-ahead prices instead of real-time prices would be an increase of about \$193,000 over the year, or about \$22/hour.")

¹⁰See Central Hudson Gas & Electric Corp., et al., 86 FERC ¶ 61,062 at 61,215, order on reh'g and clar'n, 88 FERC ¶ 61,138 (1999) (directing NYISO to revise its funding mechanism [for, among other things, uplift payments] to allocate costs for non-transmission services to the parties that benefit from those other services).