

October 31, 2008

BY HAND DELIVERY

Kimberly D. Bose
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

Re: New York Independent System Operator, Inc.'s Request to Amend its Tariffs to Preclude the Scheduling of Certain External Transactions, for Shortened Notice and Comment Periods, and for Expedited Commission Action; Docket No. ER08-1281-____.

Dear Secretary Bose:

Pursuant to Section 205 of the Federal Power Act¹ and the Federal Energy Regulatory Commission's ("Commission's") August 21, 2008 Order in Docket No. ER08-1281-000 ("August 21 Order")², the New York Independent System Operator, Inc. ("NYISO"), with the concurrence of its Management Committee³ and at the direction of its Board of Directors, hereby submits its *Request to Amend its Tariffs to Preclude the Scheduling of Certain External Transactions, for Shortened Notice and Comment Periods, and for Expedited Commission Action*, and respectfully requests that the Commission permit the amendments to Attachment J to its Open Access Transmission Tariff ("OATT"), and to Attachment B to its Market Administration and Control Area Services Tariff ("Services Tariff") that were temporarily accepted in the Commission's August 21 Order (at PP. 2, 20) to become "permanently"⁴ effective.

For reasons explained in greater detail below, consistent with the decision of its Management Committee, the NYISO is not requesting that the Commission extend the duration of the revisions to Section 15.1 of the NYISO's OATT that were temporarily accepted in the

¹ 16 U.S.C. § 824d (2007).

² *New York Independent System Operator, Inc.*, 124 FERC ¶ 61,174.

³ Capitalized terms not otherwise defined herein have the meaning ascribed to them in the NYISO's OATT.

⁴ When the NYISO says "permanently" effective in this filing it really means "effective until the NYISO's Tariffs are revised in accordance with either Section 205 or Section 206 of the Federal Power Act." As explained below, consistent with Paragraph 28 of the Commission's August 21 Order the NYISO has begun the process of working with its Market Participants to develop potential alternative solutions to loop-flow concerns. The NYISO intends to engage its sister ISOs and RTOs around Lake Erie in discussions on loop-flow issues in 2009.

Commission's August 21 Order. Clean and redlined revised Tariff sheets removing the modification to Section 15.1 of the OATT that were proposed by the NYISO on July 21, 2008 and temporarily permitted to become effective by the Commission are included as **Attachment A** to this transmittal letter. So long as the Commission does not act to continue the effectiveness of the temporary revisions to Section 15.1 of the NYISO's OATT these revisions will expire on November 18, 2008.

The NYISO requests expedited consideration of this filing so that the revisions to Section 3.6 of Attachment B to the NYISO's Services Tariff and to Section 5.0 of Attachment J to the NYISO's OATT that the Commission permitted to become temporarily effective in its August 21 Order, remain in place, without a gap in their effectiveness, following the November 18, 2008 expiration of the initial/temporary effective period. In accordance with Section 35.11 of the Commission's Regulations, the NYISO requests waiver of the 60-day prior notice period set forth in Section 205(d) of the Federal Power Act and Section 35.3 of the Commission's Regulations.⁵ The NYISO also requests that the Commission shorten or waive the comment period in order to permit it to act on the NYISO's filing expeditiously. Unless it is instructed to do otherwise by the Commission, the NYISO will continue to apply the prohibitions set forth in Section 3.6 of Attachment B to its Services Tariff and Section 5.0 of Attachment J to its OATT after November 18, 2008.

Should the Commission determine it must reject the NYISO's request that its temporarily effective revisions to Sections 3.6 of Attachment B to its Services Tariff and Section 5.0 of Attachment J to its OATT, be permitted to become "permanently" effective, the NYISO respectfully requests that any such rejection be prospective in nature. If the NYISO continues implementing the identified Tariff rules post November 18, 2008, it will not be possible for the NYISO to retroactively go back and undo the effect of its implementation on already completed market outcomes. With advance notice, the NYISO can prospectively disable the software it uses to enforce the proposed new market rule if the Commission instructs it to do so.

I. Description of Proposed Tariff Revisions and Justification

The NYISO proposes to continue the effectiveness of the Tariff amendments that preclude the scheduling of External Transactions over the following eight "Scheduling Paths"⁶:

1. External Transactions that (a) exit the New York Control Area ("NYCA") at the NYISO's Proxy Generator Bus that represents the Interface between the NYCA and the Control Area operated by Ontario's Independent Electric System Operator

⁵ 16 U.S.C. § 824d(d); 18 C.F.R. §§ 35.3, 35.11 (2008).

⁶ A "Scheduling Path" is the transmission service arrangements reserved by the purchasing or selling entity (as appropriate) for an External Transaction.

- (“IESO”), and (b) sink in the Control Area operated by PJM Interconnection, LLC (“PJM”);
2. External Transactions that (a) exit the NYCA at the NYISO’s Proxy Generator Buses that represent the NYCA’s common border with the PJM Control Area,⁷ and (b) sink in the IESO Control Area;
 3. External Transactions that (a) enter the NYCA at the Proxy Generator Buses that represent the NYCA’s common border with the PJM Control Area, and (b) source from the IESO Control Area;
 4. External Transactions that (a) enter the NYCA at the Proxy Generator Bus that represents the NYCA’s Interface with the IESO Control Area, and (b) source from the PJM Control Area;
 5. Wheels Through the NYCA that (a) enter the NYCA at the Proxy Generator Buses that represent the NYCA’s common border with the PJM Control Area, and (b) sink in the Control Area operated by the Midwest Independent Transmission System Operator, Inc. (“MISO”);
 6. Wheels Through the NYCA that (a) exit the NYCA at the Proxy Generator Buses that represent the NYCA’s common border with the PJM Control Area, and (b) source from the MISO Control Area;
 7. Wheels Through the NYCA that (a) enter the NYCA at the Proxy Generator Bus that represents the NYCA’s Interface with the IESO Control Area, and (b) sink in the MISO Control Area; and
 8. Wheels Through the NYCA that (a) exit the NYCA at the Proxy Generator Bus that represents the NYCA’s Interface with the IESO Control Area, and (b) source from the MISO Control Area.

For each of the eight paths over which the NYISO is foreclosing scheduling, there is (and there will continue to be) a more direct Scheduling Path available to Market Participants. For example, although the NYISO is proposing to preclude Market Participants from scheduling Exports to the PJM Control Area at the NYISO’s Proxy Generator Bus that represents the NYCA’s Interface with IESO, the NYISO will still permit Market Participants to schedule Exports to the PJM Control Area at the NYISO’s Proxy Generator Buses that represent the common border between the NYCA and the PJM Control Area. Similarly, although the NYISO proposes to prohibit the wheeling of power sourcing at the PJM Control Area through the NYCA (and IESO Control Area) with the MISO as its destination, Market Participants will still be able

⁷ Transactions can be scheduled directly between the New York and PJM control areas at both the PJM Keystone and Neptune Proxy Generator Buses.

to sell power directly from PJM to the MISO by scheduling a transaction between those two RTOs at their common borders.

Until such time as the Control Areas around Lake Erie are able to more closely conform actual power flows to scheduled power flows,⁸ the path by which Energy that is scheduled to flow over one of the eight identified Scheduling Paths actually moves from source to sink would bear little relation to the Scheduling Path. Due in large part to the scheduling of transactions via circuitous Scheduling Paths around Lake Erie, in early to mid 2008 divergence between scheduled and actual inter-Control Area flows had increased the level of unscheduled power flows moving through the interconnected NYISO, MISO, PJM and IESO Control Areas and was significantly exacerbating west-to-east congestion in the NYCA. For the first 21 days of July, 2008, average hourly Lake Erie circulating power flows were 457 MW in a clockwise direction. Following the NYISO's implementation of the eight-path prohibition on July 22, 2008, average hourly Lake Erie circulating power flows from July 23, 2008 to October 20, 2008 have been 127 MW in a counter-clockwise direction. Over the past 30 days, hourly flows have averaged approximately 200 MW in a counter-clockwise direction.

Although the solution that the NYISO implemented on July 22, 2008 appears to have, on average, reduced both the magnitude of Lake Erie circulating power flows and their adverse impacts on the NYCA,⁹ the NYISO does not expect that Commission acceptance of its proposed Tariff revision will control or eliminate all Lake Erie circulation.¹⁰ Rather, NYISO expects that precluding scheduling over the eight identified Scheduling Paths will reduce Lake Erie circulation. Until there are adequate operational controls in place to ensure that actual and scheduled flows around Lake Erie are reasonably closely aligned,¹¹ or until the NYISO working with its Market Participants and neighboring ISOs and RTOs is able to develop a more effective solution, the NYISO proposes to continue to limit potential Lake Erie circulation by precluding the scheduling of External Transactions over the eight identified Scheduling Paths. In accordance with paragraph 28 of the Commission's August 21 Order (language from which was incorporated into the Management Committee's motion approving the Tariff revisions proposed

⁸ The commissioning and operation of all four of the Ontario – Michigan Phase Angle Regulators (“PARs”) by ITC Transmission and Hydro One Networks is a necessary prerequisite to more closely conform actual power flows to scheduled power flows around Lake Erie.

⁹ As the NYISO explained in its July 21, 2008 filing, significant unscheduled Lake Erie circulating power flows are undesirable to all of the Control Areas that surround Lake Erie because unscheduled Lake Erie power flows can aggravate transmission constraints, result in inappropriate costs to consumers, or raise reliability concerns in any/all of the Control Areas that surround Lake Erie.

¹⁰ Even with the NYISO's eight scheduling path prohibition in place, Lake Erie circulating power flows continue to be unpredictable and volatile. In the July 23, 2008 to August 20, 2008 period, the NYISO has seen hourly average circulating power flows range from an extreme of 1194 MW in a clockwise direction, to the alternate extreme of 1637 MW in a counter-clockwise direction. Still, on average, circulating power flows around Lake Erie have been significantly reduced since the NYISO's July 22, 2008 implementation.

¹¹ The NYISO will revisit the need for the attached Tariff revisions once all four of the Ontario – Michigan PARs are operating and the NYISO determines that the PARs are effective in controlling Lake Erie circulation.

herein), the NYISO has already begun to work with its Market Participants and plans to engage neighboring ISOs and RTOs to develop potential additional and/or alternative solutions to reduce Lake Erie circulating power flows.

Rather than repeating the entire contents of its July 21, 2008 filing, which filing the Commission has already considered and ruled on, the NYISO incorporates the contents of its earlier filing in this request by reference. Until there are adequate operational controls in place to ensure that actual and scheduled flows around Lake Erie are reasonably closely aligned, or until the NYISO working with its Market Participants and neighboring ISOs and RTOs is able to develop an alternative solution, the NYISO expects that removing the Tariff prohibition against scheduling power via the eight circuitous Scheduling Paths identified in the NYISO's July 21, 2008 filing would result in an increase in circulating power flows around Lake Erie and a resumption of the undesirable market impacts described in its July 21, 2008 filing.

II. Documents Submitted

1. This filing letter;
2. Clean and redlined revised tariff sheets reflecting the change to Section 15.1 of the NYISO's OATT that will occur on November 19, 2008 when the revisions that the Commission temporarily accepted in its August 21 Order cease to be effective ("Attachment A"); and
3. A copy of the Management Committee Motion ratifying the revisions to Section 5.0 of Attachment J to the OATT and Section 3.6 of Attachment B to the Services Tariff ("Attachment B").

III. Copies of Correspondence

Communications regarding this proceeding should be addressed to:

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General Counsel

Elaine D. Robinson

Director of Regulatory Affairs

*Alex M. Schnell (person designated for receipt of service)

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IV. Reasons and Basis for this Filing

The reasons the NYISO proposed the revisions to Attachment B to its Market Services Tariff and Attachment J to its OATT are described in detail in the NYISO's July 21, 2008 filing in Docket No. ER08-1281-000; which filing is incorporated herein by reference. For the same reasons that the Commission temporarily accepted the Tariff revisions proposed in the NYISO's July 21, 2008 filing on an expedited basis in its August 21 Order, the Commission should act expeditiously to permit the continued effectiveness of the identified Tariff provisions until it is possible to identify, develop and implement a more effective solution.

V. Description of Proposed Tariff Changes

The NYISO proposes to leave in place (without any gap in effectiveness) the modifications to Section 5.0 of Attachment J to its OATT and Section 3.6 of Attachment B to its Services Tariff that the Commission's August 21 Order permitted to become temporarily effective commencing July 22, 2008. The revisions to section 5.0 of Attachment J to its OATT and Section 3.6 of Attachment B to its Services add a statement that the NYISO "shall not permit Market Participants to schedule External Transactions over the following eight scheduling paths," followed by a description of each of the eight paths identified on pages two and three of this filing letter. No changes to the relevant Tariff sheets are proposed, so clean and redlined versions of these Tariff sheets are not provided as part of this filing. The relevant Tariff sheets were provided in Attachments B and C to the NYISO's July 21, 2008 filing in Docket No. ER08-1281-000; which filing is incorporated herein by reference.

At the request of its Market Participants, and consistent with the decision of its Management Committee, the NYISO requests that the Commission permit the modifications to Section 15.1 of its OATT that were permitted to become temporarily effective commencing July 22, 2008, to expire on November 18, 2008. The revision to Section 15.1 of the NYISO's OATT clarified that the NYISO is not required to make Transmission Service available to a Transmission Customer "if its Tariffs provide to the contrary." The NYISO has agreed to requests by its Market Participants that it permit its changes to Section 15.1 of its OATT to expire because the NYISO does not believe that it is necessary for any such statement to be included in Section 15.1 of its OATT for the NYISO to possess adequate authority to reject requests to schedule External Transactions, or to curtail External Transactions in accordance with its Tariffs. While it may be possible to read some of the more general statements in Section 15.1 of the OATT as conflicting with provisions of the NYISO's Tariffs that permit it to reject or curtail transmission service requests, the NYISO is fully confident that if a potential conflict were presented to the Commission, the Commission would act quickly and appropriately to address the dispute.

VI. Update On Other Actions that the NYISO Asked the Commission to Consider Taking to Address Lake Erie Circulation in its July 21, 2008 Filing

A. The Commissioning and Effective Operation of the Ontario – Michigan Phase Angle Regulators to Address Lake Erie Circulation

The NYISO continues its earlier request that the commissioning of the fourth Phase Angle Regulators (“PARs”) at the Ontario — Michigan boundary occur expeditiously, and that MISO and IESO operate the PARs to better align their actual Control Area interchange power flows to their scheduled interchange, thereby reducing Lake Erie circulation.

B. Market Monitor Access to NERC Tag Information and Authority to Share Bidding and Scheduling Information Related to External Transactions

The Northeast Market Monitoring Units (NYISO, ISO-NE, Monitoring Analytics for PJM, Potomac Economics for MISO, and IESO) are working together to (i) identify the types of information they believe would enable them to more effectively carry out their mandates, and (ii) to develop clear rationales/bases for requesting enhanced access from the Commission and/or from the North American Electric Reliability Company (if and to the extent such requests are necessary). The group will seek input from a broader set of Market Monitoring Units and will work with the ISO/RTO Council and individual ISO/RTOs to implement any proposed changes and bring appropriate requests to the Commission for its consideration.

VII. Requested Effective Date and Request for Expedited Commission Action

For the reasons explained in Section IV. of this filing letter and in Section IV.C. of the NYISO’s July 21, 2008 filing letter, and in accordance with Section 35.11 of the Commission’s Regulations, the NYISO requests waiver of the 60-day prior notice period set forth in Section 205(d) of the Federal Power Act and Section 35.3 of the Commission’s Regulations¹² and permit its proposed Tariff revisions to continue their effectiveness post November 18, 2008. The NYISO also requests that the Commission shorten or waive the comment period in order to permit it to act on the NYISO’s filing expeditiously.

Good cause exists for the Commission to grant the requested waivers and act on an expedited basis because waiting the full sixty days to make the proposed Tariff revisions effective could leave the NYCA and neighboring Control Areas without any deterrent against the scheduling of External Transactions over Scheduling Paths that are not closely tied to the expected physical flow of Energy and that may adversely affect both market prices and the reliability of the interconnected transmission grid. Under the circumstances, it is entirely appropriate for the Commission to take expedited action in this proceeding.

¹² 16 U.S.C. § 824d(d); 18 C.F.R. §§ 35.3, 35.11 (2008).

Unless it is instructed to do otherwise by the Commission, the NYISO will continue to apply the rules that were temporarily added (effective from July 22, 2008 to November 18, 2008) to Section 3.6 of Attachment B to its Market Services Tariff, and in Section 5.0 of Attachment J to its OATT post November 18, 2008. Should the Commission determine it must reject the NYISO's proposed Tariff revisions, the NYISO respectfully requests that any rejection be prospective in nature. If the NYISO continues implementing its proposed Tariff rules after November 18, 2008 it will not be possible for the NYISO to retroactively go back and undo the effects of its implementation on already completed market outcomes. Given adequate advance notice (approximately three business days), the NYISO can prospectively disable the software it will use to enforce the proposed new market rule if the Commission instructs it to do so.

VIII. Stakeholder Process and Board of Directors Approval

The NYISO has worked with its stakeholders to obtain Management Committee ratification of the Tariff revisions that it filed under exigent circumstances on July 21, 2008 and that the Commission's August 21 order permitted to become temporarily effective. On September 25, 2008 the NYISO's Management Committee ratified the NYISO's proposed revisions to Section 3.6 of Attachment B to the NYISO's Market Services Tariff and to Section 5.0 of Attachment J to the NYISO's OATT. A copy of the Management Committee Motion that was approved without any dissenting votes is included as Attachment B to this transmittal letter. On October 21, 2008 the NYISO's Board of Directors authorized the NYISO to submit this filing.

IX. Service

The NYISO will electronically send a copy of or link to this filing to every party included on the Secretary's official service list in Docket No. ER08-1281-000, to the official representative of each of its Customers, to each participant on its stakeholder committees, to the New York Public Service Commission, to the electric utility regulatory agencies of New Jersey and Pennsylvania, and to PJM, MISO and IESO. In addition, the complete filing will be posted on the NYISO's website at www.nyiso.com. The NYISO will also make a paper copy available to any interested party that requests one. To the extent necessary, the NYISO requests waiver of the requirements of Section 35.2(d) of the Commission's Regulations (18 C.F.R. § 35.2(d) (2008)) to permit it to provide service in this manner.

X. Conclusion

For the reasons explained in this filing letter and in the NYISO's July 21, 2008 filing letter in Docket No. ER08-1281-000, the NYISO respectfully requests that the Commission: (a) permit to become permanently effective under Section 205 of the Federal Power Act the proposed revisions to Section 3.6 of Attachment B to the NYISO's Market Services Tariff and to Section 5.0 of Attachment J to the NYISO's OATT that were temporarily accepted for filing in the Commission's August 21 Order; and (b) permit the revisions to Section 15.1 of the NYISO's OATT to expire on November 19, 2008 (which will naturally occur in the absence of further Commission action to continue the effectiveness of these Tariff revisions).

Respectfully submitted,

/s/ Alex M. Schnell
Robert E. Fernandez, General Counsel
Alex M. Schnell
New York Independent System Operator, Inc.

October 31, 2008

ATTACHMENT A

Proposed Tariff Revisions OATT Section 15.1

(NYISO proposes to allow the revisions that were temporarily accepted on August 21, 2008 in Docket No. ER08-1281-000 to expire on November 19, 2008)

(clean and redlined versions)

14.7 Curtailment or Interruption of Service: The ISO reserves the right to Curtail, in whole or in part, Non-Firm Point-To-Point Transmission Service provided under the Tariff for reliability reasons when, an Emergency or other unforeseen condition threatens to impair or degrade the reliability of the NYS Transmission System. The ISO reserves the right to Interrupt, in whole or in part, Non-Firm Point-To-Point Transmission Service provided under this Tariff for economic reasons if the NYS Transmission System experiences Congestion. Where required, Curtailments or Interruptions will be made on a non-discriminatory basis to the transaction(s) that effectively relieve the Constraint, however, Non-Firm Point-To-Point Transmission Service shall be subordinate to Firm Point-to-Point Transmission Service and Network Integration Transmission Service. The ISO will provide advance notice of Curtailment or Interruption where such notice can be provided consistent with Good Utility Practice. The process of Curtailment of Non-Firm Point-To-Point Transmission Service for Imports, Exports, and Wheels Through may cause these non-firm transactions to incur incidental real-time Congestion Rents due to inter-Control Area Curtailment procedures.

15.0 Service Availability

15.1 General Conditions: ~~Unless its Tariffs provide to the contrary, t~~The ISO will provide Firm and Non-Firm Point-To-Point

14.7 Curtailment or Interruption of Service: The ISO reserves the right to Curtail, in whole or in part, Non-Firm Point-To-Point Transmission Service provided under the Tariff for reliability reasons when, an Emergency or other unforeseen condition threatens to impair or degrade the reliability of the NYS Transmission System. The ISO reserves the right to Interrupt, in whole or in part, Non-Firm Point-To-Point Transmission Service provided under this Tariff for economic reasons if the NYS Transmission System experiences Congestion. Where required, Curtailments or Interruptions will be made on a non-discriminatory basis to the transaction(s) that effectively relieve the Constraint, however, Non-Firm Point-To-Point Transmission Service shall be subordinate to Firm Point-to-Point Transmission Service and Network Integration Transmission Service. The ISO will provide advance notice of Curtailment or Interruption where such notice can be provided consistent with Good Utility Practice. The process of Curtailment of Non-Firm Point-To-Point Transmission Service for Imports, Exports, and Wheels Through may cause these non-firm transactions to incur incidental real-time Congestion Rents due to inter-Control Area Curtailment procedures.

15.0 Service Availability

15.1 General Conditions: The ISO will provide Firm and Non-Firm Point-To-Point

ATTACHMENT B

September 25, 2008
Management Committee Motion

Motion #2:

The Management Committee hereby ratifies the revisions to Attachment J (Section 5) of the OATT, and Attachment B (Section 3.6) of the Services Tariff that were filed with the Federal Energy Regulatory Commission ("FERC") on July 21, 2008 in Docket No. ER08-1281-000 and recommends that the New York Independent System Operator, Inc. ("NYISO") and its Board of Directors take such actions as may be necessary to continue indefinitely the effectiveness of these Tariff revisions.

The Management Committee does not ratify, and recommends that the revisions to Section 15.1 of the OATT that were filed with the Federal Energy Regulatory Commission on July 21, 2008 in Docket No. ER08-1281-000, and that were permitted to become temporarily effective by FERC, be permitted to expire on November 18, 2008.

In order to carry out FERC's recommendation that "the long term solutions to the loop-flow problem should be worked out through a collaborative process where all such issues may be fully considered," the Management Committee requests that the NYISO return to the October 22, 2008 Business Issues Committee meeting with a defined schedule (including milestones) for developing long term market solutions. If long-term solutions are ultimately agreed upon, the Management Committee further requests that the NYISO develop and provide a schedule to implement those solutions as expeditiously as possible.

Consistent with the NYISO's presentation to the Management Committee, it is the Management Committee's understanding that the NYISO will actively work with Market Participants through the Market Issues Working Group to determine whether there is a need to develop additional tariff provisions to discourage possible future manipulation of the markets it administers and to protect Market Participants from bearing the consequences of any future market manipulation.

Finally, following NYISO consultation with FERC staff, the Management Committee requests that the NYISO report on when it will be able to present to the Market Issues Working Group its analysis of the financial impact on the markets it administers of the scheduling practices that were the subject of its July 21, 2008 filing in FERC Docket No. ER08-1281-000.

(Motion passed by a majority show of hands with abstentions)

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service lists compiled by the Secretary in this proceeding in accordance with the requirements of Rule 2010 of the Rules of Practice and Procedure, 18 C.F.R. § 385.2010.

Dated at Rensselaer, New York this 31st day of October, 2008.

/s/ Alex M. Schnell _____

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