

UNITED STATES OF AMERICA 90 FERC ¶ 61,320  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: James J. Hoecker, Chairman;  
William L. Massey, Linda Breathitt,  
and Curt Hébert, Jr.

New York Independent System Operator, Inc.                      Docket No. ER00-1533-000

ORDER ACCEPTING FILING

(Issued March 29, 2000)

In New York Independent System Operator, Inc.,<sup>1</sup> the Commission accepted for filing Temporary Extraordinary Procedures (TEP) to address market design flaws, transitional abnormalities and severe operational difficulties that may have occurred at the commencement of New York Independent System Operator, Inc. (New York ISO) operations. New York ISO began operations November 18, 1999, and its Temporary Extraordinary Procedures authority expired on February 16, 2000. In the instant February 4, 2000 filing, New York ISO has requested a 90-day extension of the Temporary Extraordinary Procedures. New York ISO also has revised sections of the Temporary Extraordinary Procedures related to the settlement posting of the day-ahead market, the identification and correction of incorrectly determined prices, and reliability issues related to installed capacity units. New York ISO requests an effective date of February 17, 2000. For the reasons set forth below, the Commission accepts the New York ISO's filing with the requested effective date.

The New York ISO's Filing

The New York ISO argues that it needs an extension of the TEP in order to have the time needed to make software changes so that it will no longer be necessary to change prices due to software limitations, and so that the prices calculated by the software are consistent with the Commission-approved market design. The New York ISO restates its commitment to letting the market work, and to interfering as little as possible with the market.

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<sup>1</sup>88 FERC ¶ 61,228 (1999).

The New York ISO also has proposed certain modifications. First, the ISO does not seek authority to take extraordinary corrective actions (ECAs) in response to market power problems as it had in the original filing. Second, the ISO is not requesting an extension of the authority to employ prices other than the Commission-approved location based marginal prices (LBMP) pricing system. Third, the list of ECAs has been narrowed down to three possible actions: (1) the ability to post day-ahead market results as late as 1 PM on the day prior to the dispatch day; (2) the ability to recalculate prices in the event of a market design flaw or transitional abnormality (both events are defined in greater detail below); and (3) authority to ask units providing installed capacity (ICAP) to provide day-ahead market bids up to fifteen days into the future with the understanding that these ICAP units may change their day-ahead market bids at any time up to 5 AM on the day prior to the dispatch day.<sup>2</sup> Fourth, the New York ISO proposes to post notice of potential ECAs by 5 PM on the day after the dispatch day. Finally, the New York ISO proposes to post a description of any ECA 5 calendar days from the hour in question.

Similar to the previous TEP filing accepted by the Commission, the New York ISO proposes to use ECAs only if there is a transitional abnormality (defined as a situation in which a systemic equipment malfunction occurs that would prevent the dispatch of the system as contemplated by the market rules) or a market design flaw (defined as a market structure, market design, or implementation flaw giving rise to a situation in which market conditions or the application of ISO procedures would produce prices that would not be produced in a workably competitive market).

Moreover, the New York ISO commits to only taking an ECA if the problem cannot be addressed through revised ISO operations that do not require changes in ISO procedures and if the corrective measures are required immediately and must take effect before the New York ISO can begin or complete consultation with market participants and jurisdictional agencies to develop appropriate rule changes.

In its transmittal letter, the New York ISO cites its performance as evidence that it will not abuse its authority to undertake ECAs. It states that it has only been late once in posting day-ahead market information, and that price changes have only been necessary once in the day-ahead market, and have occurred in only 2.5 percent of all real-time dispatch intervals. Additionally, these price revisions have at times seen the price rise from the originally posted, incorrect price.

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<sup>2</sup>All units must have day-ahead market bids submitted by 5 AM on the day prior to the dispatch day. This was accepted by the Commission in the July 29 order.

Notice of Filing, Interventions, Protest, and Comments

Notice of the New York ISO's February 4, 2000 filing was published in the Federal Register, 65 Fed. Reg. 8357 (2000), with protests and motions to intervene due on or before February 25, 2000. Timely motions to intervene were filed by the Member Systems, Sithe Power Marketing, L.P., and Sithe/Independence Power Partners, L.P. (collectively, Sithe), PG&E Generating and PG&E Energy Trading-Power, L.P. (collectively, PG&E), and Dynegy Power Marketing, Inc. PG&E filed a protest and Sithe filed comments concerning the New York ISO's filing. On February 22, 2000, the Public Service Commission of the State of New York filed a statement of support for the New York ISO's filing. On March 13, 2000, the New York ISO filed a motion for permission to answer the motions for summary rejection in the filings of Sithe and PG&E.

Sithe and PG&E request that the Commission deny as unjustified and unnecessary New York ISO's request to extend its TEP authority in the case of market design flaws. Intervenors argue that the filing allows New York ISO broad, sweeping authority to intervene in the market when it detects possible market design flaws by initiating ECAs, *i.e.*, price recalculations. Intervenors state that if New York ISO recognizes market design flaws that would require it to adjust prices, then those flaws should be corrected in a permanent manner, which would eliminate the need for TEP authority.

If the Commission grants New York ISO an extension of its TEP authority, intervenors request that the Commission order revisions to New York ISO's proposal to be consistent with or similar to ISO New England's Market Rule 15.<sup>3</sup>

Sithe proposes that the New York ISO revise its proposal to shorten the time period for posting of price reviews and corrected prices in the case of market design flaws and transitional abnormalities, and that the Commission deny New York ISO's request to extend its posting deadline for the results of the day-ahead market.

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<sup>3</sup>New England Power Pool and ISO New England, Inc., 87 FERC ¶ 61,055 (1999). Market Rule 15 allowed ISO New England to implement ECAs to address market design and implementation flaws.

## Discussion

### Procedural Matters

Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (1999), the timely, unopposed motions to intervene of the Member Systems, Sithe, PG&E, and Dynegy Power Marketing, Inc. serve to make them parties to this proceeding. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. 385.213(a)(2) (1999), prohibits the filing of an answer to a protest unless otherwise permitted by the decisional authority. We are not persuaded to allow the New York ISO's answer.

### The New York ISO's Filing

The Commission accepts the revised TEP. We disagree with the intervenors who complain that the TEP grants the ISO wide, sweeping authority to change prices it does not like. We note that the New York ISO has modified the TEP to eliminate actions that respond to market power concerns.<sup>4</sup> The TEP allows the New York ISO to correct technical implementation errors and operational anomalies that do not allow the dispatch produced from the bidding algorithms. Though different in language from the revised ISO New England Market Rule 15, we envision the TEP as similar in operation. We recognize that the New York ISO is still in its start-up phase and may still encounter problems yet unforeseen, and the Commission believes that an extension of the TEP for limited circumstances is reasonable in light of the complexity and newness of the New York ISO market design. The Commission further disagrees with intervenors that the New York ISO should employ the exact same language in the TEP as set for ISO New England in our recent order regarding Market Rule 15.<sup>5</sup> The Commission chose that format for ISO New England only after we rejected NEPOOL's request to further extend

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<sup>4</sup>In a separate order we address the New York ISO's market power mitigation plan which deals with matters related to market power and anti-competitive behavior. That proposal also does not grant the ISO wide, sweeping authority to change prices it does not like and adopts mitigation measures that are prospective, i.e., there is no provision in the plan for retroactive recomputation of prices.

<sup>5</sup>ISO New England, Inc., 90 FERC ¶ 61,141 at 61,425 (2000).

the start-up procedures after having previously extended them.<sup>6</sup> We are not surprised that a short extension of the start-up procedures is required by the New York ISO. We also note that New York ISO has reevaluated its needs and eliminates some of the discretion that its initial start-up procedures provided. Finally, we believe it is appropriate to take into account the fact that the New York ISO has been judicious in exercising its authority under these rules. Taking all of these factors into account, we believe that the proposed extension of modified start-up procedures is appropriate and reasonable.

The Commission denies Sithe's request that the Commission reject the time period proposed by the New York ISO for posting notices of ECAs and corrected prices. Given the New York ISO's software problems, we find this time frame reasonable. We also deny Sithe's request that the New York ISO not be granted until 1 PM to post day-ahead market results. We agree with the New York ISO that the day-ahead market serves a vital function to the New York ISO and to all market participants. It accounts for over 95 percent of the wholesale market and provides better reliability in that the New York ISO can commit generators a day ahead so that forecasted loads can be better met for the following day.

We reiterate the requirement set forth in our September 15, 1999 order,<sup>7</sup> that the New York ISO must post on its OASIS and its web site an explanation as to why any corrective actions taken are the result of a transitional abnormality or a market design flaw, rather than scarcity or surplus in the market.

The Commission orders:

The New York ISO's February 4, 2000 filing is hereby accepted for filing to become effective on February 17, 2000, as requested.

By the Commission.

( S E A L )

David P. Boergers,  
Secretary.

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<sup>6</sup>ISO New England, Inc., et al., 89 FERC ¶ 61,209 at 61,639-40 (1999).

<sup>7</sup>88 FERC at 61,755.

