

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

March 23, 2005

In Reply Refer To:
New York Independent System
Operator, Inc.
Docket Nos. ER03-552-010
ER03-984-008

New York Independent System Operator, Inc.
Attn: Andrew S. Antinori, Esq.
Senior Attorney
290 Washington Avenue Extension
Albany, NY 12303

Dear Mr. Antinori:

1. The Commission accepts for informational purposes the filing you submitted on November 30, 2004, on behalf of the New York Independent System Operator, Inc. (NYISO), providing a status report on NYISO's work with stakeholders to explore whether changes should be made to NYISO's creditworthiness standards and settlement policies. NYISO states that this November 30 status report was required by the Commission's June 2, 2004 Order that accepted revisions to NYISO's financial assurance policy.¹

2. NYISO states in its November 30 status report it is continuing to work with stakeholders to examine how NYISO's settlement systems and customer credit requirements can be better tailored to balance the credit risk faced by NYISO and its customers against the credit requirements imposed on its customers. NYISO explains that it has met with stakeholders on five occasions to discuss creditworthiness issues and solicit stakeholder input with regard to possible additional enhancements to NYISO's

¹ *New York Independent System Operator, Inc.*, 107 FERC ¶ 61,243 (2004) (June 2 Order).

credit requirements since its last status report filed on March 29, 2004 (March 29 Report). The March 29 Report was required by the Commission's initial order in these dockets, issued on September 22, 2003.²

3. NYISO's November 30 status report states that, since the March 29 Report, it has made progress in evaluating these issues. Although NYISO has not yet shortened the settlement cycle, it states that it has successfully implemented a weekly prepayment program that allows a market participant to effectively shorten its settlement cycle by entering into a prepayment agreement with NYISO. NYISO also states that the combined collateral requirements have been reduced by approximately \$3.7 million. In addition, NYISO states that it is continuing to explore how third party clearing organizations might enhance its settlement process.

4. NYISO states that, with the approval of its stakeholders, it now allows municipal electric systems to aggregate their unsecured credit as a single joint action agency since the New York Power Authority handles all the bidding, scheduling, and settlement for its member municipal systems. NYISO also states that it is working to develop a new methodology that would reduce collateral requirements for virtual transactions.

5. NYISO states that it has successfully implemented a paydown option giving a customer the option to pay down amounts owed to NYISO on demand and, in exchange, NYISO will determine the customer's collateral requirements based on an estimate of projected purchases in the forthcoming month, rather than on an historical basis. NYISO asserts that it has reduced the combined collateral requirements of parties that enter into a paydown agreement by approximately \$143 million, as a result of this program. Finally, NYISO explains that, since the March 29 Report, its Project Prioritization Team has examined a bilateral contract scheduling proposal (Netting Bilaterals Project) and placed it in the project development queue for further consideration in 2005, if resources become available.

6. Notice of the November 30 status report was published in the *Federal Register*, 69 Fed. Reg. 78,010 (2004), with interventions or protests due on or before January 7, 2005. On January 7, 2005, Strategic Energy, L.L.C. (Strategic Energy) filed a timely motion to intervene and comments. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2004), the timely unopposed motion to intervene serves to make Strategic Energy a party to these proceedings.

² *New York Independent System Operator, Inc.* 104 FERC ¶ 61,311 (2003) (September 22 Order). In that order, the Commission directed NYISO to explore through its stakeholder process whether further changes to NYISO's settlement or credit procedures should be made and either to submit a report on the results of that stakeholder process or file revised tariff provisions within 180 days of the order.

7. Strategic Energy asserts that NYISO is delaying the implementation of the Netting Bilaterals Project without any valid reason. Strategic Energy asserts that this project began in 1998 and, despite support from a large majority of market participants, NYISO continues to delay moving forward. Strategic Energy requests that the Commission set firm and enforceable deadlines for implementation of this project by the end of 2005.

8. We are satisfied with NYISO's commitment to the goals set forth in the September 22 Order, June 2 Order, and the Commission's November 19, 2004 policy statement encouraging ISOs to examine and revise their credit and settlement policies³ and we find that its actions comply with the June 2 Order in this regard. Therefore, we will accept NYISO's November 30 status report for informational purposes. As to Strategic Energy's concerns concerning the pace of progress on the Netting Bilaterals Project, while we decline, at this time, to impose a specific timetable for implementation of this project (leaving this issue to the NYISO stakeholder process) we urge NYISO to implement this project as soon as possible, since netting was one of the concerns the Commission addressed in its November 19, 2004 policy statement. Therefore, we will require NYISO to file a status report on its progress on the Netting Bilaterals Project within 120 days of the date of issuance of this order.

By direction of the Commission. Commissioner Brownell concurring with a separate statement attached.

Linda Mitry,
Deputy Secretary.

³ *Policy Statement on Electric Creditworthiness*, 109 FERC ¶ 61,186 (2004).

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

New York Independent System Operator, Inc.

Docket Nos. ER03-552-010
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(Issued March 23, 2005)

BROWNELL, Commissioner, concurring:

In its comments, Strategic Energy requests the Commission set firm and enforceable deadlines for implementing the Netting Bilaterals Project by end of year 2005. The Project began in 1998. On Feb. 21, 2003, NYISO filed revised tariff sheets to specify creditworthiness requirements. On Sept. 22, 2003, the Commission directed NYISO to file revised tariff sheets to allow for netting within the NYISO markets.¹ Today, seven years from the project start and eighteen months after directing NYISO to allow for netting, we decline to impose a specific timetable for implementation while urging NYISO to implement this project as soon as possible.

At the November 18, 2004 Commission meeting, the majority agreed that issuing a draft policy statement on electric creditworthiness standards was an appropriate first step to clarify and increase transparency in this vitally important commercial practice. I dissented on that draft policy statement because I believed then, and continue to believe now, that the policy statement fell dreadfully short of providing stability, predictability, and assurance that the right protections are in place.

I am more convinced than ever that customers will not realize the benefits of appropriate credit and settlement procedures and requirements unless we act generically. I write today to urge the majority to revisit its decision regarding the draft policy statement. Without enforceable actions and milestones, without general standardized creditworthiness procedures, without specific collateral and settlement requirements, and without specific suspension and termination of service terms, the electric industry will continue to promulgate inconsistent practices across markets and utilities and provide

¹ 104 FERC ¶ 61,311, P 51 (2003).

customers with subjective and opaque creditworthiness evaluations. Enforceable standard provisions will lessen the opportunity for applying creditworthy provisions in an unduly discriminatory manner.

Nora Mead Brownell
Commissioner