

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
William L. Massey, and Nora Mead Brownell.

New York Independent System Operator, Inc. Docket No. EL03-220-000

ORDER GRANTING EMERGENCY REQUEST FOR WAIVERS

(Issued August 20, 2003)

1. In this order, we grant an emergency request by the New York Independent System Operator, Inc. (NYISO) for a waiver of its Temporary Emergency Procedures (TEPs) to allow it sufficient time to properly recalculate invalid prices that were posted during the period its markets were disrupted by the outage that began on August 14, 2003.

Background

2. NYISO normally receives bids to sell and to purchase energy and, based on those bids, calculates day-ahead prices, advisory hour-ahead prices and real-time settlement prices.

3. On August 14, 2003, the Eastern Interconnection experienced a major outage that resulted in the loss of 61,800 MW of load across multiple control areas. More than a third of that load loss occurred in New York State. NYISO states that its electricity markets were disrupted between approximately 4:10 P.M. on August 14, when the outage began, and 12:01 A.M. on August 18, when normal market operations were fully restored.

4. NYISO states that during this four-day period, it continued to receive bids and was able to produce day-ahead prices that initially appeared to reasonably reflect competitive market forces. NYISO also states, however, that it was unable to calculate advisory hour-ahead prices or real-time settlement prices in its normal manner because there was not enough data for its hour-ahead and real-time market software to function properly. NYISO further states that, although it initially believed that the day-ahead prices for August 14 and 15 were correctly calculated, it now recognizes that this decision may not have been based on complete information.

5. NYISO's TEPs¹ authorize it to take corrective action in response to "Emergency System Conditions," which include situations in which "widespread electric transmission or generation equipment outages prevent the ISO from dispatching the system in accordance with the Market Rules."² During such situations, NYISO is empowered to "recalculate [Locational-Based Marginal Prices (LBMPs)] or other prices or payments in a manner that reflects, as closely as reasonably practicable, the LBMPs or other prices or payments that would have resulted but for the . . . Emergency System Condition and shall substitute the recalculated LBMPs or other prices or payments for the prices that resulted from . . . [the] Emergency System Condition."³

6. The TEPs require NYISO to post a notice that it is considering price recalculations within twenty-four hours, but in any case no later than 5:00 p.m. on the day after the day in which a price correction would be needed.⁴ The TEPs also require that NYISO correct prices no later than five calendar days after posting a notice of possible price corrections.⁵

Emergency Request

7. NYISO seeks an emergency waiver of two provisions of its TEPs.

8. First, NYISO states that while it has notified its stakeholders that it is reviewing all prices for every hour between 4:00 p.m. on August 14 and 12:01 a.m. on August 18, as to prices for August 14 and 15 specifically, it seeks a waiver of the requirement that it post within twenty-four hours a notice that it is considering price recalculations. NYISO states that initially, it believed that all of the day-ahead prices for August 14 and 15 had been correctly calculated, and that it only later realized that this may not have been the case. NYISO states that this omission occurred in part because, during the outage, its staff was more focused on restoring service than on reviewing prices, and in part because the price correction issues posed by the outage "have proven to be different in scope and character" from those that it usually faces.⁶ NYISO argues that, given the extraordinary circumstances of the outage, the Commission should waive the twenty-four hour notice deadline for August 14 and 15. NYISO also asks that the Commission allow it to

¹ NYISO states that the TEPs are on file with the Commission as Attachment E to the NYISO's Market Administration and Control Area Services Tariff and Attachment Q to the NYISO's Open Access Transmission Tariff. NYISO request at 1, n. 1.

² NYISO TEPs § A.

³ NYISO TEPs at § C.3.

⁴ NYISO TEPs at § C.2.

⁵ NYISO TEPs at § C.2.

⁶ NYISO request at 6.

“reserve day-ahead prices for those days for further review if [NYISO] acts within twenty-four hours of the issuance of an order granting the requested waiver.”⁷

9. Second, NYISO seeks an emergency waiver of the requirement that it recalculate prices within five days. NYISO states that it needs sufficient time to (a) verify the validity of prices posted during the outage period, and (b) develop an appropriate method for recalculating invalid prices. It states that before recalculating invalid prices, it must resolve “a number of complex technical, economic, and fairness issues,” many of which are questions of first impression since NYISO’s real-time market software has never been effectively disabled for so long. NYISO states that, despite having worked diligently on these issues for several days, it now realizes that it will need more than five days to review all of the relevant factors and to develop a method for computing prices as close to what prices would have been, but for the outage, as is reasonably practical. NYISO also seeks additional time to continue the consultations with its stakeholders that it has already begun, noting that providing an opportunity for stakeholder input now is likely to minimize controversy once NYISO issues recalculated prices.⁸ NYISO therefore asks the Commission to waive the TEPs’ five-day price correction deadline, and allow NYISO until September 7, 2003 to recalculate invalid day-ahead, advisory hour-ahead, and real-time outage period prices, including, but not limited to, energy and ancillary services prices.

10. NYISO asks the Commission to grant the requested waivers no later than August 20, 2003. It asserts that granting these waivers will not prejudice stakeholders, because they have already been informed of NYISO’s plan to seek the waivers requested here, and that they will have the opportunity to comment on price recalculation issues during this extension period.

Discussion

11. The Commission will grant the requested waivers. Given that NYISO staff was focused on restoring service during this unprecedented outage, it is not unreasonable that NYISO would not have been able to determine that it would need to recalculate certain prices within twenty-four hours. Similarly, given the new and complex issues that NYISO now faces in recalculating these prices for the period of the outage, it is not unreasonable to grant a brief additional period for NYISO to recalculate the prices from 4:00 p.m. on August 14 through 12:01 a.m. on August 18. We will further grant NYISO’s request that it be permitted to reserve certain day-ahead prices for August 14 and 15 for further review, if it issues notice of such further possible recalculation within

⁷ NYISO request at 6.

⁸ NYISO request at 4-5.

twenty-four hours of the issuance of this order (in other words, by close of business on August 21).

12. In this regard, we have previously granted a waiver of NYISO's TEPs when unusual circumstances so required.⁹ Granting waiver of the twenty-four hour requirement will enable NYISO to recalculate prices for August 14 and 15 so as to ascertain whether they are just and reasonable, and granting waiver of the five-day requirement will enable NYISO to work with its stakeholders to resolve the issues involved in NYISO's review of the prices for the entire August 14-18 period. The nature and magnitude of the outage and the consequent need to restore service resulted in little or no time for stakeholders to resolve these issues under the procedures contemplated in the TEPs. We therefore grant NYISO's request for these two waivers, and will require NYISO either to complete its recalculation of prices, or to state that there will be no recalculation of prices, for the period from 4:00 p.m. August 14 through 12:01 a.m. August 18, by the close of business on September 7, 2003.

The Commission orders:

(A) NYISO's request for a waiver of the provision of its TEPs that it provide notice within twenty-four hours that it intends to recalculate day-ahead prices for August 14 and 15 is hereby granted.

(B) NYISO's request that it be permitted further to reserve day-ahead prices for August 14 and 15, 2003 for further review is hereby granted, if it issues notice of such further possible recalculation within twenty-four hours of the issuance of this order (in other words, by close of business on August 21).

(C) NYISO's request for a waiver of the provision of its TEPs that it recalculate prices for the period 4:00 p.m. on August 14 through 12:01 a.m. on August 18 within five days of notification is granted.

⁹ H.Q. Energy Services (U.S.), Inc. v. New York Independent System Operator, Inc., et al., 97 FERC ¶ 61,218 at 61,964 (2001). We also note that, when necessary to act expeditiously, we have issued similar emergency relief without providing notice and opportunities for protests or comments. See California Independent System Operator Corporation, 93 FERC ¶ 61,239 (2000), order on rehearing, San Diego Gas and Electric Co., et al. v. Sellers of Energy and Ancillary Services, et al., 97 FERC ¶ 61,275 (2001).

(D) NYISO is hereby required to complete its recalculation of prices, or to determine that it will not recalculate prices, for the period 4:00 p.m. on August 14 through 12:01 a.m. on August 18 by the close of business on September 7, 2003.

By the Commission.

(S E A L)

Magalie R. Salas
Secretary