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FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

February 12, 2008

In Reply Refer To:
New York Independent System Operator, Inc.
Docket No. ER08-334-000

Hunton & Williams LLP
1900 K Street, N.W., Suite 1200
Washington, DC 20006-1109

Attention: Ted J. Murphy
Counsel for the New York Independent System Operator, Inc.

Reference: Revisions to Credit Requirements for Transmission Congestion Contract Auctions.

Dear Mr. Murphy:

1. On December 14, 2007, the New York Independent System Operator, Inc. (NYISO) filed revised tariff sheets[1] to Attachment W of its Open Access Transmission Tariff (OATT) and Attachment K of its Market Administration and Control Area Services Tariff (Services Tariff) to modify the credit requirements for submitting bids and offers in a Transmission Congestion Contract (TCC) auction. NYISO seeks waiver to permit the proposed revisions to become effective January 25, 2008.[2] Waiver of the 60-day notice requirement is granted and NYISO's tariff sheets are accepted for filing, subject to the conditions stated below, effective January 25, 2008, as proposed.

2. NYISO explains the operation of its current TCC auction procedures as follows. A customer participating in a TCC auction must satisfy its Operating Requirement, a measure of its expected financial obligations to the NYISO based on the nature and extent of that customer's participation in NYISO-administered markets. The Operating Requirement may be satisfied with collateral, unsecured credit, or a combination of both,

[1] *See* Appendix for list of tariff sheets.

[2] NYISO also requests waiver of 18 C.F.R. § 385.203(b)(3) (2007) to permit service on more than two persons, which is granted.

and is made up of the Bid Component (bidding requirement) and the TCC Component (holding requirement). The bidding requirement must be satisfied by a customer prior to that customer bidding in a TCC auction and the holding requirement must be satisfied following the award of TCCs at auction.

3. NYISO further states that customers may purchase positive and negative TCCs. A positive TCC entails the customer making a payment to become the TCC holder and receiving payments over the term of the contract based on the actual transmission congestion between the two points that make up the TCC. However, with a negative TCC, the customer receives a payment to become the TCC holder at the time of the auction and then makes payments over the term of the contract based on the actual transmission congestion between the two points that make up the TCC. NYISO's current credit requirements do not require customers bidding on negative TCCs to satisfy a bidding requirement because the customer will receive a payment from the NYISO if the customer is awarded the TCC. However, the customers must satisfy a holding requirement equal to the amount of the clearing price of the TCC. In contrast, customers bidding on positive TCCs must satisfy both a bidding requirement, which ensures the customer possesses adequate credit to satisfy the initial purchase price of the TCC, and a holding requirement. Under NYISO's current credit requirements, clearing prices for TCCs are presumed to provide a reasonably accurate indication of congestion charges and payments during the term of the TCC, thereby providing an estimate of what a customer may owe to the NYISO.

4. NYISO states that it has determined that as the clearing prices of both negative and positive TCCs approach zero, the current method for determining credit requirements is less likely to cover the actual payments that the customer may owe during the life of the TCC. In a study conducted by NYISO,[3] it concluded that as clearing prices approach zero, they are less predictive of actual congestion charges and payments during the life of the TCC; therefore, the current credit requirements for negative, zero, and low-positive TCCs may not be sufficient to secure a customer's financial obligation to the NYISO. NYISO concludes that TCCs with a cost of zero or close to zero require security in excess of the current requirements.

5. NYISO explains that its proposed tariff revisions amend the Bid Component calculation to create a bidding requirement for negative and zero priced TCC bids and provides a more adequate bidding requirement for low-positive bids. NYISO states that

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[3] *See* "TCC Credit Requirements," October 24, 2007 Presentation to NYISO's Management Committee by Sheri Prevratil, *available at* http://www.nyiso.com/public/committees/documents.jsp?com=mc&directory=2007-10-24&cols=5&rows=5&start=1&maxDisplay=999.

the revisions establish a term-based minimum credit requirement for bidding in a TCC auction based on the higher of the current calculation or the proposed term based minimum. NYISO proposes that customers will provide a minimum of $1500 per MW for one-year TCC bids, $2000 per MW for six-month TCC bids, and $600 per MW for one-month TCC bids if such amounts are greater than the amount of the current calculation.

6. NYISO states that the proposed revisions are the first of two steps to revise the credit requirements for customers participating in NYISO's TCC markets and that the second step will modify the credit requirements for TCC holders. It states that it will submit a subsequent filing in preparation for its TCC Automation Phase II, currently expected to be in early 2008, proposing similar revisions to the holding requirements for TCCs. According to NYISO, the subsequent filing will complete revisions to the credit requirements applicable to the TCCs to more accurately reflect the associated financial risks.

7. Notice of NYISO's filing was published in the *Federal Register*, 72 Fed. Reg. 74,278 (2007), with interventions, comments, and protests due on or before January 4, 2008. The PSEG Power Companies,[4] SESCO Enterprises, LLC, and EPIC Merchant Energy, LP filed timely motions to intervene. The New York Transmission Owners (NYTOs)[5] and Coral Power, L.L.C. (Coral Power) both filed motions to intervene and comments. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2007), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. On January 18, 2008, NYISO filed an answer to Coral Power's comments. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2007), prohibits answers to protests unless otherwise ordered by the decisional authority. We will accept NYISO's answer because it has provided information that assisted us in our decision-making process.

8. Coral Power states that it fully supports NYISO's efforts to strengthen the collateral requirements for the TCC markets and to impose mechanisms that will assist in avoiding the default situations confronting PJM. Coral Power states that within the past few months, two participants in PJM's firm transmission rights market have defaulted on their obligations, which imposed significant financial burdens on Coral Power and other

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[4] The PSEG Power Companies consist of PSEG Power LLC and PSEG Energy Resources & Trade LLC.

[5] The New York Transmission Owners are comprised of the Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., Long Island Power Authority, New York Power Authority, New York State Electric & Gas Corporation, Niagara Mohawk Power Corporation d/b/a National Grid, Orange and Rockland Utilities, Inc., and Rochester Gas and Electric Corporation.

market participants. It asserts that the defaults demonstrate the need for these markets to be properly collateralized and that the participants in those markets have the financial ability to satisfy their obligations. According to Coral Power, the bidding requirements set forth in the proposed tariff revisions constitute a reasonable and appropriate solution to the concerns identified. Coral Power explains that within each of NYISO's TCC markets, market participants are able to buy positive, negative, and zero-priced TCCs. Further, Coral Power explains that NYISO's filing describes zero-priced TCCs as distinct from positively and negatively priced TCCs and that the proposed bidding requirements are intended to apply to all TCCs, including zero-priced TCCs. However, Coral Power states that the language used in the proposed revised tariff sheets provide that bidding requirements will apply only to positive and negative TCCs. Coral Power argues that there is no reason to exclude zero-priced TCCs from the bidding requirements inasmuch as the concerns being addressed by the revisions apply equally to zero-priced TCCs. Thus, Coral Power seeks clarification that the language in the proposed tariff amendments is intended to encompass all TCCs, including zero-priced TCCs, and if not, the proposed revisions should be modified to refer to positive, negative, and zero-priced TCCs. Therefore, Coral Power encourages the Commission to approve NYISO's proposed tariff revisions, subject to the clarification.

9. The NYTOs state that they support NYISO's filing and, indeed, are supportive of both steps of the process, including the second step in the process, which involves the modification of the holding credit requirements for TCC holders. In regard to the second step, the NYTOs assert that NYISO must adhere to a schedule to implement the credit requirements for TCC holders expeditiously in order to protect consumers from the risk of a payment default. Like Coral Power, the NYTOs point to the recent defaults in PJM. The NYTOs encourage the Commission to monitor NYISO's progress in implementing the second step of this process, which has already been approved by the NYISO's Management Committee, to ensure that it is implemented expeditiously, and to require NYISO to update the Commission on its progress in this regard, with either a compliance filing or status report on the issue as soon as possible, but no later than the second quarter of 2008.

10. In its answer, NYISO states that it does not object to the clarification sought by Coral Power, or, in the alternative, to the addition of the language suggested by Coral Power. NYISO asserts that the interpretation that Coral Power seeks is consistent with NYISO's intent stated in its filing that the revisions were proposed to "more closely match the risk of loss posed by low-positive, zero, and negative TCCs." Further, NYISO states that it would have no objection to submitting a compliance filing to include the language proposed by Coral Power, if the Commission determines that it should be included.

11. Based on our review, the Commission finds that NYISO's proposal, as modified to reflect the revision discussed above, is just and reasonable and will afford better

protection to its customers from credit risk and the potential risk of default in NYISO's TCC market. Therefore, the Commission will accept, subject to conditions, NYISO's proposed tariff revisions.

12. The Commission agrees with Coral Power that NYISO's proposed tariff revisions for the bidding requirements only apply to positive and negative TCCs and NYISO fails to include zero-priced TCCs. Consistent with NYISO's stated intent in its answer, the Commission finds that NYISO needs to revise its proposed revised Bid Component tariff provisions to specify that the provisions apply to zero-priced TCCs. Therefore, we will accept the proposed tariff revisions subject to NYISO filing within 30 days, to revise the subject tariff language to also apply to "zero-priced" TCCs, to be effective January 25, 2008.

13. The Commission also concurs with the NYTO's suggestion that NYISO expeditiously implement the TCC Automation Phase II in order to effect revisions to the holding requirement for TCCs. NYISO acknowledges that the current credit requirements for participation in the TCC markets do not adequately address the credit risks associated with the purchase and sale of certain TCCs. NYISO requested the Commission accept the revisions in the instant filing to help protect against risk of loss from under-collateralized TCCs and to expedite the effective date of the proposed revisions to allow NYISO to employ the revised credit requirements in time for the Spring Capability Auction. This is an indication of the importance of addressing credit risks and reflects the need for NYISO to act timely in filing the second step of revisions to the holding requirements for TCCs. Therefore, the Commission encourages NYISO to work expeditiously to complete revisions to the holding requirement for TCCs. In this regard, the Commission directs NYISO to file status reports on its progress every 60 days beginning on March 1, 2008, until the date of filing the proposed holding requirement tariff revisions. These reports will be for informational purposes only and will not be given notice or require Commission action.

14. NYISO requests waiver of the Commission's 60-day notice requirement (18 C.F.R. § 35.3 (2007)) to permit an effective date of January 25, 2008, to allow NYISO to employ the revised credit requirements in time for the Spring Capability Period Auction. For good cause shown, the Commission grants waiver of the 60-day notice requirement.

15. The Commission accepts NYISO’s revised tariff sheets effective January 25, 2008, as requested, subject to the condition stated above.

By direction of the Commission.

Kimberly D. Bose,
Secretary.

APPENDIX

New York Independent System Operator, Inc.
FERC Electric Tariff
Original Volume No. 2
Services Tariff, Attachment K

<u>Tariff Sheets Conditionally Accepted Effective January 25, 2008</u>

Third Revised Sheet No. 498
First Revised Sheet No. 498A

New York Independent System Operator, Inc.
FERC Electric Tariff
Original Volume No. 1
OATT, Attachment W

<u>Tariff Sheets Conditionally Accepted Effective January 25, 2008</u>

Third Revised Sheet No. 726
First Revised Sheet No. 726A