

134 FERC ¶ 61,186
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Marc Spitzer, Philip D. Moeller,
John R. Norris, and Cheryl A. LaFleur.

New York Independent System Operator, Inc.

Docket No. ER11-2547-000

ORDER CONDITIONALLY ACCEPTING
PROPOSED TARIFF REVISIONS AND
GRANTING WAIVER

(Issued March 14, 2011)

1. On December 28, 2010, the New York Independent System Operator, Inc. (NYISO) submitted proposed revisions to its Market Administration and Control Area Services Tariff (Services Tariff) and Open Access Transmission Tariff (OATT), pursuant to section 205 of the Federal Power Act (FPA),¹ with a proposed effective date of March 15, 2011. The NYISO states that its proposed revisions are designed to permit more frequent, intra-hour transaction scheduling at its borders, and will be phased in over time. The NYISO further states that these revisions are consistent with a broader regional action plan proposed by the NYISO, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO), PJM Interconnection, L.L.C. (PJM), and the Ontario Independent System Operator (OISO) in Docket No. ER08-1281-000, *et al.* to reduce Lake Erie region loop flows (NYISO Report).² On March 9, 2011, in light of problems with implementing the computer software on which the proposed tariff revisions depend, the NYISO filed a request to temporarily waive its obligation to implement the subject tariff revisions until the earlier of May 10, 2011, or the date it informs the Commission on two weeks notice that the NYISO is prepared to implement the revisions.

¹ 16 U.S.C. § 824d (2006).

² The NYISO Report outlines physical and market solutions addressing the occurrence of Lake Erie region loop flows. *See New York Independent System Operator, Inc.*, 132 FERC ¶ 61,031 (Lake Erie Loop Flow Order), *order or reh'g and compliance*, 133 FERC ¶ 61,276 (2010) (approving filing deadlines applicable to the parties' proposals).

2. For the reasons discussed below, we require the NYISO to file revised tariff sheets, within 30 days of the date of this order, identifying the generator proxy bus or buses for which intra-hour scheduling and new pricing rules will apply and be made available. We also require the NYISO to submit revised tariff provisions, within 30 days of the date of this order, addressing when and how each of the remaining border generator proxy buses, referred to in the NYISO's transmittal letter, will become subject to intra-hour scheduling and new pricing rules. Alternatively, we permit the NYISO to submit a plan with a timeline detailing the steps it will take to incorporate this information into its tariff. Further, we require that, in any tariff language submitted by the NYISO, the NYISO: (i) identify whether each intra-hour proxy generator bus is a dynamically scheduled generator proxy bus, a variably scheduled generator proxy bus, a designated scheduled line, or a generator proxy bus that does not fit in any of these categories, (ii) specify which intra-hour generator proxy buses are competitive and non-competitive, and (iii) indicate what rules will apply if flexible scheduling is unavailable. Finally, we grant the NYISO's request for waiver of implementation of the subject tariff provisions until the earlier of two weeks after it notifies the Commission of the implementation date, or May 10, 2011.

Background

3. The NYISO states that currently its tariff only allows market participants in the real-time energy market to schedule energy transactions at the NYISO's borders on an hourly basis, not on an intra-hour basis. The NYISO states that this limitation may expose market participants to locked-in positions and price volatility given the lag time that exists between the scheduling commitment made by a participant and the subsequent pricing determination applicable to such transaction.³

4. The NYISO proposes to reduce this lag time and the resulting price risk by allowing intra-hour scheduling at its borders (and proposes to do so on a phased-in basis discussed more fully below). The NYISO states that, under its proposal, market participants will be allowed to schedule energy transactions on an intra-hour basis if certain conditions are met -- at 15-minute intervals at "variably scheduled" proxy generator buses, or on a five-minute basis at "dynamically scheduled" proxy generator buses.⁴

³ Hourly border transactions are settled by the NYISO at the applicable real-time clearing price, with an existing gap of between 60 to 120 minutes between the scheduling of the transaction and the determination of the resulting price at which it will be settled.

⁴ Fifteen minute scheduling allowances are addressed at Section 4.4.1.4 of the Services Tariff; five minute transactions are addressed at Section 4.4.2.

5. The NYISO also proposes pricing rules applicable to its proposed enhanced scheduling options at its border interfaces. The NYISO states that these proposed pricing rules are conceptually similar to the provisions currently governing the NYISO's internal proxy generator buses. Specifically, the NYISO states that, under its proposal, all external transactions, absent the existence of a constraint, will settle at a price based on the real-time dispatch Locational-Based Marginal Price (LBMP) at that proxy generator bus.⁵ The NYISO states that, if a constraint limits either imports or exports at a given location, or if the external transaction is along a "designated scheduled line," a substitute LBMP will be used.⁶ The substitute LBMP will be based on the applicable constraint costs at the given proxy generator bus, provided that the transactions at that bus have been determined to be competitive.⁷ The NYISO adds that alternative pricing rules will apply if the proxy generator bus has been determined to be non-competitive,⁸ or is associated with a designated scheduled line.⁹

6. To encourage intra-hour transactions, the NYISO also proposes to modify its eligibility rules for real-time bid production cost guarantee payments for transaction bids at designated proxy generator buses offering intra-hour scheduling.¹⁰ Among other things, the NYISO proposes to preclude hourly import transactions scheduled at these buses from receiving real-time shortfall payments. The NYISO states that, similarly, customers will not be eligible for such payments with respect to import transactions at non-competitive proxy generator buses or at any of the designated scheduled lines, if the facility is export-constrained.

7. As noted above, the NYISO states that it intends to implement its proposed tariff changes one proxy generator bus at a time. The NYISO states that it will provide at least a two-week notice to its market participants prior to activating its enhanced scheduling

⁵ The real-time dispatch LBMP is the LBMP calculated by the NYISO's real time dispatch software. This calculation is made every five minutes.

⁶ See Services Tariff, Section 2.19 (identifying, as scheduled lines, generator proxy buses for the Cross-Sound Scheduled Line, Neptune Scheduled Line, Dennison Scheduled Line, Northport Norwalk Scheduled Line, Linden VFT Scheduled Line).

⁷ NYISO filing at 3 (citing *New York Independent System Operator, Inc.*, 104 FERC ¶ 61,220, *order on reh'g and clarification*, 105 FERC ¶ 61,347 (2003) (recognizing certain external proxy buses as non-competitive)).

⁸ See proposed revisions to Services Tariff at Attachment B, Subsection 6.3.

⁹ *Id.* at Subsection 17.1.6.4.

¹⁰ See proposed revisions to the NYISO OATT at Attachment C, Section 18.6.1.2.

options. In addition, the NYISO proposes, in its OATT, to provide itself flexibility in implementing intra-hourly scheduling.¹¹

8. In support of its filing, the NYISO states that enhanced scheduling options at its border interfaces, as proposed, will promote more efficient inter-regional transmission, reduce uplift costs associated with real-time event management and congestion management, support system balancing efforts by expanding the pool of resources available to system operators, and lower total system operating costs by improving price signals. The NYISO states that an analysis prepared by its independent market monitor, Potomac Economics, has identified a total annual production cost savings for all NYISO interfaces of \$175 million.

Notice of Filing and Responsive Pleadings

9. Notice of the NYISO's December 28, 2011 filing was published in the *Federal Register*, 76 Fed. Reg. 1425 (2011), with interventions and protests due on or before January 18, 2011. Timely filed interventions and comments were filed by H.Q. Energy services (U.S.) Inc. (H.Q. Energy) and the New York Transmission Owners.¹²

10. H.Q. Energy, in its comments, urges the Commission to accept the NYISO's proposed tariff changes. In addition, H.Q. Energy requests that the Commission establish additional procedures and require a compliance filing addressing the NYISO's proposed implementation of mitigated pricing at its external proxy generator buses, as triggered by either an "Interface Ramp Constraint" or a "New York Control Area [NYCA] Ramp Constraint."¹³ H.Q. Energy asserts that, while this pricing proposal will apply the same policy for external proxy generator buses as currently applies to non-competitive proxy generator buses, and will require the NYISO to set ramp constraints on an intra-hour basis consistent with the approach it now uses at the top of the hour, assurances and possible clarifications are required that these ramp constraints will continue to be set at the proper level so as to avoid over-mitigation.

¹¹ *Id.* at Attachment J, Section 16.3.

¹² The New York Transmission Owners are comprised of the eight electric systems in the State of New York that own the transmission facilities operated by the NYISO, namely: 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.

¹³ See proposed revisions to Services Tariff, Attachment B at Section 17.1.6.1.

11. The New York Transmission Owners, in their comments, support the NYISO's proposed tariff revisions, which they agree will enable regional system operators to utilize transmission between the NYISO and its neighbors more efficiently, facilitate better integration of intermittent resources and lower total system costs.

12. In its March 9, 2011 request for waiver, the NYISO states that, at time of its filing, it expected that implementation of the proposed tariff revisions would follow soon after the March 15, 2011 requested effective date. However, it states, the NYISO has recently determined that additional testing of the new software designed to implement the proposed revisions' functionality will be necessary and, therefore, requests that the Commission delay the requested effective date beyond March 15, 2011. The NYISO states that it expects to complete the work needed to verify the software's functionality no later than May 10, 2011, and possibly as early as April 26, 2011. NYISO states that it apologizes for the lateness of the waiver request, but that the concerns that gave rise to need for this delay were only recently discovered as part of the NYISO's quality assurance testing and are being addressed as quickly as possible.

Discussion

A. Procedural Matters

13. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2010), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

B. Analysis

14. We conditionally accept the NYISO's proposed tariff revisions, effective March 15, 2011, and waive the NYISO's obligation to implement the provisions as requested. Except as otherwise noted below, we find that the NYISO's proposed tariff changes appear to be just and reasonable and have not been shown to be unjust, unreasonable, unduly discriminatory or preferential or otherwise unlawful. We also note that the NYISO's filing is not contested and appears to be consistent with the initiatives contemplated by the NYISO Report.¹⁴

15. The NYISO states in its transmittal letter that it intends to implement its revised scheduling and pricing rules on a phased-in basis, "one Proxy Generator Bus at time." Specifically, the NYISO's transmittal letter states that enhanced scheduling will be offered at the Hydro Québec/Chateauguay interface, effective March 15, 2011, and thereafter at the PJM interface in the fourth quarter of 2011, and at the ISO-NE interface in early 2012. We note that the NYISO does not refer in its transmittal letter to the proxy buses at the Ontario interface and has not proposed to implement enhanced scheduling at

¹⁴ See Lake Erie Loop Flow Order, 132 FERC ¶ 61,031 at P 40.

the Ontario interface: an interface across which many of the prohibited path transactions related to Lake Erie Loop Flow were scheduled. The NYISO's transmittal letter further states that the NYISO will inform market participants of the availability of intra-hour scheduling at a given proxy generator bus at least two weeks prior to implementing enhanced scheduling.

16. However, the NYISO's description of its proposal in its transmittal letter does not fully comport with the NYISO's proposed tariff changes. The proposed tariff changes, for example, do not identify the bus or buses at which it originally intended intra-hourly scheduling to be made available as of March 15, 2011, or specify the triggering circumstances and processes giving rise to the phase-in of flexible pricing at other proxy buses. Accordingly, we find that the NYISO's proposed revised tariff revisions do not provide sufficient detail as to when, or how, the proposed scheduling changes and pricing rules will be made effective. As such, consistent with the waiver we grant herein, we require the NYISO to file revised tariff sheets, within 30 days of the date of this order, identifying the generator proxy bus or buses for which intra-hour scheduling and new pricing rules will apply and be made available when the proposed tariff revisions become effective.

17. We also require the NYISO to submit revised tariff provisions, within 30 days of the date of this order, addressing when and how each of the remaining border generator proxy buses, referred to in the NYISO's transmittal letter, will become subject to intra-hour scheduling and new pricing rules. This filing should also include a discussion of the Ontario proxy buses and whether or not intra-hour scheduling and the new pricing rules will be available at the Ontario border. Alternatively, the NYISO may submit a plan with a timeline detailing the steps it will take to incorporate this information into its tariff. In addition, in any tariff language submitted by the NYISO, the NYISO should: (i) identify whether each intra-hour proxy generator bus is a dynamically scheduled generator proxy bus, a variably scheduled generator proxy bus, a designated scheduled line, or a generator proxy bus that does not fit in any of these categories, (ii) specify which intra-hour generator proxy buses are competitive and non-competitive, and (iii) indicate what rules will apply if flexible scheduling is unavailable.

18. Further, we deny H.Q. Energy's request for additional procedures. H.Q. Energy acknowledges that the NYISO's proposed tariff changes are appropriate and should be accepted. H.Q. Energy's request that additional tariff provisions be submitted by the NYISO, in the form of a compliance filing, and/or considered independently by the Commission to address a separate issue (mitigated pricing), is beyond the scope of this proceeding, i.e., H.Q. Energy's mitigated pricing request requires no revision to the proposal before us here. Nor has H.Q. Energy demonstrated that the NYISO's tariff, in the absence of these additional requested mitigated pricing changes, is unjust, unreasonable or unduly discriminatory or preferential. If H.Q. Energy wishes to pursue

this concern it may do so through the NYISO stakeholder process or in a separate proceeding.

19. Finally, we grant the NYISO's request for waiver for the reasons explained by the NYISO in its March 9, 2011 request.

The Commission orders:

(A) The NYISO's proposed tariff changes are hereby conditionally accepted, effective March 15, 2011, subject to the submission of a compliance filing, and subject to the waiver granted herein, as discussed in the body of this order.

(B) The NYISO's request for waiver of implementation of the subject tariff provisions until the earlier of two weeks after it notifies the Commission of the implementation date, or May 10, 2011, is granted.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.