143 FERC ¶ 61,229
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

New York Independent System Operator, Inc. Docket No. ER13-1199-000

ORDER ACCEPTING CREDIT REQUIREMENTS FOR EXTERNAL TRANSACTIONS

(Issued June 11, 2013)

1. On March 29, 2013, the New York Independent System Operator, Inc. (NYISO) filed revisions to Section 2 of its Market Administration and Control Area Services Tariff (Services Tariff) and to Attachment K of its Services Tariff, in order to align the credit requirements for imports to, exports from, and wheels through (External Transactions) the New York Control Area with the associated market risk. In this order, we accept the revised tariff provisions, to be effective June 12, 2013, or such later date as indicated in a notice filed by NYISO by June 12, 2013, as requested.

I. Background

2. NYISO states that between 2008 and 2010, it implemented an automated and integrated Credit Management System (CMS) to eliminate manual processes and credit calculations administered by its Credit Department. In connection with the planned implementation of CMS, NYISO engaged an industry expert to review NYISO's credit requirements and identify opportunities to leverage the automated credit processes to develop enhanced credit requirements. NYISO states that the analysis related to the credit requirements for Energy and Ancillary Services resulted in a number of key findings, including the following:

- NYISO should leverage automation to establish distinct credit requirements for imports, exports, and wheels through to stratify credit requirements based on transaction characteristics and risks.

- Bids for External Transactions in the Day-Ahead Market can present financial risk exposure similar to Virtual Transactions if the associated power does not flow in real-time.

- Import Suppliers that have historically settled a high proportion of Day-Ahead transactions financially at a loss are essentially virtual suppliers because they do not supply the physical power in real-time. NYISO's existing credit methodology is not designed to account for this risk.

3. NYISO states that External Transactions are currently included in the calculation of a Market Participant's[1] credit requirement for Energy and Ancillary Services. This credit requirement is determined based on a Market Participant's historical purchases. Therefore, a Market Participant's bids to purchase Energy and Ancillary Services typically have no real-time effect on its Energy and Ancillary Service credit requirement. NYISO states that it designed the methodology underlying this credit requirement to account for the risk posed by load-serving entities (LSEs) purchasing to meet their load obligations.[2] By establishing a Market Participant's Energy and Ancillary Services credit requirement based on its historical purchases, NYISO establishes a baseline credit requirement. NYISO states, "this credit requirement, however, does not account for the financial risk exposure of when [sic] Bids for External Transactions in the Day-Ahead Market where the associated power does not flow in real-time."[3]

4. NYISO claims its analysis of historical data revealed that a Market Participant's past activity in External Transactions is not an accurate predictor of its future activity. In general, a Market Participant's bids for External Transactions are more variable than power purchases by an LSE to support its load obligations because the bidding activity is often dependent on the price differentials between control areas and the availability of transmission lines. NYISO argues that, due to this variability, using historical purchases to calculate the credit requirement for External Transactions, instead of real-time bidding activity, can leave NYISO with undue credit exposure on a day when a Market Participant's activity increases, and can require a Market Participant to unnecessarily post collateral when no bids have been entered. NYISO states that, with the expanded

---

[1] Capitalization of certain terms in this order, such as Market Participant, indicates that these terms should be understood according to their NYISO tariff definitions.

[2] NYISO Transmittal at 3 (citing NYISO, Tariff Revisions Regarding Customer Creditworthiness Requirements, Docket No. ER03-552-000 (filed February 21, 2003)).

[3] *Id*.

capabilities of CMS, it can now monitor Bids for External Transactions in real-time and implement the distinct credit requirements proposed in this filing to better align the credit requirements for External Transactions with actual market risks.[4]

5. According to NYISO, it initially planned to implement the External Transaction credit requirements proposed in this filing with its June 2010 deployment of enhancements to CMS. NYISO states that it determined, however, as it began developing the system design to implement these requirements, that it would need to substantially revise the platform used by the CMS in order to support the real-time monitoring of bids for imports, exports and wheels through. NYISO adds that, over the past two years, it has upgraded the CMS foundation to enable real-time monitoring and implementation of the External Transaction credit requirements.

6. NYISO states that it plans to install, on June 12, 2013, the software that will allow it to monitor Bids for External Transactions in real-time and with this automation, NYISO can establish a distinct credit requirement for a Market Participant's External Transactions that is better aligned with the market risk presented by those transactions. It states that the proposed tariff revisions will increase the overall credit requirement for some Market Participants and reduce it for others. NYISO requests an effective date of June 12, 2013, the date of the targeted deployment for enhancements to CMS that are required to implement the proposed tariff revisions. However, NYISO requests permission to delay the effective date of these revisions up to 45 days upon the filing of a notice and amended tariff sections with the Commission by June 12, 2012, that indicates the revised effective date.

II. <u>Proposal</u>

7. NYISO states that it proposes to revise Section 26 of Attachment K to the Services Tariff, replacing the current procedures and methodology for determining the credit requirements for External Transactions with a methodology that establishes credit requirements for External Transactions that are aligned with the market risk they present. NYISO plans to establish each Market Participant's credit requirement for External Transactions by summing its credit requirement for all Import, Export, and Wheels

---

[4] Bilateral Transactions, including those that source or sink outside the NYCA, will remain a part of the Energy and Ancillary Services credit requirement because Bilateral Transactions are Bid at local Load buses and are typically used to support Load obligations.

Through Bids, excluding Non-Firm Transactions,[5] and any amounts owed for settled External Transactions. Under the proposed tariff revisions, the new External Transaction Component of the Operating Requirement will equal the sum of the Market Participant's: (i) Import Credit Requirement; (ii) Export Credit Requirement; (iii) Wheels Through Credit Requirement; and (iv) the net amount owed to NYISO for settled External Transactions.

8. NYISO states that, in order to determine these credit requirements each month, it will calculate and update the import and export price differentials for each external location using a methodology comparable to the one used to calculate credit requirements for Virtual Transactions, which will capture similar risk exposure.[6] According to NYISO, the price differential methodology is based on historical data. The price differential will equal the price differential for Energy prices in the Day-Ahead Market and Real-Time Market for the period of time from April 1, 2005 up to the date that Locational Based Marginal Price (LBMP) data is available for that external location, for the same season and time-of-day (including consideration of whether it is a weekend or holiday).

9. The Import Credit Requirement will apply to all Market Participants entering an Import Bid into the Day-Ahead Market unless the historical bid analysis determines that the Market Participant's prior three-month (or six-month) period import market activity falls below the historical performance threshold. The Import Credit Requirement for an Import Bid in the Day-Ahead Market is calculated by multiplying the MWh bid by the appropriate import price differential. Once the Day-Ahead Market schedules and prices have been established after the Day-Ahead Market posts, the credit requirement for accepted Day-Ahead Bids will be the MWh scheduled in the Day-Ahead Market multiplied by the appropriate import price differential. After the market runs in real-time, the Import Credit Requirement will be the greater of the estimated balancing payment owed to NYISO by the Market Participant reduced by the Day-Ahead Market Settlement owed to the Market Participant by NYISO or zero.

---

[5] Non-Firm Transactions are not included as they do not have a Day-Ahead settlement and do not expose NYISO to the same financial risks as the Firm Transactions that are covered in the proposed tariff revisions.

[6] NYISO Transmittal at 4 (citing NYISO, Proposed Tariff Revisions to the Credit Requirements for Virtual Transactions, Docket No. ER09-1010-000 (filed April 17, 2009)).

10. For the Export Credit Requirement, all Export Bids of a Market Participant that have the same Source, Sink and Bid Date/Hour will be grouped together and evaluated as one bid-group. Day-Ahead Bids and Hour-Ahead Bids will be grouped separately. The Export Credit Requirement for each Export bid-group in the Day-Ahead Market will be the higher of the maximum potential exposure to NYISO based on the Bid Prices and the MWh that a Market Participant bids to export at those Bid Prices or the sum of all MWh in the bid-group multiplied by the appropriate export price differential. Once the Day-Ahead Market schedules and prices have been established after the Day-Ahead Market posts, the credit requirement for accepted Day-Ahead Bids will be the MWh scheduled in the Day-Ahead Market multiplied by the greater of the LBMP or the appropriate export price differential. The Export Credit Requirement for each bid-group in the Hour-Ahead Market will be the maximum potential exposure based on Bid Prices and the MWh that a Market Participant bids to export at those Bid Prices. After the market runs in real-time, the Export Credit Requirement will be the greater of any amounts owed to NYISO by the Market Participant reduced by an estimate of any balancing payments owed by NYISO to the Market Participant or zero.

11. The Wheels Through Credit Requirement for Day-Ahead Market Bids will be the maximum potential congestion exposure to NYISO based on the Bid Prices and the MWh that a Market Participant bids to wheel through at those Bid Prices. Once the Day-Ahead Market schedules and prices have been established after the Day-Ahead Market posts, the credit requirement for accepted Day-Ahead Market Bids will be the greater of the MWh scheduled in the Day-Ahead Market multiplied by (Day-Ahead Market LBMP at the Point of Withdrawal minus the Day-Ahead Market LBMP at the Point of Injection) or zero. The Wheels Through Credit Requirement for Hour-Ahead Market Bids will be the maximum exposure to NYISO based on the Bid Prices and the MWh that a Market Participant bids to wheel through at those Bid Prices (the MWh are reduced by the MWh of a Day-Ahead Market Bid with the same hour/date, location and Bid transaction ID). After the market runs in real-time, the Wheels Through Credit Requirement will be the greater of any amounts owed to NYISO by the Market Participant reduced by an estimate of any balancing payments owed by NYISO to the market participant or zero.

12. For Settled External Transactions, after the market day is complete, the credit requirement for import, export or wheel through transactions will equal the net payments due to NYISO as determined by the daily bill results for the market day.

13. NYISO explains that, under the proposed tariff revisions, it will monitor the External Transaction Bids submitted by a Market Participant and, if the credit support required exceeds the available credit support, then the Bids will be rejected. Additionally, if the net amount owed to NYISO for External Transactions reaches

fifty percent of the credit support provided for External Transactions, NYISO may issue a demand for credit support and potentially suspend the Market Participant from engaging in External Transactions until the Market Participant makes payment or provides additional credit support. If at any time the amount owed to NYISO by a Market Participant reaches one hundred percent of the credit support provided by the Market Participant to support its External Transactions, then NYISO may immediately suspend the Market Participant's authorization to engage in External Transactions until the Market Participant makes payment or provides its required amount of credit support.

14. Additionally, NYISO proposes to revise Section 2 of the Services Tariff to add new defined terms related to the proposed External Transactions credit requirement. NYISO has also made related non-substantive revisions to both the Services Tariff and the Open Access Transmission Tariff (OATT) to update cross-references and section numbering.

15. Additionally, for Import Bids each month, NYISO plans to calculate a historical performance ratio on bids from the prior three-month period (or six-month period, if there is insufficient data during the prior three-month period) for each Market Participant that bids to import to determine the proportion of the Market Participant's scheduled Day-Ahead Import Bids that have settled at a loss. If 25 percent or more of that Market Participant's bids settled at a loss, then that Market Participant will be subject to the Import Credit Requirement.

III. <u>Notice of Filings and Responsive Pleadings</u>

16. Notice of NYISO's filing was published in the *Federal Register*, 78 Fed. Reg. 20,908 (2013), with interventions and protests due on or before April 19, 2013.

17. On April 19, 2013, the Indicated New York Transmission Owners (Indicated NYTOs)[7] filed a motion to intervene and comments. The Indicated NYTOs state that they generally support NYISO's filing. However, the Indicated NYTOs assert that the first paragraph of the proposed section 26.4.2.2.1 is ambiguous. Proposed section states as follows:

---

[7] Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., New York Power Authority, New York Electric & Gas Corporation, Niagara Mohawk Power Corporation, Orange and Rockland Utilities, Inc., and Rochester Gas and Electric Corporation (referred herein as the Indicated New York Transmission Owners or Indicated NYTOs).

> For a given month, the Import Credit Requirement shall apply to any Customer that Bids to Import in the Day-Ahead Market[], excluding Non-Firm Transactions, unless (i) the Customer has at least 50 scheduled Day-Ahead Import Bids in the three-month period ending the 15th day of the preceding month (or the six-month period ending on the 15th day of the preceding month if the Customer has fewer than 50 scheduled Day-Ahead Import Bids in the immediate preceding three-month period), and (ii) fewer than 25 percent of the MWh of such scheduled Day-Ahead Import Bids were settled at a loss to the Customer.

18. The Indicated NYTOs argue that the above language will, erroneously, assign Import Credit Requirements to Customers unless they have scheduled 50 or more Day-Ahead Import Bids in the preceding six months and "fewer than 25% of the MWh of such scheduled Day-Ahead Import Bids were settled at a loss to the Customer."[8] The Indicated NYTOs state that based on their discussions and understanding with NYISO, NYISO intends for the phrase "such scheduled Day-Ahead Import Bids" to refer to all Day-Ahead Imports Bids scheduled by that Customer in the preceding three months, if there are 50 or more such Bids; otherwise, NYISO intends for this phrase to refer to all Day-Ahead Import Bids scheduled by that Customer in the preceding six months. However, the Indicated NYTOs assert, the proposed tariff language does not clearly describe how the meaning of this phrase hinges on the number of Day-Ahead Import Bids scheduled by that Customer in the preceding three months. The Indicated NYTOs proposed alternate tariff language,[9] which, as described below, they later amended.

19. On May 2, 2013, NYISO filed a response to the Indicated NYTOs' initial comments. NYISO states that the replacement language proposed by the Indicated NYTOs is inaccurate and adds confusion. First, NYISO claims, the Indicated NYTOs fail to apply the requirement from (i) that the Customer have 50 or more scheduled Day-Ahead Bids in the six-month period. The replacement language would require

---

[8] Indicated NYTOs Comments at 3 (citing NYISO proposed section 26.4.2.2.1 and NYISO Transmittal at 26).

[9] The Indicated NYTOs proposed to change (ii) to state, "(ii) fewer than 25% of the MWh of Day-Ahead Import Bids scheduled in the three-month period ending on either (1) the 15th day of the preceding month, if there are 50 or more such Bids, or (2) the six-month period ending on the 15th day of the preceding month, otherwise, were settled at a loss to the Customer." Indicated NYTOs Comments at 3.

evaluation of the historical activity of a Customer that had scheduled less than 50 Day-Ahead Import Bids in the preceding six-month period. Also, NYISO claims, the replacement language could result in permitting a Customer with limited activity in the preceding six months to participate in Imports without imposing the Import Credit Requirement even though there is insufficient historical market data to indicate that the Customer's market activity is unlikely to pose a credit risk to NYISO-administered markets. This is not what the stakeholders[10] voted on, NYISO claims.

20. NYISO argues that its proposed language is unambiguous and more accurate than the replacement language suggested by the Indicated NYTOs. According to NYISO, it determined that it would need to evaluate at least 50 scheduled Bids from the preceding three-month or six-month period[11] in order to have a meaningful assessment of the Customer's recent historical performance. NYISO states that it will apply the Import Credit Requirements to a Customer unless it has sufficient, recent historical Import Bids that demonstrate the Customer has not historically settled its Imports at a loss.

21. NYISO explains that, under its proposal, it will first determine whether the Customer had at least 50 scheduled Day-Ahead Import Bids over the preceding three-month period. If so, it will then evaluate all of the scheduled Day-Ahead Import Bids for that Customer, in that same three-month period, to determine what percentage of MWh settled at a loss. If the Customer did not have 50 scheduled Day-Ahead Import Bids over the preceding three-month period, NYISO will determine whether the Customer had at least 50 scheduled Day-Ahead Import Bids over the preceding six-month period. If so, it will then evaluate all of the scheduled Day-Ahead Bids for that Customer, in that same six-month period, to determine what percentage of MWh settled at a loss. NYISO states that customers that do not meet either the three-month or six-month test would be subject to the Import Credit Requirements. If the Customer has scheduled at least 50 Day-Ahead Import Bids in the preceding three-month period, or alternatively in the preceding six-month period, and less than 25 percent of the MWh scheduled during the applicable

---

[10] *See* Management Committee Meeting Minutes (July 29, 2009), *available at http:www.nyiso.com/public/markets_operations/committees/meeting_materials/index.jsp?com=me*.

[11] For a detailed description of this historical performance analysis, *see*: *Credit Requirements: External Transactions*, NYISO Management Committee (July 29, 2009) *available at http:www.nyiso.com/public/markets_operations/committees/meeting_materials/index.jsp?com=me*.

period settled at a loss, then the Customer would not be subject to the Import Credit Requirements, NYISO explains.

22. NYISO further notes that the proposed language at issue, "such scheduled Day-Ahead Import Bids," is intended to refer to the scheduled Day-Ahead Import Bids in either the three-month or six-month period, as applicable, determined in (i) as the language "or the six-month period" in (i) indicates. NYISO asserts that its proposed language clearly states, without ambiguity, that the Import Credit Requirement will apply to the Customer unless it has at least 50 scheduled Day-Ahead Import Bids in the preceding three- or six-month period and fewer than 25 percent of the MWh of such scheduled Bids were settled at a loss to the Customer. Therefore, NYISO argues, the replacement language is unnecessary and should not be implemented as it is incorrect and creates ambiguity. NYISO requests that the Commission accept its proposed tariff revisions, with an effective date of June 12, 2013.

23. On May 17, 2013, the Indicated NYTOs filed an answer in which they defended their proposed revision to NYISO's proposal and also corrected a typographical error in their original filing. As corrected, the tariff underscored language proposed by the Indicated NYTOs would read as follows:

> For a given month, the Import Credit Requirement shall apply to any Customer that Bids to Import in the Day-Ahead Market[], excluding Non-Firm Transactions, unless (i) the Customer has at least 50 scheduled Day-Ahead Import Bids in the three-month period ending the 15th day of the preceding month (or the six-month period ending on the 15th day of the preceding month if the Customer has fewer than 50 scheduled Day-Ahead Import Bids in the immediate preceding three-month period), and (ii) fewer than 25% of the MWh of <u>Day-Ahead Import Bids scheduled in either (1) the three-month period ending on the 15th day of the preceding month, if there are 50 or more such Bids, or (2) the six-month period ending on the 15th day of the preceding month, otherwise</u>, were settled at a loss to the Customer.

24. The Indicated NYTOs assert that their proposed tariff language clearly states that, in order to be exempt from the Import Credit Requirement, a Customer must meet both requirements (i) and (ii). They assert that requirement (i) clearly indicates that a Customer must have scheduled at least 50 Day-Ahead Imports in the preceding six-month period. Accordingly, they assert, NYISO will not need to perform the evaluation described in requirement (ii) for Customers with fewer than 50 Day-Ahead Import Bids.

Such Customers would not be exempt from the Import Credit Requirement, they argue, regardless of the results of that evaluation. With this reading of requirement (i), NYISO only needs to perform the evaluation described in requirement (ii) for the Customers that have scheduled at least 50 Day-Ahead Import Bids in the preceding six-month period, since it is only those Customers whose Import Credit Requirement could depend on the outcome of that evaluation.

IV. Procedural Matters

25. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,[12] timely, unopposed motions to intervene serve to make the parties that filed them parties to this proceeding. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure prohibits an answer to a protest or answer unless otherwise ordered by the decisional authority.[13] We will accept NYISO's and the Indicated NYTOs' answers because they provided information that assisted us in our decision-making process.

V. Commission Determination

26. We accept NYISO's proposed tariff language. We find the present proposal is a just and reasonable solution regarding credit requirements for external transactions in the NYISO market.

27. Regarding the disputed proposed section 26.4.2.2.1, we find NYISO's proposed tariff language at issue to be sufficiently clear, and furthermore, to accurately reflect the proposal as described and supported in its filing. We interpret the phrase "such scheduled Day-Ahead Import Bids" the same as NYISO to refer to the scheduled Day-Ahead Import Bids in either the three-month or six-month period, as applicable. We find that the proposed section provides that the Import Credit Requirement will apply to the Customer unless it has at least 50 scheduled Day-Ahead Import Bids in the preceding three- or six-month period and fewer than 25 percent of the MWh of such scheduled Bids were settled at a loss to the Customer, as applicable. Having found no need to amend the section, we reject the Indicated NYTOs' proposal and accept this section as filed.

---

[12] 18 C.F.R. § 385.214 (2012).

[13] 18 C.F.R. § 385.213(a)(2) (2012).

The Commission orders:

NYISO's proposed revised tariff records are hereby accepted for filing to become effective June 12, 2013, or such later date as indicated in a notice filed by NYISO by June 12, 2013, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.