

147 FERC ¶ 61,138  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

May 20, 2014

In Reply Refer To:  
New York Independent System  
Operator, Inc.  
Docket No. ER14-1714-000

Nathan D. Markey  
New York Independent System Operator, Inc.  
10 Krey Boulevard  
Rensselaer, NY 12144

Dear Mr. Markey:

1. On April 11, 2014, New York Independent System Operator, Inc. (NYISO) filed a request that the Commission grant a limited waiver of the strict application of Formula N-4 in section 20.2.3, Attachment N, to its Open Access Transmission Tariff (OATT) (Formula N-4) (Waiver Request). NYISO states that the requested waiver would allow NYISO to make the appropriate congestion payment for the month of January 2014 to the primary holder of a Transmission Congestion Contract (TCC) identified in NYISO's database as TCC 31835. NYISO requests that the Commission provide for a shortened comment period of ten days and grant the requested waiver by May 15, 2014, but no later than May 22, 2014. As discussed below, the Commission grants the requested waiver, to the extent necessary.

2. NYISO explains that TCC 31835 is an 853 MW grandfathered TCC that is currently held by Exelon Corporation (Exelon). NYISO's TCC inventory lists the Point of Injection at the Sithe Independence Generating Facility (Sithe Facility) and the Point of Withdrawal at Pleasant Valley. NYISO states that its TCC inventory lists the Point of Injection for this TCC as PTID 23800.

3. NYISO further explains that the primary holders of TCCs receive an hourly congestion payment calculated pursuant to Formula N-4<sup>1</sup> that can act as a hedge against congestion imposed on day-ahead market activity occurring at the same injection and withdrawal points.

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<sup>1</sup> Citing NYISO OATT, § 20.2.3.

4. NYISO states that, in August 2005, it replaced the Sithe Facility's single Point of Injection of 23800 with four new individual Points of Injection<sup>2</sup> by implementing "pseudo-unit modeling" in the energy market for this facility. NYISO states that pseudo-unit energy market modeling was made available to all owners of combined cycle facilities to allow them to more accurately reflect actual cost differences among the various plant configurations of their facilities when bidding them in the day-ahead and real-time markets.<sup>3</sup> NYISO further states that, when it assigned the four new Points of Injection to the Sithe Facility, it did not retire Point of Injection 23800, which continued in the energy market as a pricing node. NYISO states that after August 2005, no energy market activity utilized this Point of Injection and it was no longer a biddable Point of Injection or Point of Withdrawal for new TCCs in the NYISO TCC auctions.<sup>4</sup> However, NYISO states that the Point of Injection for TCC 31835 remains in the NYISO transmission contract inventory and database as Point of Injection 23800 and it is this Point of Injection that is used in Formula N-4 to calculate the congestion payment for TCC 31835.

5. NYISO explains that, during the cold snap in January 2014, the Locational Based Marginal Pricing (locational pricing) at Point of Injection 23800 differed from the locational pricing at each of the four Sithe Facility Points of Injection in the intervals in which the Oswego export constraint became active in the energy market. The prices at

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<sup>2</sup> The four new individual Points of Injection were 24169, 24170, 24171 and 24172.

<sup>3</sup> NYISO states that, with pseudo-unit modeling, a combined cycle facility is modeled as a series of units representing the various configurations in which the generating facility can be operated. As a general matter, each gas turbine and a portion of the steam unit is modeled separately and is represented by an individual Point of Injection. For instance, a combined cycle facility with pseudo-unit modeling for four gas turbines would be modeled with four Points of Injection and could be offered into the Energy Market using any combination of the four Points of Injection. NYISO explains that while energy prices are calculated for each of the multiple Points of Injection created with pseudo-unit modeling, locational energy prices are identical. It states that pseudo-unit modeling was described in a series of Quarterly Reports filed by the NYISO in Docket No. ER04-230-000, particularly in the Sixth and Seventh Quarterly Reports submitted on February 8, 2006 and May 9, 2006, respectively. NYISO Waiver Request at 2, note 5.

<sup>4</sup> Point of Injection 23800 is not in the list of eligible Points of Injection and Withdrawal published for Centralized transmission contract Auctions. *See* Transmission Congestion Contract Manual, Attachment E, Point of Injection and Withdrawal (POI and POW) for the Spring 2014 Centralized TCC Auction and Summer 2014 TCC Reconfiguration Auctions.

the four Sithe Facility Points of Injection appropriately reflected the value of the Oswego constraint, but the locational price for Point of Injection 23800 did not. NYISO explains that this was because it had failed to map the Oswego export constraint to Point of Injection 23800. NYISO further explains that the discrepancy was brought to its attention when Exelon notified it that the congestion payment for this TCC in January did not reflect day-ahead congestion at the Sithe Facility.

6. NYISO states that January 2014 was the first and only month in which the Oswego export constraint was binding in the day-ahead market evaluation and the difference in locational pricing became evident.<sup>5</sup> NYISO further states that it considers prices resulting from the failure to map the Oswego export constraint as pricing errors and is pursuing the pricing error notification requirement.<sup>6</sup> Also, NYISO states that the Oswego export constraint has been mapped to Point of Injection 23800 through an update to the energy market model that was deployed on March 26, 2014.

7. NYISO requests that the Commission waive the strict applications of Formula N-4 for all intervals in January 2014 and allow NYISO to calculate the congestion payment for TCC 31835 by using one of the four Sithe Facility Points of Injection as the Point of Injection in Formula N-4.

In support of the request, NYISO contends that their request for waiver is consistent with prior situations in which the Commission has granted a waiver.<sup>7</sup> NYISO asserts that the underlying error was committed in good faith. According to NYISO, when it implemented the new constraint in the energy market models in 2008, it intended to map the Oswego export constraint to every active Sithe Facility Point of Injection; the omission of Point of Injection 23800 was not intentional, but rather was an inadvertent oversight.<sup>8</sup>

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<sup>5</sup> The Oswego export constraint was not active in the Day-Ahead Market prior to the January 2014 cold snaps and it has not been active since January 2014. *See* NYSIO Waiver Request at 4, note 8.

<sup>6</sup> NYISO OATT, Attachment E, § 20.4.

<sup>7</sup> NYISO Waiver Request at 6, note 12 (citing *New York Independent System Operator, Inc.*, 146 FERC ¶ 61,061, at P 19 (2014), *et al.*).

<sup>8</sup> NYISO states that the Commission has granted one-time waivers of tariffs to alleviate the effects of inadvertent errors by ISOs or other entities (citing, *e.g.*, *Wisvest-Connecticut*, 101 FERC ¶ 61,372, at PP 24-27 (2002); *ISO New England, Inc.*, 117 FERC ¶ 61,171, at PP 21-22 (2006)). NYISO Waiver Request at 6, note 13.<sup>9</sup> 18 C.F.R. § 385.214 (2013).

8. NYISO also asserts that the waiver request is of limited scope and duration because the waiver seeks to replace the Point of Injection for TCC 31835 only for one month when calculating the congestion payment on this transmission contract. The modeling error requiring this waiver was corrected on March 26, 2014.

9. NYISO also asserts that the requested waiver would remedy a concrete problem. The concrete problem is NYISO's inability to compensate Exelon with a congestion payment that properly reflects congestion in the day-ahead market in January 2014 at the Sithe Facility.

10. In addition, NYISO asserts that granting the waiver request will not result in any undesirable consequences. NYISO states that Exelon and the New York Transmission Owners (transmission owners) are the only market participants impacted by this error. NYISO further states that the recalculation of the congestion payment to Exelon will not cause undue financial hardship to the transmission owners.

11. Notice of NYISO's Waiver Request was published in the *Federal Register*, 79 Fed. Reg. 22,484 (2014), with interventions and protests due on or before April 21, 2014. Exelon Corporation filed a timely motion to intervene on April 17, 2014; NRG Companies filed an out-of-time motion to intervene on April 22, 2014. No protests or adverse comments were filed. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,<sup>9</sup> notices of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. NRG Companies unopposed motion to intervene out-of-time is granted.

12. The Commission has previously granted market participants one-time waivers of tariff provisions in situations where: (1) the underlying error was made in good faith; (2) the waiver is of limited scope; (3) granting waiver would remedy a concrete problem; and (4) the waiver does not have undesirable consequences, such as harming third parties.<sup>10</sup> In this case, NYISO seeks a waiver from the strict application of Formula N-4, used to calculate the congestion payments made to primary holders, in Section 20.2.3 of its OATT. The only reference to the Point of Injection in Section 20.2.3 is to "CCPOI = Congestion Component (\$/MWh) at the Point of Injection (POI)."

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<sup>9</sup> 18 C.F.R. § 385.214 (2013).

<sup>10</sup> See, e.g., *New York Independent System Operator, Inc.*, 144 FERC ¶ 61,147, at P 8 (2013); *PJM Interconnection, L.L.C.*, 144 FERC ¶ 61,060, at P 12 (2013).

13. Since the definition of Point of Injection<sup>11</sup> is not specific, it is not clear that NYISO would need a waiver of its tariff in order to use one of the four new Points of Injection at the Sithe Facility. However, to the extent that a waiver is needed, the Commission finds good cause to grant NYISO's request. First, we find that NYISO acted in good faith. NYISO's failure to map the Oswego export constraint model to every active Sithe Facility was not intentional, but was an oversight. Upon realizing the error, NYISO corrected the modeling oversight and promptly<sup>12</sup> sought to correct the congestion payment for January 2014.<sup>13</sup> Second, we find that the requested waiver is limited in scope and duration in that it is limited solely to the month of January 2014. Third, we find that the waiver will remedy a concrete problem because it will allow NYISO to compensate Exelon with a congestion payment that reflects the actual congestion in the day-ahead market in January 2014 at the Oswego constraint. Fourth, we find that granting the requested waiver will not lead to undesirable consequences, as the financial consequences to the affected transmission owners are no different than they would have been had the correct calculation been performed at the outset. In this regard, we note that no parties have opposed NYISO's request.

Accordingly, and to the extent necessary, we grant NYISO's request for waiver of the strict application of Formula N-4 for all intervals in January 2014 to allow NYISO to calculate the congestion payment for TCC 31835 by using one of the four Sithe Facility Points of Injection as the Point of Injection in Formula N-4.

By the direction of the Commission.

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

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<sup>11</sup> Section 1.16 "OATT Definitions" of NYISO's Tariff defines Point(s) of Injection as "The point(s) on the NYS Transmission System where Energy and Ancillary Services will be made available to the ISO by the Customer or Transmission Customer under the ISO Tariffs. The Point(s) of Injection shall be specified in the Bid, Bilateral Transaction schedule, or similar entry. (May be referred to as "Point of Receipt" or similar in some Existing Transmission Agreements)."

<sup>12</sup> We note that NYISO's tariff allows correction of billing errors for up to 5 months from the date of the initial invoice. *See* section 7.4.2 of NYISO's Market Administration and Control Area Services Tariff.

<sup>13</sup> NYISO should ensure that this kind of error will not recur at any other facility that uses pseudo-unit modeling.