

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Nora Mead Brownell, and Suedeen G. Kelly.

New York Independent System Operator, Inc.

Docket No. ER05-1123-000

ORDER CONDITIONALLY ACCEPTING TARIFF REVISIONS

(Issued July 19, 2005)

1. On June 17, 2005, New York Independent System Operator, Inc. (NYISO) filed with the Commission revisions to its Open Access Transmission Tariff (OATT) and its Market Administration and Control Area Services Tariff (Services Tariff) to remedy problems of price volatility attributable to forecasting uncertainties. In this order, the Commission accepts NYISO's proposed tariff revisions, conditioned on one tariff modification suggested by the New York Transmission Owners.

Background

2. In February 2005, NYISO implemented new Real-Time Scheduling (RTS) software and market rule improvements that were meant to achieve the objective of enabling NYISO to meet real-time demand at minimum bid production cost through the optimal commitment of all available resources. A key feature of RTS was the replacement of NYISO's original real-time market software with state-of-the-art Real-Time Commitment and Real-Time Dispatch software. While the Real-Time Commitment and Real-Time Dispatch software have generally performed satisfactorily, some transition issues have still arisen.

3. One issue NYISO states has arisen is that forecast uncertainties have contributed to volatility in the Real-Time Market, frequently leading to significant price spikes. NYISO states that these price spikes are the result of neither reliability events nor market conditions – *e.g.*, scarce supplies or extremely high demand. Rather, NYISO's analysis indicates that the increased volatility is instead resulting from forecasting uncertainties that arise between the time that RTS software commits generators to be operated and the time when NYISO's system operators actually dispatch these units.

4. On June 17, 2005, NYISO filed the instant proposed OATT and Services Tariff revisions with the Commission to remedy these problems. The instant filing proposes to enhance NYISO's software to allow Real-Time Dispatch to schedule otherwise unavailable and economic quick start gas turbine units when they are the least cost option to meet real-time load. NYISO currently has the ability to activate special Real-Time

Dispatch “Corrective Action Modes” (Real-Time Dispatch-CAM) that allow Real-Time Dispatch to commit units in response to reliability events. The instant filing proposes to implement a comparable mechanism for scenarios where reliability is not implicated but forecast uncertainties would nonetheless lead to suboptimal market results.

5. Under NYISO’s proposed revisions, Real-Time Dispatch would be able to include “eligible resources,” *i.e.*, generators that are offline, have not otherwise been committed by Real-Time Commitment or Real-Time Dispatch-CAM, are capable of starting within ten minutes, and that have satisfied any minimum downtime requirements, in both the “ideal” and “physical” dispatches.¹ Under NYISO’s proposal, NYISO’s system operators will be made aware of these Real-Time Dispatch commitment recommendations in real-time and will have the discretion to confirm them when they have determined that it would be appropriate to do so. Inclusion of these quick start units in the ideal and physical dispatches will allow them to be part of the real-time price setting process.

6. NYISO also proposes that, when evaluating “eligible resources,” Real-Time Dispatch will consider both their start-up and incremental energy costs. Real-Time Dispatch will also respect eligible resources’ minimum run-time requirements and costs by treating them as if they had a downward ramp rate of zero. Consequently, once such a resource is actually scheduled at a particular level for a particular five minute cycle in a Real-Time Dispatch run, it will not be scheduled below that level for the remainder of the Real-Time Dispatch run. Redispatch costs associated with respecting minimum run-times will be reflected in the real-time price calculation.

7. NYISO asks for expedited Commission action (by July 18, 2005) so that, if its proposal is accepted, it can implement the proposed changes before the peak summer demand period.

Notice of Filing and Responsive Pleadings

8. Notice of NYISO’s filing was published in the *Federal Register*,² with motions to intervene and protests due on or before June 28, 2005. The New York Transmission Owners timely-filed a motion to intervene and comments. Mirant Americas Energy

¹ Real-time prices are set by the ideal dispatch pass, in which inflexible (*i.e.*, they must operate at zero or their maximum output) gas turbines are dispatched economically over their entire operating range, even if they are not actually capable of running at anything other than zero or their maximum output. Schedules are determined in the physical dispatch pass, in which generators are dispatched according to their generation characteristics.

² 70 Fed. Reg. 37,385 (2005).

Marketing LP, Mirant New York Inc., Mirant Bowline LLC, Mirant Lovett LLC, and Mirant NY-Gen LLC (collectively, Mirant Companies), Reliant Energy Inc. (Reliant), and AES Eastern Energy LP (AES Eastern) filed timely motions to intervene. NYISO filed an answer to the New York Transmission Owners' comments.

Discussion

A. Procedural Matters

9. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,³ the timely, unopposed motions to intervene filed by the New York Transmission Owners, Mirant Companies, Reliant, and AES Eastern serve to make those entities parties to this proceeding.

10. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure,⁴ prohibits an answer to a protest and a reply to an answer, unless otherwise permitted by the decisional authority. We find that good cause exists to allow NYISO's answer, as it provides additional information that assists us in the decision-making process.

B. NYISO's Proposed Tariff Revisions

11. The New York Transmission Owners generally support NYISO's proposal, with two exceptions, and offer suggested modifications to rectify the problems they see with the proposed tariff language.⁵

12. First, they note that NYISO proposes to modify the two tariffs to permit resources that have not previously been committed by Real-Time Commitment, but which can start up within ten minutes (10-minute resources), to be dispatched by Real-Time Dispatch. The New York Transmission Owners argue that, since 10-minute resources take ten minutes to start up, it is unlikely that they will be able to produce the dispatched level of energy within five minutes. This being the case, the New York Transmission Owners argue that it would be unjust to require 10-minute resources to start up within five minutes, and impose penalties for failure to do so, as is proposed in the instant filing.⁶ In

³ 18 C.F.R. § 385.214 (2004).

⁴ 18 C.F.R. § 385.213(a)(2) (2004).

⁵ None of the other interventions raised substantive issues.

⁶ NYISO's requirement for generating resources called on by Real-Time Dispatch to start up within five minutes is found in section I.A.1.b(i) of Attachment B of the Services Tariff and section I.A.1.b(i) of Attachment J of the OATT.

addition, the New York Transmission Owners claim that NYISO is notified of the start-up time limitations of these 10-minute resources, and so operating within a manner that is consistent with those limitations should not be penalized.

13. The New York Transmission Owners surmise that it was not NYISO's intent to require 10 minute-resources to generate within five minutes of having been instructed to do so. Thus, they request that the Commission direct NYISO to change the first complete sentence of Sheet 331.00d of the Services Tariff to read as follows:

Physical base points and schedules established for the first time point shall be binding for all Resources except Resources that are capable of being started in ten minutes, but have not been committed by Real-Time Commitment, and shall remain in effect until the results of the next run are posted.

The New York Transmission Owners also request that a parallel change be made on Sheet 452.00a(iii) of the OATT.

14. Second, the New York Transmission Owners note nine separate instances⁷ where NYISO has used the phrase "Resources meeting minimum generation levels as determined by the [NYISO]" to describe the resources that would be made available to Real-Time Dispatch under NYISO's proposed changes to its tariffs. The New York Transmission Owners explain that, in its discussions with market participants, NYISO expressed a desire to limit the amount of 10-minute resources that would be dispatched under NYISO's proposal, so that regulation service would not be compromised. The New York Transmission Owners maintain that the language that NYISO has proposed may not clearly implement that restriction.

15. In this regard, the New York Transmission Owners note that the term "minimum generation level" is not specifically defined in NYISO's tariffs. The New York Transmission Owners generally understand the term to mean the minimum output level for a generator – *i.e.*, the output level that corresponds to its Minimum Generation Bid. Given this understanding of the meaning of that term, the New York Transmission Owners claim that it is not clear exactly how one can tell whether a resource that was not committed by Real-Time Commitment is meeting a minimum generation level, since it is not generating any energy at all. The New York Transmission Owners also question how this minimum generation level can be determined by NYISO, since minimum generation levels are bidding parameters that are submitted by market participants.

⁷ See Services Tariff at Proposed Sheets 61B, 98A.01, 331, 331.00c, and 331.00f and OATT at Proposed Sheets 47, 452, 425.00a(ii) and 452.01.

16. The New York Transmission Owners suggest tariff language changes to address this issue. Specifically, the New York Transmission Owners refer to Sheet 331.00c of the Services Tariff and Sheet 452.00a(ii) of the OATT, which, as proposed by NYISO, describes the first Real-Time Dispatch pass:

Resources meeting minimum generation levels as determined by the ISO and capable of being started in ten minutes that have not been committed by [Real-Time Commitment] are treated as flexible

The New York Transmission Owners suggest⁸ that this sentence be replaced by the following:

Resources whose minimum generation levels do not exceed these upper limits that the ISO shall determine, that are capable of starting in ten minutes, and that have not been committed by [Real-Time Commitment] are treated as flexible...

17. The New York Transmission Owners also suggest⁹ that the following sentence be added immediately thereafter:

The ISO shall determine these upper limits on minimum generation levels for 10-minute resources that were not committed by [Real-Time Commitment] but may be scheduled by [Real-Time Dispatch] with the intent of ensuring that [Real-Time Dispatch] does not attempt to schedule Resources whose minimum generation levels would cause an excessive reliance on Regulation Service.

18. The New York Transmission Owners further suggest¹⁰ replacing NYISO's proposed phrase "Resources meeting minimum generation levels as determined by the ISO and capable of being started [or starting] in ten minutes"¹¹ in the Services Tariff with the following:

Resources whose minimum generation levels do not exceed upper limits that the ISO shall determine (as described elsewhere in this Attachment B) that are capable of starting in ten minutes.

⁸ New York Transmission Owners' Comments at 6.

⁹ *Id.*

¹⁰ *Id.* at 7.

¹¹ Services Tariff, Proposed Sheets 61B, 98A.01, 331, and 33.00f.

Finally, the New York Transmission Owners state that corresponding changes should also be made in three places in the OATT.¹² Specifically, where NYISO proposed using the phrase, “Resources meeting minimum generation levels as determined by the ISO and capable of being started [or starting] in ten minutes,” the New York Transmission Owners recommend¹³ that it be replaced with the following:

Resources whose minimum generation levels do not exceed upper limits that the ISO determine (as described elsewhere in this Attachment J) that are capable of starting shall in ten minutes.

19. In its answer, NYISO rebuts the New York Transmission Owners’ argument that NYISO’s proposed tariff revisions should be modified so that generators that are committed by the Real-Time Dispatch and that require ten minutes to start up are not unfairly exposed to undergeneration penalties. According to NYISO, 10-minute resources that are committed and dispatched by Real-Time Dispatch under the NYISO’s proposal will not be subject to penalties, as a result of the NYISO’s proposed tariff revisions, in any manner that differs from their current exposure to penalties. NYISO also claims that 10-minute resources will not be treated any differently than they were prior to the implementation of Real-Time Dispatch.

20. NYISO claims that the only undergeneration penalties imposed by NYISO are set forth in Rate Schedule 3-A of the Services Tariff. NYISO points out that Rate Schedule 3-A subjects generators that are not supplying Regulation Service to undergeneration charges if they “persistently” undergenerate. Pursuant to section 1.0 of Rate Schedule 3-A, NYISO does not deem “persistent” undergeneration to have occurred unless a generator fails to begin moving towards its assigned basepoint within fifteen minutes (three consecutive Real-Time Dispatch intervals). NYISO argues that generators that require ten minutes to start-up will therefore have enough time to begin moving toward their base points, and thus to avoid undergeneration charges, if they are committed and dispatched by Real-Time Dispatch. NYISO states that it does not object to the other changes proposed by the New York Transmission Owners.

C. Commission’s Determination

21. The Commission will accept NYISO’s proposed tariff sheets, subject to the conditions described below. The Commission agrees with NYISO that the instant filing should result in real-time prices that better represent underlying market conditions than the real-time prices that are produced under NYISO’s current procedures.

¹² OATT, Proposed Sheets 46, 452 and 452.01.

¹³ New York Transmission Owners’ Comments at 7.

22. The Commission recognizes, and agrees with, one of the concerns raised by the New York Transmission Owners and, thus, we will require NYISO to file, within 30 days of the date of this order, a compliance filing modifying its proposed tariff sheets in the manner requested by the New York Transmission Owners, as enumerated below.

23. First, the Commission rejects the New York Transmission Owners' request to provide relief to 10-minute resources from undergeneration penalties exacted by NYISO. NYISO's answer explains that undergeneration penalties only occur after three Real-Time Dispatch intervals, or fifteen minutes. This provides 10-minute resources with sufficient time to start up and avoid any undergeneration penalties. Therefore we will not require the changes proposed by the Transmission Owners with respect to undergeneration penalties.

24. Second, we agree with the New York Transmission Owners that NYISO has failed to define the term "minimum generation level," and the lack of a definition may lead to confusion among market participants. Therefore, we direct NYISO to define "minimum generation level," including the upper limit, in both the OATT and the Services Tariff.

The Commission orders:

NYISO's proposed tariff revisions are hereby accepted for filing, subject to a compliance filing to be made within 30 days of the date of issuance of this order, as discussed in the body of this order.

By the Commission.

(S E A L)

Magalie R. Salas
Secretary