

125 FERC ¶ 61,229
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

November 25, 2008

In Reply Refer To:
New York Independent System Operator, Inc.
Docket No. ER08-321-002

Hunton & Williams LLP
Attention: Ted J. Murphy
Counsel to New York Independent System Operator, Inc.
1900 K Street, N.W., Suite 1200
Washington, D. C. 20006-1109

Reference: Request for Extension of Waiver and Extension of Commission Instruction

Dear Mr. Murphy:

1. On November 12, 2008, the New York Independent System Operator, Inc. (NYISO) filed a motion for extension of waiver and Commission instruction granted in a letter order issued February 8, 2008.¹ Specifically, NYISO requests extensions of: (1) waiver of section 3.1.4(d) of the Market Power Mitigation Measures (MMM) set forth in Attachment H of NYISO's Market Administration and Control Area Services Tariff (Tariff); and (2) Commission instruction to use cost-based start-up reference levels for New York Control Area generators (NYCA generators) while such waiver remains in effect. The waiver and Commission instruction expire December 1, 2008. NYISO requests that they remain in effect until February 4, 2009. The Commission grants the extensions of waiver and Commission instruction until February 4, 2009.

Background

2. On December 10, 2007, NYISO reported certain issues with the implementation of its MMM. The report summarized the steps being taken to resolve those issues and requested that corrections be required only on an on-going basis until NYISO could

¹ 122 FERC ¶ 61,119 (2008).

implement appropriate revisions to its software or MMM. In that December 2007 report, NYISO also requested that the Commission grant certain tariff waivers and instruction requests. On February 8, 2008, the Commission granted NYISO's requested tariff waivers to the extent necessary to excuse its failure to satisfy certain requirements of the MMM, and the Commission agreed not to require retroactive revisions to market clearing prices or guarantee payments. The Commission also granted NYISO's request to temporarily switch all New York Control Area generators (NYCA generators) to cost-based start-up reference levels. The waivers and instructions to switch all NYCA generators to cost-based start-up reference levels were put into effect until December 1, 2008.

Instant Filing

3. In its November 2008 extension request, NYISO asserts that it has worked diligently to upgrade its bid-based start-up reference level calculation software by December 1, 2008, and that it deployed revised software on November 4, 2008. NYISO notes that section 3.1.4(d)(1) of the MMM requires bid-based start-up reference levels to be calculated using bids submitted over the previous 90 days. NYISO states that its software only began collecting the necessary bid data on November 4, 2008. Therefore, NYISO states that it will have less than 30 days of accurate bid history to calculate bid-based start-up reference levels when the current waiver expires on December 1, 2008 and not the tariff-required 90 days of accurate bid history. NYISO states that the necessary information will not be available until February 4, 2009.

4. NYISO states that it has examined other options for using bid-based start-up reference levels as of December 1, 2008. NYISO asserts that it considered "back-filling" the necessary bid data but decided against it because of the extensive development effort required to re-create and backfill approximately two months of bid data for hundreds of generators. Moreover, NYISO's Market Monitoring and Performance Department has reviewed the available bid data and concluded that it would not be suitable to employ bid-based start-up reference levels with less than 30 days of bid data. Consequently, NYISO decided to request an extension of the waiver of section 3.1.4(d) of the MMM from December 1, 2008 to February 4, 2009 while also requesting that the Commission's instruction for NYISO to use cost-based reference levels for NYCA generators remain in place until February 4, 2009.

Notice and Responsive Pleadings

5. Public notice of NYISO's filing was issued on November 14, 2008, with Interventions and protests due on or before November 19, 2008. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2006), all timely filed motions to intervene and any motions to intervene out-of-time filed before the issuance date of this order are granted. No protests or adverse comments were filed.

Discussion

6. The Commission finds the extension of waiver appropriate because it enables the new software to gather the full 90 days of accurate bid history required by the Tariff for calculating the bid-based-start-up reference levels. Accordingly, the Commission grants NYISO's request to extend the tariff waiver related to section 3.1.4(d) of the MMM granted in paragraph 16 of the February 8, 2008 letter order. This extension will be from December 1, 2008 until February 4, 2009. The Commission also grants NYISO's request to direct that NYISO continue to use cost-based start-up reference levels for NYCA generators while the waiver is in effect.

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.