

134 FERC ¶61,255
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 Nos. ER11-2048-000
ER11-2048-001
ER11-2048-002

ORDER CONDITIONALLY ACCEPTING COMPLIANCE FILING IN PART,
REJECTING COMPLIANCE FILING IN PART,
AND REQUIRING ADDITIONAL COMPLIANCE FILING

(March 31, 2011)

1. In this order, the Commission accepts in part and rejects in part a filing by the New York Independent System Operator, Inc. (NYISO) of revisions to its tariff to change the method by which NYISO calculates Available Transmission Capacity (ATC). For the reasons discussed below, we accept NYISO's filing in part, as being in partial compliance with Order Nos. 729 and 890, effective as of April 1, 2011. We also direct NYISO to submit an additional compliance filing within 60 days of the date of this order.

I. Background

A. Order Nos. 729 and 890

2. On November 24, 2009, the Commission issued Order No. 729, approving six "Modeling, Data and Analysis" (MOD) Reliability Standards submitted by the North American Electric Reliability Corporation (NERC).¹ The six MOD Reliability Standards require certain users, owners, and operators of the Bulk-Power System to develop consistent methodologies for the calculation of Available Transfer Capability (ATC) and

¹ *Mandatory Reliability Standards for the Calculation of Available Transfer Capability, Capacity Benefit Margins, Transmission Reliability Margins, Total Transfer Capability, and Existing Transmission Commitments and Mandatory Reliability Standards for the Bulk-Power System*, Order No. 729, 129 FERC ¶ 61,155 (2009), *order on reh'g*, Order No. 729-A, 131 FERC ¶ 61,109, *order on reh'g and reconsideration*, Order No. 729-B, 132 FERC ¶ 61,027 (2010).

Available Flowgate Capability (AFC). Reliability Standard MOD-001-1 "requires applicable entities to calculate available transfer capability on a consistent schedule and for specific timeframes."² In Order No. 729-B, the Commission also clarified the effective date for the MOD Reliability Standards, stating that the MOD Reliability Standards shall become effective on the first day of the first quarter occurring 365 days following approval by the Commission, i.e., April 1, 2011.³

3. The Commission also issued Order No. 890, in which it allowed transmission providers to propose non-rate terms and conditions that differ from those in Order No. 890 if those provisions are consistent with or superior to the transmission provider's *pro forma* Open Access Transmission Tariff (OATT).⁴ To the extent that deviations from the *pro forma* OATT are necessary, the Commission has found such deviations to be just and reasonable if the filing party explains how the deviations in the proposed OATT are consistent with or superior to the *pro forma* OATT, or fully explains how the *pro forma* provisions are not applicable given the filing party's business model.⁵ The Commission also stated in Order No. 890 that it required transmission providers to file a revised Attachment C to incorporate any changes in NERC's and the North American Energy Standards Board's (NAESB) revised reliability standards and business practices related to ATC calculations.⁶

² Order No. 729, 129 FERC ¶ 61,155 at P 20.

³ On September 16, 2010, the Commission issued an order accepting an interpretation of Reliability Standards MOD-001-1 and MOD-029-1. *North American Electric Reliability Corporation*, 132 FERC ¶ 61,239 (2010) (September 16, 2010 Order). To reflect this interpretation, which is now appended to both standards, these Reliability Standards are now MOD-001-1a and MOD-029-1a.

⁴ *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 135, *order on reh'g*, Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 (2007), *order on reh'g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008), *order on reh'g*, Order No. 890-C, 126 FERC ¶ 61,228 (2009), *order on clarification*, Order No. 890-D, 129 FERC ¶ 61,126 (2009).

⁵ *Montana Alberta Tie Ltd.*, 116 FERC ¶ 61,071, at P 60 (2006).

⁶ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 325.

B. Prior Related Commission Orders

1. Order on NERC Interpretation of MOD Reliability Standards

4. On December 2, 2009, NERC petitioned the Commission to approve an interpretation by NERC of certain MOD Reliability Standards that had been requested by NYISO.⁷ In that proceeding, NYISO describes its ATC calculation as "advisory," and thus as different from the "physical reservation" transmission model contemplated by the Order No. 890 *pro forma* OATT.⁸ NYISO asked for clarification as to whether the "advisory ATC" used under the NYISO tariff is subject to the ATC calculation and recalculation requirements in MOD-001-1 (now MOD-001-1a) Requirements R2 and R8, which specify the methodology and frequency with which a transmission provider must calculate ATC or AFC.⁹ NYISO also asked for clarification as to whether it is necessary

⁷ See September 16, 2010 Order, 132 FERC ¶ 61,239.

⁸ NYISO's January 8, 2010 comments in Docket No. RD10-5-000 at 2-3; *see also* NYISO's November 8, 2010 transmittal letter in this proceeding at 2.

⁹ Requirements R2 and R8 provide as follows:

R2. Each Transmission Service Provider shall calculate [Available Transmission Capacity (ATC)] or [Available Flowgate Capacity (AFC)] values as listed below using the methodology or methodologies selected by its Transmission Operator(s):

R2.1 Hourly values for at least the next 48 hours.

R2.2 Daily values for at least the next 31 calendar days.

R2.3 Monthly values for at least the next 12 months (months 2-13).

....

R8. Each Transmission Service Provider that calculates ATC shall recalculate ATC at a minimum on the following frequency, unless none of the calculated values identified in the ATC equation have changed:

R8.1 Hourly values, once per hour. Transmission Service Providers are allowed up to 175 hours per

(continued)

to document the frequency of "advisory" calculations in the responsible entity's Available Transfer Capacity Implement Document.

5. As relevant here, in issuing that interpretation, NERC found that NYISO has multiple ATC Paths that NERC considers to be subject to the calculation and recalculation requirements of MOD-001-1 (now MOD-001-1a) Requirements R2 and R8.¹⁰ NERC further found that "advisory ATC" is defined in the NYISO tariff in the same manner in which NERC defines ATC, thus making it difficult for NERC to conclude that NYISO's advisory ATC is not the same as ATC as defined by NERC.¹¹ Thus, in its order, the Commission concluded that NYISO must comply with MOD-001-1 Requirements R2 and R8 to calculate and recalculate ATC for those paths that fit within the NERC definition of ATC Paths.¹² In reaching this determination, the Commission specifically noted that NYISO's external interfaces appear to be ATC Paths, because, whether or not ATC is calculated by NYISO, they are "a control area to control area interconnection" within the Posted Path definition.¹³ Moreover, the Commission also found that to the extent needed for compliance with MOD-001-1 (now MOD-001-1a), NYISO would have to calculate internal flows in order to fulfill its obligation to calculate external flows.¹⁴

2. Orders on Request for Waiver of OASIS Posting Requirements

6. In a separate proceeding, on February 12, 2010, the Commission granted in part and deferred in part a request filed by NYISO for waivers from certain Open-Access

calendar year during which calculations are not required to be performed, despite a change in a calculated value identified in the ATC equation.

R8.2 Daily values, once per day.

R8.3 Monthly values, once per week.

¹⁰ September 16, 2010 Order, 132 FERC 61,239 at P 22.

¹¹ *Id.* NERC defines ATC Paths as: "Any combination of Point of Receipt and Point of Delivery for which ATC is calculated; any Posted Path."

¹² *Id.*

¹³ *Id.* P 24.

¹⁴ *Id.* P 26.

Same Time Information Systems (OASIS) posting requirements.¹⁵ In the February 12, 2010 Order, the Commission found that most of the posting regulations at issue were incompatible with the transmission services provided under NYISO's current tariff and granted the requested waivers. However, the Commission found that NYISO's request for waiver from certain OASIS posting requirements was closely correlated with the outcome of NERC's request for Commission approval of its interpretation of the MOD Reliability Standards, then pending before the Commission. Therefore, the Commission deferred action on the request for waiver of the Commission's regulations.¹⁶

7. In light of the September 16, 2010 Order, NYISO submitted a motion on October 12, 2010, to amend its waiver request to apply only to its internal interfaces. NYISO stated that, given the Commission's guidance in the September 16, 2010 Order, it no longer seeks waiver with respect to external interfaces. The Commission granted NYISO's amended request for waiver on December 10, 2010.¹⁷ It stated that it was doing so subject to the clarification in paragraph 26 of the September 16, 2010 Order, which provided that, to the extent needed for compliance with MOD-001-1 of the NERC Reliability Standards, NYISO should account for the impacts of its internal congestion on its external ATC Paths as accurately as possible, and, to the extent that NYISO has to calculate internal flows in order to fulfill its obligation to calculate external flows, it was required to do so.¹⁸

II. Description of Filing

8. On November 8, 2010, as amended on January 4, 2011, and January 7, 2011, NYISO submitted revised tariff sheets amending Attachment C – Methodology to Assess Available Transfer Capability of the NYISO tariff in compliance with Order Nos. 729-B and 890.

9. NYISO states that its proposed tariff revisions amend its existing Attachment C provisions to bring NYISO into full compliance with NERC's Reliability Standards

¹⁵ *New York Independent System Operator*, 130 FERC ¶ 61,104 (2010) (February 12, 2010 Order).

¹⁶ Specifically the Commission deferred action on the request for waiver of 18 C.F.R. §§ 37.6(b)(1), 37.6(b)(2)(i-ii), and 37.6(b)(3)(i-iii) (2010).

¹⁷ *New York Independent System Operator*, 133 FERC ¶ 61,208 (2010) (December 10, 2010 Order).

¹⁸ December 10, 2010 Order, 133 FERC ¶ 61,208 at P 12-13, *citing to* September 16, 2010 Order, 132 FERC ¶ 61,239 at P 26.

MOD-004-1, MOD-008-1, and MOD-029-1a. NYISO states that it proposes only two minor variations from NERC's standard language. First, NYISO has included language clarifying that Transmission Flow Utilization will be accounted for under the standard MOD-029-1a algorithm for computing Existing Transmission Commitments as part of the Other Services variable. Second, NYISO proposes to replace references to ATC Paths in the MOD-029-1a language with references to Interfaces. NYISO explains that its proposed terminology is more inclusive because it encompasses all of the Internal Interfaces – which are not ATC Paths – and the External Interfaces – which appear to be ATC Paths, for which the NYISO will calculate ATC. Additionally, NYISO's proposed tariff provisions state at Section 9.1 that "ATC shall be calculated and posted after the close of the ISO's Day-Ahead Market and Real-Time Market for all Internal and External Interfaces and for Scheduled Lines." NYISO concludes that its variations reflect NYISO's financial reservation model, and are consistent with the September 16, 2010 Order.

10. In addition, NYISO'S submittal includes proposed corrections to certain ministerial errors and omissions. The revisions: (i) add language to Section 9.1 clarifying that ATC for Scheduled Lines may be calculated by other ISOs/RTOs that control the lines; and (ii) clarify and correct portions of previously accepted tariff language in section 9.6, for NYISO's calculation of transmission reliability margin.

11. As noted above, NYISO explains that it uses a financial reservation transmission service model, which uses differs substantially from the physical reservation transmission model contemplated by the Order No. 890 *pro forma* OATT. NYISO notes that the Commission has previously granted NYISO waivers from various OASIS posting regulations and from related NAESB standards that were inapplicable to NYISO's operations and transmission service model in prior filings.¹⁹

Notice of Filing

12. Notices of NYISO's November 8, 2010, January 4, 2011, and January 7, 2011 filings were published in the *Federal Register*, 75 Fed. Reg. 70,230 (2010), and 76 Fed. Reg. 2895, 76 Fed. Reg. 3619 (2011), respectively, with interventions and protests due on or before November 29, 2010, January 25, 2011, and January 28, 2011. A motion to intervene was filed by the New York Transmission Owners on November 29, 2010.

¹⁹ NYISO points to several cases involving waivers of OASIS standards, including *New York Independent System Operator, Inc.*, 127 FERC ¶ 61,005, at P 7 (2009); *New York Independent System Operator, Inc.*, 125 FERC ¶ 61,275, at P 15 (2008); *New York Independent System Operator, Inc.*, 117 FERC ¶ 61,197, at P 15-17 (2006); and *New York Independent System Operator, Inc.*, 133 FERC ¶ 61,246 (2010). November 8, 2010 transmittal letter at 4 n.9.

III. Discussion

A. Procedural Matters

13. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2011), the timely, unopposed motion to intervene serves to make the entity that filed it a party to this proceeding.

B. Commission Determination

14. Except as noted below, the Commission accepts NYISO's compliance filing and other ministerial corrections to Attachment C.

15. The Commission also directs NYISO to submit an additional compliance filing within 60 days from the date of this order, addressing the concern detailed below. Section 9.1 of NYISO's Attachment C provides a general overview of how the ISO will calculate and post ATC values for its internal and external interfaces and for its scheduled lines. Section 9.2 of NYISO's Attachment C provides a methodology for computing firm and non-firm ATC. Section 9.1 states in part:

ATC shall be calculated and posted after the close of the ISO's Day-Ahead Market and Real-Time Market for all Internal and External Interfaces and for Scheduled Lines.

Section 9.2 states in part:

These Firm ATC values shall be posted after the close of the Day-Ahead Market and Real-Time Market for all Interfaces and Scheduled Lines.

16. The instant filing does not meet NYISO's compliance obligation in P 325 of Order No. 890 because Sections 9.1 and 9.2 do not include an accurate documentation of processes and procedures related to the calculation of ATC.²⁰ In particular, as the Commission stated previously, "the NYISO OATT's definition of 'ATC' . . . does not fully reflect the 'advisory' nature of most NYISO ATC calculation,"²¹ and Attachment C of the NYISO tariff still does not accurately reflect its method of ATC calculation. In its

²⁰ As the Commission also noted in the September 16, 2010 Order, 132 FERC ¶ 61,239 at P 20, "[t]o the extent that NYISO's tariff does not reflect its actual mode of operation, . . . NYISO is required to take steps to ensure that its tariff and its actual operations are in harmony."

²¹ September 16, 2010 Order, 132 FERC ¶ 61,239 at P 20.

filing, NYISO states that "[i]f the posted ATC value for an Interface is zero that is an indication that the Interface is congested" and that NYISO may still be able to provide firm transmission service over internal interfaces by redispatching its system, if transmission customers are willing to pay congestion charges (Section 9.1). However, this statement, without more, does not provide sufficient documentation of the processes and procedures by which NYISO calculates ATC. We, therefore, require NYISO to place into Attachment C of its tariff the processes and procedures with which it calculates ATC, and to provide a current link to the location of the detailed algorithms on its website, as required by P 325 of Order No. 890.²²

17. Additionally, the Commission has made clear that NYISO must comply with MOD-001-1 (now MOD-001-1a) Requirements R2 and R8 to calculate and recalculate ATC for those paths that fit within the NERC definition of ATC Paths.²³ As noted, above, although NYISO previously requested waiver from certain OASIS posting requirements requiring the calculation and posting of ATC on its internal and external interfaces, NYISO acknowledges in this filing, by replacing references to "ATC Paths" in the MOD-029-1 (now MOD-029-1a) language with references to "Interfaces," that it no longer seeks waiver of MOD-001-1 (now MOD-001-1a) Requirements R2 and R8 with respect to external interfaces.²⁴ Thus, NYISO acknowledges that it should account for the impacts of congestion on its external ATC Paths as accurately as possible. Moreover, with regard to transactions on external interfaces, NYISO must meet the timing requirements of MOD-001-1a. Requirements R2 and R8 of MOD-001-1a that require all transmission service providers to calculate and recalculate hourly, daily, and monthly ATC values. The proposed tariff provisions filed by NYISO do not specify how these hourly, daily and monthly ATC values will be calculated. Proposed Section 9.1 also implies that NYISO does not calculate ATC at the frequency required in R8 of MOD-001-1a. By combining external interfaces with internal interfaces, and proposing to continue to calculate ATC after the fact, NYISO's proposed tariff provisions do not comply with R2 and R8 of MOD-001-1a. We will, therefore, require NYISO to revise its proposed tariff provisions to comply with R2 and R8 of MOD-001-1a in this regard.

²² We further remind NYISO, and other RTOs, that website links must be maintained and kept up to date in order to remain compliant with Order No. 890. *See* Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 325 ("Attachment C must provide an accurate documentation of processes and procedures related to the calculation of ATC, not the actual mathematical algorithms themselves, which should be posted on the transmission provider's Web site").

²³ September 16, 2010 Order, 132 FERC ¶ 61,239 at P 22.

²⁴ Transmittal at page 5.

18. Finally, we note that MOD-001-1a Requirements R6 and R7 remain unaddressed in NYISO's Attachment C.²⁵

19. Therefore, we direct NYISO to file, within 60 days of the issuance of this order, a further compliance filing that either revises sections 9.1 and 9.2 of Attachment C to comply with MOD-001-1a Requirements R2 and R8, or explains how its tariff currently reflects its actual mode of operation in a way that is consistent with or superior to the transmission provider's *pro forma* Open Access Transmission Tariff (OATT), as required by Order No. 890. We will require NYISO to include a tariff amendment that will update or clarify the frequency with which NYISO calculates ATC. We also require NYISO to either revise or explain the calculation assumptions used to determine its Total Transfer Capability and ATC values, in compliance with MOD-001-1a Requirements R6 and R7.

20. Lastly, the Commission directs NYISO to include in its compliance filing a clarification of how NYISO's ATC values are calculated in coordination with other transmission providers. As explained in Order No. 890, transmission providers are required to coordinate the calculation of ATC with others and this requires a standard means of exchanging data. The data shall, at a minimum, be exchanged among transmission providers for the purposes of ATC modeling and ATC recalculation frequency and times.²⁶ Therefore, the Commission directs NYISO to provide a description of how it responds to requests for data even when such requests are made more frequently than the transmission service provider updates its available transfer or flowgate capability model. Further NYISO should explain its calculation frequency and how it adjusts its calculations for neighboring control areas, in its revised Attachment C filing.

²⁵ MOD-001-1a Requirements R6 and R7 provide as follows:

R6. When calculating Total Transfer Capability (TTC) or Total Flowgate Capability (TFC) the Transmission Operator shall use assumptions no more limiting than those used in the planning of operations for the corresponding time period studied, providing such planning of operations has been performed for that time period.

R7. When calculating ATC or AFC the Transmission Service Provider shall use assumptions no more limiting than those used in the planning of operations for the corresponding time period studied, providing such planning of operations has been performed for that time period.

²⁶ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 310.

The Commission orders:

(A) NYISO's compliance filing is hereby conditionally accepted, as discussed in the body of this order.

(B) NYISO is hereby required to submit a compliance filing within 60 days from the date of this order, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.