

142 FERC ¶ 61,202
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. ER13-780-002

ORDER ACCEPTING COMPLIANCE FILING,
SUBJECT TO CONDITIONS

(Issued March 21, 2013)

1. On January 18, 2013, as amended on January 25, 2013, the New York Independent System Operator, Inc. (NYISO) submitted a compliance filing, in response to the Commission's August 22, 2012 order.¹ In the August 2012 Order, and a series of earlier orders discussed below, the Commission required NYISO to implement a new interface pricing policy applicable to certain interregional transactions in, and around, the Lake Erie region. To implement its interface pricing policy, NYISO proposes revisions to section 17 of its Market Administration and Control Area Services Tariff (Services Tariff). For the reasons discussed below, we accept NYISO's compliance filing, to become effective, as requested, on March 20, 2013, subject to the submission of an additional compliance filing.

I. Background

A. Lake Erie Loop Flow Proceeding

2. NYISO instituted this proceeding to address certain unscheduled, circuitous power flows around Lake Erie, scheduled for the purpose of exporting power from NYISO to PJM Interconnection, L.L.C. (PJM), via the Ontario Independent Electricity System Operator (IESO) and the Midwest Independent Transmission System Operator, Inc. (MISO). To address the market distortions that resulted from these unscheduled flows, NYISO proposed certain short-term solutions, which the Commission accepted, subject to the requirement that NYISO work with its neighboring system operators to develop a

¹ *N.Y. Indep. Sys. Operator, Inc.*, 140 FERC ¶ 61,140 (2012) (August 2012 Order).

comprehensive, long-term solution.² In response, NYISO, in collaboration with PJM, MISO, and the IESO, proposed to develop and implement an interface pricing initiative, among other proposals. In an order issued July 15, 2010, the Commission found that these initiatives appeared to represent a workable framework, but identified unanswered questions.³ The parties' responses were addressed by the Commission in a December 30, 2010 Order, in which the Commission directed NYISO to implement its initiative by the second quarter of 2011.⁴ In a subsequent order, issued July 1, 2011, the Commission extended this deadline to January 2012.⁵

3. In response, NYISO submitted an informational filing, on December 22, 2011, providing notice of its software deployment implementing interface pricing.⁶ In an order issued March 15, 2012, the Commission found that NYISO had failed to comply with the December 2010 Order.⁷ Specifically, the Commission found that NYISO had failed to submit tariff revisions to establish an interface pricing methodology that is consistent with PJM's methodology, i.e., an interface pricing methodology that uses North American Reliability Corporation (NERC) eTag information to determine the actual

² See *N.Y. Indep. Sys. Operator, Inc.*, 124 FERC ¶ 61,174 (2008); *N.Y. Indep. Sys. Operator, Inc.*, 125 FERC ¶ 61,184, at P 20 (2008). In a subsequent order, the Commission established a deadline for NYISO to develop and file an implementation plan addressing its proposed long-term solutions. *N.Y. Indep. Sys. Operator, Inc.*, 128 FERC ¶ 61,049 (2009).

³ *N.Y. Indep. Sys. Operator, Inc.*, 132 FERC ¶ 61,031 (2010).

⁴ *N.Y. Indep. Sys. Operator, Inc.*, 133 FERC ¶ 61,276 (2010) (December 2010 Order).

⁵ *N.Y. Indep. Sys. Operator, Inc.*, 136 FERC ¶ 61,011 (2011).

⁶ NYISO stated that, utilizing its new software, it would have the ability to implement two alternative methods, or modes, of pricing and scheduling interface transactions, the first of which (a Conforming Mode) would be used when actual power flows through the NYISO control area are expected to closely conform to scheduled power flows, and a second mode (i.e., a Non-Conforming Mode) when NYISO expected significant unscheduled power flows. NYISO asserted that, under either mode, the resulting prices would be consistent with the expected location of power delivery and the value of delivery at these locations and that when operating under the Non-Conforming Mode, the resulting pricing would be expected to be similar to the results produced by the external interface pricing methods currently employed by PJM and the MISO.

⁷ *N.Y. Indep. Sys. Operator, Inc.*, 138 FERC ¶ 61,195 (2012) (March 2012 Order).

source and sink for a transaction and then calculates prices based on the actual energy flows at all times.

4. NYISO sought rehearing of the March 2012 Order. In the August 2012 Order, the Commission granted rehearing, in part, based on NYISO's representations that PJM uses expected energy flows and NERC eTag information, rather than actual energy flows, to determine interface prices, consistent with the existing design of the NYISO market.⁸ The Commission found that, under these circumstances, it was reasonable to use expected flows for pricing purposes. Accordingly, the Commission granted rehearing of the March 2012 Order's determination that, to comply with the December 2010 Order, NYISO was required to submit a revised pricing methodology based on actual energy flows.

5. The Commission clarified that the March 2012 Order did not require NYISO to abandon its economic evaluation of external transactions, or redesign its market, in order to adopt interface pricing rules that are the same as PJM's rules.⁹ The Commission further clarified that in requiring that NYISO's proposal be "consistent" with PJM's interface pricing approach, the Commission was only requiring NYISO's methodology to be *compatible* with PJM's—not necessarily identical. Finally, the Commission clarified that NYISO's interface pricing revisions were not intended to apply to those interfaces for which unscheduled Lake Erie loop flows are not an issue.

B. Compliance Proposal

6. NYISO states that its compliance proposal consists of proposed revisions to Attachment B, section 17 of the Services Tariff. NYISO asserts that these proposed revisions are expected to produce pricing results that are compatible with the results produced by the PJM interface pricing method and thus comply with the requirements of the August 2012 Order.¹⁰

⁸ August 2012 Order, 140 FERC ¶ 61,140 at P 21.

⁹ *Id.* P 22. The Commission, however, required NYISO to explain, in its compliance proposal, how its proposed approach would better align scheduled and real-time energy flows, and how it would use NERC eTag information to better predict energy flows and to enhance existing interface pricing practices. *Id.* P 21.

¹⁰ In contrast to its December 22, 2011 filing, NYISO's proposed tariff revisions address the calculation of interface prices using only a "Non-Conforming Scheduling Mode." The proposed Tariff revisions do not incorporate any presumptions regarding the efficacy of the Ontario/Michigan PARs in predictably and continuously adjusting actual power flows to conform to scheduled power flows. NYISO states that when sufficient

7. NYISO states that its pricing proposal is comprised of three component parts. First, NYISO proposes to model the Ontario/Michigan interface as an uncontrolled/free flowing transmission path, in the same way that PJM does, and to include expected unscheduled power flows in both its day-ahead and real-time markets. Second, NYISO proposes to retain its existing NERC eTag scheduling path validation process to price external transactions and to ensure that external transaction bids will be economically evaluated and scheduled, consistent with their expected power flow impacts.¹¹ Third, with respect to prices calculated at the Keystone proxy generator bus (a price point representing a significant portion of the NYISO/PJM border), NYISO proposes to: (i) treat uncontrolled alternating current transmission lines as free-flowing tie lines; (ii) recognize, in its pricing, the expected unscheduled power flows over the interface facilities; and (iii) recognize the effectiveness of its existing PARs-controlled transmission facilities, at the ABC, JK, and Ramapo PARs, in aligning actual and scheduled power flows.¹²

8. To determine expected unscheduled power flow in the day-ahead market, NYISO proposes to rely on recently-observed historic loop flow data.¹³ To determine expected unscheduled power flow in the real-time market, NYISO proposes to rely on the actual, currently-observed Lake Erie circulation value, i.e., the difference between scheduled power flows and actual power flows, as measured at the NYISO interface with Ontario. NYISO states that, in the real-time market, the current, actual unscheduled power flow will be directly reflected in pricing.

9. NYISO proposes to determine expected power flows for both the Keystone proxy generator bus and for free-flowing tie lines. NYISO proposes that prices calculated for the Keystone proxy generator bus reflect hourly elections, as made by the Consolidated Edison Company of New York (ConEd), under an existing ConEd/PJM transmission

data is collected regarding the actual operation and performance of the Ontario/Michigan PARs, NYISO, PJM, and MISO will collectively consider whether (and what) changes to any of their respective pricing methods are appropriate to reflect the operation of the Ontario/Michigan PARs.

¹¹ NYISO asserts that its bid path validation process is designed to ensure that transactions are scheduled directly, and is designed to function in a manner similar to the economic incentives at play in PJM source-sink pricing.

¹² These facilities are located at the eastern interfaces between NYISO and PJM. They are used to wheel contracted energy to New York City.

¹³ See Services Tariff at proposed Attachment B, section 17.1.1.1.1.

agreement,¹⁴ and incorporate expected power flows at NYISO's existing PARs at the ABC interface, JK interface, and Branchburg-Ramapo interconnection.¹⁵ With respect to free-flowing tie lines, NYISO proposes to determine expected power flows consistent with the network impedance-derived shift factors.¹⁶ NYISO also proposes to determine prices for scheduled lines and for its direct current interconnection with Hydro Quebec, based on the expectation that actual power flow will be equal to scheduled power flows on these facilities.¹⁷

10. In response to the August 2012 Order's requirement that NYISO explain how its proposed approach will better align scheduled and real-time energy flows, and how it will use NERC eTag information to better predict energy flows and to enhance existing interface pricing practices, NYISO provides seven illustrated examples of how NYISO's pricing methods will operate in practice, focusing on transmission congestion and unscheduled power flows. Finally, NYISO asserts that its proposed tariff revisions are supported by both PJM and the NYISO external market monitoring unit, Potomac Economics (MMU).

II. Notice of Filing and Responsive Pleadings

11. Notices of NYISO's filings were published in the *Federal Register*, with interventions and protests due on or before February 8, 2013.¹⁸ Notices of intervention and/or motions to intervene were timely-filed by the New York Public Service Commission, Exelon Corporation, and Monitoring Analytics, LLC, acting in its capacity as the independent market monitor for PJM (PJM-IMM). On March 13, 2013, a motion

¹⁴ See NYISO Open Access Transmission Tariff (OATT) at Attachment CC, Schedule C, section 35.

¹⁵ See Services Tariff at proposed Attachment B, section 17.1.1.1.2.

¹⁶ Shift factors measure the expected incremental flow on a specific line, or constraint, that will arise from an injection at the relevant proxy generator bus and a corresponding withdrawal at the reference bus. NYISO calculates these shift factors in the same manner across all scheduling horizons and as to both the day-ahead and real-time markets.

¹⁷ See Services Tariff at proposed Attachment B, section 17.1.1.1.3.

¹⁸ See Errata Notice, issued January 29, 2013.

to intervene out-of-time was filed by the New York Transmission Owners.¹⁹ Comments were filed by the PJM-IMM. Answers were filed on February 25, 2013 by NYISO, on March 12, 2013 by the PJM-IMM, and on March 13, 2013, by the New York Transmission Owners.

A. Protests and Comments

12. The PJM-IMM, in its comments, argues that while NYISO's method for calculating bus prices is comparable to the method used by PJM, both PJM and NYISO should consider the use of a more dynamic approach that would calculate bus weightings, as reflected in interface prices, based on ongoing changes in actual, real-time flows.

13. The PJM-IMM further argues that NYISO's proposal to retain its existing eTag path validation approach to price external transactions will ensure accurate pricing for some, but not all, external transactions, absent an extension of the eTag path validation approach to additional valid paths and all external transactions. The PJM-IMM adds that the eTag path validation approach fails to identify all potential scheduled market paths with actual flows that do not match the scheduled market path. The PJM-IMM further notes that without addressing all such potential market paths, the NERC eTag process will continue to permit pricing incentives that do not address the Lake Erie loop flow issues at issue in the compliance proceeding.

14. To address these concerns, the PJM-IMM requests that NYISO be directed to create a reference document identifying the primary flows from every external balancing authority to and from NYISO and then modify its path validations to ensure that each submitted transaction path is assigned a single NYISO interface pricing point which is consistent with actual power flows. Finally, the PJM-IMM requests that NYISO's tariff be revised to provide that it is a violation of the tariff to break a circuitous path into separate pieces for the purpose of changing the assigned price.

B. Answers

15. NYISO, in its answer, responds to the PJM-IMM's recommendation that the Commission require NYISO to: (i) create a reference document identifying the primary flows from every external balancing authority to and from NYISO; and (ii) modify NYISO's path validations to ensure that each submitted transaction path is assigned a single NYISO interface pricing point. NYISO asserts that neither NYISO nor the MMU

¹⁹ Central Hudson Gas & Electric Corp., Consolidated Edison Co. of New York, Inc., Long Island Power Authority, New York Power Authority, New York State Electric & Gas Corp., National Grid, Orange and Rockland Utilities, Inc., and Rochester Gas and Electric Corp.

had an opportunity to review these recommendations, prior to their submission by the PJM-IMM, but are aware of no significant benefits attributable to the software capability these recommendations would require.

16. NYISO adds that the PJM-IMM's recommendation that NYISO implement source/sink path prohibitions for all possible paths is beyond the scope of this compliance proceeding. NYISO argues that implementation of these recommendations would require the development of new source/sink scheduling path prohibitions for more than 130 control areas for which no transactions were scheduled over the last two years. NYISO further asserts that implementation of the PJM-IMM's recommendations would affect scheduled external transactions with ISO New England, Inc. (ISO-NE), Hydro Quebec, Ontario, and direct interchange with PJM that do *not* involve circuitous Lake Erie flow. NYISO asserts that, as such, these recommendations should be rejected as both unnecessary and unduly burdensome.

17. Notwithstanding these concerns, NYISO proposes, as what it states is a compromise solution, a requirement that it modify its OATT, at section 16.3.3.8, to permit NYISO, in consultation with its MMU, to seek authorization from the Commission to add additional prohibited scheduled paths at such time that it becomes apparent that a path is being scheduled in a manner inconsistent with expected actual flows. NYISO proposes that, to expedite this process, a compliance filing mechanism be used, similar to the procedure accepted by the Commission in Docket No. ER11-2547-000.²⁰

18. The PJM-IMM, in its answer, reasserts its previous requests that NYISO implement an interface pricing approach comparable to that of PJM and that NYISO address the other scheduled market paths, as discussed by the PJM-IMM in its protest. The PJM-IMM adds that NYISO's proposed approach is not comparable to PJM's if it remains vulnerable to future pricing problems related to loop flow that are readily preventable.

19. The New York Transmission Owners object to the NYISO's request, in NYISO's answer, that the Commission order NYISO to submit a mechanism allowing for expedited compliance filings in the event that NYISO seeks to identify additional prohibited scheduling paths. The New York Transmission Owners assert that this authority, if granted, would circumvent the stakeholder process and would violate the terms of the ISO Agreement regarding the submission of proposed section 205 tariff changes. The New York Transmission Owners assert that, instead, NYISO should be

²⁰ See NYISO Answer at 13 (citing Services Tariff, at section 4.4.4 and *N.Y. Indep. Sys. Operator, Inc.*, 134 FERC ¶ 61,186 (2011)).

required to act via its existing filing authority, including its option to make filings subject to the exigent circumstances provisions of the ISO Agreement.²¹

III. Procedural Matters

20. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2012), the notices of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. In addition, we will accept the late-filed intervention of the New York Transmission Owners, given their interests in this proceeding, and the absence of prejudice to any other party at this early stage of this proceeding. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2012), prohibits an answer to a protest or an answer to an answer unless otherwise ordered by the decisional authority. We will accept the answers to protests and the answers to answers submitted by NYISO, the PJM-IMM, and the New York Transmission Owners, because they have provided information that assisted us in our decision making process.

IV. Discussion

21. For the reasons discussed below, we accept NYISO's compliance filing, to become effective March 20, 2013, as requested, subject to the submission of an additional compliance filing.

22. In the August 2012 Order, the Commission found that it was reasonable for NYISO to use expected energy flows for interface pricing purposes and required NYISO to provide a detailed explanation of how its proposal will align scheduled and real-time energy flows and how it intends to use NERC eTag validation to enhance this outcome.²² We find that the NYISO interface pricing proposal and supporting explanations satisfy these requirements. NYISO explains that, under its proposed tariff revisions, it will account for expected unscheduled power flows in its day-ahead market based on recently observed Lake Erie circulation. In the real-time market, NYISO will take into account the difference between scheduled and actual power flows measured at its interface with Ontario, i.e., actual Lake Erie circulation. We find this approach reasonable.

23. NYISO also explains, in its filing, how its interface pricing proposal will operate in coordination with the New York/New Jersey PAR-controlled interfaces and the associated wheeling agreements, as well as the recently implemented Market-to-Market

²¹ See New York Transmission Owners answer at 5-6 (citing ISO Agreement at section 19.01).

²² August 2012 Order, 140 FERC ¶ 61,140 at P 21.

Coordination Process as described in the NYISO/PJM Joint Operating Agreement.²³ Also, as directed, NYISO provides illustrated examples of how various scheduled transactions will be evaluated under the NERC eTag validation process and will be incorporated into interface prices. We find these explanations comply with the requirements of the August 2012 Order.

24. We reject the PJM-IMM's request that NYISO be required to broaden the reach of its proposal to apply to all external transactions. To the extent the PJM-IMM's request would require NYISO to adopt new market rules and/or redesign the existing operation of its market, we note the Commission's clarification, in the August 2012 Order, that NYISO's compliance obligation does not require NYISO to redesign its market.²⁴ This would be particularly unnecessary here where, as NYISO points out, it would be costly and economically inefficient to do so.²⁵ The PJM-IMM, moreover, effectively acknowledges that NYISO's interface pricing proposal satisfies its compliance obligation, given that it produces comparable results relative to PJM's source-and-sink methodology.²⁶

25. The PJM-IMM argues that the NYISO eTag path validation approach fails to identify each of the potential scheduled market paths that may have non-conforming actual flows, listing as one such example, a transaction for which the Tennessee Valley Authority would be the source, i.e., the generation balancing authority, and NYISO would be the sink, i.e., the load balancing authority. However, the PJM-IMM provides no evidence that a presumed transaction of this sort is, in fact, being utilized. Moreover, NYISO confirms, in its answer, that such transactions are rarely scheduled from, or to, more distant control areas, given that the cost of transmission congestion and/or losses would make it more economic to simply schedule the energy directly to, or from, PJM or MISO. NYISO further explains that to comply with the PJM-IMM recommendations would affect scheduled external transactions with ISO-NE, Hydro Quebec, Ontario, and direct interchanges with PJM that do not involve circuitous Lake Erie flow.²⁷

26. NYISO further notes, in its answer, that its existing prohibited paths, working in operation with its proposed interface pricing rules, will produce the same pricing result as the PJM-IMM's recommendations covering virtually all external transactions over the

²³ See NYISO OATT at Schedule D, section 35.

²⁴ August 2012 Order, 140 FERC ¶ 61,140 at P 22.

²⁵ See NYISO Answer at Attachment A (Patton affidavit at 5).

²⁶ See PJM-IMM Comments at 2.

²⁷ See NYISO Answer at 7-10.

last two years.²⁸ NYISO adds that the PJM-IMM's recommendations would, if implemented, affect only those transactions that were scheduled to, or from, a control area that is not directly interconnected with NYISO, i.e., only 0.25 percent of NYISO's external transactions. NYISO asserts, and we agree, that under these circumstances, the PJM-IMM has failed to identify a more efficient pricing solution relative to the rules proposed by NYISO.²⁹

27. Nonetheless, we accept NYISO's proposal to add additional prohibited paths, as may be appropriate, pursuant to the procedures outlined by NYISO in its answer. We agree that this approach will address any valid concerns, as they may arise, that there may be additional paths that should be prohibited. Accordingly, we direct NYISO to propose tariff revisions adopting this allowance, in a compliance filing to be submitted within 60 days of the date of this order.

28. With regard to the New York Transmission Owners' argument that NYISO's proposed compliance filing mechanism would inappropriately circumvent the stakeholder review process, we find that NYISO currently has similar authority to make filings under certain prescribed "exigent circumstances." However, even the exigent circumstances process could result in unwarranted delays in resolving market problems or impose additional unforeseen administrative burdens. We observe that this proceeding has undergone extensive stakeholder discussions, and therefore, in the narrow situation, where in consultation with its Market Monitoring Unit, NYISO seeks authorization from the Commission to add additional prohibited scheduled paths at such time that it becomes apparent that a path is being scheduled in a manner inconsistent with expected actual flows, we find that NYISO can use its proposed filing mechanism. We find the approach NYISO proposes to be preferable and less burdensome for an issue that has been previously vetted before the Commission in the proceeding in Docket No. ER08-1281. The New York Transmission Owners may, if they wish, renew their concerns and/or requests at such time that NYISO submits these proposed tariff revisions.

29. Finally, we reject, as beyond the scope of this compliance proceeding, the PJM-IMM's request that NYISO be required to clarify, in its tariff, that it is a tariff violation to break a circuitous path into separate pieces in order to change the price. We are not persuaded that such a rule change is required in order to implement an interface pricing policy that is comparable to PJM's methodology, or that such a rule would otherwise be limited to the Lake Erie loop flow concerns giving rise to this proceeding. Although we are not persuaded that such a rule change is required in order to implement an interface pricing policy that is comparable to PJM's methodology, we are not making

²⁸ *Id.* at 10.

²⁹ *Id.* at Attachment A (Patton affidavit at 12-15).

any determination at this time as to whether the conduct described is improper or permitted by Commission rules and regulations. However, if the independent market monitors for PJM or NYISO believe this behavior warrants a tariff change to correct a market design issue, that concern should be brought to the Commission's attention in a separate proceeding.

The Commission orders:

(A) NYISO's compliance filing is hereby accepted, as discussed in the body of this order, to become effective March 20, 2013.

(B) NYISO is hereby directed to submit an additional compliance filing within 60 days of the date of this order, as directed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.