

STATE OF NEW YORK DEPARTMENT OF PUBLIC  
SERVICE

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March 13, 2006

Honorable Magalie R. Salas, Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Room 1-A209  
Washington, D.C. 20426

Re: Docket Nos. RM06-8-000 and AD05-7-000, Long Term  
Transmission Rights in Markets Operated by Regional  
Transmission Organizations and Independent System  
Operators

Dear Secretary Salas:

For filing, please find the Comments of the New York State Public Service Commission in the above-captioned proceedings. Should you have any questions, please feel free to contact me at (518) 486-2652.

Very truly yours,

/s/ Saul A. Rigberg  
Saul A. Rigberg  
Assistant Counsel

Attachment

**UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

Long Term Transmission Rights )	Docket Nos. RM06-8-000
in Markets Operated by )	and AD05-7-000
Regional Transmission )	
Organizations and Independent )	
System Operators )	

**COMMENTS OF THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF NEW YORK**

The New York State Public Service Commission (NYPSC) submits its Comments pursuant to the February 2, 2006 Notice of Proposed Rulemaking. The NYPSC supports the proposal of the Federal Energy Regulatory Commission (FERC or the Commission) to require that the tariffs of public utility transmission organizations with organized markets (ISOs, RTOs) include rules, consistent with the proposed guidelines, to implement the Commission's policy that "market participants that request and support an expansion or upgrade [of transmission facilities] in accordance with their transmission organization's prevailing rules for cost responsibility and allocation must be awarded a long-term transmission right for the incremental transfer

capability created by the expansion or upgrade.”<sup>1</sup> Regarding the auctioning of rights for existing transmission facilities, the tariff of the New York Independent System Operator, Inc. (NYISO) contains provisions that are consistent with the proposed guidelines; any proposals to modify these rules (e.g., increasing the auction time horizon to longer than a year<sup>2</sup>) raise complex issues and should be developed through the NYISO's stakeholder process.

#### I. COMMUNICATIONS

Copies of all correspondence and pleadings should be addressed to:

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#### II. SUMMARY

The NYPSC supports FERC's proposal to require transmission organizations that are public utilities with

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<sup>1</sup> NOPR at 4.

<sup>2</sup> The NOPR suggests that a time duration of more than one year is "long term."

organized markets (ISOs/RTOs) to include in their tariffs market rules that establish a process for awarding long-term transmission rights (LTTRs) to developers of new transmission. Such a requirement will establish rights in the new transmission facilities for the developers and help them obtain financing for new transmission projects.

While a need for LTTRs has not been expressed by market participants in New York, we are sympathetic to the potential need of some load serving entities (LSEs) to procure such rights to hedge congestion. However, in order to avoid disruption of the existing New York market, whose rules were developed in an arduous stakeholder process, caution is urged regarding mandating auctions of LTTRs for existing transmission facilities, given the potential market power concerns discussed below.

The NYPSC also agrees that implementation of new requirements not only must recognize regional variations and existing market designs but also should allow adequate time for market participants and ISOs/RTOs to integrate the requirements in market rules in a careful manner. Guidelines that are sufficiently flexible to accommodate the New York Control Area's market design and unique characteristics, rather than generic mandatory guidelines, would allow New York market participants

the opportunity to gradually add longer term auctions to those currently in place if demand warrants.

### **III. STATEMENT OF ISSUES**

1. Should FERC require that transmission organizations that are public utilities with organized markets establish a process for awarding LTTRs to developers of new transmission? Yes.
2. Should FERC enact guidelines to implement LTTRs for existing transmission facilities that are sufficiently flexible to accommodate the New York Control Area's existing market design and unique characteristics so that New York market participants have the opportunity to develop rules gradually regarding the expansion of the time horizon in LTTR auctions as demand warrants? Yes.

### **IV. NYPSC SUPPORTS LTTRs FOR NEW TRANSMISSION INVESTMENTS, WITH REGIONAL FLEXIBILITY AND ACCEPTANCE OF EXISTING MARKET RULES**

- A. LTTRs for New Transmission Investments Will Encourage Development

The NYPSC supports the proposed requirement that public utility transmission organizations with organized markets

establish clear and specific rules for awarding LTTRs to developers of new transmission facilities. The absence of those rules may be an impediment to the development of new transmission, including transmission that may be needed for reliability in the future. The certainty of well-defined long-term transmission rights, both for regulated and merchant transmission, is useful in any analysis performed by potential investors.

B. Regional Flexibility and Acceptance of Existing Market Rules Is Required to Avoid Disruption of the New York Market

With the advent of the NYISO, market participants spent many years developing the allocation of rights to New York's existing transmission capacity so as to preserve the financial benefits that customers had under the prior system of physical transmission rights.

A critical underpinning of the NYPSC's support for the proposed rulemaking is the Commission's acknowledgement that there is no one best way to implement the rule. The development of processes for allocating and auctioning LTTRs for existing transmission capacity should build on existing market design, not go backwards to pre-market rules, so as to minimize the disruption of markets. LTTRs raise many complex issues and the stakeholder process is critical to getting the details correct.

Mandatory auctioning of transmission rights for longer horizons (over a year) for existing transmission should be considered with caution for the following reasons. First, buyers may be reluctant to forecast the value of congestion far into the future, resulting in insufficient buyer interest and artificially discounted prices. Consequently, transmission owners would receive insufficient revenues for their transmission assets. Under the NYISO's market design, these revenues are flowed through to LSEs; thus, artificially discounted prices would adversely affect customers of transmission owners.

Second, speculative accumulation of LTTRs could create or exacerbate market power in the energy markets. For example, the shutdown of a generator in a load pocket might increase congestion and thereby increase the value of LTTRs into the load pocket. If the generation owner were to purchase LTTRs, it might then find it profitable to shut down one or more of its generators in the load pockets in order to profit from the higher congestion rents earned by its LTTRs. Such gaming is much less profitable with short-term auctions because profits are limited to the term of the auction.

Finally, the proposed "preference" for LSEs with long-term contracts in constrained markets is inconsistent with the existing allocation of the rights in the New York market, which attempts to allocate those rights in a non-discriminatory fashion. Introducing such a preference is an unnecessary and potentially disruptive intrusion into the NYISO's competitive market.

As noted above, the NYISO and its market participants completed an arduous process to design market rules pertaining to the allocation and auctioning of LTTRs for existing transmission. We urge the Commission to allow the NYISO to retain the rules regarding existing transmission; we believe these rules satisfy the intent of the proposed guidelines.

The NYPSC recommends, accordingly, that the NYISO and its market participants be allowed to proceed slowly regarding LTTR auctions for existing transmission.

#### **V. CONCLUSION**

For the reasons discussed above, the Commission should (1) require provisions in ISO/RTO tariffs for awarding LTTRs to new transmission developers, (2) proceed with caution regarding

transmissions, and (3) allow New York market participants the opportunity to develop rules for existing transmission that gradually add longer term auctions to those currently auctioned, as demand warrants.

Respectfully submitted,

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Dawn Jablonski Ryman  
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of the State of New York  
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Dated: March 13, 2006  
Albany, New York

CERTIFICATE OF SERVICE

I, Diane McKenna, do hereby certify that I will serve on March 13, 2006 the foregoing Comments of the Public Service Commission of the State of New York in Docket Nos. RM06-8-000 and AD05-7-000 upon each of the parties of record on the official service list compiled by the Secretary in this proceeding.

Date: March 13, 2006  
Albany, New York

/s/ *Diane McKenna*  
Diane McKenna

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