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August 1, 2008

VIA ELECTRONIC FILING

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Room 1-A209
Washington, D.C. 20426

Re: Docket No. ER08-1281-000 - New York Independent
System Operator, Inc.

Dear Secretary Bose:

For filing, please find the Notice of Intervention and Comments of the New York State Public Service Commission in the above-entitled proceeding. Should you have any questions, please feel free to contact me at (518) 473-8178.

Very truly yours,

David G. Drexler
Assistant Counsel

Attachment
cc: Service List

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

New York Independent System) Docket No. ER08-1281-000
Operator, Inc.)

NOTICE OF INTERVENTION AND COMMENTS
OF THE PUBLIC SERVICE COMMISSION
OF THE STATE OF NEW YORK

NOTICE OF INTERVENTION

On July 21, 2008, the New York Independent System Operator, Inc. (NYISO) filed a request for expedited approval of tariff amendments addressing the scheduling of transactions over circuitous paths around Lake Erie that are adversely affecting the operation of NYISO-administered markets (NYISO Filing). The New York State Public Service Commission (NYPSC) hereby submits its Notice of Intervention and Comments in the above-captioned proceeding pursuant to the Federal Energy Regulatory Commission's (FERC or Commission) Notice of Filing, issued July 22, 2008, and Rule 214 of FERC's Rules of Practice and Procedure.

Copies of all correspondence and pleadings should be addressed to:

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BACKGROUND

Since January of this year, there has been a significant increase in External Transactions being scheduled over circuitous paths around Lake Erie.¹ It was concluded that these transactions were being scheduled to take advantage of differences in pricing and settlement rules (i.e., "seams") between the Independent System Operators and Regional Transmission Organizations surrounding Lake Erie. The differences in the pricing and settlement rules, the NYISO explains, are "providing inefficient scheduling incentives that are resulting in increasing levels of inefficient transactions."²

According to the NYISO, if the cost of scheduling Energy through the Ontario Independent Electric System Operator (IESO) and Midwest Independent Transmission System Operator, Inc. (MISO) into PJM Interconnection, LLC (PJM) is less than the difference between the Locational Based Marginal Price (LBMP) at the NYISO's PJM Proxy Generator Bus and the LBMP at the NYISO's IESO Proxy Generator Bus,³ then Market Participants can benefit

¹ External Transactions are defined as "[p]urchases, sales or exchanges of Energy, Capacity or Ancillary Services for which either the Point of Injection ("POI") or Point of Withdrawal ("POW") or both are located outside the NYCA (i.e., Exports, Imports or Wheels Through)." NYISO Open Access Transmission Tariff, Sheet No. 30.

² NYISO Filing at p. 5.

³ In general, LBMPs are higher at the NYISO's PJM Proxy Generator Bus than at the NYISO's IESO Proxy Generator Bus due to congestion.

financially from scheduling an Export Transaction from the NYISO's IESO Proxy Generator Bus, and Wheeling Through the IESO and MISO control areas to deliver into PJM, instead of scheduling the transaction directly from the NYISO to PJM.⁴ These transactions are exacerbating internal New York Control Area west-to-east transmission constraints and resulting in additional congestion related costs being incurred.

The NYISO Filing proposes to prohibit the scheduling of External Transactions over eight specified scheduling paths around Lake Erie, "until it is possible to more closely conform schedules and flows for these transactions."⁵ The NYISO expects that precluding these transactions will reduce Lake Erie circulation by more closely aligning schedules with actual inter-control area power flows, and reduce the additional re-dispatch costs associated with the circulation around Lake Erie.

DISCUSSION

The NYPSC supports the NYISO's Filing, which is necessary to address the scheduling of inefficient External Transactions and to provide immediate relief to New York ratepayers that have incurred significant congestion-related

⁴ NYISO Filing at p. 6.

⁵ NYISO Filing at p. 11. For each of the paths, there is and will continue to be a more direct scheduling path available to market participants.

costs associated with these transactions.⁶ The NYISO indicates that it has not identified "any violations of any provision of its existing Tariffs or market rules." Notwithstanding, it is possible that a violation of the Commission's regulations prohibiting electric energy market manipulation⁷ did occur, which was beyond the scope of the NYISO's investigation. We therefore request that the Commission investigate these matters and make its own determination whether enforcement actions would be appropriate.

While precluding External Transactions over the eight specified scheduling paths around Lake Erie appears to be the most efficient short-term solution, it may be possible to lift this prohibition in the future, depending on the ability of Phase Angle Regulators (PARs) at the Michigan-Ontario boundary to better align actual interchange power flows with scheduled interchanges and thereby reduce Lake Erie circulation. However, as the NYISO indicates, the PARs are not being actively used to manage loop flows due to protracted negotiations.⁸ As such, the NYPSC supports the NYISO's request that the Commission take an active interest in the commissioning of the Michigan-Ontario

⁶ NYISO Market Operation's Report, Table 4-C, presented at the NYISO Business Issues Committee meeting on July 16, 2008. Available at: http://www.nyiso.com/public/webdocs/committees/bic/meeting_materials/2008-07-16/Agenda_03_Market_Ops_Report.pdf.

⁷ 18 C.F.R. §1c.2 (prohibiting anticompetitive behavior).

⁸ NYISO Filing at pp. 26-27.

PARs and in ensuring that the PARs are placed in operation as soon as possible to mitigate Lake Erie circulation.⁹

Finally, the NYPSC commends the NYISO, IESO, PJM and MISO market monitors for their diligence and cooperation in identifying this seam in external transaction pricing rules. However, it is possible that this seam could have been identified, and a solution implemented, more quickly if the market monitors were not precluded from sharing confidential External Transaction information. We therefore encourage the Commission to consider authorizing market monitors to access all relevant data and to share this information, including External Transaction data, amongst themselves, subject to appropriate confidentiality protocols.¹⁰

⁹ NYISO Filing at p. 27.

¹⁰ NYISO Filing at p. 27.

CONCLUSION

As discussed above, the Commission should approve the NYISO's Filing, undertake the suggestions contained therein, and investigate this matter further to determine whether enforcement actions would be appropriate.

Respectfully submitted,



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Public Service Commission
of the State of New York
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Dated: August 1, 2008
Albany, New York

CERTIFICATE OF SERVICE

I, Ruth Tarrance, do hereby certify that I will serve on August 1, 2008, the foregoing Notice of Intervention and Comments of the Public Service Commission of the State of New York upon each of the parties of record indicated on the official service list compiled by the Secretary in this proceeding.


Ruth Tarrance

Dated: August 1, 2008
Albany, New York