UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

New York Independent System Operator, Inc.	))))	Docket No. ER08-1281-004

COMMENTS OF THE INDEPENDENT MARKET MONITOR FOR PJM

Pursuant to Rules 211 of the Commission's Rules and Regulations, 18 CFR §§ 385.211 (2010), Monitoring Analytics, LLC, acting in its capacity as the Independent Market Monitor for PJM ("Market Monitor" or "MMU"),[1] provides these comments on the "Response to Questions and Supplemental Report on Broader Regional Markets; Long-Term Solutions to Lake Erie Loop Flow" filed by the New York Independent System Operator, Inc. ("New York ISO") on August 16, 2010 ("August 16th Response"), which was submitted in response to the series of questions posed in the Commission's order of July 15, 2010 ("July 15th Order") on the report filed by NYISO on January 12, 2010.[2] This proceeding originated in an emergency filing to address a problem where "market participants scheduled their transactions in [circuitous paths] in order to take advantage of differences in the way regional transmission organizations (RTOs) price transactions that exit their systems," and the Commission's recognition that, in addition to emergency measures, there is a "need for

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[1] PJM Interconnection, L.L.C. is a FERC-approved Regional Transmission Organization. Capitalized terms used herein and not otherwise defined have the meaning provide in the PJM Open Access Transmission Tariff ("OATT") or the PJM Operating Agreement.

[2] *New York Independent System Operator, Inc.*, 132 FERC ¶61,031; New York Independent System Operator, Inc.'s Report on Broader Regional Markets; Long-Term Solutions to Lake Erie Loop Flow filed in Docket No. ER08-1281-000 ("January12th Report).

a long-term comprehensive solution to these issues."[3] The Market Monitor is concerned that the process is moving more slowly and with less focus than it could towards the comprehensive solution contemplated by the Commission.

The Broader Regional Markets Group is moving in the right direction, but the Market Monitor believes that the August 16th Response lacks sufficient detail, lacks focus on the solutions that could be implemented quickly and lacks a detailed and firm timeline for implementation. In some instances, the August 16th Response explains (at 3, 5 & 9) that additional details will be provided at the Broader Regional Market Initiatives Technical Conference to be held in Philadelphia on September 27, 2010. Because the August 16th Response relies so heavily on information which is to be supplied at the September 27th Conference, the Market Monitor requests that the Commission direct the parties to update their responses to the July 15th Order, to provide a more comprehensive report, and to provide a more detailed and firm timeline, consistent with any new information supplied at that conference, and to permit parties to this proceeding additional opportunity to comment.

I. COMMENTS

A. The August 16th Response Does Not Explain Why Implementation of Near Term Measures That Could Address Loop Flows Cannot Proceed Without Delay

Although the Market Monitor is optimistic that the implementation of the recommendations of the Broader Regional Markets Initiative group could address most loop flow issues over the long term, there is no reason why the parties could not achieve

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3 *New York Independent System Operator, Inc.*, 125 FERC ¶61,184 at PP 2, 20 (2008).

substantial benefits much sooner. There is no point in delaying changes that could directly address the economic incentives to create loop flows. The August 16th Response does not explain why the NYISO cannot move expeditiously to implement an interface pricing methodology similar to that used by PJM, nor does it explain why the parties cannot move expeditiously to implement a market-to-market coordination process, without waiting until the Parallel Flow Visualization tool is finalized.

B. The August 16th Response Does Not Explain Why the Buy Through Congestion Product Is a Necessary Part of a Comprehensive Solution to the Loop Flow Issues.

The August 16th filing states (at 9), "The proposed [Buy-Through of Congestion] charge will provide a greater level of security for External Transactions that have parallel flow impacts than is currently afforded External Transactions under the existing Transmission Loading Relief methodology." The proposed buy-through of congestion product will allow off-contract path transactions to continue to flow if they are willing to pay the buy-through of congestion. This ability to avoid curtailment, which applies to customers without regard to whether they have firm or non-firm transmission service, would have a potentially significant and inappropriate impact on the relative value of firm and non-firm transmission service.

For example, suppose a transaction scheduled on non-firm transmission service elects to pay the buy-through of congestion, and a second identical transaction scheduled on firm transmission service elects to not pay the buy-through of congestion. In the event that congestion occurs on a parallel path, the transaction scheduled on firm transmission service will be curtailed, and the transaction scheduled on non-firm transmission service will be allowed to continue to flow. This result is not consistent with firm transmission rights as the PJM OATT defines them. Section 13.6 of the PJM OATT provides for curtailment only when "the Transmission Provider determines that an electrical emergency exists … and implements emergency procedures." Otherwise, Section 13.6 states "Non-Firm Transmission Service shall be subordinate to Firm Transmission Service…" PJM further explains on its website that firm transmission service "is intended to be available at all times to the maximum extent practicable, subject to an emergency, and unanticipated failure of a facility, or other event beyond the control of the owner or operator of the facility or the Office of the Interconnection."[4] Congestion does not represent an "emergency," "failure of a facility" or an "event beyond the control" of the owner or RTO. The implications of requiring firm service customers to acquire buy-through of congestion products to maintain their current priority over non-firm service customers should be fully considered.

The August 16th Response does not provide any reason to believe that the buy-through of congestion product is a necessary part of a comprehensive solution to the identified loop flow issues, but also suggests significant unintended consequences.

C. The Parties Should Implement a Market-to-Market Solution Immediately

The January 12th Report projects (at 19) that the implementation of a market-to-market coordination program by the NYISO, PJM and the Midwest ISO will take place by the third quarter of 2011 and will be implemented in additional regions by 2012. In connection with this projection, the Commission asked NYISO to identify and discuss any potential impediments faced by the NYISO in meeting these projected target dates.

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4 *See* PJM Website, "Firm Transmission Service," at: <*http://www.pjm.com/Home/Glossary.aspx*>.

The August 16th Response states (at 14): "The establishment of [firm flow] entitlements, and the NYISO's and PJM's ability to implement Market-to-Market Coordination, is firmly tied to the successful development of the Parallel Flow Visualization Tool." The purpose of this tool is to assist the NYISO and PJM in establishing firm flow entitlements, and to monitor market flow impacts and relief for the market-to-market coordination program. Implementation of a market-to-market coordination program does not, however, require implementation of the Parallel Flow Visualization Tool and this is not a valid reason for delaying a market-to-market solution. The Midwest ISO and PJM have had a production market-to-market solution for approximately six years without a Parallel Flow Visualization Tool.

The data necessary for establishing firm flow entitlements exist and such entitlements can be established without the Parallel Flow Visualization Tool. The existing timeline for implementation of the market-to-market program is already behind schedule, as the current schedule for the Parallel Flow Visualization Tool will not have the testing phase complete until after the initially stated implementation deadline. The parties should be directed to develop a solution to the determination of firm flow entitlements using existing data rather than waiting until the Parallel Flow Visualization Tool is completed.

In answer to question 5, the August 16th Response states (at 12), "The NYISO has not completed internal software requirement and design documentation to achieve implementation of a market-to-market coordination solution." The August 16th Response does not indicate when this will be complete, and does not consider the potential delays in developing internal software as additional impediments to implementing a market-to-market solution.

D. Concerns About "Chain Scheduling" Should Not Delay Implementation of an Improved Interface Pricing Method Similar to That Used by PJM.

In response to the Commission's request (at 14) for a description of whether and how the interface pricing revisions will address the economic incentives that lead to the scheduling of the now prohibited Paths 1 and 5, or any other paths that might result in increased loop flow, the August 16th Response states (at 15), "The proposed interface pricing revisions may reduce, but will not eliminate the economic incentives that lead to the scheduling of transactions over the now prohibited Paths 1 and 5 (or any other circuitous scheduling path)." The August 16th Response concedes, "The application of the contract sink pricing model to indirect [circuitous] schedules would more closely align the NYISO's interchange pricing model with the power flows associated with the indirect [circuitous] transaction schedules, reducing apparent loop flows from the standpoint of the NYISO."[5] However, the August 16th Response concludes (at 15), "The NYISO evaluated alternative settlement methods [footnote omitted] and concluded that maintaining the existing path validations is the more robust solution." The Market Monitor does not understand the basis for this conclusion and the August 16th Response includes few details. While for any particular circuitous path, it is robust to simply ban any scheduling, this is neither a market-based nor a flexible solution and will not address loop flows that result from scheduling on different paths.

The contract sink pricing methodology could, and should, be implemented unilaterally by the NYISO, and in a comparatively short timeframe, as this change alone

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[5] *See* August 16th Response, Attachment D at 9 (Long Term Solutions to Loop Flow Concerns – Contract Sink Pricing) and Attachment C (Long Term Solutions to Loop Flow Concerns – Issue Background).

would provide immediate loop flow relief and end the need to continue to prohibit scheduling on Paths 1 and 5.

The August 16th Report also suggests that the contract sink pricing methodology would not capture the loop flows created by the submittal of "chain schedules."[6] "Chain Scheduling," trading practices also known as "parking," "hubbing" or "lending," involve scheduling of multiple smaller transactions that together establish a complete path. The Commission has considered these activities, but has not issued specific guidelines.[7] The Commission has investigated the trading practices that gave rise to this proceeding.[8]

In order to address the potential for "chain scheduling," better monitoring of such transactions should be implemented. In addition, existing rules governing such transactions should be clarified and strengthened as appropriate. One immediate step to improving the monitoring of such transactions would be to ensure that the data required data for such monitoring are made available to MMUs and to RTOs/ISOs. The Market Monitor has requested that the Commission and the North American Electricity Reliability Council (NERC) make the full details of energy transaction schedules available to market monitors and to RTOs/ISOs.[9]

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[6] *Id*.

[7] *See Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶31,241 at PP 1,600-01, *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); *see also Enron Power Marketing, Inc., Enron Capital and Trade Resources Corporation*, 104 FERC ¶63,010 (2003).

[8] *See New York Independent System Operator, Inc.*, 128 FERC ¶61,049 (2009).

[9] *See* 2009 State of the Market Report for PJM, Volume II, Section 4 Interchange Transactions, pp 239–40 (March 11, 2010) (Accessed September 10, 2010), which can be accessed at:

In response to the Commission's request for an explanation of "whether the adoption of the initiatives present in the January 12th Report negates the need for the restriction on scheduling over those eight paths," the August 16th Response states (at 18) that "… scheduling of External Transactions via circuitous scheduling paths is not appropriate under any pricing regime." Although it is true that such scheduling is not appropriate, the question is whether banning all such possible paths is a more efficient solution than creating the appropriate incentives. The banning approach assumes that all paths that could be associated with loop flow can be identified, that only specific circuitous paths can be associated with loop flow and that a path may not be used for a legitimate purpose as well as a non-legitimate purpose. None of these assumptions is correct. If the ISOs and RTOs have appropriate interface pricing models, the incentives for market participants to create loop flows is removed, regardless of the path or the complexity of the transaction.

In addition to removing the incentive for circuitous path scheduling by implementing appropriate interface pricing, the associated information about the actual contract sink helps the ISOs and RTOs to make dispatch decisions. For example, if a transaction is submitted to the NYISO on the circuitous path of NYISO-IMO-MISO-PJM, the NYISO would recognize not only that this transaction should receive the NYISO/PJM Interface price, but that the flows from that transaction will be over the NYISO/PJM Interface (as opposed to the NYISO/IMO Interface).

<*http://monitoringanalytics.com/reports/PJM_State_of_the_Market/2009/2009-som-pjm-volume2-sec4.pdf*> (5MB).

II. CONCLUSION

The Market Monitor respectfully requests that the Commission afford these comments due consideration as it resolves the issues raised in this proceeding.

Respectfully submitted,

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Dated: September 15, 2010

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Eagleville, Pennsylvania,
this 15th day of September, 2010.

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