UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

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

MOTION TO INTERVENE AND COMMENTS OF
THE INDEPENDENT MARKET MONITOR FOR PJM

Pursuant to Rules 212 and 214 of the Commission's Rules and Regulations, 18 CFR § 385.212 & 385.214 (2008), Monitoring Analytics, LLC, acting in its capacity as the Independent Market Monitor for PJM ("Market Monitor"),[1] submits this motion to intervene and comment on the Report on Broader Regional Markets; Long-Term Solutions to Lake Erie Loop Flow filed on January 12, 2010 ("January 12th Report") by the New York Independent System Operator ("NYISO") in the above captioned proceeding. The January 12th Report generally represents a positive step toward solutions to the loop flow problem, but the Commission should require immediate correction to interface pricing at NYISO's interfaces and a more defined schedule for the development and adoption of a broader regional market-to-market congestion management approach.

1 PJM Interconnection, L.L.C. is a FERC-approved Regional Transmission Organization.

I. COMMENTS

The January 12th Report includes a number of good ideas that address loop flow issues and that would help to achieve more of the benefits of organized markets. The primary defects in the approach presented in the January 12th Report are matters of misplaced priorities and the creation of unnecessary obstacles to the rapid implementation of solutions.

A. Interface Pricing

Faulty market rules that provided inaccurate incentives to market participants, and afforded an opportunity for market participants to exploit those rules, are responsible for the loop flows and detrimental market impacts from those flows that motivated NYISO's initial filing in this proceeding. The solution to this problem should start with and accord priority to appropriate interface pricing that reflects the actual flow of energy. Although the buy-through congestion approach also attempts to address this issue, a more cost effective solution would assign interface prices based on the Generation Control Area (GCA) for imports and Load Control Area (LCA) for exports, as designated on the NERC e-Tag. This method for interface pricing has been used by PJM and the Midwest ISO for years, and could be implemented immediately and unilaterally by other RTOs/ISOs at minimal cost.

The January 12th Report notes (at 3, 11) that on July 21, 2008, the NYISO precluded the scheduling of transactions via circuitous paths as "there were no other adequate physical or market mechanisms readily available to control, or direct, physical real power flows around Lake Erie, or to permit recovery costs when scheduled and actual power flows were not aligned." The Market Monitor disagrees with this statement. A simple modification to interface pricing would have addressed this concern by eliminating the incentive to use the circuitous paths. PJM's interface pricing method provides appropriate economic signals to transactions, based on actual flows, which largely eliminate the incentives to schedule transactions along inefficient paths, without the need for precluding scheduling paths.

Additionally, the report notes (Attachment A at 11) that "the existing NYISO prohibition on scheduling via the circuitous paths around Lake Erie is comparable with, and comparable to the outcomes achieved with tag-based pricing." While this may be true for the specific case identified, the Market Monitor does not agree that restricting market activity to resolve inaccurate pricing mechanisms is appropriate given the availability of an alternative that does not require prohibiting market participants' specific contractual or financial arrangements.

Using the GCA and LCA, as noted on the NERC Tag, to determine appropriate pricing is a simple, effective, inexpensive and proven method for pricing interchange transactions. If the Northeast ISOs/RTOs cannot agree to immediately implement this solution to eliminating the incentives that contribute to loop flows, then the Commission should require it.

Section VI of the report presents the potential/proposed implementation timeline for the solutions outlined in the report. The Market Monitor welcomes the priority accorded to interface pricing reform. However, the commitments to specific actions should be clarified and strengthened. Although the timeline specifically provides for the design of the modifications in the second quarter of 2010, it does not specify an implementation date for these changes. The Market Monitor urges that the Commission direct that these changes be addressed and implemented in the second quarter of 2010.

B. Market-to-Market Congestion Management

The January 12th Report appropriately proposed the development of an agreement for the northeast RTOs/ISOs that would implement the market-to-market approach to congestion management largely based on the approach developed and implemented by the Midwest ISO and PJM. The January 12th Report, should define specific objectives and a timeline for achieving those objectives. The creation of a regional agreement for implementing a market-to-market congestion management approach should commence as soon as possible. Market-to-market mechanisms to economically relieve congestion and to align border prices have proven successful. No reason or significant obstacle has been identified that could justify delay of its adoption. Implementation of this approach, and its continued refinement, would secure the Commission's long-standing objective to create large, liquid regional markets.

The Commission should direct an immediate effort, including reasonable milestones. The Market Monitor understands that the technical aspects for achieving this goal will take time, but the Commission should help the Broader Regional Markets Group focus on real rather than imagined obstacles to moving forward.

For example, the January 12th Report states (at 4–5) that the Parallel Flow Visualization Tool is a prerequisite for the implementation of both the Buy-Through Congestion and the Market-to-Market Congestion Management solutions. No case has been made for establishing this prerequisite. PJM and the Midwest ISO have been successfully operating under a congestion management agreement, including market-to-market redispatch since April 1, 2005, without such a tool. Whatever the merits of a Parallel Visualization tool, the Commission should not accept at face value the need or desire to develop such a tool as a reason warranting delay in implementing a market-to-market congestion management solution. The Commission should adjust the proposed schedule to start the design and implementation of the congestion management agreement immediately and in parallel with a Parallel Visualization Tool and the other components recommended in the January 12th Report.

The Market Monitor urges the Commission to establish a reasonable and specific deadline for the NYISO, in conjunction with the other RTOs/ISOs participating in the Broader Regional Markets Group to file a complete market-to-market congestion management proposal. Given that such an approach would build on the existing framework developed and implemented by the Midwest ISO and PJM, the Market Monitor believes that the deadline of June 2011 proposed by Detroit Edison Company is reasonable.[2] The Market Monitor, therefore, also recommends that the Commission establish a deadline no later than June 2011 for the submission of a complete market-to-market congestion management proposal.

C. Physical Solutions

Engineering approaches to address loop flows, such as phase angle regulators (PARs) and variable frequency transformers, are a means to help ameliorate loop flow issues, but they do not address the root cause of loop flows. So long as these physical solutions are used in conjunction with more comprehensive market solutions, the Market Monitor supports cost effective investment in additional PARs for system control. With the possible exception of cost allocation issues, the use of PARs does not appear to be controversial.[3] Engineering approaches should not serve as a basis to defer or deflect attention to the development of market solutions.

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[2] Motion to Intervene and Comments of the Detroit Edison Company filed in ER08-1281-004 at 5 (January 29, 2010).

[3] *See*, *Id*.; Response of International Transmission Company d/b/a ITC*Transmission* to Lake Erie Loop Flow White Paper Filed by the New York Independent System Operator, Inc. and Motion for Additional Relief filed in ER08-1281-004 (January 27, 2010).

D. Parallel Flow Visualization

Parallel flow visualization will provide additional information to the reliability coordinators, and will also assign a non-firm generation to load component to congestion within non-market areas. Monitoring Analytics supports this project, as it will provide additional details and archived data to better analyze loop flows. However, the work of the Broader Regional Market group and the continued development of this tool within the NERC/NAESB arena do not require linkage. It would be more productive to focus on direct solutions to loop flow issues rather than the already ongoing development of loosely related industry tools.

E. Buy-Through Congestion

The January 12th Report details (Attachment A at 5–6) a set of objectives that will lead to improved operational and market outcomes. One such objective is to reduce the need, frequency and magnitude of Transmission Loading Relief (TLR) events. The report notes (*Id*.) that "TLRs can result in significant levels of transmission service curtailment, disrupting the system operations and markets of the regions subject to the curtailments as they attempt to replace the removed energy and potentially significantly distorting the markets from their expected condition."

The January 12th Report claims (at 15–16) that a buy-through congestion product would constitute an improvement because it would reduce reliance on TLRs, but this benefit appears to be overstated. Even with implementation of the buy-through congestion approach, transactions will continue to be curtailed. Instead of requiring curtailment on the basis of transmission priority (as in a TLR), curtailments will depend on whether the market participants are willing to pay for the congestion. Either way, curtailments will occur.

There is no reason to accord priority to this unproven and costly approach in preference to existing, proven alternatives. The buy-through congestion approach is likely to take a long time to implement, use many resources in all balancing authorities, and be costly. This approach would also require changes to control room operator communications, to market settlement systems and potentially to the NERC e-Tag software. Further consideration of this approach should be deferred until after implementation of a market-to-market congestion management system.

F. Interregional Transaction Coordination

The component of the January 12th Report entitled (at 12, Attachment A at 36–39) "Interregional Transaction Coordination" has not been presented in enough detail to permit meaningful comment. To the extent that this proposal includes NYISO's moving toward in-hour scheduling, such as the fifteen minute scheduling conducted by Midwest ISO and PJM, there is merit in its continued consideration. To the extent that this proposal would include a "spread" bid product, the Market Monitor questions, based on its experience with such projects proposed in PJM, whether such a product has any value to the public and whether such a product is susceptible to manipulation.[4]

G. Nature of the Loop Flow Problem

In addition to the specific concerns about the components of the January 12th Report, the Market Monitor also has concerns about a premise of the Report. In the first sentence of the White Paper (Attachment A at 3), the January 12th Report states:

> The desire of participants in ISO and RTO energy markets and in non-market areas is for a buyer and a seller to agree on a price and a quantity of electricity commodity and to deliver that quantity over the network from the place where it is produced to the place where it will be resold or consumed.

In discussing PARS (Attachment A at 7), the White Paper states:

> It is recognized that better conformance of actual power flows to scheduled power flows across the New York–Ontario and Michigan–Ontario interconnections is a desirable component of any plan to address the Lake Erie loop flow issue.

The White Paper apparently misses the fundamental points that RTO energy markets are an innovation intended to provide superior efficiency to that possible in non-market

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4 *See*, *e.g.*, 2008 State of the Market Report for PJM at 5, 200, 204, 239–40; Presentation to PJM Spread Bidding Working Group, "Spread Bidding: Mitigation Outline" (July 20, 2009), which is posted on PJM's website at: <*http://www.pjm.com/~/media/committees-groups/task-forces/sbtf/20090804/20090804-item-01-independent-market-monitor-pres.ashx*>.

areas and that buyers seek to obtain power at lowest cost and to manage risks regardless of where power is produced or how it is delivered. That is the essential difference between organized markets based on locational market prices, and non-market areas based on bilateral contracts and the corresponding myth of contract paths. The objective of organized markets is to help encourage the most efficient usage of the existing infrastructure. The purpose of congestion management should not be understood as an attempt to control actual flows and make them conform to contractual arrangements, either through physical infrastructure, such as Phase Angle Regulators (PARs) or through market rules and prohibitions. The aim of organized markets is to convert the terms of contractual delivery to financial arrangements. This allows the system to operate to serve load at the lowest cost and for the allocation of costs to those imposing them. PARs should be constructed where they allow for efficient use of the existing infrastructure, not in an attempt to channel the delivery of power from source to sink. To lose sight of this goal is to lose sight of the point of having organized markets.

II. MOTION TO INTERVENE

The PJM Tariff requires that the Market Monitor, among other things, monitor "actual or potential design flaws in the PJM Market Rules," "structural problems in the PJM Markets that may inhibit a robust and competitive market" and "the potential for a Market Participant to … violate … FERC Market Rules," including specifically "market behavior rules and the prohibition against energy market manipulation codified by the Commission in its Rules and Regulations at 18 CFR §§ 1c.2 and 35.37, respectively."[5] Issues raised in this proceeding implicate these responsibilities.

In its order of July 16, 2009 in this proceeding, the Commission indicated its intent "take action in response to protests … calling for long term solutions to the loop flow problem and require the New York Independent System Operator, Inc. ("NYISO") to develop with its neighboring RTOs a long-term comprehensive solution to the loop flow problem, including addressing interface pricing and congestion management," and ordered that the NYISO file a report "detailing such solutions" within 180 days.[6] The January 12th Report was filed to satisfy this requirement. Loop flows raise a fundamental issue regarding the market design at the seams between PJM and each of its neighboring control areas, and, as the July 16th Order indicates (at P 3), RTO policies designed to address loop flows could create inefficient behavioral incentives. There is the risk that approaches to seams management could create incentives and opportunities for anticompetitive behavior. The Market Monitor has actively participated in the process leading up to filing the January 12th Report.[7] Although the Broader Regional Markets Group did not permit the Market Monitor to participate in its

5 OATT Attachment M §§ II & IV.B.2–4.

6 *New York Independent System Operator, Inc.*, 128 FERC ¶61,049 at P 1 (2009) ("July 16th Order").

7 *New York Independent System Operator, Inc.*, 128 FERC ¶61,239 at P 4 n5 (2009).

meetings, the Market Monitor was able to participate in two group meetings convened for stakeholders on October 29 and December 15, 2009, and provided writing comments on November 13, 2009 on a draft of the draft White Paper included as Attachment A to the January 12th Report. Consequently, this matter implicates matters within the Market Monitor's purview, and it is in the public interest that the Commission grant this motion.[8] Rule 214 provides that the Commission may grant interventions where "[t]he movant's participation is in the public interest."[9] The Market Monitor has the exclusive duty to perform the market monitoring function for PJM, and no other party can adequately represent it in this proceeding.

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8 See NYISO Transmittal letter at 3; NYISO July 21st Transmittal Letter at 5; New York Independent System Operation, Inc., 124FERC ¶61,174 at PP 29–32 (2008).

9 18 CFR § 214(b)(2)(iii).

III. COMMUNICATIONS

Pursuant to 18 CFR § 385.203(b)(3), the Market Monitor designates the following persons as those to receive all notices and communications with respect to this proceeding:

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IV. CONCLUSION

The Market Monitor respectfully requests that the Commission grant this motion to intervene and afford its comments due consideration as it considers the issues raised in this proceeding.

Respectfully submitted,

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Dated: February 2, 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 2nd day of February, 2010.

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