153 FERC ¶ 61,232
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;
Cheryl A. LaFleur, Tony Clark,
and Colette D. Honorable.

New York Independent System Operator, Inc. Docket No. ER12-1653-005

ORDER ON COMPLIANCE FILING

(Issued November 19, 2015)

1. On May 31, 2013, the Commission issued an order conditionally accepting filings submitted by the New York Independent System Operator, Inc. (NYISO) to establish a revised compensation methodology governing the provision of frequency regulation service,[1] as required by Order No. 755.[2] In compliance with the May 2013 Order, on August 26, 2014, NYISO submitted a filing (August 2014 Filing) to demonstrate that its interim market power mitigation proposal meets the requirements of Order No. 755, and an order issued in this proceeding in November 2012.[3] In this order, the Commission accepts the August 2014 Filing.

I. **Background**

A. **November 2012 Order**

2. In the November 2012 Order, the Commission conditionally accepted in part and rejected in part NYISO's filings to comply with Order No. 755, subject to filing and

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[1] *New York Independent System Operator, Inc.*, 143 FERC ¶ 61,194 (2013) (May 2013 Order).

[2] *Frequency Regulation Compensation in the Organized Wholesale Power Markets*, Order No. 755, FERC Stats. & Regs. ¶ 31,324 (2011), *reh'g denied*, Order No. 755-A, 138 FERC ¶ 61,123 (2012).

[3] *New York Independent System Operator, Inc.*, 141 FERC ¶ 61,105 (2012) (November 2012 Order).

reporting conditions.[4] The Commission found NYISO's proposal generally satisfied the requirements of Order No. 755 and was a reasonable approach to clearing the regulation market and compensating resources that provide frequency regulation service. The Commission also acknowledged concerns raised by protesters and noted that additional market experience may ultimately warrant further refinements to NYISO's proposal, and directed NYISO to file an informational report. Specifically, the Commission addressed requests to modify the clearing process so that the regulation movement market-clearing price would be set at the highest regulation movement bid of all cleared resources, instead of the regulation movement bid of the marginal resource. The Commission found that request not to be justified at that time.

3. The Commission accepted NYISO's proposal regarding the process for setting the regulation movement and regulation capacity prices, and conditionally accepted the use of a uniform regulation movement multiplier pending a demonstration that the use of a uniform multiplier will result in the appropriate commitment and compensation of resources. The Commission directed NYISO to show, in a compliance filing, that the use of a uniform regulation movement multiplier will not result in under-compensation to resources that provide more movement than assumed by the uniform regulation movement multiplier.

4. Additionally the Commission required NYISO to file an informational report 14 months after implementation of these regulation market changes, analyzing, among other things, its experience, including the degree to which the uniform regulation movement multiplier accurately reflects the dispatched movement of regulation service providers and allows the market to provide appropriate incentives and cost recovery, particularly as regards to the interaction between the use of a uniform regulation movement multiplier and setting the Regulation Movement Market Price.[5] The Commission also accepted NYISO's proposal to provide Bid Production Cost Guarantees (BPCG) to regulation service providers when their daily energy and ancillary service market revenues do not cover the cost of their market bids, as such cost guarantees would help to ensure that regulation service providers receive adequate compensation.[6]

5. The November 2012 Order also required that NYISO's compliance filing address its proposed market power mitigation method. While the Commission accepted NYISO's

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[4] *Id.* P 2. NYISO's interim market power mitigation proposal to meet the requirement of Order No. 755 became effective June 26, 2013. *See* May 2013 Order, 143 FERC ¶ 61,194 at P 38.

[5] November 2012 Order, 141 FERC ¶ 61,105 at P 56-59.

[6] *Id.* P 63.

proposal to establish a mitigation threshold of 300 percent of reference levels for regulation movement, it acknowledged that NYISO may not yet have information necessary to accurately determine cost-based reference levels for regulation movement, and therefore required NYISO to either propose tariff provisions for an interim market power mitigation method appropriate to NYISO's redesigned regulation market, or explain how NYISO's current mitigation methods were sufficient to address any market power concerns. The Commission also stated that NYISO's interim method must ensure that each individual unit will have an opportunity to recover its costs in every hour.[7]

B. May 2013 Order

6. On January 22, 2013, NYISO submitted a compliance filing in response to the directives in the November 2012 Order. In the May 2013 Order, the Commission accepted NYISO's explanation that the use of a uniform regulation movement multiplier in the clearing process, combined with the use of the resource-specific Regulation Movement Response Rate in dispatch, will result in reasonable commitment of and compensation to frequency regulation resources.[8] The Commission also accepted NYISO's revised market power mitigation proposal as an interim measure, and required NYISO to submit, within fourteen (14) months of the implementation of the revised tariff provisions, a further compliance filing containing either a fully-supported demonstration that its interim market power mitigation proposal meets the requirement of Order No. 755 and the November 2012 Order, or tariff revisions proposing other permanent market power mitigation measures that meet the requirements of those orders.[9]

C. August 2014 Filing

7. In response to the Commission's directives, NYISO states that its experience indicates that the uniform regulation movement multiplier allows the market to provide appropriate incentives and supplier cost recovery particularly with regard to regulation movement and that its regulation movement prices appropriately compensate the provision of regulation movement service. NYISO notes, however, that data on the ratio of instructed regulation movement and average procured regulation capacity shows that the set point of the uniform regulation movement multiplier may need to be adjusted to more accurately reflect the current dispatched movement of regulation service providers. Nonetheless, NYISO believes that its investigation has revealed that any discrepancies between the regulation movement multiplier and the movement that regulation resources

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[7] *Id.* P 72.

[8] May 2013 Order, 143 FERC ¶ 61,194 at P 31.

[9] *Id.* PP 32-35.

are scheduled to provide did not impact the overall efficiency of the market prices paid for regulation movement. Additionally, NYISO states that its experience indicates that it would not be more appropriate to use resource-specific regulation movement multipliers and that appropriate compensation for regulation movement results from a uniform regulation movement multiplier.

8. NYISO also states that its current regulation service market mitigation measures are supportable and sufficiently robust to be considered permanent measures in this market. The Market Monitoring Unit for NYISO filed a letter in support of NYISO's filing. The letter concludes that even though the absence of an incentive to bid regulation movement at marginal cost has the potential to increase the total cost of regulation service, NYISO's market mitigation measures have successfully limited opportunities for firms to benefit from bidding regulation movement above marginal costs. It also recommends that the existing conduct and impact assessments be accepted as a permanent market mitigation measure.[10]

II. Notice and Comments

9. Notice of the August 2014 Filing was published in the *Federal Register*, 79 Fed. Reg. 57,549 (2014), with comments due by October 9, 2014.

10. Timely comments were filed by Beacon Power, LLC (Beacon Power). Beacon Power explains that Beacon Power's affiliate, Stephentown Spindle, LLC (Stephentown) owns a 20MW flywheel Limited Energy Storage Resource facility that provides Regulation Service pursuant to NYISO's Order No. 755 tariff amendments. Beacon Power also explains that Stephentown has participated in the NYISO regulation service market since the June 2013 effective date of NYISO's Order No. 755 tariff amendments.

11. Beacon Power notes that in its November 2012 Order, the Commission assumed that resources will generally submit offers that accurately reflect their costs, and the costs of providing regulation movement are not likely to be zero.[11] However, contrary to this assumption, Beacon asserts that it is evident, after 14 months of implementation, that regulation movement prices are frequently clearing at or near $0 per mile. In fact, Beacon Power continues, during the period from June 26, 2013 through September 30, 2014, the regulation movement price cleared at $0.01 per mile or less approximately 25 percent of the time. During these intervals, Beacon Power asserts, a fast responding resource's payment for performance will be the same or nearly the same as resources that

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[10] Potomac Economics, Ltd. submitted a letter on August 26, 2014, supporting NYISO proposal to make mitigation measures permanent.

[11] Beacon Power October 14, 2014 Filing at 2.

provide very little movement, and thus, will not reflect "the quantity of service provided by a resource when the resource is accurately following the dispatch signal" as required by Order No. 755.

12. Beacon Power also states that since June 26, 2013, Stephentown has been consistently dispatched regardless of the movement clearing price, and asserts that Stephentown's mileage does not appear to be correlated to the cleared price. As an example, Beacon Power notes that, on April 10, 2014, the movement clearing price was less than Stephentown's regulation movement offer in 83 percent of the 5-minute intervals, yet Stephentown was dispatched for regulation movement in all such intervals. Beacon Power asserts that in 83 percent of the intervals that day, Stephentown's payment for regulation movement did not appropriately compensate Stephentown for its provision of regulation movement services as contemplated by FERC Order No. 755.

13. Beacon Power asserts that NYISO's filing purported to address Beacon Power's concern that resources would bid $0 for movement resulting in market clearing prices below a resource's offer price, by assuring the Commission that in the unlikely case such a scenario happens, resources like Stephentown would receive adequate compensation through the BPCG.[12] Beacon Power further asserts that because BPCG is settled across all intervals in each day, Stephentown often does not receive BPCG despite being dispatched in many intervals with a regulation movement clearing price less than or equal to $0.01 per mile. Thus, Beacon Power asserts, the daily settlement period for BPCG actually results in higher priced intervals being used to offset the periods when regulation movement prices clear at less than a resource's regulation movement offer price, resulting in unfair compensation during low priced intervals. Beacon Power provides an example of a day (April 24, 2014) in which Stephentown consistently provided regulation movement during intervals well below their offer price, and did not receive BPCG payments for the day. Beacon Power concludes, therefore, that the BPCG payment provision does not ensure that providers of regulation movement services receive appropriate compensation for the provision of regulation services, as contemplated by Order No. 755.

III. <u>Discussion</u>

14. We accept NYISO's August 2014 filing as in satisfactory compliance with the Commission's directives in its November 2012 and May 2013 Orders. Those orders required NYISO to report on (1) the appropriateness and accuracy of the uniform regulation movement multiplier and (2) the appropriateness of the market power mitigation methods. With respect to the requirement to propose tariff provisions for an interim market power mitigation method or explain how its current mitigation measures

[12] Beacon Power October 14, 2014 Filing at 3.

are sufficient, NYISO chose the latter option. We believe that NYISO has demonstrated that its interim market power mitigation measures have successfully limited opportunities for firms to benefit from bidding regulation movement above marginal costs, and therefore meet the requirements of Order No. 755 and the November 2012 Order to use as permanent mitigation measures for regulation service.

15. Beacon Power's comments raise concerns regarding whether the BPCG in NYISO's regulation service market ensures that regulation service providers receive adequate compensation. The Commission previously accepted NYISO's provision of BPCG to regulation service providers[13] and also previously accepted NYISO's market-clearing methodology.[14] To ensure that selected resources would recover their as-bid costs, NYISO extended the BPGC to regulation service providers. However, Beacon Power points out that the BPGC mechanism has not allowed Stephentown to recover its as-bid costs for all intervals in which has provided service.

16. These aspects of NYISO's operations are beyond the scope of this compliance proceeding. Accordingly, we will not require changes at this juncture. Nevertheless, we are mindful of concerns as to whether the BPCG provides appropriate compensation for the provision of regulation service and regarding NYISO's market-clearing methodology. We encourage NYISO to work with its stakeholders to refine its procedures in light of the concerns raised by Beacon Power, and propose any necessary tariff revisions to ensure adequate compensation to providers of regulation service as contemplated by FERC Order No. 755.

The Commission orders:

NYISO's August 2014 filing is hereby accepted, as discussed in the body of this order.

By the Commission.

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Nathaniel J. Davis, Sr.,
Deputy Secretary.

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[13] November 2012 Order, 141 FERC ¶ 61,105 at P 63.

[14] May 2013 Order, 143 FERC ¶ 61,194.