UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

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New York Independent System Operator, Inc	**)**	**Docket No. EL25-62-000**
	)	**ER25-1462-000**

MOTION TO INTERVENE AND COMMENTS
OF THE NYISO's INDEPENDENT MARKET MONITORING UNIT

Pursuant to Rules 212 and 214 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission, 18 C.F.R. §§ 385.212 and 214 (2025), Potomac Economics respectfully moves to intervene in the above-captioned proceedings concerning the New York Independent System Operator's ("NYISO's") filing on February 28, 2025. NYISO's filing proposes tariff provisions, expedited action, and a shortened comment period to comply with the President's February 1, 2025, Executive Order "Imposing Duties to Address the Flow of Illicit Drugs Across Our Northern Border" ("Canadian Tariff Order").

Potomac Economics is the independent Market Monitoring Unit ("MMU") for NYISO and is responsible for monitoring the electricity markets. As the MMU, we identify rule changes that would enhance market efficiency and competition. Potomac Economics has a unique perspective and responsibility that cannot be represented by any other party. It should therefore be permitted to intervene herein.

I. NOTICE AND COMMUNICATIONS

All correspondence and communications in this matter should be addressed to:

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II. COMMENTS

On February 1, the President's Canadian Tariff Order announced that duties would be levied on "articles that are products of Canada." While it is uncertain whether duties will ultimately be applied to electricity imports from Canada, NYISO has taken the initiative to file tariff provisions which would allow the collection of duties on electricity imports to New York from Ontario and Quebec if such duties are ultimately imposed.

NYISO's "Preferred Proposal" would apply to each import transaction scheduled to flow from Canada to NYISO.[1] Whether the duty is set at 10 or 25 percent, NYISO proposes to collect an amount of revenue based on the relevant percentage of the Locational Based Marginal Price ("LBMP") at the import proxy bus in the day-ahead market times the number of MWhs scheduled and flowing in the real-time market. NYISO proposes to collect the duty with a deduction to the revenue paid to the importer. We support NYISO's Preferred Proposal because it would allow NYISO to comply with the Canadian Tariff Order in a manner that is most efficient and consistent with cost causation principles.

NYISO's alternative proposal would collect duty amounts using a pro rata charge to NYISO customers on a load and withdrawal ratio share basis. While it may be necessary to

[1] New York Independent System Operator, Inc. Proposed Tariff Revisions Under Section 206 of the Federal Power Act Regarding the Recovery and Allocation of Costs that Might Be Imposed Under the President's February 1 Executive Order "Imposing Duties to Address the Flow of Illicit Drugs Across Our Northern Border," Alternative Request for Action Under Exigent Circumstances Section 205 Filing Authority, **Request for Shortened Notice and Comment Period, Request for Immediate Refund Effective Date and Effective Date, and Request for Expedited Commission Action**, Docket Nos. EL25-62-000 and ER25-1462-000 (Filed. Feb. 28, 2025).

adopt the alternative proposal to comply with the tariff requirement, it would be much less efficient and consistent with cost causation principles than the Preferred Proposal.

A. Application of Cost Causation and Beneficiary Pays Principles

The imposition of a duty on imports from Canada to New York would likely require the collection of tens of millions of dollars of revenue. As with any significant expense, these duties should be collected in a manner that is consistent with cost causation and beneficiary pays principles.

Given NYISO's uniform-clearing auction market design, we support the Preferred Proposal to collect the duties from revenues paid to import transactions as most consistent with cost causation principles. NYISO's day-ahead and real-time markets accept the lowest cost offers and set a clearing price at each location equal to the marginal cost of supplying the location considering transmission losses and congestion from moving power across the grid. This market design provides each competitive supplier with an incentive to offer to sell at its marginal cost since this ensures the offer will be scheduled whenever it would earn a profit.

The Preferred Proposal would provide each importer with an incentive to increase its import offer price by the amount of the expected duty. For example, if the duty rate is 25 percent, an importer with a cost of supply of $30 per MWh would not want to be scheduled unless the LBMP was going to be at least $40 per MWh. Hence, NYISO's Preferred Proposal would give the importer an incentive to mark-up its offer by 33.3 percent since this would ensure that it receives a sufficient margin to earn a profit after the duty is collected.[2]

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[2] This offer strategy works under all conditions. For example, if the LBMP is $44 per MWh, resulting in a duty of $11 per MWh, the importer will receive a net payment of $33 per MWh, resulting in a $3 per MWh profit for an import with a cost of $30 per MWh. On the other hand, if the LBMP is $36 per MWh, resulting in a duty of $9 per MWh, the importer will not be scheduled, which is appropriate since this would result in a net loss of $3 per MWh.

To the extent that there is an indirect cost of the duty on electricity consumers, the Preferred Proposal will tend to allocate this to the beneficiaries of Canadian imports. This is because NYISO's market design assigns costs to consumers based on the marginal cost of serving demand at each location, and this holds true regardless of whether there is transmission congestion. For example, before the duty is imposed, suppose 600 MW of imports is offered into NYISO at $15 per MWh and 400 MW is offered at $24 per MWh, causing the LBMP to fall from $35 to $30 per MWh and benefiting consumers in the form of lower electricity prices. After the duty is imposed, the same importers would have an incentive to mark-up their offers by 33.3 percent to 600 MW at $20 per MWh and 400 MW at $36 per MWh. If we suppose this would lead to a lower import schedule of 600 MW and a smaller reduction in the LBMP from $35 to $32 per MWh. In this example, the imposition of the duty results in a price increase of $2 per MWh, which is borne by consumers.

The indirect costs of the duty are also borne appropriately by consumers under the Preferred Proposal when there is transmission congestion. Modifying the previous example, suppose a transmission outage bifurcates NYISO into Area A, where the Canadian imports sink, and a higher priced load pocket ("Area B"). Further suppose the price in Area A drops to $28 per MWh and the price in Area B rises to $40 per MWh. In this case, the import benefits consumers by reducing prices in Area A, but it does not reduce prices in Area B. Accordingly, the duty will lead to higher prices for consumers in Area A, which is the area that benefits from imports. On the hand, prices in Area B will not be affected by the duty since Area B does not benefit from the imports. Hence, we recommend the Commission approve NYISO's Preferred Proposal since it assigns costs consistent with cost causation and beneficiary pays principles. In contrast, the alternative proposal would assign costs based on the premise that all New York customers benefit to some extent from Canadian electricity imports.

B. Use of Clearing Prices in the Day-Ahead Market

NYISO has proposed to apply the import duty based on DAM prices rather than RT prices. We support this aspect of the proposal as a reasonable combination of simplicity, predictability, and efficiency. It is simpler than trying to distinguish between imports scheduled day-ahead versus imports scheduled in the real-time market.

The use of the day-ahead prices is more predictable for importers than a duty based on real-time prices since an importer offering into the day-ahead market can account for the cost of the duty by simply marking-up its offer by 33.3 percent, while a real-time import can simply mark-up its offer by 25 percent of the day-ahead price. In contrast, basing the duty on the real-time price would create considerable uncertainty for an import offered into the day-ahead market. For example, suppose a $20 per MWh import predicts a real-time LBMP of $30 per MWh and a corresponding duty of $7.50 per MWh, leading it to offer $27.50 per MWh. If the import is scheduled in the DAM at a price of $32 per MWh but the RT price is $100 per MWh, the import would receive $32 per MWh minus $25 per MWh for a net of $7 per MWh, leading the importer to realize a net loss of $13 per MWh. Hence, basing the duty on the real-time LBMP would create significant uncertainty, which would result in inefficient scheduling to the extent that imports would sometimes be scheduled at a loss or not scheduled when they would have been profitable.

III. CONCLUSION

For these reasons, we respectfully recommend that the Commission accept NYISO's proposed tariff revisions and request for expedited treatment.

Respectfully submitted,

/s/ David B. Patton

David Patton
President
Potomac Economics, Ltd.

March 10, 2025

CERTIFICATE OF SERVICE

I hereby certify that I have this day e-served a copy of this document upon all parties listed on the official service list compiled by the Secretary in the above-captioned proceeding, in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2010).

Dated this 10th day of March 2025 in Fairfax, VA.

/s/ David B. Patton