

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

New York Independent System Operator, Inc.)

Docket No. ER13-1199-000

**ANSWER OF THE NEW YORK INDEPENDENT SYSTEM OPERATOR, INC. TO THE
MOTION TO INTERVENE AND COMMENTS OF THE INDICATED NEW YORK
TRANSMISSION OWNERS**

Pursuant to Rule 213 of the Commission's Rules of Practice and Procedure,¹ the New York Independent System Operator, Inc. ("NYISO") respectfully submits this answer to the *Motion to Intervene and Comments of the Indicated New York Transmission Owners* ("Indicated NYTOs").²

As discussed below, there is no ambiguity in the proposal made by the NYISO and the replacement language suggested by the Indicated NYTOs is incorrect and creates ambiguity. The NYISO therefore renews its request that the Commission accept its proposed tariff revisions and provide an effective date of June 12, 2013, which is the targeted date for deploying the revisions.

I. INTRODUCTION

On March 29, 2013, the NYISO filed revisions to Section 2 and Attachment K of its Market Administration and Control Area Services Tariff ("Services Tariff") to better align the credit requirements for imports to, exports from, and wheels through ("External Transactions") the New York Control Area with the associated market risk.³ On April 19, 2013 the Indicated NYTOs filed a motion to intervene and comment on the NYISO's March 29 filing.⁴

¹ 18 C.F.R. 385.213 (2013).

² *Indicated NYTOs*, Motion to Intervene and Comment, Docket No. ER13-1199 (filed April 19, 2013) ("Indicated NYTOs Motion").

³ *New York Indep. Sys. Operator, Inc.*, Proposed Tariff Revisions to Establish a Distinct Credit Requirement for External Transactions, Docket No. ER13-1199 (filed March 29, 2013).

⁴ *Indicated NYTOs Motion*.

II. ANSWER

The Indicated NYTOs have stated that they are generally supportive of the NYISO's filing but they are commenting to eliminate ambiguity in one paragraph of the proposed Tariff language.⁵ The NYISO believes that the proposed language is unambiguous and, further, more accurate than the replacement language suggested by the Indicated NYTOs.

The language at issue is related to the test in the first paragraph of proposed Section 26.4.2.2.1 that determines whether a Customer that Bids to Import in the Day-Ahead Market will be subject to the Import Credit Requirements. That section will apply the Import Credit Requirements to a Customer unless it has sufficient, recent historical Import Bids that demonstrate the Customer has not historically settled its Imports at a loss. In order to have a meaningful assessment of the Customer's recent historical performance, the NYISO determined that it would need to evaluate at least 50 scheduled Bids from the preceding three-month or six-month period.⁶ The NYISO will first determine whether the Customer had at least 50 scheduled Day-Ahead Import Bids over the preceding three-month period. If so, it will then evaluate all of the scheduled Day-Ahead Import Bids for that Customer, in that same three-month period, to determine what percentage of MWhs settled at a loss. If the Customer did not have 50 scheduled Day-Ahead Import Bids over the preceding three-month period, the NYISO will determine whether the Customer had at least 50 scheduled Day-Ahead Import Bids over the preceding six-month period. If so, it will then evaluate all of the scheduled Day-Ahead Import Bids for that Customer, in that same six-month period, to determine what percentage of MWhs settled at a loss. Customers that do not meet either the three-month or six-month test would be subject to the

⁵ Indicated NYTOs Motion at 3.

⁶ For a detailed description of this historical performance analysis see: *Credit Requirements: External Transactions*, NYISO Management Committee (July 29, 2009) available at: http://www.nyiso.com/public/markets_operations/committees/meeting_materials/index.jsp?com=mc.

Import Credit Requirements. If the Customer has scheduled at least 50 Day-Ahead Import Bids in the preceding three-month period, or alternatively in the preceding six-month period, and less than 25% of the MWhs scheduled during the applicable period settled at a loss, then the Customer would not be subject to the Import Credit Requirements. This test is captured in the proposed terms of 26.4.2.2.1 as follows:

For a given month, the Import Credit Requirement shall apply to any Customer that Bids to Import in the Day-Ahead Market (“DAM”), excluding Non-Firm Transactions, unless (i) the Customer has at least 50 scheduled Day-Ahead Import Bids in the three-month period ending on the 15th day of the preceding month (or the six-month period ending on the 15th day of the preceding month if the Customer has fewer than 50 scheduled Day-Ahead Import Bids in the immediately preceding three-month period), and (ii) fewer than 25% of the MWhs of such scheduled Day-Ahead Import Bids were settled at a loss to the Customer.

The Indicated NYTOs do not believe that the phrase “such scheduled Day-Ahead Import Bids” clearly describes “how the meaning of this phrase hinges on the number of Day-Ahead Import Bids scheduled by the Customer in the preceding three months.”⁷ However, this interpretation by the Indicated NYTOs is incorrect. The phrase is intended to refer to the scheduled Day-Ahead Import Bids in either the three-month or six-month period, as applicable, determined in (i) as the language “or the six-month period” in (i) indicates.

To remedy the perceived ambiguity the Indicated NYTOs suggested the replacement language underlined below:

For a given month, the Import Credit Requirement shall apply to any Customer that Bids to Import in the Day-Ahead Market (“DAM”), excluding Non-Firm Transactions, unless (i) the Customer has at least 50 scheduled Day-Ahead Import Bids in the three-month period ending on the 15th day of the preceding month (or the six-month period ending on the 15th day of the preceding month if the Customer has fewer than 50 scheduled Day-Ahead Import Bids in the immediately preceding three-month period), and (ii) fewer than 25% of the MWhs of Day-Ahead Import Bids scheduled in the three-month period ending on either (1) the 15th day of the preceding month, if there are 50 or more such Bids,

⁷ Indicated NYTOs Motion at 3.

or (2) the six-month period ending on the 15th day of the preceding month, otherwise, were settled at a loss to the Customer.

The replacement language proposed by the Indicated NYTOs is inaccurate and adds confusion. First, it fails to apply the requirement from (i) that the Customer have 50 or more scheduled Day-Ahead Import Bids in the six-month period. The replacement language would instead require evaluation of the historical activity of a Customer that had scheduled less than 50 Day-Ahead Import Bids in the preceding six-month period. This is not what was voted upon by stakeholders⁸ and could result in permitting a Customer with limited activity in the preceding six months to participate in Imports without imposing the Import Credit Requirement even though there is insufficient historical market data to indicate that the Customer's market activity is unlikely to pose a credit risk to the NYISO-administered markets. Second, the replacement language creates uncertainty regarding whether the evaluation period should be the preceding three-month or six-month period. It seems "(1)" should instead be placed in front of the words "the three-month period" to differentiate between the two distinct evaluation periods of three months and six months.

NYISO's proposed language clearly states, without ambiguity, that the Import Credit Requirement will apply to the Customer unless it has *at least* 50 scheduled Day-Ahead Import-Bids in the preceding three- or six-month period and fewer than 25% of the MWhs of such scheduled Bids were settled at a loss to the Customer. As noted, the replacement language is unnecessary and should not be implemented as it is incorrect and creates ambiguity.

III. CONCLUSION

WHEREFORE, for the reasons set forth above, the NYISO respectfully requests that the

⁸ See NYISO Management Committee Meeting Minutes (July 29, 2009) available at: http://www.nyiso.com/public/markets_operations/committees/meeting_materials/index.jsp?com=mc .

Commission reject the comments of the Indicated NYTOs as discussed herein, and accept the NYISO's March 29, 2013 filing without requiring any modifications and grant an effective date of June 12, 2013.

Respectfully submitted;

/s/ Nathan D. Markey

Nathan D. Markey

Attorney

New York Independent System Operator, Inc.

10 Krey Blvd.

Rensselaer, New York 12144

nmarkey@nyiso.com

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cc:

Travis Allen

Michael A. Bardee

Gregory Berson

Anna Cochrane

Jignasa Gadani

Morris Margolis

Michael McLaughlin

Joseph McClelland

Daniel Nowak

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 in accordance with the requirements of Rule 2010 of the Rules of Practice and Procedure, 18 C.F.R. §385.2010.

Dated at Rensselaer, NY this 2nd day of May, 2013.

/s/ Mohsana Akter

Mohsana Akter
New York Independent System Operator, Inc.
10 Krey Blvd.
Rensselaer, NY 12144
(518) 356-7560