

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

**New York Independent System Operator, Inc.     )     Docket No. EL02-125-002**

**REQUEST FOR A ONE-TIME WAIVER  
OF THE NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.  
AND REQUEST FOR EXPEDITED REVIEW**

The New York Independent System Operator, Inc. (“NYISO”) respectfully submits this filing to request a limited, one-time waiver of its Open Access Transmission Tariff (“OATT”). Specifically, the NYISO requests a waiver of a single provision of Attachment S to its OATT that requires the NYISO to use, for a given Class Year, data contained in the version of the Load and Capacity Data Report (“Gold Book”) published in the year the Class Year started.<sup>1</sup> In light of the unique timing of Class Year 2012 – in process when tariff revisions implementing Class Year process improvements were approved by the Commission – the NYISO seeks to use the 2013 Gold Book data for the Class Year 2012 Annual Transmission Baseline Assessment (“ATBA”). The NYISO submits that granting this limited one-time waiver allows the use of more accurate and updated study assumptions.

In order to avoid any delay in creating the applicable base cases for Class Year 2012, the NYISO respectfully requests that the Commission issue an order granting this requested waiver on or before October 7, 2013.

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<sup>1</sup> Capitalized terms not otherwise defined in this letter have the meaning set forth in Attachments S, X and Z of the NYISO’s Open Access Transmission Tariff (“OATT”).

## **I. Copies of Correspondence**

Communications regarding this proceeding should be addressed to:

Robert E. Fernandez, General Counsel  
Raymond Stalter, Director of Regulatory Affairs  
\*Sara B. Keegan, Senior Attorney  
New York Independent System Operator, Inc.  
10 Krey Blvd.  
Rensselaer, New York 12144  
Tel: (518) 356-8554  
Fax: (518) 356-7678  
[skeegan@nyiso.com](mailto:skeegan@nyiso.com)

\*Persons designated for receipt of service.

## **II. Background**

### **A. The NYISO Class Year Interconnection Facilities Study Process**

The Class Year Interconnection Facilities Study (“Class Year Study”) is the last in a series of three study processes contained in the Large Facilities Interconnection Procedures in Attachment X of the NYISO OATT. Attachment S of the NYISO’s OATT establishes the procedures by which the costs of System Upgrade Facilities and, where applicable, System Deliverability Upgrades are allocated to new projects interconnecting with the New York State Transmission System. Under Attachment S, the cost allocation is performed on an annual basis for a Class Year of projects. Each Class Year project shares in the then-currently available electric capability of the transmission system and each shares in the cost of upgrades required to interconnect its respective project to the New York State Transmission System.

The starting point for the Class Year Study is the creation of the ATBA base case – essentially the “baseline” New York State Transmission System at a given point in time, as it exists prior to the addition of the Class Year projects. Attachment S of the NYISO’s OATT

specifies what should be included in the ATBA base case, including, “(i) [a]ll generation and transmission facilities identified in the NYISO’s [Gold Book] as existing as of January 1 of that year, excluding those facilities that are subject to Class Year cost allocation but for which Class Year cost allocation have not been accepted; ...”<sup>2</sup>

Among other items, the Gold Book contains load forecasts and details regarding existing generating facilities, proposed generator additions, proposed generator re-ratings, and retirements. This information is subject to change in every annual version of the Gold Book by virtue of changes in load forecasts, facility changes, newly proposed generation and transmission facilities, and retirements. As a result, the most recently published version of the Gold Book contains more updated and accurate information than prior versions.

#### **B. Recent Class Year Tariff Revisions**

Tariff revisions to Attachment S to the NYISO OATT recently approved by the Commission alter the timing of the Class Year process, most significantly, the start of a given Class Year. Specifically, the recently approved tariff revisions provide that subsequent to Class Year 2012, the Class Year Study will begin on the Class Year Start Date, which will be the earliest of the following dates *after the completion of the prior Class Year Study*: March 1, June 1 or September 1. With this revision to the Class Year process, the Class Year Studies will no longer overlap and, instead, will proceed in a “head-to-tail” fashion.

The recent tariff revisions regarding the start date for a Class Year Study do not apply to Class Year 2012, however. Class Year 2012 technically “started” on March 1, 2012, before the tariff revisions were proposed, thereby making it administratively infeasible to apply the new Class Year Start Date rule to Class Year 2012. At the time Class Year 2012 “started,” the tariff required a Class Year to start on March 1 of each year, regardless of the status of the prior Class

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<sup>2</sup> See Attachment S to the NYISO OATT, Section 25.5.5.1.

Year. Therefore, Class Year 2012 is technically “in progress,” even though Class Year 2011 has not concluded and only certain limited portions of the Class Year 2012 study have started.<sup>3</sup>

Specifically, the ATBA for Class Year 2012 cannot be finalized because a number of the inputs for the ATBA base case required for the 2012 Class Year Study cannot be determined until after the completion of Class Year 2011. The NYISO has therefore not been able to finalize the ATBA base case for Class Year 2012. Class Year 2011 was approved by the NYISO’s Operating Committee on July 18, 2013, but will not be finalized until all Developers that issued Acceptance Notices in the Final Decision Round post the required Security.<sup>4</sup> Since the 2013 Gold Book was issued on April 29, 2013, the 2013 Gold Book is now a potential available data source from which the NYISO could draw when it prepares the ATBA for Class Year 2012. In order to do so, however, the NYISO would need a waiver of Section 25.5.5.1 of Attachment S to the NYISO OATT.

### **III. Request for Waiver**

Due to the timing of the Class Year 2012 ATBA, which will be finalized after the release of the 2013 Gold Book, one of the major data inputs for the Class Year 2012 study will arguably be outdated. The NYISO has determined that, under these unique circumstances, it is appropriate to use the updated data from the 2013 Gold Book. Therefore, the NYISO requests a one-time waiver of the language in Section 25.5.5.1 of Attachment S of the NYISO OATT to allow the NYISO to use the 2013 Gold Book for the Class Year 2012 ATBA instead of the 2012 Gold Book.

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<sup>3</sup>Certain components of a Class Year Study can begin prior to completion of the prior Class Year Study; however, system-wide analysis is dependent upon assumptions that cannot be finalized until after the completion of the prior study. Therefore, since Class Year 2011 has not concluded, a number of the inputs for the base cases required for Class Year 2012 have not yet been determined.

<sup>4</sup> See Attachment S to the NYISO OATT, Section 25.8.2.2.

The Commission's evaluation of whether it should permit tariff waivers has focused on several key points, including whether: (1) the entity seeking the waiver acted in good faith; (2) the waiver is of a limited scope; (3) a concrete problem needs to be remedied; and (4) the waiver will not have undesirable consequences, such as harming third parties.<sup>5</sup> The NYISO requests this one-time waiver to allow it to use the most accurate and updated data for its Class Year 2012 Interconnection Facilities Study which determines the costs for upgrades that must be funded by new generators and merchant transmission facilities interconnecting to the New York State Transmission System.

The request for a waiver here is consistent with prior situations in which the Commission has granted a waiver. First, the NYISO is seeking the waiver in good faith. Due to the unique juxtaposition between Class Year 2011, Class Year 2012 and the application of recent tariff revisions that improve the Class Year Study process, the NYISO finds itself in a position of having an updated Gold Book that its current tariff language would not appear to allow it to apply to Class Year 2012. Second, the scope of the waiver is of a limited duration. It would only apply to the Class Year 2012 Interconnection Facilities Study. Furthermore, the recent tariff revisions discussed in Section II (B), above, address the schedule issue that led to the need for this waiver. Third, a concrete problem needs to be addressed. The 2012 Gold Book data has been superseded by more updated information in the 2013 Gold Book and, therefore, does not reflect the most updated information regarding the existing system representation. Fourth, the waiver will not have undesirable consequences. The NYISO is not aware of any undesirable

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<sup>5</sup> See, e.g., *New York Independent System Operator, Inc.*, 139 FERC 61,108 at P 60-61 (2012), citing *PJM Interconnection, LLC*, 137 FERC 61,184, at P 13 (2011); *PJM Interconnection, LLC*, 137 FERC 61,109, at P 11 (2011); *PJM Interconnection, LLC*, 135 FERC 61,069, at P 8 (2011); *ISO-New England, Inc.*, 134 FERC 61,182, at P 8 (2011); *California Independent System Operator Corp.*, 132 FERC 61,004, at P 10 (2010); *Hudson Transmission Partners*, 131 FERC 61,157, at P 10 (2010); *Pittsfield Generating Co., L.P.*, 130 FERC 61,182, at P 9-10 (2010); *ISO New England Inc. - EnerNOC*, 122 FERC 61,297 (2008); *Central Vermont Public Service Corp.*, 121 FERC 61,225 (2007); *Waterbury Generation LLC*, 120 FERC 61,007 (2007); *Acushnet Co.*, 122 FERC 61,045 (2008).

consequences of using this updated information. The NYISO has discussed the issue with its stakeholders, and no concerns or objections were raised.

Therefore, the NYISO respectfully submits that granting this one time waiver will permit the NYISO to use more accurate and updated study assumptions for the Class Year 2012 Interconnection Facilities Study.

#### **IV. Request for Commission Action Within 60 Days**

As stated above, the NYISO respectfully requests that the Commission grant this waiver request on or before October 7, 2013. An order by that date will provide the certainty needed with respect to the applicable base case criteria for the Class Year 2012 Interconnection Facilities Study. While Class Year 2012 has formally begun, the NYISO has not finalized the ATBA for Class Year 2012. In order to permit the NYISO to finalize the Class Year 2012 ATBA as soon as possible after the completion of Class Year 2011, the NYISO requests that the Commission grant this waiver on or before October 7, 2013.

#### **V. Conclusion**

WHEREFORE, for the foregoing reasons, the NYISO respectfully requests that the Commission grant the NYISO a limited waiver of Attachment S of its OATT so that it may use the 2013 Gold Book for the Class Year 2012 Interconnection Facilities Study; as requested herein. To permit the NYISO to move as expeditiously as possible in its study work for the Class Year 2012 Interconnection Facilities Study, the NYISO respectfully requests that the Commission act on this waiver request on or before October 7, 2013.

#### **VI. Service**

The NYISO will send an electronic link to this filing to the official representative of each of its customers, to each participant on its stakeholder committees, to the New York Public

Service Commission, and to the New Jersey Board of Public Utilities. In addition, the complete filing will be posted on the NYISO's website at [www.nyiso.com](http://www.nyiso.com).

Respectfully submitted,

/s/ Sara B. Keegan

Sara Branch Keegan

Senior Attorney

New York Independent System Operator, Inc.

10 Krey Blvd.

Rensselaer, New York 12144

(518) 356-8554

[skeegan@nyiso.com](mailto:skeegan@nyiso.com)

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