

April 29, 2015

**By Electronic Delivery**

Honorable Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE  
Washington, DC 20426

**Re: *New York Independent System Operator, Inc.*'s Proposed Tariff Revisions to Enhance Market Participant Credit Policies; Docket No. ER15 - \_\_\_\_-000**

Dear Ms. Bose:

Pursuant to Section 205 of the Federal Power Act,<sup>1</sup> the New York Independent System Operator, Inc. ("NYISO") hereby submits revisions to Attachment K of its Market Administration and Control Area Services Tariff ("Services Tariff") to make two enhancements to the NYISO's credit policies. First, the NYISO is proposing to modify its financial reporting rules to require all Market Participants to submit updated financial information annually. Updated information will allow the NYISO to more accurately assess the ongoing financial condition of each Market Participant and mitigate potential financial risk to the NYISO-administered markets. Second, the NYISO is proposing to add additional examples of events that may invoke a material adverse change to its material adverse change tariff provision to improve transparency to Market Participants.

**I. List of Documents Submitted**

The NYISO submits the following documents:

1. This filing letter;
2. A clean version of the proposed revisions to the Services Tariff (Attachment I); and
3. A blacklined version of the proposed revisions to the Services Tariff (Attachment II).

**II. Copies of Correspondence**

Copies of correspondence concerning this filing should be served on:

Robert E. Fernandez, General Counsel

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<sup>1</sup> 16 U.S.C. § 824d.

Raymond Stalter, Director of Regulatory Affairs  
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### **III. Service**

The NYISO will send an electronic link to this filing to the official representative of each of its Market Participants, 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).

### **IV. Background**

The NYISO has limited financial information on many of its Market Participants, in particular, those entities that do not have publicly available financial information. Currently, Market Participants are only required to regularly submit financial statements to the NYISO if they are utilizing unsecured credit or using financial statements to meet the capitalization requirement under the Services Tariff. As a result, the NYISO has limited visibility to the collective financial health of its Market Participants, which hinders its ability to conduct comprehensive risk of default assessments and to proactively manage such risk.

### **V. Description of Proposed Revisions**

The NYISO is proposing to add a new Section 26.2.1.6 to the Services Tariff to require Market Participants to keep on file with the NYISO their most recent annual financial statements or financial statement information.<sup>2</sup> The statements or statement information shall be submitted to the NYISO on an annual basis, within ninety (90) days of the end of the fiscal year for that Market Participant and, for a Market Participant submitting financial statements, not later than ten (10) days of such statements becoming available. If the financial statements are not audited, the Market Participant shall also submit documentation from an officer of that organization, which certifies to the accuracy of the submitted financial statements. Under the proposed

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<sup>2</sup> The proposed revisions are similar to ISO New England's reporting requirements under its Financial Assurance Policy. See ISO-NE Transmission, Markets, and Services Tariff, Exhibit IA: ISO New England Financial Assurance Policy, Section II B, Proof of Financial Viability for Applicants, available at: [http://www.iso-ne.com/static-assets/documents/regulatory/tariff/sect\\_1/sect\\_i.pdf](http://www.iso-ne.com/static-assets/documents/regulatory/tariff/sect_1/sect_i.pdf).

revisions the NYISO may grant an extension for the provision of financial statements or financial information upon showing of good cause.

For those Market Participants that do not regularly prepare financial statements, the NYISO is proposing that those Market Participants provide the financial statement information in a form acceptable to the ISO, with an officer certification.<sup>3</sup> This will allow Market Participants to submit specific income statement and balance sheet dollar amounts, and certify to the accuracy of those amounts, in lieu of a full set of financial statements.

The NYISO is also proposing to revise Services Tariff Section 26.14 (i.e., the material adverse change provision). This provision allows the NYISO to reduce the amount of unsecured credit granted to a Market Participant or request additional collateral from a Market Participant in the event there is a “material adverse change” affecting the risk of nonpayment by the Market Participant. The proposed changes provide notice of additional events that may constitute a material adverse change, including: (i) failure to cure a default under another ISO/RTO tariff; and (ii) the issuance of a notice of alleged violation or imposition of a sanction by a regulatory body or an independent system operator.<sup>4</sup> The proposed changes also clarify that all Market Participants, not only those with unsecured credit, could be subject to this provision in the event of a significant variation in the NYISO’s credit evaluation of the Market Participant. Consistent with the Commission’s directives in Order 741, the proposed revisions expand on the NYISO’s illustrative, but not exhaustive, list of circumstances that would entitle the NYISO to invoke this provision.<sup>5</sup>

## **VI. Effective Date**

The NYISO respectfully requests Commission action within sixty days from the date of this filing (*i.e.* June 29, 2015), and an effective date of July 15, 2015, to provide Market Participants with timely notice that the changes proposed herein have been accepted. Such timely action by the Commission will allow Market Participants to prepare for providing the NYISO with the information required under the proposed revisions on or before the effective date.

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<sup>3</sup> The NYISO presented Market Participants with an approved financial information template in the stakeholder process. See e.g. March 31, 2015 NYISO Management Committee, Meeting Materials, available at, [http://www.nyiso.com/public/markets\\_operations/committees/meeting\\_materials/index.jsp?com=mc](http://www.nyiso.com/public/markets_operations/committees/meeting_materials/index.jsp?com=mc).

<sup>4</sup> The NYISO surveyed the material adverse change provisions in other ISO/RTO tariffs and is proposing revisions similar to those in effect under the Midcontinent Independent System Operator (MISO) Tariff. Midcontinent ISO, FERC Electric Tariff, Attachment L, Material Change, available at: <https://www.misoenergy.org/Library/Tariff/Pages/Tariff.aspx>.

<sup>5</sup> *Credit Reforms in Organized Wholesale Electric Markets*, Order No. 741, FERC Stats. & Regs. ¶ 31,317 (2010) at P 149, *order on reh’g*, Order No. 741-A, FERC Stats. & Regs. ¶ 31,320 (2011), *reh’g denied*, Order No. 741-B, 135 FERC ¶ 61,242 (2011).

**VII. Requisite Stakeholder Approval**

At the November 2014, and the January and February 2015 meetings of the Credit Policy Working Group, the NYISO proposed to Market Participants the revised reporting requirements and made several revisions based on Market Participant feedback. The NYISO's revised reporting requirements were approved unanimously, with abstentions, at the March 11, 2015 Business Issues Committee meeting and unanimously, with abstentions, at the March 31, 2015 Management Committee meeting.

On April 21, 2015 the NYISO's Board of Directors approved a motion directing the NYISO to file the proposed tariff revisions approved by the Management Committee.

**VIII. Conclusion**

WHEREFORE, for the foregoing reasons, the New York Independent System Operator, Inc. respectfully requests that the Commission accept the proposed tariff changes identified in this filing.

Respectfully submitted,

/s/ Nathan D. Markey

Nathan D. Markey

Attorney

New York Independent System Operator, Inc.

cc: Michael A. Bardee  
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