

June 1, 2015

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

**Re: New York Independent System Operator, Inc., Compliance Filing in
Docket Nos. EL11-42-001, ER12-2414-000, -001, and -002**

Dear Secretary Bose:

In accordance with Paragraph 2 and Ordering Paragraph (C) of the Commission's April 16, 2015 order,¹ the New York Independent System Operator, Inc. ("NYISO") respectfully submits the attached proposed compliance revisions to its Market Administration and Control Area Services Tariff ("Services Tariff"). Consistent with the April 16 Order, the NYISO requests an effective date of June 22, 2012 for these compliance revisions.

As required by the April 16 Order, this compliance filing includes tariff language that the NYISO was expressly directed to develop. It also includes certain proposed minor adjustments to the Services Tariff that the NYISO believes are necessary for clarity. These clarifications are similar to those that the Commission has allowed the NYISO to include in prior compliance filings.²

I. DOCUMENTS SUBMITTED

The NYISO respectfully submits this filing letter and the following documents in support of this filing:

¹ *Astoria Generating Company, et al. v. New York Independent System Operator, Inc.*, 151 FERC ¶ 61,043 (2015) (the "April 16 Order"). The April 16 Order ruled on New York Independent System Operator, Inc., *Compliance Filing*, Docket No. ER12-2414-000 (Aug. 6, 2012) and New York Independent System Operator, Inc., *Errata to Compliance Filing*, Docket No. ER12-2414-001 (Aug. 7, 2012) ("2012 Compliance Filing").

² See e.g., *New York Independent System Operator, Inc.*, 125 FERC ¶ 61,206 at P 41 (2008) (accepting revisions proposed in a compliance filing "as needed to implement the modifications directed" in an order, even though the order did not specifically direct the filing of such revisions). See also *New York Independent System Operator, Inc.*, 127 FERC ¶ 61,042 at 12 (2009) (accepting revisions that "make ministerial changes that permit the effective implementation" of the proposal that is the subject of the compliance filing).

1. A clean version of the proposed revisions to Services Tariff Section 23 (Attachment H) (“Attachment I”);³
2. A blacklined version of the proposed revisions to Services Tariff Section 23 (Attachment H) (“Attachment II”);
3. A clean version of proposed revisions to Services Tariff Section 23 (Attachment H) along with all other revisions as of the date of this filing and incorporating the revisions proposed in the Competitive Entry Exemption Compliance and revisions accepted in the Outage States order or proposed in the Outage States compliance filing as of this date (“Attachment III”);⁴

³ The base tariff language in Attachment I and Attachment II (*i.e.*, the language to which the compliance tariff revisions described herein are proposed to modify) only reflects language that was accepted and effective as of, or was pending before the Commission on, June 22, 2012. It reflects the language presented to the Commission in the 2012 Compliance Filing, which parties reviewed and filed comments on, as described in the April 16 Order. It does not reflect effective or pending language from the following proceedings: (a) *New York Independent System Operator, Inc.*, Delegated Letter Order, Docket No. ER12-360-004 (August 23, 2013) (accepting second compliance filing in response to the June 6, 2013 Order effective September 1, 2012); (b) *New York Independent System Operator, Inc.*, 144 FERC ¶ 61,126 (2013) (order accepting tariff revisions effective January 27, 2014 regarding the establishment of a new capacity zone encompassing Load Zones G, H, I and J and establishing a technical conference) (“the Mitigated Capacity Zone revisions”); (c) *New York Independent System Operator, Inc.*, Delegated Letter Order, Docket Nos. ER14-1735-000 and ER14-1735-001 (June 27, 2014) (accepting tariff revisions to permit improved fuel indexing of Day-Ahead generator reference levels effective June 18, 2014); (d) NYISO compliance filing in Docket No. ER15-1498-000 regarding buyer-side mitigation rules dated April 13, 2015 in response to FERC Order 150 FERC ¶ 61,139 (2015); (e) NYISO compliance filing in Docket No. ER10-2731-002 regarding an offer floor exemption for Special Case Resources dated April 20, 2015 in response to FERC Order 150 FERC ¶ 61,208 (2015); (f) *New York Independent System Operator, Inc.*, Delegated Letter Order, ER13-1380-005 (August 5, 2014) (accepting compliance filing to delete the current exclusion of forward capacity sales in MST Section 23.4.5.5(1) effective March 23, 2015) (the “G-J Pivotal Supplier Revision”); (g) *New York Independent System Operator, Inc.*, 151 FERC ¶ 61,075 (the “Outage States Order”) which conditionally accepted revisions effective May 1, 2015, subject to a compliance filing made as of the date of this filing, and (h) *New York Independent System Operator, Inc.* Delegated Letter Order, Docket No. ER15-1281-000 (May 6, 2015) (accepting “Additional CRIS” tariff revisions effective May 12, 2015 as described in such order (the “Additional CRIS Order”)).

⁴ Attachment VII would reflect the eTariff of Section 30 should the Commission accept the revisions to Services Tariff Section 30 proposed in the Competitive Entry Exemption Compliance Filing with the effective date it directed in *Consolidated Edison Company of New York, Inc., et al. v. New York Independent System Operator, Inc.*, 150 FERC ¶ 61,139 (2015), *i.e.*, February 26, 2015.

4. A clean version of the proposed revisions to Services Tariff Section 30 (“Attachment IV”);⁵
5. A blacklined version of the proposed revisions to Services Tariff Section 30 (“Attachment V”);
6. A clean version of the proposed revisions to Services Tariff Section 30 (Attachment O) along with the other revisions as of the date of this filing (“Attachment VI”);
7. Solely for purposes of showing the build of the eTariff, a table reflecting a list of the tariff sections revised along with filing dates and pertinent orders (“Attachment VII”); and
8. Solely for purposes of showing the build of the eTariff, a series of tariff sections as described in Attachment VII.

II. BACKGROUND

The April 16 Order granted clarification, in part, and denied rehearing of the Commission’s June 2012 Order⁶ partially granting and partially denying a complaint against the NYISO.⁷ The Complaint alleged that the NYISO had improperly implemented its buyer-side capacity market power mitigation measures (“BSM Rules”)⁸ in the New York City Installed Capacity⁹ (“ICAP”) Market. The June 2012 Order directed the NYISO to, among other things, make a compliance filing that included certain revisions to its Services Tariff.¹⁰ The April 16 Order accepted the NYISO’s compliance filing,¹¹ as corrected, to be effective June 22, 2012, subject to this compliance filing.

⁵ Attachment VI incorporates all changes as of the date of this filing. The only pending revisions to Services Tariff Section 30 are in the Competitive Entry Exemption Compliance Filing.

⁶ *Astoria Generating Company, et al. v. New York Independent System Operator, Inc.*, 139 FERC ¶ 61,244 (2012) (the “June 2012 Order”).

⁷ The complaint was filed by Astoria Generating Company L.P.; NRG Power Marketing LLC; Arthur Kill Power, LLC; Astoria Gas Turbine Power LLC; Dunkirk Power LLC; Huntley Power LLC, Oswego Harbor Power LLC; and TC Ravenswood, LLC (collectively, the “Complainants”). *Astoria Generating Company, et al. v. New York Independent System Operator, Inc., Complaint Requesting Fast Track Processing* (June 3, 2011) (“Complaint”).

⁸ The BSM Rules are set forth in Section 23.4.5.7, *et seq.* of the Services Tariff.

⁹ Capitalized terms that are not otherwise defined in this filing shall have the meaning specified in the Services Tariff.

¹⁰ April 16 Order at P 2.

¹¹ *New York Independent System Operator, Inc., Compliance Filing*, Docket No. ER12-2414 (Aug. 6, 2012) (“2012 Compliance Filing”).

Specifically, the April 16 Order required the NYISO to: (1) clarify the first-year Unit Net CONE value that will be used in its “Part B Test”¹² and Unit Offer Floor;¹³ (2) incorporate language into the Services Tariff that allows the NYISO’s independent Market Monitoring Unit (“MMU”) to consider all factors relevant to mitigation exemption and Offer Floor determinations when it reports on such determinations (“MMU Report”);¹⁴ and (3) clarify the use of inflation and escalation rates under the BSM Rules.¹⁵

III. PROPOSED COMPLIANCE TARIFF REVISIONS

A. Use of First-Year Unit Net CONE Value in Part B Test

The NYISO asserted that the June 2012 Order was unclear with respect to the comparison to be made between the “Default Offer Floor”¹⁶ and Unit Net CONE when determining Offer Floors. The NYISO requested clarification that in determining the Offer Floor (*i.e.*, the lower value of 75 percent of Mitigation Net CONE, or Unit Net CONE), the value for Unit Net CONE to be used should be only the first year value of the three-year average of annual Unit Net CONE.¹⁷

The April 16 Order confirmed that the NYISO’s understanding of how the Offer Floor should be determined was correct.¹⁸ The Commission noted that there was a need to clarify the Services Tariff because Section 23.2.1 defines “Unit Net CONE” as a single-year value, but the NYISO uses a three-year average of the defined “Unit Net CONE” value in determining “Unit Net CONE” for purposes of the Part B Test. Thus, to “avoid confusion and ambiguity in the future,” the Commission directed the NYISO to revise the

¹² The “Part B Test” is the term sometimes used for one of the tests that the NYISO uses to determine if a new entrant is eligible for an exemption from Offer Floor mitigation under the BSM Rules. It compares the average annual three-year price forecast, three Capability Years out from the Class Year, to the Unit Net CONE. An Examined Facility is exempt from an Offer Floor if that three-year average forecasted price exceeds the calculated Unit Net CONE. *See* Section 23.4.5.7.

¹³ April 16 Order at P 16.

¹⁴ *Id.* at P 75.

¹⁵ *Id.* at PP 20, 90-93.

¹⁶ “Default Offer Floor” is a term described in the April 16 Order. It is not a defined term in the NYISO’s tariffs. It has the same meaning as “Mitigation Net CONE Offer Floor,” a defined term that was accepted with other Services Tariff revisions in the Additional CRIS Order.

¹⁷ *Request for Expedited Clarification, and Alternate Request for Rehearing, of the New York Independent System Operator* (July 23, 2012) (“Request for Clarification”) at 8.

¹⁸ April 16 Order at PP 15-16.

Services Tariff to provide clearly for the use of the first-year Unit Net CONE value as defined in the Services Tariff for its Part B Test and Unit Offer Floor.¹⁹

The NYISO therefore proposes the following addition to Section 23.2.1 to provide clearly for the use of the first-year Unit Net CONE value as defined in the Services Tariff for the Offer Floor determination:²⁰

For purposes of Section 23.4.5 of this Attachment H, **“Offer Floor”** for a Mitigated Capacity Zone Installed Capacity Supplier that is not a Special Case Resource shall mean the lesser of (i) a numerical value equal to 75% of the Mitigation Net CONE translated into a seasonally adjusted monthly UCAP value (“Mitigation Net CONE Offer Floor”), or (ii) a the numerical value that is the first year value of the Unit Net CONE determined as specified in Section 23.4.5.7.3, translated into a seasonally adjusted monthly UCAP value using an appropriate class outage rate, (“Unit Net CONE Offer Floor”). The Offer Floor for a Mitigated Capacity Zone Installed Capacity Supplier that is a Special Case Resource shall mean a numerical value determined as specified in Section 23.4.5.7.5. The Offer Floor for Additional CRIS MW shall mean a numerical value determined as specified in Section 23.4.5.7.6.

B. Clarifying the Use of “Inflation” and “Escalation”

The April 16 Order discussed the use of the terms “inflation” and “escalation,” noting, for example, that the NYISO correctly used the “escalation” rate for the Default “Part A Test” for 2014 in Table 1 of Attachment A of its Request for Clarification.²¹ The Commission ordered the NYISO to amend its tariff provisions to reflect the use of the inflation component, rather than the escalation rate, for Unit Net CONE for all years of the Mitigation Study Period for which there are accepted ICAP Demand Curves.²² The Commission clarified that, for Mitigation Study Periods that extend beyond those included in the accepted ICAP Demand Curves, the NYISO should use the escalation rate of the last

¹⁹ *Id.* “Unit Offer Floor” is a term described in the April 16 Order. It is not a defined term in the NYISO’s tariffs. It has the same meaning as “Unit Net CONE Offer Floor,” a defined term that was accepted with other Services Tariff revisions in the Additional CRIS Order.

²⁰ The revisions to Services Tariff Section 23 shown in Sections III.A and III.B of this filing letter are shown here as blackline on the version of this eTariff filing that is Attachment III.

²¹ April 16 Order at ns. 13, 14. The April 16 Order’s observation that the NYISO should have used “Inflation,” rather than “Escalation” to refer to adjustments to the “Annual Net CONE of Examined Facility” in certain examples included in the Request for Clarification does not otherwise affect the accuracy of those examples. *Id.* at n 13. Nor does the difference in terminology impact any mitigation determination that the NYISO has made since the June 2012 Order. It does not do so because inflation and escalation at the time of the BSM Rule determinations had the same value.

²² April 16 Order at P 90.

year's accepted ICAP Demand Curves.²³ The Commission also ordered the NYISO to revise Section 23.4.5.7.3.6 to make clear that the Default Offer Floor should be compared to the annual Net CONE value for the first year of the Mitigation Study Period.²⁴

In accordance with this directive, the NYISO proposes the following revisions.

23.4.5.7.2.4 ... When the ISO is evaluating more than one NCZ Examined Project concurrently, the ISO shall recognize in its computation of the anticipated ICAP Spot Market Auction forecast price that Generators or UDR facilities will clear from lowest to highest, using for each NCZ Examined Project the lower of (i) the first year value of its Unit Net CONE, or (ii) the numerical value equal to 75 percent of the Mitigation Net Cone, then inflated ~~escalated~~ in accordance with 23.4.5.7 for each of the year two and year three of the Mitigation Study Period.

23.4.5.7.3.2 ... When the ISO is evaluating more than one Examined Facility concurrently, the ISO shall recognize in its computation of the anticipated ICAP Spot Market Auction forecast price that Generators or UDR facilities will clear from lowest to highest, using for each Examined Facility the lower of (i) the first year value of its Unit Net CONE, or (ii) the numerical value equal to 75 percent of the Mitigation Net Cone, then inflated ~~escalated~~ in accordance with 23.4.5.7 for each of the year two and year three of the Mitigation Study Period.

23.4.5.7.3.6 If an Installed Capacity Supplier demonstrates to the reasonable satisfaction of the ISO that the value equal to the first of the three year values in the Mitigation Study Period that comprise its Unit Net CONE is less than any Offer Floor that would otherwise be applicable to the Installed Capacity Supplier, then its Offer Floor shall be reduced to a numerical value equal to the first year of its Unit Net CONE.

23.4.5.7.4 For purposes of Sections 23.4.5.7.2(b) and 23.4.5.7.6(b), the ISO shall identify (A) the Unit Net CONE ~~and the price on the ICAP Demand Curve projected for a future Mitigation Study Period using: (i) the inflation rate component of the escalation factor of the relevant ICAP Demand Curves for any year for which there are accepted ICAP Demand Curves, and;~~ ~~or~~ (ii) the inflation rate component of the escalation factor of the last year of accepted relevant ICAP Demand Curves if relevant ICAP Demand Curves do not apply to the year; and (B) the price on the ICAP Demand Curve projected for a Mitigation Study Period using (i) the escalation factor of the relevant ICAP Demand Curves for any year for which there are accepted ICAP Demand Curves; and (ii) the escalation

²³ *Id.* at P 91.

²⁴ *Id.* at P 93.

factor of the last year of accepted ICAP Demand Curves if relevant ICAP Demand Curves do not apply to the year. For purposes of Section 23.4.5.7.2(a), the ISO shall use the escalation factor of the relevant ICAP Demand Curves.

C. The MMU Report

The June 2012 Order directed the NYISO to revise the Services Tariff to specify that the MMU would prepare the MMU Report. The purpose of the MMU Report is to confirm that the NYISO's determinations and calculations under the BSM Rules were performed in accordance with the terms of the Services Tariff and, if not, to identify any flaws.²⁵ To implement this directive, the 2012 Compliance Filing proposed a modification to Section 23.4.5.7.8, new language for Section 30.10.4, and corresponding revisions to Section 30.4.6.2.11.²⁶

The April 16 Order found that the language regarding the MMU Report "should not be restricted to only the Offer Floor and exemption determination sections of Attachment H (*i.e.*, sections 23.4.5.7.2 and 23.4.5.7.7), but should be sufficiently open-ended so as not to limit the review performed by the MMU to those sections."²⁷ Thus, the Commission directed the NYISO to incorporate language into the Services Tariff "that allows the MMU to consider all factors relevant to mitigation exemption and Offer Floor determinations."²⁸

In accordance with the Commission's directive, the NYISO proposes the following revisions to Sections 30.4.6.2.12 and 30.10.4.²⁹ The NYISO also proposes some minor clarifications and corrections to these Sections.

30.4.6.2.12 When evaluating an Examined Facility or NCZ Examined Project request by a Developer or Interconnection Customer pursuant to Section 23.4.5.7 of the Market Mitigation Measures, the ISO shall seek comment from the Market Monitoring Unit on matters relating to the determination of price projections and cost calculations. As required by Section 23.4.5.7-8 of Attachment H to this Services Tariff, the Market Monitoring Unit shall prepare a written report discussing factors that affect the ISO's mitigation exemption and Offer Floor determinations, and confirming whether the ISO's Offer Floor and exemption determinations and calculations conducted pursuant to Sections 23.4.5.7.2 and 23.4.5.7.6, the NYISO's determination of eligible or ineligible for an exemption pursuant to Section 23.4.5.7.9 ~~of the Market Mitigation Measures~~, were conducted

²⁵ 2014 Order at P 63; 2012 Order at P 130.

²⁶ 2012 Compliance Filing at 4-5.

²⁷ April 16 Order at P 75.

²⁸ *Id.*

²⁹ The revisions to Services Tariff Section 30 shown in this filing letter Section III.C and III.D are shown here as blackline on the version of this eTariff filing that is Attachment VII.

in accordance with the terms of the Services Tariff, and if not, identifying the flaws inherent in the ISO's approach. This report shall be presented concurrent with the ISO's posting of its mitigation exemption and Offer Floor determinations. Pursuant to Section 23.4.5.7.8~~10~~ of the Market Mitigation Measures, the ISO shall also consult with the Market Monitoring Unit when evaluating whether any existing or proposed Generator or UDR project in a Mitigated Capacity Zone, except New York City, has Commenced Construction, and determinations of whether it shall be exempted from an Offer Floor under that Section. ...

30.10.4 Reports on Offer Floor or Exemption Determinations

The Market Monitoring Unit shall prepare a written report as described in Section 30.4.6.2.12 ~~and~~ confirming whether the ISO's ~~Offer Floor and exemption~~ determinations and calculations conducted pursuant to Sections 23.4.5.7.2 ~~and 23.4.5.7.7, and the NYISO's determination of eligible or ineligible for an exemption pursuant to Section 23.4.5.7.9, of the Market Mitigation Measures~~ were conducted in accordance with the terms of the Services Tariff, and if not, identifying the flaws inherent in the ISO's approach. The Market Monitoring Unit's report shall be presented concurrently with the ISO's posting of the exempt/non-exempt determinations.

The NYISO believes, and the MMU has stated that it concurs, that the MMU Reports to date have been, and future reports through the date of the order on this compliance filing can be expected to be, complete and consistent with a good faith understanding of the Commission's requirements.

D. Additional Minor Clarifications

As the NYISO developed the language to comply with the April 16 Order's directive regarding the MMU Report, the NYISO identified the need to correct the cross-references in several sections to Section 30.4.6.2.12 of Attachment O. Accordingly, the NYISO is proposing minor corrections to Sections 23.4.5.7.2.5, 23.4.5.7.3.3, 23.4.5.7.6.8, and 23.4.5.7.8.

IV. EFFECTIVE DATE

The April 16 Order accepted the 2012 Compliance Filing effective June 22, 2012, subject to this compliance filing.³⁰ The NYISO therefore requests a June 22, 2012 effective date for the revisions proposed in Attachments I and III of this filing.

If the Commission accepts this filing with the effective date of June 22, 2012, the tariff provisions shown on Attachments IV and VI would be effective as of May 12, 2015 in the manner described in the Additional CRIS Order.³¹

³⁰ April 16 Order at P 2.

V. MMU REVIEW

The MMU was given an opportunity to review and comment on the proposed compliance tariff revisions. The MMU has authorized the NYISO to state that it supports this compliance filing.

VI. COMMUNICATIONS AND CORRESPONDENCE

All communications and services in this proceeding should be directed to:

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VII. SERVICE

This filing will be posted on the NYISO's website at www.nyiso.com. It will serve the parties in Docket Nos. EL11-42 and ER12-2414. In addition, the NYISO will e-mail an electronic link to this filing to the official representative of each party to this proceeding, to 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.

VIII. CONCLUSION

Wherefore, for the foregoing reasons, the New York Independent System Operator, Inc. respectfully requests that the Commission accept the compliance tariff revisions proposed in this filing and make them effective as of June 22, 2012.

³¹ See Docket Number ER15-1281-000, *New York Independent System Operator, Inc.* delegated letter order (May 6, 2015).

³² The NYISO respectfully requests waiver of the Commission's regulations (18 C.F.R. § 385.203(b)(3)(2014) to the extent necessary to permit service on counsel for the NYISO in both Miami and Washington, D.C.

Respectfully submitted,

/s/ Gloria Kavanah

Gloria Kavanah

Counsel for the

New York Independent System Operator, Inc.

cc: Michael Bardee
Gregory Berson
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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 1st day of June, 2015.

/s/ Joy A. Zimmerlin

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