

May 9, 2017

By Electronic Delivery

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

Re: Proposed Implementation Agreement Under Section 4.1.9.3 of the New York Independent System Operator, Inc.'s Market Administration and Control Area Services Tariff

Dear Secretary Bose:

In accordance with Section 4.1.9.3 of its Market Administration and Control Area Services Tariff ("Services Tariff"), Section 205 of the Federal Power Act ("FPA"),¹ and Part 35 of the Commission's regulations,² 18 C.F.R. § 35, *et seq.*, the New York Independent System Operator, Inc. ("NYISO") respectfully submits the attached Implementation Agreement. The Implementation Agreement would govern TC Ravenswood LLC's ("TC Ravenswood") recovery of its costs to generate electric energy using fuel oil in lieu of natural gas in furtherance of New York State Reliability Council ("NYSRC") Local Reliability Rule G.2 for a three year period. The Implementation Agreement is designated as Service Agreement No. 2336 under the NYISO's Open Access Transmission Tariff.

Section 4.1.9 of the Services Tariff addresses, among other things, cost recovery by generating units that are designated pursuant to NYSRC Local Reliability Rule G.2, "Loss of Gas Supply (New York City)," ("Rule G.2") to either burn an alternate fuel at designated minimum levels, or to activate their auto-swap capability, based on forecast Load levels in New York City. Since 2014, TC Ravenswood has been compensated by the NYISO for transporting, maintaining, storing and handling fuel oil, *i.e.*, costs associated with burning oil instead of gas in response to Rule G.2 under an Offer of Settlement that was accepted by the Commission in Docket Nos. ER14-1711 and ER14-1822.³ That Offer of Settlement expired by its terms on April 30, 2017.

¹ 16 U.S.C. § 824d.

² 18 C.F.R. § 35, *et seq.*.

³ *TC Ravenswood, LLC*, 149 FERC ¶ 61,203 (2014).

Section 4.1.9.3 of the Services Tariff specifies that generating units that seek to recover costs incurred in connection with its compliance with Rule G.2 shall negotiate an Implementation Agreement with the NYISO. The generating unit and the NYISO must also “consider the input of the New York State Public Service Commission, and the Transmission Owner designated by Rule [G.2] . . .” in this case the Consolidated Edison Company of New York, Inc. (“Consolidated Edison”).⁴

As is described in Attachment V, the NYISO and TC Ravenswood have negotiated and executed a new Implementation Agreement (Attachment II) that would address TC Ravenswood’s recovery of costs associated with compliance with Rule G.2 for the three year period from May 1, 2017 to April 30, 2020. The NYISO therefore requests, with TC Ravenswood’s support, that the Commission accept the proposed Implementation Agreement effective May 1, 2017. The NYISO is also authorized to state that Consolidated Edison supports the terms of the proposed Implementation Agreement.

I. Documents Submitted

The NYISO respectfully submits the following documents with this filing letter:

1. Proposed Protective Order (Attachment I);
2. Proposed Implementation Agreement (public version) (Attachment II);
3. Appendix A to the Implementation Agreement (public Demand Charge data) (Attachment III);
4. Appendix B to the Implementation Agreement (confidential Demand Charge data) (Attachment IV);
5. Statement of Support prepared by TC Ravenswood (Attachment V); and
6. Testimony and Exhibits of John (Jay) Prestia on behalf of TC Ravenswood in support of Proposed Implementation Agreement (Attachment VI).

II. Communications and Correspondence

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

Robert E. Fernandez, General Counsel
Raymond Stalter, Director, Regulatory Affairs
*James H. Sweeney, Senior Attorney
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⁴ Local Reliability Rule I-R3 was renumbered to Local Reliability Rule G.2 when the New York State Reliability Council renumbered its Reliability Rules in January 2015.

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III. Background

A description of the TC Ravenswood Generating Station, its dual-fuel burning capability, the Offer of Settlement in Docket Nos. ER14-1711 and ER14-1822, and the development of the proposed Implementation Agreement submitted by this filing is provided in Attachment V, which was prepared by TC Ravenswood. Additional background information is included in Attachment VI, the Testimony of John (Jay) Prestia on behalf of TC Ravenswood.

IV. Description of and Justification for Proposed Implementation Agreement

A description of the proposed Implementation Agreement and an explanation of why it should be accepted as just and reasonable under Section 205 is provided in Attachments V and VI.

V. Competitively Sensitive Information

TC Ravenswood has stated that the spreadsheet submitted as Appendix B of the Implementation Agreement (Attachment IV to this filing) contains proprietary information about the costs that TC Ravenswood incurs to lease, operate and maintain its facilities. TC Ravenswood has also stated that the public release of that information would cause it and its suppliers competitive harm.

In order to protect the highly confidential, competitively sensitive information contained in Appendix B of the Implementation Agreement, the NYISO is submitting a proposed protective order (Attachment I) to govern access to that information. The proposed protective order is similar to protective orders that have been adopted in a number of proceedings that afford a heightened level of protection for competitively sensitive information. *See, e.g.,* Order Adopting Protective Order, *Portland Natural Gas Transmission System*, Docket No. RP08-306-000 (issued July 28, 2008); Protective Order, *Gas Transmission Northwest Corporation*, Docket No. RP06-407-000 (issued Jan. 25, 2007); Protective Order, *Transwestern Pipeline Company, L.L.C.*, Docket No. RP06-614-000 (issued Dec. 11, 2006); Order Adopting Amended Protective Order, *El Paso Natural Gas Company*, Docket No. RP05-422-000 (issued Aug. 21, 2006); and Order of Presiding Judge Adopting Protective Order, *Northern Border Pipeline Company*, Docket No. RP06-72-000 (issued Dec. 23, 2005). Consistent with the protective orders that provide this heightened level of protection, the attached protective order would prohibit access to certain types of confidential information by persons (designated as Competitive Duty Personnel)

whose job responsibilities, directly or indirectly (*e.g.*, through supervision of others) involve the marketing, sale, purchase or transportation of electric energy, capacity or ancillary services, or any input to the production of electric energy (including but not limited to Fuel Oil, natural gas, or the delivery and storage of those commodities) and who could use information such as pricing formulae to their competitive benefit or to the competitive detriment of TC Ravenswood or others. The NYISO requests that the Commission adopt the proposed protective order to govern the production of confidential information in this proceeding. To the extent an intervening party desires to review the confidential information in advance of adoption of the proposed Protective Order, TC Ravenswood has stated that it will make such information available to such party upon its written commitment to be bound by the provisions of the proposed Protective Order pending the Commission's ruling thereon.

VI. Effective Date

As described above, the current Offer of Settlement expired on April 30, 2017. The NYISO respectfully requests, pursuant to Section 35.11 of the regulations, 18 C.F.R. § 35.11, that the Commission waive the 60-day prior notice requirement of Section 35.3(a)(1) of the regulations, 18 C.F.R. § 35.3(a)(1), as well as any other Part 35 filing requirements not applicable to the proposal herein, to permit the Implementation Agreement to go into effect no later than May 1, 2017, as agreed to by the signatories. The Commission has granted waiver of the 60-day notice requirement, and even has authorized rates to go into effect prior to the date on which they were filed, in similar circumstances. *See, e.g., Mirant Americas Energy Marketing, L.P.*, 112 FERC ¶ 61,056, PP 13-15 (2005) *aff'd NSTAR Electric & Gas Corp.*, 481 F.3d 794 (D.C. Cir. 2007) (authorizing an effective date for mitigation agreements prior to the date they were filed to allow a generator needed to assure system reliability and security to run); *Milford Power Company, LLC*, 110 FERC ¶ 61,299 (2005) *reh'g denied*, 112 FERC ¶ 61,154 (2005) (authorizing an effective date for a Reliability Must Run agreement prior to the date the agreement was filed due to the importance of having the generator available for reliability purposes); *PSEG Power Connecticut, LLC*, 111 FERC ¶ 61,441 (2005) (same); *see also TC Ravenswood, LLC*, 139 FERC ¶ 61,151 (2012) (based on reliability concerns, authorizing an effective date for TC Ravenswood's Spot Black Start Rate Schedule prior to the date of the Commission's Order accepting the proposed rate schedule).

Permitting the Implementation Agreement to go into effect on May 1, 2017 is appropriate here because, as in the cited cases, TC Ravenswood will provide services under the proposed Implementation Agreement to provide reliability for the direct benefit of customers served by Consolidated Edison as well as for the general benefit of the system operated by NYISO. Without an Implementation Agreement in effect, TC Ravenswood has stated that such services to Consolidated Edison and NYISO would be very difficult to provide; and could jeopardize reliability and cause unnecessary expense.

An effective date of May 1, 2017 will align the effectiveness of the Implementation Agreement with the commencement of the NYISO's Summer Capability Period and, based on TC Ravenswood's statements to the NYISO, the renewal of certain leases for storage tanks and barges that are necessary to provide the service. A May 1, 2017 effective date also provides seamless continuity following expiration of the Offer of Settlement.

VII. 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 State 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.

VIII. Conclusion

The NYISO respectfully requests that the Commission: (1) issue an order accepting the proposed Implementation Agreement without modification or condition, thereby making the rates, terms and conditions of the Implementation Agreement effective May 1, 2017; (2) adopt the proposed protective order to govern the production of confidential information in this proceeding; and (3) grant waiver of any of the Part 35 Filing Requirements not applicable to the Implementation Agreement.

Respectfully submitted,

/s/ James H. Sweeney

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