

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

New York Independent System Operator, Inc.) Docket No. ER21-2460-000, 002

**MOTION TO REJECT ANSWER OF CLEAN ENERGY ADVOCATES
AND ALTERNATIVE REQUEST FOR LEAVE TO ANSWER AND ANSWER OF
NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.**

Pursuant to Rules 212 and 213 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission”),¹ the New York Independent System Operator, Inc. (“NYISO”)² respectfully submits this Motion to Reject Answer of Clean Energy Advocates (“CEA”) and Alternative Request for Leave to Answer and Answer. The NYISO’s Motion to Reject requests that the Commission reject the answer filed by CEA in the above docket on August 5, 2022, because it was filed late without any attempt at justification, impermissibly addresses arguments made in the NYISO’s July 18, 2022 rehearing request, and does not satisfy the Commission’s standard for considering answers to requests for rehearing.

In the alternative, if the Commission rules against the NYISO’s Motion to Reject and considers CEA’s August 5, 2022 answer, then the NYISO respectfully requests that the Commission accept the NYISO’s Alternative Request for Leave to Answer and Answer, including the attached affidavit of Michael DeSocio, the NYISO’s Director of Market Design.

¹ 18 C.F.R. §§ 385.212, 385.213 (2021).

² Capitalized terms not defined in this Answer shall have the meaning set forth in the NYISO Open Access Transmission Tariff (“OATT”) and Market Administration and Control Area Services Tariffs (“Services Tariff”).

I. MOTION TO REJECT ANSWER

For purposes of this proceeding, the NYISO accepts CEA's position³ that the NYISO's July 18, 2022, request for clarification⁴ is a motion, and that the Commission permits answers to motions.⁵ However, there are three significant problems with CEA's answer that require the Commission to reject it.

First, CEA responds to several arguments that are only included as part of the NYISO's rehearing request,⁶ but does not provide a justification for making an exception to the explicit prohibition on answering requests for rehearing in Rule 713(d) of the Commission's regulations.⁷ The Commission almost always enforces this rule and rejects answers to requests for rehearing.⁸ CEA's purported justification for permitting an answer to the NYISO's rehearing request is confined to footnote 4 of its answer which states:

³ *Answer of Clean Energy Advocates* at 2, n. 4 ("Although the Commission's rules provide a right to answer a motion, Rule 213(a)(2) prohibits an answer to a request for rehearing or protest unless otherwise ordered by the decisional authority. 18 C.F.R. § 385.213(a)(2). Clean Energy Advocates' answer responds to NYISO's motion for clarification..."). The NYISO does not concede that any aspect of the CEA's characterization of the substance of the NYISO's filing is accurate. It is merely accepting CEA's assertion that its request for clarification in this proceeding should be treated as a motion.

⁴ The NYISO's request for clarification appears on pages 5 through the top of page 12 of the NYISO's July 18, 2022, *Request for Rehearing or, In the Alternative, Clarification*. The NYISO's clarification request is also briefly discussed in the first full paragraph on page 2 of its filing.

⁵ See 18 CFR § 385.213(a)(3) and (d)(1).

⁶ The NYISO's rehearing request is set forth on pages 12 to 23 of its July 18, 2022, *Request for Rehearing or, In the Alternative, Clarification*. The NYISO introduces the arguments it makes in its rehearing request on pages 2 through 4 of its filing, starting with the second full paragraph on page 2.

⁷ See 18 C.F.R. §385.713(d) which states that the "Commission will not permit answers to requests for rehearing" although it may "afford parties an opportunity to file briefs or present oral argument on one or more issues presented by a request for rehearing." CEA did not request, or justify, this extraordinary relief under Rule 713(d). Rule 213(a)(2) gives the Commission discretion to allow certain answers, including answers to requests for rehearing, but CEA has not shown that Rule 213(a)(2) should be read in isolation from Rule 713(d).

⁸ See, e.g., *Copper Mountain Solar 5, LLC*, 179 FERC ¶ 61,1180, at P 4 (2022) ("Rule 713(d) of the Commission's Rules of Practice and Procedure prohibits an answer to a request for rehearing. Accordingly, we deny the Reactive Service Providers' respective motions for leave to answer and reject their answers to the request for rehearing.") (citing 18 C.F.R. § 385.713(d)(1)). *Milligan Wind 3, LLC*, 180 FERC ¶ 61,076, at P 15 (2022) ("Rule 713(d)(1) of the Commission's Rules of Practice and Procedure prohibits an answer to a request for rehearing. Accordingly, we deny SPP's motion to answer and reject SPP's answer to Milligan's rehearing request.") (citing 18 C.F.R. § 385.713(d)(1)). *Hecate Energy Greene Cnty. 3 LLC v. Cent. Hudson Gas & Elec. Corp.*, 177 FERC ¶ 61,121 at P 17 (2021) (rejecting request for rehearing under Rule 713(d)(1)); *San Diego Gas & Electric Company v. Sellers of*

...Clean Energy Advocates' answer responds to NYISO's motion for clarification but, to the extent necessary, Clean Energy Advocates seek leave to answer the portion of NYISO's pleading that is a request for rehearing. Clean Energy Advocates' answer raises issues of improper procedure and the lack of substantial evidence, clarifies the issues, and will assist the Commission in making a reasoned decision. *See, e.g., Cal. Indep. Sys. Operator Corp.*, 129 FERC ¶ 61,241, P 16 (2009) (“[w]e will accept the answers and responses to the requests for rehearing because they provide information that assisted us in our decision-making process”).⁹

CEA's allegations related to supposed improper procedure and the substantial evidence standard attack the NYISO's clarification request. They are not aimed at the arguments the NYISO makes in its request for rehearing, so they cannot present a valid justification for answering the NYISO's request for rehearing.

For example, on page 4 of its answer CEA states:

In support of its **new proposal**, NYISO makes numerous new factual and technical assertions that are not adequately supported by the underlying record or verified by an expert witness in this filing. [Emphasis added. Footnote omitted.]

Energy and Ancillary Services Into Markets Operated by the California Independent System Operator Corporation and the California Power Exchange Corporation, et al., 125 FERC ¶ 61,214 at P 7 (2008) (“Rule 713(d)(1) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.713(d)(1) (2008), prohibits answers to requests for rehearing. Accordingly, we reject the answers to the rehearing requests”); *California Department of Water Resources*, 124 FERC ¶ 61,216 at P 11 (2008) (“We reject [California Department of Water Resources'] answer to the rehearing request”); *Bluegrass Generation Company, L.L.C.*, 121 FERC ¶ 61,018 at P 7 (2007) (“Pursuant to Rule 713(d)(1) of the Commission's Rules of Practice and Procedure, answers to requests for rehearing are prohibited. [18 C.F.R. § 385.713(d)(1) (2007)]. Accordingly, we will reject Bluegrass' answer to E.ON's rehearing request”).

⁹ CEA correctly quotes *Cal. Indep. Sys., Operator Corp.*, 129 FERC ¶ 61,241 P 16 (2009) which states that the Commission is accepting answers to a request for rehearing. However, it appears that the answers that the Commission allowed were responding to a request for clarification that was submitted with a request for rehearing. *See Answer to the Motion for Clarification of the California Independent System Operator by the Transmission Agency of Northern California*, Docket No. ER08-1113-002 at 1 (describing scope of filing as an “Answer to the portion of the Request for Rehearing and Request for Clarification or in the Alternative Rehearing of the California Independent System Operator Corporation (‘ISO’) filed on April 6, 2009 that moves for clarification. . . .”) (Apr. 21, 2009) (“TANC Answer”); *Answer of the Modesto Irrigation District to the Request for Clarification of the California Independent System Operator Corporation*, Docket No. ER08-1113-002 at 2 (supporting, adopting, and incorporating the TANC Answer to the ISO's request for clarification) (Apr. 21, 2009).

CEA's reference to NYISO's "new proposal" is a reference to NYISO's request for clarification, not to the NYISO's request for rehearing. This is made clear on page 5 of CEA's answer, where CEA states:

...NYISO's Request for Clarification improperly seeks approval of a new proposal that was not made in the underlying proceeding and attempts to justify this new proposal on assertions that are not supported by substantial evidence.

By making a new proposal in its Request for Clarification instead of as part of its required compliance filing after consulting with stakeholders, NYISO seeks to circumvent the procedural due process rights of the parties to this proceeding as well as the shared governance rights of its members.... [Emphasis added.]

CEA's concerns about substantial evidence and improper procedure relate to the NYISO's clarification request, not its request for rehearing. Those concerns cannot justify CEA's answer to the NYISO's request for rehearing.

The only remaining reason CEA provided for considering its response to the NYISO's rehearing request is the boilerplate claim that its answer "clarifies the issues, and will assist the Commission in making a reasoned decision." Such a bald claim might be sufficient to justify the Commission exercising its discretion to allow answers to a protest or an answer under Rule 213, if it truly were clarifying issues or assisting the Commission.¹⁰ But it cannot justify granting an exceptional waiver of Rule 713's prohibition against answers to rehearing requests.

The second problem with CEA's answer is that although the NYISO's request for clarification and request for rehearing are discrete,¹¹ CEA's answer interweaves clarification and rehearing arguments, so that it is not possible to segregate them. For example, the first full

¹⁰ The NYISO does not concede that CEA's answer would meet this standard on the merits. The NYISO is simply acknowledging that the Commission routinely grants answers to protests or answers when they satisfy these criteria.

¹¹ The NYISO's clarification requests is set forth on page 2 (first full paragraph) and pages 5 through the very top of page 12 of the NYISO's July 18, 2022, *Request for Rehearing or, In the Alternative, Clarification*. The NYISO's request for rehearing is addressed on pages 2 (starting with the second full paragraph) through 4 and pages 12 through 23 of the NYISO's July 18 pleading.

paragraph on page 4 of CEA's answer starts with an argument that the NYISO's compliance proposal is not supported by substantial evidence. The very next sentence attacks reliability concerns that are raised in the NYISO's rehearing request. Later in the same paragraph (at the bottom of page 4 and top of page 5 of CEA's answer) CEA argues against concerns that the NYISO raised in its rehearing request that the Commission may not have adequately considered the relative costs and benefits of requiring the NYISO to permit heterogeneous distributed energy resource ("DER") Aggregations to simultaneously provide both synchronous and non-synchronous reserves, or to simultaneously provide both 10-minute and 30-minute reserves. The last sentence of the paragraph, at the top of page five, returns to addressing the NYISO's clarification request and, again, argues that the NYISO is presenting a new proposal that is not supported by substantial evidence. Arguments that answer the NYISO's rehearing request are scattered throughout CEA's pleading. The Commission should not allow CEA to disguise its impermissible answers to a rehearing request in this fashion.

The final problem with CEA's answer is that the answer to NYISO's clarification request was not timely filed, and CEA did not provide any justification for its late submission. CEA refers to the NYISO's clarification request as a motion in footnote 4. Rule 213(d)(1) of the Commission's Rules of Practice and Procedure specifies a 15-day deadline for submitting Answers to Motions "unless otherwise ordered." CEA's answer to the NYISO's clarification request was due by 5:00 p.m. on Tuesday, August 2, but the answer was not filed until approximately 3:00 p.m. on Friday August 5. CEA cannot reasonably assert that the request for clarification was a motion and then simply ignore the filing deadline applicable to motions. The NYISO will be harmed if the Commission's consideration of CEA's late-filed answer delays its rulings on the NYISO's rehearing or clarification requests.

The Commission is required to take initial action on the NYISO's rehearing request by August 17, 2022. Although the Commission may delay addressing rehearing arguments, timely action on the NYISO's rehearing and clarification requests will help the NYISO to implement DER in its markets. The explanations that the Commission provides in its orders will inform the NYISO's going-forward efforts to achieve full compliance with Order No. 2222. The NYISO will be able to gain the greatest value from the Commission's orders if they are issued promptly. The NYISO's efforts will be undermined if consideration of CEA's late and impermissible answer delays the issuance of an order.

II. REQUEST FOR LEAVE TO ANSWER

If the Commission denies the NYISO's Motion to Reject CEA's answer, then in the alternative, the NYISO respectfully requests that the Commission exercise its discretion to accept its answer to CEA's answer.

The Commission has discretion to accept, and routinely accepts, answers to answers where they help clarify complex issues, provide additional information, are helpful in the development of the record in a proceeding, or otherwise assist in the decision-making process.¹² The NYISO's answer satisfies those standards and should be accepted because it addresses

¹² See, e.g., *New York Indep. Sys. Operator, Inc.*, 134 FERC ¶ 61,058, at P 24 (2011) (accepting the answers to protests and answers because they provided information that aided the Commission in better understanding the matters at issue in the proceeding); *New York Indep. Sys. Operator, Inc.*, 140 FERC ¶ 61,160, at P 13 (2012); and *PJM Interconnection, LLC*, 132 FERC ¶ 61,217, at P 9 (2010) (accepting answers to answers and protests because they assisted in the Commission's decision-making process); *Northwestern Corp.*, 179 FERC ¶ 61,131, at P 13 and n.13 (2022) ("Although the Commission's Rules of Practice and Procedure do not permit answers to protests or answers to answers, we will accept Northwestern's and the Businesses' answers because they provide information that has assisted in our decision-making.") (citing 18 C.F.R. § 385.213(a)(2)); *Tenn. Gas Pipeline Co., LLC*, 178 FERC ¶ 61,119, at P 20 (2022) ("Although the Commission's Rules of Practice and Procedure do not permit answers to protests and answers to answers, we will accept the Applicants' and Municipals' answers because they provide information that has assisted in our decision-making.") (citing 18 C.F.R. § 385.213(a)(2)); *New Fortress Energy LLC*, 174 FERC ¶ 61,207, at P 7 ("The Commission's Rules of Practice and Procedure do not permit answers to protests or answers to answers; however, we find good cause to waive our rules and accept the answers because they provide information that has assisted in our decision-making process.") (citing 18 C.F.R. § 385.213(a)(2)).

inaccurate and misleading statements, and provides additional information that will help the Commission fully evaluate the arguments in this proceeding. For the foregoing reasons, the NYISO respectfully requests that the Commission accept its answer.

III. ANSWER

A. The NYISO's Clarification Request Will Not Enable the NYISO to "Circumvent" its Stakeholders' Rights

On pages 8 through 11 of its clarification request the NYISO described a possible market design that it is capable of implementing that can be used to enable a variety of heterogeneous DER Aggregations to provide all of the Operating Reserves that they are capable of providing. The NYISO explained the benefits of the design and the trade-offs that necessarily arise because the NYISO cannot simultaneously allow a heterogeneous DER Aggregation (or any other Resource or Aggregation that participates in its markets) to simultaneously provide synchronous and non-synchronous Operating Reserves or to simultaneously provide both 10-minute and 30-minute Operating Reserves supplied from DERs with different operating characteristics within the same heterogeneous DER Aggregation.¹³

On page 3 of its answer CEA alleges that the NYISO is asking the Commission to "approve" a "new proposal" addressing operating reserves that heterogeneous DER Aggregations can provide. On page 5 of its answer CEA further alleges that by making a new proposal in a request for clarification instead of as part of its required compliance filing after consulting with stakeholders, "NYISO seeks to circumvent the procedural due process rights of the parties to this proceeding as well as the shared governance rights of its members." That allegation is not correct for several reasons.

¹³ As the NYISO explained in its response to the Commission's deficiency letter (at 12-13), it is not possible for the NYISO to implement a single market design that will accommodate all resources optimally. If the NYISO could achieve such a design, it would have already proposed the solution.

First, the NYISO did not ask the Commission to “approve” a new proposal. On pages 5 to 6 of its clarification request the NYISO asked the Commission to clarify whether the market design it described would satisfy PP 92 and 93 of the Commission’s June 17, 2022 order (“June 17 Order”) that ruled on the NYISO’s Order No. 2222 compliance filing. The NYISO alternatively asked the Commission to, at a minimum, clarify that the market design improvements could satisfy PP 92 and 93 after they are filed in final form and accepted by the Commission. The NYISO hopes that the Commission will issue a ruling that will inform discussions with its stakeholders and a future NYISO filing. The NYISO did not request and does not expect to receive an order “approving” or “accepting” tariff revisions that the NYISO has not yet fully developed or submitted to the Commission for its consideration.

The NYISO did not request a compliance directive from the Commission to implement the proposed changes, nor is the NYISO ready to implement the changes it described in its clarification request today. Because there is no Tariff filing that the Commission can rule on, or compliance directive from the Commission, there is no possibility that the NYISO’s request for clarification would “circumvent the procedural due process rights of the parties to this proceeding.” No matter whether the Commission indicates support for, rejects, or decides not to respond to the NYISO’s clarification proposal, the NYISO will ultimately have to submit a filing to the Commission. When the NYISO submits its filing, then CEA and all of the NYISO’s stakeholders will have the opportunity to comment in support, or to file a protest that argues the NYISO’s proposal is insufficient and the Commission should reject it. Stakeholders will not be prevented from exercising their procedural rights.

The NYISO is not seeking to circumvent the shared governance rights of its members. The NYISO intends to fully respect the rights of its stakeholders. In particular, the NYISO will

(a) continue to work with its stakeholders to develop proposed improvements as part of its Hybrid Storage Resource market design effort, and (b) will seek stakeholder input on its Order No. 2222 compliance proposals when it is able to do so.¹⁴ The NYISO recognizes that inviting stakeholder input is beneficial because it can help the NYISO identify and address problems with its market design and avoid unnecessary protests.

B. The NYISO Has Informed the Commission of Its Reliability Concerns Related to the Provision of Operating Reserves

On page 4 of its answer CEA argues that the NYISO “raises the specter of how the Commission’s directives could cause it to violate unspecified reliability standards.” This argument is simply wrong. The NYISO has identified the facts and circumstances that could result in violations of reliability rules, and provided cites to the reliability standards that could be violated.¹⁵ Paragraph 93 of the Commission’s June 17 Order¹⁶ explicitly recognizes that the NYISO has raised valid reliability concerns and instructed the NYISO to address them.

As previously stated, absent clarification or rehearing, the NYISO could violate reliability standards because it will not know which or how many of the DER that participate in a DER Aggregation are operating at any given time, which DER are currently offline but available to be started-up, or the state of charge of any energy storage devices that participate in a heterogeneous DER Aggregation. This information deficiency could result in the NYISO:

(a) assigning a synchronous Operating Reserve schedule to a heterogeneous DER Aggregation

¹⁴ The NYISO is the only entity that is subject to an Order No. 2222 compliance obligation from the Commission in this proceeding. Compliance filings are not Federal Power Act Section 205 filings that the NYISO’s stakeholders must vote to approve prior to filing. *See Ameren Services Company and Northern Indiana Public Service Company v. Midwest Independent Transmission System Operator, Inc.*, 155 FERC 61, 073 at P 24 (2016).

¹⁵ *See, e.g.*, the NYISO’s July 18, 2022, *Request for Rehearing or, In the Alternative, Clarification* at 2, 3, 4, 13-16; the NYISO’s *Response to October 1, 2021, Letter Requesting Additional Information in Docket No. ER21-2460-000, -001* at 22-27 (November 19, 2021); and the NYISO’s September 14, 2021 *Request for Leave to Answer and Answer* at 31-32.

¹⁶ *N.Y. Indep. Sys. Operator, Inc.*, 179 FERC ¶ 61,198 at P 93 (2022).

that is already using all of its synchronous DER to provide Energy so the aggregation cannot provide synchronous Operating Reserves; or (b) assigning an Operating Reserve schedule to a heterogeneous DER Aggregation that the DER Aggregation will not be able to satisfy if the NYISO calls on it to convert the scheduled Operating Reserves to Energy because there are not sufficient MW available; or lead to scenarios in which (c) a heterogeneous DER Aggregation might timely respond to the NYISO's instruction to convert Operating Reserves to Energy, but it might not be able to sustain the Energy schedule it receives for at least one hour.

The NYISO has also raised reliability concerns related to the additional data processing requirements that will result if the NYISO is required to monitor the operation of large numbers of DER in order to expand the range of Operating Reserve that can be made available. The NYISO has explained that its Real-Time Commitment ("RTC") must produce a solution every 15 minutes, while its Real-Time Dispatch ("RTD") must produce a solution at least every five minutes. Developing a solution that accounts for the operating state, operation and stored energy of tens or hundreds of additional resources will affect the time it takes for RTC and RTD to solve. If RTC or RTD are not able to timely solve then there may be times when economic Imports and Exports that RTC expects to be scheduled are not able to be scheduled because inter-Balancing Authority checkout timelines may be missed, New York Control Area ("NYCA") Resources must continue to operate without a dispatch instruction from the NYISO, or NYCA Resources are not given timely notice of the need to start-up or to shut-down.

Because CEA wrongly suggests the NYISO's concerns about violating reliability rules might be illusory, the NYISO identifies below a few of the reliability standards that could be violated if a DER Aggregation fails to provide scheduled operating reserves, or is unable to

sustain the reserves it is called on to provide for at least an hour after they are converted to energy.

Northeast Power Coordinating Council (“NPCC”) Directory 5, Requirement 1 addresses 10-minute reserves. It requires the NYISO to have ten-minute reserve available to it that are at least equal to its first contingency loss. If the NYISO counts on 10-minute reserves that are not, in fact, available to it, then the NYISO may violate this NPCC requirement because it will not have 10-minute reserves equal to its first contingency loss. Requirement 1 also address how quickly the NYISO must act to restore its 10-minute reserves when they become deficient. If the replacement reserves the NYISO procures are not, in fact, available then the NYISO could violate Requirement 1.

NPCC Directory 5, Requirement 5 addresses the requirement to carry synchronous Operating Reserves. It states:

If a Balancing Authority becomes deficient in synchronized reserve available within ten minutes, it shall restore its synchronized reserve available within ten minutes in accordance with R1 for the restoration of ten-minute reserve...

If the NYISO becomes deficient in synchronized Operating Reserves and calls on a DER Aggregation to provide replacement synchronized Operating Reserves, then the inability of that DER Aggregation to provide all of the synchronized Operating Reserves that it offered could cause the NYISO to violate Requirement 5 if the NYISO is not aware that some of the synchronous Operating Reserves the DER Aggregation offered are no longer available.

NPCC Directory 5, Requirement 6 addresses the sustainability of Operating Reserves it requires that when the NYISO converts 10-minute or 30-minute Operating Reserves to Energy, the Energy output must be sustainable for at least one hour from the time of activation. If the NYISO converts the Operating Reserves provided by a DER Aggregation to Energy, but the

DER Aggregation is not able to sustain its Energy output at the required level for at least an hour following activation, then Requirement 6 may be violated.

New York State Reliability Council (“NYSRC”) Reliability Rules Section E (Operating Reserves) establishes minimum levels of Operating Reserves for the NYCA. It specifies the minimum 10-minute Operating Reserves and the minimum 30-minute Operating Reserves the NYISO must obtain. It specifies that at least half of the NYCA’s 10-minute Operating Reserves must be synchronized Operating Reserves. When a contingency occurs, the NYISO is required to restore any 10-minute Operating Reserves that were converted to Energy within 30 minutes. The NYISO could fail to comply with the described NYSRC Reliability Rules requirements if it procures Operating Reserves from a DER Aggregation that the DER Aggregation is not, in fact, capable of providing. To avoid potential violations, the NYISO needs to be able to confirm that the Operating Reserves it procures are available and capable of being timely converted to Energy when called upon.

NERC Disturbance Control Standard BAL-002-3 addresses the need to have “contingency reserve” (10-minute Operating Reserves) to recover from a balancing contingency event. To satisfy Requirement 2 the NYISO must make preparations to have available 10-minute Operating Reserves equal to, or greater than the NYCA’s most severe single contingency. To satisfy Requirement 3, within 105 minutes after the occurrence of a contingency, the NYISO must restore its 10-minute Operating Reserves so that they are, again, sufficient to withstand its most severe contingency. The NYISO could fail to comply with NERC Disturbance Control Standard BAL-002-3 requirements if it procures 10-minute Operating Reserves from heterogeneous DER Aggregations that the DER Aggregations are not, in fact, capable of providing. To avoid potential violations, the NYISO needs to be able to confirm that the 10-

minute Operating Reserves it procures are available and capable of being converted to Energy when called upon.

C. The Attached Affidavit of Michael A. DeSocio Confirms the Facts Stated in the NYISO's Request for Clarification or, in the Alternative, Rehearing

On page 4 of its answer CEA states, "In support of its new proposal, NYISO makes numerous factual assertions that are not adequately supported by the underlying record or verified by an expert witness in this filing." CEA makes no effort to identify what these factual and technical assertions might be. This is because the NYISO's request for clarification does not make novel or unforeseeable assertions. Instead, it reiterates and clarifies points previously made in this proceeding or in Docket No. ER19-2276, which should already be familiar to CEA.

Rule 2005 of the Commission's regulations requires that any filing with the Commission must be signed and that a signature constitutes a certificate that the signer knows the contents are true to the best of his/her knowledge and belief.¹⁷ The NYISO's compliance filings, data responses, and answers to protests in this proceeding were all made subject to this requirement. The NYISO counsel who signed those earlier pleadings worked closely with the NYISO staff experts to verify all factual assertions. There was no need for additional expert verification. The NYISO has also reviewed all of the filings that CEA and its members submitted in Docket No. ER21-2460. Not one of them was verified by an expert witness. Yet, the Commission (appropriately) considered all of the filed pleadings in its June 17 Order.

There is thus no merit to CEA's suggestion that an affidavit is required to confirm the facts stated in the NYISO's July 18, 2022, request for clarification. Nevertheless, to avoid any possible doubt on this subject, the NYISO is willing to oblige. The Affidavit of Michael A.

¹⁷ 18 CFR 385.2005(a).

DeSocio, the NYISO's Director of Market Design is attached hereto.¹⁸ It confirms that the factual and technical assertions made by the NYISO were all informed by expert review, are all accurate, and are consistent with statements NYISO has made earlier in this proceeding and in Docket No. ER19-2276.

Mr. DeSocio is well qualified to attest to the accuracy of the NYISO's Request for Clarification or, in the Alternative, Rehearing (the "NYISO Request"). He leads the market design team that developed the NYISO's original DER filing and the NYISO's Order No. 2222 compliance proposal. Mr. DeSocio was instrumental in the drafting of the NYISO Request, and developed many of the illustrative examples the NYISO included in the filing.

¹⁸ The Commission has sometimes taken the position that "Parties seeking rehearing of Commission orders are not permitted to include additional evidence in support of their position, particularly when such evidence is available at the time of the initial filing." *NRG Power Mktg., LLC v. FERC*, 862 F.3d 108, 116-17 (D.C. Cir. 2017) (quoting *PJM Interconnection, LLC*, 108 FERC ¶ 61,187, at P 49 (2004)). Courts have sometimes questioned the application of this policy but it clearly is inapplicable here. The NYISO is only submitting the DeSocio Affidavit to eliminate any possible question about the veracity of its factual and technical assertions in response to CEA. The DeSocio Affidavit simply establishes beyond any doubt that the NYISO's assertions were accurate and supported.

IV. CONCLUSION

WHEREFORE, for the reasons stated in its Motion to Reject, the NYISO respectfully requests that the Commission reject CEA's August 5 answer to the NYISO Request in the above docket. In the alternative, if the Commission decides to consider CEA's answer, then the NYISO requests that it grant the NYISO's Request for Leave to Answer and consider the NYISO's answer to CEA's answer.

Respectfully Submitted,

/s/ Alex M. Schnell

Alex M. Schnell
Assistant General Counsel/
Registered Corporate Counsel
New York Independent System Operator, Inc.
10 Krey Boulevard
Rensselaer, NY 12144

Ted J. Murphy
Hunton Andrews Kurth LLP
2200 Pennsylvania Avenue, NW
Washington, D.C. 20037
*Counsel for the New York Independent System
Operator, Inc.*

August 10, 2022

cc: Janel Burdick
Robert Fares
Jette Gebhart
Jaime Knepper
David Morenoff
Eric Vandenberg
Adria Woods

Matthew Christiansen
Jignasa Gadani
Leanne Khammal
Kurt Longo
Douglas Roe
Gary Will

Attachment A

Affidavit of Michael A. DeSocio

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

New York Independent System Operator, Inc.)))	Docket No. ER21-2460-002
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AFFIDAVIT OF MICHAEL A. DESOCIO

1. My name is Michael A. DeSocio. I am currently the Director, Market Design for the New York Independent System Operator, Inc. ("NYISO"). My business address is 10 Krey Boulevard, Rensselaer, NY 12144. I received a Bachelor's of Science in Electrical Engineering degree from Clarkson University, and a Master's of Engineering in Electrical Power Engineering degree from Rensselaer Polytechnic Institute.
2. I have been involved in the design and operation of wholesale electricity markets at the NYISO for over 22 years. I originally joined the NYISO as a Security Constrained Unit Commitment Engineer in 2000 responsible for Day-Ahead Market design and administration. I transitioned to the NYISO's Market Structures Department in 2009 as a Senior Market Product Specialist. I was promoted to Manager of Energy Market Design in 2013. I was promoted to Senior Manager of Market Design in 2015 and, in 2019, I was promoted to my current role as the NYISO's Director of Market Design.
3. As the NYISO's Director of Market Design, I have responsibility for designing and improving the NYISO's Energy, Capacity and Ancillary Services products. My responsibilities include integrating new resource technologies into the NYISO's wholesale market structures; research and development of mathematical models for use in developing and implementing market designs; and achieving compliance with applicable reliability rules, the ISO Tariffs, Federal Energy Regulatory Commission ("Commission") orders, and any applicable New York Public Service Commission orders or requirements.

4. The purpose of this Affidavit is to confirm, to the extent necessary, the facts set forth in the NYISO's July 18, 2022 Request for Clarification, or In the Alternative, Rehearing of the New York Independent System Operator, Inc. ("NYISO Clarification and Rehearing Request").
5. In my capacity as Senior Manager of Market Design and later Director of Market Design, I oversaw the NYISO's development of its Distributed Energy Resource ("DER") rules that were filed on June 27, 2019 and accepted by the Commission on January 23, 2020 in Docket No. ER19-2276-000, *et al. New York Indep. Sys. Operator, Inc.*, Order Accepting Tariff Revisions and Directing Compliance Filing and Informational Report, 170 FERC ¶ 61,0333 (2020). I also oversaw the NYISO's development of its Order No. 2222¹ compliance filing that was submitted on July 19, 2021.
6. Members of my staff who focus on developing and improving the mathematical models used by the security constrained unit commitment and economic dispatch and I worked with the NYISO's Operations Departments and a key software vendor to determine how the NYISO could achieve compliance with Order No. 2222's requirements. As part of that effort, the NYISO identified computational, software and reliability concerns that impose practical limitations on the range of capabilities that NYISO can assign DER and Aggregations, just as computational, software and reliability concerns limit participation by ***all*** other Resources that participate in the ISO Administered Markets.²

¹ *Participation of Distributed Energy Resource Aggregations in Markets Operated by Regional Transmission Organizations and Independent System Operators*, Order No. 2222, 172 FERC 61,247 (Sep. 17, 2020), 85 Fed. Reg. 70,143 (Nov. 4, 2020) ("Order No. 2222"); Order No. 2222-A, 174 FERC ¶ 61,197 (Mar. 18, 2021); Order No. 2222-B, 175 FERC ¶ 61,227 (Jun. 17, 2021).

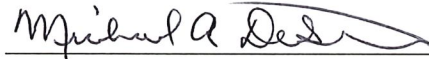
² Capitalized terms that are not defined in this Affidavit have the meaning ascribed to them in the NYISO's Market Administration and Control Area Services Tariff.

7. I participated in developing the NYISO's answer to protests that was submitted in Docket No. ER21-2460-000 on September 14, 2021. I participated in developing the NYISO's response to the Commission's deficiency letter that was submitted in Docket Nos. ER21-2460-000 and -001 on November 19, 2021. Finally, I participated in developing the NYISO Clarification and Rehearing Request.
8. With regard to the NYISO Clarification and Rehearing Request, I provided guidance on (a) how Operating Reserves are implemented in the ISO Administered Markets; (b) when reliability concerns may arise because the NYISO will not know which DER are being used by a heterogeneous DER Aggregation to meet its Operating Reserve schedule or its Energy dispatch, or the state of charge of any participating DER that can store Energy; and (c) when concerns may arise with the ability of the NYISO software to provide feasible Energy and Operating Reserves schedules to heterogenous Aggregations.
9. I helped develop the examples in the NYISO Clarification and Rehearing Request to more clearly illustrate and explain to the Commission the informational, computational and software-related concerns that would require the NYISO to perform a significant restructuring of its Security Constrained Unit Commitment, Real-Time Commitment, Real-Time Dispatch, Bid submission software, market validation software, market monitoring tools, market operations tools and settlement systems in order to be able to accommodate heterogeneous DER Aggregations that can simultaneously provide both synchronous and non-synchronous Operating Reserves, and/or simultaneously provide both 10-minute and 30-minute Operating Reserves. The concerns the NYISO explained in the NYISO Clarification and Rehearing Request were previously raised in other pleadings in Docket Nos. ER19-2276 and ER21-2460 that I participated in developing.

10. I have reviewed the facts stated in the NYISO Clarification and Rehearing Request, and I have personal knowledge of and helped develop the factual statements contained in the NYISO Clarification and Rehearing Request. The factual statements set forth in the NYISO Clarification and Rehearing Request are true and correct to the best of my information, knowledge, and belief.

11. This concludes my affidavit.

Executed on this 9th day of August, 2022.



Michael A. DeSocio
Director, Market Design
New York Independent System Operator, Inc.
10 Krey Boulevard
Rensselaer, New York 12144



Diane Egan
Notary Public, State of New York

My Commission Expires: 3/21/26

DIANE L. EGAN
Notary Public, State of New York
Qualified in Schenectady County
No. 4924890
Commission Expires March 21, 20 26

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 10th day of August, 2022.

/s/ Mohsana Akter

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