

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

<b>New York Independent System Operator, Inc.</b>	)	<b>Docket Nos.</b>	<b>EL07-39-004</b>
	)		<b>EL07-39-005</b>
	)		<b>ER08-695-002</b>
	)		<b>ER08-695-003</b>

**MOTION FOR EXTENSION OF TIME AND FOR SHORTENED NOTICE AND  
COMMENT PERIOD AND FOR EXPEDITED ACTION OF THE NEW YORK  
INDEPENDENT SYSTEM OPERATOR, INC.**

Pursuant to Rules 212 and 2008 of the Commission’s Rules of Practice and Procedure,<sup>1</sup> the New York Independent System Operator, Inc. (“NYISO”) respectfully submits this motion for a brief extension of time to submit the compliance tariff revisions required by the Commission’s May 20, 2010 order in the above captioned proceedings (“May 20 Order”).<sup>2</sup> For the reasons set forth below, the NYISO seeks permission to make its compliance filing no later than July 30, 2010, instead of June 21, 2010. The NYISO also respectfully requests that the Commission shorten the notice and comment period to the maximum extent possible, and expeditiously issue an order, so that the NYISO may plan its compliance efforts accordingly.

**I. Background**

The May 20 Order accepted the NYISO’s October 30, 2008 compliance filing in these proceedings, with modifications, and also addressed various requests for clarification and rehearing. Ordering paragraph “D” of the May 20 Order requires the NYISO to file a number of

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<sup>1</sup> 18 C.F.R. §§ 385.212 and 385.2008 (2009).

<sup>2</sup> *New York Independent System Operator, Inc.*, 131 FERC ¶ 61,170 (2010) (“May 20 Order”).

new compliance tariff revisions that will significantly impact the market power mitigation measures applicable to the market for Installed Capacity (“ICAP”) in New York City (“In-City”). Among other things, the NYISO was instructed to: (1) modify the calculation of the generator offer floor;<sup>3</sup> (2) revise the penalty for “physical withholding” by Pivotal Suppliers<sup>4</sup> through a failure to offer all uncommitted capacity to be equivalent to the penalty for physical withholding through uneconomic exports;<sup>5</sup> (3) adopt a new conduct threshold for determining when exports by Pivotal Suppliers constitute physical withholding;<sup>6</sup> (4) clarify that deadlines under the *ex ante* process for approving Pivotal Supplier exports would be established under the ISO Procedures;<sup>7</sup> and (5) make various modifications to the market power mitigation rules applicable to Special Case Resources (“SCRs”).<sup>8</sup> All of these tariff revisions must be filed within thirty days, *i.e.*, no later than June 21, 2010. The Commission also gave the NYISO thirty days to analyze and report on complex market power mitigation questions regarding a previously accepted exclusion from the tariff definition of “Pivotal Supplier”<sup>9</sup> for Market Parties that control less than 500 MW of Unforced Capacity.

## **II. Motion for Extension of Time**

The NYISO respectfully requests an extension from June 21, 2010 until July 30, 2010 to submit the tariff revisions that are required by the May 20 Order. As an initial matter, during June, the NYISO will be in the final stage of creating and submitting its “baseline” electronic

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<sup>3</sup> *Id.* at P 31.

<sup>4</sup> Capitalized terms that are not otherwise defined herein shall have the meaning set forth in Article I of the NYISO’s Market Administration and Control Area Services Tariff (“Services Tariff”) or in Attachment H to the Services Tariff.

<sup>5</sup> May 20 Order. at P 38.

<sup>6</sup> *Id.* at P 74.

<sup>7</sup> PP 86-87.

<sup>8</sup> PP 106-108, 134-138 and 145.

<sup>9</sup> May 20 Order at P 23.

tariff (“e-tariff”) filings, pursuant to Order No. 714,<sup>10</sup> for both its Open Access Transmission Tariff and Services Tariff (including Attachment H). The NYISO has informed the Commission by letter to the Secretary that it now plans to submit the baseline e-tariffs on or about June 30, 2010.<sup>11</sup> The preparation of the baseline e-tariff is a major undertaking that could be disrupted if the NYISO were to submit new tariff revisions on the eve of the baseline filing.

In addition, certain of the compliance tariff revisions directed by the May 20 Order raise difficult issues that the NYISO needs time to evaluate before it can draft and file tariff language. For example, the NYISO must develop tariff sheets “explaining, with specificity” the criteria it will to use to evaluate whether certain payments and other benefits should be considered in its calculation of SCR offer floors and provide “full support for the criteria it has chosen.”<sup>12</sup> Other compliance mandates afford less discretion as to the content of specific tariff revisions but the NYISO will still need time to draft language that is integrated with other elements of its integrated In-City ICAP mitigation design and other tariff provisions. In addition, the NYISO intends to seek input from its Market Monitoring Unit on certain provisions. Granting the brief extension that the NYISO seeks will help it to achieve these objectives and take the necessary care to avoid unintended consequences and inconsistencies.

Certain provisions in the May 20 Order intersect with possible revisions to the buyer-side mitigation tariff provisions that the NYISO has been discussing with its stakeholders. Most recently, those issues were considered at the NYISO’s May 21, 2010 ICAP working group meeting where the NYISO invited stakeholder written comments by June 4, 2010.

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<sup>10</sup> *Electronic Tariff Filings*, Order No. 714, 124 FERC ¶ 61,270 (2008).

<sup>11</sup> Docket No. RM01-5-000, Notice of Change in ETariff Baseline Filing Date of the New York Independent System Operator, Inc. at p. 1 (May 27, 2010).

<sup>12</sup> May 20 Order at P 137.

In short, as the Commission understands, In-City ICAP mitigation is a difficult and controversial subject that can have a major impact on both reliability and prices in a very complex market. The Commission has consistently recognized that it is better to allow time to ensure that complex changes in sensitive markets are well-designed and carefully implemented rather than insisting that they be effectuated as quickly as possible.<sup>13</sup> Given the time that has passed since the NYISO submitted the tariff revisions that were addressed in the May 20 Order and given the Commission's directive that most of its required compliance modifications become effective as of November 1, 2008, there will be no harm in granting the requested extension.

### **III. Motion for Shortened Notice and Comment Period and for Expedited Commission Action**

The NYISO respectfully requests the Commission shorten the comment period and act expeditiously to the extent necessary to allow the Commission to issue an order on this Motion by June 4, 2010. Expedited action will provide the NYISO certainty regarding the deadline for compliance with the Commission's requirements and allow it to schedule the necessary work in an orderly and productive manner. This extension request will be posted on the NYISO's website and a notice of that posting will be sent to the NYISO's Market Participants.

### **IV. Conclusion**

For the reasons set forth herein, the NYISO submits that good cause exists for the Commission to: (i) grant a brief extension of time, *i.e.*, until July 30, 2010, for the NYISO to file

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<sup>13</sup> See, e.g., *California Independent System Operator Corp.*, 116 FERC ¶ 61,274 at P 11 (2006) ("The CAISO's market redesign is necessary, but it is just as essential that it be done right . . . . We agree with commenters that expedience cannot take precedence over ensuring a smooth transition to the new market design."). See also *Southwest Power Pool, Inc.*, 114 FERC ¶ 61,289 at P 3 (2006) ("While we recognize the potential benefits of the market and the iterative nature of organized market development, we cannot accept SPP's proposed May 1, 2006 effective date or unconditionally accept SPP's proposal. The importance of a well-designed market with explicit and understandable market rules cannot be overstated.").

the compliance tariff revisions and report directed by the May 20 Order; and (ii) shorten the notice and comment period and issue an order granting the motion as expeditiously as possible.

Respectfully submitted,

/s/ Ted J. Murphy

Ted J. Murphy  
Counsel for  
New York Independent System Operator, Inc.

**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.

Dated at Washington, D.C. this 28<sup>h</sup> day of May, 2010

/s/Vanessa A. Colón

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