

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

TC Ravenswood, LLC

)

Docket No. ER10-1359-000

**REQUEST FOR LEAVE TO SUPPLEMENT PROTEST, AND SUPPLEMENT TO,
PROTEST OF THE NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.**

In accordance with Rules 211 and 212 of the Commission's *Rules of Practice and Procedure*,¹ the New York Independent System Operator, Inc. ("NYISO") respectfully submits this request for leave to supplement, and a supplement to, its July 2, 2010 protest ("Protest") in the above-captioned proceeding. The purpose of the Supplement is to clarify certain statements in the Protest in order to avoid any possible ambiguity that might otherwise engender confusion.

I. REQUEST FOR LEAVE TO SUPPLEMENT PROTEST

The Commission has previously exercised its discretion to permit parties to supplement protests when it concludes that a supplement provides useful information that helps the Commission to resolve the proceeding.² In this instance, the proposed supplement should be accepted because it will clarify the NYISO's position and avoid potential controversy regarding the scope of this docket.

¹ 18 C.F.R. § § 385.211, 212 (2009).

² *Idaho Power Co.*, 115 FERC ¶ 61,281 at P 19 (2006) (accepting a supplemental protest because "it aids the Commission's consideration of the issues raised by the filing."); *PPL Montana, LLC*, 112 FERC ¶ 61,237 at P 27 (2005) (accepting supplemental protests "because they have provided information that assisted us in our decision-making process."); *PJM Interconnection LLC and Virginia Electric Power Co.*, 109 FERC ¶ 61,012 at PP 12, 15 (2004) (accepting supplemental protests "given the complex nature of the proceeding and because [they] have provided information that aided in clarifying certain issues...").

II. SUPPLEMENT TO PROTEST

The Protest stated that TC Ravenswood, LLC's ("TCR") proposed rate schedule should be rejected on various grounds. It noted that the recoverability of TCR's claimed "IR-3 Contract costs" was already governed by Section 4.1.9³ of the NYISO's Market Administration and Control Area Services Tariff ("Services Tariff").

The NYISO is concerned that its Protest might be interpreted as a request that the Commission rule on the recoverability of TCR's IR-3 Contract costs under Section 4.1.9. That was not the NYISO's intent. To the contrary, the NYISO's position is that questions concerning the recoverability of particular costs under Section 4.1.9 are beyond the scope of this proceeding. The Commission should reject TCR's proposed rate schedule without ruling on such questions. To do otherwise would be tantamount to issuing a declaratory order in the absence of a petition seeking one.

In addition, the NYISO has procedures for determining the recoverability of claimed "Minimum Oil Burn" costs under Section 4.1.9.⁴ To the extent that TCR actually incurs IR-3 Contract costs and presents invoices for the NYISO's review the NYISO would consider the invoices at that time. The NYISO also confers with its Market Mitigation and Analysis Department and its Independent Market Monitoring Unit regarding the validity of claimed costs under both the Minimum Oil Burn program and the NYISO's process for setting "reference levels" for market power mitigation purposes. The NYISO's Protest therefore

³ When the NYISO submitted the baseline electronic version of its Services Tariff in compliance with Commission Order No. 714, various provisions were renumbered. Section 4.1.9 was previously Section 4.1.7a and is referred to as such by earlier pleadings in this proceeding (including the NYISO's). There have been no changes to the content of the provision.

⁴ See, e.g., *NYISO Revised Technical Bulletin No. 156, Incremental Cost Recovery for Generating Units Responding to NYSRC Local Reliability Rules I-R3 or I-R5 (Minimum Oil Burn Compensation)* (Updated Nov. 2009), available at <http://www.nyiso.com/public/webdocs/documents/tech_bulletins/tb_156.pdf>.

should not be construed as indicating that the NYISO had already made any determinations regarding the recoverability of costs that TCR may seek to recover in the future.

III. CONCLUSION

WHEREFORE, for the reasons specified above, the New York Independent System Operator, Inc., respectfully requests that the Commission accept this supplement to its Protest and renews its request that the Commission reject TCR's proposed rate schedule.

Respectfully submitted,

/s/ Ted J. Murphy

Ted J. Murphy

Counsel to

the New York Independent System Operator, Inc.

July 14, 2010

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, DC, this 14th day of July, 2010.

/s/ Vanessa A. Colón

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