

April 24, 2014

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

**Re: Hudson Transmission Partners, LLC v. New York Independent System Operator, Inc.,  
Errata and Superseding Filing of Request for Leave to Answer and Limited Answer of  
the New York Independent System Operator, Inc.,** Docket EL12-98-002

Dear Ms. Bose:

Yesterday, April 23, 2014, the New York Independent System Operator, Inc. (“NYISO”) filed a *Request for Leave to Answer and Limited Answer* (“Limited Answer”) in the referenced docket. The NYISO has identified a typographical error in the filing that requires correction. On page 5 of the filing, in the second sentence of the first paragraph, the NYISO intended to use the word “inappropriately” but instead used “appropriately.” Thus, the sentence should read:

Simply stated, it was consistent for the March Answer to both: (i) state that the HTP Protest’s proposed “multi-value” scaling factor function is flawed, in that it **in**appropriately depends on the magnitude of *individual* price spreads; and (ii) reiterate the February Filing’s statement that the consistency of the direction of price spreads, as illustrated by *average* spreads, is materially different for UDR projects sinking in Long Island as compared to UDR projects sinking in New York City, and that this is relevant to the scaling factor calculation.

The NYISO has corrected this error in the attached corrected version of the Limited Answer, which supersedes the April 23, 2014 filing. The correction does not affect either Confidential Attachments A or B, which are not being refiled. The only other changes that the NYISO has made in the attached superseding Limited Answer are to the caption, to identify that it is a superseding filing to the April 23, 2014 filing, and to date it as of today.

Respectfully Submitted,

/s/ Gloria Kavanah

Gloria Kavanah

Senior Attorney

New York Independent System Operator, Inc.

cc: Michael Bardee  
Gregory Berson  
Anna Cochrane  
Jignasa Gadani  
Morris Margolis  
Michael McLaughlin  
David Morenoff  
Daniel Nowak

**PUBLIC VERSION -- THIS PLEADING DOES NOT CONTAIN ANY PRIVILEGED OR CONFIDENTIAL INFORMATION. ATTACHMENTS A AND B CONTAIN HIGHLY SENSITIVE PROTECTED MATERIALS AND PRIVILEGED AND CONFIDENTIAL INFORMATION, AND ARE SUBMITTED SEPARATELY.**

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

**Hudson Transmission Partners, LLC** )  
 )  
 v. ) **Docket No. EL12-98-002**  
 )  
**New York Independent System Operator, Inc.** )

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

**THIS VERSION SUPERCEDES THE VERSION FILED ON April 23, 2014**

In accordance with Rule 213 of the Commission’s Rules of Practice and Procedure,<sup>1</sup> the NYISO respectfully submits this request for leave to answer and limited answer to the *Motion for Leave to Answer and Answer of Hudson Transmission Partners, LLC* (“HTP Answer”) in this proceeding. The HTP Answer responded to the answer that the NYISO filed on March 31, 2014 in this proceeding (“March Answer”).<sup>2</sup> This Limited Answer is confined to addressing the HTP Answer’s assertions: (i) related to Ancillary Services<sup>3</sup> revenues, which are principally contained in the confidential portion of the HTP Answer; and (ii) that the NYISO has somehow “reversed its position” regarding the nature of the scaling factor calculation. While the NYISO strongly disagrees with all of the other assertions in the HTP Answer, it is not responding to them in

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<sup>1</sup> 18 C.F.R. § 385.213 (2012).

<sup>2</sup> *Request for Leave to Answer and Answer of the New York Independent System Operator, Inc.*, (filed Mar. 31, 2014). The March Answer was filed in response to HTP’s March 14, 2014 protest of the NYISO’s February 21, 2014 filing in compliance with the Commission’s November 21, 2013 order in this proceeding. See *Protest of Hudson Transmission Partners, LLC* (filed Mar. 14, 2014) (“HTP Protest”), *Initial Compliance Filing* (filed Feb. 21, 2014) (the “February Filing”); and *Hudson Transmission Partners, LLC v. New York Indep. Sys. Operator, Inc.*, 145 FERC ¶ 61,156 (2013) (“November Order”).

<sup>3</sup> Capitalized terms not otherwise defined herein shall have the meaning specified in the Services Tariff.

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deference to the Commission’s procedural rules and because it is confident that the deficiencies of those assertions will be obvious to the Commission.<sup>4</sup> The NYISO’s silence on these matters therefore should not be interpreted as agreement with or acquiescence to them.

**I. REQUEST FOR LEAVE TO ANSWER AND ANSWER**

The Commission has discretion<sup>5</sup> to accept answers to other answers and has done so when they help to clarify complex issues, provide additional information, or are otherwise helpful to its decision-making process.<sup>6</sup> The Commission should accept the NYISO’s answer in this instance because it will clarify the record with respect to the assertions made in the confidential portion of the HTP Answer and correct HTP’s misleading statements and characterizations.

**A. The NYISO’s Approach to Projecting the HTP Project’s Ancillary Services Revenues Was Reasonable**

The HTP Protest claimed that the NYISO had failed “to take into account all sources of non-capacity revenues that a merchant transmission facility may earn, in particular revenues from ancillary services . . . .”<sup>7</sup> Confidential Attachment B to the March Answer responded to this claim. The HTP Answer states that the assertions in Confidential Attachment B were partially incorrect for reasons specified in its own confidential attachment. The HTP Answer

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<sup>4</sup> The NYISO would note, however, that it takes strong exception to the HTP Answer’s inaccurate claim, at n. 4, that the NYISO’s compliance with the Protective Order in this proceeding was in any way “improper.” The NYISO adhered to the Protective Order’s express requirements, which did not give it the discretion to make the kind of exception that HTP apparently wanted.

<sup>5</sup> See 18 C.F.R. § 385.213(a)(2).

<sup>6</sup> See, e.g., *PJM Interconnection, L.L.C.*, 119 FERC ¶ 61,318 at P 36 (2007) (answer to answer accepted that “provided information that assisted . . . decision-making process”) and *California Independent System Operator Corporation*, 110 FERC ¶ 61,007 (2005) (answer to answer permitted to assist Commission in decision-making process).

<sup>7</sup> HTP Protest at 2.

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also contends that the NYISO's statement has raised issues that "go beyond the appropriate method and data for projecting HTP's energy revenues . . . ," that "[s]uch issues should only be addressed (if at all) in a separate Commission proceeding . . . ," and that the Commission should not make any determinations in this docket "regarding HTP's eligibility to receive compensation for ancillary services it provides."<sup>8</sup>

The NYISO responds fully to HTP's first assertion, concerning the accuracy of the March Answer, and corrects the limited error, which was only temporal in nature, in Confidential Attachments A and B to this Answer.<sup>9</sup> As is explained in Confidential Attachment B, the *Supplemental Affidavit of Daniel A. Jerke*, the NYISO staff and outside counsel that participated in the preparation of the March Answer were unaware of certain facts, notwithstanding diligent efforts to ensure the completeness and accuracy of the March Answer. The NYISO regrets the inclusion of the erroneous phrase, fully understands the importance of avoiding errors in its communications with the Commission, and is taking internal steps to ensure that such an error will not recur.

The NYISO's error does not, however, lend any support to the HTP Protest's claims that the NYISO should have accounted for Ancillary Services revenues when it applied a scaling factor to the HTP Project, nor in any other aspect of the buyer-side mitigation determination for the HTP Project. Its irrelevance is explained in greater detail in the Confidential Attachments.

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<sup>8</sup> HTP Answer at 2

<sup>9</sup> The body of this Answer does not contain any Confidential Information or Highly Sensitive Protected Material. The NYISO incorporated into the body of this Answer the information on the topics set forth in Confidential Attachments A and B that is not Confidential Information and Highly Sensitive Protected Materials, making the provision of a redacted version unnecessary. Therefore, redacted versions of Attachments A and B, blacking out certain information, are not provided.

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HTP's remaining assertions are irrelevant and misleading. The NYISO has not asked the Commission to make any determination regarding the eligibility of HTP's merchant transmission facility (the "HTP Project") to provide Ancillary Services. It therefore agrees that there is no reason to do so in this proceeding. The March Answer, like the February Filing in compliance with the November Order's directive, was confined to demonstrating that the NYISO employed the "appropriate method and data for projecting HTP's energy revenues . . . ." As Confidential Attachments A and B hereto explain, nothing in the HTP Answer should give rise to a concern that the method and data used by the NYISO in the scaling factor (or in any other aspect of the buyer-side mitigation determination issued for the HTP Project) were incorrect. In addition, as explained in the March Answer, "[t]he scaling factor was applied solely to determine the HTP Project's projected net Energy revenues so consideration of HTP's assertion [regarding Ancillary Services], although disposed of by confidential Attachment A [to the March Answer], is beyond the scope of the Compliance Filing."<sup>10</sup>

**B. The March Answer Did Not "Reverse" or "Contradict" Any Prior NYISO Statements**

The HTP Answer claims that the March Answer "reversed" or "contradicted" statements made in earlier NYISO filings regarding the nature of the scaling factor calculation.<sup>11</sup> HTP goes so far as to suggest that there is "no legal basis for the Commission to affirm the NYISO's approach where the NYISO changes its position from filing to filing and even within the same filing."<sup>12</sup>

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<sup>10</sup> March Answer at 7.

<sup>11</sup> See HTP Answer at 2-4.

<sup>12</sup> *Id.* at 7.

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HTP's assertions are based on a misinterpretation of the NYISO's earlier pleadings, and are misleading. The HTP Answer, like the HTP Protest,<sup>13</sup> distorts the clear meaning of the February Filing. To clarify any confusion in the record due to the HTP Answer, the NYISO emphasizes that all of its statements on this issue are entirely consistent. The HTP Answer makes them appear to be otherwise by taking the statements out of context and by dropping relevant language from when it quotes them.<sup>14</sup> Simply stated, it was consistent for the March Answer to both: (i) state that the HTP Protest's proposed "multi-value" scaling factor function is flawed, in that it inappropriately depends on the magnitude of *individual* price spreads; and (ii) reiterate the February Filing's statement that the consistency of the direction of price spreads, as illustrated by *average* spreads, is materially different for UDR projects sinking in Long Island as compared to UDR projects sinking in New York City, and that this is relevant to the scaling factor calculation.

**II. CONCLUSION**

WHEREFORE, the NYISO respectfully requests that the Commission accept this limited Answer and renews its request that the Commission accept the February Filing without requiring any modifications or imposing any conditions and reject all relief sought by HTP in its various pleadings for the reasons set forth above.

Respectfully Submitted,

/s/ Gloria Kavanah

Gloria Kavanah

Senior Attorney

New York Independent System Operator, Inc.

April 24, 2014

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<sup>13</sup> See, e.g. HTP Protest at 3, 16.

<sup>14</sup> See e.g. *id.* at n. 8.

# **ATTACHMENT A**

# **ATTACHMENT B**

## 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 24<sup>th</sup> day of April, 2014.

By: /s/ John C. Cutting

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