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II. REQUEST FOR REHEARING

WEQ-012 specifies those transactions for which public utilities need to use PKI and specifies the minimum authentication requirements that end entities⁴ must meet when conducting certain transactions under the North American Energy Standards Board (“NAESB”) Business Practice Standards.⁵ The Commission has explained that the PKI Standards, once adopted, would “require public utilities to conduct transactions securely when using the internet and will eliminate confusion over which transactions involving public utilities must follow the approved PKI procedures to secure their transactions.”⁶

On September 24, 2013, the ISO/RTO Council (“IRC”) filed comments⁷ on the Notice of Proposed Rulemaking⁸ that preceded Order No. 676-H. The NYISO is an IRC member and was a signatory to its comments. Among other things, the IRC Comments explained that the PKI Standards would be the first mandatory NAESB requirements related to PKI and “address complex technical

³ The NYISO respectfully requests waiver of the Commission’s regulations (18 C.F.R. § 385.203(b)(3) (2014)) to the extent necessary to permit service on counsel for the NYISO in both Miami and Washington, DC.

⁴ NAESB defines “End Entities” as including utilities and other independent grid operators.

⁵ WEQ-002.5.1.1 and WEQ -004-2.3 likewise mandate PKI usage for particular transactions.

⁶ NOPR at P 39.

⁷ *Comments of the ISO/RTO Council*, Docket No. RM05-22-005 (September 24, 2013) (“IRC Comments”).

⁸ *Standards for Business Practices and Communication Protocols for Public Utilities*, Notice of Proposed Rulemaking, 78 FR 45,096 (July 26, 2013), FERC Stats. & Regs. ¶ 32,698 (2013) (“NOPR”).

issues with broad commercial and cyber-security implications.”⁹ The IRC stated that its members would need significant time to satisfy their obligations as “End Entities,” *e.g.*, to identify the Authorized Certification Authority that they intend to use, to execute agreements with those entities, and to institute a complete PKI certificate management program.¹⁰ The IRC argued that 24 months would be a reasonable time to ensure an orderly transition to the PKI Standards while avoiding potential disruption to critical business processes.¹¹

The IRC comments emphasized the particular challenges that coming into full compliance with the PKI standards present to the NYISO. The IRC explained that the NYISO currently acts as its own Certificate Authority and Registration Authority and supports nearly four thousand valid digital certificates for its employees and stakeholders. The NYISO therefore needs time to implement new processes, train new staff, and modify its system in order to comply with the PKI Standards.¹²

Order No. 676-H briefly mentioned the IRC Comments’ request for a 24-month compliance period for the PKI standards but does not address it. Instead it granted a separate request for an 18-month compliance period for WEQ Version 003 standards related to Network Integration Transmission Service Open Access Same-Time Information System templates.¹³ The Order No. 676-H compliance deadline for all other Version 003 standards, including the PKI standards, is therefore February 2, 2015.¹⁴

⁹ IRC Comments at 10.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.* at 11.

¹³ Order No. 676-H at P 93.

¹⁴ Order No. 676-H at P 92.

The IRC Comments set forth substantial reasons why IRC members, including particularly the NYISO, would need substantial additional time to comply with the PKI standards. The NYISO respectfully submits that the Order No. 676-H adoption of a February 2, 2015 deadline for the PKI standards without engaging the arguments and facts advanced in the IRC Comments, or offering any explanation of a possible rationale for rejecting them, was an oversight and does not constitute reasoned decision-making.

For the reasons set forth in the IRC Comments, to the extent that the February 2, 2015 deadline is found to be applicable to the NYISO,¹⁵ it would be unrealistic and impracticable. The NYISO would need to transition from being its own Certificate Authority and Registration Authority to being a customer of a NAESB Accredited Certification Authority. It would not be possible for the NYISO, and its stakeholders, to complete this transition in an orderly fashion by February 2, 2015. The Commission should therefore correct this oversight on rehearing and establish a 24-month compliance deadline for the PKI standards.

III. CONDITIONAL MOTION TO INTERVENE

Entities that file comments in Commission rulemaking proceedings are parties with the right to seek rehearing and to pursue appeals. Commenters in rulemakings are granted party status without having to file separate motions to intervene. As noted above, the NYISO was a signatory to the ISO/RTO Council comments in this proceeding. Those comments raised the very issue that is the subject of this request for rehearing, *i.e.*, the need for a 24-month extension to the PKI compliance deadline. In addition, the comments described the NYISO-specific circumstances, which are also described above, that necessitate a PKI compliance extension. Accordingly, the NYISO believes that it already has party status in this proceeding and is already authorized to file this request for rehearing.

¹⁵ As noted above, the NYISO intends to seek a waiver of the PKI standards and/or an extension of time to comply with them in its individual Order No. 676-H compliance proceeding. As also noted above, the NYISO has filed this request for rehearing out of an abundance of caution to protect its legal rights. If the NYISO's issues are resolved in its individual compliance proceeding it will withdraw this request for rehearing.

If, however, the Commission determines that the NYISO has not yet established party status the NYISO conditionally moves to intervene in this proceeding under Rules 212 and 214 of the Commission's Rules of Procedure. The NYISO has a clear interest in this proceeding because it cannot practicably meet the PKI compliance deadline established by Order No. 676-H for the reasons set forth above. Because the particular challenges facing the NYISO are unique to it no other party can adequately represent its interest. To the extent that this motion to intervene is deemed to be untimely, even though interventions are not normally required in rulemaking dockets, there would also be good cause to permit the NYISO to intervene "out-of-time" here. Rather than sitting on its rights in this proceeding, the NYISO was a signatory to comments that raised PKI compliance concerns that were not addressed by Order No 676-H and which it is therefore asking the Commission to consider now. Moreover, permitting the NYISO to intervene will not disrupt this proceeding or prejudice other parties in any way given that the NYISO has previously raised the issue addressed by this filing.¹⁶

IV. STATEMENT OF ISSUE AND SPECIFICATION OF ERROR

In accordance with Rule 713(c),¹⁷ the following statement of issue, specification of error, and representative supporting precedents:

- 1) The Commission's unexplained rejection of the IRC's request for a 24-month compliance period for the PKI standards and its failure to address the arguments advanced by the IRC does not constitute reasoned decision-making¹⁸ and should be reversed on rehearing.

V. CONCLUSION

WHEREFORE, for the foregoing reasons, the New York Independent System Operator, Inc. respectfully requests that the Commission correct its apparent oversight and grant its request for

¹⁶ Similarly, the NYISO respectfully submits that the factors that normally prompt the Commission to reject interventions filed after an order is issued in a proceeding are inapplicable here given that this request for rehearing addresses an issue that the NYISO raised in timely comments as part of the ISO/RTO Council.

¹⁷ 18 C.F.R. § 385.713(c).

¹⁸ *Williston Basin Interstate Pipeline Co. v. Fed. Energy Regulatory Comm'n*, 358 F.3d 45, 48 (D.C. Cir. 2004) (citing *N. States Power Co. v. Fed. Energy Regulatory Comm'n*, 30 F.3d 177, 180 (D.C. Cir. 1994)).

rehearing establishing a 24-month deadline for compliance with the NAESB WEQ Version 003 PKI standards, as specified above.

Respectfully Submitted,

/s/ *Ted Murphy*
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October 20, 2014

cc: Michael Bardee
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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 20th day of October, 2014.

/s/ Joy A. Zimmerlin

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