

November 18, 2009

By Hand Delivery

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

**Re: *New York Independent System Operator, Inc., Proposed Tariff Revisions
Improving the Interconnection Study Queue Process, Docket No. ER10-_____***

Dear Secretary Bose:

In accordance with Section 205 of the Federal Power Act and Part 35 of the Commission's regulations,¹ the New York Independent System Operator, Inc. ("NYISO") respectfully submits proposed revisions to its Open Access Transmission Tariff ("OATT") with respect to the NYISO's interconnection queue study processes. These proposed revisions are a result of the NYISO's continuing efforts to improve the Large Facility Interconnection Procedures ("LFIP"), the Small Generator Interconnection Procedures ("SGIP") and the Rules to Allocated Responsibility for the Cost of New Interconnection Facilities contained in Attachments X, Z and S of the OATT, respectively.

I. Documents Submitted

1. This filing letter;
2. A clean version of the proposed revisions to the NYISO's OATT ("Attachment I"); and
3. A blacklined version of the proposed revisions to the NYISO's OATT ("Attachment II").

II. Background

The Commission has required standardization of interconnection study procedures and agreements for both large and small facilities through Order No. 2003² and Order No. 2006.³

¹ 18 C.F.R. § 35 *et seq.* (2009).

² *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, FERC Stats. & Regs. P 31,146 (2003), *order on reh'g*, Order No. 2003-A, FERC Stats. & Regs. P 31,160, *order on reh'g*, Order No. 2003-B, FERC Stats. & Regs. ¶ 31,171 (2004), *order on reh'g*, Order No. 2003-C, FERC Stats. & Regs. ¶ 31,190 (2005), *aff'd sub nom. Nat'l Ass'n of Regulatory Util. Comm'rs v. FERC*, 475 F.3d 1277 (D.C. Cir. 2007).

³ *Standardization of Small Generator Interconnection Agreements and Procedures*, Order No. 2006, FERC Stats. &

The NYISO's LFIP were approved by the Commission and went into effect on August 6, 2004.⁴ The NYISO's SGIP were approved by the Commission and took effect on February 20, 2007.⁵

On December 11, 2007, the Commission held a technical conference on the interconnection queue management process to identify various concerns throughout the country relating to the interconnection study process and explore potential solutions in both ISO/RTO and non-ISO/RTO regions. On March 20, 2008, the Commission issued an order directing ISOs and RTOs to report on their queue improvement efforts and provided guidance to further assist those efforts.⁶ The NYISO submitted its Interconnection Queuing Practices Status Report to the Commission on April 21, 2008.⁷ That status report discussed efforts the NYISO was taking, in conjunction with its Market Participants and other stakeholders, to improve the efficiency of the interconnection process and amend the tariff to streamline the queue process.

This submission contains a set of proposed tariff amendments resulting from this ongoing collaborative effort. The proposed amendments, which seek to modify Attachments S, X and Z of the OATT, would implement several improvements to the interconnection queue process as discussed in detail below.⁸ Additionally, where appropriate, the proposed tariff amendments contain a transition mechanism addressing the application of the proposed new rule to pending Interconnection Requests.⁹

A. Base Case Requirements for Certain Interconnection Studies

Currently, proposed projects must include all other proposed projects with a higher queue position in the base cases used to conduct Interconnection Feasibility Studies and Interconnection System Reliability Impact Studies ("SRIS") for Large Facilities and system impact studies for Small Generators. This adds significantly to the time required to perform these studies because a separate and unique base case, which includes an extensive list of proposed projects, must be developed for every study. Furthermore, the required base case for these preliminary studies is over-inclusive and typically does not reflect the base case ultimately

Regs. ¶ 31,180, *order on reh'g*, Order No. 2006-A, FERC Stats. & Regs. ¶ 31,196 (2005), *order granting clarification*, Order No. 2006-B, FERC Stats. & Regs. ¶ 31,221 (2006).

⁴ *New York Independent System Operator, Inc.*, 108 FERC ¶ 61,159 (2004); *order on reh'g*, 111 FERC ¶ 61,347 (2005).

⁵ *New York Independent System Operator, Inc.*, 119 FERC ¶ 61,333 (2007).

⁶ *Interconnection Queuing Practices, Order on Technical Conference*, 122 FERC ¶ 61,252 (2008).

⁷ See Status Report of the New York Independent System Operator, Inc. on Interconnection Queuing Issues dated April 21, 2008, *Interconnection Queuing Practices*, Docket No. AD08-2-000.

⁸ The NYISO has filed and the Commission has accepted other modifications and improvements to the interconnection procedures. See, e.g., *New York Independent System Operator, Inc.*, 124 FERC ¶ 61,238 (2008).

⁹ Capitalized terms not otherwise defined have the meaning ascribed to them in the OATT.

required in the Class Year Interconnection Facilities Study pursuant to the requirements of Attachment S.

The proposed tariff revisions require that only projects that have accepted a cost allocation for System Upgrade Facilities (“SUF”) from a completed Class Year study and posted required security will be modeled in the base cases for these interconnection studies. This modification will significantly reduce the time it takes to begin and complete these studies, allowing projects to move more quickly through the interconnection queue process. Further, the technical quality of these preliminary, project-specific studies will likely improve and more closely reflect what will be observed in the final Class Year Interconnection Facilities Study.

Below is a detailed description of the specific tariff amendments necessary to implement this proposal.

1. Proposed Changes to Attachment X

Section 2.3 of the LFIP: This revised language indicates that the Base Cases provided under this Section shall be the power flow, short circuit and stability data bases that the NYISO is using in the Annual Transmission Baseline Assessment, or if no such data bases are available, the data bases from the last completed Annual Transmission Reliability Assessment conducted by the NYISO pursuant to Attachment S of the OATT.

Section 6.2 of the LFIP: The revised language provides that the Base Cases used for the Interconnection Feasibility Study are determined at the time the Interconnection Feasibility Study Agreement is executed. The revised language also replaces the requirement that all pending higher-queued projects be included in the Base Case with the requirement that all generating and merchant transmission facilities that have accepted their cost allocation for SUFs and have posted security for SUFs be included. The proposed tariff language would also allow Developers with Interconnection Feasibility Study Agreements executed before the effective date of these proposed amendments to elect to modify the Base Case assumptions for their studies in a manner consistent with the changed requirements, at their own expense, with such an election being memorialized in an amended Interconnection Feasibility Study Agreement.

Section 7.3 of the LFIP: The revised language provides that the Base Case is set at the time the project’s SRIS scope is approved by the Operating Committee. The revised language also replaces the requirement that all pending higher-queued projects be included in the Base Case with the requirement that all generating and merchant transmission facilities that have accepted their cost allocation for SUFs and provided security for such SUFs be included. The proposed amendments also permit Developers that have an approved SRIS scope and an SRIS in progress, to elect, at their own expense, to modify the Base Case assumptions for the SRIS to be consistent with the changed Base Case requirements provided by this proposal. Such an election will be memorialized in a revised study scope subject to approval by the Operating Committee and an amended SRIS Agreement, to the extent necessary.

2. Proposed Changes to Attachment Z

Section 3.4.10 of the SGIP: This proposed section provides that Interconnection Customers with system impact studies underway prior to the effective date of the tariff changes, may elect, at their own expense, to modify the base case assumptions to be consistent with the changed requirements. The proposed language requires that such an election be memorialized in an amended system impact study agreement.

Section 8.0 of the System Impact Study Agreement: For Small Generators, the proposed language indicates that the generating and merchant transmission facilities considered in the study will be determined as of the date the system impact study agreement is fully executed.

Section 8.3 of the System Impact Study Agreement: The proposed revision eliminates the requirement that all higher-queued projects be considered in the study and provides that only pending generation and merchant transmission projects with accepted cost allocations for SUFs that have posted security for such SUFs in accordance with Attachment S are considered in the study.

B. Class Year Entry and Re-Entry Rules

Under Attachment S of the NYISO OATT, a Large Facility must satisfy two milestones to qualify for a Class Year: NYISO Operating Committee approval of an SRIS and a “regulatory” milestone.¹⁰ The tariff currently provides no explicit time limit for projects to satisfy the regulatory milestone. This lack of a time limitation has resulted in proposed projects remaining at this stage of the interconnection process for many years without progressing forward.

Additionally, the current tariff provides the flexibility to any project studied in a Class Year to reject the resulting cost allocation for System Upgrade Facilities and withdraw from the class, but retain the project’s Queue Position. The current tariff language allows the project to enter a second Class Year study at anytime, up until the project has begun construction. When the project begins construction, the current tariff language requires the project to enter the next open Class Year. This essentially unlimited flexibility has resulted in projects remaining in the queue for extensive periods of time without progressing forward.

The proposed tariff amendments seek to balance the benefits of the existing flexibility provided to developers with the need to remove projects from the queue that are not making progress towards development. Specifically, the proposed tariff changes will require projects to satisfy the regulatory milestone for Class Year entry within two years after the Operating Committee approves the project’s SRIS. Furthermore, once the project qualifies for inclusion in

¹⁰ The milestone requirement for Class Year entry is provided in Section VI.B.3.a of Attachment S to the NYISO OATT.

a Class Year study, it would be permitted to enter any two of the next three Class Years. A project will also no longer be required to enter the first Class Year starting after the project satisfies the applicable milestones. These proposed changes provide Developers some additional discretion and continued flexibility when entering a Class Year, but places reasonable time limitations on projects to move forward through the interconnection process.

The specific tariff amendments to Attachment S necessary to implement this proposal are discussed in detail below.

Sections VI.B.3.a-c: Proposed tariff language is added to require a project to satisfy its regulatory milestone, as such is specified in Attachment S, for entry in a Class Year Interconnection Facilities Study ("Class Year ATRA") within two years of the Operating Committee approval of the project's SRIS. Failure to meet this two-year deadline results in withdrawal of the project's Interconnection Request from the interconnection queue in accordance with Section 3.6 of Attachment X. Further, this section is revised to indicate that projects in the interconnection queue having an SRIS approved by the Operating Committee as of the effective date of these provisions shall have two years from the effective date to satisfy the regulatory milestone requirement for the project. Failure to do so shall result in the project's Interconnection Request being deemed withdrawn in accordance with Section 3.6 of Attachment X.

Section VI.B.3.d: The proposed tariff amendments provide that once a project has satisfied its eligibility criteria for inclusion in the Class Year ATRA, the project may enter up to two, but no more than two, of the next three consecutive Class Year ATRAs conducted by the NYISO. The first Class Year ATRA for which the project is eligible for inclusion will count as the first of the three consecutive Class Year ATRAs. The proposed amendments provide that the project must accept its SUF cost allocation for Energy Resource Interconnection Service ("ERIS") from a Class Year ATRA no later than the first to occur of either (i) the second Class Year ATRA that the project enters or (ii) the third consecutive Class Year ATRA that starts after the project has satisfied the eligibility criteria. Failure to accept its SUF cost allocation within this timeframe will result in the withdrawal of the project's Interconnection Request in accordance with section 3.6 of Attachment X. Proposed Section VI.B.3.d.(3) provides that a project which was a member of a completed Class Year ATRA, but did not accept its SUF cost allocation for ERIS and post required security for those SUFs as of the effective date of these provisions will be able to enter any one of the three consecutive Class Year ATRAs that begin after the effect date of these provisions. A project that does not accept its cost allocation for SUFs in this timeframe will be withdrawn from the interconnection queue in accordance with Section 3.6 of Attachment X.

C. Deposit Requirements for Large Facility Interconnection Studies

The currently required study deposits for an Interconnection Feasibility Study and SRIS are \$10,000 (\$20,000 if the Interconnection Request deposit is included) and \$50,000, respectively. The NYISO has reviewed the actual costs of these studies and determined that the current deposits are often insufficient to cover the actual costs of these studies. The NYISO's review of actual study costs also confirmed that the study costs invoiced to Developers by the

NYISO is significantly lower if the Developer has elected to hire a third-party consultant to perform the analytical portion of the study. Accordingly, the proposed changes align the deposit amounts more closely to the expected study costs and vary depending on whether the Developer has elected to hire a third-party consultant.

Specifically, for an Interconnection Feasibility Study, the total proposed deposit is \$60,000 if the NYISO is responsible to conduct the full study and \$30,000 if the Developer elects to hire a third-party consultant to perform the analytical portion of the study. For an SRIS, the proposed deposit is \$120,000 if the NYISO is responsible to conduct the full study and \$40,000 if the Developer elects to hire a third-party consultant to perform the analytical portion of the study. These changes will reduce the likelihood of unrecoverable study costs without requiring study deposits that are unnecessarily high.

The existing tariff provisions require a minimal financial commitment on the part of Developers entering the queue. This provides little disincentive to Developers from submitting Interconnection Request before the proposed project is ready to go through the interconnection process. The NYISO dedicates significant administrative and technical resources to every Interconnection Request submitted, even if it is withdrawn early in the process. Accordingly, the proposed tariff amendments replace the current refundable \$10,000 deposit with a non-refundable \$10,000 application fee to be split evenly between the NYISO and the Connecting Transmission Owner(s). The application fee would not be applied to specific study costs, but would be applied to other costs not currently recovered from Developers. The proposed tariff modifications also would require \$30,000 of the deposit for an Interconnection Feasibility Study to be submitted with the Interconnection Request. The intent of these proposed changes is to encourage Developers to submit Interconnection Requests only once the project is ready to proceed through the interconnection study process.

The following tariff amendments are proposed to Attachment X to implement these changes:

Sections 3.1 and 3.3.1 of the LFIP: These sections are modified to require that a non-refundable \$10,000 application fee and a \$30,000 study deposit be submitted with the Interconnection Request. Section 3.1 indicates that the application fee will be divided equally between the NYISO and the Connecting Transmission Owner(s).

Section 6.1 of the LFIP: The proposed tariff changes require the Developer to submit an additional \$30,000 deposit for the Interconnection Feasibility Study if the NYISO is responsible to conduct the full study.

Section 7.2 of the LFIP: This section is amended to increase the required deposit for the SRIS to \$120,000 if the NYISO is responsible to conduct the full study and to reduce the current deposit to \$40,000 if the Developer hires a third-party consultant to perform the analytical portion of the study.

Section 13.1.2 of the LFIP: This section is added to indicate that Developers with projects in the interconnection queue as of the effective date of the modified deposit

requirements will be responsible for any modified deposit required at the next step in the interconnection study process. The \$10,000 deposit provided by these Developers with their Interconnection Request will continue to be refundable to the extent actual study costs are less than the deposits. Such Developers commencing an Interconnection Feasibility Study that do not have a fully executed Interconnection Feasibility Study Agreement as of the effective date of these proposed revisions will be responsible for the new study deposit. Likewise, Developers commencing an SRIS that do not have a fully executed SRIS agreement as of the effective date of this amended tariff provision are subject to the amended deposit requirements for SRISs.

Section 6.0 of the Interconnection Feasibility Study Agreement: This section is modified to refer to the required study deposit.

Section 6.0 of the SRIS Agreement: This section is modified to refer to the required study deposit.

D. Presenting ATBA to Operating Committee in February

Currently, the tariff language indicates that the Class Year Annual Transmission Baseline Assessment (“ATBA”) will be presented to the Operating Committee in February. The ATBA is a base case for the Class Year study representing the baseline system over which the impact of Class Year projects is measured. Removing this language eliminates an unintended and impractical requirement. The language, in fact, indicates that the ATBA is presented for approval in February, which is before the Class Year officially starts in March. Therefore, Section VI.A.1.a(1)(i) of Attachment S is revised to delete the requirement that each ATBA will be completed and presented to the Operating Committee for final approval during the month of February.

IV. Effective Date

The NYISO requests and effective date for these tariff amendments of January 17, 2010, 60 days from the date the proposed changes have been filed with the Federal Energy Regulatory Commission.

V. Requisite Stakeholder Approval

The tariff revisions proposed in this filing were the product of extensive discussions with stakeholders in the NYISO’s Interconnection Issues Task Force and its Transmission Planning Advisory Subcommittee. These proposed changes to the OATT were approved unanimously by the Operating Committee on September 17, 2009 and by the Management Committee on September 30, 2009. The NYISO Board of Directors also approved the filing of these proposed changes.

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VI. Communications and Correspondence

All communications and services in this proceeding should be directed to:

Robert E. Fernandez, General Counsel
Elaine Robinson, Director of Regulatory Affairs
*Karen Georgenson Gach, Senior
Attorney New York Independent
System Operator, Inc. 10 Krey
Boulevard
Rensselaer, NY 12144
Tel: (518) 356-7530
Fax: (518) 356-7678
kgach@nyiso.com

* Persons designated for receipt of service.

VII. Service

The NYISO will electronically send a link to this filing to the official representative of each of its customers, to each participant on its stakeholder committees and to the New York Public Service Commission. In addition, the complete filing will be posted on the NYISO's website at www.nyiso.com. The NYISO will also make a paper copy available to any interested party that requests one. To the extent necessary, the NYISO requests waiver of the requirements of Section 35.2(d) of the Commission's Regulations to permit it to provide service in this manner.

Respectfully submitted,

Karen Georgenson Gach
Senior
Attorney
New York Independent System
Operator, Inc. 10 Krey Blvd.
Rensselaer, New York
12144 (518) 356 7530
kgach@nyiso.com

cc:	Michael Bardee	Gregory Berson
	Connie Caldwell	Anna Cochrane
	Lance Hinrichs	Jeffrey Honeycutt
	Michael McLaughlin	Kathleen Nieman
	Rachel Spiker	John Yakobitis