

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

**New York Independent System Operator, Inc.     )**

**Docket No. ER09-1612-000**

**MOTION OF THE NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.  
TO DEFER EFFECTIVE DATE OF PREVIOUSLY ACCEPTED TARIFF REVISIONS  
AND REQUEST FOR WAIVERS**

Pursuant to Rule 212 of the Commission’s Rules of Practice and Procedure,<sup>1</sup> the New York Independent System Operator, Inc. (“NYISO”) respectfully requests that the Commission defer the effective date of the tariff revisions approved in this proceeding, which reduce credit risk exposure in the NYISO markets, from October 20, 2009 until November 12, 2009. The deferral is necessary because the NYISO was unable to deploy the software required to implement the tariff revisions until November 12.

**I. Background**

In the NYISO’s initial filing in this proceeding, the NYISO requested that the Commission approve the proposed tariff revisions with an effective date of October 20.<sup>2</sup> At that time, the NYISO planned to deploy the software required to implement the tariff revisions on October 20. On October 16, 2009, however, the Commission issued a letter order requesting additional information from the NYISO regarding the proposed tariff revisions.<sup>3</sup> As a result of this request, the NYISO postponed its scheduled software deployment to allow time for the NYISO to address any Commission concerns.

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

<sup>2</sup> See *New York Independent System Operator, Inc.’s Proposed Tariff Revisions to Enhance Customer Creditworthiness Standards*, Docket No. ER09-1612-000 (August 20, 2009).

<sup>3</sup> See *Re: Proposed Tariff Revisions to Enhance Customer Creditworthiness Standards*, Docket No. ER09-1612-000 (October 16, 2009) (“October 16 Letter”).

In the NYISO's response to the Commission's October 16 Letter, the NYISO submitted several substitute tariff sheets to address the Commission's comments and requested an effective date of November 12.<sup>4</sup> The NYISO intended for its request for a November 12 effective date to apply to all of the tariff revisions proposed in this proceeding and not only those submitted in response to the October 16 Letter. In the November 4, 2009 letter order, however, the Commission accepted some of the NYISO's proposed tariff revisions with an effective date of October 20 and others with an effective date of November 12.<sup>5</sup>

## **II. Motion and Request for Waivers**

The NYISO respectfully requests that the Commission defer the effective date of the tariff revisions previously accepted as of October 20 to November 12.<sup>6</sup> In the past, the Commission has agreed to defer the implementation date of software, and the effective date of related tariff provisions, when necessary to ensure that software is implemented properly.<sup>7</sup> The NYISO believes similar circumstances exist in this case. As explained above, the NYISO delayed the deployment date of the software required to implement the enhanced credit standards from October 20 until November 12 to ensure the Commission approved the proposed tariff revisions prior to the NYISO deploying the software.

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<sup>4</sup> See *Re: Response of New York Independent System Operator, Inc. to Deficiency Letter, Amendment to Filing, and Request for Expedited Action by the Commission*, Docket No. ER09-1612-000 (October 19, 2009) ("October 19 Filing").

<sup>5</sup> See *Re: Tariff Revisions to Enhance Customer Creditworthiness Standards*, Docket Nos. ER09-1612-000 and ER09-1612-001 (November 4, 2009) ("November 4 Order").

<sup>6</sup> See Appendix to November 4 Order for a list of the applicable tariff sheets.

<sup>7</sup> See e.g., *Midwest Independent System Operator, Inc.*, 110 FERC ¶ 61,169 (2005) (accepting motion to defer the implementation of new market software, and related tariff effective dates); *New York Independent System Operator, Inc.*, Docket No. ER09-1317-000 (July 7, 2009) (unpublished letter order accepting motion to defer effective date of tariff revisions to allow additional time to develop underlying software).

Although the Commission has previously accepted requests to defer effective dates that were not submitted as formal tariff amendments,<sup>8</sup> the NYISO respectfully requests a waiver of the requirements set forth in Part 35 of the Commission's regulations to the extent that they are deemed to be applicable.<sup>9</sup> If the Commission were to conclude that this request were subject to Part 35, then the NYISO would arguably not be able to make this request without first obtaining the approval of its stakeholder Management Committee.<sup>10</sup> The NYISO believes that it would not be practicable to implement the enhanced credit standards with separate effective dates as this would require the NYISO to rewrite the underlying software.

Under these circumstances, and given the wholly administrative nature of the requested deferral, the NYISO believes that it would be appropriate for the Commission to waive Part 35, to the extent applicable, so that the NYISO may correct what are now inaccurate effective dates as soon as reasonably possible. For the same reason, the NYISO requests a waiver of any other notice or filing requirement that the Commission may conclude is applicable to this request.

### **III. 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

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<sup>8</sup> The New York Independent System Operator, Inc.'s June 2009 motion to defer the effective date of certain tariff provisions, which is referenced *supra* in footnote 7, included a request for waiver of the Commission's filing requirements similar to the one included in this motion. *See New York Independent System Operator, Inc.*, Docket No. ER09-1317-000 (June 16, 2009).

<sup>9</sup> In a May 22, 2002 letter order in Docket Nos. ER01-3009-006, *et al.*, the Commission accepted a NYISO motion requesting the deferral of the effective date of certain tariff provisions, but indicated that future requests for deferral should be submitted under Section 205 of the Federal Power Act and Part 35 of the regulations. As is noted above, however, the Commission has subsequently accepted motions to defer effective dates that included requests for waivers of the Commission's filing requirements. In the event that the Commission deems this later precedent to be inapposite, the NYISO respectfully requests that the Commission accept the NYISO's request for a deferral but order it to make a compliance filing to revise the effective dates.

<sup>10</sup> *See* Article 19.01 of the NYISO's *Independent System Operator Agreement* which normally requires NYISO Board and Management Committee approval before the NYISO may file a tariff revisions under Section 205 of the Federal Power Act  
<[http://www.nyiso.com/public/webdocs/documents/regulatory/agreements/nyiso\\_agreement/iso\\_agreement.pdf](http://www.nyiso.com/public/webdocs/documents/regulatory/agreements/nyiso_agreement/iso_agreement.pdf)>

Public Service Commission. In addition, the complete filing will be posted on the NYISO's website at [www.nyiso.com](http://www.nyiso.com).

#### **IV. Conclusion**

Wherefore, for the foregoing reasons, the New York Independent System Operator, Inc. respectfully requests that the Commission accept this request to defer the effective date of the tariff revisions accepted as of October 20, 2009 until November 12, 2009, grant any necessary waivers, and make this request effective as of the date of this filing.

Respectfully submitted,

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

November 24, 2009

cc: Michael Bardee  
Gregory Berson  
Connie Caldwell  
Anna Cochrane  
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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 complied 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 (2009).

Dated at Washington, DC this 24<sup>th</sup> day of November, 2009.

By: \_\_\_\_\_  
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