

February 1, 2013

Submitted Electronically

Hon. Kimberly D. Bose
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

Re: *New York Independent System Operator, Inc.*'s Compliance Filing in Docket
Nos. EL12-56-000, **ER13-___**

Dear Ms. Bose:

In compliance with paragraph 52 and ordering paragraph "B" of the Federal Energy Regulatory Commission's ("Commission" or "FERC") December 10, 2012 *Order On Complaint and Directing Compliance* that was issued in Docket No. EL12-56-000 ("December Order"),¹ the New York Independent System Operator, Inc. ("NYISO") hereby submits proposed revisions to its Market Administration and Control Area Services Tariff ("Services Tariff"). The December Order directed the NYISO to address ambiguity that the Commission found in the SCR program rules and the NYISO's practical concerns regarding the implementation of the program by revising its Services Tariff to more clearly reflect the requirements of Technical Bulletin 217.

I. LIST OF DOCUMENTS SUBMITTED

The NYISO submits the following documents:

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

¹*Energy Spectrum, Inc. v. New York Independent System Operator, Inc.*, 141 FERC ¶ 61,197 (Issued December 10, 2012) (Comm'r LaFleur and Comm'r Clark, dissenting) ("December Order").

II. COPIES OF CORRESPONDENCE

Correspondence concerning this filing should be served on:

Robert E. Fernandez, General Counsel
Raymond Stalter, Director of Regulatory Affairs
*David Allen, Senior Attorney
New York Independent System Operator, Inc.
10 Krey Boulevard
Rensselaer, NY 12144
Tel: (518) 356-7656
Fax: (518) 356-7678
dallen@nyiso.com

* Persons designated for receipt of service

III. BACKGROUND

On December 10, 2012, the Commission issued an order granting a complaint, brought by Energy Spectrum, Inc. and Riverbay Corporation, that challenged the NYISO's implementation of Technical Bulletin 217.² In the December Order, a majority of the Commission found that the NYISO's Services Tariff was ambiguous and that it was inappropriate to clarify the ambiguity through a technical bulletin. In particular, the Commission's ruling found that the tariff definition of Special Case Resources³ ("SCRs") was ambiguous in its treatment of Local Generators. The definition left it unclear whether Local Generators were a separate category of SCRs in addition to Demand Side Resources or whether Local Generators were a mere subcategory of Demand Side Resources. The December Order concluded that if Local Generator was a separate category of SCRs that was used to supply its own power, such an SCR "arguably would not be required to use that generator to perform demand response, i.e., provide load reduction at the direction of the NYISO."⁴ The December Order, however, also points out language in the Services Tariff that

² Technical Bulletin 217 provided direction to Responsible Interface Parties ("RIPs") for reporting a Demand Side Resource's metered load values required to establish the baseline load values used to measure and verify its performance as a Special Case Resource in response to a directive to reduce load from the transmission and/or distribution system by NYISO Operations. It clarified that only metered load consumed by the resource that was supplied from the grid could be reported to the NYISO and used in the calculation of the Average Coincident Load ("ACL") or in the verification of a Provisional Average Coincident Load. The technical bulletin also expressly provided that output from any behind-the-meter generation consumed by the resource could not be included in the hourly metered load data submitted to the NYISO for the ACL calculations.

³ Capitalized terms not specifically defined herein shall have the meaning set forth in the NYISO's Tariffs and as amended by the enclosed proposed revisions to the Tariffs.

⁴ December Order at para. 46.

“suggests the output of a Local Generator that does not reduce its consumption of NYISO-supplied power at the direction of NYISO would not qualify as SCR capacity.”⁵ In light of this ambiguity, the Commission found it inappropriate for the NYISO to issue a technical bulletin to clarify these ambiguous tariff provisions. The Commission ordered that the NYISO submit revisions to its Services Tariff to reflect more clearly the requirements of the Technical Bulletin 217.

IV. TARIFF DESCRIPTION AND JUSTIFICATION

The NYISO’s ICAP/SCR program is a reliability based program that pays Responsible Interface Parties (“RIPs”) that enroll Demand Side Resources, which qualify as SCRs, a capacity payment in return for the commitment to curtail the SCRs’ load when directed by the NYISO. By reducing load when called upon by the NYISO, the SCRs, as a group, reduce the loading on the transmission and distribution systems during reliability events. This load relief is critical during these events to maintain operational reliability of the grid. The clarifications proposed in this filing support the overall purpose and efficacy of the NYISO’s Installed Capacity (“ICAP”)/SCR program by ensuring that a resource’s participation in the program is limited by its capability to cause a net load reduction on the system when needed for reliability.

To comply with the Commission’s directive to address the ambiguity regarding Local Generators’ participation in the ICAP/SCR program, the NYISO submits several revisions to the Services Tariff. These revisions clarify that Local Generators participate in the SCR program as a subset of Demand Side Resources and not as a separate category. The revisions clarify that all SCRs - (i) demand side resources that curtail load, (ii) demand side resources that shift load to a Local Generator and (iii) demand side resources that both curtail some load and shift some load to a Local Generator - are eligible to qualify and participate in the ICAP/SCR program only if they are available to cause a load reduction on the transmission system and/or distribution system at the direction of the NYISO in a measurable and verifiable manner.

This compliance filing makes it clear that capacity from a Local Generator that can participate in the NYISO’s ICAP/SCR program is that amount of generation⁶ that is available to be produced in order to shift load from the transmission system and/or distribution system onto the Local Generator when it is needed by NYISO operations. For example, any amount of generation from a Local Generator, up to the resource’s ACL baseline load, that operates only during emergency situations would be eligible to participate in the ICAP/SCR program if

⁵ December Order at para. 48.

⁶ In addition, any amount of emergency generation or incremental generation from a Local Generator that was operating during the NYCA peak or Locality peak hours, must also be reported to the NYISO in accordance with its procedures so that it can be added back to the peak forecast used to determine LSE Unforced Capacity Obligations. This process ensures that this SCR generation capacity is not double-counted.

it is capable of operating at the NYISO's direction. In addition, where a Local Generator regularly runs to support only a portion of a resource's load, the remaining or incremental generation capacity that can be supplied by the Local Generator to shift the resource's remaining load to the Local Generator, at the direction of the NYISO, may qualify as SCR capacity because it is capable of reducing the load supplied by the grid when this load relief is needed by the NYISO.

The revised tariff language also clearly reflects the requirements originally provided in Technical Bulletin 217 for reporting metered load data used to calculate an ACL baseline or verify the Provisional ACL baseline. No Load that is supported by a generator or supply resource located behind the Demand Side Resource's meter may be reported by the RIP for use in calculating or verifying these baseline values.

These tariff revisions modify the definitions of Average Coincident Load, Provisional Average Coincident Load and Special Case Resource. In Section 2.1 of the Services Tariff the NYISO has added language to clarify that when reporting Load for purposes of calculating an ACL the RIP must report the SCR's "*metered hourly Load that is supplied by the NYS Transmission System and/or the distribution system during the SCR Load Zone Peak Hours.*" The NYISO proposes to add the following additional sentence to the definition to make it clear that this metered load value cannot include any Load that was supported or served by a behind-the-meter supply resource.

Any Load supported by generation produced from a Local Generator, other behind-the-meter generator, or other supply source located behind the Special Case Resource's meter operating during the SCR Peak Load Zone Hours may not be included in the Special Case Resource's metered Load values reported for the Average Coincident Load.

A similar sentence is proposed to modify Section 2.16, the definition of Provisional Average Coincident Load, to make it explicitly clear that only load that was supported or served by the transmission and/or distribution system may be reported to verify an SCR's Provisional ACL. The NYISO has also proposed some additional modifications to Section 2.16 to make clear that a Provisional ACL is verified using the same calculations that are used to determine a resource's ACL.

The NYISO also proposes to modify Section 2.19 of the Services Tariff. These changes clarify in the definition of Special Case Resources that all Special Case Resources are Demand Side Resources that must be available to reduce load from the transmission system and/or distribution system at the direction of the NYISO. The proposed definitional changes make it clear that SCRs can participate by curtailing load or shifting load to a Local Generator, or some combination of these two activities, at the direction of the NYISO.

The remaining clarifying revisions the NYISO is proposing are found in Section 5.12.11.1 of the Services Tariff. The first of these proposed changes is consistent with the purposes of the ICAP/SCR program and clarifies that all SCRs must be available to operate "*at the direction of the NYISO in order to reduce Load from the NYS Transmission System*

and/or the distribution system....” In addition, the NYISO proposes to modify this section to clarify the preexisting requirement for generation to participate in the SCR program. This requires that for any SCR that intends to reduce load from the transmission system and/or distribution system using a Local Generator, the RIP must have first reported to the NYISO any amount of eligible SCR generation (emergency or incremental) that was produced by that Local Generator during the NYCA and Locality peak hour(s) upon which the LSE Unforced Capacity Obligation is determined. If a RIP fails to report this generation, it becomes ineligible to participate as SCR capacity in the upcoming Capability Year. The NYISO adds this reported generation back to the load forecasts used to determine the LSE Unforced Capacity Obligations for the upcoming Capability Year to avoid double counting of that generation as a load modifier and SCR capacity.

Additional tariff clarifications are proposed in Section 5.12.11.1 to replace distributed generator with the tariff defined term Local Generator. The NYISO has proposed revisions to Section 5.12.11.1.1, which discusses further the requirements associated with calculating a SCR’s ACL baseline values. These revisions are consistent with the proposed clarifications made to the definition of ACL and the requirements for reporting and calculating and ACL.

The NYISO presented the initial proposed tariff revisions for this compliance filing to stakeholders at the Installed Capacity Working Group and the Business Issues Committee meetings.⁷ The NYISO incorporated stakeholder feedback and circulated revised proposed tariff language to stakeholders on Tuesday, January 29, 2013.

V. EFFECTIVE DATE

The NYISO respectfully requests that the Commission act expeditiously on this compliance filing and issue an order accepting these tariff amendments by April 2, 2013 in order that the modified tariff language can be fully implemented beginning with the 2013 Summer Capability Period. While this period formally begins on May 1, 2013, significant preliminary work, including resource enrollment and data submission and collection must be completed by both the NYISO and Market Participants prior to late March and early April. The SCR enrollment period for the 2013 Summer Capability Period first opens on March 19, 2013 and closes at 5:00 pm on April 8, 2013. Market Participants will need to report the hourly metered load data associated with calculating the ACL for all of its resources. The NYISO will continue to work closely with our Market Participants to be sure they are fully aware of the requirements that will be in place for the upcoming Capability Period.

⁷ K. Whitaker presentations to the Installed Capacity Working Group:
http://www.nyiso.com/public/webdocs/markets_operations/committees/bic_icapwg/meeting_materials/2013-01-14/Technical%20Bulletin%20217%20Compliance%20Filing%20_%20ICAP-PRL%20WG%20Posting.pdf and
Business Issues Committee:
http://www.nyiso.com/public/webdocs/markets_operations/committees/bic/meeting_materials/2013-01-16/agenda_08_Technical%20Bulletin%20217%20Compliance%20Filing%20_%20BIC.pdf

To the extent the Commission deems it feasible to issue an order on or before April 2, 2013, the NYISO respectfully requests that the proposed tariff amendments become effective on April 2, 2013, but in no event applicable for any ICAP auctions prior to the 2013 Summer Capability Period. An order by April 2 will provide adequate time for both the NYISO and our Market Participants to complete the SCR enrollment process prior to the close of enrollment. This is a significant amount of administrative work for several thousand individual SCRs. An effective date that falls within the Summer Capability Period will subject the NYISO and Market Participants to a significant effort to re-enroll affected resources and result in two inconsistent sets of measurement and performance calculations that are required to evaluate the performance of SCRs.

VI. SERVICE

The NYISO will email a copy of this filing to the official representative of each party to this proceeding, to the New York Public Service Commission, and to the New Jersey Board of Public Utilities. In addition, the NYISO will post this compliance filing on the NYISO's website at www.nyiso.com and will email the electronic link to the filing to each of its customers and to each participant of its stakeholder committees.

VII. CONCLUSION

WHEREFORE, for the foregoing reasons, the NYISO respectfully requests that the Commission accept this filing and the proffered tariff changes as fulfilling its obligation to comply with paragraph 52 and ordering paragraph B of the December 10, 2012 Order.

Respectfully submitted,

/s/ David Allen

David Allen, Senior Attorney
New York Independent System Operator, Inc.