

March 4, 2013

By Electronic Delivery

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

**Re: *New York Independent System Operator, Inc.* 's Compliance Filing in
Docket No. ER13-588-00_**

Dear Ms. Bose:

The New York Independent System Operator, Inc. ("NYISO") hereby submits proposed revisions to its Open Access Transmission Tariff ("OATT") in compliance with paragraphs 43 and 52 and the ordering paragraph of the Federal Energy Regulatory Commission's ("Commission" or "FERC") February 15, 2013 *Order Accepting Tariff Revisions With Modifications* that was issued in Docket No. ER13-588-000 ("February Order").¹

In a December 19, 2012 filing, the NYISO proposed revisions to Attachments S, X and Z to the OATT to improve upon its interconnection study process ("December Filing").² The proposed revisions focused, in particular, on the final study in its process - the Class Year Interconnection Facilities Study ("Class Year Study").³ The NYISO also proposed changes to its interconnection procedures related to extensions of Commercial Operation Date and the time within which to finalize an Interconnection Agreement - both of which are designed to encourage projects to proceed through the interconnection process in a timely manner. The NYISO's proposed revisions to Attachments S, X and Z also included a number of ministerial revisions and other minor revisions intended to clarify existing language and procedures.

¹ *New York Independent System Operator, Inc.*, Order Accepting Tariff Revisions With Modifications, 142 FERC ¶ 61,113 (Issued February 15, 2013 ("February Order")).

² *New York Independent System Operator, Inc.*, Proposed Tariff Revisions Regarding Interconnection Process Improvements, ER13-588-000 (December 19, 2012) ("December Filing").

³ Capitalized terms not otherwise defined in this letter have the meaning set forth in Attachments S, X and Z of the NYISO's OATT, as amended by the enclosed proposed revisions to Attachments S, X and Z of the OATT.

In its February Order, the Commission conditionally accepted the revisions and directed the NYISO to incorporate certain limited modifications to the portion of the December 19 Filing related to limitations on extensions of Commercial Operation Date. The NYISO hereby submits revisions to Attachment X to the OATT to incorporate these modifications as described in Section IV(A) below. The NYISO also hereby submits a single, ministerial revision to Attachment S to the OATT as described in Section IV(B) below.

I. LIST OF DOCUMENTS SUBMITTED

The NYISO submits the following documents:

1. This filing letter;
2. A clean version of the proposed revisions to Attachment X to the NYISO's OATT ("Attachment I");
3. A blacklined version of the proposed revisions to Attachment X to the NYISO's OATT ("Attachment II").
4. A clean version of the proposed revisions to Attachment S to the NYISO's OATT ("Attachment III");
5. A blacklined version of the proposed revisions to Attachment S to the NYISO's OATT ("Attachment IV").

II. COPIES OF CORRESPONDENCE

Correspondence concerning this filing should be served on:

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III. BACKGROUND

A. December 19 Proposal to Revise the Commercial Operation Date Limitations in Attachment X to the OATT

In the December 19 Filing, the NYISO proposed to revise Attachment X to the OATT to limit the permissible extensions of the Commercial Operation Date specified at the completion of the Class Year Study (or upon tender of the SGIA, as applicable). Specifically, the NYISO proposed to revise Section 30.4.4.5 to only permit extensions of Commercial Operation Date that are within four (4) years from the completion of the Class Year Study/tender of the SGIA (“permissible extension period”). Under the proposed revisions, a request for an extension of a Commercial Operation Date requires no materiality review if it is within the permissible extension period.

As revised, Section 30.4.4.5 would further provide that a Developer may request an extension of its Commercial Operation Date beyond the permissible extension period and such extension would not be a Material Modification (and would therefore be permitted) if the following conditions have been met: (1) Developer must have an executed Interconnection Agreement for the project or have on file with FERC an unexecuted Interconnection Agreement; and (2) Developer must demonstrate (via an Officer certification) continuous progress against milestones set forth in the Interconnection Agreement (*e.g.*, completion of engineering design, major equipment orders, commencement and continuation of construction of the project and associated System Upgrade Facilities, as applicable). If the Developer does not satisfy the above conditions, an extension of Commercial Operation Date that would put the project in Commercial Operation after the four-year period following completion of its Class Year Study/tender of the SGIA would not be permitted and would subject the project to withdrawal from the NYISO interconnection queue.

In its December 19 Filing, the NYISO proposed that these tariff revisions to Section 30.4.4.5 in Attachment X to the OATT would apply to all generation and merchant transmission projects in the NYISO interconnection queue that have not yet accepted their cost allocation through the Class Year Study process or that are not subject to Attachment S. For those projects that have already accepted their cost allocation, to the extent their proposed Commercial Operation Date is not within the permissible time period, the NYISO proposed that they would be subject to a transition rule set forth in Section 30.4.4.5.3 of Attachment X to the OATT. Section 30.4.4.5.3 that would allow projects subject to the transition rule to have sixty (60) days after the tariff revisions take effect to satisfy the criteria specified above (an executed Interconnection Agreement (or an unexecuted Interconnection Agreement filed with FERC) and demonstrated progress against the milestones set forth in the Interconnection Agreement). To the extent they fail to satisfy such criteria within sixty (60) days, they would be withdrawn from the interconnection queue.

1. Extensions of Commercial Operation Date Previously Determined by the NYISO Not to Be Material Modifications

In a protest to the December 19 Filing, Cape Vincent Wind Power, LLC (“Cape Vincent”), stated that the NYISO’s proposed revisions to Section 30.4.4.5.3 could be interpreted to apply to its project despite the NYISO’s determination that the extension of the Commercial Operating Date was not a Material Modification.⁴ Cape Vincent contended that such interpretation would invalidate the purpose of Material Modification review and therefore requested that the Commission direct the NYISO to clarify that the proposed revisions to Section 30.4.4.5 of Attachment X do not apply to projects for which the NYISO has determined that a requested extension does not constitute a Material Modification.⁵

In its response to the Cape Vincent Protest, the NYISO stated that it would not oppose limited modifications of its proposed revisions to address Cape Vincent’s concerns.⁶ The NYISO suggested in its response that it would be agreeable to modifying Section 30.4.4.5.3 to expand the criteria that projects subject to the transition rule can meet in order to retain their queue position.⁷ These modifications would include Section 30.4.4.5.3.2, which would allow a Material Modification determination by the NYISO that was made prior to the effectiveness of the NYISO’s tariff revisions to stand.⁸ With such modifications, a project developer such as Cape Vincent would not be subject to a new Material Modification determination.

The Commission, in its February Order, found that “the changes to Section 30.4.4.5 of Attachment X as modified in NYISO’s answer are just and reasonable and are hereby accepted.”⁹ The Commission therefore directed the NYISO to make the tariff modifications proposed in its answer, provided that it: (1) revise Section 30.4.4.5.3.2 to state that such determination is to be prior to February 18, 2013, and (2) revise Section 30.4.4.5.3 to clearly provide that projects exempted by Section 30.4.4.5.3.2 are not subject to the requirements of Section 30.4.4.5.3.3.

2. Grace Period for Projects Subject to the Transition Rule that Have Unexecuted Interconnection Agreements on File with the Commission

In its protest, Cape Vincent also contended that, where an Interconnection Agreement is filed unexecuted, the project developer (and possibly the Connecting Transmission Owner)

⁴ *New York Independent System Operator, Inc.*, Motion to Intervene and Protest of Cape Vincent Wind Power, LLC, ER13-588-000 (January 9, 2013) (“Cape Vincent Protest”) at 5.

⁵ *Id.*

⁶ *New York Independent System Operator, Inc.*, Answer of the New York Independent System Operator, Inc., ER13-588-000 (January 24, 2013) (“NYISO Answer”) at 6.

⁷ *Id.*

⁸ *Id.*

⁹ February Order at P43.

might not agree with all the terms and conditions contained in the NYISO's filing, including one or more of the milestones set forth in Appendix B of the Interconnection Agreement.¹⁰ Therefore, Cape Vincent asked the Commission to direct the NYISO to modify its proposal to provide a grace period of sixty (60) days after issuance of a Commission order on a contested Interconnection Agreement for the project developer to demonstrate reasonable efforts against milestones ultimately approved by the Commission.¹¹

In response to the Cape Vincent Protest, the NYISO stated that it would not oppose Cape Vincent's request to modify the NYISO's proposal to provide the requested grace period.¹² The Commission therefore directed the NYISO to file the relevant tariff modifications consistent with its commitment.¹³

B. December 19 Proposal to Revise Attachment S to the OATT Accepted by the Commission in the February Order

In its February Order, the Commission accepted the NYISO proposed revisions to Attachment S to OATT, including a new Section 25.5.9 entitled, "Class Year Start Date and Schedule." This section provides that subsequent to Class Year 2012, the Class Year Study will begin on the Class Year Start Date, which will be the earliest of the following dates after the completion of the prior Class Year Study: March 1, June 1 or September 1.

In preparing the December 19 Filing, the NYISO added an explanatory parenthetical in the new Section 25.5.9 to clarify what was meant by the term "completion of the prior Class Year Interconnection Facilities Study." The parenthetical was meant to explain what is meant by "completion" of a Class Year Study generally, not completion of any one particular Class Year. The NYISO nonetheless inadvertently referred only to "Class Year 2011" rather than simply "Class Year" in the explanatory parenthetical. The NYISO therefore proposes a ministerial correction described in Section IV(B) below to correct this ministerial error.

IV. DESCRIPTION OF PROPOSED TARIFF REVISIONS

A. Proposed Revisions to the Commercial Operation Date Limitations in Attachment X to the OATT

Consistent with the Commission's directives in paragraph 43 of the February Order, the NYISO proposes to revise Section 30.4.4.5.3 of Attachment X to the OATT to allow

¹⁰ Cape Vincent Protest at 9.

¹¹ *Id.*

¹² NYISO Answer at 8.

¹³ February Order at P52.

projects to satisfy the transition rule if the NYISO has already determined an extension of the Commercial Operation Date to be non-material, in which case the new requirement regarding the Interconnection Agreement and progress against the stated milestones would apply only if and when the Developer requests a further extension.

Consistent with paragraph 52 of the February Order, the NYISO further proposes to extend the sixty (60) day grace period in the transition rule in Section 30.4.4.5.3. Specifically, for projects subject to the transition rule that satisfy the Interconnection Agreement requirement by having an unexecuted Interconnection Agreement on file with the Commission, the NYISO proposes to modify its proposal to provide a grace period of sixty (60) days after issuance of the Commission's Order on an unexecuted Interconnection Agreement for the Developer to satisfy the requirement that it demonstrate reasonable progress against the milestones ultimately approved by the Commission.

The NYISO further proposes to make ministerial formatting revisions to Section 30.4.4.5 and its subsections. Such ministerial revisions consist only of (1) a numbering correction to the subsections of Section 30.4.4.5.2 and Section 30.4.4.5.3.3; and (2) removal of inadvertent bold font. Both clean and redlined versions of the proposed revisions to Section 30.4.4.5 of Attachment X to the OATT are attached to this transmittal letter.

B. Proposed Revision to Section 25.5.9 of Attachment S to the OATT

As noted in Section III(B) above, since the December 19 Filing, it has since come to the NYISO's attention that a typographical error was inadvertently made in an explanatory parenthetical included in the new Section 25.5.9 of Attachment S to the OATT that requires correction. Specifically, the NYISO proposes to delete one word, as blacklined in bold type in the following excerpt from Section 25.5.9:

Starting with the Class Year subsequent to Class Year 2012, the Annual Transmission Reliability Assessment will begin on the Class Year Start Date, which will be the earliest of the following dates after the completion of the prior Class Year Interconnection Facilities Study (i.e., date upon which all remaining Class Year **2011** Developers have accepted their Project Cost Allocations and have posted security for same):
March 1, June 1 or September 1.

In preparing the December 19 Filing, the NYISO added the explanatory parenthetical above to clarify the reference to "completion of the prior Class Year Interconnection Facilities Study." The parenthetical was meant to explain what is meant by "completion" of a Class Year Study generally, not completion of any one particular Class Year. The correction proposed herein does not alter the substance of the NYISO's December 19 Filing.

V. EFFECTIVE DATE

The NYISO requests an effective date for these tariff revisions of February 18, 2013, which is consistent with the date that the NYISO requested for the revisions proposed in its December Filing and that the Commission accepted in its February Order.

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 paragraphs 43 and 52 and the ordering paragraph B of the February 15, 2013 Order.

Respectfully submitted,

/s/ Sara B. Keegan

Sara B. Keegan, Senior Attorney
New York Independent System Operator, Inc.

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 4th day of March, 2013.

/s/ Joy A. Zimmerlin

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