

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

**Hudson Transmission Partners, LLC**

**v.**

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

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**Docket No. EL12-98-000**

**MOTION OF NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.  
FOR EXTENSION OF TIME TO SUBMIT COMPLIANCE FILING  
AND REQUEST FOR EXPEDITED COMMISSION ACTION BY JANUARY 21, 2014**

Pursuant to Rules 212 and 2008(a) of the Commission’s Rules of Practice and Procedure,<sup>1</sup> the New York Independent System Operator, Inc. (“NYISO”) respectfully requests a forty-five day extension, *i.e.*, until March 7, 2014, to submit the compliance filing required by Ordering Paragraph (B) of the Commission’s November 21, 2013 order in this proceeding (“November Order”).<sup>2</sup> The requested extension will allow the NYISO to obtain stakeholder input as it completes its work to address complex compliance issues and to develop final tariff revisions to govern the scaling factor methodology for its calculation of projected energy and ancillary services (“E&AS”) revenues in buyer-side capacity market power mitigation determinations for merchant transmission facilities (“merchant transmission E&AS rules”). Because the compliance filing is currently due on January 21, 2014, the NYISO respectfully requests that the Commission issue an order granting the requested extension by that date.<sup>3</sup>

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<sup>1</sup> 18 C.F.R. §§ 385.212 and 385.2008(a) (2013).

<sup>2</sup> 145 FERC ¶ 61,156 (2013) (“November Order”).

<sup>3</sup> This request is consistent with Rule 213(d)(1)(i) which provides for a standard five-calendar day answer period in response to motions requesting extensions of time. To the extent that the Commission interprets this rule as establishing a longer answer period because January 20 is a holiday, the NYISO respectfully requests any waiver necessary to permit the Commission to issue an order granting this motion by January 21.

## **I. BACKGROUND**

Hudson Transmission Partners, LLC (“HTP”) filed a complaint on August 3, 2012 against the NYISO alleging that it improperly implemented the New York City buyer-side market mitigation exemption test with respect to HTP’s merchant transmission facility (the “HTP Project”). The November Order rejected most elements of HTP’s complaint but required the NYISO to make a compliance filing within sixty days to:

- “[P]rovide the specific scaling factor that it applied to HTP, to explain in detail how such factor was calculated, and to support its methodology;”<sup>4</sup> and
- “[F]ile a proposed tariff provision to incorporate the scaling methodology” “to project the likely energy and ancillary services revenues for merchant transmission lines.”<sup>5</sup>

Since the November Order was issued, the NYISO has worked diligently towards the completion of the compliance filing. It has made substantial progress towards proposed tariff modifications that would incorporate the merchant transmission E&AS rules into the Market Administration and Control Area Services Tariff (“Services Tariff”). Nevertheless, it was not possible for the NYISO to engage in sufficient outreach to stakeholders within the sixty day compliance period prescribed in the November Order. Given the complexity of the issues, the NYISO strongly believes that taking additional time to consult with stakeholders is likely to result in clearer and better designed rules. An extension would also allow for meaningful stakeholder participation in the development of the proposal without prejudicing any party’s interests.

## **II. MOTION FOR EXTENSION OF TIME**

The NYISO respectfully requests that the Commission grant its motion for a forty-five day extension, *i.e.*, until March 7, 2014, to permit it to make the compliance filing. In

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<sup>4</sup> *Id.* at PP 82, 90.

<sup>5</sup> *Id.*

accordance with Rule 2008(a), and as described below, good cause exists for the Commission to grant an extension of the compliance period and permit the NYISO to file its compliance filing on March 7, 2014.<sup>6</sup>

The NYISO has worked diligently towards a proposal to incorporate the merchant transmission E&AS rules into the Services Tariff. The NYISO is directly interconnected with three neighboring Control Areas<sup>7</sup> with resources that participate in its capacity market, *i.e.*, the PJM Interconnection, LLC, ISO New England, Inc., and Hydro Quebec that differ from each other, and the NYISO, in varying ways. Inter-regional transmission projects that request Capacity Resource Interconnection Service (“CRIS”) in a Mitigated Capacity Zone would be subject to the NYISO’s buyer-side mitigation rules and, therefore, would need to have energy and ancillary services revenues calculated as part of their buyer-side mitigation evaluations. Each of the neighboring Control Areas are governed by different market rules and structures, and, in the case of Hydro Quebec, operate within completely different regulatory constructs. Designing merchant transmission E&AS rules that could be workably implemented for projects connecting to all of these neighboring Control Areas has been difficult and has underscored the potential value of meaningful stakeholder input.

Granting the requested extension would permit the NYISO to receive and consider stakeholder feedback. It would allow the NYISO to introduce draft compliance tariff revisions at a stakeholder meeting and provide an opportunity, *e.g.*, a week, for stakeholders to submit comments. The NYISO anticipates then issuing a revised proposal based on that feedback and allowing stakeholders an additional period, *e.g.*, a week, to comment on it. At the conclusion of

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<sup>6</sup> 8 C.F.R. § 385.2008(a) (2013) (providing that “the time by which any person is required or allowed to act under any statute, rule, or order may be extended by the decisional authority for good cause, upon a motion made before the expiration of the period prescribed or previously extended”).

<sup>7</sup> Capitalized terms that are not defined herein have the meaning specified in the Services Tariff.

this process, the NYISO would expect to have a compliance tariff proposal that has been thoroughly vetted and, ideally, improved, by stakeholders for the Commission's consideration.

Granting the requested extension would not harm any party. Because the November Order's rejection of HTP's complaint was in no way contingent upon Commission acceptance of the compliance filing,<sup>8</sup> the extension would not harm HTP. Also, it in no way affects the NYISO's compliance with the November Order's directive that the NYISO issue a redetermination based on HTP's actual cost of capital, which is an obligation separate from the compliance filing obligation.<sup>9</sup>

Although there are proposed merchant transmission line projects in the NYISO's Interconnection Queue, the NYISO believes that its requested extension and the Commission's acceptance of the new rules would not interfere with the required mitigation exemption determinations for them.<sup>10</sup> In fact, the earliest estimated date by which the NYISO would have to issue a determination under the Buyer Side Mitigation Rules for a Class Year 2012 project is July 18, 2014.<sup>11</sup> The NYISO also does not believe the requested extension of time would disrupt decisions by developers of the projects in the Interconnection Queue or other Market Participants because merchant transmission E&AS rules are not presently in the tariff and the addition of the rules would provide clarity for developers and all Market Participants.

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<sup>8</sup> The NYISO notes that HTP argues in its pending *Request for Rehearing and Clarification* that the Commission should have reviewed the scaling factor information before denying its complaint.

<sup>9</sup> The NYISO anticipates issuing the redetermination in the very near future and, in advance of the January 21, 2014 deadline.

<sup>10</sup> Although there is a facility in Class Year 2012 that has requested CRIS and to which the NYISO will be required to make a buyer-side mitigation rule determination, the NYISO expects that the forty-five day delay in the compliance filing will allow the resulting tariff revisions to be effective before the NYISO is required to make any initial mitigation exemption determination for that project.

<sup>11</sup> The NYISO's estimated time line for the Class Year 2012 Project Cost Allocation Process was presented to its Interconnection Project Facilities Studies Working Group on November 18, 2013. The NYISO presentation also informed stakeholders that if additional studies for the Class Year were required in the planning process, the estimated date would be February 17, 2015.

Finally, the NYISO's request for an extension of time for both the compliance obligation to provide the details on the scaling factor it used for HTP, and proposed merchant transmission E&AS rules tariff revisions, should not be taken as an indication that it requires more time to provide the specific scaling factor that it applied to HTP, a detailed explanation of how that factor was calculated, and support for its approach. Although the NYISO has the information necessary to complete its first obligation, it believes that it would be simpler, and make for a clearer record, if it were to address both obligations in the same compliance filing.

### **III. CONCLUSION**

For the reasons specified above, the NYISO respectfully requests that the Commission act expeditiously and issue an order by January 21, 2014 granting its request for an extension of forty-five days so that it may make the compliance filing directed by the November Order no later than March 7, 2014.

Respectfully submitted,

/s/ Ted J. Murphy

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

January 15, 2014

cc:

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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 15<sup>th</sup> day of January, 2014.

/s/ Mohsana Akter

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