

**THIS FILING LETTER DOES NOT CONTAIN ANY PRIVILEGED OR CONFIDENTIAL INFORMATION. ATTACHMENT I - THE BODY OF REPORT, ALONG WITH THE REDACTED VERSIONS OF TABLES 1 THROUGH 4 (MARKED PUBLIC) DOES NOT CONTAIN ANY PRIVILEGED OR CONFIDENTIAL INFORMATION. ATTACHMENT II - CONFIDENTIAL TABLES, INCLUDES THE UNREDACTED TABLES, WHICH CONTAIN PRIVILEGED AND CONFIDENTIAL INFORMATION, AND IS SUBMITTED SEPARATELY.**

January 15, 2014

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

**Re: Annual Report in Docket No. ER01-3001-000;  
Request for Privileged Treatment of Attachment II**

Dear Ms. Bose:

Enclosed for filing in the above-referenced docket is the New York Independent System Operator's ("NYISO") annual report to the Federal Energy Regulatory Commission ("Commission") on the NYISO's Demand Side Management programs. By Order dated February 19, 2010, the Commission directed the NYISO to file this report for informational purposes only.<sup>1</sup>

**I. List of Documents Submitted**

The NYISO submits this filing letter, accompanied by: (i) Attachment I, the NYISO Report on Demand Response Programs, which includes redactions in Tables 1 through 4 of confidential, commercially sensitive information, and (ii) Attachment II, which contains the unredacted versions of Tables 1 through 4. Attachment II also contains a confidential update as to the ongoing enrollment status of resources seeking to participate in the NYISO's Demand Side Ancillary Service Program.

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<sup>1</sup> *New York Independent System Operator, Inc.*, Letter Order, Docket Nos. ER01-3001-021, et al. (Feb. 19, 2010).

## **II. Request for Confidential Treatment of Attachment II**

In accordance with Sections 388.107 and 388.112 of the Commission's Regulations,<sup>2</sup> Article 6 of the NYISO's Market Administration and Control Area Services Tariff, and Sections 12.1(4) and 12.4 of the NYISO's Code of Conduct in Attachment F of the NYISO Open Access Transmission Tariff, the NYISO requests Privileged and Confidential treatment of the contents of Attachment II to this filing letter. The NYISO also requests that the confidential Attachment II be exempted from public disclosure under the Freedom of Information Act ("FOIA"), 5 U.S.C. §552.<sup>3</sup>

Attachment II includes information regarding the number of demand response resources in a load zone that, when aggregated, are not greater than five (5). With such a small number of resources in the load zone, the NYISO's aggregation of the data reported for that load zone may not sufficiently mask confidential and commercially sensitive Market Participant information that the NYISO does not make public. Attachment II also includes a brief discussion of the status of enrollment and registration for the resources seeking to participate in the NYISO's Demand Side Ancillary Services Program. This number of resources described in this discussion similarly may not sufficiently mask confidential and commercially sensitive Market Participant information that the NYISO does not make public.

Attachment II, therefore, contains privileged, commercially sensitive, trade secret information that is exempt from disclosure under 5 U.S.C. §552(b)(4). Disclosure of such information could cause competitive harm to the affected Market Participants,<sup>4</sup> and could adversely affect competition in the markets administered by the NYISO. For this reason, the NYISO requests that the contents of Attachment II receive Privileged and Confidential treatment and be exempt from FOIA disclosure. Attachment II is identified and marked in accordance with the Commission's regulations and rules published by the Secretary's Office for submitting Privileged information.

## **III. Correspondence**

Copies of correspondence concerning this filing should be addressed to:

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<sup>2</sup> 18 C.F.R. §§ 388.107 and 388.112 (2013).

<sup>3</sup> The information provided by the NYISO for which the NYISO claims an exemption from FOIA disclosure is labeled "Contains Privileged Information - Do Not Release."

<sup>4</sup> Terms with initial capitalization not defined herein have the meaning set forth in the NYISO's Market Administration and Control Area Services Tariff.

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#### IV. CONCLUSION

WHEREFORE, the New York Independent System Operator, Inc. respectfully requests that the Commission accept this informational filing and treat the contents of Attachment II as Privileged and Confidential and exempt from FOIA disclosure.

Respectfully submitted,

/s/ David Allen  
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cc: Michael Bardee  
Gregory Berson  
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Morris Margolis  
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<sup>5</sup> The NYISO respectfully requests waiver of 18 C.F.R. § 385.203(b)(3) (2011) to permit service on counsel for the NYISO in both Washington, D.C. and Richmond, VA.

## **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/ Joy A. Zimmerlin

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