

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

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| New York Public Service Commission |) | |
| New York Power Authority, and |) | |
| New York State Energy Research and |) | |
| Development Authority |) | Docket No. EL15-64-000 |
| |) | |
| v. |) | |
| |) | |
| New York Independent System |) | |
| Operator, Inc. |) | |

**REQUEST FOR LEAVE TO ANSWER AND ANSWER OF THE
NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.**

Pursuant to Rules 212 and 213 of the Federal Energy Regulatory Commission’s (the “Commission’s”) Rules of Practice and Procedure,¹ the New York Independent System Operator, Inc. (“NYISO”) respectfully requests leave to submit the following brief answer to the *Answer of Independent Power Producers of New York, Inc.* (“IPPNY Answer”) in this proceeding. As discussed below, the NYISO opposes IPPNY’s request that the filing deadline for the renewable exemption be stayed until 60 days after the Commission issues a ruling on remand concerning the renewable exemption in ISO New England, Inc. (“ISO-NE”). The Commission should instead grant the NYISO’s original request for a 45 day extension of time to make its compliance filing, including with respect to a renewable exemption.

¹ 18 C.F.R. §§ 385.212 and 385.213.

I. Request for Leave to Answer

The NYISO recognizes that the Commission generally discourages answers to answers. But the Commission should exercise its discretion² and accept this answer because it helps to clarify the issue raised by IPPNY and will assist the Commission's review.

II. ANSWER

The IPPNY Answer contends that the Commission should stay the compliance filing deadline with respect to the establishment of a renewable exemption in New York until 60 days after the Commission takes action in response to the recent United States Court of Appeals for the District of Columbia Circuit ("Circuit Court") Clerk's order voluntarily remanding the appeal of ISO-NE's renewable exemption.³ IPPNY claims that this is justified by "administrative efficiency."⁴ It suggests that granting the stay would permit the Commission "to reconsider the merits and scope of ISO-NE's renewable exemption without requiring the NYISO, its stakeholders, and Commission staff to spend considerable time and resources on a proposal that may ultimately be at odds with any Commission policy on a renewable energy exemption established in the ISO-NE case."⁵

The NYISO is not a party to the ISO-NE renewable exemption appeal or to the Commission proceedings related to it. Nevertheless, it has reviewed both the Circuit Court

² See, e.g., *Morgan Stanley Capital Group, Inc. v. New York Independent System Operator, Inc.*, 93 FERC ¶ 61,017 at 61,036 (2000) (accepting an answer that was "helpful in the development of the record....."); *New York Independent System Operator, Inc.*, 91 FERC ¶ 61,218 at 61,797 (2000) (allowing "the NYISO's Answer of April 27, 2000, [because it was deemed] useful in addressing the issues arising in these proceedings"); *Central Hudson Gas & Electric Corp.*, 88 FERC ¶ 61,138 at 61,381 (1999) (accepting prohibited pleadings because they helped to clarify the issues and because of the complex nature of the proceeding).

³ Clerk's Order, *NextEra Energy Res. LLC v. Fed. Energy Regulatory Comm'n*, Case No. 15-070 (D.C. Cir. Dec. 1. 2015).

⁴ IPPNY Answer at 5.

⁵ *Id.*

Clerk's order and the Commission's November 20 motion for a voluntary remand.⁶ It seems clear that the Commission did not seek a remand because it questioned the merits of its earlier determinations approving renewable exemptions under ISO-New England's and the NYISO's respective tariffs. Instead, it appears that the Commission was concerned about the validity of a factual assumption that it relied upon in approving the 200 MW renewable exemption cap in ISO-NE. Specifically, the Commission expected that sloped demand curves would be in place in ISO-NE's local capacity zones when it approved a 200 MW renewable exemption. But such curves have not yet been established in ISO-NE and recent developments indicate that they may not be in the near future.⁷

This concern is not applicable to the NYISO. The NYISO already has sloped Demand Curves. The NYISO is working to develop a renewable exemption that would be tailored to avoid both unnecessary mitigation and the danger of artificial price suppression given existence of sloped capacity Demand Curves and other market features. The factual assumptions underlying the Commission's order directing the NYISO to implement a renewable exemption tailored to conditions in New York have not changed. It therefore does not seem that any Commission action concerning the appropriateness of the ISO-NE 200 MW renewable exemption in the absence of sloped local capacity zone demand curves would be relevant to the NYISO's development of its own compliance filing. IPPNY's requested relief therefore does not appear to be justified.

⁶ Motion of Resp't, *NextEra Energy Res. LLC v. Fed. Energy Regulatory Comm'n*, Case No. 15-070 (D.C. Cir. Nov 20, 2015) ("Motion for Voluntary Remand").

⁷ See Motion for Voluntary Remand at 2-3.

III. CONCLUSION

WHEREFORE, for the foregoing reasons, the New York Independent System Operator, Inc. respectfully requests that the Commission accept this answer and renews its request that the Commission grant its request for a 45 day extension of the compliance deadline, and reject IPPNY's request for a stay of the obligation to make a renewable exemption compliance filing.

Respectfully submitted,

/s/ Ted J. Murphy

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Dated: December 14, 2015

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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 14th day of December 2015.

/s/ Joy A. Zimmerlin

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