

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

New York Independent System Operator, Inc.)

Docket No. ER16-120-00_

**MOTION FOR EXTENSION OF COMPLIANCE FILING DEADLINE
AND REQUEST FOR EXPEDITED COMMISSION ACTION
OF THE NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.**

In accordance with Rules 212 and 2008 of the Commission’s Rules of Practice and Procedure,¹ the New York Independent System Operator, Inc. (“NYISO”) respectfully requests that the Commission grant a 90 day extension of the compliance filing deadline in this proceeding. The compliance filing is currently due on June 20, 2016 and would be filed no later than September 19, 2016 if the requested extension were granted.²

The NYISO further requests that the standard five-day period for answering motions for extension of time established under Rule 213(d)(1)(i) apply to this filing.³ Finally, NYISO asks that the Commission act expeditiously to grant the requested extension no later than May 27, 2016, so that the NYISO will know with certainty when its compliance filing is due.

The Commission’s April 21, 2016 Order in the above docket directed the NYISO to submit significant additional revisions to several areas of its proposed “reliability must run” (“RMR”) tariff provisions in a compliance filing.⁴ The NYISO requires additional time to develop compliance tariff revisions that address the Commission’s directives and to allow its

¹ 18 C.F.R. §§ 385.212 and 2008 (2015).

² The 90th day after June 20 is September 18. Because September 18 falls on a Sunday, granting a 90 day extension would make the compliance filing due on September 19 pursuant to 18 C.F.R. 385.2007 (2015).

³ 18 C.F.R. § 385.213 (2015).

⁴ *New York Indep. Sys. Operator, Inc.*, 155 FERC ¶ 61,076 (2016) (“April 2016 Order”).

stakeholders to review and provide meaningful feedback on draft tariff revisions before they are submitted for the Commission's consideration.⁵

There is "good cause" for granting the requested extension. The April 2016 Order directed the NYISO, among other things, to create a new RMR process outside of its existing Gap Solution planning process, to propose a cost allocation methodology that is separate from its Order No. 1000-compliant regional transmission cost allocation methodology and to develop rules for choosing between generation, transmission and demand response solutions to a reliability need that the NYISO identifies in a generator deactivation assessment.⁶ These are substantial undertakings.

It will take time to comply with these directives in a way that is well-suited to, and effectively integrated with, the NYISO's existing market design and planning process. Granting the requested extension will allow the NYISO to thoroughly address the issues raised in the April 2016 Order and to give its stakeholders time to review and provide input regarding its proposed tariff revisions. The NYISO does not anticipate that the requested extension will prejudice any party's interests. The NYISO is not aware of any stakeholder opposition to the requested extension.

⁵ As described in Section IV below, the NYISO is not seeking an extension to make the filing required in OATT Section 31.5.3.2.1.6 to obtain stakeholder approval of a tariff filing to remove the sunset provision from the resource adequacy cost allocation methodology for its reliability planning process, which the Commission required the NYISO to make within 60 days of its Order. *See* April 2016 Order, at PP 109, 115. Moreover, the NYISO is working diligently to obtain stakeholder approval to file its proposed transmission security cost allocation methodology as part of its reliability planning process. *See* April 2016 Order, at P 114. The NYISO expects to make a Section 205 filing addressing both of these matters by June 20, 2016.

⁶ The April 2016 Order's compliance directives that require tariff revisions are listed in Section II of this filing. The changes that the Commission directed the NYISO to make require the development of new market rules and will require conforming changes to other provisions of the NYISO's Tariffs.

I. Communications

Communications and correspondence regarding this filing should be directed to:

Robert E. Fernandez, General Counsel
*Raymond Stalter, Director of Regulatory Affairs
*Alex M. Schnell, Assistant General Counsel/
Registered Corporate Counsel
New York Independent System Operator, Inc.
10 Krey Boulevard
Rensselaer, N.Y. 12144
Tel: (518) 356-6000
Fax: (518) 356-4702
rfernandez@nyiso.com
rstalter@nyiso.com
aschnell@nyiso.com

*Ted J. Murphy
Hunton & Williams LLP
2200 Pennsylvania Avenue, NW
Washington, D.C. 20037
Tel: (202) 955-1500
Fax: (202) 778-2201
tmurphy@hunton.com

*Michael J. Messonnier
Hunton & Williams LLP
Riverfront Plaza, East Tower
951 East Byrd Street
Richmond, VA 23219
Tel: (804) 788-8712
Fax: (804) 343-4646
mmessonnier@hunton.com

* persons designated for service.⁷

II. Background

The Commission issued an order on February 19, 2015, directing the NYISO to make a compliance filing to establish RMR tariff provisions and a *pro forma* RMR agreement (“February 2015 Order”).⁸ It took approximately eight months to complete the extensive work required to develop, with stakeholder input, a process for receiving and reviewing generator deactivations, compensation rules for RMR Generators, cost allocation rules, a *pro forma* RMR Agreement, and other related tariff revisions.⁹

The April 2016 Order accepted multiple elements of the NYISO’s RMR proposal, but directed a further compliance filing to change significant components of the NYISO’s RMR

⁷ The NYISO respectfully requests waiver of the requirements of Rule 18 C.F.R. § 385.203(b)(3) (2015) to permit service on more than two persons.

tariff requirements within 60 days - *i.e.*, by June 20, 2016. The April 2016 Order directed the NYISO to:

- (1) develop a RMR process that is separate from the NYISO's existing Gap Solution planning process;¹⁰
- (2) develop rules that specify when the RMR process will apply, and when the existing Gap Solution planning process will apply;¹¹
- (3) establish rules making the NYISO solely responsible for evaluating and selecting solutions to identified Reliability Needs caused by Generator deactivations;¹²
- (4) develop a deactivation notice period and RMR evaluation timetable that reflects the establishment of an RMR process that is distinct from the Gap Solution process;¹³
- (5) submit criteria for implementing the “distinctly higher” net present value standard to select from among possible Generator and non-generation solutions to identified Reliability Needs, provide a conceptual basis as to how the “distinctly higher” standard will be implemented and define the criteria that the NYISO will propose to make its selection;¹⁴
- (6) exempt RMR generators from offer floor mitigation in capacity auctions and require all such generators to offer their capacity as price-takers;¹⁵
- (7) propose a cost allocation methodology for its RMR process that is separate from its Order No. 1000-compliant regional transmission cost allocation methodology;¹⁶
- (8) submit the filing required by Section 31.5.3.2.1.6 of the NYISO OATT;¹⁷

⁸ *New York Indep. Sys. Operator, Inc.*, 150 FERC ¶ 61,116 (2015) (“Initial RMR Order”).

⁹ The Commission initially provided the NYISO with 120 days to submit its compliance filing. Initial RMR Order at P 4. The Commission subsequently granted the NYISO a further 120 days to submit its compliance filing. *New York Indep. Sys. Operator, Inc.*, Notice of Extension of Time, Docket No. EL15-37-000 (June 4, 2015).

¹⁰ *See* April 2016 Order at P 31.

¹¹ *See Id.* at P 41.

¹² *See Id.*

¹³ *See Id.* at P 63.

¹⁴ *See Id.* at P 73.

¹⁵ *See Id.* at PP 82-83.

¹⁶ *See Id.* at PP 109, 112.

¹⁷ *See Id.* at PP 108-109.

- (9) expand the “anti-toggling” protections by requiring an RMR generator that wishes to operate at the end of its RMR agreement to repay the NYISO the higher of capital expenditures less depreciation or the above-market payments that it received;¹⁸
- (10) specify that the NYISO may complete a non-generation solution that is substantially complete at the time a Generator rescinds its Generator Deactivation Notice;¹⁹ and
- (11) define the circumstances under which a non-generation solution that NYISO selects in the RMR process can serve as the permanent solution to an identified Reliability Need.²⁰

III. Request for Extension of Compliance Filing Deadline

Developing all of the tariff revisions that are necessary to achieve compliance with the April 2016 Order is a major undertaking. The NYISO’s RMR process interacts with other tariff responsibilities and must be consistent with the NYISO’s existing market design and transmission system planning processes. As with any other major market design change, the risk of unintended adverse consequences or implementation problems could be compounded if the development of RMR rules is rushed. It is also essential that stakeholders receive adequate time for thorough review and feedback on proposed process changes and tariff language. Stakeholder review is likely to both improve the proposed language and to help to reduce the scope and intensity of disputed issues that may ultimately be presented to the Commission. Granting the requested extension will also provide the NYISO an enhanced opportunity to obtain input from the independent Market Monitoring Unit while it develops its revised RMR rules to comply with the Commission’s instructions.

The NYISO is developing the extensive changes required by the April 2016 Order at the same time that it is moving forward with other key initiatives and obligations. These ongoing efforts implicate both the NYISO’s planning processes and market issues and, in certain cases,

¹⁸ *See Id.* at PP 126-127.

¹⁹ *See Id.* at PP 151.

²⁰ *See Id.* at P 37.

overlap with the changes directed by the April 2016 Order. The NYISO's stakeholders are already actively involved in these matters. It would not be reasonable to require stakeholders to provide informed input on newly developed RMR-related compliance tariff provisions within a 60-day period given the number of other significant issues currently in the stakeholder process or pending before the Commission.

The NYISO recognizes the importance that the Commission places on timely and complete compliance with its orders but believes that its requested 90 day extension is both necessary and reasonable. It will take more than the 60 days afforded by the April 2016 Order to integrate the Commission's required changes into the NYISO's tariffs and to ensure consistency with other affected processes. The requested 90 day extension will permit the NYISO to submit a well-developed and fully supported compliance filing, and to minimize stakeholder protests.

The NYISO does not believe that the proposed extension would prejudice any party's interests. The NYISO is not aware of any stakeholder opposition to the requested extension. The NYISO has not received and is not presently processing any Generator Deactivation Notices that would be affected by the additional time the NYISO has requested in this filing.²¹

Rule 2008 authorizes the Commission to extend any deadline, including one imposed by a Commission compliance directive, before it expires if a requesting party demonstrates that there is "good cause" to do so. For the reasons set forth in the preceding paragraphs, the NYISO respectfully submits that there is good cause to grant the 90 day extension of time that it has requested.

²¹ The NYISO will submit a timely request for clarification of the April 2016 Order that will address how it proposes to proceed if the NYISO receives a Generator Deactivation Notice prior to the submission of its further compliance filing.

Finally, the NYISO requests that the Commission apply the standard five-day answer period for motions for extensions of time and act expeditiously to grant the requested extension by May 27, 2016. Commission action by that date will provide certainty regarding the NYISO's RMR compliance timetable.

IV. Related Section 205 Filing

The NYISO is not seeking an extension of time to make the filing required in OATT Section 31.5.3.2.1.6 to obtain stakeholder approval of a tariff filing to remove the sunset provision from the existing resource adequacy cost allocation methodology for its reliability planning process. The April 2016 Order rejected the NYISO's proposal to remove that provision as part of its original RMR compliance filing and directed the NYISO to address the issue within 60 days.²²

The NYISO is also working diligently to obtain stakeholder approval to re-file its proposed transmission security cost allocation methodology as part of its reliability planning process. The April 2016 Order rejected the NYISO's filing of that cost allocation methodology as part of the RMR compliance filing but stated that the NYISO could re-submit it under Section 205 of the Federal Power Act with stakeholder approval.²³ The NYISO expects to make a Section 205 filing addressing both of these matters on June 20, 2016²⁴ in order to have a complete *ex ante* cost allocation methodology on file for its reliability planning process, which began in January when the NYISO commenced a Reliability Needs Assessment.

²² See April 2016 Order, at PP 109, 115.

²³ See April 2016 Order, at P 114.

²⁴ The NYISO's proposed tariff revisions on this subject were recently approved by its stakeholder Operating Committee and are scheduled to be considered next by the Management Committee on May 25.

V. Conclusion

WHEREFORE, for the foregoing reasons, the NYISO respectfully requests that the Commission grant a 90 day extension to the compliance filing deadline in the above-captioned proceeding so that the NYISO may submit its RMR compliance tariff revisions no later than September 19, 2016. The NYISO also respectfully requests that the Commission issue an order granting the requested extension by no later than May 27, 2016.

Respectfully submitted,

/s/ Ted J. Murphy

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

May 19, 2016

cc: Michael Bardee
Anna Cochrane
Kurt Longo
Max Minzner
Daniel Nowak
Larry Parkinson
J. Arnold Quinn
Douglas Roe
Kathleen Schnorf
Jamie Simler
Gary Will

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 19th day of May 2016.

/s/ Joy A. Zimmerlin

Joy A. Zimmerlin
New York Independent System Operator, Inc.
10 Krey Blvd.
Rensselaer, NY 12144
(518) 356-6207