

March 31, 2017

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.*, Docket No. ER11-4338-001, *et al.*,  
Compliance Filing

Dear Secretary Bose:

In accordance with Paragraph 1 and Ordering Paragraph (C) of the Federal Energy Regulatory Commission's ("FERC" or "Commission") January 30, 2017 order in this proceeding (the "2017 Order"),<sup>1</sup> the New York Independent System Operator, Inc. ("NYISO"), respectfully submits this compliance filing. The tariff amendments contained in this filing have been previously accepted by the Commission, but, because the amendments were submitted in separate submittals dated August 19, 2011,<sup>2</sup> and August 14, 2013,<sup>3</sup> a full set of the accepted revisions is included herein as Attachments I and II in order to provide clarity to the Commission and NYISO Market Participants.<sup>4</sup> The NYISO also submits as Exhibit A to this letter a blackline version of Section 24 of the NYISO's OATT removing certain language proposed in the 2013 Compliance Filing related to the allocation of the costs associated with demand response as directed by the 2017 Order.<sup>5</sup>

The 2017 Order granted the NYISO's 2013 request for a flexible effective date, and directed the NYISO to designate such date in this submission. The NYISO hereby requests, as further described in Part IV below, a flexible effective date of no later than October 31, 2018.

## **I. Documents Submitted**

1. This filing letter;

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<sup>1</sup> *New York Indep. Sys. Operator, Inc.*, 158 FERC ¶ 61,081 (Jan. 30, 2017).

<sup>2</sup> *New York Indep. Sys. Operator, Inc.* August 19, 2011 Compliance Filing, Docket No. ER11-4338-000 (the "2011 Compliance Filing").

<sup>3</sup> *New York Indep. Sys. Operator, Inc.* August 14, 2013 Compliance Filing, Docket No. ER11-4338-001 (the "2013 Compliance Filing").

<sup>4</sup> Capitalized terms not otherwise defined herein have the meaning set forth in Section 1 of the NYISO's Open Access Transmission Tariff ("OATT") and Section 2 of the Market Administration and Control Area Services Tariff ("Services Tariff").

<sup>5</sup> In its 2017 Order the Commission (i) rejected certain cost allocation tariff revisions proposed in the 2013 Compliance Filing, (ii) accepted the cost allocation revisions proposed in the 2011 Compliance Filing, and (iii) directed the NYISO to submit, in the instant filing, tariff sections that reflect the tariff language proposed in the 2011 Compliance Filing. Attachment II, a clean version of OATT Section 24, reflects the removal of the 2013 Compliance Filing revisions and the reversion to the 2011 Compliance Filing language. Exhibit A provides a blackline for clarity.

2. A blackline version of OATT Section 24 removing certain cost allocation revisions proposed in the 2013 Compliance Filing (“Exhibit A”);
3. A clean version of the accepted revisions to the Services Tariff (“Attachment I”);
4. A clean version of the accepted revisions to the OATT (“Attachment II”); and
5. A clean version of certain sections of the Services Tariff that do not include the NYISO’s Order No. 745 compliance tariff amendments (“Attachment III”).<sup>6</sup>

## **II. Background**

On March 15, 2011, and as refined in subsequent orders, the Commission promulgated a set of rules related to the compensation of demand response resources participating in wholesale energy markets (“Order No. 745”).<sup>7</sup> The NYISO submitted an initial compliance filing to meet the directives of Order No. 745 on August 19, 2011. The Commission accepted certain of the NYISO’s proposals in a May 16, 2013 order, but required the NYISO to provide additional support for proposals related to its net benefits test, the offer floor applicable to Day-Ahead Demand Response Program (“DADRP”) resources, and measurement and verification rules.<sup>8</sup> Notably, the Commission rejected the NYISO’s proposal to allocate demand response costs as Schedule 1 uplift costs to transmission customers on the basis of their load ratio share.<sup>9</sup> In the alternative, the Commission directed the NYISO to revise its cost allocation rules such that the costs of demand response were allocated only to those entities that purchase from the relevant NYISO Energy market in the area(s) where the demand response resources reduced LBMP at the time the resources were committed or dispatched.<sup>10</sup>

The NYISO responded to the Commission’s 2013 Order in a June 17, 2013 Request for Rehearing (“Rehearing Request”)<sup>11</sup> and the 2013 Compliance Filing. Specifically, the NYISO sought

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<sup>6</sup> Attachment III contains revisions to the Services Tariff that are unrelated to the instant filing, but are contained in the same sections submitted as Attachment I. These revisions have been submitted to the Commission (in the dockets listed below) and are, or have been proposed to become, effective prior to the effective date of the amendments that are the subject of the instant filing. Therefore, the NYISO submits Attachment III in order to clearly identify the effective tariff language applicable until the time in which the instant tariff amendments become effective. Services Tariff Section 2.13, effective May 1, 2015, in Docket No. ER14-2518; Section 2.14, effective May 1, 2015 and December 13, 2016, in respective Docket Nos. ER14-2518 and ER16-1213; Section 2.18, effective April 7, 2015, and May 1, 2015, in respective Docket Nos. ER15-1010 and ER14-2518, and proposed to be effective October 20, 2015, in Docket No. ER16-120; Section 2.19, effective November 4, 2015, June 22, 2016, and December 13, 2016, in respective Docket Nos. ER15-1061, ER16-425, and ER16-1213; Section 4.2, effective December 13, 2016 in Docket No. ER16-1213; Section 4.4, effective November 4, 2015, December 15, 2015, June 22, 2016, December 13, 2016, and February 28, 2017, in respective Docket Nos. ER15-1061, ER15-2640, ER16-425, ER16-1213, and ER17-549; and Section 4.5, effective December 29, 2015 and December 13, 2016, in respective Docket Nos. ER16-185 and ER16-1213.

<sup>7</sup> *Demand Response Compensation in Organized Wholesale Energy Markets*, Order No. 745, FERC Stats. & Regs. ¶ 31,322, *order on reh’g and clarification*, Order No. 745-A, 137 FERC ¶ 61,215 (2011), *reh’g denied*, Order 745-B, 138 FERC ¶ 61,148 (2012), *vacated sub nom. Elec. Power Supply Ass’n v. FERC*, 753 F.3d 216 (D.C. Cir. 2014), *rev’d & remanded sub nom. FERC v. Elec. Power Supply Ass’n*, 136 S.Ct. 760 (2016).

<sup>8</sup> *New York Indep. Sys. Operator, Inc.*, 143 FERC ¶ 61,134 (2013).

<sup>9</sup> *Id.* at P 92.

<sup>10</sup> *Id.*

<sup>11</sup> *New York Indep. Sys. Operator, Inc.*, June 17, 2013 Request for Rehearing and Alternative Requests for

rehearing on the Commission's rejection of its proposed cost allocation methodology because, among other reasons, the Commission's determination (i) was an unnecessarily narrow interpretation of the Order No. 745 cost allocation requirements, (ii) would lead to cost allocation rules that were incompatible with the NYISO's net benefits test, and (iii) ignored the benefits of demand response received by Load served under bilateral contracts (in the form of reduced Locational Based Marginal Prices ("LBMP")).<sup>12</sup> In addition to providing the further explanation requested by the Commission, the NYISO's 2013 Compliance Filing revised the cost allocation methodology to conform to the directives in the May 2013 order.

The Commission's 2017 Order granted rehearing on the NYISO's 2011 cost allocation proposal, stating that the NYISO "demonstrated that its original proposal to allocate the costs of demand response as Schedule 1 uplift costs that are then allocated to transmission customers on the basis of load ratio shares appropriately allocates costs to those that benefit from demand reductions."<sup>13</sup> The Order also found the NYISO's further justification for the 2011 proposals to be sufficient, and accepted the associated tariff revisions, with the exception of the 2013 cost allocation proposal.<sup>14</sup> The 2013 cost allocation proposal was rejected because the Commission granted rehearing and accepted the 2011 proposal.<sup>15</sup>

### **III. Description of Proposed Tariff Revisions**

This compliance filing is accompanied by a complete "clean" copy of the tariff amendments the NYISO has proposed to comply with Order No. 745. All of the amendments contained herein have previously been accepted by the Commission, and are provided to present a full and complete set of tariff language for the purposes of clarity.

### **IV. Effective Date**

In compliance with the Commission's 2017 Order, the NYISO hereby requests a flexible effective date for these tariff revisions of no later than October 31, 2018. While this timeline exceeds a typical implementation schedule, the NYISO believes it to be reasonable considering the particular circumstances of this proceeding.

In its 2013 Compliance Filing, the NYISO stated that "[t]he precise timeframe for the NYISO to develop, test, and deploy the software changes that are needed to support its compliance with Order No. 745 will depend on the existing project schedule and available resources at the time the Commission issues its order in this proceeding," and that, if the Commission issued an order in

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Expedited Clarification and Compliance Waiver.

<sup>12</sup> *Id.* at 2-3.

<sup>13</sup> *New York Indep. Sys. Operator, Inc.*, 158 FERC ¶ 61,081 at P 23. Because the Commission granted rehearing on this issue, it dismissed the NYISO's request, in the alternative, for clarification. *Id.* at P 30.

<sup>14</sup> *Id.* at PP 57 (on the exclusion of off-peak hours from the net benefits test supply curve), 74 (regarding the selection of the highest point on the representative supply curve), 78 (regarding the use of the monthly net benefits test threshold price as the DADRP offer floor), 83 (regarding the cap for in-day adjustments to the ECBL and other related measurement and verification methodologies), and 97 (regarding the allocation of costs on an hourly (instead of daily) load ratio share, and the addition of four new coefficients to address constrained NYCA interfaces).

<sup>15</sup> *Id.* at P 92.

December 2013, the NYISO would be able to implement those revisions in approximately twelve months.<sup>16</sup>

Since the issuance of the 2017 Order, the NYISO has thoroughly reviewed the software code and other work completed in 2011 and 2013 that would have permitted a twelve-month implementation timeline. The NYISO's review revealed that much of the software coding developed at that time will likely need to be updated, if not rewritten, due to the various and significant changes to the NYISO's software systems since that time, and that other preparatory work needs to be updated to seamlessly integrate with current NYISO processes. A six month extension to its original estimate is reasonable in these circumstances because the NYISO will need to fully reevaluate and update its software development. This proposed implementation schedule also permits the NYISO to continue with its existing 2017 stakeholder-approved project schedule without reallocating resources away from those projects to assist in this matter. The NYISO does not believe that the eighteen-month implementation schedule will impact the NYISO's wholesale markets because there has been no participation in the NYISO's DADRP in seven years, and therefore the accepted tariff revisions will not be applicable to any DADRP resources in the near term.

The NYISO is unable to propose a precise effective date for these revisions until it completes its full review, updating, and testing of the software necessary to implement these changes. The NYISO proposes, therefore, to submit a further compliance filing at least two weeks prior to the proposed effective date that will specify the date on which the revisions take effect. Consistent with Commission precedent, the compliance filing will provide adequate notice to the Commission and Market Participants of the implementation date for these amendments.<sup>17</sup>

## **V. Communications and Correspondence**

All communications and service in this proceeding should be directed to:

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<sup>16</sup> 2013 Compliance Filing at 31.

<sup>17</sup> See, e.g., *New York Indep. Sys. Operator, Inc.*, 106 FERC ¶ 61,111 at P 10 (2004); Docket No. ER 11-2544-000, *New York Indep. Sys. Operator, Inc.*, Letter Order at 1 (February 10, 2011); Docket No. ER15-485-000, *New York Indep. Sys. Operator, Inc.*, Letter Order at 2 (January 15, 2015); *New York Indep. Sys. Operator, Inc.*, 151 FERC ¶ 61,057 at P 20 (2015).

## **VI. Service**

The NYISO will send an electronic link to this filing to the official representative of each party to this proceeding, to the official representative of each of its customers, to each participant on its stakeholder committees, to the New York Public Service Commission, and to the New Jersey Board of Public Utilities. In addition, the complete filing will be posted on the NYISO's website at [www.nyiso.com](http://www.nyiso.com).

## **VII. Conclusion**

The New York Independent System Operator, Inc. respectfully requests that the Commission accept this compliance filing and the proposed flexible effective date of no later than October 31, 2018, for the tariff revisions referenced herein.

Respectfully submitted,

/s/ Gregory J. Campbell

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