

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

**Credit Reforms in  
Organized Wholesale Energy Markets**

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**Docket No. RM10-13-\_\_\_\_**

**JOINT MOTION OF  
CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION AND  
NEW YORK INDEPENDENT SYSTEM OPERATOR, INC. REQUESTING  
EXTENSION OF TIME TO SUBMIT COMPLIANCE FILING AND  
SHORTENED COMMENT PERIOD**

Pursuant to Rule 212 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (the “Commission”), 18 C.F.R. § 385.212 (2011), California Independent System Operator Corporation (“CAISO”) and the New York Independent System Operator, Inc. (“NYISO”) hereby move for an extension of time - until April 30, 2012 - to submit filings to comply with the requirement specified in Section 35.41(d) of the Final Rule<sup>1</sup> issued in this proceeding pursuant to Order No. 741<sup>2</sup> regarding the ability of regional transmission organizations (“RTOs”) and independent system operators (“ISOs”) to enhance their ability to offset market obligations in bankruptcy.

CAISO and NYISO respectfully request that the Commission shorten the period for filing answers to this motion - so that answers are due on or before January 23, 2012 - in order to facilitate a prompt ruling by the Commission before the current compliance deadline of January 31, 2012. We note that on January 10, 2012, the Commission granted related relief to

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<sup>1</sup> The Final Rule is reflected in Subpart J of 18 C.F.R. Part 35 (2011).

<sup>2</sup> See *Credit Reforms in Organized Wholesale Electric Markets*, Order No. 741, 133 FERC ¶ 61,060 (2010), *on reh’g*, Order No. 741-A, 134 FERC ¶ 61,126 (2011) (“Order No. 741” and “Order No. 741-A,” respectively), *on reh’g*, Order No. 741-B, 135 FERC ¶ 61,242 (2011).

ISO-NE in this docket, by shortening the comment period on its motion to extend the compliance deadline.

This additional time should permit CAISO and NYISO, each of which is a tax-exempt entity, to obtain appropriate confirmation from the relevant state tax authorities that implementation of a central counterparty structure in compliance with Order No. 741 will not adversely affect prior rulings and tax agreements with those state tax authorities, and complete their respective stakeholder processes.

## **I. BACKGROUND**

In Order No. 741, the Commission directed RTOs and ISOs to submit compliance filings reflecting the tariff changes necessary to implement credit reforms required by the Final Rule on or before June 30, 2011. In Order No. 741-A, the Commission extended the date for filing the tariff revisions necessary to comply with Section 35.41(d) of the Final Rule to September 30, 2011. Section 35.41(d) requires ISOs and RTOs to file tariff revisions that:

Establish a single counterparty to all market participant transactions, or require each market participant in an organized wholesale electric market to grant a security interest to the organized wholesale electric market in the receivables of its transactions, or provide another method of supporting netting that provides a similar level of protection to the market and is approved by the Commission. In the alternative, the organized wholesale electric market shall not net market participants' transactions and must establish credit based on market participants' gross obligations.

On August 15, 2011, ISO New England Inc. ("ISO-NE"), CAISO, and NYISO filed a motion jointly requesting an extension of time to submit their filings to comply with Section 35.41(d) of the Final Rule (the "August 15 Filing").<sup>3</sup> In response, the Commission

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<sup>3</sup> See *Joint Motion of ISO New England Inc., California Independent System Operator Corporation and New York Independent System Operator Requesting Extension of Time to Submit Compliance Filing*, Docket No. RM10-13-000 (August 15, 2011).

extended the September 30, 2011 compliance filing deadline to January 31, 2012.<sup>4</sup>

In this filing, for the reasons explained below, CAISO and NYISO respectfully request that the Commission extend the January 31, 2012 compliance filing deadline in this proceeding, for their regions, to April 30, 2012.

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

In the August 15 Filing, ISO-NE, CAISO, and NYISO requested an extension of time to submit their filings to comply with Section 35.41(d) of the Final Rule to provide the parties with additional time to secure rulings from the Internal Revenue Service (IRS), and relevant state tax authorities for CAISO and NYISO, that implementation of a central counterparty structure would not adversely affect their status as tax-exempt organizations or cause revenues to be classified as unrelated business income. In that filing, the parties noted that the requested extension of approximately four months was the *minimum* amount of time they believed would be needed to secure the requisite IRS private letter rulings and state tax authority advisory opinions. This timeline was calculated based on an assumption that the IRS would issue its private letter rulings in October 2011 and the state tax authorities would, after taking into consideration the IRS private letter rulings, subsequently take action on the requests before them.

Although the IRS acted on an expedited basis and ultimately issued favorable private letter rulings to CAISO and NYISO, those rulings were not issued until December 2011. Given that these rulings were received two months later than anticipated, the responses CAISO and NYISO anticipate receiving from the state tax authorities have not yet been received. Based upon informal conversations with the relevant state tax authorities, CAISO and NYISO both

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<sup>4</sup> See *Notice of Extension of Time*, Docket No. RM10-13-000 (September 13, 2011).

hope to receive responses, and subsequently complete their respective stakeholder processes, by the end of April 2012.

The extension of time requested in this filing is necessary because CAISO and NYISO must have confirmation from applicable state tax authorities that implementation of a central counterparty structure will not have unintended tax consequences before they can file tariff changes to comply with Section 35.41(d) of the Final Rule by implementing a central counterparty structure. Assuming CAISO and NYISO receive favorable responses from the applicable state tax authorities on the state tax issues as outlined above, CAISO and NYISO will be in a position to make filings to complete their compliance with Order No. 741 by April 30, 2012.

### III. CONCLUSION

For the foregoing reasons, CAISO and NYISO request that the Commission extend the compliance filing deadline in this proceeding for their regions to April 30, 2012.

Respectfully submitted,

/s/ Daniel J. Shonkwiler

Nancy J. Saracino

Vice President, General Counsel and  
Chief Administrative Officer

Roger E. Collanton

Assistant General Counsel — Litigation &  
Mandatory Standards

Daniel J. Shonkwiler

Senior Counsel

California Independent System Operator  
Corporation

P.O. Box 639014

Folsom, CA 95763-9014

(916) 608-7015

dshonkwiler@caiso.com

/s/ Sara B. Keegan

Sara B. Keegan

Senior Attorney

New York Independent System Operator, Inc.

10 Krey Boulevard

Rensselaer, NY 12144

(518) 356-8554

skeegan@nyiso.com

Date: January 13, 2012

## **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 13<sup>th</sup> day of January, 2012.

/s/ Joy A. Zimmerlin

Joy A. Zimmerlin  
New York Independent System Operator, Inc  
10 Krey Blvd.  
Rensselaer, NY 12114  
(518) 356-6207