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January 25, 2011

Ms. Kimberly D. Bose  
Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE  
Washington, DC 20426

**Re: *New York Independent System Operator, Inc.*, Compliance Filing and Request for Commission Action by April 1, 2011, Docket No. ER10-3043-001**

In compliance with the Commission's November 26, 2010 *Order on Proposed Revisions to In-City Buyer Side Mitigation Measures* ("November Order")<sup>1</sup> the New York Independent System Operator, Inc. ("NYISO") respectfully submits this filing to revise Attachment H to the NYISO's Market Administration and Control Area Services Tariff ("Services Tariff"). This compliance filing addresses the Commission's remaining<sup>2</sup> directives regarding the NYISO's September 27, 2010 filing<sup>3</sup> proposing revisions to the NYISO's "Buyer Side Mitigation" provisions for the Installed Capacity ("ICAP") market in New York City ("In-City") ("September Filing"). As directed, the NYISO proposes to revise the Offer Floor duration methodologies and make a minor modification to the Offer Floor exemption process, and, thus in accordance with the Commission's November Order, the revisions would be effective November 27, 2010, which also is consistent with the effective date of the other tariff provisions that were accepted in the November Order.

Finally, the NYISO respectfully requests that the Commission issue an order accepting the compliance tariff revisions included in this filing, and the Initial Compliance Filing,<sup>4</sup> no

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<sup>1</sup> *New York Independent System Operator, Inc.*, 133 FERC ¶ 61,178 (2010) ("November Order").

<sup>2</sup> As discussed further in Section II, the NYISO submitted an initial compliance filing to address one issue on December 7, 2010. *See New York Independent System Operator, Inc.*, Initial Compliance Filing, Docket No. ER10-3043-001 (filed December 7, 2010).

<sup>3</sup> *New York Independent System Operator, Inc.*, Proposed Enhancements to In-City Buyer Side Capacity Mitigation Measures, Docket No. ER10-3043-000 (filed September 27, 2010) ("September Filing").

<sup>4</sup> See Section II and n. 14.



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later than April 1, 2011. Commission action by that date will provide greater certainty to both the NYISO and to its Market Participants and will facilitate the NYISO's orderly implementation of its Buyer Side Mitigation Measures in advance of the 2011 Summer Capability Period.

## **I. LIST OF DOCUMENTS SUBMITTED**

The NYISO submits the following documents:

1. This filing letter;
2. A clean version of the modifications to Attachment H to the Services Tariff (Attachment I); and
3. A blacklined version of the modifications to Attachment H to the Services Tariff (Attachment II).

## **II. BACKGROUND**

The NYISO's September Filing proposed enhancements to Attachment H's provisions governing In-City Buyer Side Mitigation. The September Filing proposed changes to the Offer Floor<sup>5</sup> duration calculation methodology as follows: (1) modify the existing "period of years" formula to use a forecast of future load growth rather than the prior three years of actual load growth;<sup>6</sup> (2) add a second methodology which would eliminate the Offer Floor when an Installed Capacity Supplier's total number of MW that cleared in the In-City ICAP Spot Market Auction exceeds its nominal Unforced Capacity ("UCAP"), during months when at least fifty percent of its Capacity cleared;<sup>7</sup> and (3) add a thirty Capability Period maximum Offer Floor duration.<sup>8</sup> The NYISO also proposed several improvements to the Offer Floor exemption process.<sup>9</sup>

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<sup>5</sup> Terms with initial capitalization not otherwise defined herein shall have the meaning specified in Article 2 of the Services Tariff, in Section 23.2.1 of Attachment H thereto, or in Section 25.1.2 of Attachment S to the NYISO's Open Access Transmission Tariff ("OATT") as applicable.

<sup>6</sup> September Filing at 7.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.* at 6.

<sup>9</sup> The revisions included changes to: (1) clarify which entities may receive Offer Floor exemptions; (2) clarify information submission requirements and the consequences of non-

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On November 26, 2010, the Commission issued an order on the September Filing, directing the following revisions: (1) elimination of the modified Offer Floor duration methodology based on a period of years;<sup>10</sup> (2) elimination of the existing six Capability Period minimum and newly proposed thirty Capability Period maximum Offer Floor durations;<sup>11</sup> (3) modification of the second Offer Floor duration methodology;<sup>12</sup> and (4) addition of a reference to the “ISO Procedures” in section 23.4.7.3.3.

The Commission also directed the NYISO to better justify or delete the proposed tariff provision that assumes, for purposes of the mitigation exemption determination, a start date of three years after a project’s Class Year.<sup>13</sup> The NYISO submitted an Initial Compliance Filing to address this issue on December 7, 2010 in Docket No. ER10-3043.<sup>14</sup> The November Order accepted the proposed tariff provisions, as modified by the Commission, effective November 27, 2010.<sup>15</sup>

### **III. DESCRIPTION OF PROPOSED TARIFF REVISIONS**

#### **A. Modifications to the Offer Floor Duration Methodologies**

The November Order accepted in part and rejected in part the NYISO’s proposed revisions to the Offer Floor duration methodologies, directing the NYISO to delete the modified Offer Floor duration methodology that was based on the existing period of years formula<sup>16</sup> and the minimum and maximum Offer Floor duration periods.<sup>17</sup> With respect to the Offer Floor duration methodology based on an Installed Capacity Supplier’s cleared

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compliance; (3) clarify and update the timetable for conduction exemption analyses and disclosing results; and (4) improve the Offer Floor exemption analysis.

<sup>10</sup> November Order at PP 47, 48, 52.

<sup>11</sup> *Id.* at PP 47, 51, 52.

<sup>12</sup> *Id.* at PP 47, 49, 52.

<sup>13</sup> *Id.* at P 73.

<sup>14</sup> That filing is currently pending. *See New York Independent System Operator, Inc.*, Initial Compliance Filing, Docket No. ER10-3043-001 (filed December 7, 2010).

<sup>15</sup> November Order at P 1.

<sup>16</sup> *Id.* at P 48.

<sup>17</sup> *Id.* at P 51.

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UCAP, the Commission found it reasonable, because it based the duration of the Offer Floor “on actual acceptance of the resource’s capacity in the market at the offer floor,” but directed the NYISO to delete the “Fifty Percent Rule.”<sup>18</sup> The Commission further directed the NYISO to modify the methodology to provide that “the offer floor mitigation will be lifted only for the minimum percentage portion of a supplier’s resource capacity that has cleared in 12, notnecessarily-consecutive, monthly auctions.”<sup>19</sup>

In compliance with the November Order, the NYISO has modified Section 23.4.5.7 to delete the modified period of years formula, delete the Offer Floor minimum and maximum duration, and revise the accepted Offer Floor exemption methodology as follows:

Unless exempt as specified below, offers to supply Unforced Capacity in an ICAP Spot Market Auction from an In-City Installed Capacity Supplier: (i) shall equal or exceed the applicable Offer Floor; and (ii) can only be offered in the ICAP Spot Market Auctions. The Offer Floors shall apply to offers for Unforced Capacity from the Installed Capacity Supplier, if it is not a Special Case Resource, for a minimum of each of the six Capability Periods starting with the Capability Period for which the Installed Capacity Supplier first offers to supply UCAP; (“Initial Capability Period”), or the lesser of the number of Capability Periods if a positive number greater than six (6) that is determined in the following three ways: (a) the number determined by (1) the initial DMNC value of the Installed Capacity Supplier plus the amount of Surplus Capacity at the time the Installed Capacity Supplier first offers to supply UCAP, divided by (2) the forecast average annual growth in MW for the New York City Locality over the six Capability Periods beginning with the Initial Capability Period with such forecast growth as identified in the Load and Capacity Data (Gold Book), (b) thirty (30) Capability Periods (including the Initial Capability Period), and (c) the final Capability Period determined as the Capability Period in which the Total Cleared UCAP is greater than the Total Nominal UCAP, with Total Nominal UCAP determined using the utilized in the Interconnection Facilities Study, or if an Interconnection Facilities Study is not required, the MW value the proposed Generator identified to the Transmission Owner to which it proposed to interconnect, multiplied by one minus the NERC class average Equivalent Demand Forced Outage Rate, to

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<sup>18</sup> *Id.* at P 49.

<sup>19</sup> *Id.*

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determine the initial nominal UCAP value for the Generator (“Nominal UCAP”), and then computing the product of twelve (12) and the Nominal UCAP, and Total Cleared UCAP equal to the cumulative amount of the Installed Capacity Supplier’s Cleared UCAP, with Cleared UCAP equal to the Installed Capacity Supplier’s offers of UCAP that are accepted in a New York City ICAP Spot Market Auction (in whole MW, rounded down) provided, however, that portion of a resource’s UCAP (rounded down to the nearest tenth of a MW) that has cleared for any twelve, not-necessarily-consecutive, months shall cease to be subject to the Offer Floor requirement., provided that each such amount is equal to or greater than fifty percent (50%) of the initial DMNC value of the Installed Capacity Supplier. If the foregoing calculation extends mitigation to part of a Capability Period, the entire Capability Period shall be subject to an Offer Floor. The initial DMNC value of the Installed Capacity Supplier shall be determined as specified in the ISO tariffs and ISO Procedures.

In compliance with the Commission’s directive, the NYISO’s modifications revise the Offer Floor duration methodology to provide that only the Installed Capacity that clears in twelve, not-necessarily-consecutive, months will cease to be subject to the Offer Floor. Because the Commission directed the NYISO to delete the modified period of years formula and the proposed Fifty Percent Rule, the NYISO has also deleted the tariff language regarding the determination of the initial DMNC values, which is no longer needed.

## **B. Modification to the Offer Floor Exemption Process Revisions**

The Commission accepted most of the NYISO’s proposed modifications to the Offer Floor Exemption process, but directed a minor modification to the NYISO’s data submission provisions. The Commission accepted Section 23.4.5.7.3.3, but directed the NYISO to include a reference to the “ISO Procedures” similar to the reference found in Section 23.4.5.7.5, regarding data response requirements for Special Case Resources. The NYISO, therefore, proposes to modify Section 23.4.5.7.3.3 as follows:

All developers, Interconnection Customers, and Installed Capacity Suppliers for any Examined Facility that does not request CRIS shall provide data and information requested by the ISO by the date specified by the ISO, in accordance with the ISO Procedures.

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**IV. PROPOSED EFFECTIVE DATE AND REQUEST FOR COMMISSION ACTION BY APRIL 1, 2011**

The November Order states that the “Commission accepts in part and rejects in part the proposed tariff provisions, effective November 27, 2010, subject to the conditions of this order.”<sup>20</sup> Accordingly, the NYISO requests that the Commission accept these revisions as satisfying the conditions of the November Order, with an effective date of November 27, 2010.

The NYISO also requests that the Commission issue an order by April 1, 2011 accepting the proposed tariff revisions. This will provide greater certainty to both the NYISO and its Market Participants and facilitate the NYISO’s orderly implementation of its Buyer Side Mitigation Measures in advance of the 2011 Summer Capability Period.

**V. SERVICE**

This filing will be posted on the NYISO’s website at [www.nyiso.com](http://www.nyiso.com). In addition, the NYISO will e-mail an electronic link to this filing to the official representative of each party to this proceeding, to 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.

**VI. CONCLUSION**

Wherefore, for the foregoing reasons, the New York Independent System Operator, Inc. respectfully requests that the Commission accept this compliance filing effective November 27, 2010.

Respectfully submitted,

/s/Ted J. Murphy

Ted J. Murphy

Counsel to

the New York Independent System Operator, Inc.

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<sup>20</sup> November Order at P 1.

**CERTIFICATE OF SERVICE**

I hereby certify that I have on this day served the foregoing document on the official service lists compiled by the Secretary in these proceedings. I have also electronically served the foregoing on all market participants, on each participant in its stakeholder committees, on the New York State Public Service Commission, and on the electric utility regulatory agency of New Jersey.

Dated at Albany, NY, this 25<sup>th</sup> day of January 2011.

/s/ Joy A. Zimmerlin

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