

**THIS FILING LETTER DOES NOT CONTAIN ANY PRIVILEGED OR CONFIDENTIAL INFORMATION. REPORT SECTIONS II AND III DO NOT CONTAIN ANY PRIVILEGED OR CONFIDENTIAL INFORMATION. THE BODY OF REPORT SECTION I, AND ATTACHMENT I, and ATTACHMENTS IV - VI DO NOT CONTAIN ANY PRIVILEGED OR CONFIDENTIAL INFORMATION. ATTACHMENT II AND III CONTAIN PRIVILEGED AND CONFIDENTIAL INFORMATION, AND ARE CLEARLY MARKED.**

December 20, 2013

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, D.C. 20426

Re: Annual Report in Docket Nos. ER01-3001-000, ER03-647-000 and  
Request for Privileged Treatment of Attachments II and III

Dear Ms. Bose:

Enclosed for filing in the above-referenced dockets is the New York Independent System Operator's ("NYISO's") Annual Installed Capacity Report on the NYISO's Capacity Market, Possible Withholding, New Generation Projects, and Net Revenue Analysis (the "Report").<sup>1</sup> By Order dated February 3, 2010, the Commission directed the NYISO to file this report for informational purposes only.<sup>2</sup>

### **I. List of Documents Submitted**

The NYISO submits with this letter, and the below request for confidential treatment, a public version of the Report, with Attachment II and III redacted. Separately, the NYISO is submitting as confidential Attachments II and III.

As with prior annual Installed Capacity Reports, the Report is comprised of the following separate sections: Section I: Capacity Market Report and Withholding Analysis, Section II: Report on New Generation Projects, and Section III: New Generation Projects and Net Revenue Analysis.

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<sup>1</sup> *New York Independent System Operator, Inc.*, 117 FERC ¶ 61,086 (2006); *New York Independent System Operator, Inc.*, 103 FERC ¶ 61,201 (2003), 108 FERC ¶ 61,280 (2004), 121 FERC ¶ 61,090 (2007), 123 FERC ¶ 61,206 (2008). In Docket ER03-647, the NYISO files an annual report regarding its Demand Side Management programs on January 15, and a semi-annual report on its Demand Side Management programs and new generation projects on June 15 each year.

<sup>2</sup> *New York Independent System Operator, Inc.*, Order, Docket Nos. ER01-3001 and ER03-647 (Feb. 3, 2010).

## **II. Request for Confidential Treatment of Attachments II and III**

In accordance with Sections 388.107 and 388.112 of the Commission's Regulations,<sup>3</sup> Article 6 of the NYISO's Market Administration and Control Area Services Tariff, Sections 1.0(4) and 4.0 of the NYISO's Code of Conduct, the NYISO requests Privileged and Confidential treatment of the contents of Attachments II and III (the "Confidential Attachments"). The NYISO also requests that the Confidential Attachments be exempted from public disclosure under the Freedom of Information Act ("FOIA"), 5 U.S.C. §522.<sup>4</sup>

The Confidential Attachments contains privileged and commercially sensitive, and trade secret information that is not made public by the NYISO and that could cause competitive harm to the affected Market Participants,<sup>5</sup> and could adversely affect competition in the markets administered by the NYISO, if publicly disclosed. This information includes the identity of Installed Capacity Suppliers and their respective offering behavior, and the basis therefor. This confidential, commercially sensitive information, is exempt from disclosure under 5 U.S.C. §522(b)(4). For this reason, the NYISO requests that the contents of Confidential Attachments received Privileged and Confidential treatment and be exempt from FOIA disclosure.

A redacted, public version of the contents of Attachment II is included in the Report as Attachment I.

The NYISO requests waiver of any obligation it may have under the Commission's regulations or the Secretary's rules to submit a redacted version of Attachment III. The NYISO incorporated into the body of Report Section I a masked or aggregated version of the information that is contained in Attachment III and thereby makes publicly available the information contained in Attachment III that is not confidential and commercially sensitive. In that regard, the NYISO has provided a redacted version of the information contained in Attachment III within the body of the report.

Attachments II and III are identified and marked in accordance with the Commission's regulations and rules published by the Secretary's Office for submitting Privileged information.

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<sup>3</sup> 18 C.F.R. §§ 388.107, 388.112 (2012).

<sup>4</sup> The information provided by the NYISO for which the NYISO claims an exemption from FOIA disclosure is labeled "Contains Privileged Information - Do Not Release."

<sup>5</sup> Terms with initial capitalization not defined herein have the meaning set forth in the NYISO's Market Administration and Control Area Services Tariff.

### III. Correspondence

Copies of correspondence concerning this filing should be addressed to:

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Respectfully submitted,

/s/ Gloria Kavanah

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cc:

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Michael McLaughlin  
David Morenoff  
Daniel Nowak

## **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 20<sup>th</sup> day of December, 2013.

/s/ Joy A. Zimmerlin

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