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VIA ELECTRONIC FILING

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

**Re: *New York Independent System Operator, Inc.*, Docket No. ER11-3949-____
Filing to Comply with March 15, 2012 Order—Verification of Market Participant
Risk Management Policies and Procedures**

On December 14, 2011, the New York Independent System Operator, Inc. (“NYISO”) submitted a filing to comply with the Federal Energy Regulatory Commission’s (“Commission”) directives in its September 15, 2011 order in the above-captioned proceeding (“September 15 Order”).¹ On March 15, 2012, the Commission issued an order rejecting the NYISO’s December 14 filing and the NYISO’s proposed risk management verification compliance process (“March 15 Order”).² In the March 15 Order, the Commission directed the NYISO to submit a filing proposing a new compliance process within 60 days.

This filing proposes compliance revisions to the NYISO’s Market Administration and Control Area Services Tariff (“Services Tariff”) to satisfy the Commission’s directives in the March 15 and September 15 Orders.³ The NYISO discussed the March 15 Order and the NYISO’s proposal for compliance with its Market Participants. The tariff revisions proposed in this filing also include changes made in response to Market Participant feedback.

¹ *New York Independent System Operator, Inc.*, 136 FERC ¶ 61,193 (2011).

² *New York Independent System Operator, Inc.*, 138 FERC ¶ 61,186 (2012).

³ Capitalized terms used but not defined in this filing shall have the meanings given to them in the Services Tariff.

I. LIST OF DOCUMENTS SUBMITTED

The NYISO respectfully submits the following documents:

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

II. COMMUNICATIONS AND CORRESPONDENCE

Copies of correspondence concerning this filing should be served on:

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III. BACKGROUND

On October 21, 2010, the Commission issued Order No. 741 to amend its regulations to adopt reforms to credit policies used in organized wholesale electric markets to improve the management of risk.⁵ In Order No. 741, the Commission directed each ISO/RTO, in relevant

⁴ The NYISO respectfully requests waiver of 18 C.F.R. § 385.203(b)(3) (2011) to permit service on counsel for the NYISO in both Washington, D.C. and Richmond, VA.

⁵ *Credit Reforms in Organized Wholesale Electric Markets*, Order No. 741, FERC Stats. & Regs. ¶ 31,317 (2010), *order on reh'g*, Order No. 741-A, FERC Stats. & Regs. ¶ 31,320 (2011), *reh'g denied*, Order No. 741-B, 135 FERC ¶ 61,242 (2011).

part, to propose tariff revisions to establish minimum participation criteria, such as requirements related to adequate capitalization and risk management controls.⁶

On June 30, 2011, the NYISO submitted its tariff revisions to comply with Order No. 741, including revisions to establish minimum participation criteria and to require each Market Participant to certify annually its compliance with these criteria. In the September 15 Order, the Commission conditionally accepted the NYISO's proposed tariff revisions, but also directed the NYISO to make a compliance filing to establish, as part of the NYISO's minimum participation criteria, a periodic process for verification of Market Participant risk management policies and procedures.⁷ The Commission did not mandate a particular form of periodic verification in the September 15 Order. Rather, the Commission stated that "periodic verification could include periodic review of risk management policies, practices, and procedures, and their implementation, conducted on a random basis or directed to certain market participants based on identified risk."⁸

On December 14, 2011, the NYISO submitted a filing proposing a risk management verification compliance process to comply with the September 15 Order. In the March 15 Order, the Commission rejected the NYISO's proposed verification compliance process.

IV. DESCRIPTION OF PROPOSED COMPLIANCE TARIFF REVISIONS

A. Risk Management Verification

In the March 15 Order, the Commission determined that the group of Market Participants selected by the NYISO for verification was inadequate and the NYISO's proposed process was not periodic.⁹ The Commission concluded that the NYISO's proposed exclusion from the NYISO's verification process of Market Participants that had both three years of experience in the TCC market and adequate capitalization was inconsistent with the September 15 Order.¹⁰ To address the Commission's concerns, the NYISO has revised its proposed risk management verification process to eliminate this exclusion,¹¹ require annual verification of Market Participants in the TCC market subject to verification, and broaden the range of Market Participants potentially subject to review to include Market Participants selected on a random basis.

⁶ *Id.* at P 132.

⁷ September 15 Order at P 47.

⁸ *Id.*

⁹ March 15 Order at P 17.

¹⁰ *Id.*

¹¹ Newly proposed Section 26.1.3 supersedes the tariff revisions proposed in the NYISO's December 14, 2011 compliance filing, including previously proposed Section 26.1.3.1(b).

In this filing, the NYISO is proposing to add a new Section 26.1.3 to Attachment K of the Services Tariff to establish its rules for periodic verification of Market Participant risk management policies and procedures. The newly proposed Section 26.1.3.1(a) would require each applicant for the TCC market to submit its risk management policies and procedures to the NYISO for verification prior to commencing any activity in the TCC market. Newly proposed Section 26.1.3.1(b) would require each Market Participant in the TCC market to maintain on file with the NYISO a copy of its risk management policies and procedures. Newly proposed Section 26.1.3.1(c) would categorically subject to verification each Market Participant in the TCC market with a concentration of negative or low positive TCCs in any month in the immediately preceding 36 months because these TCC concentrations pose the greatest risk of payment default. Holders of negative TCCs must make congestion payments to the NYISO. Low positive TCCs run a disproportionately high risk of becoming negative TCCs. The requirements of new Sections 26.1.3.1(b) and (c) would not apply, however, to Market Participants in the TCC market that solely own Grandfathered Rights, Grandfathered TCCs, and/or Fixed Price TCCs, which products are used to hedge congestion costs.

In addition, the NYISO is proposing to add a new Section 26.1.3.1(d) to the Services Tariff to allow the NYISO to annually select for verification 10-20% of Market Participants that are not already subject to verification pursuant to Section 26.1.3.1(c). Market Participants randomly selected for risk management verification and satisfactorily verified shall be excluded from such verification based on a random selection for the subsequent two years.

These proposed rules supplement the NYISO's existing ability to require any Market Participant, at any time, to submit its risk management policies and description of internal controls to the NYISO for review. Section 26.1.4 of Attachment K requires Market Participants to submit to the NYISO, upon request, "any information or documentation reasonably required for the ISO to monitor and evaluate Customer's creditworthiness and compliance with requirements set forth in the ISO Tariffs, ISO Procedures, and/or ISO Agreements related to settlements, billing, credit requirements, and other financial matters." Pursuant to this provision, the NYISO may request a Market Participant to submit its risk management policies and procedures whenever the request appears, in the NYISO's discretion, to be warranted regardless of whether the Market Participant is subject to verification under the risk management provisions proposed in this filing.

The NYISO is also proposing to add a new Section 26.1.3.2 to the Services Tariff to set forth eight criteria that the NYISO would assess when reviewing a Market Participant's risk management policies and procedures. These eight criteria were developed in conjunction with the other ISOs/RTOs,¹² and have been reviewed with the NYISO's stakeholders. No objections

¹² The Commission accepted similar criteria in accepting the periodic verification compliance proposals of other ISOs/RTOs. See *PJM Interconnection, L.L.C.*, 138 FERC ¶ 61,183; *Midwest Independent Transmission System Operator, Inc.*, 138 FERC ¶ 61,184; *ISO New England Inc. and New England Power Pool*, 138 FERC ¶ 61,185; and *Southwest Power Pool, Inc.*, 138 FERC ¶ 61,187.

were raised by stakeholders during this review process. For each Market Participant subject to risk management verification, continued eligibility to participate in the ISO-Administered Markets would be conditioned upon the NYISO notifying the Market Participant of successful completion of the NYISO's verification.

New Section 26.1.3.2 of the Services Tariff would also allow the NYISO to retain a third party to perform the review and verification function.

B. Ministerial Tariff Revisions

The NYISO is proposing to make ministerial revisions to Section 26.1.1(d)(i) of the Services Tariff to clarify that the capitalization requirements are minimum requirements and also clarify that Market Participants must provide a copy of their annual audited financial statements as evidence of their capitalization.

V. EFFECTIVE DATE

The NYISO respectfully requests that this filing become effective on June 30, 2012, which is the same effective date previously proposed by the NYISO and communicated to Market Participants.

VI. SERVICE

This filing will be posted on the NYISO's website at 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.

VII. CONCLUSION

Wherefore, for the foregoing reasons, the New York Independent System Operator, Inc. respectfully requests that the Commission accept the compliance tariff revisions proposed herein, without any modification, and make them effective on the date requested.

Respectfully submitted,

/s/Ted J. Murphy
Ted J. Murphy
Counsel to
the New York Independent System Operator, Inc.

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 5th day of April, 2012.

/s/ Joy A. Zimmerlin

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