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February 14, 2012

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

*Re: Demand Response Compensation in Organized Wholesale Energy Markets  
Docket No. ER11-4338*

Dear Secretary Bose:

The Commission issued Order No. 745 on March 15, 2011, directing ISOs and RTOs to implement a net benefit test and pay demand resources the locational marginal price for load reductions that are determined to provide a net benefit to load.<sup>1</sup> The NYISO, which presently pays LBMP to its Day-Ahead Demand Response Resources scheduled in the day-ahead market when the day-ahead market price equals or exceeds an offer floor of \$75, submitted its compliance filing on August 19, 2011 ("August 19 Filing"). In the August 19 Filing, the NYISO proposed several tariff revisions affecting its Day-Ahead Demand Response Program, including provisions establishing the monthly net benefit test as well as payment, cost allocation, and measurement and verification provisions, as required by Order No. 745. The NYISO proposed to make these changes effective on March 31, 2012, a date that the NYISO anticipated would allow time for Commission action on the August 19 Filing and for the NYISO to develop and test the software modifications needed to implement the compliance proposals. At this time, the Commission has not acted on the August 19 Filing.

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<sup>1</sup> See *Demand Response Compensation in Organized Wholesale Energy Markets*, Order No. 745, 134 FERC ¶ 61, 187 (Mar. 15, 2011), *reh'g denied*, 137 FERC ¶ 61, 215 (Dec. 15, 2011).

The NYISO has determined that in order to implement the proposals contained in the August 19 Filing by the initially-proposed March 31, 2012 effective date, the NYISO would need the Commission to accept the August 19 Filing by February 16, 2012. An order by February 16, 2012 accepting the August 19 Filing would allow the NYISO to complete work on the software development and deployment, that has to date progressed on schedule and in concert with the NYISO's other software deployment commitments.

However, without an order accepting the revised tariff language by February 16, the NYISO will need to discontinue the software development and deployment related to this filing in order to allow the other deployments to proceed on schedule. Driving this conclusion is the fact that the work on the software is combined with other software projects on an integrated development and deployment schedule. That schedule requires the Order 745 project to begin testing by mid-February. If this does not occur, it is not certain what subsequent effective date the NYISO would be able to support. This, of course, will be impacted by the timing and nature of the Commission's order on the August 19 Filing. The NYISO further notes that its software development staff are working on several additional projects on a schedule that extends through the current year and into the next.

In the event that the Commission does not act by February 16, 2012, the NYISO anticipates seeking an amendment to the August 19 Filing for the limited purpose of deferring the March 31, 2012 effective date. Given the uncertainties discussed above, the NYISO intends to wait for the Commission's order on the August 19 Filing to propose an alternative effective date. This will allow the NYISO to assess the availability of software development resources and the deployment schedule at the time the order is issued.

Respectfully submitted,

/s/ Elizabeth A. Grisaru

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New York Independent System Operator, Inc.