

September 12, 2013

By Electronic Delivery

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

**Re: *New York Independent System Operator, Inc.*, Proposed Tariff Correction
Related to Docket No. ER13-1683-000, Request for Expedited Action and
Shortened Notice and Comment Period, and Motion for Limited Tariff
Waivers**

Dear Secretary Bose:

Pursuant to Section 205 of the Federal Power Act,¹ the New York Independent System Operator, Inc. (“NYISO”) hereby submits a proposed revision to Section 8.1.3(c) of its Market Administration and Control Area Services Tariff (“Services Tariff”) to correct a ministerial error. As further explained below, Section 8.1.3(c) is a new Services Tariff provision that facilitates the NYISO’s compliance with the Commodity Futures Trading Commission’s (“CFTC”) Final Order to Exempt Certain Specified Transactions of Regional Transmission Organizations and Independent System Operators (“Final Order”).² Section 8.1.3(c) becomes effective on September 15, 2013.³

The NYISO respectfully requests that the Commission act expeditiously on this filing and issue an order by September 23, 2013, accepting the proposed tariff revisions, effective September 15, 2013. The NYISO believes a September 15, 2013 effective date is appropriate given the non-substantive nature of the proposed change. An order by September 23, 2013 will allow NYISO sufficient time to ensure Market Participants comply with the new eligibility

¹ 16 U.S.C. § 824d (2013).

² See Final Order in Response to a Petition From Certain Independent System Operators and Regional Transmission Organizations to Exempt Specified Transactions Authorized by a Tariff or Protocol Approved by the Federal Energy Regulatory Commission or the Public Utility Commission of Texas From Certain Provisions of the Commodity Exchange Act Pursuant to the Authority Provided in the Act, 78 Fed. Reg. 19,879 (April 2, 2013).

³ See *New York Independent System Operator, Inc.*, 144 FERC ¶61,120 (2013) (“August Order”).

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criteria accepted by the Commission in the August Order prior to the expiration of the NYISO's no-action relief from the CFTC on September 30, 2013.

The NYISO is also requesting limited waivers related to the certifications Market Participants must submit as evidence of compliance with the new eligibility criteria to allow Market Participants additional time to submit the certifications and permit NYISO to accept certifications that include the ministerial error the NYISO is proposing to correct with this filing.

I. LIST OF DOCUMENTS SUBMITTED

1. This filing letter;
2. A clean version of Section 8.1.3(c) of the Services Tariff ("Attachment I"); and
3. A redlined version of Section 8.1.3(c) of the Services Tariff ("Attachment II").

II. COPIES OF CORRESPONDENCE

Copies of correspondence concerning this filing should be served on:

Robert E. Fernandez, General Counsel
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III. SERVICE

The NYISO will send an electronic link to this filing to the official representative of 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. In addition, the complete filing will be posted on the NYISO's website at www.nyiso.com.

IV. BACKGROUND

In the August Order, the Commission accepted tariff revisions that included a new eligibility requirement in Section 8.1.3 of the Services Tariff that all customers be:

- (a) an “appropriate person,” as defined in sections 4(c)(3)(A) through (J) of the Commodity Exchange Act; or
- (b) an “eligible contract participant,” as defined in section 1a(18)(A) of the Commodity Exchange Act and in 17 CFR 1.3(m); or
- (c) a “person who actively participates in the generation, transmission, or distribution of electric energy,” as defined in paragraph 5(g) of the Final Order of the Commodity Futures Trading Commission at 77 FR 30596.

In addition, each customer must demonstrate compliance with this requirement by submitting to the NYISO on or before September 15, 2013 an officer’s certificate that certifies under penalty of perjury that the customer is, and will remain, in compliance with this requirement.

V. DESCRIPTION OF PROPOSED TARIFF REVISION

It has come to the NYISO’s attention that Section 8.1.3(c) of the Service Tariff includes an incorrect cite in to the CFTC’s “Final Order in Response to a Petition From Certain Independent System Operators and Regional Transmission Organizations to Exempt Specified Transactions Authorized by a Tariff or Protocol Approved by the Federal Energy Regulatory Commission or the Public Utility Commission of Texas From Certain Provisions of the Commodity Exchange Act Pursuant to the Authority Provided in Section 4(c)(6) of the Act” (“Final Order”). Specifically, the tariff provision erroneously references “77 FR 30596” when in fact, the correct cite for the Final Order is “78 FR 19879.” In this filing, the NYISO is resubmitting Section 8.1.3(c) of the Services Tariff to correct this ministerial error and include an accurate cite to the Final Order.

VI. MOTION FOR LIMITED WAIVERS

Pursuant to Rule 212 of the Commission’s Rules of Practice and Procedure,⁴ the NYISO respectfully requests a limited waiver to the extent necessary to allow the NYISO to accept officer certificates received from Market Participants pursuant to Section 8.1.3 of the Services Tariff that include a cite to “77 FR 30596” and deem those certificates as compliant with the certification requirement set forth in Section 8.1.3, as revised by this filing.

⁴ 18 C.F.R. §385.212 (2013).

The NYISO also requests a limited waiver to the extent necessary to allow the NYISO to accept officer certificates required by Section 8.1.3 on or before September 23, 2013 - after the September 15, 2013 tariff-prescribed deadline. This waiver will provide Market Participants with additional time to submit (or resubmit if they choose) certificates with the corrected cite reference, and provide the NYISO with additional time to consider those certificates.

The Commission evaluates a number of issues in determining whether to authorize a tariff waiver. These factors are whether: (1) the waiver is of limited scope; (2) a concrete issue needs to be remedied; (3) the waiver will not have undesirable consequences, such as harming third parties; and (4) the entity seeking the waiver is acting in good faith.⁵ The NYISO is acting in good faith in requesting the limited tariff waivers described above. In addition, the requested waivers are limited in scope, remedy a concrete issue and will not harm any third parties or have other undesirable consequences.

VII. REQUEST FOR EXPEDITED COMMISSION ACTION AND SHORTENED NOTICE AND COMMENT PERIOD

The NYISO respectfully requests that the Commission waive the standard sixty day notice period, establish a shortened five (5)-day comment period, and issue an order as expeditiously as possible, but not later than September 23, 2013, accepting the proposed tariff revisions, effective September 15, 2013 and granting the limited waivers requested herein.⁶ The NYISO believes a September 15, 2013 effective date is appropriate given the non-substantive nature of the proposed change. In addition, an order by September 23, 2013 will allow the NYISO sufficient time to ensure Market Participants comply with the new eligibility criteria accepted by the Commission in the August Order prior to the expiration of the NYISO's no-action relief from the CFTC on September 30, 2013.

VIII. REQUISITE STAKEHOLDER APPROVAL

The Business Issues Committee unanimously approved the revisions to the Services Tariff accepted by the Commission in the August Order on May 9, 2013. The Management Committee approved those revisions on May 29, 2013 by a show of hands with one abstention, and the Board of Directors approved them on June 11, 2013. This stakeholder approval also applies to the correction of the ministerial error proposed in this filing because it does not change

⁵ See, e.g., PJM Interconnection, L.L.C., 135 FERC ¶ 61,069 at P 8 (2011); ISO New England Inc., 134 FERC ¶ 61,182 at P 8 (2011); California Independent System Operator, Inc., 132 FERC ¶ 61,004 at P 10 (2010); Hudson Transmission Partners, LLC, 131 FERC ¶ 61,157 at P 10 (2010); Pittsfield Generating Co., L.P., 130 FERC ¶ 61,182 at P 9-10 (2010); ISO New England Inc. - EnerNOC, 122 FERC ¶ 61,297 (2008); Central Vermont Public Service Corp., 121 FERC ¶ 61,225 (2007); Waterbury Generation LLC, 120 FERC ¶ 61,007 (2007); Acushnet Co., 122 FERC ¶ 61,045 (2008).

⁶ See 18 C.F.R. §35.11 (2013).

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in any manner the substance of the tariff revisions approved as the Business Issues Committee, the Management Committee, and the Board that were accepted by the Commission in the August Order.

IX. CONCLUSION

WHEREFORE, for the foregoing reasons the NYISO respectfully requests that the Commission accept this filing and grant the limited waivers requested herein on or before September 23, 2013.

Respectfully submitted,

/s/ Sara B. Keegan
Sara B. Keegan
Senior Attorney

cc: Michael Bardee
Gregory Berson
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