

**UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

**New York Independent System Operator, Inc.            )**

**Docket No. EL15-37-000**

**MOTION FOR EXTENSION OF COMPLIANCE FILING DEADLINE AND FOR  
EXPEDITED ACTION OF THE  
NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.**

In accordance with Rules 212 and 2008 of the Commission’s Rules of Practice and Procedure,<sup>1</sup> the New York Independent System Operator, Inc. (“NYISO”), respectfully requests that the Commission grant a 120 day extension of the compliance filing deadline in this proceeding. The filing is currently due on June 19, 2015 and would be filed no later than October 19, 2015<sup>2</sup> if the requested extension is granted.

The Commission’s February 19, 2015 order (“February Order”)<sup>3</sup> directed the NYISO to make a compliance filing to establish “reliability must run” (“RMR”) tariff provisions and a *pro forma* RMR agreement. As discussed below, the NYISO has worked diligently on a compliance proposal since the issuance of the February Order but needs more time to complete its work.

There is “good cause” for granting the requested extension. As discussed below, it is a major undertaking to create comprehensive RMR rules that are well-suited to, and effectively integrated with, the NYISO’s existing market design and planning processes. The NYISO has drafted and presented to its stakeholders the framework of an RMR compliance proposal but it will not be practicable to hone the framework and finalize tariff and *pro forma* RMR agreement

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<sup>1</sup> 18 C.F.R. §§ 385.212 and 2008 (2015).

<sup>2</sup> The 120<sup>th</sup> day after June 19 is October 17. Because October 17 falls on a Saturday granting a 120 day extension would make the compliance filing due on October 19 pursuant to 18 C.F.R. 385.2007 (2015).

<sup>3</sup> *New York Indep. Sys. Operator, Inc.*, 150 FERC ¶ 61,116 (2015).

language by June 19. Granting the requested extension will provide the time NYISO needs to develop a “fully supported” compliance filing that has been reviewed by stakeholders and the independent Market Monitoring Unit to the NYISO (“MMU”), and to incorporate their input as appropriate. As a practical matter, the extension should not have an adverse impact on the NYISO-administered markets or the reliability of the transmission system, as the NYISO knows of no pending deactivations before the requested extension date.

The NYISO respectfully requests that the standard five day period for answering motions for extension of time established under Rule 213(d)(1)(i) apply to this filing. It also asks that the Commission act expeditiously to grant the requested extension no later than June 5 so that it will know with certainty when its compliance filing is due.

## **I. Communications**

Communications and correspondence regarding this filing should be directed to:

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## **II. The Development of the NYISO’s RMR Compliance Proposal to Date**

The February Order directed the NYISO to “submit a compliance filing containing a proposed RMR Rate Schedule and *pro forma* RMR agreement” within 120 days. It identified

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<sup>4</sup> The NYISO respectfully requests waiver of the requirements of Rule 18 C.F.R. § 385.203(b)(3) (2015) to permit service on more than two persons.

various broad issues that the NYISO must address but provided only “general guidance on the elements” of the filing.”<sup>5</sup> The NYISO was “encouraged” to consider the RMR tariff provisions of other Independent System Operators (“ISOs”) and Regional Transmission Organizations (“RTOs”) but was not required to “adopt any particular mechanism.”<sup>6</sup> In short, the NYISO was given broad discretion to develop the details of its compliance proposal but the February Order was clear that all aspects of that proposal must be “fully supported.”<sup>7</sup>

The NYISO commenced work on a compliance proposal promptly after the issuance of the February Order. It formed an internal staff RMR team to review the February Order’s guidance, analyze other ISOs/RTOs’ RMR rules, and consider what rules would be best suited to New York.

The NYISO staff team has developed an RMR compliance framework that addresses each of the major issues identified in the February Order. It includes preliminary proposals concerning: (i) the notice period for Generator<sup>8</sup> deactivations; (ii) the NYISO’s evaluation of alternative possible solutions, including RMR contracts, to deactivations that may result in reliability criteria violations; (iii) RMR compensation under the NYISO’s Market Administration and Control Area Services Tariff (“Services Tariff”); (iv) cost allocation and recovery; (v) the participation of RMR Generators in the NYISO-administered capacity market; (vi) disincentives to Generator “togglings” between fully market-based rates and RMR compensation; and (vii) related improvements to the NYISO’s reliability planning processes. The NYISO staff has done substantial work on each of these items.

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<sup>5</sup> February Order at P 12.

<sup>6</sup> *Id.* at n. 22.

<sup>7</sup> *Id.* at n. 23.

<sup>8</sup> Capitalized terms that are not defined in this Request have the meaning ascribed to them in Article 2 of the NYISO’s Market Services Tariff.

On April 30, the NYISO presented the proposed framework to a joint meeting of three of its stakeholder working groups and sought and received stakeholder input. Additional stakeholder meetings are planned to discuss the framework and, ultimately, to review draft RMR tariff and *pro forma* agreement language. The NYISO has also discussed elements of its proposed framework with the MMU. For the reasons discussed below, it has become apparent that it will not be practicable for the NYISO to complete this effort by June 19. Accordingly, the NYISO is seeking the additional time that it needs to make a well developed and fully supported RMR compliance filing.

### **III. Request for Extension of Compliance Filing Deadline**

Developing comprehensive RMR tariff provisions and a *pro forma* RMR agreement is a major undertaking. Compliance with the February Order will require the NYISO to address many complex issues.

Specifically, the NYISO must propose a new RMR rate and related settlement provisions. It will need rules addressing how Generators with RMR contracts will participate in the ISO Administered Markets. The NYISO must develop deactivation notice procedures, and an accompanying form of notice, to ensure that it has adequate time to perform a reliability assessment and determine if a Generator that proposes to retire or mothball is needed. The NYISO must have rules governing accelerated recovery of capital and maintenance costs that must be incurred to permit a Generator to provide service during the term of an RMR agreement. The rules must also address a Generator's obligation to repay a portion of the accelerated cost recovery if it continues to participate in the NYISO's markets following the conclusion of its RMR contract. In addition, the NYISO must develop effective "anti-toggling" mechanisms.

The compliance filing must also delineate the roles that the NYISO, the New York State Public Service Commission (“NYPSC”), and any affected New York Transmission Owner (“NYTO”) each play in the process of determining reliability needs, identifying viable generation, transmission and demand response solutions, and selecting solutions. Achieving compliance with the February Order will require significant changes to the NYISO’s Reliability Planning Process, focusing primarily on the gap solution process that is set forth in Attachment Y to the NYISO’s Open Access Transmission Tariff (“OATT”). It will also require changes to the NYISO’s capacity market and market power mitigation rules that are set forth in Sections 5.12 and 23.4.5 of the Services Tariff.

All of these issues require time and resources to address. The NYISO’s proposals are sure to have significant implications for individual generators, the NYISO-administered markets as a whole, system planning, and reliability. As with any other major market design change there is a risk of unintended adverse consequences or implementation problems that could be compounded if the development of RMR rules is too hasty. It is much more important to get the RMR rules *right* than it is to implement them *quickly*. It is also important to allow adequate time for stakeholder review of proposed tariff and *pro forma* agreement language. Stakeholder review is likely to both improve the proposed language and help to reduce the scope and intensity of disputed issues that will ultimately come before the Commission. Granting the requested extension will also provide the NYISO an opportunity to seek further input from its MMU while the NYISO develops its RMR rules.

Unlike other ISOs/RTOs which have generally had RMR-mechanisms from, or shortly after, the inception of their markets the NYISO has operated for more than fifteen years without RMR mechanisms in its Tariffs. The NYISO has carefully studied the RMR rules in other

markets, and its proposed compliance framework has been influenced by them. But the NYISO cannot simply adopt other markets' rules for use in New York because there are fundamental market design differences between the NYISO and other organized markets.

Using capacity markets as an example, ISO New England, Inc. ("ISO-NE") and the PJM Interconnection, LLC ("PJM") both have capacity market designs that are organized around three-years ahead, forward auction structures. In markets that have long forward commitment periods, generators that are considering deactivation may signal their intent well in advance by announcing that they may not participate in forward capacity auctions. The NYISO does not have such an extended forward commitment period. The NYISO's analysis of the reliability impacts of a generator deactivation will commence only when it receives notice from a generator that it plans to deactivate. The NYISO will thus need generator deactivation notice rules that differ, at least to some degree, from the rules in ISO-NE and PJM.

The Midcontinent Independent Transmission System Operator, Inc. ("MISO") does not employ a long term forward commitment period but its capacity market design is different from the NYISO's in other material ways. For example, unlike the NYISO, the MISO does not have a "mandatory" centralized capacity auction system<sup>9</sup> or "buyer-side" capacity market mitigation measures.<sup>10</sup> The NYISO's RMR proposal must be designed to coexist with its buyer-side capacity mitigation rules. In short, it is necessary for the NYISO to take time to develop RMR rules that are tailored to reflect the NYISO's unique capacity market design.

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<sup>9</sup> See, e.g., *Midwest Independent Transmission System Operator, Inc.*, 125 FERC ¶ 61,060 at P 39 (2008) (rejecting arguments calling for MISO to adopt "mandatory" capacity auctions or a "mandatory centralized capacity market.")

<sup>10</sup> See *Midwest Independent Transmission System Operator, Inc.*, 139 FERC ¶ 61,199 (2012) (rejecting proposed buyer-side market power mitigation measures in the MISO.) In response to requests for rehearing the Commission subsequently asked parties to file briefs on whether buyer-side mitigation rules should be adopted in MISO but, to date, has not taken further action again on this question.

The NYISO's RMR rules must also complement and be integrated with the planning procedures set forth in Attachment Y of the NYISO's OATT. Introducing RMR rules and procedures will require a number of material modifications to Attachment Y's "gap solution" process. These changes must be carefully developed to avoid disrupting mechanisms that currently work well. The NYISO must also consider potential adjustments to the roles of the NYTOs and the NYPSC in the Reliability Planning Process, and the relationship between Attachment Y and separate NYPSC planning and reliability mechanisms.

The NYISO is not developing its RMR rules in a vacuum. It is also in the process of preparing various other tariff changes that, among other things, implicate RMR-related matters. These include the NYISO's compliance obligation in Docket No. ER14-2518 related to the newly accepted "outage state" provisions, including language addressing the Commission's role in establishing compensation for units returning to service under those provisions.<sup>11</sup>

It also includes the NYISO's analysis of, and report on, the potential need for changes to its buyer-side capacity market mitigation measures required in Docket No. EL13-62, as they apply to repowering agreements.<sup>12</sup> The NYISO's RMR compliance proposal must be compatible with the findings of this analysis and subsequent report. Granting the requested extension will make it practicable for the NYISO to ensure consistency.

There should be no practical disadvantage to granting the extension. There are currently no announced planned generator deactivations in New York. Given market conditions, the NYISO does not believe that other deactivations are likely to be requested before the proposed filing date.

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<sup>11</sup> *New York Indep. Sys. Operator, Inc.*, 151 FERC ¶ 61,075 at PP 34-35 (2015).

<sup>12</sup> *Indep. Power Producers of New York, Inc. v. New York. Indep. Sys. Operator, Inc.*, 150 FERC ¶61,214 at P 71 (2015).

The NYISO has developed preliminary plans and schedules for finalizing and submitting its compliance filing. In evaluating the need and purposed duration of an extension, the NYISO considered the significant number of outstanding compliance filings that are due to be submitted to the Commission in the near term. Some of these compliance filings involve issues that may directly intersect with the February Order while others impact related processes within the NYISO tariffs.<sup>13</sup> The NYISO believes that a 120 day extension will afford it sufficient time to complete its work in good order, consider and incorporate stakeholder input, and make a “fully supported” filing. The NYISO has re-examined its pre-February Order project development priorities and has delayed work on certain important initiatives so that it may make the RMR compliance filing in October.

Rule 2008 authorizes the Commission to extend any deadline, including one imposed by a Commission compliance directive, before it expires if a requesting party demonstrates that there is “good cause” to do so. For the reasons set forth in the preceding paragraphs, the NYISO respectfully submits that there is good cause to grant the 120 day extension of time that it has requested.

Finally, the NYISO requests that the Commission apply the standard five day answer period for motions for extensions of time and act expeditiously to grant the requested extension by June 5, 2015. Commission action by that date will provide certainty regarding the NYISO’s RMR compliance timetable.

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<sup>13</sup> In Docket No. ER13-102, the Commission has directed the NYISO to submit a compliance filing by May 18, 2015, to address its directives regarding certain Order No. 1000 regional transmission planning requirements. In addition, in Docket No. ER13-1942, the Commission has directed the NYISO to submit a compliance filing in sixty days to address its directives regarding certain Order No. 1000 interregional transmission planning requirements. Finally, the NYISO is completing a time-sensitive Section 205 tariff filing to clarify certain aspects of its Public Policy Transmission Planning Process so that it is ready to proceed following the determination of Public Policy Transmission Needs this fall.



#### IV. Conclusion

WHEREFORE, for the foregoing reasons, the NYISO respectfully requests that the Commission grant a 120 day extension to the compliance filing deadline in the above-captioned proceeding so that the NYISO may submit its RMR compliance tariff revisions and *pro forma* agreement no later than October 19, 2015. The NYISO also respectfully requests that the Commission issue an order granting the requested extension by no later than June 5, 2015.

Respectfully submitted,

/s/ Ted J. Murphy

Ted J. Murphy  
Counsel for the New York Independent System  
Operator, Inc.

May 15, 2015

cc: Michael A. Bardee  
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## **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 15th day of May, 2015.

/s/ Mohsana Akter

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