



July 19, 2017

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.*, Docket No. ER17-____-000;
Proposed Tariff Revisions to Eliminate Bond Funds from Cash Collateral
Investment Options and Clarify Language Regarding Treatment of
Defaulting Customer Funds**

Dear Secretary Bose:

In accordance with Section 205 of the Federal Power Act¹ and Part 35 of the regulations of the Federal Energy Regulatory Commission (“Commission”), the New York Independent System Operator, Inc. (“NYISO”) respectfully submits proposed amendments to its Open Access Transmission Tariff (“OATT”) and Market Administration and Control Area Services Tariff (“Services Tariff”) to remove the option for Market Participants to elect to invest their NYISO cash collateral deposits in a choice of two bond funds and to clarify language related to the actions the NYISO must take in relation to a defaulting customer’s funds held by the NYISO.

The NYISO Management Committee unanimously approved, with one abstention, the proposed tariff revisions on May 31, 2017. The NYISO respectfully requests issuance of an order by the Commission accepting all of the tariff revisions proposed in this filing to become effective on the first business day after the end of the standard sixty-day notice period under FPA Section 205, *i.e.*, September 18, 2017.

I. Documents Submitted

1. This filing letter;
2. A clean version of the proposed revisions to the Services Tariff (“Attachment I”);

¹ 16 U.S.C. § 824d.

3. A blacklined version of the proposed revisions to the Services Tariff (“Attachment II”);
4. A clean version of the proposed revisions to the OATT (“Attachment III”); and
5. A blacklined version of the proposed revisions to the OATT (“Attachment IV”).

II. Background

The NYISO’s Services Tariff sets forth the circumstances under which Market Participants must provide the NYISO collateral, in an acceptable form, as security for the prompt payment of a Market Participant’s obligations to the NYISO.² A cash deposit is one of the acceptable forms of collateral.³ Prior to 2005, the NYISO invested cash collateral in a money market fund consisting of federal agency securities with maturities approximating 30 days.⁴ In February 2005, Market Participants requested that the NYISO investigate different investment options that would potentially offer greater returns than they were receiving on their cash collateral in the money market fund.⁵ After researching options, the NYISO identified two bond fund options—one short term and one intermediate term⁶—that offered the potential for increased earnings and fulfilled the following criteria the NYISO set forth for considering investment alternatives: (i) safety of principal, (ii) liquidity of funds, (iii) earnings, and (iv) ease of administration.

While the bond funds offered the potential for increased earnings, the NYISO determined that they were inherently more volatile than money market funds, primarily due to fluctuation in market interest rates.⁷ In recognition of that volatility and in order to preserve the underlying principal, Market Participants agreed that a “premium” of additional collateral should be required in order to invest in a bond fund.⁸ Based on the historic volatility of the bond funds, 5% and 10% premiums were established for the Short-Term and Intermediate-Term Bond Funds, respectively.⁹

² Section 26.6 of the Services Tariff.

³ Section 26.6.1.1 of the Services Tariff.

⁴ Docket No. ER05-1433-000, *New York Independent System Operator, Inc.*, Filing of Tariff Revisions to Implement Certain Collateral Investment Alternatives at 2 (Sept. 2, 2005).

⁵ *Id.*

⁶ *Id.* at n.4.

⁷ *Id.* at 3.

⁸ *Id.*

⁹ *Id.*

In October 2005, the Commission accepted the NYISO's requested revisions to the OATT and Services Tariff to allow Market Participants the choice of investing in the two bond funds, effective November 1, 2005.¹⁰

III. Description of Proposed Tariff Revisions

A. Removing Bond Fund Investment Options

Although the bond fund investment options became available in 2005, no Market Participant chose to invest their cash collateral in a bond fund until 2009. Since then, a total of six Market Participants have utilized the bond funds, and their investments averaged 0.17% of total cash collateral held by the NYISO. Currently, only one Market Participant is invested in the bond funds. No Market Participant raised objections to the NYISO's proposal to remove the bond fund investment options during the stakeholder process. Moreover, the NYISO is not aware of another regional transmission owner or independent system operator tariff that requires bond fund investment options for Market Participant cash collateral.

Maintaining the bond fund option requires additional resources and cost on the part of the NYISO to administer the funds. Given the low Market Participant participation since their inception in 2005, the NYISO believes that the costs of maintaining the bond funds outweigh the benefits. Market Participants will continue to have the option to invest in money market funds,¹¹ which do not require the "premium" that the bond funds require and has been the choice for the vast majority of Market Participants who post cash collateral with the NYISO.

B. Other Tariff Revisions

In addition to removing the bond fund investment options, the NYISO proposes removing language from the OATT that is not necessary and could introduce ambiguity into the NYISO's process for pursuing remedies for Market Participant defaults. Sections 27.1 and 28.6.2 of the OATT state that the NYISO shall set aside a defaulting customer's funds "pending determination of ISO's counsel and/or the appropriate bankruptcy courts as to the appropriate disposition of such funds." The NYISO recommends striking this language because it is neither necessary nor accurate in the bankruptcy context.

First, the language is not necessary. Section 27.3 of the OATT provides that the NYISO may deviate from the steps it would ordinarily take to recover on a default, or pursue alternative cost-recovery measures if doing so would minimize or avoid a bad debt loss. Therefore, the NYISO already has the flexibility it needs to obtain a determination of counsel or make filings with a bankruptcy court, if necessary, to recover on a customer default. The proposed language is therefore not necessary to describe the actions the NYISO can take with respect to a defaulting customer's funds.

¹⁰ Docket No. ER05-1433-000, *New York Independent System Operator, Inc.*, Letter Order (Oct. 5, 2005).

¹¹ The NYISO currently offers two money market fund investment options.

Second, if the defaulting Market Participant has filed for bankruptcy, the appropriate determination by a bankruptcy court would be to establish whether there is cause for granting relief from the automatic stay¹² that would arise in the event of a Market Participant bankruptcy, not to determine the “appropriate disposition” of funds. As a result, the NYISO recommends striking the language as set forth in the attached blacklined version of Sections 27.1 and 28.6.2 of the OATT.

IV. Effective Date

In accordance with Section 205 of the FPA, the NYISO requests an effective date for these tariff amendments of September 18, 2017 – the first business day following 60 days from the date of this filing.

V. Requisite Stakeholder Approval

The proposed amendments were unanimously approved, with one abstention, by the NYISO Management Committee on May 31, 2017. The NYISO’s Board of Directors approved the proposed revisions on July 18, 2017.

VI. Communications and Correspondence

All communications and service in this proceeding should be directed to:

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VII. 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 State 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.

¹² See Bankruptcy Code § 362(a).

VIII. Conclusion

For the foregoing reasons, the NYISO respectfully requests that the Commission accept the tariff revisions proposed in this filing and make them effective as of September 18, 2017 – the first business day following 60 days from the date of this filing.

Respectfully submitted,

/s/ Amie Jamieson

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