

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

New York Independent System Operator, Inc.                     )  
   )             Docket No. ER19-1949-000  
   )

**REQUEST FOR LEAVE TO ANSWER AND ANSWER OF  
THE NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.**

Pursuant to Rule 213 of the Commission’s<sup>1</sup> Rules of Practice and Procedure,<sup>2</sup> the New York Independent System Operator, Inc. (“NYISO”) respectfully submits this request for leave to answer and answer (“Answer”). The Answer responds to the comments of the American Wind Energy Association (“AWEA”), the Alliance for Clean Energy New York (“ACE NY”), and the Solar Council (collectively, “Commenters”)<sup>3</sup> concerning the NYISO’s May 22, 2019 compliance filing in this proceeding (“Compliance Filing”).<sup>4</sup> For the reasons described herein, the Commission should reject the comments in their entirety. The Commission should accept the Compliance Filing without modification, and find that the NYISO has complied with the requirements of Order No. 845 and Order No. 845-A.<sup>5</sup>

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<sup>1</sup> Capitalized terms not defined in this Answer shall have the meaning set forth in Section 30.1 of Attachment X of the NYISO Open Access Transmission Tariff (“OATT”) or in Section 1 of the OATT.

<sup>2</sup> 18 C.F.R. § 385.213 (2014).

<sup>3</sup> *New York Indep. Sys. Operator, Inc.*, Motion to Intervene and Comments of the American Wind Energy Association, the Alliance for Clean Energy New York, and the Solar Council, Docket No. ER19-1949-000 (June 26, 2019).

<sup>4</sup> *New York Indep. Sys. Operator, Inc.*, Compliance Filing, Docket No. ER13-102-009 (March 22, 2016) (“Compliance Filing”).

<sup>5</sup> *Reform of Generator Interconnection Procedures and Agreements*, Order No. 845, 83 Fed. Reg. 21342 (May 9, 2018), 163 FERC ¶ 61,043 (2018) (“Order No. 845”), *order on clarification and reh’g*, Order No. 845-A, 166 FERC ¶ 61,137 (2019) (“Order No. 845-A”). For convenience, unless otherwise specified, references in this Answer to “Order No. 845” should be understood to encompass Order No. 845 and Order No. 845-A.

## **I. REQUEST FOR LEAVE TO ANSWER**

The NYISO may answer pleadings that are styled as comments as a matter of right.<sup>6</sup> The Commission also has discretion to accept, and routinely accepts, answers to protests where they help to clarify complex issues, provide additional information, are helpful in the development of the record in a proceeding, or otherwise assist in the decision-making process.<sup>7</sup> The NYISO's Answer to the comments in this proceeding satisfies those standards and should be accepted because it addresses inaccurate and misleading statements and provides additional information that will help the Commission fully evaluate the arguments in this proceeding. The NYISO, therefore, respectfully requests that the Commission accept this Answer.

## **II. BACKGROUND**

In response to Order No. 845, the NYISO submitted the Compliance Filing on May 22, 2019 to revise its Large Facility Interconnection Procedures ("LFIP") and Standard Large Generator Interconnection Agreement ("LGIA") to comply with the requirements of Order No. 845.<sup>8</sup> Within the Compliance Filing, the NYISO made revisions consistent with the requirements of Order No. 845, as well as requested variations primarily based on the independent entity variation standard for Independent System Operators ("ISOs") and Regional

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<sup>6</sup> See 18 C.F.R. § 385.213(a)(3).

<sup>7</sup> See, e.g., *Southern California Edison Co.*, 135 FERC ¶ 61,093, at P 16 (2011) (accepting answers to protests "because those answers provided information that assisted [the Commission] in [its] decision-making process"); *New York Indep. Sys. Operator, Inc.*, 134 FERC ¶ 61,058, at P 24 (2011) (accepting the answers to protests and answers because they provided information that aided the Commission in better understanding the matters at issue in the proceeding); *New York Indep. Sys. Operator, Inc.*, 140 FERC ¶ 61,160, at P 13 (2012) (accepting answers to answers and protests because they assisted in the Commission's decision-making process); *PJM Interconnection, LLC*, 132 FERC ¶ 61,217, at P 9 (2010) (same).

<sup>8</sup> See *New York Indep. Sys. Operator, Inc.*, Compliance Filing, Docket No. ER19-1949-000 (May 22, 2019).

Transmission Operators (“RTOs”) under Order No. 2003 and carried forward under Order No. 845.<sup>9</sup>

### **III. ANSWER**

#### **A. NYISO’s Proposed Independent Entity Variations Are Fully Justified and Just and Reasonable**

The Commenters take issue with the NYISO’s request for independent entity variations related to two requirements in Order No. 845—(i) the starting and ending points of the Optional Interconnection Feasibility Studies and System Reliability Impact Studies for reporting study data and (ii) surplus interconnection service. Contrary to the Commenters’ remarks, the NYISO sufficiently justified its request for these variations. The standard that Commenters seek to apply is inconsistent with Commission guidance and imposes a higher threshold to justify an independent entity variation than the standard the Commission established in Order No. 2003.

The independent entity variation is derived from the Commission’s acknowledgment in Order No. 2003 that ISOs and RTOs should be afforded more flexibility to customize their Large Generator Interconnection Procedures (“LGIP”) and LGIAs through deviations from the *pro forma* procedures and agreements to meet their regional needs given the lower likelihood of discriminatory treatment than deviations requested by non-independent transmission providers.<sup>10</sup> Thus, the Commission permitted ISOs and RTOs to submit LGIP and LGIA terms and conditions with regional differences, provided they identify the portions that differ from the *pro forma* LGIP and LGIA and “explain why unique circumstances required a non-conforming”

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<sup>9</sup> The revisions proposed in the Compliance Filing were intended to apply to provisions for Interconnection Requests being processed under the LFIP and were not submitted with the intention that they would apply to the NYISO’s other transmission expansion and interconnection procedures under its OATT.

<sup>10</sup> Order No. 2003, at P 826.

procedure and/or interconnection agreement.<sup>11</sup> In reviewing requests for independent entity variations, the Commission reviews such proposals “to ensure that they do not provide an unwarranted opportunity for undue discrimination or produce an interconnection process that is unjust and unreasonable.”<sup>12</sup> The Commission permitted ISOs and RTOs to “either comply with [Order No. 845] or demonstrate that . . . previously-approved variations continue to be consistent with or superior to the *pro forma* LGIP and *pro forma* LGIA as modified by [Order No. 845] or continue to be permissible under the independent entity variation standard or regional reliability standard.”<sup>13</sup>

As detailed in its Compliance Filing, the NYISO identified the portions of its revisions that varied from the requirements under Order No. 845 and explained its unique circumstances, which were largely based on previous Commission-accepted variations. The NYISO does not need to demonstrate that the NYISO is unique to other ISOs and RTOs through a comparison of interconnection procedures. Rather, the NYISO’s obligation is to demonstrate that the unique circumstances necessitating a variation from the *pro forma* LGIP and LGIA do not result in undue discrimination or an unjust and unreasonable interconnection process. As discussed below, the two variations at issue in the comments, which are based on Commission-accepted, non-conforming provisions of the LFIP and LGIA, are just and reasonable.

**1. NYISO’s Proposed Starting and Ending Points of Studies Comply with Order No. 845 Given the Commission-Accepted, Non-Conforming Provisions in its Tariff**

The Commenters purport that the NYISO’s proposed starting and ending points of the Optional Interconnection Feasibility Study (“Feasibility Study”) and the System Reliability

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<sup>11</sup> *New York Indep. Sys. Operator, Inc.*, 114 FERC ¶ 61,271, at P 3 (2006).

<sup>12</sup> *PJM Interconnection, Inc.*, 108 FERC ¶ 61,025, at P 7 (2004).

<sup>13</sup> Order No. 845, at PP 477, 556; Order No. 845-A, at P 141.

Impact Study (“SRIS”) are inconsistent with the reporting of study metrics under Order No. 845 and will mask delays in the NYISO’s interconnection process.<sup>14</sup> The Commenters assert that the starting point for the Feasibility Study and SRIS should be “when the interconnection customer has met all the NYISO requirements to proceed with the interconnection, and the end point is when the interconnection customer has a final product in hand that allows the project to move forward to the next step in the interconnection process.”<sup>15</sup> Such position ignores the Commission’s stated intent in Order No. 845 as it relates to the starting point of studies. It also fails to account for Commission-accepted differences in the NYISO’s processing of Feasibility Studies and SRIS driven by its foundational agreements<sup>16</sup> and recent revisions increasing administrative efficiencies, which ACE NY supported before the Commission.<sup>17</sup>

As detailed in its Compliance Filing, the NYISO’s elimination of study agreements for the Feasibility Study and SRIS in 2017 was a Commission-accepted variation from the *pro forma* LGIP. To accommodate this difference in its process, the NYISO proposed using the notification that a study has commenced as a comparable starting point to the receipt of a fully executed study agreement, which is the identified starting point in Order No. 845.<sup>18</sup> Such notification comes shortly following the latter of the receipt of the study deposit, all required

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<sup>14</sup> Comments, at pp 7–10. While focusing on the Class Year Interconnection Facilities Study as the cause of long delays in the interconnection process, the Commenters did not take issue with the proposed starting or ending points to be used in the reporting metrics for the Class Year Interconnection Facilities Studies. *See id.* at p 7. Notably, the Commenters do not appear to explicitly point to the Optional Interconnection Feasibility Study or the System Reliability Impact Study as the cause for the noted delays. *See id.* at pp 7–10.

<sup>15</sup> *Id.* at p 8.

<sup>16</sup> *See, e.g.*, ISO Agreement, at Articles 8.01 and 18 (requiring approval from the Operating Committee for certain items in the transmission expansion and interconnection processes).

<sup>17</sup> *New York Indep. Sys. Operator, Inc.*, Letter Order, Docket No. 18-80-000 (December 17, 2017) (eliminating separate study agreements for the Optional Interconnection Feasibility Studies and System Reliability Impact Studies); *New York Indep. Sys. Operator, Inc.*, Motion to Intervene and Comments of Alliance for Clean Energy New York, Docket No. ER18-80-000, at p 2 (November 6, 2017).

<sup>18</sup> Order No. 845 identified the starting date of a study to be the date on which the transmission provider receives a fully executed study agreement. *Id.* at P 331.

technical data, Site Control (as applicable), and a completed scope of work.<sup>19</sup> All of the aforementioned items would be required prior to the execution of a study agreement under the *pro forma* LGIP. In fact, the Commission noted in Order No. 845 that the intent behind using the receipt of the fully executed study agreement is to calculate the time “after the study’s terms are formally agreed upon.”<sup>20</sup> The scope of work contains the essential terms of the study and, thus, must be finalized before a study can start.<sup>21</sup> Accordingly, the Commenters’ position that a scope of work should be finalized after the start of the study is not only impracticable but also at odds with Order No. 845.<sup>22</sup>

The Commenters also claim that use of the notification that the study commenced would not capture the “significant delay” after the receipt of the necessary information and the start of the study.<sup>23</sup> To be sure, any delay in issuing the notice would likely result from the NYISO needing to confirm the sufficiency of the technical data submitted by the Developer, which if insufficient would require further action by the Developer before the study commences.<sup>24</sup> This step would still have to occur prior to receiving a fully executed study agreement.<sup>25</sup>

The Commenters also take the position that the Commission should require the ending point to be the final report, which for the SRIS, includes the approval of the report by the NYISO

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<sup>19</sup> OATT, Attachment X, Sections 30.6.1, 30.7.2.

<sup>20</sup> Order No. 845, at P 332.

<sup>21</sup> *Id.*

<sup>22</sup> Comments, at p 8.

<sup>23</sup> *Id.*

<sup>24</sup> OATT, Attachment X, Section 30.7.2.2 (providing the Developer a 10-Business-Day cure period for deficiencies in the required technical data).

<sup>25</sup> For example, if the technical data submitted by the Developer as a part of a study agreement was insufficient or inaccurate, the NYISO would not have executed the agreement until the information is sufficient and accurate. Since the requirement under Order No. 845 uses the transmission provider’s receipt of an executed agreement as the start of the study, such activity would be pre-study and not captured under the *pro forma* LGIP.

Operating Committee.<sup>26</sup> Again, the NYISO has unique circumstances in its tariff due to Commission-accepted variations that place the distribution of the initial draft of the study on par with the completion of a study under the *pro forma* LGIP. First, the *pro forma* LGIP does not contain a tariff-defined period for the transmission provider to receive comments prior to the distribution of the study report and the meeting with the interconnection customer.<sup>27</sup> With the support of ACE NY,<sup>28</sup> the NYISO proposed and the Commission accepted a tariff-mandated point in the process by which the parties will have an opportunity to provide comments prior to issuance of the final report and the results meeting.<sup>29</sup> Including this 15-Business-Day period for the Developer to comment in the study period would reduce the time that the NYISO has to perform study work by approximately three weeks. Thus, the NYISO identified the distribution of the initial draft of the report to the parties as an appropriate and comparable point in the process.

Second, while the Commenters contend that the ending point of the SRIS should be the Operating Committee's approval of the SRIS report, their proposal potentially adds three months or more to the study duration for a period of time entirely within the control of the Developer and that would not involve study work by the NYISO, Connecting Transmission Owner, or Affected System Operators.<sup>30</sup> Practically, the NYISO would exceed the 90-day study period on nearly every study by including the over three-month period for the Developer to decide whether to

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<sup>26</sup> Comments, at pp 8–9.

<sup>27</sup> Sections 6.3, 7.4 of the *pro forma* LGIP under Order No. 2003 (requiring the report to be issued to the Developer and a meeting within 10 Business Days to discuss the results).

<sup>28</sup> See *New York Indep. Sys. Operator, Inc.*, Motion to Intervene and Comments of Alliance for Clean Energy New York, Docket No. ER18-80-000, at p 2 (November 6, 2017).

<sup>29</sup> OATT, Attachment X, Sections 30.6.3.1, 30.7.5; *New York Indep. Sys. Operator, Inc.*, Letter Order, Docket No. ER18-80-000 (December 17, 2017).

<sup>30</sup> In fact, the three-month period is to bring it to Transmission Planning Advisory Subcommittee and then to the Operating Committee, which typically meets a week thereafter.

proceed with the review by the Transmission Planning Advisory Subcommittee and then the Operating Committee. To account for this unique requirement in the NYISO's foundation agreement and tariff that requires Operating Committee approval, the proposed ending point is comparable to the end of the study as envisioned by Order No. 845.

## **2. NYISO's Proposed Independent Entity Variation from the Surplus Interconnection Service is Justified.**

The Commenters take the position that the Commission should reject the NYISO's Compliance Filing as it relates to the surplus interconnection service requirement because there is nothing unique to the NYISO under its minimum interconnection standard or market rules when compared to the interconnection process of Midcontinent Independent System Operator, Inc. ("MISO").<sup>31</sup> The Commenters, however, appear to misunderstand parts of the NYISO's LFIP and, thereby, give the impression that there are not unique circumstances that need to be accounted for in the NYISO's LFIP and market rules. Moreover, the Commenters impose an incorrect burden to justify an independent entity variation by comparing the NYISO's circumstances to that of MISO.

As explained in detail in the NYISO's Compliance Filing, as well as in its Request for Clarification or Alternative Request for Rehearing in Docket No. RM17-18-001,<sup>32</sup> the NYISO's Minimum Interconnection Standard is based on a Commission-accepted standard that is materially different from the underlying tenet on which the surplus interconnection service was based in Order No. 845. Specifically, Order No. 845 noted that surplus interconnection service is created by transmission providers, consistent with Order No. 2003, "assum[ing] that each

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<sup>31</sup> Comments, at pp 10–15.

<sup>32</sup> *Reform of Generator Interconnection Procedures and Agreements*, Request for Clarification and Alternative Request for Rehearing of the New York Independent System Operator, Inc., Docket No. RM17-8-001 (May 22, 2018).



interconnection customer is fully utilizing its interconnection service when studying other requests for new interconnections,” and, therefore, such interconnection service is “assumed to be unavailable to other prospective interconnection customers.”<sup>33</sup> The NYISO’s Minimum Interconnection Standard, however, permits the NYISO to not only redispatch existing generation but also the generation facility that is the subject of the study. The result is that the facility is provided access to the transmission system but without making such access exclusive based on the facility’s full output. In other words, there is no unused Energy Resource Interconnection Service (“ERIS”) when a facility injects less than its full output onto the NYISO’s system. Accordingly, there is no surplus interconnection service under the NYISO’s Commission-accepted interconnection standard.

Assuming for argument’s sake that the NYISO is required to justify its proposed independent entity variations against other ISO and RTO procedures, which the NYISO contends it does not, the NYISO’s Minimum Interconnection Standard principally differs from the MISO’s standard given the NYISO’s requirement to dispatch down the studied facility.<sup>34</sup> The Commenters rely on a misquoted portion of the Compliance Filing to insist that the NYISO’s Minimum Interconnection Standard is the same as MISO’s standard (as well as other ISOs and RTOs) to support their position that there is unneeded and unused interconnection service on the NYISO’s system.<sup>35</sup> In the Compliance Filing, as well as other filings in the Order No. 845

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<sup>33</sup> Order No. 845, at PP 469–70 (citing Order No. 2003).

<sup>34</sup> *See generally*, Midcontinent Indep. Sys. Operator, Inc. Generation Interconnection Business Practices Manual (BPM-015-r19), at Section 6.1.

<sup>35</sup> The Commenters included the following quote in its Comments, “Minimum Interconnection Standard . . . allows for re-dispatch of a facility in interconnection studies to less than the facilities [sic] full capacity in order to mitigate reliability impacts at full capacity.” Comments, at pp 10–11 (quoting Compliance Filing, at pp 23–24). Notably missing from that quotation is the parenthetical, “(*i.e.*, both the studied project and existing generators in the case)” following the word, “facility.” The absence of the parenthetical takes the NYISO’s statement out of context. The original statement made it clear that the redispatch can occur for not only the generation facilities within the case but also the studied generation facility. *See* Compliance Filing, at pp 23–24.

docket, the NYISO made clear that under its Minimum Interconnection Standard, the NYISO will dispatch down not only existing generation in the case *but also* the studied generator itself to resolve any identified violations in accordance with its normal operating procedures. System Upgrade Facilities will be required if, among other things, redispatch, including redispatch of the studied facility, does not resolve the violation. Conversely, if redispatch of the studied facility resolves the violation, there typically would be no required upgrade. Based on the NYISO's understanding of the MISO's standard, this approach is meaningfully different.<sup>36</sup>

The Commenters also note that there is flexibility in the NYISO's market structure to accommodate surplus interconnection service based on the current ability in the NYISO's tariff to transfer Capacity Resource Interconnection Service ("CRIS") from a deactivating unit that is exiting the market to another facility. While the Commenters reference current provisions of Attachment S to the ISO OATT, the NYISO's market structure is for the permanent transfer of CRIS in the limited situation where the original unit is deactivating and leaving the market. Key to this structure is that the unit that is going to be taking the CRIS would need to have ERIS before it could use that CRIS to inject capacity onto the system. However, as described above, the NYISO's Minimum Interconnection Standard does not result in unused and available ERIS on the system. The Commenters also minimize the complexity of toggling CRIS between resources under the NYISO's market rules. The NYISO and its stakeholders worked for a

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<sup>36</sup> See Midcontinent Indep. Sys. Operator, Inc., Generation Interconnection Business Practices Manual (BPM-015-r19), at Section 6.1.1.1 (for MISO's steady state thermal analysis, "[f]or any identified significantly affected facility, the study will determine transmission upgrades and/or transmission alternatives required to mitigate the constraints *for full power output*" [emphasis added]). Additionally, in MISO's compliance filing, its form of Surplus Interconnection Service that was derived from its Net Zero Interconnection Service appears to be based on the full output of the various types of resources. *Midcontinent Indep. Sys. Operator, Inc.*, Partial Compliance Filing, Docket No. ER19-1823-001, at p 9 (May 10, 2019).

number of years to develop CRIS and the market rules surrounding it, which are based on the NYISO's unique regional needs.<sup>37</sup>

**B. The Commenters Seek Revisions Related to “Hybrid Interconnection Requests” that Are Not Specifically Directed by Order No. 845**

Commenters encourage the Commission to also reject the NYISO's proposed compliance on the surplus interconnection service issue by pointing to the absence of procedures in the NYISO's tariff or any effort by the NYISO in creating procedures to evaluate “hybrid interconnection requests” (*i.e.*, procedures that allow different technologies to comprise one facility in the interconnection process).<sup>38</sup> Nothing under Order No. 845 suggests that an ISO or RTO is required to create a process by which there must be procedures to allow different technologies to comprise a single facility. As a result, the comments are outside the scope of Order No. 845 and the NYISO's compliance requirements.

Even setting that fact aside, the Commenters inaccurately represent the steps that the NYISO has taken to date to accommodate different technologies as a single facility. The NYISO filed proposed tariff revisions just two weeks ago that would permit different technologies to comprise a single facility by expanding the definition of Small Generating Facility to include all assets (*i.e.*, units) behind a single facility meter, regardless of the technology.<sup>39</sup> This would

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<sup>37</sup> See generally, *New York Indep. Sys. Operator, Inc., et al.*, Compliance Filing and Request for Further Extension of Time, Docket No. ER04-449-017 (August 5, 2008); see also *New York Indep. Sys. Operator, Inc.*, 122 FERC ¶ 61,267 (2008) (providing guidance on NYISO's Consensus Plan filed on October 5, 2007 and directing revisions to the OATT to be submitted by August 4, 2008); *New York Indep. Sys. Operator, Inc., et al.*, Consensus Deliverability Plan, Docket Nos. ER04-449-003, -007, -008 (October 5, 2007) (providing the agreed-upon framework under which the NYISO and stakeholders would facilitate the development of tariff revisions); *New York Indep. Sys. Operator, Inc., et al.*, Compliance Filing and Request for Further Extension of Time, Docket No. ER04-449-005 (February 7, 2005).

<sup>38</sup> Comments, at pp 6, 15.

<sup>39</sup> *New York Indep. Sys. Operator, Inc.*, Proposed Tariff Revisions Regarding Establishment of Participation Model for Aggregations of Resources, Including Distributed Energy Resources, Docket No. ER19-2276-000, at p 96 (June 27, 2019).

allow, for example, an energy storage and solar asset behind the same facility meter (collectively 20 MW or less) to be evaluated as one facility in the NYISO's Small Generator Interconnection Procedures. Under the proposed tariff revisions, such a facility could participate in the NYISO markets as a Distributed Energy Resource.

In addition to the above initiative to revise the interconnection procedures, one of the proposed 2020 market project candidates being considered in the NYISO's Budget Priorities Working Group is the investigation of potential market participation rules for a hybrid storage model.<sup>40</sup> As a part of the shared governance process that establishes an annual budget, the NYISO and its stakeholders are evaluating project candidates for 2020 to determine which project candidates will receive the highest priority and ultimately become "firm" projects for 2020. The hybrid storage project would develop market participation rules for front-of-the-meter generators collocated with Energy Storage Resources, with a proposed 2020 deliverable of a consumer impact analysis and a completed market design.<sup>41</sup> This project candidate proposes to build on work completed as part of the NYISO's Energy Storage Resource and Distributed Energy Resource integration initiatives.

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<sup>40</sup> See Project Number 31 described in the materials available at the following link: <https://www.nyiso.com/documents/20142/7026152/04%202020%20Project%20Candidates%20-%20MP%20Markets%20Descriptions.pdf/cf76f7b7-374d-5fc3-434a-58ce5b4b2f81>.

<sup>41</sup> This would bolster current rules that only permit "hybrid" configurations of front-of-the-meter generators to participate as separate entities in the NYISO markets.

#### **IV. CONCLUSION**

**WHEREFORE**, the New York Independent System Operator, Inc. respectfully requests that the Commission accept this Answer and accept the Compliance Filing in the above-referenced docket without requiring any modifications.

Respectfully submitted,

/s/ Sara B. Keegan

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July 11, 2019

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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 11<sup>th</sup> day of July 2019.

By: /s/ John C. Cutting

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