UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

New York Independent System Operator, Inc.	**)**	**Docket Nos. ER19-467-000** **ER19-467-001** **ER19-467-002**

REQUEST FOR REHEARING OF NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.

Pursuant to Section 313(a) of the Federal Power Act[1] and Rule 713 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission ("Commission"),[2] the New York Independent System Operator, Inc. ("NYISO") requests rehearing of the Commission's December 20, 2019, *Order on Compliance Filing* in the above-captioned proceedings ("December 2019 Order").[3] The December 2019 Order accepted in large part the NYISO's compliance filing in response to Order No. 841,[4] but rejected certain elements of the NYISO's proposal and directed the NYISO to submit a further compliance filing.[5]

As discussed below, the NYISO respectfully requests rehearing of the December 2019 Order's determinations that the NYISO is required to: (i) assess transmission charges to Energy Storage Resources participating in its markets when such resources are charging for later injection to the grid but are not being dispatched by the NYISO to provide a service in its

[1] 16 U.S.C. § 8251(a).

[2] 18 C.F.R. § 385.713.

[3] *New York Independent System Operator, Inc.*, Order on Compliance Filing, 169 FERC ¶ 61,225 (2019) ("December 2019 Order").

[4] *Electric Storage Participation in Markets Operated by Regional Transmission Organizations and Independent System Operators*, Order No. 841, 162 FERC ¶ 61,127 (Feb. 15, 2018), 83 Fed. Reg. 9580 (Mar. 6, 2018), Errata Notice (Feb. 28, 2018) ("Order No. 841"), *order on reh'g*, Order No. 841-A, 167 FERC ¶ 61,154 (2019). All citations to Order No. 841 in this compliance filing are to the revised order included with the February 28, 2018, errata notice.

[5] Capitalized terms that are not defined in this request for rehearing shall have the meaning set forth in the NYISO's Open Access Transmission Tariff ("OATT") or its Market Administration and Control Area Services Tariff ("Services Tariff").

markets, and (ii) propose an effective date for its Order No. 841 compliant tariff revisions that is no later than May 1, 2020.[6] As described below, these two determinations do not constitute reasoned decision-making. The Commission should, therefore, grant rehearing, accept the NYISO's proposed approach for transmission charges, and confirm that the NYISO may justify a later effective date.

I. COMMUNICATIONS

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[6] December 2019 Order at PP 186-189, 223.

[7] The NYISO respectfully requests waiver of 18 C.F.R. § 385.203(b)(3) (2014) to permit service on counsel in multiple locations.

II. SPECIFICATION OF ERRORS/STATEMENT OF ISSUES

In accordance with Rule 713(c),[8] the NYISO submits the following specifications of error and statement of the issues on which it seeks rehearing of the December 2019 Order:

- The December 2019 Order's directive that the NYISO assess transmission charges to Energy Storage Resources that are charging for later injection to the grid does not constitute reasoned decision-making[9] because the NYISO's proposed approach in its compliance filing aligns with its existing rate structure for transmission charges assessed to resources in the New York Control Area ("NYCA") that withdraw energy at a node for later injection in the grid, and because the directive is inconsistent with the approach accepted by the Commission for the California Independent System Operator ("CAISO"). There is thus no reasoned basis for the directive, and the Commission has not supplied a reasoned explanation for its decision.

- The December 2019 Order's directive that the NYISO must propose an effective date for its Order No. 841 compliant tariff revisions that is no later than May 1, 2020 does not constitute reasoned decision-making[10] to the extent that it is intended to prevent the NYISO from demonstrating that a later effective date is justified. A "no later than May 1, 2020" deadline is unreasonable because it is based on an assumption that is not supported by record evidence and no reasoned explanation has been supplied for it. The unsupported assumption in the December 2019 Order should not preclude the NYISO from seeking and justifying an extension in a later filing.

III. BACKGROUND

On December 3, 2018, the NYISO submitted its compliance filing in response to Order No. 841 ("December 2018 Filing").[11] Specifically, the NYISO proposed tariff revisions to establish a new participation model for Energy Storage Resources that recognizes their physical and operational characteristics, and facilitates their participation in the NYISO-administered

[8] 18 C.F.R. § 385.713(c).

[9] *See, e.g., Motor Vehicle Mfr. Ass 'n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29 at 43 (1983); *National Fuel Gas Supply Corp. v. FERC*, 468 F.3d 831 at 839 (D.C. Cir. 2006); *NorAM Gas Transmission Co. v. FERC*, 148 F.3d 1158, 1165 (D.C. Cir. 1998); *citing K N Energy, Inc. v. FERC*, 968 F.2d 1295, 1303 (D.C. Cir. 1992); *PPL Wallingford Energy LLC v. FERC*, 419 F.3d 1194, 1198 (D.C.Cir.2005).

[10] *Id*.

[11] *New York Independent System Operator, Inc.*, Compliance Filing and Request for Extension of Time of Effective Date, Docket No. ER19-467-000 (December 3, 2018) ("December 2018 Filing").

Energy, Ancillary Services, and Installed Capacity markets. The NYISO subsequently submitted further information in response to the Commission's request for additional information concerning the December 2018 Filing[12] and submitted amendments to its initial filing.[13]

On December 20, 2019, the Commission accepted the NYISO's compliance filing in large part, but rejected certain elements of the NYISO's proposal. This filing seeks rehearing of two of the December 2019 Order's determinations.

IV. REQUEST FOR REHEARING

A. The Commission Should Grant Rehearing of the December 2019 Order's Determination that the NYISO Is Required to Assess Transmission Charges to Energy Storage Resources that Are Charging for Later Injection to the Grid

In the December 2018 Filing, the NYISO proposed not to assess transmission charges to any Energy Storage Resource participating in the NYISO-administered markets when that resource is charging for later injection to the grid.[14] The December 2019 Order held that the NYISO's proposal did not comply with the requirements in Order Nos. 841 and 841-A.[15] Specifically, the Commission concluded that the NYISO had not shown that its proposal is reasonable given how it assesses transmission charges to wholesale load under its existing rate structure.[16]

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[12] *New York Independent System Operator, Inc.,* Response to April 1, 2019 Letter and Notification of Implementation Issues that Necessitate Additional Limited Compliance Tariff Revisions, Docket No. ER19-467-001 (May 1, 2019).

[13] The NYISO submitted minor amendments to the material in its December 2018 Filing to address two implementation issues concerning the ability of electric storage facilities to participate in the NYISO-administered markets as Generators that are Energy Limited Resources. *New York Independent System Operator, Inc*., Order No. 841 Compliance Filing, Docket No. ER19-467-002 (May 31, 2019); *see* December 2019 Order at PP 43-48 (accepting NYISO's new participation model for Energy Storage Resources as complying with Order No. 841 and not requiring changes to the NYISO's Energy Limited Resource participation model).

[14] December 2018 Filing at p 22 n. 52; *see also New York Independent System Operator, Inc.,* Response to April 1, 2019 Letter and Notification of Implementation Issues that Necessitate Additional Limited Compliance Tariff Revisions in Docket No. ER19-467-000, Docket No. ER19-467-001 at pp 31-32 (May 1, 2019).

[15] December 2019 Order at PP 186-189.

[16] *Id.* at P 189.

The Commission did not engage in reasoned decision-making when it rejected the NYISO's proposal. As the NYISO's compliance filing explained, and as is reiterated here, the NYISO's proposal is aligned with its existing rate structure for transmission charges to resources in the NYCA that withdraw energy at a node for later injection to the grid. In addition, the December 2019 Order's determination is inconsistent with the Commission's acceptance of CAISO's proposed treatment of transmission charges. Like the NYISO, CAISO presented its existing rate structure for electric storage resources that withdraw energy for later injection to the grid as justification for not assessing transmission charges to energy storage resources that withdraw energy at a node for later injection to the grid. As explained below, there is no reasoned basis for overlooking the fact that the NYISO's proposal is consistent with its existing practice or for treating the NYISO and CAISO differently. The Commission has likewise not provided a reasoned explanation for its decision.

1. Order Nos. 841 and 841-A Transmission Charge Requirements

In Order No. 841, the Commission determined that the transmission charges that apply to load should apply to electric storage resources, except when the resource is dispatched by the RTO/ISO to provide a service in the RTO/ISO markets.[17] However, the Commission recognized that different transmission charges may apply to a load resource located at a single node that is paying a nodal price for energy (*e.g.*, a pump storage resource) versus the charges that apply to load resources that are located across multiple nodes that are paying a zonal price of energy (*e.g.*, load serving entities).[18] The Commission instructed that if the load resource located at a single node was paying different transmission charges than load resources across multiple nodes, then

[17] Order No. 841 at PP 297-298; Order No 841-A at P 108.

[18] Order No. 841 at P 297.

the RTO/ISO is required to apply the transmission charges applicable to the single node resources to electric storage resources.[19]

In addition, in Order No. 841-A the Commission clarified the meaning of the term "applicable transmission charges" for the charges to be assessed to electric storage resources that are not being dispatched by the ISO/RTO to provide a service in its markets.[20] Specifically, the Commission indicated that (1) an RTO/ISO may propose to apply its existing rate structure for transmission charges to an electric storage resource that is charging at wholesale; (2) an electric storage resource that is charging for participation in an RTO/ISO market should be assessed charges consistent with how the RTO/ISO assesses transmission charges to wholesale load under its existing rate structure; and (3) if an RTO/ISO proposes not to apply transmission charges to an electric storage resource that is charging at wholesale, the RTO/ISO must demonstrate that exempting such a resource from these charges is reasonable given its existing rate structure for transmission charges.[21]

2. The NYISO's Proposed Approach Concerning the Assessment of Transmission Charges Aligns with Its Existing Rate Structure

Consistent with the Commission's directives in Order Nos. 841 and 841-A, the NYISO proposed in its December 2018 Filing that it would not "assess transmission charges to Energy Storage Resources, consistent with the treatment of other Resources in the New York Control Area."[22] As this filing reiterates, the NYISO's proposed approach concerning transmission charges for Energy Storage Resources is consistent with its existing approach concerning the

[19] *Id.* ("[T]o the extent that load resources located at a single node pay different transmission charges than load resources located across multiple nodes, then we require each RTO/ISO to apply those transmission charges for single-node resources to electric storage resources that are located at a single pricing node….").

[20] Order No. 841-A at P 121.

[21] *Id.*

[22] December 2018 Filing at p 22 n. 52.

assessment of transmission charges to resources in the NYCA that withdraw energy for later injection to the grid and complies with the Commission's instructions in Order Nos. 841 and 841-A.

As described below, the NYISO and the Transmission Owners assess three transmission charges to customers located in the NYCA based on their energy withdrawals to serve Load.

The Transmission Usage Charge ("TUC") is the congestion and loss components of the Locational Based Marginal Price ("LBMP") that the NYISO develops. The TUC is also assessed to customers that purchase transmission service from the NYISO, but supply their own Energy in a bilateral transaction. The TUC is assessed in both the Day-Ahead Market and the Real-Time Market.

Each Transmission Owner assesses a Transmission Service Charge ("TSC") based on a customer's Energy withdrawals in the Real-Time Market, which charge provides for the Transmission Owner's recovery of the costs of its transmission facilities.

Finally, the NYISO assesses, on behalf of the New York Power Authority ("NYPA"), a NYPA Transmission Adjustment Charge ("NTAC") based on a customer's Energy withdrawals in the Real-Time Market, which charge provides for NYPA's recovery of its transmission service revenue requirement.

However, since it commenced operations two decades ago, the NYISO has assessed transmission charges differently to an electric storage resource that withdraws energy for later injection to the grid. Specifically, the NYISO has applied a separate rate structure for transmission charges applicable to the pumped storage resource operating in the NYCA. The Blenheim-Gilboa Pumped Storage Power Project ("Gilboa") is a pump storage facility located at a single Generator bus (or node) that pays the nodal LBMP to withdraw Energy as a "negative

injection"[23] for later injection back to the grid (when it is paid the nodal LBMP). The facility is currently the only storage resource in the NYCA that is optimized in the NYISO's dispatch.[24]

Since 1999, the NYISO has treated pumped storage bids to withdraw Energy for later injection to the grid as negative injections at the Resource's bus, rather than as withdrawals to serve zonal Load. The NYISO assesses the congestion and loss component of the LBMP to a pumped storage resource based on its negative injections at its bus. Because pumped storage has always been scheduled and dispatched as a Generator, the NYISO calculates the LBMP (including the congestion and losses component of the LBMP) in a manner that incorporates the facility's positive or negative injections at its bus in the Day-Ahead Market and Real-Time Market, rather than as Load withdrawals at the zonal level.

Pumped storage is not assessed the TSC or NTAC for its negative generation in the Real-Time Market. TSC and NTAC are only assessed to customers based on their Energy withdrawals in the Real-Time Market to serve Load. Negative injections at the Generator bus have never been treated as Load for dispatch or settlement purposes. Instead, pumped storage is assessed the NYISO's annual budgeted costs and annual FERC fees set forth in Rate Schedule 1 of the NYISO OATT. The NYISO's annual budgeted costs and FERC fees are the two charges the NYISO assesses to Generators based on their nodal injections. In the case of Gilboa, the injections used to determine the NYISO's annual budgeted costs and FERC fees include both its positive Energy injections and the absolute value of its negative injections to withdraw energy

[23] A "negative injection" is a withdrawal, rather than an injection, of Energy at a bus (node) by a Generator for later injection back to the grid. *See* the definition of Injection Billing Unit in Section 1.9 of the OATT and the discussion below. It is distinguished from Station Power by the NYISO's Tariffs. *See* Section 2.19 of the Services Tariff.

[24] As the NYISO explained in its May 31, 2019 filing in this docket, Gilboa is an Energy Limited Resource that submits offers to withdraw Energy as negative injections. *New York Independent System Operator, Inc*., Order No. 841 Compliance Filing, Docket No. ER19-467-002 at 6-8 (May 31, 2019). Gilboa is not an Energy Storage Resource.

for later injection back to the grid.[25] The NYISO's annual budgeted costs and annual FERC fees are not transmission charges; they are assessed to all Generators based on their Energy injections.

The NYISO proposed to apply to new Energy Storage Resources the same transmission charge requirements that it has applied since start-up to the existing electric storage facility that withdraws energy at its discrete Generator bus for later injection back to the grid. As with pumped storage, the NYISO proposed to treat an Energy Storage Resource's withdrawal of Energy at its node for later injection back to the grid as negative generation scheduled at the Energy Storage Resource's bus.

Consistent with the transmission charges that are assessed to pumped storage under the NYISO's existing rate structure, an Energy Storage Resource will be responsible for paying the TUC for its negative injections. The TUC calculation incorporates each Energy Storage Resource's negative injections at its Generator bus in the Day-Ahead Market or in the Real-Time Market, as applicable.[26]

Consistent with how negative injections by pumped storage at a node are treated under the NYISO's existing rate structure for transmission service charges, the NYISO proposed that

[25] The term Injection Billing Unit is defined in Section 1.9 of the OATT as "A Transmission Customer's Actual Energy Injections (for all internal injections) or Scheduled Energy Injections (for all Import Energy injections) in the New York Control Area, including injections for Wheels Through. For purposes of Rate Schedule 1 and Rate Schedule 11 of this ISO OATT, (i) a Limited Energy Storage Resource shall be responsible for charges or eligible for payments on the basis only of its Actual Energy Injections and (ii) a Day-Ahead Demand Reduction Provider's Demand Reduction shall be included as Injection Billing Units. **For purposes of recovering the ISO annual budgeted costs and the annual FERC fee pursuant to Rate Schedule 1 of this ISO OATT, Injection Billing Units shall include the absolute value of negative injections by pump storage facilities**." Emphasis added.

[26] The TUC is the only transmission charge assessed in the Day-Ahead Market.

an Energy Storage Resource not be required to pay the TSC and NTAC, which are only assessed to customers withdrawing energy to serve zonal Load in real-time.[27]

The NYISO's proposed approach complies with the requirements in Order No. 841-A that permit an RTO/ISO to assess transmission charges to electric storage facilities consistent with its existing rate structure for such charges. Specifically, the NYISO has proposed to apply the same, existing rate structure for transmission charges that it currently uses for the only energy storage resource historically (and currently) included in its dispatch to all Energy Storage Resources. This approach is reasonable as a pump storage resource that pays the LBMP at its transmission node and withdraws energy for later injection to the grid more accurately reflects the characteristics and expected impact of Energy Storage Resources than entities that withdraw energy on a non-price-sensitive, zonal basis to serve Load.

3. The NYISO's Proposed Approach Also Aligns with How NYISO Currently Assesses Transmission Charges to Energy Storage Resources that Pay a Nodal Price for Energy

The NYISO's proposed approach also complies with the requirement in Order No. 841 that an RTO/ISO apply the transmission charges applicable for single node resources (*e.g.*, pump storage resources) to electric storage resources that are located at a single pricing node.[28] Consistent with the Commission's instruction, the NYISO proposes to price all Energy Storage Resources at a single node and to apply the same transmission charge requirements that it has

[27] An Energy Storage Resource, as with all other Generators, will be responsible for the NYISO's annual budgeted costs and annual FERC fees based on its Energy injections, including the absolute value of its negative injections, like pumped storage is under the NYISO's existing rate structure.

[28] Order No. 841 at P 297.

applied for more than twenty years to the existing, nodal energy storage resource in New York (the Gilboa facility) to all nodal Energy Storage Resources in the NYCA.

4. Requiring the NYISO to Diverge from Its Existing Rate Structure for Transmission Charges Will Produce Unjust and Unreasonable Results

Requiring the NYISO (or Transmission Owners) to assess Load-side transmission charges (*i.e.*, the TSC and NTAC) to Energy Storage Resources would be inconsistent with the NYISO's existing rate structure for transmission charges and could lead to inefficiencies that produce unjust and unreasonable results. Assessing TSC and NTAC to Energy Storage Resources while they are withdrawing Energy can result in double charging the TSC and NTAC to Loads. If the NYISO is required to assess TSC and NTAC to an Energy Storage Resource when it is withdrawing Energy for later injection to the grid, but not simultaneously providing a service to the NYISO's markets, then the NYISO expects that the Energy Storage Resource would include the TSC and NTAC costs in its Energy Bids in order to recover the additional costs imposed on its Energy withdrawals.[29] When an Energy Storage Resource that incorporates TSC and NTAC costs into its Bid is marginal, Loads in the NYCA will effectively be paying the TSC and NTAC twice – once as part of the "energy" component of LBMP and again when the NYISO and the relevant Transmission Owner assess the TSC and NTAC to the Loads. It is not clear to the NYISO that this will produce a just and reasonable result under the NYISO's existing rate structure.

For all of the above-stated reasons, the NYISO's proposed approach for assessing transmission charges to Energy Storage Resources complies with the requirements in Order Nos. 841 and 841-A. The Commission should grant rehearing and accept the NYISO's proposal.

[29] The additional transmission costs incurred by the Energy Storage Resource would be included in NYISO's reference levels for the resource, if requested, because the TSC and NTAC would be an actual cost that the Energy Storage Resource is required to pay.

5. The NYISO's Proposal Is Consistent with the CAISO's Approach Accepted by the Commission

The Commission should also grant rehearing and accept the NYISO's proposed treatment of transmission charges for Energy Storage Resources because the NYISO's proposed approach is consistent with CAISO's approach for such charges, which the Commission has accepted as complying with Order No. 841.

CAISO also proposed to use an existing rate structure to satisfy the requirements in Order No. 841.[30] Specifically, CAISO proposed to use its current non-generation resource ("NGR") model for electric storage facilities, by which CAISO treats electric storage facilities charging as "negative generation," rather than as load or demand, and bills the resource at the wholesale nodal locational marginal price.[31] Consistent with this structure, CAISO proposed that it would not assess transmission access charges to electric storage resources.[32]

The Commission accepted CAISO's proposed approach.[33] It noted that "CAISO's existing rate structure accounts for NGR charging as negative generation" and, "[a]s a result, CAISO does not assess transmission access charges, which only apply to load, to NGR charging, regardless of the reason for the NGR's negative generation."[34]

As with CAISO, the NYISO has proposed to apply an existing rate structure for transmission charges to Energy Storage Resources that are charging for later injection to the grid. As explained above, the NYISO's existing rate structure for its only electric storage resource

[30] *California Independent System Operator Corporation,* 169 FERC ¶ 61,126 at PP 124-126 (2019) ("California 841 Order").

[31] *Id.* at P 124.

[32] *Id.* at P 126.

[33] *Id.* at PP 136-138.

[34] *Id.* at P 137.

accounts for charging as negative injection,[35] just as CAISO's NGR approach does. In addition, as with CAISO, the NYISO does not assess transmission charges, other than the congestion and loss components of LBMP,[36] to its existing electric storage resource when the resource is charging for later injection back to the grid.

The Commission went further in its CAISO order and permitted CAISO to change its existing rate structure for pump storage resources, which were previously assessed transmission access charges, so that pumped storage resources are now treated in the same manner as electric storage facilities under the NGR model, and are no longer assessed transmission charges.[37] The NYISO did not propose to change its existing approach for transmission charges assessed to resources that are eligible to withdraw energy for later injection. Rather, the NYISO proposes to apply its existing rules that apply to a pump storage resource to all Energy Storage Resources.

The NYISO's proposed approach for assessing transmission charges to Energy Storage Resources complies with the requirements in Order Nos. 841 and 841-A and is consistent with the rules the CAISO proposed and the Commission accepted for filing. The Commission should grant rehearing and accept the NYISO's proposal.

B. The Commission Should Grant Rehearing of the December 2019 Order's Determination Regarding the Effective Date of the NYISO's Order No. 841-Compliant Tariff Provisions to the Extent that It Is Intended to Prevent the NYISO from Demonstrating that a Later Effective Date is Justified

The December 2019 Order rejected the NYISO's request for a flexible effective date that would be no earlier than May 1, 2020. It expressed concern that the NYISO's proposal

[35] CAISO's "negative generation" is directly comparable to a "negative injection" in the NYCA.

[36] California also assesses the congestion and loss components of LMP to NGRs when they withdraw Energy.

[37] California 841 Order at PP 126, 138.

"inappropriately creates uncertainty for existing and prospective market participants . . . ."[38] The Commission also stated that "[n]early a full year has elapsed since NYISO proposed this effective date in its compliance filing" and that "we expect that NYISO has made sufficient progress to implement its software upgrade."[39] Accordingly, Paragraph 223 of the December 2019 Order directed the NYISO to propose an effective date for its Order No. 841 compliance revisions "that is no later than May 1, 2020."[40]

The December 2018 Filing explained that it would not be possible for the NYISO to implement necessary software upgrades before May 1, 2020, due to a years-long effort to upgrade its Energy Management System ("EMS") and Business Management System ("BMS") platforms, which comprise the hardware and software that run the NYISO's wholesale Energy markets and monitor and maintain the reliability of the bulk electricity grid. The EMS is used by NYISO's system operators to monitor the reliable operation of the grid and for situational awareness, and includes applications that monitor load flows and perform contingency analyses, such as outage monitoring and automatic generation control. The BMS is a suite of applications that comprise the Security Constrained Unit Commitment, Real-Time Commitment, and Real-Time Dispatch software used to develop schedules and prices for the NYISO's Energy and Ancillary Services markets. The NYISO's upgrade to these platforms is nearing completion, and is expected to be deployed in March 2020, or, if conditions permit, February.

In the thirteen months since the December 2018 Filing, the NYISO has worked diligently along with its contractors and has recently completed the software development necessary to

[38] December 2019 Order at P 223.

[39] *Id.*

[40] *Id.*

effectuate the proposed Energy Storage Resource participation model.[41] However, substantial software testing and staff training remains to be done. Software testing will include simulated operations by multiple units throughout the state, and the NYISO will be reviewing how changes to various bid parameters and market conditions impact the performance of the NYISO's EMS and the BMS. The NYISO will also conduct integrated testing across the impacted NYISO systems to confirm that the software operates in a manner that is consistent with the tariff revisions submitted in this docket in compliance with Order Nos. 841 and 841-A. Along with this required testing, the NYISO will conduct system operator training to educate operators on the new system capabilities and conduct market trials to provide Market Participants with the opportunity to test the new software.

Although the NYISO is expeditiously completing Energy Storage Resource participation model development, it has determined that these testing and training activities cannot practicably be completed by May 1, 2020. As described in the December 2018 Filing and in the NYISO's December 20, 2019 Informational Filing in this Docket,[42] much of the testing and training cannot commence until the completion of the ongoing upgrade to EMS and BMS.[43] Therefore, the NYISO expects to advance the required testing and training in the first quarter of 2020. Once the applicable testing and training is completed the NYISO will be in a position to deploy the software, and make the compliance revisions effective. The NYISO's current best estimate is that it will be in a position to make its compliance revisions effective by September 30, 2020.

[41] The completed software applications were developed to implement the rules and requirements submitted in the NYISO's December 2018 Filing. Additional software, and adjustments to software that has already been developed, will be required to address the directives contained in the December 2019 Order.

[42] *New York Independent System Operator, Inc.*, Informational Filing, Docket No. ER19-467 (Dec. 20, 2019).

[43] The software necessary to implement the Energy Storage Resource participation model was developed to integrate with the upgraded EMS/BMS platform, and therefore cannot be tested on the currently operating systems.

Consequently, the NYISO intends to make a filing in the near future to request an extension of the May 1, 2020 deadline under Rule 2008 of the Commission's Rules of Practice and Procedure. The NYISO is still finalizing its implementation plans, and that filing will explain the need for additional time in more detail. The NYISO believes that it already has the authority to make such a filing and that nothing in the December 2019 Order restricts its right to do so.

Nevertheless, out of an abundance of caution, the NYISO is requesting rehearing to the extent that the December 2019 Order was intended to prevent it from making a filing demonstrating the need to extend the May 1, 2020 deadline. If the December 2019 Order was meant to preclude subsequent extensions requests, that determination is not based on reasoned decision-making. The December 2019 Order imposed the May 1, 2020 deadline based on an assumption that the NYISO had made substantial progress on software upgrades in the year since the December 2018 Filing. As noted above, the Commission's assumption is correct as far as it goes but overlooks the need for extensive performance testing. It would not be reasoned decision-making for the Commission to disregard a NYISO demonstration that the need for testing will not permit implementation by May 1, 2020, or to insist that the NYISO deploy software without finishing testing and training. The December 2019 Order does not explain how such a holding could be reasonable. Moreover, the Commission's concern about an uncertain effective date will be fully addressed by the forthcoming extension filing. The Commission should therefore grant rehearing, to the extent necessary, to permit the NYISO to make an extension filing.

VI. CONCLUSION

WHEREFORE, for the foregoing reasons, the New York Independent System Operator, Inc., respectfully requests that the Commission grant rehearing of the December 2019 Order.

Respectfully submitted,

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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 21st day of January 2020.

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