

September 21, 2011

**Submitted Electronically**

Kimberly D. Bose  
Secretary  
Federal Energy Regulatory Commission  
888 First Street N.E.  
Washington, D.C. 20426

Re: New York Independent System Operator, Inc., Compliance Filing per  
September 16, 2010 Order Approving Contested Settlement and Denying  
Rehearing<sup>1</sup>

Dear Ms. Bose:

The New York Independent System Operator, Inc. (“NYISO”) respectfully submits to the Federal Energy Regulatory Commission (“Commission”): (i) revisions to Schedule C to Attachment CC of the NYISO Open Access Transmission Tariff (“OATT”), and (ii) revisions to Attachment M-1 to the NYISO Market Administration and Control Area Services Tariff (“Services Tariff”). The revisions are submitted to amend the NYISO OATT and Services Tariff in compliance with a settlement agreement that was filed with the Commission by PJM Interconnection, L.L.C. (“PJM”) on February 23, 2009<sup>2</sup> and accepted by the Commission in an Order issued on September 16, 2010 (“September 16 Order”).<sup>3</sup> The settlement agreement and its history are discussed below.

**I. BACKGROUND**

In a filing that was submitted on April 22, 2008, in Docket No. ER08-858-000 (“April 22 Filing”), PJM submitted for the Commission’s consideration (i) two executed agreements for long term point-to-point transmission service between PJM and Consolidated Edison Company of New York (“ConEdison”) (collectively “2008 TSAs”), (ii) an operating protocol

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<sup>1</sup> *Consolidated Edison Company of New York, Inc. v. Public Service Electric and Gas Company, PJM Interconnection, L.L.C. and New York Independent System Operator, Inc.*, 132 FERC ¶ 61,221.

<sup>2</sup> PJM filed the settlement agreement on February 23, 2009, in Docket Nos. ER08-858-000, ER08-867-000 and EL02-23-000.

<sup>3</sup> *Consolidated Edison Company of New York, Inc.*, 132 FERC ¶ 61,221.

to provide the service pursuant to the ConEdison TSAs (“JOA Protocol”), and (iii) an agreement to amend the NYISO/PJM JOA to add the JOA Protocol as Schedule C to the JOA.

On April 23, 2008, in Docket No. ER08-867-000, the NYISO filed the JOA Protocol with the Commission for informational purposes (“April 23 Filing”).

The two 2008 TSAs and the JOA Protocol were filed to facilitate the continuation of an arrangement being implemented under two grandfathered contracts between ConEdison and PSE&G. The grandfathered contracts provide for ConEdison to deliver to PSE&G, in northern New Jersey, 1000 MW of power and for PSE&G to redeliver the same amount of power to ConEdison in New York City. These contracts pre-date open access over transmission lines under the operation of PJM and NYISO and involve the transmission systems of both operators. The first contract was executed in 1975 and provides for transmission of 400 MW (“400 MW Contract”). The second contract was executed in 1978 and provides for transmission of 600 MW (“600 MW Contract”). The original 1000 MW Contracts will expire in 2012. To continue the transmission service after the expiration of the contracts, ConEdison requested that the service it now receives under the 1000 MW Contracts be rolled over pursuant to section 2.2 of the PJM Tariff and that it be permitted to take firm point-to-point service pursuant to the 2008 TSAs.

On August 26, 2008, the Commission issued an order accepting and suspending the April 22 Filing, subject to refund, to become effective on the date requested by the parties, May 1, 2012 (“August 26 Order”).<sup>4</sup> The Commission found that the issues raised in protests by PSE&G, New York City, the New Jersey Board of Public Utilities and NRG presented issues of material fact that could not be resolved based on the record and, based on review of the record, the 2008 TSAs and JOA Protocol might be unjust, unreasonable, and unduly discriminatory or preferential, or otherwise unlawful. The Commission also ordered NYISO to designate and formally file the JOA Protocol and the NYISO/PJM JOA.

On September 25, 2008, NYISO submitted a compliance filing, which included: (i) its May 2007 NYISO/PJM JOA; and (ii) the JOA Protocol. Consistent with the August 26 Order, the NYISO proposed a May 22, 2007 effective date for the JOA and a May 1, 2012 effective date for the JOA Protocol.

The Commission then consolidated Docket Nos. ER08-858-000 and ER08-867-000 and set the matters at issue in both dockets for hearing, to be held in abeyance while the parties engaged in negotiations with the assistance of a settlement judge. The Honorable John P. Dring was appointed settlement judge and three settlement conferences were held on September 25, 2008, October 29, 2008 and January 28, 2009. As a result of the settlement conferences and negotiations among the parties, the Settling Parties<sup>5</sup> reached a settlement

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<sup>4</sup> *PJM Interconnection, L.L.C. and New York Independent System Operator, Inc.*, 124 FERC 61,184 (2008).

<sup>5</sup> PJM, NYISO, ConEdison, Public Service Electric and Gas Company (“PSE&G”), PSEG Energy Resources & Trade LLC, and the New Jersey Board of Public Utilities (“NJBPU”) (collectively “Settling Parties”).

resolving all of the issues in Docket Nos. ER08-858-000 and ER08-867-000 as well as all issues in Docket No. EL02-23-000, and all subdockets of these dockets.

On February 23, 2009, PJM filed a settlement on behalf of the Settling Parties (“Settlement”) to resolve issues surrounding two grandfathered service agreements between ConEdison and PSE&G and the proposed roll-over of the agreements under the PJM Open Access Transmission Tariff (“PJM Tariff”). As part of the Settlement, the Settling Parties agreed to revise the JOA Protocol that PJM filed in Docket No. ER08-858 to become effective on May 1, 2012. In its September 16 Order the Commission approved the contested Settlement filed by PJM on behalf of the Settling Parties, and found that the Settlement, the 2008 TSAs and the JOA Protocol are a just and reasonable means of continuing service to ConEdison and do not create undue harm to pricing in the NYISO or PJM regions.

The Commission’s approval of the Settlement constituted acceptance of the revised Schedule C to PJM Rate Schedule No. 45 and revised Schedule C to Attachment CC to the NYISO’s OATT (“Schedule C”), effective May 1, 2012.<sup>6</sup> This approval also constituted acceptance of the revised PJM Rate Schedule No. 41 and revised Attachment M-1 to the NYISO Services Tariff (“Attachment M-1”), become effective as of the date the Commission approved the Settlement, September 16, 2010.<sup>7</sup> The instant filing addresses the NYISO’s compliance obligations that arise out of the Commission’s September 16 Order.

## **II. COMPLIANCE REVISIONS SUBMITTED IN THIS FILING**

The Settlement that the Commission accepted requires revisions to Attachment M-1 and to Schedule C. The necessary revisions include: (i) specification that the Auto Correction Factor mechanism, set forth in Appendix 3 to both Schedule C and Attachment M-1, shall be the sole and exclusive remedy available to any person or entity for any under- or over-delivery of power pursuant to the service provided under the 2008 TSAs, unless such under- or over- delivery is the result of gross negligence or intentional misconduct; (ii) the Auto Correction Factor mechanism, set forth in Appendix 3 to both Schedule C and Attachment M-1, shall not apply to under-deliveries over the A, B and C Feeders that occur during the first hour following a declaration by NYISO of a thunderstorm alert;<sup>8</sup> (iii) elimination of the re-direction of flow mechanism from Schedule C when NYISO or PJM is off-cost or is expected to go off-cost for two or more consecutive hours; and (iv) specification that the 13 percent distribution factor, described in Schedule C, will only apply when PJM and NYISO take steps to coordinate tap changes on the PARs to control power flow on transmission lines between New York and New Jersey and when such tap changes are unable to maintain the desired flow.<sup>9</sup>

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<sup>6</sup> Settlement ¶ 10, which was accepted by the September 16 Order.

<sup>7</sup> Settlement ¶ 17, which was accepted by the September 16 Order.

<sup>8</sup> Settlement ¶ 17.

<sup>9</sup> Settlement ¶ 11-14.

## **II. DOCUMENTS SUBMITTED**

The NYISO submits the following documents:

1. this filing letter;
2. a clean version of the proposed revisions to Schedule C to Attachment CC of the NYISO OATT and of the proposed revisions to Attachment M-1 to the NYISO Services Tariff (Attachment I); and
3. a blacklined version of the proposed revisions to Schedule C to Attachment CC of the NYISO OATT and of the proposed revisions to Attachment M-1 to the NYISO Services Tariff (Attachment II).

## **III. COMMUNICATIONS**

Correspondence concerning this filing should be served on:

Robert E. Fernandez, General Counsel  
Raymond Stalter, Director of Regulatory Affairs  
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\* Persons designated for receipt of service

## **IV. EFFECTIVE DATE**

Consistent with prior NYISO/PJM filings and the Commission's approval of the Settlement in its September 16 Order, the revised Attachment M-1 became effective on September 16, 2010, the date the Commission approved the Settlement and the revised Schedule C will become effective on May 1, 2012. Consistent with the requirements of the September 16 Order, the NYISO requests a waiver of the Commission's 60 day notice requirement to permit a September 16, 2010 effective date for the revisions to Attachment M-1 and proposes to maintain the May 1, 2012 effective date for Schedule C.

## **V. SERVICE LIST**

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, to all parties listed on the Commission's official service list in

Docket No. ER08-867 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](http://www.nyiso.com).

## **VI. CONCLUSION**

The NYISO respectfully requests that the Commission accept the revisions to Schedule C to Attachment CC to the NYISO's OATT and Attachment M-1 to the NYISO's Services Tariff with the effective dates requested above.

Respectfully submitted,

/s/ James H. Sweeney

Alex M. Schnell

James H. Sweeney

New York Independent System Operator, Inc

## **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 21<sup>st</sup> day of September, 2011.

/s/ Joy Zimmerlin

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