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December 14, 2011

VIA ELECTRONIC FILING

Ms. Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

Re: *New York Independent System Operator, Inc.*, Docket No. ER11-3949-____, Compliance Filing, Order No. 741, Verification of Market Participant Risk Management Policies and Procedures and Request for Deferred Effective Date

The New York Independent System Operator, Inc. (“NYISO”) respectfully submits the enclosed tariff revisions to comply with the Federal Energy Regulatory Commission’s (“Commission”) directives in its September 15, 2011 order in the above-captioned proceeding (“September 15 Order”) ¹ and the Commission’s directives in Order No. 741. ² This filing includes proposed compliance revisions to the NYISO’s Market Administration and Control Area Services Tariff (“Services Tariff”) to satisfy the Commission’s directives in the September 15 Order and Order No. 741 with respect to the NYISO’s independent verification of Market Participant risk management policies and procedures. ³

In preparing this filing the NYISO conducted several working group sessions with its Market Participants to discuss the September 15 Order and Order No. 741 requirements and the NYISO’s proposal for compliance. ⁴ The NYISO made adjustments to its initial proposals and

¹ *New York Independent System Operator, Inc.*, 136 FERC ¶ 61,193 (2011).

² *Credit Reforms in Organized Wholesale Electric Markets*, Order No. 741, FERC Stats. & Regs. ¶ 31,317 (2010), *order on reh’g*, Order No. 741-A, FERC Stats. & Regs. ¶ 31,320 (2011), *reh’g denied*, Order No. 741-B, 135 FERC ¶ 61,242 (2011).

³ Capitalized terms used but not defined in this filing shall have the meanings given to them in the Services Tariff.

⁴ The NYISO hosted meetings with its Credit Policy Working Group on September 29, October 28, and November 18, 2011.

performed additional analyses to explore issues and questions raised in the stakeholder process. In addition, the NYISO coordinated extensively with the other ISOs/RTOs to discuss the Commission's requirements and methodologies for identifying the subset of Market Participants subject to review, and to develop, to the extent practicable, consistent risk-management standards and verification processes across the ISO/RTO markets.

The Committee of Chief Risk Officers (CCRO) recently announced its intention to develop industry-accepted minimum participation criteria, including appropriate risk management practices, and provide for mechanisms to support the certification of these practices.⁵ While the NYISO and other ISOs/RTOs did not retain the CCRO, the NYISO and the other ISOs/RTOs participated in CCRO working groups to discuss risk management standards. However, the NYISO vetted its proposed rules regarding risk management verification through its shared governance process and, therefore, does not endorse the CCRO's establishment of risk management standards as the CCRO may not be representative or inclusive of all NYISO Market Participants.

I. LIST OF DOCUMENTS SUBMITTED

The NYISO respectfully submits the following documents:

1. This filing letter;
2. A clean version of the proposed revisions to the Services Tariff (Attachment I); and
3. A blacklined version of the proposed revisions to the Services Tariff (Attachment II).

II. COMMUNICATIONS AND CORRESPONDENCE

Copies of correspondence concerning this filing should be served on:

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⁵ *Committee of Chief Risk Officers (CCRO) Working Group for Risk Management Standards (RMS) within ISO Markets Filing RE Credit Reforms in Organized Wholesale Electric Markets, Order No. 741, Docket No. RM10-13-000 (Dec. 5, 2011).*

Ms. Kimberly D. Bose, Secretary
December 14, 2011
Page 3

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III. BACKGROUND

On October 21, 2010, the Commission issued Order No. 741 to amend its regulations to adopt reforms to credit policies used in organized wholesale electric markets to improve the management of risk.⁷ In Order No. 741, the Commission directed each ISO/RTO, in relevant part, to propose tariff revisions to establish minimum participation criteria, such as requirements related to adequate capitalization and risk management controls.⁸

On June 30, 2011, the NYISO submitted its tariff revisions to comply with Order No. 741, including revisions to establish minimum participation criteria and to require each Market Participant to certify annually its compliance with these criteria. In the September 15 Order, the Commission conditionally accepted the NYISO's proposed tariff revisions, but also directed the NYISO to make a compliance filing to establish, as part of the NYISO's minimum participation criteria, a periodic process for verification of Market Participant risk management policies and procedures.⁹ The Commission did not mandate a particular form of periodic verification in the September 15 Order. Rather, the Commission stated that "periodic verification could include periodic review of risk management policies, practices, and procedures, and their

⁶ The NYISO respectfully requests waiver of 18 C.F.R. § 385.203(b)(3) (2011) to permit service on counsel for the NYISO in both Washington, D.C. and Richmond, VA.

⁷ Order No. 741 at P 1.

⁸ *Id.* at P 132.

⁹ September 15 Order at P 47.

implementation, conducted on a random basis or directed to certain market participants based on identified risk.”¹⁰

IV. DESCRIPTION OF PROPOSED COMPLIANCE TARIFF REVISIONS

A. Risk Management Verification

In this filing, the NYISO is proposing to add a new Section 26.1.3 to Attachment K of the Services Tariff to establish its rules for periodic verification of Market Participant risk management policies and procedures. These rules supplement the NYISO’s existing ability to require any Market Participant, at any time, to submit its risk management policies and description of internal controls to the NYISO for review. Section 26.1.4 of Attachment K requires Market Participants to submit to the NYISO, upon request, “any information or documentation reasonably required for the ISO to monitor and evaluate Customer’s creditworthiness and compliance with requirements set forth in the ISO Tariffs, ISO Procedures, and/or ISO Agreements related to settlements, billing, credit requirements, and other financial matters.” Pursuant to this provision, the NYISO may request a Market Participant to submit its risk management policies and procedures whenever the request appears, in the NYISO’s discretion, to be warranted regardless of whether the Market Participant is subject to verification under the risk management provisions proposed in this filing.

In addition to the ISO’s existing discretion to request risk management policies and procedures from *any* Market Participant under Section 26.1.4 of the Services Tariff, new Section 26.1.3.1 of the Services Tariff defines a subset of Market Participants that would categorically be subject to verification based on identified risks, consistent with the September 15 Order. Specifically, the subset of Market Participants subject to verification would be those active in the NYISO-administered TCC market that hold high-risk TCC portfolios as identified by the two-step screening process described below. The NYISO’s verification process focuses on the TCC market because, as the Commission recognizes, the duration of TCCs creates unique risks that are difficult to quantify and that distinguish TCCs from other wholesale electric market products.¹¹

As described in new Sections 26.1.3.1(a) and (b) of the Services Tariff, the first screen would identify those Market Participants with a concentration of negative or low positive TCCs, which do not solely own Grandfathered Rights and/or Fixed Price TCCs. The second screen would then subject those identified Market Participants to verification unless the Market Participant (i) maintains at least U.S. \$10 million in assets or U.S. \$1 million in tangible net worth, and (ii) has participated in the TCC market, or similar market of another ISO/RTO, for more than three years.

¹⁰ *Id.*

¹¹ Order No. 741 at PP 70-72.

The NYISO defined the scope of Market Participants potentially subject to verification as those that hold a concentration of negative or low positive TCCs because these TCC concentrations pose the greatest risk of payment default. Holders of negative TCCs must make congestion payments to the NYISO. Low positive TCCs run a disproportionately high risk of becoming negative TCCs. The NYISO further refined the scope, with stakeholder input, to make limited exceptions to the verification requirement for Market Participants that are well capitalized and have more than three years of TCC market experience.

New Section 26.1.3.2 of the Services Tariff sets forth eight criteria that the NYISO will assess when reviewing a Market Participant's risk management policies and procedures. These eight criteria were developed, as described above, in conjunction with the other ISOs/RTOs and no stakeholders objected to these criteria. For each Market Participant subject to risk management verification, continued eligibility to participate in the ISO-Administered Markets is conditioned upon the NYISO notifying the Market Participant of successful completion of the NYISO's verification. A Market Participant subject to risk management verification and satisfactorily verified by the NYISO, or other ISO/RTO with substantially similar verification standards, shall be required to satisfy a subsequent verification if the Market Participant materially changes its risk management policies and procedures or otherwise experiences a material adverse change.

New Section 26.1.3.2 of the Services Tariff also provides that the NYISO may retain a third party to perform the review and verification function. The NYISO is continuing to coordinate with the other ISOs/RTOs in an effort to identify an independent body to perform the verification function across all ISOs/RTOs.

B. Ministerial Tariff Revisions

The NYISO is proposing to make ministerial revisions to Section 26.1.1(d)(i) of the Services Tariff to clarify that the capitalization requirements are minimum requirements and also clarify that Market Participants must provide a copy of their annual audited financial statements as evidence of their capitalization.

V. EFFECTIVE DATE

The NYISO respectfully requests that this filing become effective on June 30, 2012, which proposed implementation date will provide time for the NYISO to identify, in coordination with other ISOs/RTOs, an independent body qualified to perform the verification process established by the proposed tariff revisions. In the event the NYISO has not engaged an independent body to perform the verification process by the proposed implementation date, the NYISO respectfully requests permission to defer the implementation of the proposed tariff revisions, as appropriate, upon the filing of a notice and amended tariff sections with the Commission by June 30, 2012 that indicate the revised effective date.

VI. SERVICE

This filing will be posted on the NYISO's website at www.nyiso.com. In addition, the NYISO will e-mail an electronic link to this filing to the official representative of each party to this proceeding, to each of its customers, to each participant on its stakeholder committees, to the New York Public Service Commission, and to the New Jersey Board of Public Utilities.

VII. CONCLUSION

Wherefore, for the foregoing reasons, the New York Independent System Operator, Inc. respectfully requests that the Commission take action as requested herein.

Respectfully submitted,

/s/Ted J. Murphy

Ted J. Murphy

Counsel to

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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 14th day of December, 2011.

/s/ Joy A. Zimmerlin

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