

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

<b>Electronic Tariff Filings</b>	)	
	)	<b>Docket No. RM01-5-000</b>
	)	

**MOTION OF THE NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.  
TO REQUEST THAT THE COMMISSION’S eTARIFF TESTING SITE REMAIN  
PERMANENTLY OPEN and REQUEST FOR EXPEDITED TREATMENT**

Pursuant to Rules 212 and 213 of the Federal Energy Regulatory Commission’s (“Commission”) Rules of Practice and Procedure, 18 C.F.R. §§ 385.212, .213, the New York Independent System Operator, Inc. (“NYISO”) submits this motion to request that Commission’s e-Tariff test site remain permanently open. In light of the Commission’s announcement to remove the testing site by April 1, 2010, the NYISO requests expedited action on this Motion.

**I. BACKGROUND**

The NYISO is the independent body responsible for providing open access transmission service, maintaining reliability, and administering competitive wholesale markets for electricity, capacity and ancillary services in New York State. As such, the NYISO has two comprehensive tariffs on file with the Commission, which the NYISO must frequently modify to accommodate changes to the services it provides. The NYISO also maintains several rate schedules and hundreds of service agreements that are impacted by the electronic tariff requirements of Order No. 714. The NYISO has been working diligently with Commission staff, other RTOs, ISOs, and vendors to develop the systems necessary to comply with Order No. 714.

On December 21, 2010, the NYISO voluntarily notified the Commission of its intent to submit its baseline electronic tariff filing on June 2, 2010 (“June 2010 Filing”).<sup>1</sup>

On March 12, 2010, citing recent acknowledgement by Commission staff that the electronic tariff test environment was still being implemented and that the test environment will be discontinued once the electronic tariff baseline filing period commences, the Energy Electric Institute and Electric Power Supply Association submitted a motion requesting that the Commission, among other items: retain the pre-production test environment *at least* during the baseline filing period.

## **II. MOTION**

The NYISO supports retaining the testing environment, but on a permanent basis. Maintaining the current pre-production testing environment is critical to enable parties to ensure that their future electronic tariff submissions are accurate and will actually reduce the burden on the Commission’s resources. The Commission’s current plan to close the full testing environment and maintain only a limited “sandbox”<sup>2</sup> will not adequately allow electronic tariff filers to verify that their filings are correctly formatted and coded and are compatible with the Commission’s system before filing in the “live” production environment. This will cause significant confusion to parties and the Commission regarding the legal status of future filings.

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<sup>1</sup> *New York Independent System Operator, Inc.*, Notice of Date for Transitional eTariff Baseline Schedules, Docket No. RM01-5-000 (filed December 21, 2009).

<sup>2</sup> *See* EEI/EPISA Motion at 3-4.

The NYISO understands that if the Commission discontinues access to its pre-production environment, the NYISO will be required to test its electronic tariff filings using the Commission's active electronic tariff filing production environment. This will burden the Office of the Secretary of the Commission ("OSEC") and present the significant risk that "test" filings will be deemed to be submitted as "statutory" filings.<sup>3</sup> For example, the NYISO has proposed submitting its baseline tariff filing on June 2, 2010. The NYISO has been advised by staff from the Commission's Office of Energy Market Regulation ("OEMR") that once the pre-production testing site is disabled by April 1, 2010, the NYISO will have to test its systems using the production environment and then subsequently withdraw any test filings. Therefore, once the pre-production test environment is disabled, the NYISO will be forced to test its baseline filing by submitting it through the Commission's production environment to ensure that it is properly coded and formatted before formally submitting it as its baseline tariff. The NYISO will also then have to use the production environment to test any future modifications to its Tariff.

This process will result in a significant increase in filings to the OSEC and great uncertainty to electronic tariff filers and their stakeholders. First, the OSEC will be required to process all "test" filings submitted through the production system with no indication of whether they are being submitted for testing purposes or as formal Commission filings, and parties presumably then will be required to submit a notice or motion to withdraw their "test" filings after the fact. Such a process will significantly

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<sup>3</sup> "Statutory" filings are defined by the Commission as filings made pursuant to section 4 of the Natural Gas Act (NGA), section 205 of the Federal Power Act (FPA), or section 6 of the Interstate Commerce Act (ICA) to revise rates or terms and conditions of service." *Electronic Tariff Filings*, 130 FERC ¶ 61,047 (2010).

increase the workload of the OSEC, with no concurrent benefit to the Commission or industry.

Additionally, the NYISO understands that once submitted through the production environment, filings will be “accepted” by the OSEC system, presenting considerable ambiguity and confusion regarding whether a tariff or amendment is “on file” with the Commission. Moreover, the NYISO understands that, once accepted and validated by the OSEC, , such filings will be entered into the Commission’s eLibrary system and become available in the electronic tariff “public viewer” system, creating a permanent record of the filing. Submitting a “test” filing through the Commission’s formal electronic filing portal therefore raises questions regarding the legal status of the filing and will cause confusion among electronic tariff filers and their stakeholders regarding which submissions are “on file” and which are not, and which submissions are deemed legally “filed” with the Commission in accordance with governing statutes and which are not. The Commission can easily avoid these legal and procedural ambiguities by maintaining the testing environment beyond the implementation date of electronic tariff filings.

The advent of eTariff filing has brought a new era into the Commission’s filings. Unlike eLibrary or eComment where a user inputs text directly into a FERC site or simply uploads a copy of a file, eTariff requires that two software programs be compatible and be able to communicate with each other error free.

The NYISO anticipates that software modifications will occasionally be issued by its software vendor. If the test system is in place at the Commission then the NYISO can validate the software modifications and other updates through the test site without concern that the NYISO is affecting its public records on file at the Commission. The absence of a test site would require the NYISO to conduct software modification

validation testing via the live production site at the CommissionFERC. Using a production environment for testing is not advisable and could potentially cause corruption or other unintended consequences.

Furthermore, the Commission, from time to time, will certainly update its schema and/or the CSV coding. This will require software vendors to update their software and a place for testing updates and upgrades will be necessary.

### **III. REQUEST FOR EXPEDITED TREATMENT**

In light of the Commission's stated intention to remove the testing site by April 1, 2010, the NYISO requests that the Commission act on this Motion by March 30, 2010.

### **IV. COMMUNICATIONS**

The NYISO requests that all correspondence and communications with respect to this motion and answer be sent to the following:

Robert E. Fernandez, General Counsel  
Elaine Robinson, Director of Regulatory Affairs\*  
New York Independent System Operator, Inc.  
10 Krey Boulevard  
Rensselaer, NY 12144  
Tel: (518) 356-6178  
Fax: (518) 356-7678

\* Persons designated for receipt of service.

### **V. CONCLUSION**

For the foregoing reasons, the NYISO respectfully requests that the Commission grant this motion and allow the eTariff testing site to remain open on a permanent basis.

The NYISO also requests that the Commission act expeditiously on this motion by March 30, 2010.

Respectfully Submitted,

/s/ Elaine D. Robinson  
Elaine D. Robinson  
Director, Regulatory Affairs  
New York Independent System Operator, Inc.

March 18, 2010