

May 20, 2010

**By Hand Delivery**

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

**Re: Compliance Filing of the New York Independent System Operator,  
Inc.; Docket No. ER10-119-\_\_\_**

Dear Secretary Bose:

In compliance with the Commission's April 23, 2010 Order ("April 23 Order"), the New York Independent System Operator, Inc. ("NYISO") respectfully submits proposed revisions to its Market Administration and Control Area Services Tariff ("Services Tariff"). The April 23 Order conditionally accepted a filing made by the NYISO on October 27, 2009 ("October 27 Filing"), but directed the NYISO to submit revised tariff sheets with one addition and two deletions.

**I. Documents Submitted**

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

**II. Background**

The NYISO's October 27 Filing proposed adding provisions to its Services Tariff to clarify that customers who violate the Federal Energy Regulatory Commission's ("FERC") rules against electric energy market manipulation also violate the NYISO's Services Tariff. A deficiency Letter was issued by the Commission on December 23, 2009 questioning the purpose of the proposed new section of the NYISO's tariff. The NYISO submitted a response to the deficiency letter on February 22, 2010.

In its April 23 Order, the Commission found the proposed Section 4.1.6a of the Services Tariff to be reasonable, provided that three changes were made to the proposed language. As discussed in the deficiency letter, and agreed to by the NYISO in its

response, the Commission indicated that the additional tariff language should clearly state that violations of all other Commission orders, rules, and regulations, not just those Commission rules related to market manipulation, would also violate the NYISO's Services Tariff. The Commission also instructed the NYISO to delete two sentences included in the proposed tariff revisions.

### **III. Tariff Description and Justification**

To comply with the Commission's April 23 Order, the NYISO proposes the following three changes to the tariff language submitted in the October 27 Filing:

First, the NYISO proposes to add a sentence to Section 4.1.6a(1) specifically addressing the relationship between proposed Section 4.1.6a and violations of all other FERC orders, rules and regulations.

The proposed addition would read:

1. Violations of FERC's orders, rules and regulations also violate this Section 4.1.6a of the ISO Services Tariff. In particular, if FERC or a court of competent jurisdiction determines there has been a violation of FERC's regulations related to electric energy market manipulation (see 18 C.F.R. Section 1c.2, or any successor provision thereto), such violation is also a violation of this ISO Services Tariff if such violation affects or is related to the ISO Administered Markets.

Second, the NYISO proposes to delete the final two sentences from Section 4.1.6a(2), consistent with the Commission's instructions. The new Section 4.1.6a(2) would read:

2. If the ISO becomes aware that a Customer may be engaging in, or might have engaged in, electric energy market manipulation, it shall promptly inform its Market Monitoring Unit. ~~The ISO retains the discretion, as it deems appropriate, to inform FERC of any potential electric energy market manipulation it identifies. If the ISO informs FERC's Office of Enforcement, it shall request that FERC determine whether a violation has occurred and, if so, that FERC impose appropriate remedies.~~

As explained in Paragraph 17 of the April 23 Order, "nothing prohibits [the NYISO] from reporting potential electric energy market manipulation directly to the Commission. NYISO does not need a specific tariff provision to directly report to the Commission any potential electric energy market manipulation it identifies."

Finally, the NYISO proposes to add the word "other" to Section 4.1.6a(3) to make it consistent with the broadened scope of Section 4.1.6a(1).

3. This Section 4.1.6a of the ISO Services Tariff does not independently empower the ISO or its Market Monitoring Unit to impose penalties for, or to provide a remedy for, violations of FERC's prohibition against electric energy market manipulation, or for other violations of the ISO's Tariffs.

#### **IV. Effective Date**

The NYISO requests an effective date for these tariff amendments of December 27, 2009, consistent with the April 23 Order.

#### **V. Communications**

All communications and services in this proceeding should be directed to:

Robert E. Fernandez, General Counsel  
Elaine D. Robinson, Director of Regulatory Affairs  
\*Alex M. Schnell  
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\* Persons designated for receipt of service

#### **VI. Service**

In addition to electronically serving all parties to the Commission's official service list in this docket, this filing will be posted on the NYISO's website at nyiso.com. The NYISO will email 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, and to the electric utility regulatory agency of New Jersey. The NYISO will also make a paper copy available to any interested party that requests one.<sup>1</sup>

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<sup>1</sup> See 18 C.F.R. § 35.2(e) (2009)

**VII. Conclusion**

Wherefore, for the foregoing reasons, the New York Independent System Operator, Inc. respectfully requests that the Commission accept for filing the proposed tariff revisions attached hereto with an effective date of December 27, 2009.

Respectfully Submitted,

/s/ Kristin A. Bluvas

Kristin A. Bluvas

Attorney

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 Commission Rules of Practice and Procedure, 18 C.F.R. § 385.2010.

Dated at Rensselaer, New York this 20<sup>th</sup> day of May, 2010.

/s/ Kristin A. Bluvas  
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# Attachment I

All LSEs serving Load in the NYCA must comply with the Installed Capacity requirements set forth in Article 5 of this ISO Services Tariff.

All Customers taking service under the ISO Services Tariff must pay the Market Administration and Control Area Services Charge, as specified in Rate Schedule 1 of this ISO Services Tariff provided, however, that Demand Side Resources offering Operating Reserves or Regulation Service shall pay the Market Administration and Control Area Services Charge based only on their withdrawal billing units. Limited Energy Storage Resources shall pay the Market Administration and Control Area Services Charge, as specified in Rate Schedule 1 of this ISO Services Tariff, based only on their Actual Energy Injections.

A Generator or Demand Side Resource with a real time physical operating problem that makes it impossible for it to operate in the bidding mode in which it was scheduled shall notify the NYISO.

#### **4.1.6a Customer Compliance with Laws, Regulations and Orders**

All Customers shall comply with all applicable federal, state and local laws, regulations and orders, including orders from the ISO.

1. Violations of FERC's orders, rules and regulations also violate this Section 4.1.6a of the ISO Services Tariff. In particular, if FERC or a court of competent jurisdiction determines there has been a violation of FERC's regulations related to electric energy market manipulation (*see* 18 C.F.R. Section 1c.2, or any successor provision thereto), such violation is also a violation of this ISO Services Tariff if such violation affects or is related to the ISO Administered Markets.

2. If the ISO becomes aware that a Customer may be engaging in, or might have engaged in, electric energy market manipulation, it shall promptly inform its Market Monitoring Unit.
3. This Section 4.1.6a of the ISO Services Tariff does not independently empower the ISO or its Market Monitoring Unit to impose penalties for, or to provide a remedy for, violations of FERC's prohibition against electric energy market manipulation, or for other violations of the ISO's Tariffs.

#### **4.1.7 Commitment for Reliability**

Generating units committed by the ISO for service to ensure NYCA or local system reliability will recover startup and minimum generation costs not recovered in the Dispatch Day. Payment for such costs shall be determined pursuant to the provisions of Attachment C. Such payments shall be recovered by the ISO from the local customers for whose benefit the generation was committed in accordance with Rate Schedule 1 of the ISO OATT.



## Attachment II

All LSEs serving Load in the NYCA must comply with the Installed Capacity requirements set forth in Article 5 of this ISO Services Tariff.

All Customers taking service under the ISO Services Tariff must pay the Market Administration and Control Area Services Charge, as specified in Rate Schedule 1 of this ISO Services Tariff provided, however, that Demand Side Resources offering Operating Reserves or Regulation Service shall pay the Market Administration and Control Area Services Charge based only on their withdrawal billing units. Limited Energy Storage Resources shall pay the Market Administration and Control Area Services Charge, as specified in Rate Schedule 1 of this ISO Services Tariff, based only on their Actual Energy Injections.

A Generator or Demand Side Resource with a real time physical operating problem that makes it impossible for it to operate in the bidding mode in which it was scheduled shall notify the NYISO.

#### **4.1.6a Customer Compliance with Laws, Regulations and Orders**

All Customers shall comply with all applicable federal, state and local laws, regulations and orders, including orders from the ISO.

1. [Violations of FERC's orders, rules and regulations also violate this Section 4.1.6a of the ISO Services Tariff.](#) In particular, if FERC or a court of competent jurisdiction determines there has been a violation of FERC's regulations related to electric energy market manipulation (*see* 18 C.F.R. Section 1c.2, or any successor provision thereto), such violation is also a violation of this ISO Services Tariff if such violation affects or is related to the ISO Administered Markets.

2. If the ISO becomes aware that a Customer may be engaging in, or might have engaged in, electric energy market manipulation, it shall promptly inform its Market Monitoring Unit. ~~The ISO retains the discretion, as it deems appropriate, to inform FERC of any potential electric energy market manipulation it identifies. If the ISO informs FERC's Office of Enforcement, it shall request that FERC determine whether a violation has occurred and, if so, that FERC impose appropriate remedies.~~
3. This Section 4.1.6a of the ISO Services Tariff does not independently empower the ISO or its Market Monitoring Unit to impose penalties for, or to provide a remedy for, violations of FERC's prohibition against electric energy market manipulation, or for other violations of the ISO's Tariffs.

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