

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

**New York Independent System Operator, Inc.       )     Docket No.   ER10-3043-001**

**REQUEST FOR LEAVE TO ANSWER AND ANSWER OF  
THE NEW YORK INDEPENDENT SYSTEM OPERATOR, INC**

Pursuant to Rules 212 and 213 of the Commission’s Rules of Practice and Procedure (“Commission”),<sup>1</sup> the New York Independent System Operator, Inc. (“NYISO”) submits this request for leave to answer, and its answer to, the *Motion for Extension of Time and Waiver of Answering Period of the New York City Suppliers* (“Motion”) in the above captioned proceeding. As is explained below, the Motion contains a number of misrepresentations that warrant the Commission’s attention.

**I.     REQUEST FOR LEAVE TO ANSWER**

The Commission has discretion<sup>2</sup> to accept answers to responsive pleadings, and has done so when they help to clarify complex issues, provide additional information, or are otherwise helpful in the Commission’s decision-making process.<sup>3</sup> The Commission should follow its precedent and accept the NYISO’s answer in this instance. This answer identifies and corrects several inaccurate statements in the Motion and will help the Commission to make a decision based on a correct record.

---

<sup>1</sup> 18 C.F.R. §§ 385.212 and 385.213 (2010).

<sup>2</sup> See 18 C.F.R. § 385.213(a)(2).

<sup>3</sup> See *New York Independent System Operator, Inc.*, 123 FERC ¶ 61,044 at P 39 (2008) (accepting answers to answers because they provided information that aided the Commission’s decision-making process); *Morgan Stanley Capital Group, Inc. v. New York Independent System Operator, Inc.*, 93 FERC ¶ 61,017 at 61,036 (2000) (accepting an answer that was “helpful in the development of the record. . .”).

## II. ANSWER

The Motion incorrectly characterizes the NYISO's *Initial Compliance Filing*<sup>4</sup> as if it were proposing "complex" new "tariff modifications."<sup>5</sup> In reality, the *Initial Compliance Filing* merely provided additional factual support for the proposed "Three-Year Look-Ahead Rule"<sup>6</sup> that was originally submitted to the Commission on September 27, 2010. The *Initial Compliance Filing* proposed no further changes to those still pending revisions.

The Motion implies that it was somehow improper for the NYISO to submit the supposed "changes" in the *Initial Compliance Filing* without special notice to stakeholders.<sup>7</sup> The truth is that there was no reason for the NYISO to take such a step because the *Initial Compliance Filing* simply provided support for tariff revisions that stakeholders had previously endorsed. Similarly, there was no reason for the NYISO to mention the *Initial Compliance Filing* during stakeholder discussions of potential "additional revisions" to the In-City capacity market design because it had nothing to do with those issues. The Movants<sup>8</sup> should already be familiar with the *Initial Compliance Filing*'s explanation of the reasons for the NYISO's continued support for the Three-Year Look-Ahead Rule. They participated in the stakeholder discussions and appeared to support the decisions that are described in the *Initial Compliance Filing*. To date, the Movants

---

<sup>4</sup> New York Independent System Operator, Inc., *Initial Compliance Filing and Request for Expedited Action No Later Than December 14, 2010*, Docket No. ER10-3043-001 (December 7, 2010).

<sup>5</sup> Motion at 3. *See also* Motion at n. 3 and 3 (inaccurately implying that the *Initial Compliance Filing* would adopt "additional revisions" or "changes" to the tariff revisions submitted on September 27, 2010).

<sup>6</sup> Capitalized terms that are not otherwise defined herein shall have the meaning specified in Section 23.2.1 of Attachment H to the NYISO's Market Administration and Control Area Services Tariff ("Services Tariff") or in the *Initial Compliance Filing*.

<sup>7</sup> Motion at 2.

<sup>8</sup> The "Movants" are the sponsors of the Motion, *i.e.*, Astoria Generating Company, L.P., the NRG Companies, and TC Ravenswood, LLC.

have raised no objections to the Three-Year Look-Ahead Rule in their various and voluminous filings in this proceeding.

There also is no connection between the questions that the Movants have presented to the NYISO and the subject matter addressed by the *Initial Compliance Filing*. Movants' questions seek detailed information concerning the analyses that the NYISO would undertake when determining whether particular new entrants into the In-City capacity market would be eligible for an exemption from mitigation. It is incorrect for the Movants to claim that they must have answers to such questions before they may "assess whether the [*Initial Compliance Filing*] complies with the Commission's directives in the November 26 Order."<sup>9</sup> The only such directive implicated by the *Initial Compliance Filing* was that the NYISO provide additional support for the previously proposed Three-Year Look-Ahead Rule. Movants' questions are wholly unrelated to that issue.

By contrast, given: (i) that the *Initial Compliance Filing* contains no new proposals; (ii) the Movants' past support for the Three-Year Look-Ahead Rule during the stakeholder process; (iii) their silence on the issue to date; and (iv) the irrelevance of their questions to the subject matter of the *Initial Compliance Filing*, it is unreasonable for the Movants to claim that they are prejudiced by the December 14 comment deadline.<sup>10</sup>

---

<sup>9</sup> Motion at 4.

<sup>10</sup> The Movants also incorrectly characterize the manner in which NYISO Operating Committee meetings are scheduled. They assert that the December 16 Operating Committee meeting was "previously scheduled by the NYISO" and imply that it was the NYISO that postponed it. (*See* Motion at 2-3). Operating Committee meetings, however, are scheduled by the stakeholder chair of that committee, not the NYISO. (*See* New York Independent System Operator By-Laws of the Operating Committee at Article 4 *available at* < [http://www.nyiso.com/public/webdocs/committees/general\\_information/nyiso\\_oc\\_bylaws.pdf](http://www.nyiso.com/public/webdocs/committees/general_information/nyiso_oc_bylaws.pdf)>). Movants concede that the change at the Operating Committee was itself the result of a decision by the stakeholder Transmission Planning Advisory Subcommittee but bury this acknowledgement in a footnote.

### III. CONCLUSION

WHEREFORE, for the foregoing reasons, the New York Independent System Operator, Inc. respectfully requests that the Commission grant it leave to answer and consider this answer in its deliberations.

Respectfully Submitted,

/s/Ted J. Murphy  
Ted J. Murphy  
Counsel to the  
New York Independent System Operator, Inc.

December 14, 2010

cc: Michael A. Bardee  
Gregory Berson  
Connie Caldwell  
Anna Cochrane  
Lance Hinrichs  
Jeffrey Honeycutt  
Michael Mc Laughlin  
Kathleen E. Nieman  
Daniel Nowak  
Rachel Spiker

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day caused the foregoing document to be served on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, DC, this 14th day of December, 2010.

*/s/ Ted J. Murphy* \_\_\_\_\_

Hunton & Williams LLP  
1900 K Street, NW  
Suite 1200  
Washington, DC 20006  
(202) 955-1500