UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

New York Independent System Operator, Inc.) Docket No. ER11-2224-000

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,[1] the New York Independent System Operator, Inc. ("NYISO") submits this request for leave to answer, and its answer to, TC Ravenswood, LLC's ("TCR") answer to the NYISO's February 9, 2011 *Request for Expedited Clarification and Request for Expedited Action* ("February Request"). The NYISO is not addressing TCR's allegations of bias and bad faith because it is confident that the Commission will recognize that they are baseless. Instead, in deference to the Commission's policy that answers to responsive pleadings be limited in scope, the NYISO is confining itself to refuting TCR's procedurally defective and meritless request to modify the compliance filing deadline in this proceeding. The NYISO's silence regarding TCR's various other misstatements and mischaracterizations should not be construed as agreement with them.

I. REQUEST FOR LEAVE TO ANSWER

The Commission has discretion[2] 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.[3] The Commission should follow its

[1] 18 C.F.R. §§ 385.212 and 385.213 (2010).

[2] *See* 18 C.F.R. § 385.213(a)(2).

[3] *See Black Oak Energy, L.L.C. v. PJM Interconnection, L.L.C.*, 125 FERC ¶ 61,042 at P 14 (2008) (accepting answer to rehearing request because the Commission determined that it has "assisted us in our decision-making process."); *FPL Energy Marcus Hook, L.P. v. PJM Interconnection, L.L.C.*, 123 FERC ¶ 61,289 at P 12 (2008) (accepting "PJM's and FPL's answers [to rehearing requests], because

precedent and accept the NYISO's answer in this instance. This answer is limited in scope to highlighting the procedural defectiveness, and substantive infirmity, of TCR's unsupported request to modify the compliance filing deadline in this proceeding. It provides information that will clarify the record and assist the Commission in its deliberations and should therefore be accepted.

II. ANSWER

A. TCR's Attempt to Revise the January Order's Compliance Filing Deadline Should Be Rejected as a Procedurally Defective Request for Rehearing

The January Order[4] gave the NYISO until March 29, 2011 to make its compliance filing. If TCR opposes that deadline it may attempt to shorten it by seeking rehearing pursuant to Section 313 of the Federal Power Act and Commission Rule 713. It may not ask the Commission to modify the January Order in an answer to the NYISO's request for clarification that completely fails to conform to Rule 713's requirements.[5] TCR's request must therefore be rejected because it is procedurally defective.

B. TCR's Arguments for Accelerating the January Order's Compliance Filing Deadline Are Wholly Devoid of Merit

Even assuming *arguendo* that TCR's attempt to modify the NYISO's compliance filing deadline was procedurally valid it should be rejected due to its lack of substantive merit. First and foremost, TCR's assumption that it would be reasonable to require the NYISO to file by

---

they have provided information that assisted us in our decision-making process"); *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. . . .").

[4] *New York Independent System Operator, Inc.*, 134 FERC ¶ 61,058 (2011).

[5] Commission Rule 2008 permits "any person" to seek to extend the time by which it is required or allowed to act by filing a motion and showing good cause for the extension. This procedure is not available to TCR here because it is not required to take any action under the January Order and because it is seeking to accelerate, not extend, the NYISO's deadline.

March 14 is simply wrong. The fact that the NYISO worked for more than a year to develop the proposed ICAP Demand Curves does not mean that it will be simple or quick to make the significant adjustments directed by the January Order by March 29.[6] Given the number of staff members and hours that will be required to satisfy the several complex compliance obligations that the NYISO faces, it expects to need the entire sixty day period to make its compliance filing. TCR offers nothing but unsubstantiated speculation to support its opinion that a March 14 deadline would be reasonable.[7]

More generally, there is no foundation in Commission precedent or practice for TCR's notion that the NYISO, or any public utility facing a compliance filing deadline, is somehow obliged to rush to make that filing before the deadline.[8] The NYISO's practice has always been to work diligently to make all required compliance filings when they are due. It has no policy or history of making certain filings earlier on the ground that they might favor particular classes of market participants. Similarly, TCR's observation that the NYISO has no financial incentive to expedite the March 29 filing[9] is meaningless because the NYISO, as an independent not-for-profit entity, never has a financial incentive to make any filing. There is thus no more need for the Commission to encourage the NYISO to make a timely filing in this proceeding than there has been in any other proceeding in which the NYISO has a compliance obligation.

---

[6] TCR at 4.

[7] The NYISO is continuing to investigate the number of days prior to an ICAP Spot Market Auction needed to implement new ICAP Demand Curves after the date of a Commission order accepting them. Consistent with the January Order, the NYISO will provide that information in its March 29 compliance filing. Thus the NYISO will not comment on TCR's suggestion regarding the time needed to implement the ICAP Demand Curves after the issuance of a Commission order. (TCR at 3, 11-12.)

[8] TCR at 9-10.

[9] *Id.* at 10-11.

Finally, there is no merit to TCR's claim that the NYISO's preparation of the February Request in this proceeding somehow represents a lack of focus on its compliance obligations.[10] Contrary to TCR's comments, the February Request, was not a disguised request for expedited rehearing, nor was it an attempt to distract attention from, nor to avoid fulfilling, the NYISO's compliance obligations. The NYISO sought confirmation that escalation was appropriate and that it should use the escalation factor that the January Order found to be prospectively just and reasonable. Thus, even assuming *arguendo* that the preparation of the request for clarification deducted time from preparing the compliance filing, clarifying these points was necessary, as evidenced by the fact that other parties[11] deemed it necessary to file a request for clarification of its own to address these questions.

III. CONCLUSION

For the reasons set forth above, the Commission should grant the NYISO leave to answer, and reject TCR's Answer.

Respectfully Submitted,

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

February 18, 2011

cc: Michael McLaughlin
Connie Caldwell
Kathleen Nieman
Rachel Spiker
Jeffrey Honeycutt
Jignasa Gadani
Anna Cochrane
Michael Bardee
Lance Hinrichs
Gregory Berson
Daniel Nowak

[10] *Id.* at 9.

[11] *See New York Independent System Operator, Inc.*, Request for Expedited Rehearing of Independent Power Produces of New York, Inc., Docket No. ER11-2224-000 (filed February 14, 2011).

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 18th day of February, 2011.

/s/Ted J. Murphy

Ted J. Murphy
Hunton & Williams LLP
1900 K Street, NW
Washington, DC 20426
(202) 955-1500