

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

New York Independent System Operator, Inc.
New York Transmission Owners

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Docket No. ER04-449-023

**REQUEST FOR CLARIFICATION, OR IN THE ALTERNATIVE REHEARING, OF
THE NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.**

Pursuant to Rules 212 and 713 of the Commission's Rules of Practice and Procedure,¹ the New York Independent System Operator, Inc. ("NYISO") respectfully requests clarification or, in the alternative, rehearing of paragraph 52 the Commission's September 8, 2011, *Order on Compliance* Filing, in the above-captioned proceeding ("*September Order*").²

Specifically, the NYISO requests clarification of the directive in paragraph 52 regarding the analysis to be used to determine whether a new Capacity zone should be created, as further explained below.

I. BACKGROUND

On January 4, 2011, in compliance with the Commission's June 30, 2009 order in this proceeding,³ the NYISO and the New York Transmission Owners ("NYTOs")⁴

¹ 18 C.F.R. §§ 385.212 and 713 (2011).

² *New York Independent System Operator, Inc.*, 136 FERC ¶ 61,165 (2011) ("*September Order*").

³ *New York Independent System Operator, Inc.*, 127 FERC ¶ 61,318 (2009) ("*June 2009 Order*").

⁴ The NYTOs are Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., Long Island Power Authority, New York Power Authority, New York State Electric & Gas Corporation, Orange & Rockland Utilities, Inc., Rochester Gas and Electric Corporation, and Niagara Mohawk Power Corporation.

submitted a filing⁵ proposing criteria and considerations to “govern the evaluation and potential creation of new Installed Capacity⁶ (“ICAP” or “Capacity”) zones in the New York Control Area” (“January Compliance Filing”). The *June 2009 Order* directed the NYISO to work with stakeholders and develop a proposal to “address the implications and effects of a new capacity zone or zones on the tariff provisions and market rules governing Capacity Resource Interconnection Service.”⁷ The January Compliance Filing proposed two criteria and three analytical considerations which were developed pursuant to the NYISO’s stakeholder processes.⁸

In its *September Order*, the Commission accepted in part and rejected in part the NYISO’s January Compliance Filing. The Commission accepted one of the NYISO’s criteria, subject to several modifications. This criterion will be the subject of a compliance filing due 60 days from the date of the *September Order*.⁹

⁵ *Compliance Filing Proposing Criteria to Govern the Potential Creation of New Locational Capacity Zones* at 1, Docket Nos. ER04-449-023 (filed January 4, 2011) (“NCZ Filing”).

⁶ Terms with initial capitalization that are not otherwise defined herein shall have the meaning set forth in the NYISO’s Market Administration and Control Area Services Tariff (“Services Tariff”) and the NYISO’s Open Access Transmission Tariff (“OATT”).

⁷ *Id.* at P 53.

⁸ *Compliance Filing Proposing Criteria to Govern the Potential Creation of New Locational Capacity Zones*, Docket No. ER04-449-023 (filed January 4, 2011) (“January Compliance Filing”).

⁹ *September Order* at P 1.

II. REQUEST FOR CLARIFICATION OR ALTERNATIVE REQUEST FOR REHEARING

A. The Commission Should Clarify that the Directive to Use the Deliverability Test in Section 25.7.8 of OATT Attachment S Requires that, at this Time, the NYISO Only Apply the Deliverability Test Methodology to Highway Facilities When Performing the Test for New Capacity Zones

The NYISO requests clarification of paragraph 52 of the *September Order* which directs the NYISO to “use the methodology contained in the existing Attachment S Deliverability Test in section 25.7.8 of Attachment S to the NYISO OATT in determining whether to create new zones.”¹⁰ Section 25.7.8 sets forth the Deliverability test methodology that the NYISO uses to determine the capacity deliverability of Class Year projects over Highway facilities and Byway facilities (“Deliverability Test”).¹¹ Section 25.7.8 also contains, in subsection 25.7.8.2.14, criteria to perform an additional assessment of the aggregate system impact of Class Year projects on Highway facilities (the “Project Impact Assessment”). Only the application of the Deliverability Test methodology to Highway facilities is relevant to the consideration of new Capacity zones, for the reasons discussed below. Accordingly, the NYISO respectfully requests that the Commission clarify that the directive to use the “existing Attachment S Deliverability Test in section 25.7.8” is intended to require the NYISO to propose compliance tariff modifications that provide that the Deliverability Test in section 25.7.8 will be applied to Highway facilities to determine whether constraints exist that warrant the creation of new Capacity zones.

¹⁰ *Id.* at P 52.

¹¹ *See* OATT Attachment S §§ 25.7.8.1 - 25.7.8.13.

1. Assessment of Byway Facilities Is Not Relevant to the Determination of Whether New Capacity Zones Must Be Created

The NYISO seeks to clarify that the Commission did not intend to require the assessment of Byway facilities through the September Order's reference to section 25.7.8 of Attachment S. Clarifying that the assessment of Byway facilities is not relevant to the evaluation and potential creation of new Capacity zones would be consistent with the *September Order's* findings, which agreed¹² with the NYISO's independent Market Monitoring Unit's ("MMU") suggested modifications to the NYISO's proposal.¹³ As stated in the MMU Comments, "a determination that new capacity is not deliverable on a **Highway** facility should be the primary criteria for determining that a new zone is necessary in the capacity market."¹⁴ No other party to this proceeding proposed that the new Capacity zone analysis utilize the assessment of Byway facilities.

This exclusive application of the Deliverability Test methodology to Highway facilities is wholly consistent with the Commission's acceptance of the NYISO's proposal to evaluate, in order to potentially establish, new Capacity zones with the same boundaries as existing NYCA Load Zones.¹⁵ Highway facilities, as that term is defined in Attachment S, are the major transmission interfaces between the nine Load Zones within the currently defined Rest of State

¹² See *September Order* at PP 52, 58.

¹³ *Motion to Intervene and Comments of the New York ISO's Market Monitoring Unit*, Docket No. ER04-449-022 (filed January 25, 2011) ("MMU Comments"). See also, 2009 State of the Market Report New York ISO at 125 (September 2010), available at <http://www.potomaceconomics.com/uploads/nyiso_reports/NYISO_2009_Full_Text_Final.pdf>.

¹⁴ *Id.* at 7 (emphasis added). Similarly, the NYISO's January Compliance Filing, on which the MMU was commenting, explained that the NYISO's proposal would utilize, for the capacity deliverability criterion, the Deliverability Test applied to "ascertain whether sufficient inter-zonal transfer capability ... exists on all of its 'Highway' interfaces." January Compliance Filing at 5.

¹⁵ *September Order* at P 66.

Capacity Region.¹⁶ Assessment of Byway facilities, *i.e.*, transmission facilities that are neither Highways nor Other Interfaces, would not provide an indication of whether the transmission system interfaces between Load Zones are constrained. Assessment of Highway facilities by application of the Deliverability Test methodology in section 25.7.8 will provide the information necessary to determine whether inter-zonal constraints exist which necessitate the creation of new Capacity zones.¹⁷ Therefore, proposing tariff modifications that clearly establish the deliverability of Highway facilities as the analysis for determining whether new Capacity zones are necessary conforms to paragraph 52 of the *September Order*.

2. The Project Impact Assessment Is Not Relevant to the Determination of Whether New Capacity Zones Must Be Created

Similarly, the NYISO seeks to clarify that the Commission did not intend to require the application of the Project Impact Assessment through the September Order's reference to section 25.7.8 of Attachment S. The Project Impact Assessment contained in the last subsection of section 25.7.8, would not provide information that is relevant or useful to the evaluation of the need for a new Capacity zone. While the Project Impact Assessment described in subsection 25.7.8.2.14 is an assessment of Highways, it is not intended to identify whether there are constraints between Load Zones. Instead, it is a comparative analysis performed to determine whether proposed projects reduce the transfer capability of Highways when compared against a defined baseline system. As such, the test is only meaningful when identifying the impact of a

¹⁶ Highways include the transmission facilities that comprise the major transmission interfaces, as well as immediately connected, in series, Bulk Power facilities in New York State.

¹⁷ In compliance with the *September Order*, if at some future point, it is determined that the existing Load Zones are to be subdivided, assessment of Byway facilities may be appropriate to determine whether intra-zonal constraints exist which would require the corresponding subdivision of an existing Capacity zone. The Commission, however, accepted the NYISO's proposal to create Capacity zones that have the same boundaries as existing Load Zones initially, recognizing that administrative and developmental costs would initially outweigh the benefits of such a proposal.

particular project or group on projects on the transfer capability of Highways. In paragraph 58, the Commission states that “[t]he purpose of creating zones is to help the capacity auctions appropriately select and price capacity resources from among those that participate in the auctions in light of all the actual constraints that exist.” An assessment intended to determine whether proposed facilities potentially degrade the transfer capability of Highways is not useful in identifying such constraints. Therefore, such assessment should not be required when evaluating the need for a new Capacity zone.

B. In the Alternative the NYISO Requests Rehearing Because the Commission Erred to the Extent it Is Intending to Require the NYISO to Perform All Assessments that Are Part of Section 25.7.8 of OATT Attachment S

In the alternative, the NYISO respectfully requests rehearing to the extent that paragraph 52 requires that the NYISO perform all assessments that are part of section 25.7.8, because those assessments provide no information necessary to the determination of whether new Capacity zones should be created. Also, reading paragraph 52 to require the NYISO to assess Byway facilities would make the *September Order* internally inconsistent, because the Commission accepted the NYISO’s proposal to create new Capacity zones that are concurrent with existing Load Zones. As the Commission acknowledged, currently the administrative and developmental costs that would be incurred to implement subzonal Capacity zones outweigh the benefits. Also, performance of the Project Impact Assessment would yield no useful information for the analysis, as there is no need to evaluate the impact of a project or group of projects on a baseline system for the new Capacity zone determination. Therefore, rehearing should be granted, because the Commission erred when it required the NYISO to assess Byway facilities and perform the Project Impact Assessment, which would at best be superfluous and inefficient, and at worst serve to confuse the record, waste resources, and complicate the required analysis.

III. SPECIFICATION OF ERRORS AND STATEMENT OF ISSUES

In accordance with Rule 713(c)(1) and (c)(2),¹¹ the NYISO respectfully submits the following specification of errors and statement of issues.

- To the extent the Commission intended to require the NYISO to perform all assessments that are part of section 25.7.8 OATT Attachment S, it erred, as requiring the performance of analyses that are irrelevant to the determination of new Capacity zones is inefficient, unnecessary, and contrary to the *September Order's* acceptance of the NYISO proposal to create new Capacity zones that have the same boundaries as existing Load Zones.

IV. CONCLUSION

WHEREFORE, for the foregoing reasons, the New York Independent System Operator, Inc. respectfully requests that the Commission grant clarification, or in the alternative, rehearing, of the *September Order* for the reasons specified above.

Respectfully Submitted,

/s/ Ted J. Murphy

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

October 11, 2011

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 Washington, DC this 11th day of October, 2011.

/s/ Ted J. Murphy

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