

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

New York Independent System Operator, Inc.)

Docket No. ER12-360-000

**ANSWER TO COMMENTS,
AND REQUEST FOR LEAVE TO ANSWER AND ANSWER TO PROTESTS, 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”) respectfully answers certain comments, and requests leave to answer and answers certain protests, in the above-captioned proceeding.² The comments and protests address the NYISO’s November 7, 2011 compliance filing proposing tariff modifications regarding the evaluation and creation of New Capacity Zones in the New York Control Area³ (“NCZ Compliance Filing”), as directed by the Commission’s September 8, 2011 order (“*September Order*”).⁴ The proposed compliance revisions add language defining the criterion that will be used to determine whether a new capacity zone (or new capacity zones) (“New Capacity Zone”) is required, and establish related procedures.

¹ 18 C.F.R. §§385.212, 385.213 (2011).

² Specifically, the NYISO responds to the: (1) *Motion to Intervene and Comments of the New York ISO’s Market Monitoring Unit* (“MMU”); (2) *Joint Motion to Intervene, Comments and Limited Protest of Entergy Nuclear Power Marketing, LLC and the GenOn Parties* (“Entergy/GenOn”); (3) *Motion to Intervene and Limited Protest of Bayonne Energy Center, LLC* (“BEC”); and (4) *Comments of Consolidated Edison Solutions, Inc.* (“CES”).

³ Terms with initial capitalization that are not otherwise defined herein shall have the meaning set forth in the NYISO Market Administration and Control Area Services Tariff (“Services Tariff”), and if not defined therein, in the NYISO Open Access Transmission Tariff (“OATT”).

⁴ *New York Independent System Operator, Inc.*, 136 FERC ¶ 61,165 (2011).

Several parties proposed changes to the NYISO's compliance proposals that go beyond what is required by the *September Order*. The MMU has called for a significant modification to the content of the NCZ Compliance Filing. The NYISO is not taking a position on the MMU's substantive proposal; however, the NYISO respectfully disagrees with the MMU's statement that the NCZ Compliance Filing fails to comply with the *September Order's* directives.⁵ The NYISO explains below why various changes proposed by other parties are without merit and should be rejected.⁶

I. REQUEST FOR LEAVE TO ANSWER

The NYISO may answer the pleadings and portions of pleadings styled as comments as a matter of right.⁷ The Commission has discretion to accept answers to protests when they help to clarify complex issues, provide additional information, or are otherwise helpful in the development of the record in a proceeding.⁸ The NYISO's answer satisfies those standards as it addresses inaccuracies and provides additional information that the Commission needs to fairly evaluate the arguments. The NYISO, therefore, respectfully requests that the Commission accept this answer.

⁵ MMU at 2, 3, 9.

⁶ The NYISO has limited its response to those issues for which it believes that providing additional information will best assist the Commission to reach its decision. The NYISO's silence with respect to any particular argument or assertion should not be construed as acceptance or agreement.

⁷ See 18 C.F.R. 385.213(a)(3) (2011).

⁸ See, e.g., *Southern California Edison Co.*, 135 FERC ¶ 61,093 at P 16 (2011) (accepting answers to protests "because those answers provided information that assisted [the Commission] in [its] decision-making process"); *New York Independent System Operator, Inc.*, 134 FERC ¶ 61,058 at P 24 (2011) (accepting the answers to protests and answers because they provided information that aided the Commission in better understanding the matters at issue in the proceeding); *PJM Interconnection, L.L.C.*, 132 FERC ¶ 61,217 at P 9 (2010) (accepting answers to answers and protests because they assisted in the Commission's decision-making process).

II. ANSWER

A. The Commission Should Uphold the NCZ Compliance Filing's Proposed Implementation Timetable Including All of its Proposed Implementation Dates

The Commission should reject all proposed changes to the New Capacity Zone implementation timetable and dates in the NCZ Compliance Filing. The NYISO's implementation timetable was designed to allow sufficient time for all necessary software modifications to be in place, all necessary studies to be completed, and all other necessary steps to be taken, so that any New Capacity Zone could be established concurrent with the next triennial ICAP Demand Curve reset process.⁹ The timing and sequence of the steps proposed in the NCZ Compliance Filing are an integral and critically "important component of the filing."¹⁰ The NCZ Compliance Filing carefully balances the NYISO's obligations and the need for on-going stakeholder processes. The Commission has traditionally accepted implementation timetables, especially software coding and testing schedules, developed by ISOs/RTOs.¹¹ The

⁹ In accordance with the *September Order*, the NYISO will address the directive that the "NYISO, along with its stakeholders, ... consider the desirability and feasibility of creating new zones on an annual basis rather than only once every three years" in its March 8, 2012 compliance filing. *See September Order* at P 69.

¹⁰ NCZ Compliance Filing at 3.

¹¹ *See, e.g., PJM Interconnection, L.L.C.*, 134 FERC ¶61,246 at P 28 (2011) (accepting PJM's proposed implementation date due to the need to allow sufficient time for software changes, despite protests from market participants requesting that an earlier date be set); *New York Independent System Operator, Inc.*, Docket No. ER09-1317-000 (July 7, 2009) (unpublished letter order accepting motion to defer effective date of tariff revisions to allow additional time to develop underlying software); *see also California Independent System Operator Corp.*, 119 FERC ¶ 61,076 at P 670 (2008) (expressing the Commission's view that it essential that major software and market design changes be implemented properly, finding that it would "not allow market operations and service reliability to be sacrificed for the sake of expedience," citing *California Independent System Operator Corp.*, 116 FERC ¶ 61,274 at PP 1380 (2006)).

Commission should follow this precedent and reject proposals that would alter the NYISO's proposed deadlines.¹²

1. The Commission Should Not Prescribe Software Coding or Implementation Deadlines

Entergy/GenOn's request that the NYISO be directed to complete software modifications by the end of 2013 and deploy them within the first two weeks in 2014¹³ is predicated on invalid fears of delay, and is unnecessary. The New Capacity Zone implementation project has already been accounted for within the NYISO's comprehensive software development cycle. This well-established set of systems and procedures accounts for all stages of project development; and prescribes design, coding, testing, and deployment milestones. Thus, the New Capacity Zone implementation proposal already accounts for the time necessary to make all needed modifications in a timely manner. Work on New Capacity Zone implementation has been identified as a 2012 project commitment requiring work in 2013 and 2014. Accordingly, there is no need for the Commission to prescribe an implementation schedule. Similarly, there is no need for the Commission to require the NYISO to file semi-annual "status reports" on its progress. The NYISO intends to periodically report to its ICAP Working Group on its efforts. That procedure will keep stakeholders, and Commission staff monitoring working group meetings, apprised of developments without requiring the NYISO to incur the costs and burdens associated with preparing a formal status report for submission to the Commission.

¹² See BEC at 4 (requesting the creation of additional ICAP Demand Curves to ensure that any identified New Capacity Zones are created in time for the Next ICAP Demand Curve Reset); CES 2-3 (raising issues with respect to timing and providing sufficient notice to market participants); Entergy/GenOn at 12 (requesting the Commission direct the NYISO to complete the NCZ Study prior to September 1).

¹³ Entergy/GenOn at 8-9.

2. The Commission Should Not Modify the NYISO's Proposed Dates for Commencing Studies or Making Tariff Filings

Entergy/GenOn's proposal to require the NCZ Study to begin prior to September 1¹⁴ should be rejected. The September 1 deadline was selected recognizing other concurrent efforts within various NYISO planning processes. Acceleration of the NCZ Study is neither practical, given the NYISO's other tariff obligations, nor necessary, given that the NYISO's proposal fully complies with the *September Order's* directives regarding implementation occurring in time for the next ICAP Demand Curve reset. Moreover, the September 1 start date allows the deliverability analysis to be completed in a timeframe necessary to facilitate the subsequent steps that need to be taken in the New Capacity Zone process.

Similarly, the request that the Commission require the NYISO to complete tariff provisions to implement any identified New Capacity Zone by February 1, instead of March 31, should be rejected.¹⁵ The NCZ Compliance Filing proposed the March 31 deadline to allow the NYISO sufficient time to draft necessary tariff revisions and to complete the filing of the NCZ Study results. The identification of a New Capacity Zone will require numerous revisions to both the Services Tariff and OATT.¹⁶ Those revisions can only be formulated and proposed once the NYISO knows the boundary of a proposed New Capacity Zone, including whether it may be a "nested" zone.¹⁷ If a New Capacity Zone is identified, the tariff filing will have to address numerous issues, including potential revisions to the existing Capacity Resource Interconnection Services provision in OATT Attachment S.¹⁸ The proposed March 31 deadline

¹⁴ *Id.* at 12.

¹⁵ Entergy/GenOn at 14.

¹⁶ NCZ Compliance Filing at 7.

¹⁷ *Id.*

¹⁸ *Id.*

also allows time for the NYISO's MMU to review and comment on the NYISO's filing prior to its submittal with the Commission.¹⁹

3. There is No Need for the NYISO to File Alternative Versions of the ICAP Demand Curves

Bayonne Energy Center ("BEC") requests that the NYISO file two sets of ICAP Demand Curves in order to eliminate any possibility that a delay in the Commission's action on a NYISO filing to implement a New Capacity Zone might delay the introduction of new ICAP Demand Curves.²⁰ BEC's proposal is unnecessary. Any NYISO's filing proposing a New Capacity Zone would identify the date by which Commission approval would be needed to permit the ICAP Demand Curve process to move forward on schedule. Parties commenting on the NYISO's filing would have an opportunity to address the proposed date. Requiring the creation and filing of additional ICAP Demand Curves that do not account for any required New Capacity Zone would necessitate an additional filing, which would likely be met with significant protests and introduce unnecessary complexity and delay. Moreover, additional delay in the implementation of the New Capacity Zone provisions would contravene the directives of the *September Order* which required such implementation to occur in time for next ICAP Demand Curve reset. Therefore, BEC's proposal must be rejected.

4. The NCZ Compliance Filing's Implementation Timetable Would Leave the Market Ample Time to Account for New Capacity Zones

The Commission should reject Consolidated Edison Solution's ("CES") contention that the timeline is too short to allow the markets to adapt to the new rules, including the NYISO's proposal to determine the Indicative NCZ Locational Minimum ICAP Requirement no later than

¹⁹ *Id.*

²⁰ BEC at 4.

March 1 of the relevant ICAP Demand Curve Reset Filing year.²¹ It is not feasible, nor is it necessary, for the NYISO to provide market participants with that information twenty-four months prior to implementation of a potential New Capacity Zone. The NCZ Compliance Filing clearly outlines the deadlines for the various steps in that process. That timeline provides market participants ample notice regarding what changes may occur if a New Capacity Zone is identified. While the NYISO is sensitive to transition issues that significant market changes may create, a requirement that the NYISO provide certainty twenty-four months in advance is problematic given that the process is performed on a periodic basis. Market participants regularly adapt to such changes. The changes contemplated for the implementation of the NYISO's New Capacity Zone proposal are no different.

B. The NCZ Compliance Filing Is Sufficiently Detailed

Entergy/GenOn is wrong to assert that the proposed tariff revisions lack sufficient detail concerning the methodology for the New Capacity Zone Study ("NCZ Study").²² Contrary to Entergy/GenOn's contention, proposed section 5.16 of the Services Tariff provides a level of detail that is comparable to similar NYISO tariff provisions and consistent with what is required by Commission precedent.²³ The proposed tariff revisions specify the assumptions the NYISO will use and that the Attachment S provisions containing the methodology from the Deliverability test will be used to perform the NCZ Study.

²¹ CES at 2.

²² Entergy/GenOn at 14-15.

²³ See, e.g., *Southwest Power Pool, Inc.*, 136 FERC ¶ 61,050 at P 34 (2011) (rejecting protestors requests to require the inclusion of implementation details of calculation in the tariff, finding that where a tariff provided "sufficient guidance on how the ... analysis will be conducted" the rule of reason was satisfied, citing Order No. 890, *FERC Statutes and Regulations, Regulations Preambles 2006-2007* ¶ 31,241 at P 1649).

To the extent that Entergy/GenOn's concern is with the ability of stakeholders to review the process, assumptions, and methodology the NYISO will use for the Deliverability test, the NYISO submits that its proposed process provides for sufficient transparency. In particular, proposed section 5.16.1.2 specifies that the NYISO will review the inputs and assumptions underlying the NCZ Study with stakeholders and provide them with an opportunity to comment.

Similarly, the Commission should reject Entergy/GenOn's request that the NYISO provide more detail on how the boundary for potential New Capacity Zones will be established.²⁴ Requiring the inclusion in the tariff of the amount and types of detail that Entergy/GenOn proposes would unduly limit and restrict the NYISO's ability to consider relevant data. The tariff revisions in the NCZ Compliance Filing provide sufficient detail to ensure that if a New Capacity Zone is required, the NYISO will have the needed flexibility to evaluate and consider any relevant information. Revisions to provide more detail may readily result in restrictions on the data that the NYISO may consider, which would impede a full and meaningful evaluation of the need for and potential creation of New Capacity Zones.

There is no basis for Entergy/GenOn's assertions that the NYISO should provide more information regarding the determination of the Indicative NCZ Locational Minimum Installed Capacity Requirement for any identified New Capacity Zones.²⁵ There is no need for additional detail because the requirement will be determined through the existing process used for developing the New York City and Long Island Locational Minimum Installed Capacity Requirements. No party has questioned the NYISO's existing process or the application of that process to any potential New Capacity Zone.

²⁴ Entergy/GenOn at 16.

²⁵ *Id.* at 17.

Additionally, Entergy/GenOn's contention that the NYISO failed to propose tariff language on how ICAP Auctions will be conducted in the event a New Capacity Zone is established is not accurate.²⁶ While the tariff will need to be revised to recognize any New Capacity Zones, the NYISO does not anticipate that the auction process will require substantive modification. Requiring revisions at this point would simply be an exercise in expending resources and effort without corresponding benefit. However, auction design is an element of the on-going software functional design. If modifications to the existing auction process are identified during the software functional design process, the NYISO will bring those modifications to the attention of the Commission and its stakeholders. At this time, however, there is no need for the Commission to direct revisions with respect to provisions governing the auction, as the NYISO has not identified a need for such changes.

III. CONCLUSION

WHEREFORE, for the reasons set forth above, the NYISO respectfully requests that the Commission reject the comments and protests as discussed herein, and accept the NCZ Compliance Filing without requiring any modifications.

Respectfully submitted,

/s/ Ted J. Murphy
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December 13, 2011

²⁶ *Id.*

CERTIFICATE OF SERVICE

I hereby certify that I have this day caused the foregoing document to be served 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 (2011).

Dated at Washington, D.C. this 13th day of December, 2011.

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