

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

Demand Response Partners, Inc.

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Docket No. ER12-2212-000

**MOTION TO INTERVENE WITH CLARIFYING COMMENTS
OF THE NEW YORK INDEPENDENT SYSTEM OPERATOR.**

In accordance with Rules 212 and 214 of the Federal Energy Regulatory Commission’s (“FERC” or “Commission”) Rules of Practice and Procedure,¹ the New York Independent System Operator, Inc. (“NYISO”), respectfully moves to intervene out of time and submit clarifying comments in the above captioned proceeding, *Request for Limited Tariff Waiver and Request for Expedited Action of Demand Response Partners, Inc.* (“DRP”). As is discussed below, the NYISO should be permitted to intervene out of time in this proceeding because it has a direct and substantial interest, and its late intervention will not disrupt the proceeding or prejudice any party.

I. BACKGROUND

On February 17, 2011, the NYISO filed proposed revisions to Section 5 of the NYISO Market Administration and Control Area Services Tariff (“Services Tariff”) to enhance the rules that allow participation of Special Case Resources (“SCRs”) in the NYISO’s Installed Capacity (“ICAP”) market, including rules associated with enrolling SCRs with Provisional Average Coincident Load (“Provisional ACL”).² (“February Filing”). Additional tariff amendments

¹ 18 C.F.R. §§ 385.212 and 385.214 (2011).

² Proposed Tariff Revisions for the Measurement and Performance of Special Case Resources, Aggregations and Responsible Interface Parties, Docket No. ER11-2906-000 (filed February 17, 2011) (“February Filing”)

were proposed to the NYISO Services Tariff with regard to Provisional ACL, at the direction of the Commission, on May 2, 2011.³ This Provisional ACL baseline is used for SCRs that have never participated in the NYISO's ICAP/SCR program and that never had interval metered load data available for the Prior Equivalent Capability Period for which the SCR is being enrolled. The tariff provisions for Provisional ACL require that the Responsible Interface Parties ("RIPs") submit into the NYISO's Demand Response Information System ("DRIS") the actual load data for each SCR that participated in the Capability Period with a Provisional ACL. This data is submitted into DRIS during a data reporting period that opens after the end of the Capability Period and after the NYISO has identified the SCR Load Zone Peak Hours for that Capability Period. The NYISO then uses this data to verify SCR baseline values and to calculate performance factors for these SCRs and applicable RIPs in preparation for the next capability period. In addition, the data is used to calculate SCR aggregation performance factors during the next capability period. Section 5.12.11.1.2 also requires the NYISO to use the Provisional ACL verification data to determine if the RIP oversold the capacity for that SCR during the capability period.⁴

In the Fall of 2011 the NYISO held several DRIS training sessions to further instruct RIPs of the new ACL data reporting requirements, including detailed instructions on how to comply with the data reporting requirements and procedures for SCRs enrolled with Provisional

³ Compliance Filing to Define Average Coincident Load Baseline Methodology for Special Case Resources in Section 5.12.11.1 of the Market Services Tariff, Docket No. ER11-2906-000, (filed May 2, 2011).

⁴ Section 5.12.11.1.2 of the Services Tariff provides: "The ISO will compare the Provisional Average Coincident Load to the ACL (calculated in accordance with the ACL formula as provided above) to determine, after applying the applicable performance factor, whether the UCAP of the Special Case Resource had been oversold. If the RIP oversold the Special Case Resource, it shall be a shortfall under this Services Tariff pursuant to Section 5.14.2. If the RIP fails to provide the data necessary to compute the ACL of the resource enrolled with a Provisional ACL by the deadline, the ACL of the resource will be set to zero for each month in which the resource with a Provisional ACL was enrolled and the RIP may be subject to deficiency penalties in accordance with this Services Tariff."

ACL values. During these sessions NYISO staff announced that the period for reporting Provisional ACL verification data would open on January 23, 2012, and run through February 10, 2012. It was made clear to the RIPs during this training that only verification data provided into DRIS before 5 p.m. on February 10, 2012, would be accepted and all data not provided into DRIS by the deadline would be considered to be zero.⁵

Despite having participated in the ACL verification period that ran from October 3, 2011, through November 18, 2011,⁶ for all SCRs enrolled in the Summer 2011 Capability Period with an actual ACL, DRP subsequently ran into an issue when uploading the Provisional ACL data into DRIS on February 10, 2012. Because DRP waited so late into the last day of the reporting period to upload the data into DRIS they were unable to identify and correct the errors they made prior to 5:00 p.m.⁷

II. COMMUNICATIONS

Copies of correspondence concerning this filing should be served on:
Robert E. Fernandez, General Counsel

⁵ Section 5.12.11.1.2 of the Services Tariff provides: If the RIP fails to provide the data necessary to compute the ACL of the resource enrolled with a Provisional ACL by the deadline, the ACL of the resource will be set to zero for each month in which the resource with a Provisional ACL was enrolled and the RIP may be subject to deficiency penalties in accordance with this Services Tariff.

⁶ In its Request for Limited Tariff Waiver DRP mistakenly confuses the one-time ex post facto ACL data reporting period, which was held only for the Summer 2011 Capability Period and closed on November 18, 2011, with the required Provisional ACL data reporting period that ran from January 23, 2012 through February 10, 2012. NYISO's DRIS logs indicate that DRP had enrolled SCRs with both ACL values as well as resources enrolled with Provisional ACL. DRIS logs also indicate that DRP imported into DRIS the ACL verification data for the SCRs enrolled with non provisional ACL values on November 16, 2011 by importing into DRIS two separate times. The first import resulted in DRIS exception messages being provided to DRP for approximately twenty-five percent of these SCRs caused by formatting issues of DRP's ACL kW values. The formatting issues were corrected by DRP and the ACL verification data was properly imported into DRIS shortly thereafter. The Provisional ACL data reporting period, however, was not open at this time due to the fact that the NYISO had yet to identify the forty SCR Load Zone Peak Hours for Summer 2011.

⁷ DRP began its first attempt to import this Provisional ACL data with less than 90 minutes remaining on February 10, 2012. The NYISO Staff was first made aware that DRP had an issue with its Provisional ACL data reporting with less than an hour left in the reporting period and worked with DRP to identify and resolve their mistake. DRP had selected the wrong worksheet and therefore it was not able to import the Provisional ACL data properly into DRIS. Unfortunately, DRP was not able to make the necessary corrections and upload the data prior to the 5:00 p.m. deadline.

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III. MOTION TO INTERVENE

The NYISO is a not-for-profit corporation responsible for providing open-access transmission service, administering open and competitive wholesale markets, and bringing together buyers and sellers of electricity, capacity, and ancillary services, in New York State. The NYISO is also responsible for the reliable operation of the bulk electricity grid, and both short-term and long-term planning for the bulk power system in New York State. The NYISO manages the flow of power over nearly 11,000 circuit-miles of transmission lines and centrally dispatches over 300 generating units. As part of its capacity markets the NYISO administers the Special Case Resource program for approximately 6,000 SCRs and 50 Responsible Interface Parties. Because DRP's tariff waiver filing will have a significant effect on the NYISO's administration of its SCR program and its capacity markets for the Summer 2012 and Winter 2012/2013 Capability Periods, no other party can adequately represent the NYISO's direct and substantial interests in this proceeding. Accordingly, it is in the public interest to permit this intervention.

The NYISO submits that good cause exists for the Commission to grant this motion to intervene out of time in accordance with Rule 214(d), 18 C.F.R. § 385.214(d). Because the NYISO must implement any relief granted by the Commission in this

proceeding, it has a direct and substantial interest in this proceeding that cannot be adequately represented by any other party. Further, the NYISO feels it is appropriate to clarify the statements made in DRP's Request for Limited Tariff Waiver since a similar tariff waiver was requested and granted earlier this summer. While the mechanics of the data reporting requirements in both proceedings are similar, it is important to note that the requests seek relief from different tariff requirements. Further, implementation of any relief granted by the Commission will require NYISO staff to commit additional resources to redo calculations associate with the eight resources in question. The NYISO estimates that staff will need one week to implement the changes required if the Commission were to grant DRP's waiver request. This work would need to be completed in DRIS at least two days prior to the close of enrollment for the next month in the Capability Period. The enrollment period for September closes August 9, 2012.

VI. CONCLUSION

WHEREFORE, for the foregoing reasons, the New York Independent System Operator, Inc. ("NYISO"), respectfully requests that the Commission grant this motion to intervene out of time.

Respectfully submitted,

/s/ David Allen

David Allen

Senior Attorney

New York Independent System Operator, Inc.

July 27, 2012

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 Rensselaer, NY this 27th day of July, 2012.

/s/ Joy A. Zimmerlin

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