

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

Cayuga Operating Company, LLC

)

Docket No. ER13-405-000

**LIMITED COMMENTS OF
THE NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.**

Pursuant to the Commission's *Notice of Extension of Time*,¹ the New York Independent System Operator, Inc. ("NYISO") respectfully files these limited comments. In the alternative, if the Commission classifies this filing as an answer, the NYISO, pursuant to Rule 213 of the Commission's Rules of Practice and Procedure,² requests leave to answer and submits this answer to the *Motion to Intervene and Comments of TC Ravenswood, LLC*, (as corrected January 9, 2013) ("TC Ravenswood"); *Protest of the Independent Power Producers of New York, Inc.* ("IPPNY"), and the *Protest of Exelon Corp.* ("Exelon").³

I. ALTERNATIVE REQUEST FOR LEAVE TO ANSWER

If the Commission construes these limited comments as an Answer, the NYISO requests leave to answer. The Commission permits answers to comments and 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.⁴ The NYISO submits

¹ *Cayuga Operating Co., LLC*, Notice of Extension of Time, Docket No. ER13-405-000 (issued January 7, 2013).

² 18 CFR 385.213 (2012).

³ Because the *Motion to Intervene of Entergy Nuclear Power Marketing, LLC*, Docket No. ER13-405-000 (filed January 7, 2013) ("ENPM") incorporates by reference the arguments in IPPNY's protest this filing is also responsive to it. No inference should be drawn from the NYISO's silence on matters that have been raised in this proceeding that are not addressed herein.

⁴ See e.g., *New York Independent System Operator, Inc.*, 108 FERC ¶ 61,188 at P 7 (2004) (accepting the NYISO's answer to protests because it provided information that aided the Commission in

that this answer should be accepted because it will help to clarify the issues and assist the Commission's decision-making process.

II. COMMENTS

The NYISO is not a party to, and was not involved in the development of, either the unexecuted cost-of-service agreement submitted by Cayuga Operating Company, LLC ("Cayuga") in this proceeding, or the Reliability Support Service Agreement ("RSSA")⁵ between Cayuga and the New York State Electric and Gas Corporation ("NYSEG"). Both of those documents are expressly intended to address a local reliability need on NYSEG's system.⁶ The NYISO is monitoring this proceeding, but at this time, is not seeking to become a party.⁷

The NYISO is concerned that certain parties have asked the Commission to use this proceeding to impose changes to the NYISO's capacity market and market power mitigation rules. For example: IPPNY requests the Commission direct the NYISO to "address RMR agreement and associated terms and condition[s]" on a market-wide basis;⁸ Exelon similarly requests that the Commission take action with respect to any resources in the NYISO's markets that may be subject to reliability-must-run agreements now or in the future.⁹ TC Ravenswood

better understanding the matters at issue in the proceeding); *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 . . .").

⁵ The RSSA was developed from a term sheet for Reliability Support Services which was accepted by the New York State Public Service Commission ("NYPSC") on December 17, 2012, and was filed by NYSEG in this proceeding.

⁶ See *Cayuga RMR Filing Transmittal Letter* at 2-5 and n.6, Docket No. ER13-405-000 (November 16, 2012).

⁷ See *Southern California Edison Co.*, 47 FERC ¶ 61,196 (1989) (clarifying that answers may be filed by entities that have not intervened in a proceeding).

⁸ IPPNY at n.21.

⁹ Exelon at 2.

claims that this proceeding raises market design issues related to going-forward costs, compensation, out-of-market payments, and the sending of appropriate market signals.¹⁰

This proceeding is not the appropriate forum to address such matters.¹¹ To the extent that any proposed market rule changes might warrant consideration¹² they should, consistent with Commission precedent, first be fully discussed through the NYISO's established stakeholder processes.¹³ There is no reason for the Commission to preempt the NYISO governance process, including the NYISO stakeholder processes in which stakeholders raise and vet issues.¹⁴

TC Ravenswood and IPPNY have also expressed concerns regarding potential market manipulation. The NYISO emphasizes that, as required by the Services Tariff, it actively monitors the markets for conduct that would “substantially distort or impair the competitiveness of any of the ISO Administered Markets.”¹⁵ Among other things, the NYISO's Market Mitigation and Analysis Department must (and would) alert the independent Market Monitoring Unit (“MMU”) of any “market-related concerns (including, but not limited to, possible Market

¹⁰ See, e.g., TC Ravenswood at 2, 5, n.2, 10, n.7, 19-20.

¹¹ TC Ravenswood acknowledges that this proceeding is not the appropriate forum to address certain issues.

¹² The NYISO wishes to briefly note that it disagrees with the unsupported assertions made by TC Ravenswood that characterize the NYISO's capacity markets as “flawed.”

¹³ Numerous Commission orders discourage parties from attempting “end-runs” around ISO/RTO governance processes. See, e.g., *ISO New England Inc.*, 130 FERC ¶ 61,145, at P 34 (2010) (“we encourage parties to participate in the stakeholder process if they seek to change the market rules...”); *ISO New England Inc.*, 125 FERC ¶ 61,154 at P 39 (2008) (directing that unresolved issues be addressed through the stakeholder process); *ISO New England*, 128 FERC ¶ 61,266 at P 55 (2009) (declining to grant a party's specific request for relief because the Commission “will not ... circumvent that stakeholder process”).

¹⁴ Thus, the Commission should reject IPPNY's request that the NYISO be directed to file tariff revisions, pursuant to Section 206 of the Federal Power Act, regarding terms and conditions to be included in future reliability-must-run agreements for entities within the New York Control Area.

¹⁵ Services Tariff Attachment H at §23.1.1.

Violations) it identifies.”¹⁶ The NYISO’s obligations include taking necessary action to address any conduct that would be deemed a market violation or an abuse of market power.¹⁷ The MMU is also required to identify and report any “Market Violations, market design flaws and market power abuses.”¹⁸ The NYISO is very mindful of these responsibilities. Accordingly, there is no need for the Commission to take the actions suggested by IPPNY or TC Ravenswood.

III. CONCLUSION

Wherefore, the New York Independent System Operator, Inc. respectfully requests that the Commission accept these comments and decline to expand the scope of this proceeding to take the actions requested by IPPNY, Exelon, or TC Ravenswood, and in particular that it decline to consider changes to the NYISO’s tariffs or rules.

Respectfully submitted,

/s/Vanessa A. Colón

Vanessa A. Colón

Counsel to

the New York Independent System Operator, Inc.

January 22, 2013

cc: Travis Allen
Michael A. Bardee
Gregory Berson
Anna Cochrane
Jignasa Gadani
Morris Margolis
Michael McLaughlin
Joseph McClelland
Daniel Nowak

¹⁶ Services Tariff Attachment O at § 30.3.3.

¹⁷ The NYISO is required to take action even where conduct does not trigger thresholds specified in the tariff for the imposition of mitigation measures, but “constitutes an abuse of market power.” *See* Services Tariff Attachment H at §23.1.2.

¹⁸ Services Tariff Attachment O at § 30.4.1.

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 (2012).

Dated at Washington, D.C. this 22nd day of January 2013.

/s/ Sharon Seeley-Williams
Sharon Seeley-Williams
Sr. Professional Assistant
Hunton & Williams LLP
2200 Pennsylvania Ave., NW
Washington, DC 20037
Tel: (202) 955-1500
Fax: (202) 778-2201