

New York Independent System Operator, Inc.) ER12-360-000

Pursuant to Rule 212 of the Rules of Practice and Procedure¹ of the Federal Energy Regulatory Commission (“Commission”), the New York Independent System Operator, Inc. (“NYISO”) respectfully requests that the Commission act expeditiously to issue an order granting the limited tariff waivers described in this filing no later than March 26, 2013.² First, the NYISO seeks a limited waiver of Section 5.16.4 of its Market Administration and Control Area Services Tariff (“Services Tariff”) to give it an extra thirty (30) calendar days, *i.e.*, until April 30, 2013, to comply with the requirement that it report on the results of the NCZ Study³ and submit tariff revisions to “establish and recognize” one or more New Capacity Zones (“NCZ”). The filing is presently due on or before March 31 2013.⁴ Second, to the extent necessary, the NYISO also requests a limited waiver of the Services Tariff Section 5.16.3 deadline regarding the establishment of the Indicative NCZ Locational Minimum Installed Capacity Requirement⁵ (“Indicative NCZ LCR”).

Granting the requested waiver of Section 5.16.4 will provide the NYISO and its stakeholders additional time to review and if necessary address technical issues raised during the

¹ 18 C.F.R. §385.212 (2012).

² As is noted in Section V, below, the NYISO also respectfully requests that the Commission adopt a five day answer period.

³ Terms not defined herein have the meaning set forth in the NYISO's Services Tariff.

⁴ Services Tariff § 5.16.4 requires the NYISO to submit its filing “on or before March 31.” March 31 is a Sunday.

⁵ Indicative LCR is defined in Services Tariff § 2.95.

stakeholder review process, further analyze the potential consumer impacts of establishing a NCZ, and to further review and discuss these matters and the possible additional specific tariff revisions needed to establish a NCZ with its stakeholders. The additional time would also give the NYISO the opportunity to address stakeholder comments and to attempt to address concerns and resolve disputed issues. Finally, a waiver of Services Tariff Section 5.16.3 would permit the NYISO to revise if necessary, based on the further ongoing technical analyses, the Indicative NCZ LCR. The NYISO made its Indicative NCZ LCR determination on March 1, 2013, which satisfied the Services Tariff Section 5.16.3 requirements; however, the NYISO is seeking a waiver to the extent necessary to allow it to revise that March 1, 2013 determination after the Services Tariff Section 5.16.3 deadline, if the NYISO determines that a revision is warranted. If the NYISO determines that it is appropriate to revise the Indicative NCZ LCR, consistent with Services Tariff Section 5.16.3, the NYISO will first provide an opportunity for stakeholders to review and comment on the proposed revised Indicative NCZ LCR, and then will establish the revised Indicative NCZ LCR by April 30, 2013.

The NYISO believes that granting its requested waivers would likely reduce the number and scope of contested issues that ultimately reach the Commission. Importantly, if the waivers are granted, the NYISO does not anticipate that they would cause any delay in the Commission-accepted NCZ implementation timetable.⁶ Nor would granting the waivers delay the NYISO's use of a proposed revised deliverability methodology, which would accommodate the proposed NCZ in the Class Year Interconnection Facilities Study for Class Year 2012.

⁶ *New York Independent System Operator, Inc.*, 136 FERC ¶ 61,165 at P 68 (2011) (accepting the “NYISO’s recommendation regarding the timing for creating new zones”); *New York Independent System Operator, Inc.*, 140 FERC ¶ 61,160 at P 32 (2012) (accepting the “NYISO’s timeline and sequence for its new capacity zone determination as reasonable”).

I. COMMUNICATIONS

Copies of correspondence concerning this filing should be served on:

Robert E. Fernandez, General Counsel
Ray Stalter, Director of Regulatory Affairs
*Gloria Kavanah, Senior Attorney
New York Independent System Operator, Inc.
10 Krey Boulevard
Rensselaer, NY 12144
Tel: (518) 356-6000
Fax: (518) 356-4702
rfernandez@nyiso.com
rstalter@nyiso.com
gkavanah@nyiso.com

*Ted J. Murphy
Hunton & Williams LLP
2200 Pennsylvania Avenue, NW
Washington, DC 20037-1701
Tel: (202) 955-1500
Fax: (202) 778-2201
tmurphy@hunton.com

*Vanessa A. Colón⁷
Hunton & Williams LLP
Bank of America Center
Suite 4200
700 Louisiana Street
Houston, TX 77002
Tel: (713) 229-5700
Fax: (713) 229-5782
vcolon@hunton.com

*persons designated to receive service

II. BACKGROUND

On November 7, 2011, in compliance with the Commission's September 8, 2011 order in Docket No. ER04-449-023,⁸ the NYISO submitted a compliance filing setting forth the process for evaluating, identifying and, if necessary, establishing NCZs in the New York Control Area ("November 2011 Filing"). The Commission accepted the November 2011 Filing on August 30, 2012.⁹ Accepted language in Services Tariff Section 5.16.4 ("Section 5.16.4"), required the NYISO to make a NCZ-related filing on or before March 31 of each ICAP Demand Curve Reset Filing Year¹⁰ (*i.e.*, March 31, 2013, because 2013 is an ICAP Demand Curve Reset Filing Year).

⁷ Waiver of the Commission's regulations (18 C.F.R. § 385.203(b)(3) (2012)) is requested to the extent necessary to permit service on counsel for the NYISO in both Houston, TX and Washington, DC.

⁸ *New York Independent System Operator, Inc.*, 136 FERC ¶ 61,165 (2011).

⁹ *New York Independent System Operator, Inc.*, 140 FERC ¶ 61,160 (2012).

¹⁰ Services Tariff Section 2.9.

The Services Tariff provides that if the relevant NCZ Study identifies a constrained Highway Interface, the NYISO must submit the study results and tariff revisions to implement new NCZ(s). As the NYISO will report in its filing in accordance with Section 5.16.4, the NYISO's NCZ Study found a constraint, so the requirement to file tariff revisions has been triggered.

As required by the Commission-accepted NCZ implementation timetable,¹¹ the process for examining the need for a NCZ began in September 2012 with the commencement of the NCZ Study. Since September, 2012, the NYISO has worked diligently. The NYISO timely completed the NCZ Study and presented the results of such study at its January 14, 2013, ICAP Working Group ("ICAP Working Group") meeting. It issued the final NCZ Study incorporating stakeholder feedback on that same date. The NYISO has presented draft tariff revisions that would implement the NCZ at its February 14, 2013 ICAP Working Group meeting, and its February 22 and March 8, 2013 Credit Policy Working Group meetings. The NYISO is preparing revised versions of proposed tariff changes and anticipates presenting them at an upcoming ICAP Working Group meeting.

Additionally, the NYISO presented an NCZ consumer impact analysis at the September 11, 2012, December 2, 2012, and January 30, 2013, ICAP Working Group meetings and is scheduled to discuss further analyses at an upcoming meeting.

As of the date of this motion, the NYISO is on track to make the filing required by Section 5.16.4 on March 29, 2013. It has recently become apparent, however, that a number of issues and questions remain that would benefit from further consideration.

The independent ICAP Demand Curve reset consultant is also conducting the necessary review in order for a proposed ICAP Demand Curve to be included in the Demand Curve reset

¹¹ *Id.* at P 32, and Services Tariff Section 5.16.

filing. The Services Tariff requires that filing be submitted by November 30, 2013.¹² The requested extension until April 30, 2013 will not affect the development of the ICAP Demand Curve or the planned implementation of a NCZ for the 2014/2015 Capability Year, which begins on May 1, 2014.

III. REQUEST FOR WAIVER

The Commission evaluates a number of issues in determining whether to authorize a tariff waiver. These factors are whether: (1) the waiver is of limited scope; (2) a concrete issue needs to be remedied; (3) the waiver will not have undesirable consequences, such as harming third parties; and (4) the entity seeking the waiver is acting in good faith.¹³ The NYISO requests this waiver to allow it to make the filing required by Services Tariff Section 5.16.4 by no later than April 30, 2013, instead of on or before March 31, 2013 and, to the extent necessary, to allow for any revisions of the March 1, 2013 Indicative NCZ LCR determination that may be appropriate after the NYISO completes its review of technical issues raised by stakeholders. In support of these requests, the NYISO asks that the Commission consider the following:

A. The Waiver is of Limited Scope

The NYISO is requesting a brief extension of the filing deadline in Section 5.16.4, and to the extent necessary, a limited waiver to allow revision of the March 1, 2013 Indicative NCZ LCR determination after the Section 5.16.3 deadline. As explained above, the NYISO has worked diligently and has met all of the deadlines in the NCZ timetable. Further, the NYISO

¹² Services Tariff Section 5.14.1.2.

¹³ See, e.g., *PJM Interconnection, L.L.C.*, 135 FERC ¶ 61,069 at P 8 (2011); *ISO New England Inc.*, 134 FERC ¶ 61,182 at P 8 (2011); *California Independent System Operator, Inc.*, 132 FERC ¶ 61,004 at P 10 (2010); *Hudson Transmission Partners, LLC*, 131 FERC ¶ 61,157 at P 10 (2010); *Pittsfield Generating Co., L.P.*, 130 FERC ¶ 61,182 at P 9-10 (2010); *ISO New England Inc. - EnerNOC*, 122 FERC ¶ 61,297 (2008); *Central Vermont Public Service Corp.*, 121 FERC ¶ 61,225 (2007); *Waterbury Generation LLC*, 120 FERC ¶ 61,007 (2007); *Acushnet Co.*, 122 FERC ¶ 61,045 (2008).

does not anticipate that granting the requested extension would delay: (i) the implementation of the tariff revisions to establish the NCZ; (ii) the establishment of an ICAP Demand Curve for the NCZ as part of the November 2013 Demand Curve reset filing; (3) the inclusion of any proposed NCZ in the NYISO's revised deliverability methodology for the Class Year Interconnection Facilities Study for Class Year 2012; or (4) the implementation of the NCZ at the start of Capability Year 2014/2015.

B. A Concrete Issue Needs to Be Remedied

Section 5.16.4 establishes a March 31, 2013 deadline for the NYISO's filing, and Section 5.16.3 requires that the Indicative NCZ LCR be determined by March 1, 2013. As noted above, the NYISO has worked diligently, met all of the NCZ deadlines, and has already engaged in extensive discussions with its stakeholders. However, this is the first time that the NYISO has engaged in the process to evaluate and establish a NCZ. It has become apparent that certain questions regarding the implementation of the NCZ could benefit from additional analysis before the Section 5.16.4 filing is made. Additionally, the additional technical review initiated in response to stakeholder comments might result in it being appropriate to review the Indicative NCZ LCR established on March 1, 2013. The NYISO is currently conducting further analyses and addressing issues with its stakeholders. Therefore, a brief extension of time is needed to address the "concrete" issues that have arisen, including determining what, if any, adjustments should be made to the March 1, 2013 Indicative NCZ LCR determination. The waivers would enable the NYISO to fully vet the issues, make revisions prompted by stakeholder input, and address outstanding stakeholder concerns. The waivers should also allow the NYISO to work to reduce the number and scope of disputed issues that eventually reach the Commission.

C. The Waivers Will Not Have Undesirable Consequences, and Will Not Harm Third Parties

Granting the waivers would not harm any party. As discussed above, the NYISO does not anticipate that the waivers would prevent it from meeting each milestone on the established NCZ timetable in order to timely implement the NCZ for the 2014/2015 Capability Year, from adhering to the ICAP Demand Curve reset schedule, or from implementing the Class Year Interconnection Facilities Study for Class Year 2012 as intended.

D. The NYISO is Acting in Good Faith

The NYISO is seeking waivers in good faith to address outstanding issues without altering its ability to meet the NCZ implementation timetable. It only recently became apparent that meeting the Section 5.16.4 deadline would not leave sufficient time to consider and address certain issues raised by stakeholders. In particular, the technical issues that require additional review of, and may necessitate a revision to, the Indicative NCZ LCR determination were only recently identified. The NYISO believes that all remaining discussion and review can be completed by April 30, 2013.

IV. STAKEHOLDER POSITIONS

The NYISO discussed this filing at its March 14, 2013 ICAP Working Group meeting. It also discussed it in telephone conversation with several of its stakeholders that have been actively involved in discussions surrounding the NCZ Study and development of the NCZ. Several stakeholders expressed support for the request, and no objections were raised.

V. REQUEST FOR EXPEDITED ACTION

The NYISO respectfully requests that the Commission issue an order granting these waiver requests by March 26, 2013. Good cause exists for the Commission to act on an expedited basis because the Section 5.16.4 deadline is fast approaching. Until the Commission

acts upon this waiver request, the NYISO and its stakeholders will not have certainty regarding how much time remains for the NYISO to make any necessary revisions, complete stakeholder discussions of remaining issues, and submit the filing. Therefore, the NYISO requests that the Commission allow an answer period no longer than the five (5) days provided by Section 213(d)(1)(i)¹⁴ and issue an order expeditiously afterwards.

VI. CONCLUSION

WHEREFORE, for the foregoing reasons, the NYISO respectfully requests that the Commission grant the tariff waivers requested herein by March 26, 2013.

Respectfully submitted,

/s/ Gloria Kavanah

Gloria Kavanah
Senior Attorney
New York Independent System Operator, Inc.
10 Krey Blvd.
Rensselaer, New York 12144
(518) 356-6103
gkavanah@nycap.rr.com

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

¹⁴ 18 C.F.R. §385.213(d)(1)(i) (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 15th day of March, 2013.

/s/ Joy A. Zimmerlin

Joy A. Zimmerlin
New York Independent System Operator, Inc.
10 Krey Blvd.
Rensselaer, NY 12144
(518) 356-6207