

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

New York Independent System Operator, Inc.) Docket No. ER13-102-000

**MOTION OF NEW YORK INDEPENDENT SYSTEM OPERATOR, INC. AND
NEW YORK TRANSMISSION OWNERS REQUESTING EXTENSION
OF TIME FOR SUBMISSION OF COMPLIANCE FILING;
AND REQUEST FOR FIVE-DAY ANSWER PERIOD**

In accordance with Rule 212 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission”),¹ the New York Independent System Operator, Inc. (“NYISO”) and the New York Transmission Owners² (collectively, the “Joint Filing Parties”) hereby move for a sixty-day extension of time, *i.e.*, from August 16, 2013, until October 15, 2013, to submit the compliance filing required by the Commission’s April 18, 2013, order in the above-captioned proceeding (“April 18 Order”).³ As described below, the directives in the April 18 Order raise complex compliance issues and require the development of an extensive number of new or revised procedures. The requested extension would afford a reasonable amount of additional time to develop such procedures and provide an adequate opportunity for NYISO stakeholders to contribute and provide input regarding them. In addition, the Joint Filing Parties want to emphasize that the NYISO will begin to implement those aspects of the public policy requirements planning process that have been approved by the Commission during the next planning cycle beginning in January 2014. This process will include

¹ 18 C.F.R. § 385.212.

² The New York Transmission Owners are: Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., Long Island Lighting Company d/b/a LIPA, New York Power Authority, New York State Electric & Gas Corp.; Niagara Mohawk Power Corp. d/b/a National Grid, Rochester Gas & Electric Corp., and Orange & Rockland Utilities, Inc.

³ *New York Independent System Operator, Inc.*, Order on Compliance Filing, 143 FERC ¶ 61,059 (2013) (“April 18 Order”).

development and finalization of the reliability needs assessment (RNA), and the solicitation and posting of proposed transmission needs driven by public policy requirements.

The Joint Filing Parties also respectfully request that the Commission adopt the standard five day answer period provided for responses under Rule 213(d)(1)(i)⁴ and issue an order granting the requested extension prior to August 16, 2013, *i.e.*, the date the Joint Filing Parties' compliance filing is currently due.

I. BACKGROUND

The April 18 Order addressed the Joint Filing Parties' compliance filing regarding the regional planning and cost allocation requirements of Order Nos. 1000 and 1000-A. The Commission found that the Joint Filing Parties' filing complied with most of these requirements and directed them to address several matters in a further compliance filing.⁵ Some of the directives will require only modest changes to the NYISO's regional planning processes; however, certain directives – particularly those regarding the evaluation and selection of projects in the NYISO's reliability and public policy requirements transmission planning processes and the comparable evaluation of non-transmission resources – raise a number of complex issues and will require the development of an extensive number of new or revised procedures.

Among its directives in the April 18 Order, the Commission directed the Joint Filing Parties to revise the NYISO's reliability transmission planning process to provide for the NYISO, rather than the New York State Public Service Commission ("NYPSC"), to evaluate and select the more efficient or cost effective transmission solution in the regional transmission plan for purposes of cost allocation and to ensure the comparable evaluation of regulated backstop

⁴ 18 C.F.R. § 385.213(d)(1)(i); *see also* *Filing of Privileged Materials and Answers to Motions*, Order No. 769, 141 FERC ¶ 61,049 (2012) ("Order No. 769") at P 85.

⁵ April 18 Order at P 13.

and alternative regulated solutions. Specifically, in Paragraph 81, the Commission directed the Joint Filing Parties to:

(1) eliminate provisions in the reliability transmission planning process allowing a state to select transmission solutions in the regional transmission plan for purposes of cost allocation; and (2) include an evaluation and selection process, as part of the reliability transmission planning process, through which NYISO will select in the regional transmission plan for purposes of cost allocation the more efficient or cost-effective transmission solutions from among competing projects in the reliability transmission planning process, as well as the developers eligible to use the regional cost allocation method for such facilities.

In addition, in Paragraph 242, the Commission directed the Joint Filing Parties to provide:

as part of a transparent and not unduly discriminatory process for evaluating whether to select a proposed transmission facility in the regional transmission plan for purposes of cost allocation: (1) OATT revisions ensuring that alternative regulated solutions are evaluated in the same level of detail as the regulated backstop solution, under all circumstances, in the reliability transmission planning process; (2) OATT revisions providing how NYISO will consider, as part of its evaluation of transmission solutions proposed in the reliability transmission planning process, “the relative efficiency and cost-effectiveness” of proposed transmission solutions; and (3) an explanation of how NYISO will ensure its evaluation, in the reliability transmission planning process, will culminate in a determination that is sufficiently detailed for stakeholders to understand why a particular transmission project was selected or not selected as a more efficient or cost-effective solution in the regional transmission plan for purposes of cost allocation. (footnote omitted)

The Commission also directed the Joint Filing Parties to revise the NYISO’s proposed public policy requirements transmission planning process to provide for the NYISO, rather than the NYPSC, to select the more efficient or cost effective transmission solution in the regional transmission plan for purposes of cost allocation. Specifically, in Paragraph 147, the Commission directed that the Joint Filing Parties:

describe a process by which NYISO will select in the regional transmission plan for purposes of cost allocation the more efficient or cost-effective solutions from among transmission projects proposed to meet transmission needs driven by public policy requirements.

In addition, the Commission directed the Joint Filing Parties to make a comparable evaluation of competing non-transmission and transmission resources in meeting transmission needs driven by public policy requirements. Specifically, in Paragraph 149, the Commission directed the Joint Filing Parties to make a further compliance filing that:

Identified how, in the public policy requirements transmission planning process, non-transmission solutions will be evaluated such that all types of resources are considered on a comparable basis and that proposes OATT revisions providing that stakeholders and interested parties may submit proposals for non-transmission alternatives.

The Commission further directed the Joint Filing Parties to establish how the New York Transmission Owners will identify transmission needs driven by public policy requirements within their local transmission planning processes and evaluate solutions to the identified needs. Specifically, in Paragraph 160, the Commission required that the Joint Filing Parties include:

(1) a just and reasonable and not unduly discriminatory process through which the Transmission Owners will identify, out of the larger set of transmission needs driven by public policy requirements that may be proposed, those transmission needs for which transmission solutions will be evaluated in the local transmission planning process, including an explanation of how each Transmission Owner's local transmission planning process determines whether to move forward regarding transmission needs driven by public policy requirements; and (2) procedures to evaluate at the local level potential transmission solutions to identified transmission needs driven by public policy requirements, including those proposed by stakeholders. (footnote omitted)

Following the issuance of the April 18 Order, the NYISO has worked diligently with its stakeholders to address these and other directives of the April 18 Order. However, it has become apparent that the complexity of the changes required to address all of these new requirements cannot be adequately resolved prior to August 16.

II. MOTION FOR EXTENSION OF TIME

The Joint Filing Parties understand the importance that the Commission places on timely compliance with its orders. Nevertheless, after analyzing the April 18 Order and evaluating what

must be done to comply, the Joint Filing Parties have concluded that it would not be practicable, notwithstanding their best efforts, to make a compliance filing by August 16, 2013 that adequately addresses all of the Commission's directives and provides for meaningful stakeholder review and input. The Joint Filing Parties, are, therefore, submitting this motion requesting a brief sixty (60) day extension of time – until October 15, 2013 – for compliance with the Commission's directives in the April 18 Order.⁶

There is good cause to grant this motion because a number of the directives imposed by the April 18 Order raise complex compliance issues that the Joint Filing Parties will need additional time to properly analyze and address. In particular, the development of new procedures for the evaluation and selection of projects from among the proposed transmission projects for the reliability and public policy requirements transmission planning processes and for the comparable evaluation of non-transmission solutions will require extensive time and work.⁷ The responsibility for selection represents a substantial departure from the NYISO's historic role with respect to reliability planning that had been previously approved by the Commission.

Additional time is needed to allow the NYISO to discuss the April 18 Order directives, and its compliance plans, further with its stakeholders to ensure that they are afforded sufficient

⁶ The NYISO is seeking an extension of all of its compliance obligations under the April 18 Order, instead of seeking an extension only with respect to the most complex issues, because it believes that addressing all of the issues in a single compliance filing will be more administratively efficient and convenient for the Commission and other parties.

⁷ NYISO staff, in conjunction with its stakeholders, has been developing these processes while simultaneously preparing and considering the materials necessary to comply with the interregional coordination and cost allocation requirements of Order Nos. 1000 and 1000-A. The NYISO, and with respect to certain issues, the New York Transmission Owners, submitted a compliance filing regarding the interregional requirements on July 10, 2013. See *New York Independent System Operator, Inc. and New York Transmission Owners*, Interregional Compliance Filing, Docket Nos. RM10-23-000, ER13-1942-000 (July 10, 2013).

opportunity to provide input and recommendations, as directed by Order No. 1000. The NYISO recognizes that stakeholder approvals are not required before it may submit a compliance filing. However, taking time to allow for thorough stakeholder discussions would be especially valuable in the context of this proceeding. The NYISO has held several meetings with its stakeholders, regarding its compliance plans in response to the April 18 Order. There are currently a number of open issues that would benefit from providing stakeholders with additional opportunities to contribute and provide input. Such discussions would improve the compliance filing and could reduce the number and intensity of disputes that come before the Commission. The Joint Filing Parties submit that such benefits greatly outweigh any possible disadvantages of allowing an extension.

Moreover, the Joint Filing Parties do not believe that granting the relatively brief extension would harm the interest of any stakeholder or any party in this proceeding. The Joint Filing Parties anticipate that the NYISO's revised regional transmission planning process will commence on January 1, 2014. Consistent with the sequence of elements of the plan already accepted by the Commission, the NYISO will not implement the selection of solutions for its reliability and public policy requirements transmission planning processes until the third quarter of 2014. Thus, a brief sixty-day extension would not interfere with the NYISO's ability to initiate the reliability and public policy planning processes in accordance with this timeframe even if it results in the Commission's not issuing an order addressing the solution selection processes until sometime during the first quarter of 2014. A ruling at that time would allow the NYISO to implement the approved solution selection process in the reliability planning process and in its first public policy planning requirements transmission planning process in the third quarter of 2014.

Accordingly, the Joint Filing Parties seek a sixty-day extension with respect to the compliance directives contained in the April 18 Order.

III. REQUEST FOR FIVE DAY ANSWER PERIOD

In Order No. 769, the Commission amended its procedural rules to provide for shortened answer periods to motions for extension of time or requests for expedited action.⁸ The Commission found that a five day answer period to such motions struck “an appropriate balance for the need to expedite action on such requests while preserving interested parties ability to respond . . .” because “motions regarding time periods are not controversial or complex.”⁹ Accordingly, the Joint Filing Parties ask that the Commission establish the now standard five day deadline for answers to this motion under Rule 213(d)(1)(i) of the Commission’s Rules of Practice and Procedure.¹⁰ This answer period will enable the Commission to grant the requested extension before the current August 16, 2013, compliance filing due date so that interested parties know how much time will be allowed for further stakeholder review.

IV. CONCLUSION

For the reasons specified above, the Joint Filing Parties respectfully request that the Commission: (i) grant their request for a sixty-day extension of time so that they may make the compliance filing mandated by the April 18 Order no later than October 15, 2013, and (ii) establish a five day period for answers to this motion, consistent with recent changes to the Commission’s procedural rules.

⁸ Order No. 769 at P 85.

⁹*Id.*

¹⁰ 18 C.F.R. §385.213(d)(1)(i).

Respectfully submitted,

NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.
By: /s/ Carl F. Patka

Robert E. Fernandez, General Counsel
Ray Stalter, Director of Regulatory Affairs
Carl F. Patka, Assistant General Counsel
New York Independent System Operator, Inc.
10 Krey Boulevard
Rensselaer, NY 12144
Email: rfernandez@nyiso.com
Email: rstalter@nyiso.com
Email: cpatka@nyiso.com

Ted J. Murphy
Hunton & Williams LLP
2200 Pennsylvania Ave, NW
Washington, DC 20037
Email: tmurphy@hunton.com

Michael Messonnier
Hunton & Williams LLP
951 East Byrd Street
Richmond, VA 23219
Email: mmessonnier@hunton.com

NEW YORK TRANSMISSION OWNERS
By: /s/ Elias G. Farrah

Elias G. Farrah
Winston & Strawn, LLP
1700 K Street, NW
Washington, DC 2006-3817
Email: efarrah@winston.com

Paul L. Gioia
Whiteman Osterman & Hanna LLP
111 Washington Avenue
Suite 401
Albany, NY 12210
Email: pgioia@woh.com

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 17th day of July, 2013.

/s/ Joy A. Zimmerlin

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