

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

New York Independent System Operator, Inc.	) ) )	Docket No. ER11-4338-002
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**REQUEST FOR LEAVE TO SUBMIT LIMITED ANSWER  
AND LIMITED ANSWER OF  
THE NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.**

Pursuant to Rule 212 and 213 of the Federal Energy Regulatory Commission (“Commission”) Rules of Practice and Procedure,<sup>1</sup> the New York Independent System Operator, Inc. (“NYISO”) respectfully submits this *Request for Leave to Answer and Answer*, which addresses an inaccurate statement in the September 24, 2013 *Motion for Leave to Answer and Answer* of the New York Association of Public Power (“NYAPP”).<sup>2</sup>

**I. REQUEST FOR LEAVE TO ANSWER**

The Commission has discretion to accept, and has accepted, answers to responsive pleadings when doing so assures a complete record, provides helpful information, permits the issues to be narrowed or clarified, or aids the Commission in understanding and resolving issues.<sup>3</sup> This answer satisfies these standards because it is narrowly drawn to correct an inaccurate and misleading assertion in the NYAPP Answer. In deference to the Commission’s procedural rules, the NYISO is not addressing the other points in the NYAPP Answer.<sup>4</sup>

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<sup>1</sup> See 18 C.F.R. §§ 385.212, 385.213 (2013).

<sup>2</sup> *Motion for Leave to Answer and Answer of the New York Association of Public Power*, Docket No. ER11-4338-002 (September 24, 2013) (“NYAPP Answer”).

<sup>3</sup> See, e.g., *CNG Transmission Corp.*, 89 FERC ¶ 61,100 at p. 61,287, n.11 (1999); see also *Pac. Interstate Transmission Co.*, 85 FERC ¶ 61,378 at p. 62,444 (1998), *reh’g denied*, 89 FERC ¶ 61,246 (1999); *PJM Interconnection, L.L.C.*, 84 FERC ¶ 61,224 at p. 62,078 (1998); *New Energy Ventures, Inc. v. S. Cal. Edison Co.*, 82 FERC ¶ 61,335 at p. 62,323, n.1 (1998).

<sup>4</sup> The NYISO’s silence on these other points should therefore not be construed as agreement with them.

## II. ANSWER

The NYAPP Answer states that each of NYAPP's thirteen members is a "Load Serving Entity" ("LSE") under the NYISO Open Access Transmission Tariff ("OATT").<sup>5</sup> It suggests that this fact somehow refutes the NYISO's September 19 *Answer to Comments and Request for Leave to Answer and Answer to Protest*. The September 19 Answer had accurately explained that the New York Power Authority ("NYPA"), not NYAPP or its members, was the NYISO customer acting as the LSE for all NYAPP member loads and that the NYISO did not have visibility into NYPA's contracts with NYAPP members.

In fact, ten of NYAPP's thirteen members<sup>6</sup> are not signatories to the NYISO's OATT or its Market Administration and Control Area Services Tariff ("Services Tariff"). Thus, none of these entities are NYISO customers,<sup>7</sup> notwithstanding the fact that they *may* meet the tariff definition of Load Serving Entity.<sup>8</sup> They have not gone through the Application and Registration Procedure under Section 9 of the Services Tariff and do not settle directly with the NYISO.<sup>9</sup>

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<sup>5</sup> NYAPP Answer at 4.

<sup>6</sup> These NYAPP members are: Delaware County Electric Cooperative, Inc.; Green Island Power Authority; Village of Greenport; Town of Massena Electric Department; Oneida-Madison Electric Cooperative, Inc.; Otsego Electric Cooperative, Inc.; Salamanca Board of Public Utilities; City of Sherrill Power & Light; Village of Sherburne; and Steuben Rural Electric Cooperative, Inc. (*See NYAPP Member Utilities available at:* <http://www.nyapp.org/members/members.htm> (last accessed September 2, 2013) for the list of NYAPP Member Utilities).

<sup>7</sup> *See NYISO Market Participant List as of August 6, 2013, available at:* [http://www.nyiso.com/public/webdocs/markets\\_operations/services/customer\\_relations/customers/nyiso\\_mps.pdf](http://www.nyiso.com/public/webdocs/markets_operations/services/customer_relations/customers/nyiso_mps.pdf) (last accessed September 2, 2013).

<sup>8</sup> The OATT defines a "Load Serving Entity" as "an entity, including a municipal electric system and an electric cooperative, authorized or required by law, regulatory authorization or requirement, agreement, or contractual obligation to supply Energy, Capacity and/or Ancillary Services to retail customers located within the NYCA, including an entity that takes service directly from the ISO to supply its own load in the NYCA." The fact that an entity is an LSE does not necessarily mean it has a direct relationship with the NYISO or that the NYISO has visibility into its contractual relationships with NYISO customers.

<sup>9</sup> *See Services Tariff at §9.*

The remaining three NYAPP Member Utilities – Village of Rockville Centre, Village of Freeport, and Jamestown Board of Public Utilities – are signatories to the NYISO tariffs, but, as the NYAPP Answer states, each of them, like all NYAPP members, is “a distribution utility with retail customers” that is a “party to a wholesale contract with NYPA for output from the Niagara Power Project.”<sup>10</sup> These three NYAPP members settle directly with the NYISO only for real time energy that is above and beyond the bilateral transactions that NYPA has scheduled.<sup>11</sup> Nonetheless, the NYISO’s point continues to be that NYPA serves these loads as a LSE in the NYISO wholesale markets and as such NYPA benefits from the Day-Ahead Demand Reduction Program (“DADRP”). The terms of those NYPA contracts with NYAPP’s members are unknown to the NYISO and whether NYPA allocates a portion of the costs of DADRP to its loads is a matter of contract among those parties.

Thus, as the NYISO stressed in its August 14 compliance filing and its September 19 Answer, the NYISO does not have visibility into NYPA’s bilateral contracts with NYAPP’s member customers.<sup>12</sup> Nothing in the NYAPP Answer, including the incomplete statements corrected above, alters this fact.

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<sup>10</sup> NYAPP Answer at 4.

<sup>11</sup> As such, they are directly procuring energy in the NYISO market and should be allocated the cost of demand response to the extent that they are benefitting from reduced prices for this real time balancing energy.

<sup>12</sup> *New York Independent System Operator, Inc.*, Compliance Filing, Docket No. ER11-4338-002 (August 14, 2013), P 29; *New York Independent System Operator, Inc.*, Answer to Comments and Request for Leave to Answer and Answer to Protest, Docket No. ER11-4338-002 (September 19, 2013), pp 10-12.

### **III. CONCLUSION**

**WHEREFORE**, the New York Independent System Operator, Inc. respectfully requests that the Commission accept the compliance filing filed on August 14, 2013 in the above referenced docket without requiring any modifications.

Respectfully submitted,

/s/ Ted J. Murphy  
Hunton & Williams, LLP  
Counsel for  
New York Independent System Operator, Inc.

October 4, 2013

**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 (2013).

Dated at Washington, D.C. this 4th day of October 2013.

/s/ Catherine Karimi

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