

October 21, 2013

By Electronic Delivery

Honorable Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

**Re: *New York Independent System Operator, Inc.*'s Proposed Tariff Revisions to Modify
Minimum Participation Criteria; Docket No. ER14- ____-000**

Dear Ms. Bose:

Pursuant to Section 205 of the Federal Power Act,¹ the New York Independent System Operator, Inc. ("NYISO") hereby submits revisions to Attachment K of its Market Administration and Control Area Services Tariff ("Services Tariff") to revise the minimum participation criteria for the NYISO's markets.² Presently, when a market participant relies on an Affiliate's financial statements for the purposes of satisfying the capitalization component of the minimum participation criteria, the Affiliate must (1) provide an unlimited guaranty, and (2) satisfy the NYISO's criteria for obtaining unsecured credit. The proposed revision would eliminate the requirement that the Affiliate satisfy the unsecured credit criteria when the unlimited guaranty is used solely to meet the capitalization requirement. The NYISO requests that the Commission issue an order by December 19, 2013, accepting this filing within the 60 day period normally applicable to filings under Section 205 of the Federal Power Act.³

I. List of Documents Submitted

The NYISO submits the following documents:

1. This filing letter;
2. A clean version of the proposed revisions to Services Tariff (Attachment I); and
3. A blacklined version of the proposed revisions to the Services Tariff (Attachment II).

¹ 16 U.S.C. § 824d (2013).

² Capitalized terms that are not otherwise defined herein shall have the meanings specified in Section 2 of the Services Tariff.

³ 16 U.S.C. § 824d(d).

II. Copies of Correspondence

Copies of correspondence concerning this filing should be served on:

Robert E. Fernandez, General Counsel
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III. Service

The NYISO will send an electronic link to this filing to the official representative of each of its customers, to each participant on its stakeholder committees, to the New York Public Service Commission, and to the New Jersey Board of Public Utilities. In addition, the complete filing will be posted on the NYISO's website at www.nyiso.com.

IV. Summary and Background

In Order No. 741 the Commission directed each RTO and ISO to revise its tariff to establish minimum criteria for market participation, but left it to each RTO and ISO and its stakeholders to develop the criteria that are applicable to its markets.⁴ The purpose of the minimum participation criteria is to ensure that markets are protected from risks posed by under-capitalized participants or those that do not have adequate risk management procedures in place.⁵

In response to Order No. 741, the NYISO implemented minimum participation criteria in October 2011, including its capitalization criteria.⁶ To meet the capitalization criteria, a market participant or its guarantor is required to have audited financial statements demonstrating at least \$10 million in assets or \$1 million in tangible net worth. In the alternative, in recognition that some market participants may not be capable of meeting this capitalization criteria, a market participant instead may

⁴ *Credit Reforms in Organized Wholesale Electric Markets*, Order No. 741, FERC Stats. & Regs. ¶ 31,317 (2010) at PP 131-133, order on reh'g, Order No. 741-A, FERC Stats. & Regs. ¶ 31,320 (2011) at P 33, order denying reh'g, Order No. 741-B, 135 FERC ¶ 61,242 (2011).

⁵ Order No. 741 at P 131.

⁶ *New York Independent System Operator, Inc.*, 136 FERC 61,193 (2011) at PP 39-48.

post \$200,000 in security (\$500,000 if participating in the TCC market) with the NYISO.⁷ This requirement was implemented to protect the market because well capitalized market participants are less likely to default in the event of market fluctuations that lead to unexpected losses as they have more resources available to cover these losses. For those market participants that instead choose to post additional security, the risk of loss to the market is mitigated by the additional \$200,000 or \$500,000 in collateral. Most of the NYISO's historical bad debt losses were under \$200,000.⁸

Under the NYISO tariffs, if a market participant provides a guaranty solely to meet the capitalization criteria, the guarantor must also meet all of the NYISO's financial assurance requirements for obtaining unsecured credit. Market participants requested that the NYISO consider eliminating the requirement that the guarantor also satisfy the financial assurance criteria (when a guaranty is used solely to satisfy capitalization criteria) because a market participant that uses its own financial statements to meet the minimum capitalization criteria is not required to also satisfy the unsecured credit requirements, which include creditworthiness and payment history requirements under Services Tariff Sections 26.5.1(i) & (ii).⁹

V. Description of Proposed Revisions

The proposed revisions will allow market participants relying on an Affiliate's financial statements for the purposes of satisfying the capitalization component of the minimum participation criteria to have the guarantor assessed by the same criteria as a market participant relying on its own audited financial statements for capitalization. The NYISO is proposing to revise its tariffs to allow market participants to utilize an unlimited guaranty to meet the minimum capitalization criteria if the guarantor's most recent annual audited financial statements indicate at least \$10 million in assets or \$1 million in tangible net worth. The NYISO proposes to remove the requirement that the guarantor meet all credit requirements to obtain unsecured credit if the guaranty is solely used for the purpose of meeting the capitalization criteria.

All other requirements for capitalization and unsecured credit will remain unchanged. Specifically, to meet the capitalization criteria the guaranty must be unlimited, in a form acceptable to the NYISO, and can only be used to meet the capitalization criteria for one market participant. The guaranty will not be used to obtain unsecured credit unless the guarantor also meets all of the financial assurance requirements related to obtaining unsecured credit.¹⁰ If the guarantor does not meet all of the financial assurance requirements related to obtaining unsecured credit, the market participant must continue to provide credit support to satisfy its credit requirements.

⁷ This security is in addition to any collateral required to satisfy the market participant's credit requirements.

⁸ See *New York Independent System Operator, Inc., Order No. 741 Compliance Filing*, Docket No. ER11-3949 (filed June 30, 2011) at pp. 11-12 (providing further explanation of the NYISO's capitalization requirement).

⁹ See Services Tariff Sections 26.5.4.1.

¹⁰ See Services Tariff Section 26.5.

This change will allow more market participants to use guarantees to meet the capitalization criteria without making a material change to the level of risk that the market may be exposed to by a market participant.

VI. Effective Date

The NYISO respectfully requests that the tariff revisions proposed in this filing become effective sixty days from the date of this filing on December 19, 2013.

VII. Requisite Stakeholder Approval

Market participants requested that the NYISO consider revising the capitalization component of the minimum participation criteria. A market participant presented its proposal for such revisions at the July 12, 2013 Credit Policy Working Group (“CPWG”) with no objections from stakeholders. Proposed tariff revisions were also distributed with the July 12, 2013 CPWG materials. The NYISO presented the tariff revisions proposed in this filing to the Business Issues Committee on August 14, 2013, which unanimously approved these revisions, with abstentions. On August 28, 2013, the NYISO’s Management Committee approved the tariff revisions proposed in this filing with one abstention. On October 15, 2013 the NYISO’s Board of Directors approved a motion directing the NYISO to file the tariff revisions approved by the Management Committee.

VIII. Conclusion

WHEREFORE, for the foregoing reasons, the New York Independent System Operator, Inc. respectfully requests that the Commission accept the proposed tariff changes identified in this filing.

Respectfully submitted,

/s/ Nathan D. Markey
Nathan D. Markey

cc: Michael A. Bardee
Gregory Berson
Anna Cochrane
Jignasa Gadani
Morris Margolis
Michael McLaughlin
David Morenoff
Daniel Nowak