

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

Demand Response Supporters)	
Complainants,)	
)	
v.)	Docket No. EL13-74-000
)	
New York Independent System Operator, Inc.)	
Respondent.)	

**MOTION OF NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.
FOR EXTENSION OF TIME TO SUBMIT COMPLIANCE FILING**

Pursuant to Rules 101(e), 212, and 2008(a) of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission”),¹ the New York Independent System Operator, Inc. (“NYISO”) respectfully requests an extension of time to submit the compliance filing required by Ordering Paragraph (B) of the Commission’s November 22, 2013, order in the above-captioned proceeding (“November BTMG Order”) to permit behind-the-meter generation to participate in the NYISO’s Day-Ahead Demand Response Program (“DADRP”).² The requested extension will allow the NYISO to align the revisions required under the November BTMG Order with the underlying DADRP requirements, as revised in response to Order No. 745.

In the November BTMG Order, the Commission directed the NYISO to submit tariff revisions within 180 days to permit behind-the-meter generation to participate in the DADRP.³

¹ 18 C.F.R. §§ 385.101(e), 385.212, and 385.2008(a) (2013).

² *Demand Response Supporters v. New York Independent System Operator, Inc.*, Order Granting Complaint, In Part, 145 FERC ¶ 61,162 (2013) (“November BTMG Order”).

³ *Id.* at P 37.

In parallel with this proceeding, the NYISO filed on August 14, 2013, a compliance filing in Docket No. ER11-4338-002 concerning revisions to the DADRP in response to Order No. 745 (“August Compliance Filing”).⁴ The Commission has not yet issued an order responding to this compliance filing.

The NYISO must develop the requirements for the participation of behind-the-meter generation in line with the underlying DADRP requirements. If, in response to the August Compliance Filing, the Commission were to direct the NYISO to make further revisions to the DADRP requirements, such revisions could significantly impact, and would have to be accounted for in, the tariff revisions required to incorporate behind-the-meter generation in the DADRP. The NYISO, therefore, respectfully requests that the Commission grant it an extension to provide it with a 150 day period following the Commission’s issuance of its order in response to the August Compliance Filing to file its response to the November BTMG Order. This extension would provide time for the NYISO and its stakeholders to develop tariff revisions for the participation of behind-the-meter generation that align with the underlying DADRP requirements accepted by the Commission in the Order No. 745 proceeding.

I. BACKGROUND

On March 15, 2011, the Commission issued Order No. 745 to address compensation for demand response resources participating in Energy markets administered by Independent System Operators (“ISOs”) and Regional Transmission Organizations (“RTOs”).⁵ Order No. 745 established that when a demand response resource participating in an ISO/RTO-administered Energy market can

⁴ *New York Independent System Operator, Inc.*, Compliance Filing, Docket No. ER11-4338-002 (August 14, 2013) (“August Compliance Filing”).

⁵ *Demand Response Compensation in Organized Wholesale Energy Markets*, Order No. 745, 134 FERC ¶ 61,187 (March 15, 2011) (“Order No. 745”); *reh’g denied*, Order No. 745-A, 137 FERC ¶ 61,215 (Dec. 15, 2011); *reh’g denied*, Order No. 745-B, 138 FERC ¶ 61,148 (2012).

balance supply and demand as an alternative to generation and when dispatch of the demand response resource is cost-effective as determined by a net benefits test, the demand response resource must be compensated for its demand reduction in the Energy market at the locational marginal price for Energy.⁶ To implement this compensation approach, Order No. 745 set forth requirements for a net benefits test, required the review and modification, if necessary, of measurement and verification procedures, and required a method for allocating the costs of demand response payments among the Loads that benefit from these resources being scheduled to perform demand reduction.⁷

On August 19, 2011, the NYISO submitted revisions to its DADRP in compliance with Order No. 745.⁸ On May 16, 2013, the Commission accepted the NYISO's compliance filing in part and directed the NYISO to make certain tariff revisions and provide further support for certain portions of its compliance filing ("May Compliance Order").⁹ In response to certain protests that behind-the-meter generation should be allowed to participate in the DADRP, the May Compliance Order found that Order No. 745 neither required, nor prohibited, such changes, and stated that "[i]f NYISO or its stakeholders determine that changes are warranted with respect to NYISO's existing practices in this area, such changes should be presented to the Commission in a separate proceeding."¹⁰ In response, Demand Response Supporters¹¹ filed a complaint on June 17, 2013, requesting that the

⁶ Order No. 745 at P 2.

⁷ *Id.* at PP 4-6.

⁸ *New York Independent System Operator, Inc.*, Demand Response Compensation in Organized Wholesale Energy Markets, Docket No. ER11-4338-000 (August 19, 2011).

⁹ *New York Independent System Operator, Inc.*, 143 FERC ¶ 61,134 (May 16, 2013) ("May Compliance Order").

¹⁰ *Id.* at P 101.

¹¹ Demand Response Supporters consist of: EnerNOC, Inc.; Viridity, Inc.; Wal-mart Stores, Inc.; Comverge, Inc.; and EnergyConnect, a Johnson Controls Company.

Commission order the NYISO to modify its tariffs so that demand response facilitated by behind-the-meter generation is eligible to participate in the DADRP.¹²

On August 14, 2013, the NYISO submitted the August Compliance Filing in response to the May Compliance Order proposing certain tariff revisions and providing additional support for certain portions of the NYISO's initial compliance filing. Several entities submitted protests and comments challenging certain aspects of the NYISO's filing.¹³ The Commission has not yet issued an order in response to this compliance filing. On November 22, 2013, the Commission issued the November BTMG Order in response to Demand Response Supporters' complaint regarding the participation of behind-the-meter generation, directing the NYISO to develop and file tariff revisions within 180 days of the issuance of the order to integrate behind-the-meter generation in the DADRP.

II. MOTION FOR EXTENSION OF TIME

The NYISO respectfully requests that the Commission grant its motion for an extension of time to permit it to make the compliance filing directed by the November BTMG Order within 150 days of the Commission's issuance of its order in response to the August Compliance Filing in Docket No. ER11-4338-002. In accordance with Rules 2008(a) and 101(e), good cause exists for the Commission to grant an extension of the compliance period.¹⁴

¹² *Demand Response Supporters v. New York Independent System Operator, Inc.*, Joint Complaint of Demand Response Supporters, Docket No. EL13-74-000 (June 17, 2013).

¹³ *E.g.*, *New York Independent System Operator, Inc.*, Protest of Demand Response Supporters, Docket No. ER11-4338-000 (September 4, 2013); *New York Independent System Operator, Inc.*, Comments of the New York Association of Public Power on Compliance Filing, Docket No. ER11-4338-000 (September 4, 2013); *New York Independent System Operator, Inc.*, Comments of Occidental Chemical Corporation to the Compliance Filing of the New York Independent System Operator, Inc., Docket No. ER11-4338-002 (September 4, 2013).

¹⁴ 18 C.F.R. § 385.2008(a) (2013) (providing that "the time by which any person is required or allowed to act under any statute, rule, or order may be extended by the decisional authority for good cause, upon a motion made before the expiration of the period prescribed or previously extended"); 18 C.F.R. § 385.101(e) (2013) (providing that "the Commission may, for good cause, waive any provision of this part or prescribe any alternative procedures that it determines to be appropriate").

The different requirements for the DADRP, including the bidding, measurement, verification, performance, eligibility, enrollment, and cost allocation requirements, are interrelated and are designed to work in concert with one another. In response to Order No. 745, the NYISO has proposed significant revisions to certain of these interconnected components of the DADRP requirements. The Commission accepted a number of these revisions in the May Compliance Order, but has not yet issued an order responding to the NYISO's further August Compliance Filing. For this reason, the possibility exists that certain fundamental components of the DADRP could still be subject to change with possible impacts on the other program components.

As acknowledged by the Commission in the November BTMG Order, the NYISO must develop with its stakeholders extensive and complex revisions to the DADRP requirements to incorporate behind-the-meter generation in the program.¹⁵ The Commission focused particularly on the necessary revisions to the eligibility, measurement, verification, and control requirements.¹⁶ The incorporation of a new resource type, *i.e.*, behind-the-meter generation, into the DADRP will require the NYISO and its stakeholders to examine all aspects of the resource's participation in the DADRP to ensure that the insertion of these new resources does not create any gaps or inconsistencies with the underlying DADRP rules and that rule changes do not have an adverse impact on the participation of other resource types, *i.e.*, load curtailment resources, in the program.

¹⁵ November BTMG Order at P 37; *see also* November BTMG Order (Moeller, Comm'r, dissenting) at p 2 ("Moreover, the requirement that the NYISO convene and complete a stakeholder conference and return to the Commission with a DADRP proposal that permits BTMG participation, within 180 days, is ambitious at best and unworkable at worst.").

¹⁶ November BTMG Order at P 37.

In developing its Order No. 745 compliance filing, the NYISO did not contemplate the use of behind-the-meter generation in the DADRP, and its proposed revisions were not developed to address concerns specific to behind-the-meter generation. For this reason, the NYISO must develop the requirements for behind-the-meter generation anew, building upon the foundation of the DADRP requirements accepted by the Commission in response to Order No. 745, which will be the applicable DADRP rules going forward. Because certain of these requirements are still subject to Commission review and potentially further revision in the Order No. 745 proceeding, the NYISO is limited in the progress that it can make in developing new generation-specific requirements, including the bidding, measurement, and verification requirements, that are required to incorporate behind-the-meter generation in the DADRP. If, in response to the August Compliance Filing, the Commission were to direct the NYISO to make further revisions to the DADRP requirements, such revisions could impact other interrelated components of the DADRP and any resulting revisions would have to be accounted for in developing the requirements to incorporate behind-the-meter generation. Notwithstanding the uncertainty regarding certain DADRP requirements, the NYISO plans to engage stakeholders through the stakeholder Market Issues Working Group beginning in the first quarter of 2014 to determine those areas, such as the eligibility and enrollment requirements, where they can begin work and make progress in developing revisions because such areas are not likely to be subject to possible revisions arising out of the Order No. 745 proceeding.

There is, therefore, good cause for the Commission to grant an extension to permit the NYISO to make the compliance filing directed by the November BTMG Order within 150 days of the Commission's issuance of its order in response to the August Compliance Filing. The requested extension will provide the NYISO and its stakeholders with certainty regarding the

underlying DADRP requirements and provide them with time to develop the extensive and complex revisions required to incorporate behind-the-meter generation in the program. Absent such an extension, the NYISO and its stakeholders would have to develop revisions based on DADRP requirements that could potentially change within the 180 day compliance period. The NYISO and its stakeholders would, in such instance, expend extensive time and resources to develop a consensus over a given approach for incorporating behind-the-meter generation, which they may have to revisit or begin anew in the middle of the 180 day compliance period if there are further revisions to the underlying DADRP requirements arising from the Order No. 745 proceeding. In such case, the NYISO and its stakeholders would then have a limited time period to develop alternatives and build consensus over new revisions.

III. CONCLUSION

For the reasons specified below, the NYISO respectfully requests that the Commission grant its request for an extension to permit it to make the compliance filing directed by the November BTMG Order within 150 days of the Commission's issuance of its order in response to the August Compliance Filing.

Respectfully submitted,

/s/ Michael J. Messonnier, Jr

Michael J. Messonnier, Jr.

Counsel for the

New York Independent System Operator, Inc.

December 23, 2013

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 23rd day of December, 2013.

/s/ Joy A. Zimmerlin

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