

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

<b>New York Independent System Operator, Inc.</b>	) ) )	<b>Docket No. ER13-102-000</b>
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**MOTION OF NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.  
TO DEFER EFFECTIVE DATE OF COMPLIANCE TARIFF REVISIONS; AND  
REQUEST FOR SHORTENED COMMENT PERIOD**

In accordance with Rule 212 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission”),<sup>1</sup> the New York Independent System Operator, Inc. (“NYISO”) respectfully submits this motion to defer the proposed effective date for the revisions to its Open Access Transmission Tariff (“OATT”) and Market Administration and Control Area Services Tariff (“Services Tariff”) submitted in the above-captioned proceeding to bring its Comprehensive System Planning Process (“CSPP”) into compliance with the Order No. 1000 regional transmission planning requirements.<sup>2</sup>

In response to the directives in the April 18, 2013 order in this proceeding, the NYISO and the New York Transmission Owners<sup>3</sup> (collectively, the “Filing Parties”) submitted proposed tariff revisions on October 15, 2013, to change fundamental components of the CSPP (“October 2013 Filing”).<sup>4</sup> The October 2013 Filing requested a January 1, 2014, effective date for these

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<sup>1</sup> 18 C.F.R. § 385.212.

<sup>2</sup> Capitalized terms that are not otherwise defined in this submission shall have the meaning specified in Attachment Y of the NYISO OATT, and if not defined therein, in Section 1 of the NYISO OATT and Section 2 of the NYISO Services Tariff.

<sup>3</sup> 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.

<sup>4</sup> *New York Independent System Operator, Inc. and New York Transmission Owners*, Compliance Filing, Docket No. ER13-102-002 (October 15, 2013) (“October 2013 Filing”).

revisions conditioned upon the Commission issuing an order accepting them in the first quarter of 2014. The October 2013 Filing explained that Commission acceptance in that timeframe was necessary for the NYISO to implement the revised CSPP in the current 2014-2015 planning cycle. The Commission, however, has not yet issued an order. Without such order, the NYISO lacks clear tariff authority to implement the revised CSPP.

Under these circumstances, the NYISO will proceed under its currently authorized CSPP for the 2014-2015 planning cycle to ensure the timely development of solutions to system reliability needs in New York. Accordingly, the NYISO requests that the Commission defer the effective date of the compliance revisions that relate to the reliability and economic planning portions of its CSPP until January 1, 2016, which is the start date of its next planning cycle. The NYISO also requests that the tariff revisions for the new public policy planning portion of its CSPP become effective on the date the Commission issues its order substantively accepting the changes proposed in the October 2013 Filing. The NYISO also respectfully requests that the Commission immediately issue notice of this motion and provide for a shortened comment period, so as to not delay Commission action regarding the underlying October 2013 Filing in this proceeding.<sup>5</sup>

## **I. BACKGROUND**

On October 11, 2012, the Filing Parties submitted a compliance filing in response to the Order No. 1000 regional transmission planning requirements (“October 2012 Filing”).<sup>6</sup> The Filing Parties requested that the proposed tariff revisions, including the addition of a public policy planning process, become effective upon the completion of the NYISO’s next reliability

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<sup>5</sup> See 18 C.F.R. § 385.210(b)

<sup>6</sup> *New York Independent System Operator, Inc. and New York Transmission Owners*, Compliance Filing, Docket No. ER13-102-000 (October 11, 2012) (“October 2012 Filing”).

planning cycle following the Commission's issuance of a final order approving the tariff changes.<sup>7</sup>

On April 18, 2013, the Commission issued an order accepting the proposed tariff revisions in part, and directing the Filing Parties to make fundamental changes to the reliability and public policy planning processes in a further compliance filing ("April 2013 Order").<sup>8</sup> Most significantly, the April 2013 Order required changes to the long-standing process in which transmission projects are selected in New York, directing the creation of a new process in which the NYISO, rather than the New York Public Service Commission ("NYPSC"), would evaluate and select the more efficient or cost-effective transmission project to satisfy a reliability or public policy need.<sup>9</sup>

The April 2013 Order also denied the Filing Parties' originally requested effective date, stating:

We also direct the Filing Parties to establish in the compliance filing an appropriate effective date, which the Commission anticipates will coincide with the beginning of the next reliability transmission planning cycle following the issuance of this order. The Filing Parties may propose a different effective date, but must provide a showing demonstrating why such an effective date is more appropriate. We note that any proposed effective date must coincide with the beginning of a NYISO regional transmission planning cycle. Consistent with this determination, we reject the Filing Parties' proposal that the proposed compliance OATT modifications become effective upon completion of the next reliability planning cycle following the Commission's issuance of a final order approving the proposed OATT changes. We do not believe that it is necessary to delay the effective date of the proposed revisions until every issue in this proceeding has been resolved.<sup>10</sup>

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<sup>7</sup> October 2012 Filing at pp 63-64.

<sup>8</sup> *New York Independent System Operator, Inc.*, Order on Compliance Filing, 143 FERC ¶ 61,059 (April 18, 2013) ("April 2013 Order").

<sup>9</sup> April 2013 Order at PP 81, 145.

<sup>10</sup> *Id.* at P 26.

On October 15, 2013, in response to the April 2013 Order, the Filing Parties submitted changes to fundamental components of the CSPP, including revised tariff requirements for: (i) identifying and enrolling qualified developers, (ii) submitting project information, (iii) performing a comparable evaluation of the viability and sufficiency of transmission and non-transmission resources, and (iv) evaluating and selecting the more efficient or cost-effective transmission solutions to reliability and public policy needs. While the NYISO made significant efforts to work with its stakeholders to address varying concerns with the proposed tariff revisions, various stakeholders protested key elements of them.<sup>11</sup>

The October 2013 Filing requested an effective date for the tariff revisions of January 1, 2014, which coincided with the start of the NYISO's planning cycle for 2014-2015.<sup>12</sup> The filing conditioned this effective date upon the Commission issuing an order in the first quarter of 2014 to enable the NYISO to implement its new and expanded processes during the 2014-2015 planning cycle.<sup>13</sup> The Commission, however, has not issued an order on the October 2013 Filing.

## **II. MOTION FOR DEFERRAL OF EFFECTIVE DATE**

The NYISO requests that the Commission accept this motion to defer the effective date of its proposed tariff revisions: (i) for its reliability and economic planning processes from

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<sup>11</sup> See *New York Independent System Operator, Inc.*, Protest of LS Power Transmission, LLC and LSP Transmission Holdings, LLC, Docket No. ER13-102-002 (November 14, 2013); *New York Independent System Operator, Inc.*, Protest of NextEra Energy Resources, LLC, Docket No. ER13-102-002 (November 14, 2013); *New York Independent System Operator, Inc.*, Protest of the New York State Public Service Commission, Docket No. ER13-102-000 (November 14, 2013); *New York Independent System Operator, Inc.*, Protest of Entergy Nuclear Power Marketing, LLC, Docket No. ER13-102-002 (November 14, 2013); *New York Independent System Operator, Inc.*, Protest of Multiple Intervenors and Independent Power Producers of New York, Inc., Docket No. ER13-102-002 (November 14, 2013).

<sup>12</sup> October 2013 Filing at pp 60-61.

<sup>13</sup> *Id.* at p. 61 (“The Filing Parties respectfully requests that the Commission take action on this compliance filing by the first quarter of 2014. This time frame will enable the NYISO to implement the new evaluation and selection requirements in the upcoming planning cycle beginning January 1, 2014.”).

January 1, 2014, to January 1, 2016, which coincides with the start date for the next NYISO planning cycle, and (ii) for its new public policy planning process from January 1, 2014, to the date on which the Commission issues its order substantively accepting the revisions proposed in the October 2013 Filing.<sup>14</sup>

The April 2013 Order did not mandate that the effective date for the tariff revisions filed in this proceeding be the start date of the next planning cycle following that order. Rather, the April 2013 Order provided that “[t]he Filing Parties may propose a different effective date, but must demonstrate why such an effective date is more appropriate.” For the reasons set forth below, the revised effective dates for the proposed revisions to the CSPP are more appropriate than the start date for the current 2014-2015 planning cycle.

**A. Revised Effective Date for the NYISO’s Existing Reliability and Economic Planning Processes**

The NYISO lacks clear tariff authority to implement the revised reliability and economic planning process requirements during the current planning cycle, and would incur significant practical risks and create uncertainty by taking action to implement the revised requirements ahead of a Commission order. Therefore, the NYISO will proceed under the currently authorized reliability and economic planning process requirements in its tariffs for the 2014-2015 planning cycle and requests a revised effective date to implement the revised reliability and economic planning process requirements for the next planning cycle, beginning on January 1, 2016.

In the April 2013 Order, the Commission emphasized that the Filing Parties should not wait until the issuance of a final order to start their new planning processes. The Commission

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<sup>14</sup> The Commission has accepted in another region the adoption of a revised effective date for implementing the Order No. 1000 regional transmission planning and cost allocation requirements. *See Duke Energy Carolinas, LLC and Duke Energy Progress, Inc., et al.*, 145 FERC ¶ 61,059 (2013) at P 6.

stated that: “[w]e do not believe that it is necessary to delay the effective date of the proposed revisions until every issue in this proceeding has been resolved.”<sup>15</sup> The October 2013 Filing, however, fundamentally restructured the NYISO’s planning processes in multiple respects. The NYISO does not need every issue addressed in the October 2013 Filing resolved to implement its revised CSPP. However, it does need a Commission determination accepting and authorizing the fundamental changes the Filing Parties proposed to the NYISO’s role under its existing tariff requirements, such as evaluating and selecting transmission projects instead of the NYPSC, which is a role the NYISO has never undertaken before.

Without a Commission order substantively accepting the proposed revisions in the October 2013 Filing, the NYISO lacks clear tariff authority to implement its proposed, but not yet accepted, tariff revisions for the CSPP. As the Commission did not require, through either Order No. 1000 or the April 2013 Order, any material changes to the NYISO’s Reliability Needs Assessment (“RNA”) process,<sup>16</sup> the NYISO has been able to perform the initial stage of its reliability planning process during the first half of 2014 pursuant to its currently effective tariff requirements for the CSPP.<sup>17</sup> The October 2013 Filing did, however, propose fundamental, structural tariff revisions to the following stage of the reliability planning process – the

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<sup>15</sup> April 2013 Order at P 26.

<sup>16</sup> The RNA portion of the NYISO’s reliability planning process is the NYISO’s first step in the CSPP and identifies reliability needs on the New York bulk power system that may arise over a ten-year planning horizon.

<sup>17</sup> Even prior to beginning the RNA, the NYISO conducted the Local Transmission Owner Planning Process last fall in conjunction with the New York Transmission Owners to review and obtain input from NYISO stakeholders on the New York Transmission Owners’ Local Transmission Plans. *See* OATT Attachment Y Section 31.2.1. Moreover, the NYISO issued letters to stakeholders gathering data during the input phase of the RNA process and completed its 2014 Load and Capacity Data Book. *See id.* Section 31.2.2.4.

implementation and development of the Comprehensive Reliability Plan (“CRP”),<sup>18</sup> including the requirements for: (i) identifying and enrolling qualified developers, (ii) submitting project information, (iii) performing a comparable evaluation of transmission and non-transmission resources, and – most significantly – (iv) evaluating and selecting the more efficient or cost-effective transmission solutions to reliability needs.

As described in Part II.C below, the NYISO has taken all steps that it reasonably can in preparation for implementing the revised reliability planning process during the current planning cycle. However, the NYISO cannot proceed to solicit solutions to a reliability need under its revised CRP process until the Commission has accepted the requirements for determining whether developers are qualified to propose such solutions. In addition, the NYISO cannot evaluate and select among proposed solutions until the Commission has accepted its proposed project information requirements and its metrics for evaluating this project information to select the more efficient or cost-effective transmission solution to satisfy a reliability need. Moreover, the NYISO cannot fully develop the detailed procedures required to administer its revised reliability planning process prior to the Commission addressing the underlying tariff requirements for this process.

Absent clear tariff authority to carry out these new and expanded processes, many aspects of which were contested by various stakeholders, the NYISO would run a significant risk in implementing the revised process requirements that it would take actions contrary to the Commission’s ultimate directives. Facing the anticipated identification of significant reliability issues in this planning cycle, the NYISO cannot afford having to repeat its evaluation processes, or otherwise risk the integrity of its planning process to meet New York’s transmission system

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<sup>18</sup> The CRP is the second phase of the NYISO’s reliability planning process in which the NYISO solicits and identifies solutions to satisfy identified reliability needs.

reliability needs. As the Commission has previously indicated, the changes it orders should not disrupt the ongoing regional transmission planning process.<sup>19</sup> The NYISO must, therefore, proceed under its currently effective CSPP to ensure the timely development of solutions to system reliability needs in New York. Conditioned upon the Commission issuing an order substantively accepting the October 2013 Filing and granting it clear tariff authority at some point in the next year, the NYISO could reasonably implement its revised reliability and economic planning processes at the beginning of the next planning cycle beginning January 1, 2016.<sup>20</sup>

#### **B. Revised Effective Date for the NYISO's Public Policy Planning Process**

As with the reliability planning process, the NYISO lacks clear tariff authority to implement the entirely new public policy planning portion of the revised CSPP and would incur significant practical risks and create uncertainty by taking action to implement this process ahead of a Commission order.

There are a number of material revisions to the public policy planning process, proposed in response to the April 2013 Order, that have not yet been addressed by the Commission. As an initial matter, the October 2013 Filing proposed to change the timing for performing the public policy planning process from after the completion of the reliability planning process to roughly in parallel with that process to accommodate the NYISO's proposed evaluation and selection

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<sup>19</sup> See *PacificCorp, et al.*, Docket No. ER13-64-000, 145 FERC ¶ 61,060 (October 17, 2013) at P 6 (although not granting an extension in that instance, indicating that further revisions should be implemented prospectively, except to the extent that such “ordered changes *can reasonably be implemented during the current (i.e., 2014-2015) planning cycle without disrupting the regional transmission planning process . . .*”) (emphasis added).

<sup>20</sup> The April 2013 Order did not require the NYISO to make the same fundamental revisions to its economic planning process that it made to its reliability and public policy planning process. However, the October 2013 Filing did propose certain developer qualification and project information requirements that must be accepted by the Commission before the NYISO can begin to implement these revisions to the economic planning process.



responsibilities.<sup>21</sup> The October 2013 Filing also proposed extensive tariff revisions for the solicitation and identification of solutions to public policy needs, including for: (i) identifying and enrolling qualified developers, (ii) submitting project information, (iii) performing a comparable evaluation of transmission and non-transmission resources, and (iv) evaluating and selecting the more efficient or cost-effective transmission solutions to public policy needs.

Under the timing requirements for the CSPP proposed in the October 2013 Filing, the NYISO has reached the point when it would have to begin its public policy planning process by soliciting proposed transmission needs driven by public policy requirements for approval by the NYPSC.<sup>22</sup> As with its reliability planning process, the NYISO lacks clear tariff authority to proceed to implement the public policy planning process in the current planning cycle.

Accordingly, the NYISO requests that the tariff revisions for its new public policy planning process become effective on the date of the issuance of the Commission's order in response to the October 2013 Filing.<sup>23</sup> Should the Commission issue an order approving the

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<sup>21</sup> October 2013 Filing at p 59.

<sup>22</sup> The NYPSC has only recently instituted a proceeding to develop the procedures it will implement to evaluate the proposed transmission needs driven public policy requirements to determine for which of those the NYISO should seek transmission solutions. *See* N.Y.P.S.C. Case No. 14-E-0068, Proceeding on Motion of the Commission to Establish Policies and Procedures Regarding Transmission Planning for Public Policy Purposes, *Order Instituting Proceeding and Soliciting Comments* (March 28, 2014).

<sup>23</sup> The subset of the tariff revisions submitted in the October 2012 Filing and October 2013 Filing that are applicable to the NYISO's public policy planning process and for which the NYISO is requesting a separate effective date include: (i) the requirements in Section 31.4 of Attachment Y to the OATT and Section 30.4.6.8.5 of the Services Tariff for identifying Public Policy Transmission Needs, soliciting solutions to these needs, evaluating the viability and sufficiency of these needs, and evaluating and selecting the more efficient or cost-effective transmission solution to the needs, (ii) the definitions concerning the public policy planning process and the general summary of the process set forth in Sections 31.1.1 and 31.1.5 of Attachment Y to the OATT; (iii) the cost allocation and cost recovery requirements in Sections 31.5.5 and 31.5.6 of Attachment Y to the OATT for transmission projects selected by the NYISO as the more efficient or cost-effective transmission solution to satisfy a Public Policy Transmission Need, and (iv) the requirements in Sections 31.1, 31.5, and 31.6 of Attachment Y to the ISO OATT and Sections 3.8 and 3.10 of the OATT that are generally applicable to implementing all of the planning processes under the NYISO's CSPP.

NYISO's proposed public policy planning process this year, the NYPSC would have the authority under Section 31.4.1 of Attachment Y to the NYISO OATT to initiate the NYISO's performance of an off-cycle planning process to address transmission needs driven by public policy that arise outside of the regular planning cycle, should the state commission choose to do so.<sup>24</sup> In the absence of an off-cycle process, and assuming the Commission issues an order substantively accepting the October 2013 Filing and granting it clear tariff authority at some point in the next year, the NYISO would initiate and perform its new public policy planning process during the next planning cycle, beginning on January 1, 2016.

**C. The NYISO Has Worked Diligently to Prepare for the Implementation of the Revised CSPP**

The NYISO has worked diligently to develop the processes and procedures required to implement the revised CSPP once it is accepted by the Commission. Notwithstanding the lack of a Commission order in response to the October 2013 Filing, the NYISO is developing agreements it expects to require in implementing the revised CSPP, including: (i) study agreements for the NYISO's evaluation and selection of transmission projects to meet reliability and public policy needs; (ii) a *pro forma* development agreement with a developer selected to construct a transmission project; and (iii) a *pro forma* operating agreement – comparable to the Agreement between New York Independent System Operator and Transmission Owners – for a non-incumbent developer to execute upon its transmission project entering into service. Moreover, the NYISO has been developing rate schedules to facilitate cost recovery for

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<sup>24</sup> The April 2013 Order accepted the Filing Parties' proposed tariff revisions that expressly contemplate the initiation by the NYPSC of an off-cycle public policy planning process. OATT, Attachment Y Section 31.4.1 ("The Public Policy Transmission Planning Process will be conducted on a two-year cycle, *unless requested by the NYDPS/NYPSC to be conducted out of that cycle.*") (emphasis added).

regulated transmission projects selected under its economic and public policy planning processes.

The NYISO will bring these materials to stakeholders over the coming months. In addition, as described in the October 2013 Filing, the NYISO is also discussing with its stakeholders tariff language indicating how the NYISO proposes to allocate and recover the costs of transmission upgrades needed to meet violations of transmission security standards, such as thermal violations.<sup>25</sup>

In the absence of a Commission order addressing fundamental components of the revised CSPP, the NYISO, however, has been limited in the progress it can make in finalizing certain of these procedures. For example, the NYISO has developed, and obtained stakeholder approval, for initial revisions to its Reliability Planning Process Manual and Economic Planning Process Manual to align them, where practicable, with the NYISO's revised planning requirements proposed in the October 2013 Filing. The NYISO has also drafted and will bring to stakeholders standard forms for transmission developers to use to submit their qualifications and project information. Nevertheless, key details for these manuals and forms cannot be developed until the Commission approves the underlying tariff requirements. In particular, the NYISO cannot fully develop its procedures regarding developer qualifications, project information, its review of the viability and sufficiency of proposed solutions, and the methodology for its evaluating and selecting the more efficient or cost-effective transmission solution, when the underlying tariff requirements have been disputed and the Commission has not approved them.

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<sup>25</sup> October 2013 Filing at p 56.

#### **D. Re-submission of Tariff Sections to Provide for Revised Effective Dates**

The NYISO re-submits with this motion the cumulative revisions to its OATT and Services Tariff filed in the October 2012 Filing and the October 2013 Filing with an open effective date. Specifically, the NYISO submits:

1. A clean version of the cumulative revisions to the OATT (“Attachment I”); and
2. A clean version of the cumulative revisions to the Services Tariff (“Attachment II”).<sup>26</sup>

The NYISO requests that the Commission direct it to submit a compliance filing that reflects the revised effective dates requested in this motion for the affected tariff provisions.<sup>27</sup>

#### **III. COMMUNICATIONS**

Communications and correspondence regarding this filing should be directed to:

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<sup>26</sup> These clean tariff sections are being submitted solely for the purpose of revising their effective dates. They do not contain any newly proposed language.

<sup>27</sup> See, e.g., *New York Independent System Operator, Inc.*, 146 FERC ¶ 61,097 at P 34 (2014) (“[W]e accept the proposed tariff revisions to be effective the later of November 2014 or the date that CTS becomes operational, subject to NYISO making a compliance filing with revised tariff records no later than 14 days prior to the date on which CTS will become operational reflecting the effective date of the tariff provisions.”); *New York Independent System Operator, Inc.*, Letter Order, Docket No. ER11-2544-000 (Feb. 10, 2011) (accepting a NYISO compliance filing specifying the effective date of the accepted tariff revisions).

<sup>28</sup> The NYISO respectfully requests waiver of 18 C.F.R. § 385.203(b)(3) (2011) to permit service on counsel for the NYISO in both Washington, D.C. and Richmond, VA.

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#### **IV. CONCLUSION**

Wherefore, for the foregoing reasons, the New York Independent System Operator, Inc. respectfully requests that the Commission accept this motion and the revised effective dates for the tariff revisions proposed in this proceeding.

Respectfully submitted,

/s/ Carl F. Patka  
Assistant General Counsel  
New York Independent System Operator, Inc.

July 2, 2014

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