

STATE OF NEW YORK DEPARTMENT OF PUBLIC SERVICE  
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*Secretary*

October 13, 2009

SENT VIA ELECTRONIC FILING  
Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Room 1-A209  
Washington, D.C. 20426

Re: Docket No. ER09-1612-000 - New York Independent System  
Operator, Inc.

Dear Secretary Bose:

For filing, please find the Motion to File Answer and Answer of the New York State Public Service Commission in the above-entitled proceeding. Should you have any questions, please feel free to contact me at (518) 473-8178.

Very truly yours,

A handwritten signature in cursive script, appearing to read 'David G. Drexler', is written over the typed name.

David G. Drexler  
Assistant Counsel

Attachment

UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION

New York Independent System                    )     Docket No. ER09-1612-000  
Operator, Inc.                                    )

MOTION TO FILE ANSWER AND ANSWER  
OF THE NEW YORK STATE  
PUBLIC SERVICE COMMISSION

MOTION TO FILE ANSWER

Pursuant to Rules 212 and 213 of the Federal Energy Regulatory Commission's (FERC or Commission) Rules of Practice and Procedure, the New York State Public Service Commission (NYPSC) respectfully moves for leave to file this Answer in response to the comments filed by Independent Power Producers of New York, Inc. (IPPNY), and PSEG Energy Resources & Trade LLC and PSEG Power New York LLC (PSEG) on September 21, 2009.<sup>1</sup>

Although the Commission's Rules of Practice and Procedure do not allow for answers, as a matter of right, to IPPNY and PSEG's pleadings, good cause exists to accept this Answer. As demonstrated below, the NYPSC's Answer contributes to the development of a complete and accurate record, provides useful information, and assists the Commission's understanding and

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<sup>1</sup> The NYPSC filed a timely Notice of Intervention with the Commission on September 8, 2009.

deliberation on this matter. The Commission has granted motions to file answers on similar grounds,<sup>2</sup> and accordingly the Commission should grant the NYPSC's Motion to File Answer.

#### BACKGROUND

On August 20, 2009, the New York Independent System Operator, Inc. (NYISO) filed various tariff revisions with the Commission pursuant to section 205 of the Federal Power Act, seeking to implement enhancements to the NYISO's creditworthiness policies and to reduce credit risk exposure in the NYISO marketplace (August 20 Filing). These enhancements were approved by the Management Committee of the NYISO. However, the Management Committee rejected a proposal to implement Accelerated Cash Clearing, which is commonly referred to as "Weekly Invoicing."

While IPPNY appealed the Management Committee's rejection of the Weekly Invoicing proposal to the NYISO Board of Directors (NYISO Board), the NYISO Board determined that further discussion of the proposal was needed to address market participants' outstanding issues with implementing Weekly

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<sup>2</sup> See, NYISO, 123 FERC ¶61,206 (2008); California Independent System Operator Corp., 123 FERC ¶61,202 (2008); and, Southwest Power Pool, Inc., 118 FERC ¶61,179 (2007).

Invoicing. The NYISO Board deferred action on IPPNY's appeal and requested that market participants engage in mediation to resolve those issues. Accordingly, the NYISO did not include a proposal to implement Weekly Invoicing in its August 20 Filing.

On September 21, 2009, IPPNY filed comments asking the Commission to direct the NYISO to "file a report on the outcome of the Mediation Process" by the end of 2009 if the NYISO does not file a proposal to implement Weekly Invoicing before then.<sup>3</sup> PSEG Companies filed comments supporting IPPNY's request, and asked the Commission to go further, by encouraging the NYISO to "set forth a timetable in which the NYISO will transition to a weekly settlement cycle."<sup>4</sup>

#### ANSWER

#### The Commission Should Not Prejudge The Outcome Of The NYISO Stakeholder Process Or Ongoing Mediation By Directing The NYISO To File Reports, Or To Establish Transition Timetables, Regarding Weekly Invoicing

While IPPNY and PSEG maintain that Weekly Invoicing presents certain advantages, Weekly Invoicing presents legitimate issues that must be resolved before determining

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<sup>3</sup> IPPNY Filing, p. 10.

<sup>4</sup> PSEG Companies Filing, p. 4.

that it should be implemented.<sup>5</sup> These issues were reflected in the Management Committee's rejection of Weekly Invoicing, as it was proposed.

Given the Management Committee's rejection of Weekly Invoicing, the NYISO Board requested that market participants work to address their issues through mediation. The mediation commenced on September 17, 2009, and is currently ongoing. However, the outcome of the mediation and the NYISO Board's determination are not yet known, much less the time needed to complete the mediation process.

IPPNY and PSEG ask the Commission to prejudge the outcome of the mediation by establishing deadlines for the NYISO to file a report and to "transition to a weekly settlement cycle." These requests require the Commission to presume that Weekly Invoicing should be implemented at this time, and that a report and timetable for making the transition to Weekly Invoicing are necessary to do so. Those determinations, however, are the subject of the ongoing

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<sup>5</sup> For example, requiring Load-Serving Entities (LSEs) to pay the NYISO on a weekly basis, while LSEs bill their customers on a monthly basis, will result in LSEs incurring additional capital costs to float payments to the NYISO until the LSEs collect payments from their customers. LSEs would also be required to incur additional administrative costs to implement Weekly Invoicing. These increased costs would ultimately be passed on to consumers.

mediation and stakeholder process, and should be made by market participants and/or the NYISO as an initial matter.<sup>6</sup>

Moreover, interjecting issues concerning Weekly Invoicing into this proceeding, as requested by IPPNY and PSEG, would be inappropriate because they are beyond the scope of this proceeding. The NYISO's August 20 Filing did not propose Weekly Invoicing, or raise any issues with respect to implementing such a proposal. IPPNY and PSEG's requests should thus be rejected until such time as the matter is properly brought before the Commission.

#### CONCLUSION

In accordance with the above discussion, the NYPSC respectfully requests that the Commission accept the NYPSC's

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<sup>6</sup> It is important to note that a final determination has not yet been made by the NYISO, and further stakeholder processes may result from the mediation.

Motion to File Answer and Answer, and reject IPPNY and PSEG's requests.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Peter McGowan". The signature is written in a cursive style with a large initial "P".

Peter McGowan  
General Counsel  
Public Service Commission  
of the State of New York

By: David G. Drexler  
Assistant Counsel  
3 Empire State Plaza  
Albany, NY 12223-1305  
(518) 473-8178

Dated: October 13, 2009  
Albany, New York

CERTIFICATE OF SERVICE

I, David G. Drexler, do hereby certify that I will serve on October 13, 2009, the foregoing Motion to File Answer and Answer of the New York State Public Service Commission, upon each of the parties of record indicated on the official service list compiled by the Secretary in this proceeding.

  
David G. Drexler

Dated: October 13, 2009  
Albany, New York