

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

<b>New York Independent System Operator, Inc.</b>	)	<b>Docket Nos. ER01-3009-001,</b>
	)	<b>ER01-3009-002, ER01-3153-001,</b>
	)	<b>and ER01-3153-002</b>
	)	
	)	
<b>Morgan Stanley Capital Group, Inc.</b>	)	<b>Docket Nos. EL00-90-001 and</b>
	)	<b>EL00-90-002</b>
<b>v.</b>	)	
	)	
<b>New York Independent System Operator, Inc.</b>	)	

**NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.’S  
REQUEST FOR LEAVE TO SUBMIT LIMITED ANSWER**

Pursuant to Rules 212 and 213 of the Commission’s Rules of Practice and Procedure,<sup>1</sup> the New York Independent System Operator, Inc. (“NYISO”) hereby respectfully requests leave to submit a limited answer to the *Answer of Aquila Energy Marketing Corp., Edison Mission Energy, Inc. and Edison Mission Marketing & Trading, Inc. to the Request for Clarification and Motion for Stay of the New York Independent System Operator, Inc.* (“Aquila and Edison Mission Answer”) that was filed on February 28, 2002, in the above captioned dockets. Although the NYISO opposes the Aquila and Edison Answer in its entirety, the NYISO is limiting this response to correcting two misleading and deceptive assertions of Aquila Energy Marketing Corp., Edison Mission Energy, Inc. and Edison Mission Marketing & Trading, Inc. (collectively “Companies”).

---

<sup>1</sup> 18 C.F.R. § 385.212 and 385.213 (2001).

## **I. Request for Leave to Submit Limited Answer**

The NYISO recognizes that the Commission generally does not allow answers to answers and was reluctant to ask that the Commission make an exception to the rule in this case. In this instance, however, the NYISO is compelled to request permission to respond in order to correct misleading statements that could deceive the Commission if left uncorrected.<sup>2</sup> The NYISO therefore respectfully requests that the Commission exercise its discretion and accept the NYISO's limited answer.

## **II. Limited Answer**

The Aquila and Edison Mission Answer attempts to mislead the Commission by mischaracterizing the NYISO Management Committee's approval of the proposed interim credit policies for Virtual Transactions.<sup>3</sup> The Companies would have the Commission believe that the Management Committee somehow did not intend to approve the NYISO's proposed credit policies for Virtual Transactions, even though 92% of its membership voted for them, or that they were forced to approve them against their will. These claims are absurd.

---

<sup>2</sup> The Commission has allowed such answers when they provide additional information that will assist the Commission or are otherwise helpful in the development of the record in a proceeding. *See, e.g., Morgan Stanley Capital Group, Inc. v. New York Independent System Operator, Inc.*, 93 FERC ¶ 61,017 at 61,036 (accepting an answer that was "helpful in the development of the record . . .") (2000); *New York Independent System Operator, Inc.*, 91 FERC ¶ 61,218 at 61,797 (allowing an answer deemed "useful in addressing the issues arising in these proceedings . . .") (2000); *Central Hudson Gas & Electric Corp.*, 88 FERC ¶ 61,137 at 61,381 (1999) (accepting otherwise prohibited pleadings because they helped to clarify the issues and because of the complex nature of the proceeding). In deference to the Commission's procedural rules, the NYISO has made its limited answer as brief and as narrowly-focused as possible.

<sup>3</sup> Capitalized terms used herein but not defined are used as they are defined in the NYISO Market Administration and Control Area Services Tariff.

Issues that are brought before the Management Committee are routinely addressed first by smaller working groups which develop an initial consensus before they are presented to the Management Committee as a whole. The proposed interim credit policies were developed by the Credit Policy Working Group, which was formed at the request of Market Participants and comprised of two representatives with financial risk management experience from each sector represented on the Management Committee. When the Credit Policy Working Group sent the proposed interim credit policies to the Management Committee for consideration, the Companies (and all other Members of the Management Committee) were free to put forth an alternate proposal or to move to amend the motion that was voted on, both of which are commonly-exercised options. Neither of these actions were taken, however, and, tellingly, no other Market Participant has supported the Companies' allegations. More fundamentally, the Commission should not allow the Companies to overturn a consensus stakeholder decision, and reverse their own votes, based solely on what they now allege they and other stakeholders were secretly thinking at the time. It is difficult to imagine how any voting body could function if its votes could be undone whenever an aggrieved party speculates that the winning side was unhappy with the outcome.

The Aquila and Edison Mission Answer also implies that the proposed formula for determining the amount of collateral required of Virtual Transactions Customers was not before the Management Committee because it was not mentioned in the executive summary presented to the Management Committee on August 17. At the same time, the Companies concede that the other presentation materials on the proposed credit policies that were given to the Management Committee at that meeting *do* contain this information. There is no basis for ignoring the portion of the "Proposed Credit Policy for Virtual Bidding" presentation which plainly includes the provision in question simply because the Companies dislike it. Furthermore, it is important to

note that all of these materials were distributed to supplement the extensive oral presentation to the Management Committee by NYISO staff in which the proposed formula for calculating collateral requirements was made very clear to Market Participants. The Companies' allegation is therefore without merit.

### **III. Conclusion**

WHEREFORE, for the foregoing reasons, the New York Independent System Operator, Inc., respectfully asks that the Commission: (i) grant the NYISO's request for leave to submit a limited answer in this proceeding and (ii) grant the NYISO's request for clarification filed in this proceeding.

Respectfully submitted,

---

Ted J. Murphy  
Counsel for  
New York Independent System Operator, Inc.

Arnold H. Quint, Esq.  
Ted J. Murphy, Esq.  
Hunton & Williams  
1900 K Street, NW  
Suite 1200  
Washington, DC 20006-1109

Kevin W. Jones, Esq.  
Hunton & Williams  
Riverfront Plaza-East Tower  
951 E. Byrd Street  
Richmond, VA 23219-4074

March 8, 2002

cc: Daniel L. Larcamp, Director Office of Markets, Tariffs and Rates, Room 8A-01,  
Tel. (202) 208-2088  
Alice M. Fernandez, Director Office of Markets, Tariffs and Rates -- East Division,  
Room 82-15, Tel. (202) 208-0089  
Andrea C. Wolfman, Lead Counsel for Market Oversight and Enforcement, Room 9E-01,  
Tel. (202) 208-2097  
Michael A. Bardee, Lead Counsel for Markets, Tariffs and Rates, Room 101-09,  
Tel. (202) 208-2068  
Stanley P. Wolf, Office of the General Counsel, Room 102-37, Tel. (202) 208-0891

**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 the above-captioned proceeding in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure 18 C.F.R. § 385.2010 (2001).

Dated at Washington, D.C. this 8th day of March.

---

Hunton & Williams  
1900 K Street, NW  
Washington, DC 20006-1109