

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

New York Independent System Operator, Inc.)))	Docket Nos. ER03-552-000, <i>et al</i>
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**REQUEST FOR LEAVE TO SUBMIT LIMITED ANSWER AND
LIMITED ANSWER OF NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.**

Pursuant to Rules 212 and 213 of the Commission’s Rules of Practice and Procedure,¹ the New York Independent System Operator, Inc. (“NYISO”) hereby respectfully requests leave to submit a limited answer and submits its limited answer to comments filed by the National Energy Marketers Association (“NEM”) on April 19, 2004, in the above-captioned proceeding.² The NYISO is submitting this filing to: (i) provide additional information regarding issues raised in NEM’s Comments that may be useful to the Commission and (ii) correct certain inaccuracies contained in NEM’s Comments.

¹ 18 C.F.R. § 385.212 and 385.213 (2002).

² *New York Independent System Operator, Inc.*, Comments of The National Energy Marketers Association, Docket Nos. ER03-552-000, et al (April 19, 2004) (NEM’s Comments”).

I. Copies of Correspondence

Communications regarding this proceeding should be addressed to:

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II. Request for Leave to Submit Limited Answer

The NYISO recognizes that the Commission generally discourages answers to comments. The Commission has allowed such answers, however, when they help to clarify complex issues, provide additional information that will assist the Commission, or are otherwise helpful in the development of the record in a proceeding.³ The NYISO has carefully limited the scope of its answer to comply with Commission precedent, and believes that its answer should be permitted because it clarifies issues before the Commission and corrects inaccuracies, thereby serving as an important addition to the record in this proceeding. The NYISO respectfully requests that the Commission exercise its discretion and accept the NYISO's limited answer.

³ See, e.g., *Morgan Stanley Capital Group, Inc. v. New York Independent System Operator, Inc.* 93 FERC ¶ 61,017, slip op. at 6 (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).

III. Service List

The NYISO has mailed copies of this filing to all parties on the official service lists maintained by the Commission in the above-captioned dockets.

IV. Limited Answer

In its *Order Conditionally Accepting Tariff Revisions*,⁴ the Commission directed the NYISO “to explore through its stakeholder process whether additional changes should be made to the settlement and credit procedures and filed revised tariff provisions or a report on the results of these discussions within 180 days” of the date of the September 22nd Order.⁵ In compliance with the September 22nd Order, the NYISO, among other efforts, met with stakeholders to discuss these issues at Scheduling and Pricing Working Group (“S&PWG”) meeting on March 16, 2004, and filed a report with the Commission on March 29, 2004. In addition to its meeting with stakeholders, the NYISO solicited written comments regarding potential enhancements to the NYISO’s settlement systems and credit requirements. Several customers submitted comments, which the NYISO plans to incorporate into further stakeholder discussions.

NEM alleges that market participants were not given adequate notice of the March 16th meeting, referenced above, at which potential enhancements to the NYISO’s settlement system and credit requirements were discussed. NEM’s Comments state that:

Various market participants discovered *after the fact* that any ‘stakeholder discussions’ held with regard to the NYISO’s credit policy occurred in the Scheduling and Pricing Working Group (S&PWG). Unless a market participant was already an active participant in the appropriate working group, the market

⁴ New York Independent System Operator, Inc., 104 FERC ¶ 61,311 (September 22, 2003) (“September 22nd Order”).

⁵ Id. at ¶ 30.

participant would be unaware of discussions regarding credit requirements in this forum.⁶

NEM's Comments are misleading in that they mischaracterize the notice that the NYISO provided to stakeholders regarding the March 16th meeting of the S&PWG and imply that NEM's members have been denied an opportunity to participate in the stakeholder discussions on this subject. In addition to following its usual protocol for providing notice of the S&PWG meeting and agenda, the NYISO took additional steps to ensure that all affected customers would have an opportunity to provide input by sending an email notice to all of its active customers, as described below. Furthermore, NEM's clients have a continuing opportunity to participate in the NYISO's discussions with stakeholders on this subject, as the NYISO indicated in its recent report to the Commission.

On February 12, 2004, the NYISO sent an email announcement to the Market Structures Working Group ("MSWG"), S&PWG, and Credit Policy Task Force ("CPTF") distribution lists announcing the March 16, 2004, stakeholder discussions. The S&PWG and the CPTF are the stakeholder groups to which credit-related issues are routinely assigned. In addition, the NYISO sent the meeting notice announcement to an additional 198 email addresses that it has on file for the credit representative or other appropriate point of contact for each of its customers to ensure adequate notice of the meeting.⁷ Again on March 9, 2004, the NYISO sent a similar announcement to the Business Issues Committee ("BIC"), MSWG, S&PWG, and CPTF

⁶ NEM's Comments, p. 1 (*emphasis in original*).

⁷ The NYISO later discovered that not all of the addressees included in the distribution lists for the MSWG, S&PWG, and the CPTF received the February 12 email announcement due to apparent technical problems. Those technical problems do not appear to have interfered with the distribution to customer credit representatives.

distribution lists giving notice of the meeting. As described above, the NYISO gave ample notice of the March 16 meeting of the S&PWG, exceeding the notice that it would normally provide for such a stakeholder meeting. Furthermore, NEM's members may still participate in the discussions on this subject, as the NYISO is continuing to work with stakeholders to consider refinements to its settlement systems and credit requirements.

NEM states that the NYISO should have posted an announcement on the NYISO Technical Information Exchange ("TIE") list regarding the meeting scheduled for stakeholder discussions.⁸ It is the NYISO's well-established practice to assign issues among the various stakeholder committees according to the subject matter of the issue. Meeting notices and materials regarding those issues are then sent to the appropriate distribution lists. Sending every committee meeting notice to the entire TIE list would drown that audience with information that is beyond the scope intended for that forum.

NEM Comments state that, "Adequate notification is imperative, especially for smaller market participants without staffs large enough to regularly, actively participate in every working group and particularly when the Commission requires discussion of a specific issue."⁹ Market participants are not expected to actively participate in every stakeholder meeting, but it is important that they take note of meeting notices and agendas regarding issues of importance to them. In fact, the NYISO distributes those meeting notices and agendas and publishes them on its website expressly for the sake of helping stakeholders stay apprised of the issues that are important to them without having to be actively involved in all facets of the stakeholder process.

⁸ NEM's Comments, p. 2.

⁹ NEM's Comments, p. 2.

V. Conclusion

WHEREFORE, for the foregoing reasons, the NYISO respectfully requests that the Commission: (i) grant its request for leave to submit a limited answer in this proceeding to (a) correct the misconceptions proffered by NEM's Comments and (b) place into the record the efforts made by the NYISO in announcing the stakeholder discussions.

Respectfully submitted,

NEW YORK INDEPENDENT
SYSTEM OPERATOR, INC.

By /s/Andrew S. Antinori
Andrew S. Antinori

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon all parties listed on the official service list maintained by the Secretary of the Commission in docket number ER03-552-000 *et al* in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure 18 C.F.R. § 385.2010 (2003).

Dated at Albany, N.Y. this 3rd day of May 2004.

/s/Andrew S. Antinori
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