

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

**New York Independent System Operator, Inc.     )     Docket No. ER09-\_\_\_\_\_**

**REQUEST FOR A ONE-TIME WAIVER  
OF THE NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.**

The New York Independent System Operator, Inc. ("NYISO") respectfully submits this filing to request a limited, one-time waiver of its Open Access Transmission Tariff ("OATT"). Specifically, the NYISO requests a waiver of a single provision of Attachment S to its OATT that requires the NYISO to use the load forecast contained in the annual Load and Capacity Data Report ("Gold Book") for the Class Year Interconnection Facilities Study.<sup>1</sup> Instead, the NYISO is using the load forecast from the 2009 Reliability Needs Assessment ("RNA") for the Class Year 2008 Interconnection Facilities Study due to initiatives undertaken by the New York Public Service Commission ("NYPSC") formalized after the issuance of the Gold Book. The NYISO submits that granting this limited one-time waiver allows the use of more accurate and updated study assumptions, and provides for appropriate consistency between study processes.

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<sup>1</sup> Capitalized Terms that are not otherwise defined herein shall have the meaning set forth in Attachment S of the NYISO OATT.

## **I. Copies of Correspondence**

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## **II. Background**

### **A. NYPSC Energy Efficiency Portfolio Standard Proceeding**

In May 2007, the NYPSC initiated a proceeding to design an electric and natural gas Energy Efficiency Portfolio Standard (“EEPS”) for New York State with the goal of reducing electricity usage by 15% statewide by 2015.<sup>3</sup> Shortly after the NYISO’s publication of the 2008 Gold Book on April 4, 2008, the NYPSC issued an order containing specific goals for reduction in energy consumption. The NYSPC order was issued on June 23, 2008, and established an EEPS for the State of New York (“EEPS

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<sup>2</sup> The NYISO respectfully requests waiver of 18 C.F.R. § 385.203(b)(3) (2009) to permit service on counsel for the NYISO in both Washington, D.C. and Richmond, Virginia.

<sup>3</sup> Case 07-M-0548, *Proceeding on Motion of the Commission Regarding an Energy Efficiency Portfolio Standard*, Order Instituting Proceeding (issued May 16, 2007).

Order”).<sup>4</sup> The EEPS Order set short-term goals for programs to be implemented in the 2008-2011 period to begin the process of satisfying the NYPSC’s 15% goal as applied to the entities over which it has jurisdiction. Among other things, the EEPS Order adopted “specific, interim, three-year targets for MWh reduction, with a forecast trajectory” to achieve the established efficiency goals, approved energy efficiency programs for immediate implementation, and required utilities to file energy efficiency programs consistent with the policies and benefit/cost factors adopted in the order.<sup>5</sup>

#### **B. The 2009 Reliability Needs Assessment**

The RNA is a review of the resource adequacy and transmission system security of the New York bulk power system over a 10-year planning horizon that the NYISO develops in conjunction with industry market participants in the ESPWG. The 2009 RNA includes load forecasts that reflect the potential impact of the EEPS on reducing energy consumption and demand levels over the 10-year planning period.

The 2009 RNA Base Case forecast incorporates the effects of the EEPS by accounting for factors such as the NYPSC-approved spending levels for the programs under its jurisdiction, including the Systems Benefit Charge and utility-specific programs. The NYISO’s load forecast used for the 2009 RNA Base Case reflects an adjustment to the 2008 Gold Book econometric forecast to reflect achievement of approximately 30% of the entire EEPS goal based on currently approved funding levels. The decision to reflect 30% of the EEPS goal in the RNA Base Case was made with significant input from NYISO stakeholders.

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<sup>4</sup> Case 07-M-0548, *Order Establishing Energy Efficiency Portfolio Standard and Approving Programs*, Order Establishing Energy Efficiency Portfolio Standard and Approving Programs (issued June 23, 2008).

<sup>5</sup> *Id.* at p. 3.

### **C. The NYISO Class Year Interconnection Facilities Study Process**

The Class Year Interconnection Facilities Study is the last in a series of three study processes contained in the Large Facilities Interconnection Procedures in Attachment X of the NYISO OATT. Attachment S of the NYISO's OATT establishes the procedures by which the costs of System Upgrade Facilities and, where applicable, System Deliverability Upgrades are allocated to new projects interconnecting with the New York State Transmission System. Under Attachment S, the cost allocation is performed on an annual basis for a Class Year of projects. Each project in a Class Year shares in the then-currently available electric capability of the transmission system and each shares in the cost of upgrades required to interconnect its respective project to the New York State Transmission System.

Under Attachment S, the NYISO is required to use the load forecast contained in the Gold Book, which is produced annually by the NYISO, for the Class Year Interconnection Facilities Study.<sup>6</sup> The Gold Book is "the annual NYISO survey of power demand and supply in New York State, published pursuant to Section 6-106 of the Energy Law of New York State."<sup>7</sup> Among other items, the Gold Book contains a load forecast.<sup>8</sup> The 2008 Gold Book noted that the NYPSC was conducting a proceeding concerning an EEPS, but did not include assumptions regarding the effects of the potential EEPS in its load forecast.<sup>9</sup> The 2008 Gold Book indicated that baseline

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<sup>6</sup> See section I.B of OATT Attachment S.

<sup>7</sup> *Id.*

<sup>8</sup> See section 8.3 of the Large Facilities Interconnection Procedures in OATT Attachment S.

<sup>9</sup> See NYISO, *2008 Load & Capacity Data ("Gold Book")* at p. 9 (April 4, 2008) available at <[http://www.nyiso.com/public/services/planning/planning\\_data\\_reference\\_documents.jsp](http://www.nyiso.com/public/services/planning/planning_data_reference_documents.jsp)>.

forecasts in future reports would incorporate results achieved from the NYPSC's energy conservation initiative.<sup>10</sup>

### **III. Request for Waiver**

Due to the timing of the EEPS Order, which was released after the NYISO completed the 2008 Gold Book, the NYISO's forecast in that report does not reflect the impact of the programs that New York is implementing to reduce energy consumption. The 2009 RNA forecast does account for those programs, as well as a portion of the expected realization rates of planned energy efficiency, efficiency standards and building codes and standards, and specific energy efficiency plans proposed by certain New York utilities. The 2009 RNA Base Case, thus, reflects an adjustment to the 2008 Gold Book forecast to reflect achievement of approximately 30% of the entire EEPS goals based on currently approved funding levels. The NYISO has determined that, under these unique circumstances, it is appropriate to use the load forecast from the 2009 RNA in the Class Year Facilities Study to reflect EEPS rather than ignore its impacts. Therefore, the NYISO requests a one-time waiver of the language in Attachment S of the NYISO OATT to allow the NYISO to use the RNA load forecast for the Class Year 2008 Interconnection Facilities Study instead of the load forecast contained in the Gold Book.<sup>11</sup>

The Commission's evaluation of whether it should permit tariff waivers has focused on several key points, including whether: (1) the entity seeking the waiver acted in good faith; (2) the waiver is of a limited scope; (3) a concrete problem needs to be

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<sup>10</sup> *Id.*

<sup>11</sup> The Class Year 2008 Interconnection Facilities Study is in progress, and the NYISO expects the study to be complete later this year.

remedied; and (4) the waiver will not have undesirable consequences, such as harming third parties.<sup>12</sup> The NYISO requests this one-time waiver to allow it to use the most accurate and updated load forecast for its Class Year 2008 Interconnection Facilities Study which determines the costs for upgrades that must be funded by new generators and merchant transmission facilities interconnecting to the New York State Transmission System.

The request for a waiver here is consistent with prior situations in which the Commission has granted a waiver. First, the scope of the waiver is of a limited duration. It would only apply to the Class Year 2008 Interconnection Facilities Study. Second, a concrete problem needs to be addressed. The 2008 Gold Book load forecast was completed before the NYPSC approved an EEPs for New York State and, therefore, does not reflect the impacts of that initiative in reducing expected load. Third, the waiver will not have undesirable consequences. The NYISO has no basis to conclude that any Developers will be adversely impacted by this request. Finally, the NYISO has discussed the issue with its stakeholders, and no objections were raised.

Therefore, the NYISO respectfully submits that granting this one time waiver will permit the NYISO to use more accurate and updated study assumptions, and provide for appropriate consistency between the Class Year 2008 Interconnection Facilities Study and the 2009 RNA.

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<sup>12</sup> *ISO New England, Inc.*, 117 FERC ¶ 61,171 at P 21 (2006), citing *Wisvest-Connecticut*, 101 FERC ¶ 61,372 at 62,551; *Great Lakes Gas Transmission Limited Partnership*, 102 FERC ¶ 61,331 (2003); *TransColorado Gas Transmission Co.*, 102 FERC ¶ 61,330 (2003); *Northern Border Pipeline Co.*, 76 FERC ¶ 61,141 (1996).

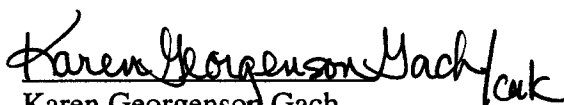
#### IV. Service

The NYISO will electronically send a link to this filing to the official representative of each of its customers, to each participant on its stakeholder committees, to the New York Public Service Commission, and to the electric utility regulatory agencies of New Jersey and Pennsylvania. In addition, the complete filing will be posted on the NYISO's website at [www.nyiso.com](http://www.nyiso.com). The NYISO will also make a paper copy available to any interested party that requests one. To the extent necessary, the NYISO requests waiver of the requirements of Section 35.2(e) of the Commission's Regulations<sup>13</sup> to permit it to provide service in this manner.

#### V. Conclusion

WHEREFORE, for the foregoing reasons, the NYISO respectfully requests that the Commission grant the NYISO a limited waiver of Attachment S of its OATT so that it may use the load forecast from the 2009 Reliability Needs Assessment for the Class Year 2008 Interconnection Facilities Study, as requested herein.

Respectfully submitted,

  
Karen Georgenson Gach  
New York Independent System Operator, Inc.

September 15, 2009

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<sup>13</sup> 18 C.F.R. §35.2(e) (2009).