

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

**Mandatory Reliability Standard for Nuclear) Docket No. RM08-3-000
Plant Interface Coordination)**

**REQUEST FOR REHEARING OF THE
NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.**

Pursuant to Section 313 of the Federal Power Act (“FPA”), 16 U.S.C. § 825l, and Rule 713 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“FERC” or “Commission”), 18 C.F.R. § 385.713 (2008), the New York Independent System Operator, Inc. (“NYISO”) respectfully submits the following request for rehearing of Order No. 716, *Mandatory Reliability Standard for Nuclear Plant Interface Coordination*, 125 FERC ¶ 61,065 (2008).

I. Introduction

The NYISO’s rehearing request centers on the Commission’s determination in Order No. 716 that

an entity that provides services relating to a nuclear plant generator operator’s nuclear plant licensing requirements is subject to NUC-001-1 on the latter of the effective date of the Reliability Standard or when a proposed [Nuclear Plant Interface Requirement (“NPIR”)] is provided by the nuclear plant generator operator.¹

The determination that NUC-001-1 applies to a prospective Transmission Entity as soon as that entity is approached by a Nuclear Plant Generator Operator with an NPIR is unjust and unreasonable because it (1) allows the Nuclear Plant Generator Operator to determine which entities are subject to the standard, and (2) does not provide putative Transmission Entities any clear recourse if they disagree with the Nuclear Plant Generator Operator’s determination that they are responsible for addressing a specific NPIR. The NYISO

¹ Order No. 716 at P 68.

commits to working closely with Nuclear Plant Generator Operators and New York Transmission Owners to establish the necessary agreements in the period before NUC-001-1 becomes effective in April 2010, and hopes to resolve all outstanding issues before that time. Nonetheless, the NYISO is concerned about the possibility of new NPIRs being presented by Nuclear Plant Generator Operators after NUC-001-1 becomes effective. Indeed, there is a particular risk of disputes over responsibility for specific NPIRs in the NYISO, and in other Independent Transmission Organization (“ISOs”) and Regional Transmission Operator (“RTO”) areas where there is a division of operational responsibility between the ISO/RTO and the individual transmission owners. If a particular ISO/RTO or transmission operator is identified by a Nuclear Plant Generator Operator as being responsible for providing NPIR-related services, but disagrees with the Nuclear Plant Generator Operator’s determination, then that ISO/RTO or transmission owner is placed in an impossible situation under the Commission’s rule -- it is subject to that NPIR, and it has no clear avenue to have that dispute resolved.

The determination in Order No. 716 that NUC-001-1 is binding upon an entity immediately upon being provided an NPIR by a Nuclear Plant Generator Operator also contradicts Order No. 693, which makes clear that an entity will not be subject to penalties or other sanctions for non-compliance if that “entity . . . has not previously been put on notice, through the NERC registration process, that it must comply with particular Reliability Standards.”² The ruling in Order No. 716 allows an entity to become subject to the standard outside of the registration process set forth in the North American Electric Reliability Corporation (“NERC”) Rules of Procedure.

² *Mandatory Reliability Standards for the Bulk-Power System*, Order No. 693, FERC Stats. & Regs. ¶ 31,242 at P 97 (2007).

The Final Rule also errs by failing to clarify that a Transmission Entity will have a reasonable time to implement an interface agreement with a Nuclear Plant Generator Operator after that entity has either agreed that it is responsible for a specific NPIR, or been held to be responsible for that NPIR under a clearly-defined dispute resolution process. The services provided to a Nuclear Plant Generator Operator can be complicated, and it will take time for a Transmission Entity to ensure that an agreement that covers all of the criteria in Requirement R9 are in place. It is imperative that the Commission grant Transmission Entities at least 90 days in order to put such agreements in place. By placing timeframes in place for prospective Transmission Entities to act, the Commission would satisfy its own interest in avoiding delay, while providing a fair and orderly process to Independent System Operators and Regional Transmission Operators.

Thus, the NYISO respectfully requests rehearing of the Commission's determination regarding the applicability of the nuclear interface standard, the Commission's lack of a clear dispute resolution process, and the absence of a reasonable time window in which to implement an interface agreement under the rule. The NYISO requests that the Commission adopt the following process to govern the identification of Transmission Entities and the implementation of interface agreements:

1. Under NUC-001-1, the first step in the application of the standard to a putative Transmission Entity is for a Nuclear Plant Generator Operator to provide that entity with one or more NPIRs for which the entity will be responsible. The Commission should hold that, once an entity has been approached with an NPIR by a Nuclear Plant Generator Operator under Requirement R1, that NPIR will not be applicable to that entity until:
 - a. it agrees that it is responsible for providing services relating to that NPIR, or

- b. it has been determined by a Regional Entity or NERC, through a clearly-defined dispute resolution process, that that entity is responsible for addressing that NPIR.
- 2. The Commission should implement a dispute resolution process that adopts the existing procedures for disputes over registration under Section 501 of the NERC Rules of Practice and Procedure. Under such a process, an entity could dispute a Nuclear Plant Generator Operator's determination that it is responsible for providing services related to a specific NPIR by submitting a challenge to that determination to the NERC director of compliance within 21 days of the date that a Nuclear Plant Generator Operator provides it with an NPIR under Requirement R1 of NUC-001-1. The responsibility for resolving such a dispute would then rest with the Compliance Committee of the NERC Board of Trustees, with a right of appeal to the Commission.
- 3. Once an entity has either agreed that it is responsible for a specific NPIR, or been held to be responsible for that NPIR under a clearly-defined dispute resolution process, it should have a window of time -- lasting at least 90 days -- to put in place the necessary interface agreement with the Nuclear Plant Generator Operator that complies with the criteria set forth in Requirement R9. The Commission should hold that during this time period, the entity will not be deemed to be out of compliance with NUC-001-1 with respect to that NPIR.

I. Specifications of Error and Statement of Issues

Pursuant to Rule 713(c)(1) and (c)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.713(c)(1), (2) (2008), the NYISO respectfully submits the following specifications of error and statement of issues:

- 1. The Commission should grant rehearing of its decision that NUC-001-1 is applicable to a putative Transmission Entity at the time that that entity is approached by a Nuclear Plant Generator Operator to provide services related to an NPIR.
 - a. That determination is unjust and unreasonable because it permits a Nuclear Plant Generator Operator to determine the applicability of NUC-001-1 to a putative Transmission Entity, and does not provide that entity with any clear recourse if it disputes its responsibility for providing services associated with one or more NPIRs identified by the Nuclear Plant Generator Operator. *See* 16 U.S.C. § 824d(a); 16 U.S.C. § 824o(d)(2).

- b. That determination is inconsistent with Order No. 693, which holds that a user, owner, or operator of the Bulk-Power System will not be subject to sanctions for violating a reliability standard until it has been registered through the North American Electric Reliability Corporation (“NERC”) registration process. *See* Order No. 693 at P 97. Such a departure from prior precedent without explanation is arbitrary and capricious. *See Motor Vehicle Mfrs. Ass’n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983); *Atchison v. Wichita Board of Trade*, 412 U.S. 800, 808 (1973).
 - c. That determination constitutes an improper delegation of governmental authority not otherwise contemplated by Section 215 of the Federal Power Act. *See United States Telecommunications Association v. Federal Communications Commission*, 359 F.3d 554, 566 (D.C. Cir. 2004).
- 2. The Commission should grant rehearing, and establish a clear dispute resolution process to which an entity may resort if it disputes a Nuclear Plant Generator Operator’s determination that it is responsible for providing services related to an NPIR. The absence of such a clear dispute resolution process renders the rule unjust and unreasonable. *See* 16 U.S.C. § 824d(a); 16 U.S.C. § 824o(d)(2).
- 3. The Commission should clarify that a Transmission Entity responsible for an NPIR will be given a reasonable time period in which to put in place an agreement necessary to implement that NPIR. A reasonable time period in which to implement such an agreement is necessary in order to render the rule just and reasonable. In the alternative, the Commission should grant rehearing on this issue. *See* 16 U.S.C. § 824d(a); 16 U.S.C. § 824o(d)(2).

II. Request for Rehearing

A. **The Commission should grant rehearing of its decision that NUC-001-1 is applicable to a prospective Transmission Entity at the time that entity is approached by a Nuclear Plant Generator Operator to provide services related to an NPIR**

Under the mechanics of NUC-001-1, a Nuclear Plant Generator Operator is required to identify the NPIRs -- that is, “requirements based on [Nuclear Plant Licensing Requirements] and Bulk Electric System requirements that have been mutually agreed to by the Nuclear Plant Generator Operator and the applicable Transmission Entities”³ -- and to “provide the proposed NPIRs in writing to the applicable Transmission Entities and . . . verify receipt.”⁴ Transmission Entities are defined by NUC-001-1 as “all entities that are responsible for providing services related to Nuclear Plant Interface Requirements.” NUC-001-1 then directs the Nuclear Plant Generator Operator and each Transmission Entity to “have in effect one or more Agreements that include mutually agreed to NPIRs and document how the Nuclear Plant Generator Operator and the applicable Transmission Entit[y] shall address and implement these NPIRs.”⁵

The language of the standard itself -- particularly the reference to “mutually agreed to NPIRs” -- suggests that the standard does not become applicable to a putative Transmission Entity until it actually executes an agreement with a Nuclear Plant Generator Operator. In the Notice of Proposed Rulemaking (“NOPR”), the Commission proposed that NUC-001-1 “is not enforceable against an entity ... until it executes an interface agreement. Upon execution such an entity becomes a ‘Transmission Entity’

³ NERC Glossary of Terms Used in Reliability Standards, http://www.nerc.com/docs/standards/rs/Glossary_12Feb08.pdf.

⁴ NUC-001-1, Requirement R1.

⁵ NUC-001-1, Requirement R2.

subject to [NUC-001-1].”⁶ In the Final Rule, however, the Commission reversed course, holding that it “does not adopt the understanding put forth in the NOPR.”⁷ Expressing concern that delaying applicability of the standard until the execution of an agreement could lead to putative Transmission Entities engaging in delaying tactics or otherwise refusing to execute interface agreements, the Commission held that “transmission entities will be identified as providing services relating to NPIRs by a nuclear plant generator operator and will become subject to NUC-001-1 when they receive notice, not when they finalize an agreement.”⁸

The NYISO understands the Commission’s concerns regarding prospective Transmission Entities engaging in delaying tactics to avoid triggering applicability of the standard, but believes that the Commission’s attempt to adjust for that possibility -- making an entity subject to the standard at the time it is approached by a Nuclear Plant Generator Operator -- presents significant problems of its own, as detailed below. Indeed, although the NYISO will work closely with Nuclear Plant Generator Operators and New York Transmission Owners to resolve all outstanding issues before NUC-001-1 takes effect in April 2010, the NYISO is concerned about the possibility of new NPIRs being presented by Nuclear Plant Generator Operators after NUC-001-1 becomes effective. The NYISO respectfully requests that the Commission grant rehearing, and hold that the standard is not applicable to a prospective Transmission Entity upon being approached by a Nuclear Plant Generator Operator with an NPIR until (1) that entity agrees, either expressly or by failing to invoke dispute resolution procedures within a

⁶ *Mandatory Reliability Standard for Nuclear Plant Interface Coordination*, Notice of Proposed Rulemaking, 73 Fed. Reg. 16586 (March 28, 2008) at P 29.

⁷ Order No. 716 at P 68.

⁸ *Id.* at P 69.

specific timeframe, that it is responsible for providing services relating to that NPIR, or (2) it has been determined by a Regional Entity or NERC, through a clearly-defined dispute resolution process, that that entity is responsible for addressing that NPIR. As outlined below, the Commission's interest in avoiding delay by prospective Transmission Entities would be met by prescribing time frames under which such entities must agree or invoke dispute resolution procedures, or else be deemed to consent to the NPIR.

1. The Commission's ruling is unjust and unreasonable

The NYISO's fundamental concern with the Commission's holding is that it does not account sufficiently for the possibility that there could be disputes between putative Transmission Entities and a Nuclear Plant Generator Operator over which party is responsible for providing services related to a specific NPIR. In particular, the NYISO echoes the ISO/RTO Council's NOPR comments, which stated that the "IRC is particularly concerned that certain entities may view the negotiation of interface agreements as an opportunity to try to shift responsibilities for certain NPIR services to other entities."⁹ Indeed, it is for this reason that the IRC requested that the Commission implement a "well-defined process . . . to resolve all such disputes over applicable responsibilities."¹⁰ The Commission, however, declined to put in place formalized procedures to address disputes of this type.¹¹ At the same time, the Commission emphasized that "[a]n entity that has failed to execute an interface agreement will be found in violation of the Reliability Standard."¹²

⁹ Comments of the ISO/RTO Council, Docket No. RM08-3-000, at 9 (filed May 13, 2008).

¹⁰ *Id.*

¹¹ *See* Order No. 716 at PP 80-82.

¹² *Id.* at P 52. *See also* PP 80-82.

Under these circumstances, the Commission's holding that a putative Transmission Entity has become subject to NUC-001-1 at the time it is approached by a Nuclear Plant Generator Operator has the potential to put such an entity in an untenable position if it disagrees with the Nuclear Plant Generator Operator that it is responsible for providing service related to a specific NPIR. Indeed, the entity is placed in an impossible position because it has no clear mechanism for seeking resolution of such a dispute, and yet risks a finding that it is in violation of NUC-001-1, along with potential civil penalties and other sanctions..

The Commission's holding also has the result of giving a Nuclear Plant Generator Operator -- rather than a Regional Entity, NERC, or FERC -- the authority to decide whether an entity will be subject to the standard as a Transmission Entity. As outlined in more detail below, this anomalous approach is inconsistent with the Commission's method of determining applicability of all other reliability standards, and gives a Nuclear Plant Generator Operator unnecessary and unreasonable authority over third parties.

For these reasons, the NYISO submits that the Commission's ruling that an entity becomes subject to NUC-001-1 "when a proposed NPIR is provided by the nuclear plant generator operator" is unjust and unreasonable, and the Commission should revise it on rehearing.

2. The Commission's ruling constitutes an unexplained departure from the registration approach adopted in Order No. 693

In Order No. 693, the Commission made clear that decisions regarding the applicability of a reliability standard to a particular entity are to be made in the first instance by a Regional Entity or NERC through the compliance registry process, and then by the Commission on appeal. Indeed, the Commission stated that it "will use the NERC

compliance registry to determine those users, owners and operators of the Bulk-Power System that must comply with the Reliability Standards.”¹³ The Commission stated further that:

Each individual Reliability Standard will then identify the set of users, owners and operators of the Bulk-Power System that must comply with that standard. While the Commission may take prospective action against an entity that was not previously identified as a user, owner or operator through the NERC registration process once it has been added to the registry, the Commission will not assess penalties against an entity that has not previously been put on notice, through the NERC registration process, that it must comply with particular Reliability Standards. Under this process, if there is an entity that is not registered and NERC later discovers that the entity should have been subject to the Reliability Standards, NERC has the ability to add the entity, and possibly other entities of a similar class, to the registration list and to direct corrective action by that entity on a going-forward basis. The Commission believes that this should prevent an entity from being subject to a penalty for violating a Reliability Standard without prior notice that it must comply with that Reliability Standard.¹⁴

The Commission’s approach to determining applicability under NUC-001-1, which makes the standard applicable to an entity once it has been approached by a Nuclear Plant Generator Operator with a particular NPIR, is fundamentally at odds with the approach adopted in Order No. 693. Indeed, not only does it give a Nuclear Plant Generator Operator (rather than a Regional Entity or NERC) the authority to determine the applicability of NUC-001-1 to a putative Transmission Entity, but it also fails to afford that entity any clear avenue of appeal (unlike the compliance registry process discussed in Order No. 693).

The Commission provides no explanation of, and outlines no basis for, the change in approach to determining applicability set forth in Order No. 716. Such an unexplained

¹³ Order No. 693 at P 97.

¹⁴ *Id.*

departure from prior precedent is arbitrary and capricious,¹⁵ and should be revised on rehearing.

3. The Commission's ruling constitutes an impermissible delegation of regulatory authority

The courts in recent years have made clear that “while federal agency officials may subdelegate their decision-making authority to subordinates absent evidence of contrary congressional intent, they may not subdelegate to outside entities--private or sovereign--absent affirmative evidence of authority to do so.”¹⁶ The Commission's holding that an entity becomes subject to NUC-001-1 at the time that it is identified by a Nuclear Plant Generator Operator as the entity responsible for providing services related to a specific NPIR constitutes just such an improper delegation of authority. In effect, the Commission's ruling gives Nuclear Plant Generator Operators the authority to determine whether an entity is subject to NUC-001-1. Although Section 215 of the Federal Power Act expressly gives the Commission the authority to delegate administration and enforcement of reliability standards to an Electric Reliability Organization and Regional Entities, it does not give the Commission the authority to delegate those functions to any other party. Because the Commission's ruling regarding the trigger for applicability of NUC-001-1 constitutes an improper delegation of authority, it should be reversed on rehearing.¹⁷

¹⁵ See *Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983); *Atchison v. Wichita Board of Trade*, 412 U.S. 800, 808 (1973).

¹⁶ *United States Telecommunications Association v. Federal Communications Commission*, 359 F.3d 554, 566 (D.C. Cir. 2004).

¹⁷ See *Defenders of Wildlife v. Gutierrez*, 532 F.3d 913, 927 (D.C. Cir. 2008) (finding that the Coast Guard could not delegate its decision making authority to an outside body not subordinate to it “absent affirmative evidence that Congress intended the delegation”); *Fund for Animals v. Kempthorne*, 538 F.3d 124, 132 (2d Cir. 2008) (stating that federal agency delegation of statutory responsibilities to outside parties is not permissible absent statutory authorization because “lines of accountability may blur, undermining an

4. The Commission should revise the applicability trigger

The NYISO submits that a more appropriate approach to determining the applicability of NUC-001-1 -- and one that fully addresses the Commission's concerns about prospective Transmission Entities delaying the execution of an interface agreement in order to avoid triggering the applicability of the standard -- would be to have the applicability of the requirement with respect to a specific NPIR triggered by either (1) an entity's consent that it is responsible for providing services related to that NPIR once it has been approached by a Nuclear Plant Generator Operator, or (2) a determination by a Regional Entity or NERC, under a clearly-defined dispute resolution process, that that entity is responsible for providing services related to that specific NPIR. The Commission should define consent broadly to include not only affirmative statements by an entity that it is responsible for providing services related to a particular NPIR, but also inaction on the part of that entity, or failure to invoke dispute resolution procedures, within a specified number of days after being contacted by a Nuclear Plant Generator Operator. Under this approach, an entity becomes subject to NUC-001-1 if it either agrees with the Nuclear Plant Generator Operator, or otherwise does not dispute a Nuclear Plant Generator Operator's determination that it is responsible for providing services related to a specific NPIR.

By requiring that an entity approached by a Nuclear Plant Generator Operator affirmatively invoke dispute resolution procedures in order to avoid triggering the applicability of the standard, this approach addresses the concern that entities designated as Transmission Entities by Nuclear Plant Generator Operators might delay executing

important democratic check on government decision-making' ... and because outside parties ... might not 'share the agency's national vision and perspective'" (internal citations omitted)).

interface agreements in order to avoid being subject to NUC-001-1. At the same time, this approach addresses the NYISO's concerns because it provides an entity a clear process to which it can appeal before being subject to the standard with respect to a particular NPIR. Accordingly, the NYISO respectfully requests that the Commission grant rehearing of its holding that NUC-001-1 becomes applicable to a prospective Transmission Entity "when a proposed NPIR is provided by the nuclear plant generator operator." The NYISO requests that the Commission hold instead that NUC-001-1 is not applicable to a prospective Transmission Entity after it has been approached by a Nuclear Plant Generator Operator with an NPIR until (1) that entity agrees that it is responsible for providing services relating to that NPIR, or (2) it has been determined by a Regional Entity or NERC, through a clearly-defined dispute resolution process, that that entity is responsible for addressing that NPIR.

B. The Commission should establish a clear dispute resolution process to which an entity may resort if it disputes a Nuclear Plant Generator Operator's determination that it is responsible for providing services related to an NPIR

As outlined above, there should be a clearly-defined dispute resolution process in place in order to resolve disputes over whether an entity approached by a Nuclear Plant Generator Operator is responsible for providing services related to a specific NPIR. Without such a process in place, entities that are subject to potential regulation as Transmission Entities have no clear recourse if they disagree with a Nuclear Plant Generator Operator's determination that they are responsible for providing services related to an NPIR. This lack of recourse to resolve such a dispute is particularly problematic in light of the Commission's determination that an entity is subject to NUC-001-1 at the time that it is approached by a Nuclear Plant Generator Operator about

providing NPIR-related services. Indeed, under these circumstances, the lack of a clear dispute resolution process is unjust and unreasonable, and the Commission should grant rehearing and establish a clearly-defined dispute resolution process.

The NYISO submits further that the Commission should implement a dispute resolution process that adopts the existing procedures for disputes over registration under Section 501 of the NERC Rules of Practice and Procedure. Under that procedure, an entity seeking to challenge a registration determination is required to file “its written objection with NERC’s director of compliance within 21 days” and state the reasons why it should not be registered under the relevant NERC function category.¹ The Compliance Committee of the NERC Board of Trustees is then responsible for issuing a written decision regarding whether the entity should be registered, and that entity may appeal any adverse decision to FERC within 21 days. The Commission should adopt this procedure for disputes under NUC-001-1. Under such a process, an entity could dispute a Nuclear Plant Generator Operator’s determination that it is responsible for providing services related to a specific NPIR by submitting a challenge to that determination to the NERC director of compliance within 21 days of the date that a Nuclear Plant Generator Operator provides it with an NPIR under Requirement R1 of NUC-001-1. The responsibility for resolving such a dispute would then rest with the Compliance Committee of the NERC Board of Trustees, with a right of appeal to the Commission.

C. The Commission should clarify that a Transmission Entity responsible for an NPIR will be given a reasonable time period in which to put in place an agreement necessary to implement that NPIR

As a final matter, the timing requirements for implementing an agreement that satisfies the requirements of R9 of NUC-001-1 are unclear. Requirement R1 requires that

a Nuclear Plant Generator Operator “provide the proposed NPIRs in writing to the applicable Transmission Entities and . . . verify receipt.” Requirement R2, in turn, mandates that the Nuclear Plant Generator Operator and each Transmission Entity “have in effect one or more Agreements that include mutually agreed to NPIRs and document how the Nuclear Plant Generator Operator and the applicable Transmission Entit[y] shall address and implement these NPIRs.” Assuming that a Transmission Entity assumes responsibility for, or is held as part of a dispute resolution process to be responsible for, a specific NPIR, a question raised by these two provisions is how long the Transmission Entity and the Nuclear Plant Generator Operator have to put an agreement in place before they will be held to be in violation of the standard. Order No. 716 does not address this question, and states only that “[a]n entity that has failed to execute an interface agreement will be found in violation of the Reliability Standard.”¹⁸

The Commission should make clear that once a Transmission Entity has been determined to have an obligation to provide services related to an NPIR -- either by agreeing with a Nuclear Plant Generator Operator’s designation, or through a determination under a clearly-defined dispute resolution process -- then (1) that Transmission Entity will have a reasonable time period in which to put in place the necessary agreement with the applicable Nuclear Plant Generator Operator; and (2) during that time period, neither the Transmission Entity nor the Nuclear Plant Generator Operator will be deemed to be out of compliance with NUC-001-1 with respect to the NPIR at issue.

The NYISO submits further that a reasonable time period should be at least 90 days long, since the negotiation and implementation of such agreements can be expected

¹⁸ Order No. 716 at P 52. *See also* PP 80-82.

to be highly technical and time consuming. Furthermore, to the extent that a Transmission Entity is required to provide a new jurisdictional service to a Nuclear Plant Generator Operator, it will be required to ensure that such service is offered to all customers on a non-discriminatory basis. Indeed, the Commission expressly acknowledged this point in Order No. 716 when, responding to the argument that NPIRs could result in an undue negative impact on competition, it stated that “[b]ecause all jurisdictional tariffs have requirements for the provision of non-discriminatory service, the Commission does not anticipate that transmission entities would agree to NPIRs that do not provide for comparable service.”¹⁹ It will take time for a Transmission Entity to arrange for the provision of such services on a basis that is not unduly discriminatory.

For these reasons, the Commission should clarify that a Transmission Entity responsible for an NPIR will be given a reasonable time period in which to put in place an agreement necessary to implement that NPIR. Indeed, such a clarification is necessary to render the new standard just and reasonable. In the alternative, the NYISO respectfully requests that the Commission grant rehearing on this point, and hold that a Transmission Entity responsible for an NPIR will be given a reasonable time period in which to put in place an agreement necessary to implement that NPIR.

¹⁹ *Id.* at P 19.

III. Conclusion

The NYISO respectfully requests that the Commission grant the rehearing requests set forth above.

Respectfully submitted,

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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 this proceeding in accordance with the requirements of Rule 2010 of the Rules of Practice and Procedure, 18 C.F.R. § 385.2010 (2008).

Dated at Washington, DC this 17th day of November, 2008.

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