

Unsecured Credit for Public Power and Government Entities

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Background

- **In a review of NYISO credit policy, it came to the NYISO’s attention that there is an inconsistency between its practice of granting Unsecured Credit to certain government entities and the definition of “Public Power Entity” in the Market Administration and Control Area Services Tariff (“MST”).**
- **In February 2003, the NYISO proposed to FERC a starting point of \$1.0M in Unsecured Credit for municipal electric systems.**
 - The NYISO noted that municipal electric systems generally do not present a significant risk of nonpayment, but are unable to demonstrate creditworthiness through conventional indicators.
 - These entities are municipally owned and not for profit, and as such their activity is typically limited to serving load and non speculative.

Background

- In 2009, Section 26.5.3.6 of the MST was updated to replace “municipal electric system” with the defined term “Public Power Entity.”
- **Section 2.16 of MST defines a Public Power Entity as:**
 - An entity which is either (i) a public authority or corporate municipal instrumentality, including a subsidiary thereof, created by the State of New York that owns or operates generation or transmission and that is authorized to produce, transmit or distribute electricity for the benefit of the public, or (ii) a municipally owned electric system that owns or controls distribution facilities and provides electric service, or (iii) a cooperatively owned electric system that owns or controls distribution facilities and provides electric service.

Background

- **Not all government entities currently receiving the \$1.0M in Unsecured Credit fall under the definition of Public Power Entity.**
- **Since at least as early as 2004, after FERC approved NYISO tariff provisions allowing NYISO to extend \$1.0M in Unsecured Credit to municipal electric systems, the NYISO has also extended unsecured credit to government entities, without regard to whether they own or control distribution facilities and provide electric service.**

Background

- **In January 2020, NYISO requested a waiver from FERC to allow NYISO to continue granting up to \$1.0M of Unsecured Credit to government entities that do not meet the current Tariff definition of Public Power Entity.**
 - The waiver was granted on April 16, 2020 for a period of nine months.
 - While the waiver is in effect, NYISO has worked with stakeholders at the BACWG to develop a proposed solution.
- **Independent of the situation that gave rise to the waiver request, the NYISO conducted a comprehensive evaluation of its current Unsecured Credit policy for Public Power Entities and identified additional proposed enhancements.**

NYISO Proposal

NYISO Proposal

- **The NYISO believes that its current practice of extending up to \$1.0M in Unsecured Credit to government entities appropriately balances the credit risk presented by government entities with the challenges such entities face with providing traditional forms of secured credit acceptable to the NYISO (*i.e.* cash, Letter of Credit, Surety Bond).**
- **Government entities may lack access to credit support readily available to other entities.**
 - Legal restrictions may inhibit their ability to obtain letters of credit or surety bonds, which limits options to provide collateral.
 - Local finance and general business laws govern municipal financial transactions.
 - Government entities operate according to governance processes that can make meeting collateral calls with cash difficult.

NYISO Proposal

- **A government entity's status as a municipally owned electric system that owns or controls distribution facilities and provides electric service does not materially affect the credit risks presented by a government entity.**
- **Moreover, government entities generally do not present significant risk of nonpayment because:**
 - They generally have authority to raise taxes and raise revenue by other means not available to private companies.
 - The nature of their market participation is low risk because it is typically limited to purchasing electricity off the wholesale market to provide electric service to the government entity.
- **These factors generally result in a lower risk profile that supports the extension of up to \$1.0M in Unsecured Credit to government entities.**

NYISO Proposal

- **However, the NYISO recognizes there is some inherent risk associated with extending Unsecured Credit as a general matter. As such, to further mitigate credit risk, the NYISO proposes requiring that an entity be an Investment Grade Customer to be eligible for \$1.0M in Unsecured Credit.**
 - Consistent with all other Customers who qualify for Unsecured Credit under the MST.
 - Investment Grade Customers are those with a senior long-term unsecured debt rating of BBB- or higher by Standard & Poor's or Fitch, or Baa3 or higher by Moody's under MST Section 26.3.1.
 - A customer without a rating may request a NYISO Equivalency Rating, using their audited financial statements, under MST Section 26.3.3.

Proposed Tariff Language

- **Revise Section 26.5.3.6 of the Services Tariff to:**
 - Allow a Government Entity to qualify for \$1.0M in Unsecured Credit without regard to its Tangible Net Worth or Credit Assessment.
 - Require that a Public Power Entity or Government Entity be an Investment Grade Customer to receive the \$1.0M in Unsecured Credit.
 - Add definition of “Government Entity” for purposes of this section.
 - Allow Government Entities that operate through a joint action agency or similar municipal affiliation agreement acceptable to the ISO to aggregate Unsecured Credit amounts of \$1.0M per member that meets the ratings requirements of an Investment Grade Customer.

Next Steps

- BACWG February 2020
- BACWG August 2020
- BIC September 2020
- MC September 2020
- **Board of Directors** **October 2020**
- **FERC 205 Filing** **October 2020**

Questions?

Our mission, in collaboration with our stakeholders, is to serve the public interest and provide benefit to consumers by:

- Maintaining and enhancing regional reliability
- Operating open, fair and competitive wholesale electricity markets
- Planning the power system for the future
- Providing factual information to policymakers, stakeholders and investors in the power system

