

Proposed Change to Acceptable Collateral for Foreign Market Participants

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Background

- **The NYISO currently allows Market Participants to post two types of credit support:**
 - Unsecured Credit
 - Secured Credit
- **If a Market Participant does not meet requirements as set forth in Section 26.5 - Unsecured Credit of the Market Administration and Control Area Services Tariff (“MST”), they must provide secured credit in order to participate in the NYISO markets.**

Background

- Acceptable forms of secured credit available to Market Participants are as follows:
 - Cash Collateral
 - Letter of Credit
 - Surety Bond

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Analysis

- In the event of a bankruptcy, the NYISO's ability to use a Market Participant's cash collateral to offset amounts owed to the NYISO and recover any additional amounts owing will depend on the applicable bankruptcy laws.
- Entities formed or incorporated in, are residents of, or whose operations are located primarily outside of the U.S. or Canada may file for bankruptcy in a foreign jurisdiction.

Analysis

- **The NYISO would be required to pursue its ability to use the cash collateral, and recover any additional amounts owing to the NYISO, in the entity's filing jurisdiction.**
 - Foreign jurisdictions may have laws regarding the perfection of security interests that the NYISO would need to comply with to ensure that the NYISO has the right to use that cash collateral.
 - Participating in bankruptcy litigation in a jurisdiction outside the U.S. or Canada would be burdensome and potentially costly for the NYISO and its Market Participants.
 - Given the potential number of jurisdictions at issue worldwide, it is not feasible for the NYISO to evaluate laws in all jurisdictions to ensure the NYISO's interest in cash collateral would be adequately protected.

Proposal

- **The NYISO proposes to modify Section 26.6.1 of the Services Tariff to allow only entities that are formed or incorporated in, are residents of, and whose operations are located primarily in U.S. or Canada to post cash collateral.**
- **Consistent with related provisions of the NYISO's credit rules.**
 - Letters of Credit must be issued by a U.S. or Canadian bank.
 - Surety Bonds must be from a US-Treasury listed surety.
 - Affiliate Guarantees must be issued by a U.S. or Canadian affiliate.

Proposal

- **Will affect a small number of Market Participants.**
 - Currently four Market Participants are entities formed outside of the U.S. or Canada.
 - These Market Participants are not restricted from providing other forms of secured credit to continue participation.

- **The NYISO proposes to clarify its security interest in cash collateral in Section 26.6.1.1.**

Next Steps

- BIC May 2019
- MC May 2019
- Board of Directors June 2019
- FERC 205 Filing June 2019

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



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