

# Proposed Changes to Enhance Credit Reporting Requirements and Remedies

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# Background

- In 2018, certain NYISO Market Participants defaulted on their payment and/or credit obligations to the NYISO market –some of which filed for Chapter 11 bankruptcy, and some of which were terminated from the NYISO markets.
- Given these events, and those in other ISO/RTO markets, the NYISO proposes revisions to its tariff language to add clarity and the ability to take action if an applicant poses an unreasonable credit risk to the markets.
- The NYISO will be implementing a credit questionnaire to gain more information about the financial condition of Market Participants and applicants.

# Credit Questionnaire

# Credit Questionnaire

- **The NYISO determined that it would be beneficial to formally request additional information from new applicants upon registration and Market Participants on an annual basis.**
  - The NYISO currently has tariff authority to request information from its Market Participants and applicants.
    - MST Section 26 – Creditworthiness Requirements For Customers
    - MST Section 26.1.4 – Additional Information
  - In addition, Market Participants are required to report material adverse changes in financial status under MST Section 26.2.1.4.
    - Much of the information in the credit questionnaire relates to material adverse changes.
- **Accordingly, the NYISO created a credit questionnaire, which will be included in the officer certification form for applicants and annually for Market Participants.**
  - The officer certification form is due on or before April 30 each year.
- **Implementation of the credit questionnaire does not require tariff changes because the NYISO has the existing authority to request this information.**

# Credit Questionnaire

- **Included in the questionnaire are the following items, some of which are already required in the tariff, for the applicant/Market Participant, as well as for guarantors and Principals:**
  - Litigation
    - MST Section 26.2.1.4
  - Regulatory Investigations and/or Sanctions
    - MST Section 26.2.1.3
    - MST Section 26.14
  - Bankruptcies
    - MST Section 26.2.1.2
  - Experience and Market Participation of Principals
  - Access to Funding
  - Additional Information

# Credit Questionnaire

- In response to stakeholder comments, the NYISO has made changes to the credit questionnaire since the **October 3, 2019** BACWG meeting:
  - Revised question 2 limiting the question to Officers, Directors or Principals of Applicant/Customer or guarantor, or to an employee if the fraud could foreseeably have a material financial impact.
  - Removed dissolution, merger or acquisition from question 5 - bankruptcy.
  - Added outside the ordinary course of business to question 11.
  - Restructured question 12.
- The NYISO is available to answer questions on specific Market Participant circumstances as Market Participants complete the questionnaire.

# Proposed Tariff Revisions

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# Proposed Tariff Changes

- **Addition to minimum participation criteria, requiring the Market Participant to have appropriate experience and resources to satisfy obligations as they become due.**
  - MST Section 26.1.1
  
- **Clarify the reporting requirement for investigations to report if legally permitted and added obligation to take reasonable measures to obtain permission to disclose information on non-public investigations.**
  - MST Section 26.2.1.3
  
- **New tariff provision allowing the NYISO to reject a new applicant if the NYISO determines that the applicant's participation in the market represents an unreasonable credit risk.**
  - The NYISO will review, but not limit its evaluation to, the credit questionnaire to determine if the applicant presents an unreasonable credit risk.
    - MST Section 26.1.4
    - MST Section 9.3



# Proposed Tariff Changes

- **Update Material Adverse Change clause to include an event or circumstance whereby the Customer presents an unreasonable credit risk to the NYISO as an example of a Material Adverse Change.**
  - MST Section 26.14
- **As recommended by FERC in a recent order, the NYISO clarified tariff language to address how the NYISO would evaluate whether two or more entities should be treated as the same Market Participant for purposes of OATT Section 27.4, which requires a defaulting Market Participant to cure its default before re-entering the market.**
  - OATT Section 27.4

# Next Steps

- BACWG August 2019
- BACWG September 2019
- BACWG October 2019
- BIC October 2019
- MC **October 2019**
- Board of Directors **November 2019**
- FERC 205 Filing **November 2019**

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- Planning the power system for the future
- Providing factual information to policymakers, stakeholders and investors in the power system



# Questions?