

136 FERC ¶ 61,213
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Marc Spitzer, Philip D. Moeller,
John R. Norris, and Cheryl A. LaFleur.

TC Ravenswood, LLC

Docket Nos. ER11-4200-000
ER11-4200-001

ORDER ON WAIVER REQUESTS AND REQUEST FOR SETTLEMENT
CONFERENCE

(Issued September 27, 2011)

1. On August 2, 2011, TC Ravenswood, LLC (Ravenswood) filed a request for waivers of certain of the New York Independent System Operator, Inc. (NYISO) requirements applicable to Black Start and System Restoration Services (Black Start Services) under NYISO's Market Administration and Control Area Services Tariff (Services Tariff). Ravenswood also requested that the Commission convene a settlement conference to provide Ravenswood, NYISO, and the Consolidated Edison Company of New York, Inc. (Con Edison) the opportunity to try to reach agreement on revised Black Start testing procedures. On August 26, 2011, Ravenswood amended its August 2, 2011 Filing in order to withdraw its request for one of the initially requested waivers and its request that a settlement conference be convened.¹ On September 2, 2011, NYISO filed an answer in opposition to Ravenswood's August 26, 2011 Amendment and also filed a request for a waiver of the Black Start commitment period and withdrawal provisions in section 15.5.3.1 of its Services Tariff. In this order, the Commission denies Ravenswood's remaining request for a waiver and also denies NYISO's requested waiver.

¹ On August 26, 2011, Ravenswood filed a second amendment to its August 2, 2011 pleading in order to replace a draft affidavit inadvertently included in that pleading with a final version of that affidavit.

Background

2. A system restoration plan that includes Black Start generators is a North American Electric Reliability Corporation (NERC) requirement for registered transmission operators.² NYISO is the registered transmission operator in New York. In addition to the generators identified in the NYISO plan, additional generators are included in Con Edison's system restoration plan.³ Section 15.5 of the NYISO Services Tariff provides for payments and certain charges for Black Start Services, including payments to generators that are part of individual transmission owner plans, specifically those listed in Con Edison's plan. Under section 15.5.3, selected generators receive annual compensation for providing the Con Edison local transmission system with Black Start Services based on the unit type and the level of interconnection to the Con Edison local transmission system. In order to qualify for payments, a generator must conduct tests that are deemed necessary and appropriate under the ISO procedures or local transmission owner procedures.⁴ NYISO's Services Tariff provides that under the Consolidated Edison Plan, generators identified in the plan are eligible for Black Start payments only if, annually, they successfully test all necessary equipment in compliance with the Con Edison testing criteria.⁵

3. Section 15.5.3.1 of the Services Tariff provides that eligible generators must commit to providing Black Start Services for a minimum period of three years, but, at the end of the second year, they may give notice of their intent to withdraw at the end of the initial three year period. For subsequent periods, they may provide one year's advance notice of withdrawal at the end of every subsequent two-year period, so that a rolling three-year commitment is maintained. Ravenswood has provided Black Start Service

² NERC Reliability Standard EOP-005-2 addresses the requirements of registered Transmission Operators as it pertains to Black Start plans. The Standard is available at: <http://www.nerc.com/files/EOP-005-2.pdf>

³ According to the NYISO, "[b]lack start capability represents the key Generators that, following a system-wide blackout, can start without the availability of an outside electric supply and are available to participate in system restoration activities that are under the control of the NYISO or, in some cases, under local Transmission Owner Control. If a partial or system-wide blackout occurs, these units assist in the restoration of the New York Control Area (NYCA)." NYISO Ancillary Services Manual at 7-1, Version 3.20, revised 5/16/2011, *available at* <http://www.nyiso.com/public/webdocs/documents/manuals/operations/ancserv.pdf>.

⁴ NYISO Services Tariff, section 15.5.2.

⁵ NYISO Services Tariff, section 15.5, Rate Schedule 5, Appendix 1.

from certain generation units for several years. However, on September 8, 2010, Ravenswood gave notice under section 15.5.3.1 to terminate its Black Start Service effective September 30, 2011.

Notice of Filings and Responsive Pleadings

4. Notice of Ravenswood's August 2, 2011 Filing was published in the *Federal Register*, 76 Fed. Reg. 49,467 (2011), with interventions and protests due on or before August 23, 2011. NRG Companies⁶ and Astoria Generating Company, L.P. filed motions to intervene. On August 5, 2011, NYISO filed a motion to intervene and comments. On August 12, 2011, Con Edison filed a motion to intervene and comments. The New York State Public Service Commission (New York Commission) filed a notice of intervention.

5. Notice of Ravenswood's August 26, 2011 Amendments to its August 2, 2011 Filing was published in the *Federal Register*, 76 Fed. Reg. 55,372 (2011) with interventions and protests due on or before September 16, 2011. On September 2, 2011, NYISO filed an answer in opposition to Ravenswood's August 26, 2011 Filing and a request for waiver of the NYISO Services Tariff. Notice of NYISO's filing was published with comments due on or before September 13, 2011. On September 13, 2011, Ravenswood filed a response in opposition to NYISO's September 2, 2011 Filing. On September 14, 2011, Astoria Generating Company, L.P. (Astoria) filed an answer out-of-time in opposition to NYISO's September 2, 2011 Filing. On September 16, 2011, the New York Transmission Owners⁷ filed a motion to intervene, and the City of New York filed a motion to intervene and comments on Ravenswood's August 26, 2011 Filing.

6. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2011), the notice of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. Further, we accept Astoria's late-filed answer, given its interest in the proceeding and the absence of undue prejudice or delay.

⁶ For purposes of this filing, the NRG Companies are NRG Power Marketing LLC, Arthur Kill Power LLC, Astoria Gas Turbine Power LLC, Dunkirk Power LLC, Huntley Power LLC, and Oswego Harbor Power LLC.

⁷ For purposes of this filing, the New York Transmission Owners are Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., Long Island Power Authority, New York Power Authority, New York State Electric & Gas Corporation, Niagara Mohawk Power Corporation d/b/a National Grid, Orange and Rockland Utilities, Inc., and Rochester Gas and Electric Corporation.

Summary of Ravenswood's August 2, 2011 Filing

7. In its August 2, 2011 Filing, Ravenswood sought waiver of the testing requirements of section 15.5.3.1 and Rate Schedule 5, Appendix I, of the Services Tariff, as well as waiver of the three-year commitment period and one-year notice requirements of section 15.5.3.1. Ravenswood stated that, currently, Ravenswood Gas Turbines and Steam Units 10, 20, and 30 participate in the NYISO Services Tariff Black Start Program. Ravenswood added, however, that on September 8, 2010, it submitted notices to withdraw those specific units, which, without the granting of a waiver, will become effective on September 30, 2011.

8. Ravenswood stated that on March 11, 2011, its Unit 30 performed a Black Start test, and it successfully completed the testing sequence, although it did so in eight hours and twenty-seven minutes, taking twenty-seven minutes longer than the time provided by the testing protocols set forth in the NYISO Services Tariff. Ravenswood added that completion of the test was delayed by issues related to field locking, which it asserts are not directly related to Black Start Service. According to Ravenswood, it determined that the field locking⁸ issue was caused by a faulty relay, which has since been replaced. Ravenswood stated that its other units were successfully within the test parameters set forth in the NYISO Services Tariff.

9. Ravenswood stated that beginning approximately two years ago, it raised concerns to NYISO, Con Edison, and the New York State Reliability Council (NYSRC) regarding the scheduling and testing requirements for Black Start Services. Ravenswood further stated that its concerns were with scheduling difficulties and excessive cycling of the large steam facilities in the context of general operations and Black Start testing requirements. Ravenswood contended that the steam units were not designed to be operated as peaking facilities that can be cycled on and off in the manner contemplated by recent dispatch orders or Black Start testing criteria. Ravenswood added that this is particularly true of its Unit 30, which experienced a cracked generator rotor in September 2008 shortly after performing a Dependable Maximum Net Capability test.

10. Ravenswood further stated that it commenced discussions with NYISO, Con Edison and the NYSRC with the objective of developing revised testing procedures for steam units that would allow those plants to remain in the Black Start Program while

⁸ TC Ravenswood Filing, Attachment 2, "Schaub Affidavit" at 3. According to Mr. Schaub, "Field locking is the closure of the field excitation breakers at the precise moment to ensure that Pole 1 of the [high pressure] generator is in phase with the corresponding pole of the [low pressure] generator." It is required whenever a unit is being put on line and is not directly related to performing a black start.

mitigating the potential for the tests to cause serious equipment damage. Since no agreement has been reached regarding these discussions, Ravenswood stated that it was compelled to provide NYISO, on September 8, 2010, the advance notice required by section 15.5.3.1 of the NYISO Services Tariff that Units 10, 20, and 30 would cease participation in the Black Start Program after September 30, 2011. Ravenswood stated that, despite this notification, it continued to discuss possible test revisions and was not seeking to cease providing Black Start Service entirely, nor was it suggesting that its large steam units should not undergo some form of testing regime. Ravenswood added however, that it believes that the testing regimen must be one that is based upon, and is consistent with, its operational protocols and the equipment design of its units, rather than a “one-size-fits-all” type of test.

11. Ravenswood requested a waiver of the testing requirements under section 15.5.3.1 of the NYISO Services Tariff and Rate Schedule 5, Appendix 1, and the three-year commitment of section 15.5.3.1. Ravenswood requested these waivers for a period extending through April 30, 2012. Ravenswood stated that the requested waivers would allow Unit 30 to remain qualified as a Black Start Service provider despite exceeding the times allowed under the NYISO tariff during its most recent Black Start Service test. Ravenswood also stated that the waivers would allow Units 10, 20, and 30 to remain in the Black Start Program through April 30, 2012, during settlement discussions and without Ravenswood having to assume a three-year commitment or having to satisfy additional testing requirements during this time. In addition, Ravenswood stated that if a testing regimen was not agreed upon during settlement discussions, Ravenswood would exit the program on May 1, 2012, pursuant to the terms of the Services Tariff.

12. Ravenswood argued that the Commission has previously granted tariff waivers where: (i) a concrete problem needs to be remedied; (ii) the entity seeking the waiver acted in good faith; (iii) the waiver is of a limited scope; and (iv) the waiver will not have undesirable consequences.⁹ Ravenswood asserted that its requested waivers satisfy these factors in that: (i) Ravenswood is withdrawing its steam units from the Black Start Program on September 30, 2011, because of operational concerns surrounding the testing requirements; (ii) Ravenswood, NYISO and Con Edison have each acted in good faith in attempting to reach a resolution of this matter; (iii) the scope of the waiver request is limited to allowing Unit 30 to remain qualified and allowing Units 10, 20, and 30 to remain in the Black Start Program through April 30, 2012 without having to assume a three-year commitment or satisfy additional testing requirements during this time; and (iv) the Commission’s granting these waivers will have no undesirable consequences but rather, will have a positive impact on reliability.

⁹ Ravenswood August 2, 2011 Filing at 8-9 (citing *ISO New England, Inc.*, 117 FERC ¶ 61,171, at P 21 (2006)).

13. In addition to requesting waivers, Ravenswood requested that the Commission convene a settlement conference to provide the parties the opportunity, with the assistance of a Commission settlement judge, to try to agree to revised testing procedures that will enable Ravenswood to remain in the Black Start Program beyond April 30, 2012.

Comments in Support of Ravenswood's August 2, 2011 Filing

14. In its August 5, 2011 comments to Ravenswood's August 2, 2011 Filing, NYISO stated that it supports the requested waivers as they provide the parties with more time to develop and implement revisions to the Black Start requirements in the NYISO tariffs with the objective of retaining the Ravenswood units in the Black Start Program beyond April 30, 2012. NYISO stated that Ravenswood has notified NYISO and Con Edison of its intent to withdraw its units from their participation in the Black Start Program at the conclusion of the current three-year commitment period ending on September 30, 2011, and that the notice was provided in large part due to Ravenswood's concerns regarding the strain that the annual Black Start capability tests place on the aging Ravenswood units.

15. NYISO asserted that NYISO and Con Edison have identified significant reliability concerns regarding the adequacy of the Con Edison portion of the Black Start Program if the Ravenswood units withdraw as indicated. NYISO explained that the large size of the Ravenswood units, which together are 1,827 MW, along with their strategic location, enables these units to pick up large increments of load, provide voltage support, and assist in stabilizing the local transmission system of the Con Edison service territory during a system restoration process. NYISO added that there are not currently any units located in the Con Edison service territory that can replace the Ravenswood Units and provide comparable Black Start capability. Moreover, NYISO stated that it will be at least two years before alternative Black Start resources will become available.

16. NYISO stated that based on discussions with Ravenswood, Con Edison, and other generators participating in the Black Start Program, it has identified an initial package of potential enhancements, intended to address certain operational issues identified by Ravenswood and other generators and to enhance the ability of Con Edison and NYISO to procure and retain Black Start resources. NYISO added, however, that notwithstanding extensive discussions, the parties will not be able to complete the ongoing discussions and development of the tariff revisions by the scheduled withdrawal of the Ravenswood Units on September 30, 2011. Thus, NYISO supported Ravenswood's initial request for tariff waivers and contends that the parties could suffer undesirable consequences if the waivers are not granted and the tariff requirements are not revised in a manner that facilitates continued participation of the Ravenswood Units in the Con Edison portion of the New York Restoration Program.

17. In addition, NYISO stated that it supports Ravenswood's waiver request to accept the Ravenswood Unit 30 test results, a waiver that would allow Unit 30 to remain qualified to participate in the Black Start Program through April 30, 2012, without being required to re-test prior to that date. NYISO also stated that it supports Ravenswood's initial request for the Commission to convene a settlement conference as a mechanism for facilitating the implementation of revisions to the Black Start Program requirements before April 30, 2012, and NYISO specifically requested expedited appointment of a settlement judge.

18. In its comments on Ravenswood's August 2, 2011 Filing, Con Edison stated that it does not oppose Ravenswood's request for the two waivers and that it supports Ravenswood's request for the Commission to convene a settlement conference.

Ravenswood's August 26, 2011 Amendment to Its Filing

19. On August 26, 2011, Ravenswood filed an amendment to its August 2, 2011 Filing. The amendment withdraws Ravenswood's request for a waiver of the Services Tariff requirement of a three-year commitment period for the Black Start Program. The amendment also withdraws Ravenswood's request for a settlement conference. Ravenswood states that it will withdraw from the Black Start Program on September 30, 2011, as outlined in a September 8, 2010 notice it provided to NYISO and Con Edison. Ravenswood further states that it is not withdrawing its request to waive the eight hour testing requirement and continues to seek expedited treatment no later than September 30, 2011, with respect to this request.

20. Ravenswood states that beyond its concerns respecting testing requirements, and in light of positions taken by parties in Docket No. EL11-50-000,¹⁰ its withdrawal from the Black Start Program is now additionally due to financial concerns related to future capacity compensation under the Services Tariff. Ravenswood asserts that capacity under NYISO's Services Tariff is not adequately compensated and such compensation could be reduced to near zero levels in the near future. Ravenswood states that with this likelihood and indications from certain market participants that they think existing resources should retire, it cannot commit to provide Black Start service, or any

¹⁰ In Docket No. EL11-50-000, Ravenswood is one of a number of Complainants asserting that NYISO improperly implemented its market power mitigation rules in the installed capacity market in the New York City capacity zone, with respect to its failure to mitigate at least two new facilities. Complainants assert that this failure resulted in a 50 percent decrease in the market clearing price over the prior month and, if left unchecked will drive prices to close to zero. Ravenswood, *et al.*, Docket No. EL11-50-000, Complaint at 2 (filed July 11, 2011).

incremental service, on a forward basis because of uncertainty whether available market revenues will support continued operation of the underlying capacity.

21. Ravenswood states that its concerns are exacerbated by a petition Con Edison filed on August 12, 2011, with the New York Commission seeking a declaratory order that obligates Black Start service providers to obtain the New York Commission's written consent before terminating Black Start service.¹¹

NYISO's September 2, 2011 Answer to Ravenswood's Amended Filing

22. In its September 2, 2011 Answer to Ravenswood's August 26, 2011 Filing, NYISO argues that good cause exists for the Commission to reject Ravenswood's proposed amendments to its filing. NYISO asserts that withdrawal of the Ravenswood units at this time could result in significant harm to the robustness of the Black Start Program, such that New York City's ability to recover in a timely manner from a blackout could be threatened. NYISO states that NYISO and Con Edison would still be capable of restoring electric service to New York City in a manner that meets applicable reliability requirements, but the absence of the Ravenswood units would delay the restoration process at significant cost and inconvenience to New York City. NYISO states that the total 1,827 MW of the Ravenswood units, along with their strategic location, enables these units to pick up large increments of load, provide voltage support, and assist in stabilizing the local transmission system of the Con Edison service territory. NYISO adds that currently there are no units located in the Con Edison service territory that can replace the Ravenswood units and provide comparable Black Start service and that NYISO anticipates it will be at least two years before alternative Black Start resources will become available.¹²

23. NYISO contends that Ravenswood is adequately compensated for its participation in the Black Start Program and has provided no evidence that it will suffer financial harm if its participation is extended beyond September 30, 2011. NYISO argues that Ravenswood's claim that it cannot commit to participation in the Black Start Program due to concerns regarding its capacity compensation is inconsistent with its previously stated position that its request for waivers was not related to the compensation paid for

¹¹ The Con Edison petition is provided at Attachment 2 to Ravenswood's August 26, 2011 Filing.

¹² NYISO states that Ravenswood has previously indicated that it will continue to provide Black Start service in the event of an actual blackout regardless of whether it remains in the Black Start Program beyond September 30, 2011 but NYISO and Con Edison must maintain Black Start plans that specify the Black Start resources upon which they will rely. NYISO September 2, 2011 Filing at 14.

Black Start service and where it did not identify other financial concerns. NYISO adds that Ravenswood informed the New York Commission as late as August 19, 2011, that it was seeking waivers from the Commission to extend its participation in the Black Start Program and it has provided no information indicating a changed circumstance regarding capacity or capacity compensation that occurred between August 19 and its August 26 amended filing; nor has it indicated any reason why it cannot continue to participate in the Black Start Program while its separate complaint regarding application of in-City buyer-side mitigation rules is pending before the Commission. NYISO argues that Ravenswood has provided no evidence of financial harm as a result of its participation in the Black Start Program. NYISO adds that if Ravenswood's remaining waiver request is granted, it will receive \$350,000 for each of the three Ravenswood units, and moreover, would be able to recover annual testing, training, and equipment damage costs.

24. NYISO states that, nevertheless, it is aware that the compensation mechanism for the Black Start Program was last reviewed in 2005 and may need to be updated in the future. NYISO further states that it has included as part of its package of proposed enhancements to the program, a potential update of the set annual payment amount, along with provisions for recovery of additional costs incurred by a generator in connection with its participation in the Black Start program. NYISO believes the settlement process initially requested by Ravenswood would be an appropriate forum for such a discussion. NYISO adds that, while Ravenswood hints in its August 26, 2011 Filing that it may have to retire the Ravenswood units, it has provided no evidence in this proceeding, or informed NYISO or the New York Commission, of its intent to actually retire the Ravenswood units.

25. NYISO reiterates that the Ravenswood units play a unique and important role in the New York Black Start Program and cannot be replaced at this time. NYISO also states that, as the New York Commission noted, following the 2003 blackout, the black start and system restoration process in New York City was delayed in large part as a result of the failure of generators to start up as required due to lack of testing.

26. NYISO further states that the New York Commission proceeding initiated by Con Edison does not impair the parties' ability to resolve their concerns regarding the Black Start Program through this proceeding. NYISO adds that it believes that the Commission granting the requested relief is appropriate even if the New York Commission takes the actions requested in Con Edison's petition. NYISO states that the proceeding will not specifically address the status of the Ravenswood units but instead would generally address requirements for the New York Commission notice and approval for discontinuation of Black Start service. NYISO believes it is appropriate to address the underlying NYISO tariff issues through a Commission-administered proceeding. NYISO states that if the Commission accepts Ravenswood's amendments, NYISO, nevertheless, requests that the Commission still initiate a supervised process to

thoroughly explore Ravenswood's concerns and that this be open to all generators that participate in the Black Start Program.

27. Finally, NYISO requests a waiver of the commitment period and withdrawal provisions in section 15.5.3.1 of its Services Tariff to temporarily suspend the effective date of Ravenswood's withdrawal from September 30, 2011, until April 30, 2012. NYISO states that this waiver, in coordination with the initiation of a settlement process supervised by the Commission, will provide an opportunity for NYISO, Con Edison, Ravenswood, and other generators participating in the Black Start Program to complete the development and Implementation of program enhancements, while ensuring the timely restoration of electric service in New York City in the event of an outage.

28. NYISO argues that the requested waivers satisfy those conditions under which the Commission has previously granted waivers, i.e., significant reliability concerns exist, NYISO has acted in good faith to address them, the scope of the request is limited to a seven-month period, and granting the request will not harm Ravenswood, which is the only market participant that will be directly impacted by the requested waiver. Moreover, according to NYISO, if the requested waivers are granted, the Ravenswood units will not be required to conduct another Black Start capability test during the waiver period, thus avoiding any possibility of equipment damage as a result of a test.

Ravenswood's September 13, 2011 Response to NYISO's Answer

29. Ravenswood argues that the relief NYISO seeks is barred by the Commission's Rules of Practice and Procedure and is inconsistent with NYISO's Services Tariff.

30. With respect to the Commission rules, Ravenswood asserts that it may amend its request as a matter of right, that its August 26, 2011 Amendment was effective upon filing, pursuant to Rule 215(a)(3)(i),¹³ and that NYISO is prohibited by Rule 215(c)¹⁴ from opposing it. Ravenswood states that accordingly, Rules 215(a)(3)(i) and 215(c) mandate the rejection of NYISO's September 2, 2011 Motion.

31. Further, Ravenswood asserts that, as it also demonstrated in the initial August 2, 2011 Filing, section 15.5.3.1 of the NYISO Services Tariff requires denial of NYISO's September 2, 2011 Motion. It states that, according to section 15.5.3.1, a Black Start Service provider must "commit to be available to provide these services for an initial minimum period of three years." In addition, it states, section 15.5.3.1 provides that a generator may give notice at the end of the second year of the initial three-year

¹³ 18 C.F.R. § 385.215(a)(3)(i) (2011).

¹⁴ 18 C.F.R. § 385.215(c).

period that it will no longer be part of the Black Start Service effective at the end of the third year. Ravenswood states that it did provide timely notice of its intent to withdraw as required.

32. Therefore, according to Ravenswood, NYISO's September 2, 2011 Motion contradicts NYISO's own tariff. Ravenswood argues that under the tariff, it need not justify its operating or business decisions, or provide any justification for withdrawing from being a Black Start provider. Ravenswood contends that such withdrawal is effective as long as Ravenswood has provided one year advance notice under section 15.5.3.1 of the NYISO Services Tariff, which Ravenswood has done. Ravenswood adds that NYISO does not have authority to force a market participant to provide service under a waiver the market participant is not seeking, especially when the waiver requested by NYISO would convert a voluntary service into a mandatory one.

33. Ravenswood states that the September 2, 2011 Motion is also based on erroneous and serious misstatements of fact. According to Ravenswood, NYISO's claim that Ravenswood has not provided any information indicating changed circumstances, and the alleged basis for that claim, completely ignores the information Ravenswood provided to the Commission in its August 2, 2011 Filing and August 26, 2011 Amendment to the initial filing. Specifically, Ravenswood states that Con Edison and New York City's pleadings in Docket EL11-50, as well as Con Edison's August 12, 2011 petition with the New York Commission forced Ravenswood to stand by its earlier decision to terminate its participation in the Black Start Program and not provide service on a forward basis after that date. Moreover, Ravenswood states that although it was under no obligation to explain its reasons for withdrawing its request for a waiver, sufficient detail was provided in the August 26, 2011 Amendment that explained these post-August 2 developments as the basis for the amendment.

34. Ravenswood further contends that NYISO's assertion that following the 2003 blackout, "the black start and system restoration process in New York City was delayed in large part as a result of the failure of generators to start up as required due to lack of testing" is extremely misleading. Ravenswood states that this failure had nothing to do with testing, but rather was due to the fact that, in 2003, Con Edison, NYISO, and NYSRC had not informed Black Start providers that they were, in fact, providers, and that they were supposed to be ready to perform Black Start service, for which they were not being compensated.

35. Finally, Ravenswood argues that the Commission should grant Ravenswood's request for waiver of the 8-hour testing requirement for its Unit 30 and reject NYISO's request that the Commission decline to provide that waiver if the August 26, 2011 Amendment is accepted. Ravenswood contends that the 8-hour testing requirement is independent of the other matters set forth in its August 2, 2011 Motion and August 26, 2011 Amendment. Ravenswood states that NYISO is incorrect in suggesting

that the waiver of the 8-hour testing requirement is meaningless. Ravenswood states that the purpose of the waiver for Unit 30 was to establish that the unit met the Black Start requirements for the period from May 1, 2011 through September 30, 2011. Ravenswood states that without the waiver, Unit 30 cannot be considered a Black Start provider during that period. Ravenswood contends that NYISO previously supported the request for waiver contained in Ravenswood's initial filing. Since none of the technical facts associated with the waiver have changed, Ravenswood contends that the waiver should be granted.

Astoria's Response

36. Astoria states that it supports Ravenswood's response to NYISO's September 2, 2011 Filing. Like Ravenswood, Astoria disputes NYISO's statement relating the 2003 blackout to generators' failure to start up as required due to lack of testing. Astoria states that it did provide Black Start Service and it was provided with no compensation and little, if any, guidance from NYISO and Con Edison. Astoria states that any delay was due to specific facts and circumstances associated with the manner in which Con Edison and NYISO conducted the Black Start process as well as the lack of notification to service providers that they were part of the system restoration plan or how they were expected to perform.

City of New York Comments

37. The City of New York asserts that the Commission should reject Ravenswood's August 26, 2011 Amendment, grant the requests in Ravenswood's initial filing, and ensure that reliability and public health and safety within New York City are not jeopardized while the technical issues raised by Ravenswood are resolved. The City of New York claims that Ravenswood's amendment is contrary to the public interest and will result in inadequate and unsafe service. Moreover, the City of New York claims that Ravenswood's amendment is an attempt to make an end-run around the New York Commission's regulatory jurisdiction over safety and reliability which, it states, is specifically reserved to the New York Commission under FPA § 215(i)(3).¹⁵

38. The City of New York also asserts that Ravenswood's concerns with the capacity markets are irrelevant to its provision of Black Start services. Accordingly, it asserts that the Commission should not allow Ravenswood to discontinue providing critically important Black Start service based on speculation regarding such markets.

¹⁵ City of New York Comments at 5-7.

Commission Determination

39. We accept Ravenswood's August 26, 2011 Amendment to its August 2, 2011 Filing and reject NYISO's arguments in opposition to the amendment. We also deny Ravenswood's requested waiver of the testing requirement and NYISO's requested waiver of section 15.5.3.1 of its Services Tariff for the reasons discussed below.

NYISO's Request to Reject the August 26, 2011 Amendment

40. In its August 26, 2011 Filing, Ravenswood stated that it was amending its August 2, 2011 Filing, by withdrawing certain of its original waiver requests and the request for settlement judge procedures contained in that filing, while retaining its request for waiver of the Service Tariff's testing requirements. Ravenswood's August 2, 2011 Filing is a "pleading" as defined in Rule 202 of the Commission's Rules of Practice and Procedure.¹⁶ Section 215(a)(3)(i) of the Commission's Rules of Practice and Procedure¹⁷ provides that a written amendment of a pleading filed in a proceeding that is not set for hearing becomes effective as an amendment on the date filed. Section 215(c) provides that motions opposing amendments to pleadings are not allowed, although section 215(b) permits answers to amendments to pleadings.

41. In its September 2, 2011 Filing, NYISO argues that Ravenswood's August 26, 2011 Filing is actually a withdrawal of its August 2, 2011 pleading, not an amendment and, as such, NYISO argues that it is allowed to file a motion in opposition pursuant to Rule 216(b).¹⁸ We disagree with NYISO's characterization of the filing because Ravenswood did not withdraw its August 2, 2011 Pleading; it modified it to withdraw only certain of the waiver requests contained in that pleading and its request that a settlement proceeding be convened, while retaining its request for waiver of the Service Tariff's testing requirements.

42. However, even if we were to treat Ravenswood's filing as a withdrawal of its August 2, 2011 Pleading under Rule 216, as NYISO argues, we would allow the withdrawal. Under Rule 216(b), the Commission may disallow, for a good cause, all or part of a withdrawal of a pleading.¹⁹ NYISO's filing fails to establish such good cause. NYISO argues that Ravenswood's withdrawal could result in significant harm to the

¹⁶ 18 C.F.R. § 385.202 (2011).

¹⁷ 18 C.F.R. § 385.215(a)(3)(i).

¹⁸ 18 C.F.R. § 385.216(b) (2011).

¹⁹ *Id.*

robustness of the Black Start Program, asserting that these units can pick up large increments of load, provide voltage support, and assist in stabilizing the local transmission system of the Con Edison service territory. However, while the continuance of these additional units in NYISO's Black Start program may enhance that program, these units are not relied on as part of NYISO's System Restoration Plan.²⁰

43. Further, NYISO states that even without the Ravenswood units, it would still be capable of restoring electric service to New York City in a manner that meets applicable reliability requirements.²¹ We accept NYISO's statement that it is in compliance with NERC's requirements for both facilities and restoration time even without the Ravenswood units.²² We also note that NYISO and Con Edison have had a year's notice of Ravenswood's intent to leave the Black Start program on September 30, 2011. This is the notice period required by NYISO's Services Tariff, a period that should be adequate to prepare for a unit that is not part of NYISO's Reliability Plan to leave the Black Start Program or to negotiate an extension of that unit's commitment.

44. In addition, NYISO's argument that Ravenswood fails to show evidence that a required continuation of its Black Start service would cause financial harm and NYISO's claim of inconsistencies in Ravenswood's stated reasons for withdrawal are inapposite. The Commission's Rules do not require any justification for the amendment or withdrawal of a pleading. It is extraordinary to oppose a withdrawal of a waiver request and it would be even more extraordinary for the Commission to deny such a request. For the reasons stated above, we accept Ravenswood's amendment to its August 2, 2011 Filing and turn to Ravenswood's remaining request for waiver and NYISO's request for waiver.

Waiver Requests

45. Ravenswood continues to request a waiver of the eight-hour testing requirement. Ravenswood argues that its failure to meet the test time limits was justified because it claims that the failure was due to an event not directly related to Black Start Service. However, there is no tariff provision that provides for an exception in these or any other

²⁰ NYISO Emergency Operations Manual Attachment B (designated as non-public Critical Energy Infrastructure Information as defined in 18 C.F.R. § 388.113 (2011) and exempt from public disclosure pursuant to 18 C.F.R. § 388.107 (2011)).

²¹ NYISO September 2, 2011 Filing at 6.

²² Additional resources, such as Ravenswood, would make NYISO's restoration plan more robust than the national standard, and is something that we encourage but do not require.

circumstances. The test is performed to show that the designated unit is operationally capable of providing Black Start Service when called on, so it does not matter why the unit was operationally unable to pass the test. Accordingly, Ravenswood has not shown the application of the eight-hour test requirement to be unreasonable in these circumstances. Further, since Ravenswood has stated that it does not intend to provide Black Start service after September 30, 2011, the only effect of granting such a waiver would be to provide compensation to Ravenswood for the period starting when its Black Start Service compensation was suspended through September 30, 2011, when its Black Start Service terminates. Finally, there is nothing in the record to indicate that Ravenswood Unit No. 30 was considered to be a provider of Black Start service during that period; thus, it would not be appropriate to provide compensation to Ravenswood for that period. Accordingly, we deny Ravenswood's request for waiver.

46. We also deny NYISO's waiver request. As explained above, NYISO has not shown good cause for disallowing Ravenswood's withdrawal of its pleading and thereby preventing Ravenswood's immediate withdrawal from the Black Start Program. We agree with Ravenswood that NYISO's request for a limited waiver of its Services Tariff should be rejected as it is simply another procedural device to ask for the same end result that we rejected above. Accordingly, for the same reasons discussed above, we deny NYISO's request for waiver.

Request for Settlement Procedures

47. Finally, with respect to NYISO's request that the Commission initiate a settlement process, we believe that, in light of this order, a settlement process is not the correct vehicle for revising NYISO's Services Tariff to alter the Black Start Program. Such changes require a filing pursuant to FPA section 205 and should be done through the NYISO stakeholder process. Although we will not initiate a settlement process in this proceeding because Ravenswood has revised its filing to remove such request, we will make available our dispute resolution service for the parties to use in reaching a satisfactory solution.

The Commission orders:

(A) Ravenswood's waiver request is hereby denied, as discussed in the body of this order.

(B) NYISO's waiver requests and request for settlement procedures are hereby denied, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.