

133 FERC ¶ 61,246  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

December 22, 2010

In Reply Refer To:  
New York Independent System Operator, Inc.  
Docket No. ER11-1920-000

New York Independent System Operator, Inc.  
Hunton & Williams LLP  
1900 K St. NW  
Washington, DC 20006-1109

Attention: Ted J. Murphy  
Counsel for the New York Independent System Operator, Inc.

Reference: Request for Waivers

Dear Mr. Murphy:

1. On October 27, 2010, the New York Independent System Operator, Inc. (NYISO) filed a request for waivers of certain North American Energy Standards Board (NAESB) Wholesale Electric Quadrant (WEQ) business practice standards adopted by the Commission in Order No. 676-E.<sup>1</sup> In this order, the Commission grants the requested waivers effective December 23, 2010, as discussed below.

2. On November 24, 2009, the Commission issued Order No. 676-E, which revised its regulations to incorporate by reference the latest version (Version 002.1) of certain standards adopted by the WEQ of the NAESB and directed public utilities, including NYISO, to either incorporate them into their jurisdictional tariffs or to seek a waiver from the Commission.<sup>2</sup> NAESB's Version 002.1 standards include new standards and modifications to existing Version 002.0 standards. They include standards adopted by

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<sup>1</sup> *Standards for Business Practices and Communication Protocols for Public Utilities*, Order No. 676-E, FERC Stats. & Regs. ¶ 31,299 (2009).

<sup>2</sup> *Id.* P 128.

NAESB in response to Order Nos. 890, 890-A, and 890-B.<sup>3</sup> The standards establish a set of business practice standards and communications protocols (Standards WEQ-001, -002, and -003) for the electric industry that replace the Commission's existing Open Access Same-Time Information Systems (OASIS) standards, and also include business practices to complement reliability standards of the North American Electric Reliability Council (NERC) (Standards WEQ-004, -005, -006, and -007).

3. Order No. 676 provides public utilities the option of applying for a waiver of the standards, in whole or in part. Further, Order No. 676 states that utilities, including Independent System Operators (ISO) and Regional Transmission Organizations (RTO), that have existing waivers of certain OASIS standards may reapply for such waivers using simplified procedures. These procedures require an applicant to identify the specific standard(s) from which it is seeking waiver and provide the caption, date, and docket number of the proceeding in which it received its waiver. In addition, an applicant must certify that the circumstances warranting its waiver(s) have not changed.<sup>4</sup>

4. On October 27, 2010, NYISO submitted a request for renewed waivers of the Version 002.1 standards to the same extent that it was granted waivers by the 2008<sup>5</sup> and 2009<sup>6</sup> Waiver Orders. Specifically, NYISO seeks renewal of the waivers of the following standards:

- WEQ-001, Standards 001-2 – 001-10.8.7 and Appendices 001-A and 001-B;<sup>7</sup>

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<sup>3</sup> *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶ 31,241 (2007), *order on reh'g*, Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 (2007), *order on reh'g and clarification*, Order No. 890-B, 123 FERC ¶ 61,299 (2008).

<sup>4</sup> Order No. 676, FERC Stats. & Regs. ¶ 31,216 at P 79.

<sup>5</sup> *New York Indep. Sys. Operator, Inc.*, 125 FERC ¶ 61,275, at P 15 (2008) (2008 Waiver Order).

<sup>6</sup> *New York Indep. Sys. Operator, Inc.*, 127 FERC ¶ 61,005, at P 7 (2009) (2009 Waiver Order).

<sup>7</sup> Waiver was previously granted in the 2008 Waiver Order, 125 FERC ¶ 61,275 at P 15.

- WEQ-001, Standards 001-011 and 001-012;<sup>8</sup>
- WEQ-002, Standards 002-4.2.10, 002-4.2.11, 002-4.2.12, 002-4.3, and 002-4.4;<sup>9</sup>
- WEQ-003, Standard 003-0;<sup>10</sup>
- WEQ-004, Standards 004-3, 004-8.2, 004-11.1(a), and Appendices 004-A and 004-C;<sup>11</sup>
- WEQ-013, Standard 013-4.1.<sup>12</sup>

5. NYISO states that the Commission has previously granted its requested waivers of certain OASIS standards<sup>13</sup> and repeatedly held that these NAESB WEQ standards are inapplicable to NYISO because of the differences between its financial reservation model and the physical reservation model contemplated in Order No. 890. NYISO identifies its prior waivers by caption, date, and docket number and reaffirms that the facts and circumstances that justified its prior waivers have not changed.<sup>14</sup> According to NYISO the Commission has also approved numerous requests for waivers of NAESB WEQ standards for other Independent System Operators and Regional Transmission Organizations with similar financial reservation-based markets.<sup>15</sup> In addition, according to NYISO, the Commission has found that many of the OASIS posting regulations are

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<sup>8</sup> Waiver was previously granted in the 2009 Waiver Order, 127 FERC ¶ 61,005 at P 7.

<sup>9</sup> Waiver was previously granted in the 2008 Waiver Order, 125 FERC ¶ 61,275 at P 15.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> NYISO October 27, 2010 Filing at 4 (citing 2009 Waiver Order, 127 FERC ¶ 61,005 at P 7); 2008 Waiver Order, 125 FERC ¶ 61,275 at P 15; *New York Indep. Sys. Operator, Inc.*, 121 FERC ¶ 61,036, at P 9 (2007); *New York Indep. Sys. Operator, Inc.*, 117 FERC ¶ 61,197, at 15-17 (2006)).

<sup>14</sup> NYISO October 27, 2010 Filing at 6 & n21.

<sup>15</sup> *Id.* at 4 (citing *California Indep. Sys. Operator, Corp.*, 125 FERC ¶ 61,380, at P 7 (2008)).

“incompatible with the transmission services provided under the NYISO’s current tariff” and has granted waivers from many OASIS regulations.<sup>16</sup> NYISO also states that if the Commission were to depart from its precedent and require NYISO to comply with any of these standards, neither NYISO’s customers, nor the Commission would receive any useful or relevant information, and unnecessary compliance burdens would be placed on NYISO.

6. NYISO also seeks waiver of standards newly adopted in Order No. 676-E. NYISO states that these new standards are applicable only to transmission providers that offer physical reservation transmission service and, thus, are not relevant to NYISO’s financial reservation-based system. For each of the newly adopted standards, NYISO explains the relationship of the standard to the physical transmission reservation process.

7. NYISO states that WEQ Standard 001-2.5.10, *et seq.*, are not applicable to NYISO because NYISO’s Commission-approved Open Access Transmission Tariff (OATT) does not have the *pro forma* OATT Schedule 9 Generator Imbalance provisions.

8. NYISO states that WEQ Standards 001-4.7.1 through 001-4.7.3.5, 001-4.9.1 through 001-4.9.3, 001-4.10, *et seq.*, and 001-4.12, *et seq.*, add further details regarding the online-negotiation and confirmation process. NYISO contends the Commission has granted NYISO waivers of WEQ-001-4, and the underlying OASIS posting requirements involving physical transmission reservations because NYISO’s financial reservation transmission model does not have negotiations or confirmations related to physical reservations. NYISO states that it should be granted waivers of these new standards for the same reasons.

9. NYISO states that WEQ Standards 001-13.1.2, *et seq.*, mandate posting information that is required to be provided pursuant to the Standards of Conduct for transmission providers. NYISO states that, as an ISO, it is exempt from 18 C.F.R. Part 358 and, thus, there is no reason for it to post information related to the Standards of Conduct.

10. WEQ Standards 001-13.1.3(b) and (c), require the provision of links to information on transmission service request metrics and redispatch costs, which are required by 18 C.F.R. § 37.6(i) and 18 C.F.R. § 37.6(j)(2), respectively. NYISO states that the Commission has previously granted waivers of these underlying OASIS regulations and, therefore, waivers of these standards should be granted.

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<sup>16</sup> *Id.* at 4-5 (citing *New York Indep. Sys. Operator, Inc.*, 130 FERC ¶ 61,104 (2010); *New York Indep. Sys. Operator, Inc.*, 94 FERC ¶ 61,215 (2001); *Central Hudson Gas & Electric Corp.*, 88 FERC ¶ 61,253 (1999)).

11. WEQ Standards 001-14, *et seq.*, 001-15, *et seq.*, and 001-16, *et seq.*, require posting of zero available transfer capability (ATC) narratives, additional ATC change narratives, and addressing ATC or available flowgate capability (AFC) methodology questions. NYISO states that, in its system, ATC is used only as an instantaneous indication of the existence of uncongested transmission paths, are advisory projections, generally calculated after markets close, and transactions are scheduled.<sup>17</sup> Additionally, these standards require the posting of this information using the “systemdata” template, which NYISO does not use. NYISO adds it has been granted waiver of WEQ-002-4.3, *et seq.*, which defines the OASIS templates. Therefore, NYISO submits that it should be granted waivers of these standards.

12. WEQ Standards 001-17, *et seq.*, require the posting of actual daily peak load and final forecasted system-wide load using the OASIS systemdata templates. NYISO states that, while it does post this information, it does not do so using the “systemdata” template. NYISO states that it has been granted waiver from WEQ-002-4.3, *et. seq.*, which define the OASIS templates and therefore, waiver of this standard should be granted.

13. WEQ Standards 001-18, *et seq.*, require transmission providers to incorporate “postbacks” of redirected services in its ATC postings. NYISO contends its system does not use redirect requests, therefore NYISO does not have “postbacks” to incorporate in its ATC postings and waiver should be granted.

14. WEQ Standards 001-19, *et seq.*, require transmission providers to identify the treatment of grandfathered agreements in the existing transmission commitments (ETC) component of its ATC/AFC calculations. NYISO contends while it does have grandfathered transmission arrangements, it does not make express physical transmission reservations in connection with them and does not account for grandfathered agreements as part of ETC. Therefore, NYISO will not have any information on grandfathered capacity reservations to identify in the ATC/AFC calculations and should be granted waiver of this standard.

15. WEQ Standards 001-20, *et seq.*, require transmission providers to post information relevant to rollover rights upon approving a long-term firm point-to-point request with rollover rights. According to NYISO, its OATT has never included the *pro forma* OATT rollover right provisions and does not provide for long-term point-to-point transmission service. Accordingly, NYISO states that it does not have information to post pursuant to this standard, and it should be granted waiver.

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<sup>17</sup> NYISO October 27, 2010 Filing at 10 & n25 (citing *Central Hudson Gas & Electric Corp.*, 88 FERC at 61,803).

16. WEQ Standards 001-21, *et seq.*, require transmission providers to post information regarding granting and managing a conditional curtailment option. NYISO states that its Commission-approved OATT does not include the *pro forma* OATT provisions for conditional firm service, because the Commission has found that it was unnecessary for ISOs/RTOs administering real-time energy markets to adopt those provisions.<sup>18</sup> Further, according to NYISO, waiver is supported by the language of Appendix 001-C to WEQ-001, which provides that conditional firm service-related requirements do not apply to RTOs and ISOs with real-time energy markets. NYISO submits that the Commission should therefore grant waiver of this standard.

17. WEQ Standards 001-22, *et seq.*, require transmission providers to post all scheduled use of capacity benefit margin (CBM) and curtailments of these schedules. NYISO states that, as recognized in Attachment C of its OATT, it does not set aside transmission capacity as CBM and therefore CBM is not relevant within NYISO's market design.<sup>19</sup> NYISO submits that the Commission should therefore grant waiver of this standard.

18. WEQ Standard 001-D provides a table identifying "potential Postback and the conditions for use by the Transmission Provider in the determination of firm and non-firm ATC or AFC." According to NYISO, its system does not use redirect requests, therefore NYISO does not have "Postbacks" to incorporate in its ATC postings, and the Commission should grant waiver of this standard.

19. NYISO states that WEQ Standard 002-4.3.6.2.1 is not relevant because NYISO's OATT has never included the *pro forma* OATT rollover right provisions, and therefore does not have information to post pursuant to this standard. Thus, according to NYISO, it should be granted waiver of this standard.

20. NYISO states that WEQ Standard 002-4.3.6.2.2 is not relevant since its OATT does not include the *pro forma* OATT provisions for conditional firm service because the Commission has found that it was unnecessary for ISOs/RTOs administering real-time energy markets to adopt those provisions.<sup>20</sup> Moreover, according to NYISO, waiver is supported by the Appendix 001-C language, which provides that conditional firm service-related requirements do not apply to RTOs and ISOs with real-time energy markets.

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<sup>18</sup> *Id.* at 11 (citing Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 13).

<sup>19</sup> Section 9.8 of Attachment C to the NYISO's OATT provides that the NYISO "shall not set aside transmission capacity as CBM when calculating ATC or otherwise in developing SCUC and RTS market schedules."

<sup>20</sup> *See* Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 13.

21. WEQ Standard 004-18 requires “that all scheduled use of a Transmission Provider’s transmission capacity set aside for Capacity Benefit Margin in support of energy imports into a load Balancing Authority Area served by the Transmission Provider shall be uniquely represented in all Requests for Interchange submitted to the IA,” and NYISO does not set-aside transmission capacity as CBM. Accordingly, NYISO seeks waiver of this standard.

22. Finally, in addition to the waivers requested above, NYISO requests waivers of the remaining requirements of WEQ-002 and WEQ-013 in order to confirm its exemption from compliance with implementation standards of those substantive standards from which it has waivers. NYISO states that full waivers of WEQ-002 and WEQ-013 will clarify that it is exempt from both the standards that impose obligations to perform certain actions, as well as the standards that describe how certain obligations are to be performed. NYISO states that the WEQ-002 standards provide the processes through which entities will comply with the obligations set forth in WEQ-001. NYISO adds that WEQ-013 provides the processes for transmission service requests, secondary market requests, renewals of expiring transmission contracts, redirects, and resales. NYISO states that these are all processes that do not exist under NYISO’s financial reservation transmission system.

23. NYISO states that it currently has waivers of many WEQ OASIS standards that impose obligations to perform certain actions relevant only to a physical reservation model. According to NYISO, full waivers will not change NYISO’s compliance obligations but instead will resolve any possible ambiguity regarding the extent of its existing compliance obligations.

24. Notice of NYISO’s instant filing was published in the *Federal Register*, 75 Fed. Reg. 68,340 (2010), with comments, protests, and interventions due on or before November 17, 2010. The New York Transmission Owners (NYTO) filed a timely motion to intervene.<sup>21</sup> No protests or adverse comments were filed. Pursuant to Rule 214 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2010), timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

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<sup>21</sup> The NYTOs consist of 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, Orange and Rockland Utilities, Inc., and Rochester Gas and Electric Corporation.

25. For the reasons set forth above by NYISO, principally because of the fact that NYISO does not have physical reservations, we grant the requested waivers.

By direction of the Commission.

Nathaniel J. Davis, Sr.,  
Deputy Secretary.