

153 FERC ¶ 61,043  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

October 13, 2015

In Reply Refer To:  
New York Independent  
System Operator, Inc.  
Docket No. ER15-2102-000

Gary D. Bachman  
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Dear Mr. Bachman:

1. On September 15, 2015, New York Power Authority (NYPA) filed a motion to withdraw the July 2, 2015 filing that initiated this proceeding (July 2 Filing).<sup>1</sup> Because the Commission rejected NYPA's July 2 Filing in its entirety on August 31, 2015 (August 31 Order),<sup>2</sup> we dismiss NYPA's motion as moot.

2. In the July 2 Filing, NYPA proposed to remove a provision of the NYPA Transmission Adjustment Charge in Attachment H of the NYISO Open Access Transmission Tariff that would otherwise limit NYPA's ability to recover costs (cap provision). NYPA also proposed to replace its existing stated rates with a formula rate and requested two transmission rate incentives for the Marcy South Series Compensation and Fraser to Coopers Corners Reconductoring project. The August 31 Order rejected the removal of the cap provision on the merits.<sup>3</sup> Given that the removal of the cap

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<sup>1</sup> In the July 2 Filing, NYPA stated that New York Independent System Operator, Inc. (NYISO) "is submitting this filing in FERC's e-Tariff on NYPA's behalf solely in its role as the Tariff Administrator . . . [and] NYISO takes no position on any substantive aspect of the filing." July 2 Filing at n.6.

<sup>2</sup> *N.Y. Indep. Sys. Operator, Inc.*, 152 FERC ¶ 61,166 (2015).

<sup>3</sup> *Id.* PP 60-63.

provision was fundamental to NYPA's proposal, the Commission rejected the remainder of NYPA's proposal, without prejudice to NYPA refiling any or all of the remaining requests.<sup>4</sup>

3. In its motion, NYPA seeks to withdraw the components of its July 2 Filing that do not constitute a tariff or rate schedule, i.e., its request for certain transmission incentives and other incentive-related requests, pursuant to Rule 216 of the Commission's Rules of Practice and Procedure.<sup>5</sup> NYPA seeks to withdraw the tariff or rate schedule components of the July 2 filing pursuant to section 35.17 of the Commission's regulations,<sup>6</sup> arguing that those components should be treated the same as a "withdrawal of rate filings prior to Commission action," because "the Commission has not issued any order on its rate filing; it was rejected and thus is not even deemed to be filed."<sup>7</sup> Also, NYPA argues that, even if its request for withdrawal is not explicitly addressed by section 35.17, there is good cause to allow its request based on Commission precedent.<sup>8</sup> In the alternative, to the extent that the Commission deems NYPA's request to be inconsistent with any aspect of these regulations, it requests that the Commission grant a waiver of these provisions, stating that good cause exists to allow NYPA to withdraw the July 2 Filing.<sup>9</sup>

4. On September 25, 2015, Long Island Power Authority filed an answer opposing NYPA's motion. No other filings have been made.

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<sup>4</sup> *Id.* PP 59, 64, 65.

<sup>5</sup> 18 C.F.R. § 385.216 (2015).

<sup>6</sup> 18 C.F.R. § 35.17 (2015).

<sup>7</sup> NYPA Motion to Withdraw at 5.

<sup>8</sup> *Id.* at 7 (citing *S. Cal. Edison Co.*, 42 FERC ¶ 61,001 (1988)).

<sup>9</sup> NYPA explains that conversations with the Commission and its staff would be beneficial prior to submitting a subsequent filing and wants to terminate *ex parte* restrictions as soon as possible to facilitate such discussions. *Id.* at 4.

5. The Commission rejected NYPA's July 2 Filing in its entirety in the August 31 Order. Consequently, there is no pending rate filing and no pending effective date in eTariff. Further, no party has sought rehearing within the 30-day deadline, as required under the Commission's regulations.<sup>10</sup> Therefore, we dismiss NYPA's motion as moot.<sup>11</sup>

By direction of the Commission.

Kimberly D. Bose,  
Secretary.

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<sup>10</sup> 18 C.F.R. § 385.713.

<sup>11</sup> We note that dismissing NYPA's motion as moot herein does not affect the Commission's determinations in the August 31 Order.