

120 FERC ¶ 61,283  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;  
Sudeen G. Kelly, Marc Spitzer,  
Philip D. Moeller, and Jon Wellinghoff.

New York Independent System Operator, Inc.

Docket No. OA07-76-000

ORDER GRANTING REQUEST FOR TEMPORARY WAIVERS IN PART AND  
DENYING REQUEST FOR TEMPORARY WAIVERS IN PART

(Issued September 27, 2007)

1. On July 13, 2007, the New York Independent System Operator, Inc. (NYISO) filed a request for temporary waiver of certain Open Access Same-Time Information System (OASIS) posting regulations and related requirements requiring it to revise its Open Access Transmission Tariff (OATT) pursuant to Order No. 890.<sup>1</sup> For the reasons discussed below, we grant NYISO's request in part and deny NYISO's request in part.

**Background**

2. In Order No. 890, the Commission reformed the *pro forma* OATT to clarify and expand the obligations of transmission providers to ensure that transmission service is provided on a non-discriminatory basis.<sup>2</sup> Among other things, Order No. 890 amended the *pro forma* OATT to require greater consistency and transparency in the calculation of available transfer capability, open and coordinated planning of transmission systems, and standardization of charges for generator and energy imbalance services. The Commission also revised various policies governing network resources, rollover rights, and reassignments of transmission capacity.

3. The Commission established a series of compliance deadlines to implement the reforms adopted in Order No. 890. Each public utility transmission provider was required to develop its own OASIS functionality or business practice necessary to implement reforms introduced in Order No. 890, pending completion of North American Electric Reliability Corporation (NERC) and North American Energy Standards Board

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<sup>1</sup> *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, 72 Fed. Reg. 12266 (March 15, 2007), FERC Stats. & Regs. ¶ 31,241 (2007).

<sup>2</sup> *See Id.* P 26-61.

(NAESB) processes, within 90 days from publication of Order No. 890 in the *Federal Register*, i.e., July 13, 2007.<sup>3</sup> In addition, Regional Transmission Operator (RTO) and Independent System Operator (ISO) transmission providers were required to submit Federal Power Act (FPA) section 206 filings that conform the non-rate terms and conditions of their OATTs to those of the *pro forma* OATT, as reformed in Order No. 890, or demonstrate that their existing tariff provisions are consistent with or superior to the revised provisions of the *pro forma* OATT, within 210 days from publication of Order No. 890 in the *Federal Register*, i.e., October 11, 2007 (October 11 Filing).<sup>4</sup>

### **Instant Filing**

4. NYISO states that its October 11 Filing will propose to adopt those Order No. 890 tariff revisions that apply to it but will also propose that NYISO should not be required to adopt a number of others. NYISO states that this creates questions with respect to OASIS posting requirements that go into effect on July 13, 2007, but are based on determinations in Order No. 890 that the October 11 Filing will contend should not apply to NYISO.

5. NYISO requests temporary waiver of the Commission's OASIS regulations requiring transmission providers to post information relating to designations and terminations of individual network resources, as well as a list of their own, and their customers', network resources. NYISO asserts that its October 11 Filing will explain in detail that neither NYISO nor any of its customers designate individual network resources. Instead, NYISO states that under its market design all resources that supply Installed Capacity are effectively network resources to all customers purchasing energy from NYISO administered markets. Furthermore, NYISO states that the Commission has previously approved variations from NYISO's *pro forma* OATT to reflect these provisions.<sup>5</sup> NYISO requests that the Commission grant this waiver until such time as the Commission issues an order on NYISO's October 11 Filing.

6. Next, NYISO requests waiver of regulations that require transmission providers to post information regarding costs incurred in providing "planning redispatch" and "reliability redispatch" services, as well as third party offers to relieve congested transmission facilities. NYISO states that Order No. 890 exempts ISOs and RTOs with certain attributes from providing these services, and asserts that its October 11 Filing will

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<sup>3</sup> *See Id.* P 141.

<sup>4</sup> *See Id.* P 157.

<sup>5</sup> *See Filing in Compliance with the Commission's Order of January 27, 1999 Regarding the Comprehensive Proposal to Restructure the New York Wholesale Electric Market*, Docket Nos. ER97-1523-004, *et al.* (April 30, 1999); *Central Hudson Gas & Electric Corp.*, 88 FERC ¶ 61,138, at 61,382 (1999).

demonstrate that it falls into the exempted category. Additionally, NYISO states that its October 11 Filing will explain that its existing congestion management practices, which NYISO states are based on a locational-based marginal pricing system that provides for a continuous security-constrained economic redispatch, are superior to the more limited redispatch services introduced by Order No. 890. NYISO requests that the Commission grant this waiver until such time as the Commission issues an order on NYISO's October 11 Filing.

7. NYISO is also requesting temporary waiver of the regulations related to posting Capacity Benefit Margin (CBM) information, practices for reevaluating the amount of CBM it will set aside, and the requirement that it reevaluate its CBM needs annually. NYISO explains that it does not set-aside transmission capacity as CBM when it schedules or dispatches the grid in either the day-ahead or real-time markets and does not make a deduction for CBM when it calculates Available or Total Transfer Capability, but that it would if necessary to comply with future standards or practices developed by NERC or NAESB. NYISO proposes that this waiver would expire if it ever started using CBM in the future.

8. Finally, NYISO requests temporary waiver of the posting requirements related to Transmission Reserve Margin (TRM). NYISO claims that unlike the other waivers requested in this proceeding, it currently uses TRM. However, the NYISO asserts that the software and website modifications that will be required to comply with the Commission's requirements are more complex and time-consuming than anticipated. NYISO states that it expects to implement the necessary changes and come into compliance no later than August 31, 2007. Additionally, NYISO states that it will report to the Commission as soon as its TRM-related web posting mechanisms are complete, tested, and functional.

### **Notice of Filing and Interventions**

9. Notice of NYISO's waiver request was published in the *Federal Register*,<sup>6</sup> with interventions and comments due on or before August 3, 2007. On August 3, 2007, the New York Transmission Owners (NYTOs)<sup>7</sup> filed a motion to intervene. No other comments or motions to intervene were filed.

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<sup>6</sup> 72 Fed. Reg. 41,728 (2007).

<sup>7</sup> The NYTOs are: Central Hudson Gas & Electric Corporation; Consolidated Edison Company of New York, Inc.; New York State Electric & Gas Corporation; Niagara Mohawk Power Corporation d/b/a National Grid; Orange and Rockland Utilities, Inc.; Rochester Gas and Electric Corporation; Long Island Power Authority; and the New York Power Authority.

## **Discussion**

### **A. Procedural Matters**

10. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,<sup>8</sup> the timely, unopposed motion to intervene serves to make the NYTOs parties to this proceeding.

### **B. Substantive Matters**

11. We reject NYISO's request for temporary waivers of the regulations regarding posting requirements related to individual network designations, redispach services, and CBM. NYISO asserts that these waivers are justified because it does not provide the relevant services and, therefore, is not subject to the regulation requirements at issue. If NYISO is correct, and these requirements and regulations are inapplicable, then NYISO does not need these waivers because NYISO has no obligations for the Commission to waive. In this respect, NYISO itself admits that it has sought these waivers out of "an abundance of caution."<sup>9</sup> However, NYISO has provided no justification for its claim that it is not subject to these requirements and regulations, except to state that it will offer such justification in the October 11 Filing. More importantly, however, if NYISO is subject to these requirements and regulations, it has yet to make any showing that waiver is justified. Accordingly, we deny these requested waivers.

12. However, we will grant NYISO's request for temporary waiver of the posting requirements related to TRM. Unlike the other waivers requested in this proceeding, NYISO states that it currently uses TRM and is subject to the new posting requirements. NYISO states that software modifications have prevented it from coming into compliance with these requirements by the July 13, 2007 deadline, and that it anticipates coming into compliance by August 31, 2007. In light of these circumstances, we find that NYISO has shown good cause to be granted a temporary waiver of the posting requirements related to TRM.

13. The Commission will, however, require NYISO to file a status report within 30 days after deploying the software modifications. This report should inform the Commission whether or not the software modifications were successful. NYISO will also be required to immediately inform the Commission if unexpected difficulties or adverse system conditions prevent the deployment of the software modifications.

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<sup>8</sup> 18 C.F.R. § 385.214 (2007).

<sup>9</sup> NYISO's Waiver Request at 4.

The Commission orders:

NYISO's request for temporary waivers of certain OASIS posting regulations and related requirements that were introduced by Order No. 890 is hereby granted in part, and denied in part, as discussed in the body of this order.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.