

STATE OF NEW YORK DEPARTMENT OF PUBLIC SERVICE

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*Secretary*

November 4, 2011

SENT VIA ELECTRONIC FILING  
Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Room 1-A209  
Washington, D.C. 20426

Re: Docket No. ER12-89-000 - New York Independent  
System Operator, Inc.

Dear Secretary Bose:

For filing, please find the Notice of Intervention and Comments of the New York State Public Service Commission in the above-entitled proceeding. Should you have any questions, please feel free to contact me at (518) 473-8178.

Very truly yours,

A handwritten signature in black ink, appearing to read 'David G. Drexler', is written over a horizontal line.

David G. Drexler  
Assistant Counsel

Attachment

UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION

New York Independent System        )       Docket No. ER12-89-000  
Operator, Inc.                        )

NOTICE OF INTERVENTION AND COMMENTS  
OF THE NEW YORK STATE  
PUBLIC SERVICE COMMISSION

BACKGROUND

On October 14, 2011, the New York Independent System Operator, Inc. (NYISO) filed proposed modifications to the allocations used for recovering among market participants the NYISO's budgeted annual operating costs and Federal Energy Regulatory Commission (FERC or Commission)-assessed regulatory fees. The current allocation under Rate Schedule 1 of the NYISO's Open Access Transmission Tariff (OATT) recovers 80% of these costs from "loads" that physically withdraw energy, and 20% from "suppliers" that physically supply energy in New York. The NYISO proposes to change this allocation whereby loads would pay 72%, and suppliers would pay 28%.<sup>1</sup> The new cost allocation would be maintained for at least five years.

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<sup>1</sup> A portion of the costs and fees are also paid by market participants that are engaging in non-physical transactions (i.e., virtual transactions), purchasing Transmission Congestion Contracts, providing Special Case Resources, or participating in the Emergency Demand Response Program. The NYISO rebates the amounts recovered from these market participants back to loads and suppliers.

NOTICE OF INTERVENTION

The New York State Public Service Commission (NYPSC) hereby submits its Notice of Intervention and Comments pursuant to FERC's Combined Notice of Filings #2, issued on October 14, 2011, and Rule 214 of the Commission's Rules of Practice and Procedure. Copies of all correspondence and pleadings should be addressed to:

David Drexler  
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New York State Department  
of Public Service  
Three Empire State Plaza  
Albany, New York 12223-1350  
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William Heinrich  
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DISCUSSION

The NYPSC supports the proposed modifications for allocating among market participants the NYISO's operating costs and regulatory fees, which are recovered under Rate Schedule 1 of the OATT. The changes are also supported by over 67% of NYISO stakeholders. The proposed allocation of 72% of the costs and fees to loads, and 28% to suppliers, is adequately supported by the independent study conducted on the NYISO's behalf by Black & Veatch (B&V Study).

While changes in certain assumptions in the B&V Study may suggest that a higher or lower allocation of costs to loads or suppliers may be appropriate, the B&V Study included a set of

reasonable assumptions that provide an independent assessment of the potential range for allocating cost between loads and suppliers. The B&V Study further indicates that the proposed allocations are within the zone of reasonableness compared with other Independent System Operators (ISO)/Regional Transmission Organizations. The proposed allocations fall in between the California ISO's allocation of 67%/33% to loads/suppliers, and PJM's allocation of 79%/21% to loads/suppliers, respectively. ISO-New England's allocation of 78%/22% to loads/suppliers is comparable to PJM's allocation.<sup>2</sup> Therefore, the NYISO's proposed allocation of 72%/28% to loads/suppliers, respectively, is reasonable, and should be approved.

#### CONCLUSION

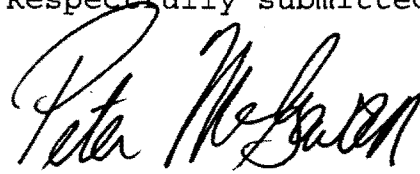
In accordance with the foregoing discussion, the Commission should approve the proposed modifications for

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<sup>2</sup> While the Electric Reliability Council of Texas and Southwest Power Pool allocate 100% of their costs to load, it appears that the approach employed in these regions does not rely upon the type of cost analysis utilized by the NYISO, and therefore should not be considered relevant in comparing cost allocations between regions.

allocating the costs and fees recovered under Rate Schedule 1 of  
the NYISO's OATT.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Peter McGowan". The signature is fluid and cursive, with the first name "Peter" being more prominent than the last name "McGowan".

Peter McGowan  
General Counsel  
Public Service Commission  
of the State of New York

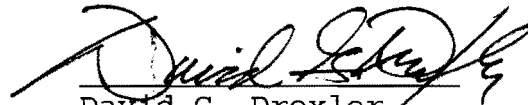
By: David G. Drexler  
Assistant Counsel  
3 Empire State Plaza  
Albany, NY 12223-1305  
(518) 473-8178

Dated: November 4, 2011  
Albany, New York

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated: Albany, New York  
November 4, 2011



David G. Drexler  
Assistant Counsel  
3 Empire State Plaza  
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(518) 473-8178