

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

New York Independent System)	Docket No. ER16-1213-000
Operator, Inc.)	

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

Pursuant to Rule 214 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (FERC or the Commission),¹ the New York Public Service Commission (NYPSC) hereby submits its Notice of Intervention and Comments in the above-captioned proceeding.

I. INTRODUCTION

On March 17, 2016, the New York Independents System Operator, Inc. (NYISO) submitted to FERC proposed amendments to its Open Access Transmission Tariff (OATT) and Market Administration and Control Area Services Tariff (Services Tariff) to provide rules for participation of Behind-the-Meter Net Generation (BTMNG) resources in the NYISO's energy, ancillary services, and capacity markets, pursuant to Section 205 of the Federal Power Act² and Part 35 of the Commission's

¹ 18 C.F.R. §385.214 (2014).

² 16 U.S.C. §824d (2010).

regulations.³ The NYPSC hereby submits its Notice of Intervention and Comments in support of the NYISO's proposed tariff changes.

II. BACKGROUND

The NYISO's proposal would allow BTMNG resources that have excess capacity after satisfying their own host load to sell any excess energy, capacity, and/or ancillary services into the wholesale market. The generation resources would be required to meet certain requirements. In particular, the resource must have a nameplate generation capability of at least 2 MW, a minimum load of 1 MW, and an interconnection allowing the export of at least 1 MW to the New York transmission system. Additionally, the BTMNG resource's Net Installed Capacity will be its Dependable Maximum Gross Capability (DMGC) minus the Adjusted Host Load (AHL). The components of AHL will account for weather normalization, load growth, and Installed Reserve Margin (IRM) to approximately measure the unforced capacity the resource is eligible to offer into the market. These requirements limit initial participation to relatively large installations, but represent a reasonable first step to incorporate available BTMNG resources into the NYISO markets. Lastly, the NYISO proposes to apply mitigation rules to BTMNG

³ 18 C.F.R. § 35 et seq. (2015).

resources, which we believe are inappropriate and may frustrate the goal of encouraging BTMNG.

III. NOTICE OF INTERVENTION

The NYPSC is a regulatory body established under the laws of the State of New York with jurisdiction to regulate rates or charges for the sale of electricity within the State.⁴ It is, therefore, a State Commission as defined in §1.101(k) of the Commission's Rules of General Applicability.⁵ Additionally, NYPSC is responsible for ensuring "safe and adequate service" by "electric corporations," including independent generation owners.⁶ Accordingly, NYPSC hereby provides its Notice of Intervention pursuant to Rule 214(a)(2) of the Commission's Rules of Practice and Procedure and the Commission's Notice dated March 17, 2016.⁷

Copies of all correspondence and pleadings should be addressed to:

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⁴ New York Public Service Law (PSL) §65.

⁵ 18 C.F.R. §1.101(k) (2014).

⁶ PSL §§2(13), 65(1), 66(1), (2), (3) & (5).

⁷ Docket No. ER16-1213-000, Combined Notice of Filings #1 (issued March 17, 2016).

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IV. DISCUSSION

The NYISO's proposal is an important first step in aligning the New York wholesale markets with the New York State policy goals. Under the Reforming the Energy Vision (REV) proceeding, the NYPSC intends to align electric utility practice with a new regulatory paradigm designed to promote improvements in system efficiency, data sharing, reliability, and increase consumer choice.⁸ To achieve these goals, in part, through the utility's role as a Distributed System Platform Provider - i.e., one that organizes and distributes resources in an appropriate manner to best benefit the system. Distributed generation is a cornerstone of the REV initiative. The NYISO's proposed tariff changes will help promote distributed generation, and provide developers with the opportunity to gain additional revenue through the sale of extra energy and capacity, while promoting system resiliency.

⁸ See, Case 14-M-0101, Proceeding on Motion of the Commission in Regard to Reforming the Energy Vision, Order Instituting Proceeding (issued April 25, 2014); see also, Case 14-M-0101, Order Adopting Regulatory Policy Framework and Implementation Plan (issued February 26, 2015).

The NYISO's proposed Tariff revisions are intended to permit potential BTMNG resources to enroll in the wholesale market through a variety of different configurations. These options include the resource's ability to enroll with a single generator serving a host load, an aggregation of generation units serving a host load, or, where appropriate metering and other facility configuration exists, a single facility may be split into several distinct BTMNG resources. These various options provide flexibility for participants.

As this is a first step, there is a desire for additional improvements. This proposal excludes intermittent power resources and resources that participate in any ISO/Transmission Owner demand response program or buyback program. However, the NYISO admits in its filing that this proposal is only a step in the right direction. As a series of next steps, the NYISO intends to "develop additional software, rules, and procedures to further integrate distributed generation in the wholesale markets and to align the NYISO's wholesale markets with [the REV proceeding]."⁹

Additionally, the proposed tariff changes provide for mitigation of BTMNG resources. However, the NYPSC sees no need

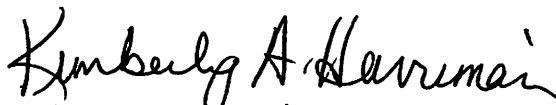
⁹ Docket No. ER16-1213-000, New York Independent System Operator, Inc. Tariff Filing, NYISO Submittal Letter (March 17, 2016) at 3.

for mitigation where there is no evidence of a threat of an exercise of market power. Here, distributed generation is yet underdeveloped, small in size, and is a resource that should be promoted rather than mitigated. Therefore, the NYPSC urges the Commission to refrain from mitigating BTMNG.

V. CONCLUSION

Based on the foregoing, the NYPSC generally supports the NYISO's proposed BTMNG tariff amendments as a step in the right direction. It provides distributed resources the ability to participate in the wholesale market, and grants the resources flexibility. The infusion of excess capacity into the grid not only helps the generation resource with potential additional revenues, but also provides a better and more efficient use of the capacity. With increased availability of capacity, the proposal serves to increase efficiency and enhance reliability.

Respectfully submitted,



Kimberly Harriman
General Counsel
Public Service Commission
of the State of New York

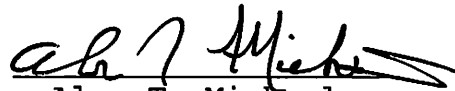
By: Alan T. Michaels
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Dated: April 7, 2016
Albany, New York

CERTIFICATE OF SERVICE

I, Alan T. Michaels, do hereby certify that I will serve on April 7, 2016, the foregoing Notice of Intervention and Comments of the New York Public Service Commission upon each of the parties of record indicated on the official service list compiled by the Secretary in this proceeding.

Dated: April 7, 2016
Albany, New York


Alan T. Michaels