

STATE OF NEW YORK DEPARTMENT OF PUBLIC SERVICE

THREE EMPIRE STATE PLAZA, ALBANY, NY 12223-1350

Internet Address: <http://www.dps.state.ny.us>

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*Secretary*

March 20, 2013

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. ER13-102-000 - New York Independent  
System Operator, Inc.

Dear Secretary Bose:

For filing, please find the Answer of the New York State Public Service Commission to the Motion to Lodge filed by Independent Power Producers of New York, Inc. (IPPNY) in the above-entitled proceeding. Should you have any questions, please feel free to contact me at (518) 473-8178.

Very truly yours,

David G. Drexler  
Assistant Counsel

Attachment

UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION

New York Independent System        )  
Operator, Inc.                        )               Docket No. ER13-102-000

ANSWER OF THE NEW YORK STATE  
PUBLIC SERVICE COMMISSION TO THE  
MOTION TO LODGE FILED BY IPPNY

On March 5, 2013, Independent Power Producers of New York, Inc. (IPPNY) filed a Motion to Lodge (Motion), which seeks to include in the record in this proceeding several documents related to the New York State Public Service Commission's (NYPSC) pending case addressing plans for ensuring reliability in the event the nuclear units at the Indian Point Energy Center (IPEC) are closed.<sup>1</sup> The NYPSC hereby provides its Answer to

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<sup>1</sup> While the New York Independent System Operator, Inc. (NYISO) has identified reliability violations of transmission security and resource adequacy criteria by the summer of 2016 if the IPEC units were retired at the expiration of their current licenses, the NYISO currently assumes in its reliability planning that IPEC will remain available. Although the NYPSC expects that the NYISO planning process will adequately address most generation unit retirements, this process does not address the unique risks to reliability presented by the potential closure of IPEC. Consequently, the NYPSC commenced its proceeding to address the unique circumstances that would be presented by the closure of IPEC.

IPPNY's Motion pursuant to Rule 213 of the Federal Energy Regulatory Commission's (FERC) Rules of Practice and Procedure.<sup>2</sup>

The NYPSC objects to IPPNY's Motion because it is based upon speculation that the NYPSC will decide that certain transmission facilities, which might be needed to ensure reliability in the event IPEC is closed, should be considered as meeting "Public Policy Requirements" consistent with the NYISO's FERC Order No. 1000 Compliance Filing.<sup>3</sup> While Consolidated Edison Company of New York, Inc. (Con Edison) and the New York Power Authority (NYPA) requested that their proposed transmission projects for the potential closure of IPEC should be designated by the NYPSC as meeting Public Policy Requirements, we emphasize that the NYPSC has not yet acted upon such request.

The NYPSC will address Con Edison and NYPA's request in our State proceeding after adequate notice and opportunity to comment have been provided. However, the NYPSC is cognizant that FERC has not yet completed its review of the NYISO's Compliance Filing. Thus, there are no NYISO tariff provisions currently governing the treatment of transmission projects that

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<sup>2</sup> 18 C.F.R. §385.213(d) (requiring the filing of answers to motions within 15 days).

<sup>3</sup> The NYISO, along with the New York Transmission Owners, filed an Order No. 1000 Compliance Filing on October 11, 2012.

may be needed for public policy purposes.<sup>4</sup> Moreover, the NYPSC has not yet identified the specific procedures that it would use in undertaking its roles and responsibilities under the newly-established transmission planning process for public policy purposes. As we previously indicated, the NYPSC intends to initiate a proceeding to solicit input from interested stakeholders and to craft appropriate procedures, pending the Commission's review and determination regarding the Compliance Filing.

IPPNY's Motion accordingly fails to contribute to a complete and accurate record because it is based on speculation, and essentially reiterates the same arguments that it already raised in its initial comments.<sup>5</sup> The Commission has previously denied similar motions where the information sought to be included in the record was based upon speculation, and fails to

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<sup>4</sup> The NYPSC is also cognizant that any transmission rates would ultimately be subject to FERC's jurisdiction, contrary to IPPNY's suggestion that the NYPSC would possess "sweeping authority over rates, terms and conditions of service under a FERC-jurisdictional tariff." IPPNY Motion at p. 3.

<sup>5</sup> The NYPSC responded to several of IPPNY's and other protestors' substantive claims in its Answer filed on December 11, 2012, and we incorporate those arguments here by reference.

contribute to the Commission's decision-making.<sup>6</sup> Therefore, the Commission should deny IPPNY's Motion consistent with its precedent.

Respectfully submitted,



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: March 20, 2013  
Albany, New York

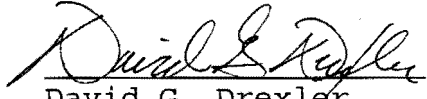
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<sup>6</sup> See, Docket No. EL11-46-000, NextEra Energy Resources, LLC, et al., Order Granting Petition For Declaratory Order, 142 FERC ¶61,043 (issued January 17, 2013) (denying motion to lodge where it "reports on speculation about possible future developments and consists of information posted on a website for possible use in a state proceeding"); see also, Docket Nos. ER10-1401-001, et al., California Independent System Operator Corporation, et al., Order on Motions for Clarification, Requests for Rehearing, Motion to Lodge and Compliance Filing, 137 FERC ¶61,062 (issued October 20, 2011) (denying motion to lodge that failed to contribute to the Commission's decision-making).

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  
March 20, 2013

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

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