

158 FERC ¶ 61,064  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Cheryl A. LaFleur, Acting Chairman;  
Norman C. Bay, and Colette D. Honorable.

New York Independent System Operator, Inc.

Docket No. ER17-446-000

ORDER ACCEPTING SUBJECT TO CONDITION IN PART AND REJECTING IN  
PART TARIFF REVISIONS

(Issued January 27, 2017)

1. On November 30, 2016, pursuant to section 205 of the Federal Power Act (FPA),<sup>1</sup> the New York Independent System Operator, Inc. (NYISO) submitted revisions to its Market Administration and Control Area Services Tariff to correct a pricing inefficiency in its Installed Capacity (ICAP) market design related to capacity exports from certain Localities (e.g., zones) in the New York Control Area (NYCA). As discussed below, we accept, in part, subject to condition, and reject, in part, the proposed Tariff revisions, effective January 29, 2017, as requested.

**I. Background**

2. Each Locality in NYISO has a Locational Minimum Installed Capacity Requirement, which is the amount of capacity load-serving entities must obtain from capacity resources located within the Locality. Certain Localities are “import constrained,” meaning that transmission constraints limit the amount of power that can be delivered to them.<sup>2</sup> Under NYISO’s current ICAP market rules, a generator that exports capacity from a Locality would be treated in the ICAP Spot Market Auction as though it is no longer in service. The full amount of the exported capacity would therefore have to be replaced with other capacity located exclusively within the Locality, and capacity prices would increase accordingly. NYISO’s current market design does not recognize that an exporting generator continues to operate in the Locality or that exports from certain Localities create increased counter-flow on the transmission constraint(s) between

---

<sup>1</sup> 16 U.S.C. § 824d (2012).

<sup>2</sup> NYISO proposes to add the new defined term “Import Constrained Localities,” which comprises New York City (Load Zone J) and the G-J Locality, to Section 2.9 of the Service Tariff.

that locality and Rest of State.<sup>3</sup> The counter-flow makes it possible to replace a portion of exported capacity with capacity located in Rest of State.

3. In its State of the Market Report issued in May 2016, NYISO's Market Monitoring Unit, Potomac Economics (Potomac), recommended that NYISO modify the ICAP market and planning process to better account for capacity that is exported to neighboring control areas from Import Constrained Localities, specifically referencing capacity exports that ISO New England, Inc. (ISO-NE) awarded to capacity located in the G-J Locality in ISO-NE's Forward Capacity Auction (FCA) 9 (2018/2019) and FCA 10 (2019/2020).<sup>4</sup> The State of the Market Report emphasized that NYISO should act promptly because Potomac anticipated that "capacity clearing prices in the Lower Hudson Valley could rise far above competitive levels . . . at least during the two years for which capacity has already been sold into ISO-NE."<sup>5</sup> NYISO began an evaluation of Potomac's recommendation, including a review of Potomac's proposed solution and potential alternatives.

4. In August 2016, ISO-NE and the New England Power Pool Participants Committee proposed revisions to the rules governing ISO-NE's forward capacity market (FCM Enhancements).<sup>6</sup> The FCM Enhancements Filing included revisions that would, among other things, permit resources that have qualified to sell capacity in a future ISO-NE Capacity Commitment Period to offer capacity in reconfiguration auctions and enter into capacity supply obligation bilateral contracts for earlier periods (Reconfiguration Auction Import Proposal). NYISO requested that the Commission defer this element of the FCM Enhancements for one capability year as it applied to imports from NYISO Localities, arguing that the Reconfiguration Auction Import Proposal exposed customers to serious pricing inefficiencies under the current NYISO rules.<sup>7</sup>

---

<sup>3</sup> Rest of State is defined as the set of non-Locality energy market load zones in NYCA. NYISO, Market Administration and Control Area Services Tariff, Definitions.

<sup>4</sup> See Potomac Economics, 2015 State of the Market for the New York ISO Markets, Recommendations at 117 (May 2016), [http://www.nyiso.com/public/webdocs/markets\\_operations/documents/Studies\\_and\\_Reports/Reports/Market\\_Monitoring\\_Unit\\_Reports/2015/NYISO%202015%20SOM%20Report\\_5-23-2016-CORRECTED.pdf](http://www.nyiso.com/public/webdocs/markets_operations/documents/Studies_and_Reports/Reports/Market_Monitoring_Unit_Reports/2015/NYISO%202015%20SOM%20Report_5-23-2016-CORRECTED.pdf) (SOM Report).

<sup>5</sup> SOM Report at 117.

<sup>6</sup> ISO New England Inc. and New England Power Pool Participants Committee, Tariff Revisions to Forward Capacity Market, Docket No. ER16-2451-000 (Filed August 19, 2016) ("FCM Enhancements Filing").

<sup>7</sup> NYISO, Motion to Intervene and Limited Protest, Docket No. ER16-2451-000, (Filed Sept. 9, 2016). NYISO explained that the Roseton 1 generating station, located in

5. The Commission accepted the FCM Enhancements Filing including the Reconfiguration Auction Import Proposal and its requested effective date.<sup>8</sup> In denying NYISO's request for a deferral, the Commission "acknowledge[d] NYISO's concerns about a potential flaw in its market rules."<sup>9</sup> The Commission encouraged NYISO to work with stakeholders to quickly address these concerns before implementation and required NYISO to file an informational report addressing its progress in preparing any tariff filing with the Commission.<sup>10</sup>

## II. NYISO's Filing

6. NYISO states that its proposal is designed to address the pricing inefficiency that can arise under current market rules when a generator exports capacity to an external control area over an AC interface from an Import Constrained Locality. NYISO states that its proposal would recognize that an exporting generator continues to operate within its Locality, which would be reflected in the ICAP Spot Market Auction clearing prices by accounting for the portion of exported capacity that can be replaced by capacity located in Rest of State, thus sending a market price signal that reflects the capacity that must actually be located within the Locality.

7. NYISO proposes to determine the amount of capacity (in MW) from Rest of State that can replace the capacity (in MW) exported from an Import Constrained Locality with the methodology described further below, the results of which are expressed as a percentage called the "Locality Exchange Factor." NYISO explains that the Locality Exchange Factor would account for the continued operation of the exporting generator in an Import Constrained Locality by using a power flow analysis to determine the amount of capacity that can be replaced from Rest of State instead of from capacity located within the Locality. NYISO would then apply that Locality Exchange Factor (a percentage) to the MW amount of exported capacity and would set the Locality's Locational Minimum Unforced Capacity Requirement accordingly. NYISO would then set each load-serving entity's Locational Minimum Unforced Capacity Requirements

the G-J Locality, has obtained a Capacity Supply Obligation in ISO-NE for the 2018/2019 and 2019/2020 Capacity Commitment Periods. Under ISO-NE's FCM Enhancements, Roseton 1 could seek to provide capacity a year earlier, for the 2017/2018 Capacity Commitment Period, by participating in the relevant Annual Reconfiguration Auctions and bilateral transaction periods.

<sup>8</sup> *ISO New England Inc. and New England Power Pool Participants Committee*, 157 FERC ¶ 61,025 (2016) (FCM Enhancements Order).

<sup>9</sup> FCM Enhancements Order at P 32.

<sup>10</sup> *Id.* NYISO submitted the informational report on November 4, 2016 in Docket No. AD16-26-000.

using that adjusted amount and run the ICAP Spot Market auction. Thus, NYISO states, the ICAP Spot Market clearing price for the Locality would reflect the amount of capacity that is actually needed within that Locality while accounting for the amount that could be located in Rest of State in light of the capacity export.

8. NYISO states that it would perform a power flow analysis to determine Locality Exchange Factors for each Import Constrained Locality relative to each neighboring Control Area prior to the start of each Capability Year. NYISO proposes to use the power flow analysis to determine the ratio of the shift factors on the interfaces between an Import Constrained Locality and the applicable neighboring External Control Area. Because exports from the Locality result in counter-flow back into Rest of State, NYISO explains, the analysis will enable NYISO to determine the amount of capacity from Rest of State that could be used to satisfy requirements in the Import Constrained Locality. NYISO proposes to post its Locality Exchange Factors on its website prior to the opening of the Capability Period Auction.

9. NYISO performed a preliminary analysis resulting in a Locality Exchange Factor of 47.8 percent for the G-J Locality, which indicates that a price signal to replace 52.2 percent of the MW exported from the G-J Locality to ISO-NE within the G-J Locality would be efficient. NYISO explains that, under such a Locality Exchange Factor, NYISO would decrease the Locational Minimum Unforced Capacity Requirements by 47.8 percent of the MW of capacity to be exported from the G-J Locality to ISO-NE. The remaining 52.2 percent of the ICAP export capacity would need to be replaced by capacity located within the G-J Locality. As such, the Locality Exchange Factor directly impacts the G-J Locality ICAP Spot Market auction clearing price.

10. NYISO also proposes a one-year transition period, from June 2017 through May 2018, during which the Locality Exchange Factor for exports from the G-J Locality

to ISO-NE would be fixed at 80 percent (one-year transition mechanism).<sup>11</sup> NYISO states that this transition mechanism was the result of a stakeholder motion modifying the tariff proposal, was supported by a broad spectrum of stakeholders, and received votes in support from four out of the five voting sectors.<sup>12</sup> NYISO asserts that unlike NYISO's proposed deferral in the FCM Enhancements docket, neither the proposal nor the one-year transition mechanism would limit the opportunity for generators to export capacity.

11. NYISO contends that the one-year transition mechanism is reasonable and would provide effective price signals while also providing a measure of protection against unanticipated price increases. NYISO asserts that the one-year transition mechanism avoids an inefficient price signal that could occur under current market rules that would overstate the need for new resources in the Locality. NYISO also argues that the one-year transition mechanism is limited in scope and duration as it would only apply to exports from the G-J Locality to ISO-NE for a one-year period. NYISO further argues that the one-year transition mechanism would have limited impact on new investment decisions because major investment decisions are unlikely to be made based on short-term price signals.

12. According to NYISO, the amount of excess capacity in the G-J Locality is expected to far exceed requirements in the coming year. NYISO states that, as a general matter, all unforced capacity is offered into the market and the capacity rules obligate NYISO to purchase all capacity that is offered in the ICAP Spot Market auction at or below the demand curve clearing price. Therefore, NYISO asserts, the incremental amount of capacity that the one-year transition mechanism would allow to be purchased from Rest of State during the transition period would not impair NYISO's ability to satisfy the New York State Reliability Council's (NYSRC) statewide Installed Reserve Margin, the NYCA Minimum Unforced Capacity Requirements, and the Locational Minimum Unforced Capacity Requirements.

13. Finally, NYISO argues that the Commission has approved transition mechanisms in similar circumstances in the past. NYISO cites instances in which the Commission previously approved a transition mechanism where it served to mitigate price volatility or unexpected price increases, where it produced market outcomes that fell within a zone of reasonableness, and where it was the product of an inclusive stakeholder process and had wide stakeholder support. NYISO argues that accepting the proposed one-year transition

<sup>11</sup> The period from June 2017 through May 2018 corresponds to ISO-NE's capability year, while NYISO's is May 1 through April 30.

<sup>12</sup> See NYISO, Management Committee Meeting, Final Motions, Motion No. 2 (October 26, 2016) ("Management Committee Motion #2"), [http://www.nyiso.com/public/webdocs/markets\\_operations/committees/mc/meeting\\_materials/2016-10-26/102616\\_MC\\_Final\\_Motionsv4.pdf](http://www.nyiso.com/public/webdocs/markets_operations/committees/mc/meeting_materials/2016-10-26/102616_MC_Final_Motionsv4.pdf).

mechanism would be consistent with this precedent.<sup>13</sup> NYISO explains that it had a very short time in which to develop a solution to an issue that threatened to cause substantial and unwarranted price increases. It states that the limited one-year transition mechanism provides an additional measure of assurance against such inefficient price increases while providing an appropriate price signal for capacity investment and retirement decisions in the G-J Locality.

### **III. Notice and Responsive Pleadings**

14. Notice of NYISO's November 30, 2016 filing was published in the *Federal Register*, 81 Fed. Reg. 88,677 (2016) with interventions or protests due on or before December 21, 2016.

15. Public Citizen, Inc.; Direct Energy Business Marketing, LLC; New York State Energy Research and Development Authority; Exelon Corporation; CPV Valley, LLC; Independent Power Producers of New York, Inc. (IPPNY); New York State Department of State Utility Intervention Unit (UIU); Entergy Nuclear Power Marketing, LLC (Entergy); Multiple Intervenors;<sup>14</sup> The City of New York; New York State Energy Research and Development Authority (NYSERDA); Consumer Power Advocates; New York Transmission Owners (NYTOs);<sup>15</sup> and NRG Power Marketing, LLC and GenOn Energy Management, LLC (collectively, NRG) filed timely motions to intervene. The New York State Public Service Commission (New York Commission) filed a notice of intervention. Potomac Economics, Ltd. (Potomac) filed an out-of-time motion to intervene.

16. UIU; the New York Commission; Consumer Power Advocates, Multiple Intervenors, City of New York, and NYSERDA (collectively, Consumer Parties); NYTOs; and Potomac filed comments. IPPNY and Entergy filed protests. On December 22, 2016, NRG filed an out-of-time protest.

---

<sup>13</sup> NYISO Filing at 12 (citing *N.Y. Indep. Sys. Operator, Inc.*, 156 FERC ¶ 61,039, at P 28 (2016); *ISO New England Inc.*, 147 FERC ¶ 61,173, at P 56 (2014)).

<sup>14</sup> Multiple Intervenors is an unincorporated association of approximately 60 large industrial, commercial, and institutional energy consumers with manufacturing and other facilities located throughout New York State.

<sup>15</sup> NYTOs consist of: Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., Niagara Mohawk Power Corporation d/b/a National Grid, New York Power Authority, New York State Electric & Gas Corporation, Orange and Rockland Utilities, Inc., Power Supply Long Island, and Rochester Gas and Electric Corporation.

17. On January 5, 2015, Advanced Energy Management Alliance (AEMA) filed a motion to answer and answer to the other intervenors' comments. On January 9, 2017, NYISO filed an answer to the NRG protest. On January 10, 2017, the New York Commission filed an answer to Potomac's comments and NRG's protest.

#### **IV. Discussion**

##### **A. Procedural Matters**

18. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2016), the notice of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d) (2016), the Commission will grant Potomac's late-filed motion to intervene and comments and NRG's late-filed protest given their interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

19. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2016), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept the answers filed in this proceeding because they have provided information that assisted us in our decision-making process.

##### **B. Substantive Matters**

20. The Commission accepts in part, subject to condition, effective January 29, 2017, as requested, and rejects in part, NYISO's filing.<sup>16</sup> Specifically, the Commission accepts NYISO's proposed locality exchange factor methodology to be implemented immediately but rejects NYISO's proposed one-year transitional mechanism.

#### **1. NYISO's Proposed Locality Exchange Factor Methodology**

##### **a. Comments and Protests**

21. Consumer Parties urge the Commission to approve the use of NYISO's methodology.<sup>17</sup> They argue that the methodology addresses the identified market inefficiencies and provides a more accurate price signal when capacity exports occur. Given the widespread support during the stakeholder process for the immediate adoption

---

<sup>16</sup> The Commission can revise a proposal filed under section 205 of the Federal Power Act as long as the filing utility accepts the change. *See City of Winnfield v. FERC*, 744 F.2d 871, 875-77 (D.C. Cir. 1984). The filing utility is free to indicate that it is unwilling to accede to the Commission's conditions by withdrawing its filing.

<sup>17</sup> Consumer Parties Comments at 2.

of NYISO's methodology, Consumer Parties argue that the desire for more analysis by some market participants does not provide a basis for the Commission to reject the use of the NYISO methodology or remand this matter to NYISO.<sup>18</sup>

22. Potomac recommends that the Commission approve NYISO's solution for the upcoming Capability Year by adopting the Locality Exchange Factor that relies on NYISO's power flow analysis.<sup>19</sup> Notwithstanding its support for NYISO's proposal, Potomac states, however, that NYISO developed its proposal under a short time frame and deferred certain elements for consideration in Phase 2 because they could not be developed and implemented for the 2017/2018 Capability Year. Potomac asks that the Commission mandate that NYISO file a long-term proposal that: (1) sets prices for imports from external control areas to NYISO that are consistent with the Locality Exchange Factor, and (2) recognizes the local reliability value that the exporting generators provide to the Import Constrained Localities in NYISO.<sup>20</sup>

23. NRG argues that NYISO's proposed methodology suggests that a single capacity resource can simultaneously serve both the New England market and NYISO by allowing NYISO to count approximately one-half of the exported generation capacity to offset the local reliability needs of the G-J Locality. NRG states that by ensuring that a portion of the Roseton facility committed to ISO-NE is also available to serve resource adequacy needs in New York, NYISO's proposal is inconsistent with the Northeast Memorandum of Understanding (Northeast MOU) between NYISO, ISO-NE, and PJM Interconnection LLC (PJM), which, according to NRG, requires "that the ICAP resource is not committed

---

<sup>18</sup> *Id.* at 6-7.

<sup>19</sup> Potomac Comments at 3, 7.

<sup>20</sup> *Id.* at 6-7.

to or sold to more than one Operating Jurisdiction.”<sup>21</sup> NRG argues that NYISO’s proposal also violates the Northeast MOU by adopting a delivery requirement for exporting resources that is at odds with NYISO’s requirements for internal capacity resources.

24. NRG states that NYISO’s methodology advances the argument that ISO-NE is not receiving capacity from a specific external resource and instead receiving capacity from a “slice” of resources across New York.<sup>22</sup> NRG argues that the Commission should reject this approach to capacity markets as that both NYISO and PJM rules require a resource to be physically identifiable and separable in order to qualify as capacity. In addition, NRG asserts that the Commission has disallowed slice-of-system capacity purchase agreements that are not backed by verifiable resources.<sup>23</sup> They argue that the Commission should, if it does not reject the proposal, convene a technical conference to examine the national implications of departing from the long-standing precedent that capacity sales are unit contingent.

25. NRG asserts that the assumption that a capacity resource’s resource adequacy attributes are susceptible to an energy market shift factor analysis is entirely novel and without support. NRG also asserts that NYISO has failed to show that (1) energy market outcomes are relevant to resource adequacy outcomes; and (2) that the power flow analyses it conducted are sufficiently robust.<sup>24</sup> NRG asserts that NYISO does not have a long-term capacity market and, as a result, prices can be more volatile and can increase over relatively short periods of time as resources exit the NYISO market. NRG asserts that if the Commission allows NYISO to artificially reduce prices, it will fundamentally undercut the purposes of the capacity market, making it increasingly expensive for generators to deploy capital, since the risk premium that they will face will increase.<sup>25</sup>

26. NRG states that NYISO’s proposal would install a new principle: resources without a capacity supply obligation are obligated to respond for reliability dispatches

<sup>21</sup> NRG Protest at 5 (*citing* ISO New England, Attachment I: Northeast MOU General ICAP Principles, Planning Principles § 2 (June 6, 2008) (Attachment I) [http://www.nyiso.com/public/webdocs/markets\\_operations/committees/bic\\_icapwg/meeting\\_materials/2009-10-22/NE\\_MOU.pdf](http://www.nyiso.com/public/webdocs/markets_operations/committees/bic_icapwg/meeting_materials/2009-10-22/NE_MOU.pdf)).

<sup>22</sup> *Id.* at 8.

<sup>23</sup> *Id.* at 8 (*citing* *Midwest Indep. Transmission Sys. Operator, Inc.*, 125 FERC ¶ 61,061, at P 19 (2008), *order on reh’g and compliance*, 126 FERC ¶ 61,143 (2009)).

<sup>24</sup> *Id.* at 9.

<sup>25</sup> *Id.* at 11.

without compensation. NRG further states that NYISO's assumption that the exporting unit will be available during a peak period to provide reliability benefits is not a reasonable assumption if the resource is not subject to NYISO's capacity rules.<sup>26</sup>

27. NRG states that NYISO currently utilizes a robust probabilistic assessment process when it sets the Locational Capacity Requirements and Installed Reserve Margin. NRG argues that NYISO, however, has bypassed that process here, in favor of a much less robust set of power flow analyses that do not address all possible real-time conditions.<sup>27</sup> NRG states that, under NYISO rules, a generation resource that no longer participates in the ICAP market is deemed to lose its Capacity Resource Interconnection Service (CRIS) rights after it has ceased clearing in the ICAP market for three years. NRG argues that, at a minimum, the Commission should require that NYISO clarify that any capacity market discount would cease once the exporting resource loses its injection rights in New York.<sup>28</sup>

**b. Answers**

28. In its answer, NYISO disagrees with NRG's contention that NYISO's methodology would double count capacity. NYISO asserts that an exporter's capacity would be counted as capacity sold in New York and that the methodology will not change how ISO-NE would call on the capacity or ISO-NE's and NYISO's existing confirmation processes, which ensure that the capacity is not committed in more than one jurisdiction.<sup>29</sup> NYISO also disagrees with NRG's assertion that NYISO's methodology redefines capacity exports to ISO-NE as being derived from something other than a specific external resource. NYISO argues that the obligation to deliver capacity to a neighboring region would continue to be distinctly tied to the resource that made the sale and to the unit's performance.<sup>30</sup>

29. NYISO disagrees with NRG's argument that NYISO's Locality Exchange Factor methodology is inconsistent with Commission precedent. NYISO asserts that NRG failed to cite to a case that supports its contention,<sup>31</sup> and NYISO argues that its use of

---

<sup>26</sup> *Id.* at 12-13.

<sup>27</sup> *Id.* at 14.

<sup>28</sup> *Id.* at 17.

<sup>29</sup> NYISO Answer at 4.

<sup>30</sup> *Id.* at 4.

<sup>31</sup> *Id.* at 5.

energy market shift factors to calculate the Locality Exchange Factor is consistent with Commission precedent.<sup>32</sup>

30. NYISO disagrees with NRG's contention that NYISO failed to demonstrate that the Locality Exchange Factor methodology could sufficiently identify resource adequacy requirements.<sup>33</sup> NYISO argues that its power flow analysis is sufficient as it identifies the portion of power that flows from generators to external Control Areas and from Rest of State to Import Constrained Localities. Further, NYISO argues that it performed a sensitivity analysis with alternative assumptions to test the reasonableness of its methodology.<sup>34</sup>

31. NYISO argues that calculating the Locality Exchange Factor separate from the Installed Reserve Margin and Local Capacity Requirement determinations is not a basis for rejecting its filing. NYISO explains that the 2017 Installed Reserve Margin study was complete before it identified a resolution for the capacity export issue.<sup>35</sup>

32. NYISO disagrees with NRG's contention that the tariff changes proposed in the instant filing requires New York generators without capacity obligations in New York to respond to NYISO's reliability dispatch directives. NYISO argues that its existing tariff provisions require that customers, including exporting generators, comply with NYISO Procedures and Reliability Rules related to preventing certain operating issues. In addition, NYISO argues, ISO-NE's market rules already obligate resources exporting from NYISO to ISO-NE to participate in NYISO's energy markets in a manner that is consistent with the obligations of a NYISO capacity resource.<sup>36</sup>

33. Lastly, NYISO argues that NRG's contention that NYISO should adopt a forward capacity market design is beyond the scope of the instant proceeding and that convening a technical conference is unnecessary.<sup>37</sup> NYISO states that its filing neither proposes fundamental changes to the nature of the capacity market in New York nor has implications for the design of other capacity markets in other regions.

---

<sup>32</sup> *Id.* at 4 (citing *Midcontinent Indep. Sys. Operator, Inc.*, 154 FERC ¶ 61,224 (2016)).

<sup>33</sup> *Id.* at 7.

<sup>34</sup> *Id.* 7-8.

<sup>35</sup> *Id.* at 10.

<sup>36</sup> *Id.* at 12-13 (citing, ISO-NE Tariff, Section III.13.6.1.2.3 (b)).

<sup>37</sup> *Id.* at 9, 14.

34. NYPSC disagrees with Potomac's assertion that NYISO should create a product, termed local reliability product, to compensate exporting units for creating counter flow.<sup>38</sup> NYPSC argues that this proposal should be rejected because it would create an economic incentive for units to export capacity and the issues associated with designing a compensation product are beyond the scope of this proceeding.<sup>39</sup> Also, NYPSC disagrees with NRG's arguments opposing NYISO's methodology.<sup>40</sup> NYPSC argues that, rather than double-count capacity, the methodology appropriately measures the amount of counter-flow that could offset a locality's capacity requirement.<sup>41</sup>

**c. Commission Determination**

35. As discussed below, we accept, subject to condition, NYISO's Locality Exchange Factor methodology to be implemented immediately. We find that the proposed methodology is just and reasonable because it corrects a pricing inefficiency in NYISO's ICAP market design. NYISO's proposed methodology will now recognize that an exporting generator continues to operate within its Locality, which would be reflected in the ICAP Spot Market Auction clearing prices by accounting for the portion of exported capacity that can be replaced by capacity located in Rest of State. Therefore, NYISO's proposal will ensure that prices within the Localities reflect actual market conditions and prices.

36. NRG protests NYISO's methodology, arguing that it is a scheme to discount the financial impact of capacity exports by generators in NYISO. We disagree. NYISO's proposal to use counter-flows in setting a Locality Exchange Factor is not designed to provide a financial incentive; rather, it is intended to ensure that the ICAP market appropriately reflects the fact that a resource exporting capacity still provides reliability benefits to Import Constrained Localities. By using a power flow analysis, NYISO proposes an analytically based solution as a way to accurately reflect physical conditions, thereby producing market signals that reflect the true value of capacity. In fact, as evidenced from a recent proceeding on another market, the Commission has agreed that the calculations establishing zonal capacity requirements should account for counter-flows associated with capacity exports.<sup>42</sup>

---

<sup>38</sup> NYPSC Answer at 3.

<sup>39</sup> *Id.* at 5-6.

<sup>40</sup> *Id.* at 8-11.

<sup>41</sup> *Id.* at 8, 10.

<sup>42</sup> *Public Citizen, Inc. v. Midcontinent Indep. Sys. Operator, Inc.*, 153 FERC ¶ 61,385 (2015), *reh'g denied*, 154 FERC ¶ 61,224 (2016) (finding that the Midcontinent Independent System Operator Inc.'s (MISO) tariff provisions were unjust and

37. NRG also argues that NYISO's proposal "double counts" capacity and that NYISO violates portions of the Northeast MOU between NYISO, PJM, and ISO-NE.<sup>43</sup> We find that NRG misinterprets NYISO's proposal. NYISO is not proposing to "double count" capacity from an exporting generator. Rather, NYISO proposes to use a power flow analysis to determine the amount of Rest of State generation that can be imported into the Locality given the constraint relief provided by the export. We note that NRG does not challenge the results of that analysis. The amount of capacity that an exporting generator commits to ISO-NE (or any other neighboring control area) will still be exported from the Import Constrained Locality but, as described above, NYISO proposes market rules that reflect true market conditions. These market conditions include the fact that a counter-flow occurs when capacity is exported and the market should reflect only the amount of capacity that must actually be procured from within the Locality. NRG has not demonstrated that NYISO's methodology is unjust and unreasonable.

38. We also reject NRG's protest regarding NYISO's short-term ICAP market. We disagree that the sole purpose of NYISO's proposal is to mitigate price impacts of a generator leaving the market as NRG suggests. NYISO's proposal was developed to address a resource adequacy issue that would have otherwise led to significant market inefficiencies. The proposal was developed to address only a situation in which a generator in an Import Constrained Locality exports capacity from NYISO. This proposal is not intended to address all circumstances where a generator exits the market. We find NYISO's proposal to be a just and reasonable because it will help maintain an efficient capacity market that is reflective of the actual marginal reliability value of capacity in the Locality.

39. NRG further argues that NYISO introduces a new principle because generators without a capacity supply obligation in NYISO will still be obligated to respond to reliability dispatches there. However, even now, an exporting generator in the G-J Locality will still be physically providing energy and ancillary services within the G-J Locality. Per the ISO-NE Tariff, when an import generator is located in a control area with which the ISO-NE control area has implemented certain enhanced scheduling procedures (e.g., NYISO), "the resource must comply with all offer, outage scheduling and operating requirements applicable to capacity resources in the native Control Area."<sup>44</sup> A capacity resource would therefore be required to offer into NYISO's day-ahead market and remain under NYISO's dispatch control since ISO-NE and NYISO have implemented enhanced scheduling procedures, and would thus continue to provide ~~reliability benefits to the G-J Locality. To fulfill its capacity supply obligations to ISO-~~ unreasonable because they did not properly account for counter-flows resulting from capacity exports to neighboring regions when determining Capacity Import Limits).

<sup>43</sup> NRG Protest at 4-5.

<sup>44</sup> ISO-NE Tariff, Section III.13.6.1.2.3 (b).

NE, a capacity resource would offer energy (competitively) to ISO-NE through Coordinated External Transactions in ISO-NE's Day-Ahead Energy Market and corresponding Interface Bids in ISO-NE's Real-Time Energy Market.

40. NYISO does not propose changes to its Installed Reserve Margin and Locational Minimum Unforced Capacity Requirements as NRG suggests. NYISO's proposal consists of a method of accounting for counter-flows so that resource adequacy requirements reflect actual, physical conditions, planning assumptions, and reliability criteria, and sends the efficient economic signals that are consistent with NYISO's reliability needs. In doing so, the price of capacity is reflective of the marginal reliability value of capacity in the local area and load-serving entities can meet their capacity requirements in the most efficient way possible. There is also no mismatch between interconnection rules and NYISO's proposal as NRG suggests. If a generator fails to maintain its CRIS rights, it may not participate in NYISO's ICAP markets. However, that situation does not call for an end to NYISO's Locality Exchange Factor methodology. The same conditions still exist in terms of the generator's exporting capacity's effects on counter-flows into the Locality.

41. Potomac's request that the Commission mandate that NYISO file a long-term proposal that addresses two key design elements they set forth is beyond the scope of this FPA section 205 proceeding. While we will not set forth specific design elements of a long-term solution in this proceeding, we encourage NYISO to continue to work with stakeholders.

## **2. NYISO's Proposed Transition Mechanism**

### **a. Comments and Protests**

42. Consumer Parties, UIU, NYTOs, and the New York Commission argue that the proposed one-year transition mechanism is appropriate because it allows NYISO and stakeholders the needed time to further refine and evaluate its methodology and complete power flow analysis.<sup>45</sup> Consumer Parties assert that more analysis is needed because NYISO was required to develop the methodology in a short timeframe; therefore, after further analysis, NYISO may identify a more effective solution.<sup>46</sup> Further, NYTOs contend that the one-year transition period will also provide NYISO the opportunity to develop additional information related to price signals and market power concerns, and consider alternative probabilistic analyses.<sup>47</sup> UIU suggests that a more robust analysis is

<sup>45</sup> Consumer Parties Comments at 1, 9; UIU Comments at 5, 7-8; NYTOs Comments at 5; New York Commission Comments at 7-9.

<sup>46</sup> Consumer Parties at 9.

<sup>47</sup> NYTOs Comments at 5.

needed and would include a probabilistic determination of the impact of exports under different conditions that make the impact of these exports more significant.<sup>48</sup> In support of the transition period, the New York Commission reiterates NYISO's statement that additional analysis may produce different, potentially higher Locational Exchange Factors.<sup>49</sup> UIU encourages the Commission to instruct NYISO to also review its Locality Capacity Requirement methodology and assess the impacts of the proposed Locality Export Capacity market design.<sup>50</sup>

43. The commenters in support of the transition mechanism also assert that the proposed one-year transition mechanism will send appropriate market signals. Consumer Parties assert that, under the current market design, consumers in the Lower Hudson Valley and New York City Localities would bear at least \$144 million of inefficient increased capacity costs if Roseton exports capacity to ISO-NE.<sup>51</sup> UIU asserts that the one-year transition mechanism will not adversely impact investment signals because it is unlikely to influence investment or retirement decisions.<sup>52</sup> The New York Commission also states that the one-year transition mechanism balances the uncertainty of an incomplete analysis with consumer and investor interests.<sup>53</sup> NYTOs and Consumer Parties provide similar comments.<sup>54</sup>

44. UIU, NYTOs and Consumer Parties assert that no evidence suggests that a one-year transition mechanism or, as specified by Consumer Parties,<sup>55</sup> Roseton's proposed capacity exports, will jeopardize system reliability.<sup>56</sup> UIU maintains that in-region resources and transmission capacity ensure system reliability during the one-year transition, and argues that the G-J Locality has adequate transmission capacity under

---

<sup>48</sup> UIU Comments at 7.

<sup>49</sup> New York Commission Comments at 8.

<sup>50</sup> UIU Comments at 8.

<sup>51</sup> Consumer Parties Comments at 10-11 (citing consumer Impact Analysis at Slides 15 and 17).

<sup>52</sup> UIU Comments at 5.

<sup>53</sup> New York Commission Comments at 8.

<sup>54</sup> NYTOs Comments at 5; Consumer Parties Comments at 11.

<sup>55</sup> Consumer Parties Comments at 11.

<sup>56</sup> UIU Comments at 6; NYTOs Comments at 5; Consumer Parties Comments at 11.

most conditions to import cheaper and more efficient capacity.<sup>57</sup> According to UIU, the G-J Locality has more than 5 percent of excess capacity and a corresponding loss of load evaluation (LOLE) below its ceiling of 0.1 days per year, with no information suggesting that a loss of 108 MW of capacity, as alleged by IPPNY, may result in LOLE in excess of this ceiling.<sup>58</sup>

45. In addition, Consumer Parties argue that while the Commission has rejected the use of a transition mechanisms in certain instances,<sup>59</sup> the Commission should accept NYISO's one-year transition mechanism because customers have had less time to prepare for the capacity price impacts that may occur during and after the 2018/2019 Capability Year and some uncertainty exists as to whether NYISO's methodology is the most appropriate solution for the export capacity issue.<sup>60</sup> UIU also states that the one-year transition mechanism is consistent with Commission precedent as it provides short-term protection to consumers, mitigates price volatility, and does not harm market efficiency.<sup>61</sup>

46. Finally, UIU and Consumer Parties note that NYISO's methodology and the one-year transition mechanism were approved separately by a majority of market participants and garnered support from four out of five sectors in the stakeholder process.<sup>62</sup> On this basis, Consumer Parties asserts that the Commission should treat any protests to the filing—which includes the transition—as irrelevant hyperbole,<sup>63</sup> while UIU cites the forgoing as evidence that NYISO's filing is the product of NYISO's stakeholder-driven process functioning as intended.<sup>64</sup>

---

<sup>57</sup> UIU Comments at 6-7.

<sup>58</sup> *Id.* at 7 (citing IPPNY Protest at 4). UIU explains that 108 MW is roughly equal to the difference between the exported capacity counted as 'removed' under the one-year transition mechanism and NYISO's preliminary calculation (approximately 30 percent) times the 362 MW of in-region capacity with the potential to be exported to ISO-NE.

<sup>59</sup> Consumer Parties (citing *N.Y. Indep. Sys. Operator, Inc.*, 144 FERC ¶ 61,126, at P 31 (2013)).

<sup>60</sup> *Id.* at 12.

<sup>61</sup> UIU Comments at 5.

<sup>62</sup> UIU Comments at 8; Consumer Parties Comments at 4, 12.

<sup>63</sup> Consumer Parties Comments at 12.

<sup>64</sup> UIU Comments at 5, 8.

47. Potomac urges the Commission to accept NYISO's methodology, but also argues that while NYISO's proposal includes a stakeholder approved Locality Exchange Factor of 80 percent for the 2017/2018 Capability Year, the factor should ultimately be based on a power flow analysis that accurately reflects the extent to which supporting the capacity export will encumber NYISO's transmission capability into Southeast New York, which is not the case with the 80 percent transition mechanism. Potomac further states that it is critically important to use capacity market parameters that accurately reflect physical conditions, planning assumptions, and reliability criteria so that market signals reflect the value of capacity over the long term. Potomac concludes that basing the Locality Exchange Factor on an accurate power flow analysis is necessary to send efficient economic signals that are consistent with NYISO's reliability needs.

48. IPPNY, Entergy, and NRG argue that the Commission should reject NYISO's proposed one-year transition mechanism as unjust and unreasonable. NRG argues that the Commission should reject NYISO's proposed one-year transition mechanism because it ignores basic competitive principles such as supply and demand. Entergy and IPPNY argue that the one-year transition mechanism has no basis, and IPPNY asserts that Potomac believes that the 80 percent figure is arbitrary.<sup>65</sup> Entergy states that NYISO simply asserts that the one-year transition mechanism is reasonable because it is different than the current rules, which do not contain any Locality Exchange Factor adjustment. Entergy argues that the existence of excess capacity within the G-J Locality does not justify the one-year transition mechanism because if it requires only 20 percent of an export to be replaced by capacity located in the G-J Locality, but the export's counter-flows still require 52.2 percent of the export to be replaced by capacity in the Locality, the Spot Market capacity auction will fail to clear sufficient capacity to ensure reliability and the market will not have served its purpose.<sup>66</sup>

49. IPPNY argues that the Commission has rejected similar proposals that lack evidentiary support and that the transition mechanism is inconsistent with Commission precedent.<sup>67</sup> In addition, IPPNY argues that section 35.13 of the Commission's Rules of Practice and Procedure requires proposed rate revisions to be accompanied with

---

<sup>65</sup> IPPNY Protest at 12.

<sup>66</sup> Entergy Protest at 4-5 (citing *KeySpan-Ravenswood v. FERC*, 348 F.3d 1053, 1059-60 (D.C. Cir. 2003) (describing Commission's obligation to conduct "requisite inquiry into whether the new rate is just and reasonable") (citing 16 U.S.C. §§ 824(d)(a), (b); 18 C.F.R. § 35.13)).

<sup>67</sup> IPPNY Protest at 13 (citing Docket No. ER07-360-000, NYISO, Tariff Revisions (Filed December 22, 2006)); *N.Y. Indep. Sys. Operator, Inc.*, 118 FERC ¶ 61,182, at PP 13-14 (2007); IPPNY Protest at 10-11 (citing *ISO New England Inc.*, 147 FERC ¶ 61,173, at P 12 n. 4 (2014)).

information that will adequately support their rate application.<sup>68</sup> Thus, IPPNY argues that the Commission should reject NYISO's one-year transition mechanism.

50. In addition, IPPNY and Entergy argue that the one-year transition mechanism will not provide efficient price signals. IPPNY argues that the one-year transition mechanism will underestimate capacity prices and, therefore, will not provide efficient price signals, a criterion that Commission policy requires.<sup>69</sup> Entergy argues that supplanting the NYISO-developed Locality Exchange Factor with the arbitrary level of 80 percent would artificially suppress prices in the G-J Locality because it fails to recognize the actual need (as determined by NYISO's analysis) for approximately 52.2 percent of any capacity export to be replaced by generation located within the Locality. Entergy further argues that the fact that the 80 percent transition Locality Exchange Factor would be in place for only a one-year period does not make it just and reasonable. They argue that NYISO's Spot Market auction is conducted on a monthly basis and consequently sends current price signals that encourage existing resources to remain in operation, mothballed generation to quickly return to service, suppliers to make repairs and other investments to resume or enhance service, and customers to modify their consumption and production schedules to reduce demand in response to rising prices.

51. IPPNY and Entergy argue that NYISO has not explained why the results of its Locality Exchange Factor methodology should be discarded for the first Capability Year. IPPNY argues that NYISO should not employ a transition mechanism, as the Locality Exchange Factor methodology used reasonable studies to reflect the portion of capacity that could be eliminated from the locality's capacity requirements.<sup>70</sup> Entergy asserts that NYISO identifies no sensitivity analysis or other proposed methods to calculate a Locality Exchange Factor that might produce a more robust or accurate result. In the alternative, IPPNY argues that, if NYISO were to use a transition mechanism, the Locality Exchange Factor should be set at an amount between zero and 47.8 percent.

52. Finally, IPPNY and Entergy assert that stakeholder support for the one-year transition mechanism does not establish that it is just and reasonable.<sup>71</sup> In support, IPPNY argues that the one-year transition mechanism was approved though NYISO's

<sup>68</sup> IPPNY Protest at 14.

<sup>69</sup> IPPNY Protest at 9-10 (citing *N.Y. Indep. Sys. Operator, Inc.*, 147 FERC ¶ 61,148, at P 59 (2014)).

<sup>70</sup> IPPNY Protest at 7.

<sup>71</sup> Entergy Protest at 7 (citing *American Electric Power Service Corp. v. Midwest Indep. Transmission Sys. Operator, Inc.*, 122 FERC ¶ 61,083, at P 172 (2008) (holding that "stakeholder support alone cannot ultimately prove that a rate design is just and reasonable")); IPPNY Protest at 15.

stakeholder process because the process allowed load-serving entities to unduly advance their proposal to implement the transition mechanism, which has the sole purpose of minimizing costs to customers.

**b. Answers**

53. In its answer to protests, AEMA argues that the Commission should approve NYISO's filing in its entirety because it appropriately balances consumer interests and long-term competitive market outcomes.<sup>72</sup> They assert that while the transition 80 percent Locality Exchange Factor would be an inappropriate long-term solution, it is reasonable for the 2017 delivery year. They agree with other commenters' assertions that investment solutions are motivated by longer-term price signals and that there is Commission precedent that supports a transition mechanism.

54. In its answer, NYISO disputes NRG's argument that NYISO's one-year transition mechanism should be rejected. NYISO argues that the transition mechanism was approved through its stakeholder process, and reiterates that the transition mechanism allows for effective price signals, protects the market from unanticipated price increases, provides time for further analysis, and is consistent with Commission precedent.<sup>73</sup>

**c. Commission Determination**

55. NYISO has not shown the transition mechanism's 80 percent Locality Exchange Factor for the G-J Locality to be just and reasonable, and we therefore reject it. We find that the mechanism lacks analytical basis and will delay efficient market signals. In accepting, subject to condition, NYISO's Locality Exchange Factor methodology, we do so because it represents actual system conditions when a generator in an Import Constrained Locality exports capacity to a neighboring control area. The one-year transition mechanism would not produce an efficient outcome because it could overstate the extent to which the capacity export will unencumber NYISO's transmission capability into Southeast New York. In its proposal for the Locality Exchange Factor methodology, NYISO states that "the price signal should reflect only the portion of the export that must be replaced by Resources located within the Locality."<sup>74</sup> The one-year transition mechanism, however, is not based off of the same power flow analysis that NYISO argues is the best way of accounting for counter-flows.

56. Supporters of the transition mechanism argue that NYISO and stakeholders may need more time to refine and evaluate the Locality Exchange Factor methodology.

---

<sup>72</sup> AEMA Answer at 2.

<sup>73</sup> NYISO Answer at 12.

<sup>74</sup> NYISO Transmittal Letter at 3.

Comments in support also assert that a one-year transition mechanism is necessary to avoid uncertainty that may arise from the adoption of the Locality Exchange Factor immediately. We disagree. For the reasons described above, the Commission finds that that Locality Exchange Factor methodology proposed by NYISO is just and reasonable. If NYISO or, in turn, the Commission, had some basis to doubt the efficacy of the Locality Exchange Factor methodology, then rather than implementing a transition, the Commission would be required to reject the methodology in its entirety as unjust and unreasonable. In addition, we find that there is insufficient analysis or evidence to demonstrate that the 80 percent Locality Exchange Factor for the G-J Locality is just and reasonable.

57. We also reject arguments that the transition mechanism is necessary to mitigate consumer impacts. NYISO's current rules do not include a method for calculating a Locality Exchange Factor to take into account the counter-flows resulting from exported capacity. The Commission is committed to ensuring just and reasonable rates for consumers, but any increase in price does not necessarily justify a mechanism that artificially and inefficiently suppresses those prices.

58. Some parties, in their comments in support of NYISO's one-year transition mechanism, cite the fact that the proposal gained the support of four out of the five sectors in NYISO's stakeholder process.<sup>75</sup> NYISO also stated in the filing that a broad spectrum of stakeholders supported the one-year transition mechanism. While it is true that the Commission has approved transition mechanisms that were products of an inclusive stakeholder process and had wide stakeholder support, this fact is not dispositive as to whether a proposal is just and reasonable. As Entergy cites in its protest, the Commission has held in the past that "stakeholder support alone cannot ultimately prove that a rate design is just and reasonable."<sup>76</sup> While we encourage NYISO to continue to ensure a robust stakeholder-driven process, we cannot accept NYISO's proposal for a one-year transition based solely on stakeholder support.

59. We disagree with NYISO's assertion that its one-year transition mechanism is similar to the transition mechanisms that the Commission has approved in two specific cases.<sup>77</sup> The first case concerns a filing where NYISO revised its ICAP Demand Curve process to annually update each demand curve's reference point.<sup>78</sup> To mitigate

<sup>75</sup> UIU Comments at 8, Consumer Parties Comments at 4, 12.

<sup>76</sup> Entergy Protest at 7 (citing *Am. Elec. Power Serv. Corp. v. Midwest Indep. Transmission Sys. Operator, Inc.*, 122 FERC ¶ 61,083, at P 172 (2008)).

<sup>77</sup> NYISO Filing at 12 (citing *N.Y. Indep. Sys. Operator, Inc.*, 156 FERC ¶ 61,039, at P 28 (2016); *ISO New England, Inc.*, 147 FERC ¶ 61,173, at P 56 (2014)).

<sup>78</sup> See *N.Y. Indep. Sys. Operator, Inc.*, 156 FERC ¶ 61,039 at P 20.

any unanticipated price increases from year-to-year, NYISO proposed a “collaring mechanism,” which adjusted the system-calculated reference point so that the year-to-year changes would be nominal over a three year period.<sup>79</sup> NYISO asserts that, in approving the mechanism, the Commission found that the “transition mitigation provides an *acceptable mitigation* to stakeholder concerns regarding potential for price volatility.”<sup>80</sup> Here, however, as noted above, NYISO has not supported the one-year transition mechanism as a way to mitigate price volatility.<sup>81</sup> Further, as asserted by IPPNY, the collaring mechanism was accepted by both suppliers and loads because New York was embarking on fundamental changes to the structure of its ICAP markets.

60. The second case concerns an extension to ISO-NE’s price lock-in mechanism, which allows new resources to use the current year’s capacity clearing price for a certain time period. In that proceeding, ISO-NE’s request to extend its transition mechanism was supported by a study demonstrating that, without the extension, the existing lock-in period would lead to “a steeper demand curve, and thus, greater price volatility.”<sup>82</sup> Thus, the Commission found that the lock-in period was directly correlated with the sloped demand curve parameters. However, here, NYISO has not demonstrated that the one-year transition mechanism is necessary to appropriately mitigate price volatility or unexpected price increases in its ICAP market, or that the mechanism will produce efficient market outcomes. As established above, the transition 80 percent Locality Exchange Factor is not correlated to any part of the Locality Exchange Factor methodology and has no analytical basis. Therefore, we reject this aspect of NYISO’s proposal.

61. Based upon the foregoing, we accept NYISO’s Locality Exchange Factor methodology, subject to condition, and we direct NYISO to submit a compliance filing, within 30 days of the date of issuance of this order, to revise section 5.11.4.1 to remove the provisions that establish the one-year transition mechanism.

The Commission orders:

---

<sup>79</sup> *Id.*

<sup>80</sup> NYISO Filing at 12 n.35 (citing *N.Y. Indep. Sys. Operator, Inc.*, 156 FERC ¶ 61,039, at P 28 (2016)) (emphasis added).

<sup>81</sup> *See supra* P 55.

<sup>82</sup> *ISO New England, Inc.*, 147 FERC ¶ 61,173 at PP 30, 33 (finding that the Monte Carlo simulation demonstrates that the proposed demand curve can reasonably achieve the Filing Parties’ stated market objectives).

(A) NYISO's filing is hereby accepted in part, subject to condition, effective January 29, 2017, as requested, and rejected in part, as discussed in the body of this order.

(B) NYISO is hereby directed to submit a compliance filing, within 30 days of the date of this order, as discussed in the body of this order.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.