July 14, 2017

By Electronic Delivery

Honorable Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

Re: Proposed Enhancements to "Buyer-Side" Market Power Mitigation Measures for Installed Capacity, Docket No. ER17-____-000

Dear Secretary Bose:

In accordance with Section 205 of the Federal Power Act and Part 35 of the regulations of the Federal Energy Regulatory Commission ("FERC" or "the Commission"), the New York Independent System Operator, Inc. ("NYISO") respectfully submits proposed revisions to Section 23.4.5.7 of Attachment H of its Market Administration and Control Area Services Tariff ("Services Tariff"). Section 23.4.5.7 sets forth the NYISO's "Buyer-Side Market Power Mitigation Measures for Installed Capacity" which are referred to throughout this filing letter as the NYISO's "BSM Rules." The proposed revisions include: (i) enhancements to the rules governing the forecasts determined and used by the NYISO in the course of making determinations under the BSM Rules; and (ii) improvements to rules governing the use of escalation factors and inflation rates under the BSM Rules. The proposed revisions are being submitted as a package that balances competing stakeholder interests. This filing letter provides a section by section description of the proposed revisions and an analysis and justification to demonstrate that the provisions are just and reasonable. This package of balanced revisions was developed through extensive negotiations with stakeholders and culminated in unanimous stakeholder support at the conclusion of the governance process. The NYISO therefore respectfully requests that the Commission accept the proposed revisions in their entirety. If the Commission were to require modifications it could disrupt the careful balance underlying the NYISO's proposal and trigger opposition.

With the limited exceptions noted in Section V.B below, the NYISO respectfully asks that its proposed tariff revisions become effective at the conclusion of the standard sixty day notice period under Section 205 of the Federal Power Act, *i.e.*, that they become effective on September 12, 2017. That effective date will enable the NYISO to apply the revised tariff provisions when it makes determinations under the BSM rules for the Examined Facilities in Class Year 2017.

I. Documents Submitted

The NYISO respectfully submits the following documents with this filing letter:

1. A clean version of the NYISO's proposed tariff revisions ("Attachment I") with an effective date at the conclusion of the standard sixty day notice period;

2. A blacklined version of the NYISO's proposed tariff revisions with an effective date at the conclusion of the standard sixty day notice period ("Attachment II");

3. A clean version of the NYISO's proposed tariff revisions with the revisions in Services Tariff Section 23.4.5.7.14, and one sentence in 23.4.5.7.15 with a flexible effective date (as proposed in Section V.B of this transmittal letter) ("Attachment III"); and

4. A blacklined version of the NYISO's proposed tariff revisions with the revisions in Services Tariff Section 23.4.5.7.14 and one sentence in 23.4.5.7.15 with a flexible effective date (as proposed in Section V.B of this transmittal letter) ("Attachment IV").

II. Communications and Correspondence

All communications and service in this proceeding should be directed to:

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III. Description of Proposed Tariff Revisions

A. Proposed Revisions to the BSM Forecasting Rules

1. Background

The BSM Rules currently include multiple provisions pertaining to forecasts of ICAP Spot Market Auction[1] prices, which the NYISO uses when making determinations under its

[1] Capitalized terms not otherwise defined in this filing letter shall have the meaning specified in the Services Tariff which, in accordance with Section 23.4.4 of the Services Tariff, includes the meaning set forth in the NYISO's Open Access Transmission Tariff ("OATT").

economic tests to determine exemptions and Offer Floors.[2] It also addresses forecasts of Energy and Ancillary Services revenues, which are used to make Unit Net CONE determinations.[3]

The development of the forecasting enhancements proposed in this filing traces back to 2012. The New York Transmission Owners and the independent Market Monitoring Unit ("MMU") raised a concern with the forecasting rules in Docket No. ER12-360-001.[4] They argued that tariff language requiring generators that were expected to retire (*i.e.,* that fell within the BSM Rules' definition of "Expected Retirements"[5]) to be excluded from price forecasts should be interpreted to also apply to mothballed generating capacity. In its June 2013 Order[6] in that proceeding, the Commission stated that there was merit to the argument for excluding mothballed capacity from the forecast but that "there may be situations in which mothballed capacity may return to service and be offered in the capacity market, and therefore should be included in the available supply (and not included as a retirement)."[7] But it held that the existing definition of "Expected Retirement" language did not allow mothballed units to be classified as if they were retired. The Commission therefore "encouraged" the NYISO to consult with its stakeholders and "to consider modifying the Services Tariff to include criteria, applicable to all load zones, that can be used to determine if mothballed units should be included in Expected Retirements."[8]

Subsequently, the MMU recommended in several "State of the Market Reports" that the NYISO "modify the definition of Expected Retirements to allow the forecasted prices to reflect capacity that would likely be available under the circumstances modeled in the exemption test."[9]

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[2] The BSM Rules contain two tests to determine economic exemptions and Offer Floors, commonly referred to as the "Part A Test" and the "Part B Test". *See* Services Tariff Section 23.4.5.7.2(a) and (b).

[3] *See* Section 23.4.5.7.3.2 of the Services Tariff; *see also* Section 23.4.5.7.2.3 containing similar provisions for making determinations for NCZ Examined Projects. As described below in Section III.A.2.e of this transmittal letter and in proposed Section 23.4.5.7.14.3, an element of the NYISO's proposed forecasting enhancements would apply to certain definitions proposed earlier in a separate tariff filing, regarding a proposed Self Supply Exemption, that is presently pending before the Commission. *See New York Public Service Commission, et al. v. New York Independent System Operator, Inc., Compliance Filing and Request for Commission Action within Sixty Days*, Docket No. ER16-1404-000 (April 13, 2016).

[4] *See, e.g., Request for Leave to Answer and Answer of the New York ISO's Market Monitoring Unit*, Docket No. ER12-360-001, (Aug. 10, 2012), *Request for Leave to Answer and Answer of the New York Transmission Owners*, Docket No. ER12-360-001, (Aug. 15, 2012) at pp. 11-13.

[5] *See* Sections 23.4.5.7.2.3.1 and 23.4.5.7.3.2 of the Services Tariff.

[6] *New York Independent System Operator, Inc.*, 143 FERC ¶ 61,217 (2013) ("June 2013 Order").

[7] *Id.* at P 112.

[8] *Id.*

[9] *See, e.g., 2015 State of the Market for the New York ISO Markets* at xii, 117 (May 2016), available at:

In response to the June 2013 Order and the MMU's recommendations, the NYISO initiated stakeholder discussions of potential improvements to the forecasting provisions in the BSM rules. A proposal was explored and developed in a series of Installed Capacity Working Group meetings from 2014 through late 2016. It ultimately failed to secure the requisite super-majority stakeholder support. Nevertheless, there continued to be broad stakeholder interest in enhancing the forecasting provisions.

The NYISO then caucused frequently with separate groups of stakeholders based on their interests. As a direct result of input received during those discussions, the NYISO was able to identify the framework for a set of reasonable rules that was both responsive to all interested parties and to which they were amenable. The NYISO also sought the input of the MMU. The NYISO then proceeded to develop a consensus proposal base upon that framework, and subsequently returned to the Installed Capacity Working Group in April 2017 with a revised proposal and revised draft tariff language containing a clear set of rules and detailed methodology. By May, this revised proposal, in tandem with the inflation-related revisions discussed in Section III.B, had obtained broad support from stakeholders with diverse interests, including both supplier- and load-side interests.

2. Proposed Enhancements

(a) Organizational Changes, Definitions, and Posting Rules

The NYISO is proposing to consolidate all of the forecasting provisions under the BSM Rules into a new Section 23.4.5.7.15. The existing rules governing forecasting are the product of a series of incremental tariff revisions made in various filings, some of which were pending before the Commission at overlapping times. They are, therefore, dispersed across a number of different subsections. This new section would replace the individual pieces of forecasting-related language presently dispersed throughout Section 23.4.5.7 and, in appropriate places, would insert cross-references to new Section 23.4.5.7.15. Consolidating all of the forecasting rules in a single subsection will make the NYISO's BSM Rule forecasting regime easier for interested parties to understand in relation to other elements of the forecast. It will also help to ensure that all of the rules are consistent, and continue to be consistent over time.

Proposed new Section 23.4.5.7.15 begins by establishing a single definition, "BSM Forecast," which encompasses both ICAP Spot Market Auction forecasts (referred to as "BSM ICAP Forecasts" in Section 23.4.5.7.15) and forecasted Energy and Ancillary Services revenue estimates. Section 23.4.5.7.15.2 defines publicly available information "demonstrating with reasonable certainty" as "limited to information that has been released, authorized, capitulated, or endorsed by an individual or entity having the authority or right to take specific, definitive, actions; and – if such information is contested, to take unilateral actions regarding the operational status of the facility." This definition is used in several places within the revised forecasting rules and governs certain NYISO determinations of whether to include or exclude a

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<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> at 27.

resource in the forecast. It was developed based on extensive stakeholder input in order to achieve an appropriate representation of events that reasonably could be expected to occur balanced with what realistically could be administered. Section 23.4.5.7.15.1 also introduces the defined term "positive indicator" which is discussed below in Section III.A.2.(b).

In addition to and consistent with the existing rules, Section 23.4.5.7.15 establishes that the NYISO will post all BSM Forecast inputs on its website before the commencement of the Initial Decision Period for a given Class Year, subject to any applicable restrictions on the disclosure of Confidential Information or Critical Energy Infrastructure Information. This posting will include the sources of or references for publicly available information that the NYISO relied upon in a forecast on the ground that it demonstrates a particular value or fact to be true with "reasonable certainty" as defined in Section 23.4.5.7.15.2 (and described in the immediately preceding paragraph).

Proposed new Section 23.4.5.7.15.3 clarifies that, in addition to the forecast parameters and inputs expressly identified in the tariff, the NYISO "shall make assumptions necessary to account for any other value or input . . . ." in accordance with ISO Procedures. Proposed new Section 23.4.5.7.15.3.2 states that the NYISO will use the Load forecast set forth in the most recently published Load and Capacity Data report (*i.e.,* the "Gold Book") or as most recently posted to the NYISO's website per ISO Procedures. Section 23.4.5.7.13.3 would require the NYISO to reflect Special Case Resource enrollment at a level consistent with prior enrollment over the three prior Capability Years when determining a BSM ICAP Forecast.

Finally, proposed new Section 23.4.5.7.15.3.4 addresses the NYISO's use of an inflation index when projecting the ICAP Demand Curve used in certain BSM Forecasts. It is discussed below in Section III.B.

(b) Categories of Resources to Be Included in and Excluded from BSM Forecasts

Core provisions of Section 23.4.5.7.15 introduce extensive new rules to clearly establish which categories of resources will be included in, and which will be excluded from, the BSM Forecasts. They also clearly identify which categories of resources the inclusion or exclusion of which is dependent on additional analysis or circumstances. In general, and consistent with the June 2013 Order,[10] these rules are intended to provide a framework that allows for the inclusion of resources that are reasonably expected to be available during the forecast period and the exclusion of those that are not.

Specifically, Section 23.4.5.7.15.3.1 states that BSM Forecasts will include "Existing Units" and "Additional Units" but not "Excluded Units." Proposed Section 23.4.5.7.15.4 defines "Existing Unit" as "the set of Generators and UDR projects identified in the ISO's most-recently published Gold Book that have CRIS, and are operating at the time that the ISO determines the forecast; including but not limited to Generators in Forced Outage or Inactive Reserve status."

[10] *See* June 13 Order at P 112.

"Additional Units" are those units[11] that do not meet the criteria to be categorically included in the BSM Forecasts but are nevertheless appropriate to include considering the result of further analyses or circumstances. Proposed Section 23.4.5.7.15.5 defines "Additional Units" as:

> [E]ach Generator and UDR project that: (i) has previously offered to supply UCAP, (ii) has CRIS, (iii) is not in Existing Units, and (iv) if a Generator, is in an ICAP Ineligible Forced Outage, Mothball Outage, or Retired; if either: (a) the ISO concludes in its sole judgment that there are sufficient positive indicators that the Generator or UDR project will repair and return to service, or (b) the ISO determines that a return to service of the Generator or UDR project would have a positive Net Present Value as set forth in Section 23.4.5.7.15.8.

Proposed new Section 23.4.5.7.15.1 describes that a "positive indicator" that a Generator or UDR project will repair and return to service "includes indications that a return to service is, in the ISO's judgment, likely and imminent, such as visible site activity, executed labor or fuel supply arrangements, or unit testing." The NYISO's use of Net Present Value determinations to identify "Additional Units" is described in Section III.A.2.(c) below.

It is appropriate to include "Existing Units" in the BSM Forecast because, absent additional information and indications, it is reasonable to assume that units currently operating will continue to do so. "Additional Units," on the other hand, is comprised of units that are currently operating, the future operation of which is in question; along with those units not currently operating that retain the ability to return to service. It is not always appropriate to include units in these circumstances in the BSM Forecasts. For this reason, the rules require additional economic analyses or circumstances in order for a unit to be included in "Additional Units" and thus in the BSM Forecasts.

Section 23.4.5.7.15.6 defines three categories of "Excluded Units," which would not be considered in BSM Forecasts. The three categories, and the respective rationale for their exclusion, are:

- "Generators and UDR projects (i) that have transferred CRIS; (ii) for which the CRIS has expired; (iii) that have CRIS for which a request has been received by the ISO for an evaluation of a CRIS transfer from another location in the Class Year Facilities Study commencing in a calendar year in or preceding the Mitigation Study Period; or (iv) that are an expected transferor of transferred CRIS at the same location."

  The NYISO proposes to exclude this category of resources from the BSM Forecasts because these are units that no longer have the CRIS required to offer capacity and those that no longer would because of their planned transfer of CRIS to projects proceeding through the interconnection process. For example, under these proposed new rules, a unit that is planned to be dismantled in order to be replaced with a new facility is

[11] References herein to "unit" means both Generators and UDR projects as described in the proposed tariff revisions.

appropriately excluded from the BSM Forecasts that are performed as part of the evaluation of that new facility (and all other Examined Facilities evaluated at the same time.)

- "Generators in ICAP Ineligible Forced Outages (even if resulting from Catastrophic Failures), Mothball Outages, or that are Retired;[12] provided they are not identified under Section 23.4.5.7.15.5 as an Additional Unit or an exception under Section 23.4.5.7.15.7."

  This category of resources is proposed to be excluded from the BSM Forecasts because they form the "negative" of "Additional Units." That is, "Additional Units" is comprised of those units that required, and for which there is, additional evidence in support of their inclusion in the BSM Forecasts, whereas this category of Generators is comprised of those units that did not have that supporting evidence.

- "Generators that have submitted a Generation Deactivation Notice,[13] beginning with the proposed deactivation date identified in such notice, provided that: (i) the ISO does not identify sufficient positive indicators that the Generator will repair and return to service and (ii) the ISO determines that a return to service or continued operation of the Generator does not have a positive Net Present Value as set forth in Section 23.4.5.7.15.8."

  "Positive indicators" would have the same meaning, and the Net Present Value determination would be made in the same way, as in the definition of "Additional Units" discussed above. As described further below in Section III.A.2.(c), the NYISO proposes to exclude this category of resources from the BSM Forecasts both as a measure to minimize a potential gaming opportunity that might otherwise be present, and in order to reflect the potential for the finding of a Reliability Need associated with such a unit's retirement. Absent this provision, an entity could notice retirement of one or more of its "Existing Units" in order to advantage an Examined Facility, only to rescind such notice(s) following the conclusion of the Class Year. While the potential for such behavior is still present under the NYISO's proposal, this provision mitigates that risk by assigning it a cost: that is, it requires the entity to notice the deactivation sufficiently far in advance of when it would be able to rescind the notice, that upon rescinding it would be liable for the full cost of the NYISO's reliability study(ies) triggered upon notice of

[12] The OATT provides that "[a] Developer seeking to return a [Large or Small] Generating Facility to Commercial Operations after it is Retired must submit a new Interconnection Request as a new facility." *See* Sections 30.3.1 (applicable to Large Generating Facilities) and 32.1.3 (applicable to Small Generating Facilities).

[13] The Generator Deactivation Notice is in Section 38.24 (Appendix A) of OATT Attachment FF. This notice must be submitted by Generators to the NYISO in advance of their proposed deactivation. The form was proposed as part of the NYISO's "Reliability Must Run" ("RMR") rules, which were accepted in pertinent part subject to the NYISO's further compliance filing which is pending before the Commission in Docket No. ER16-120-003). *See N.Y. Indep. Sys. Operator, Inc.*, Order on Compliance and Rehearing, 155 FERC ¶ 61,076 (2016) ("RMR April 2015 Order").

deactivation. The exceptions described in the next section serve to further limit that potential.

(c) Exceptions to the Inclusion and Exclusion Rules

Proposed new Section 23.4.5.7.15.7 creates several exceptions to the rules establishing which resources fall under the definitions of "Existing Units", "Additional Units", and "Excluded Units". Section 23.4.5.7.15.4 and .5 both reference these exceptions and Section 23.4.5.7.15.7 explicitly states that its rules take precedence over those in any other part of Section 23.4.5.7.15. In general, the exceptions apply to: (i) existing units that have submitted a Generator Deactivation Notice, and thus are being assessed under the NYISO's RMR procedures; and (ii) resources that the NYISO determines should be included or excluded in BSM Forecasts, notwithstanding how they would otherwise be treated under the forecasting rules, based on the publicly available information "demonstrating with reasonable certainty" (as defined above and in the NYISO's judgment) that a particular treatment is appropriate.

The specific exceptions are set forth in Section 23.4.5.7.15.7.1 through 23.4.5.7.15.7.1.7, which apply to the resources described below. Where relevant, additional information is also provided below regarding the scope of, and rationale for, a particular exception. Additional description of the Net Present Value analysis referenced by several of the exceptions is provided in Section III.A.2.(d) below.

- "Generators that have submitted a Generation Deactivation Notice, for which the ISO has not yet completed its Generation Deactivation Assessment, shall not be identified by the ISO as Excluded Units, unless there is publicly available information demonstrating with reasonable certainty that the Generator or UDR project will indefinitely cease operation."

  As discussed previously, the NYISO proposes to exclude this category of resources from the BSM Forecasts both as a preventative measure against a potential gaming opportunity that might otherwise be present, and in order to reflect the potential for the finding of a Reliability Need associated with such a unit's retirement.

- "Initiating Generators with an associated Generator Deactivation Reliability Need for which a Generator Deactivation Solution has not yet been identified, RMR Generators, and Interim Service Providers, shall be included in Existing Units for the expected duration of such Reliability Need with which they are associated. Such Generators shall also be included in Existing Units beyond the expected duration of the Reliability Need if either: (a) the ISO determines, in its sole judgment, that a return to service or continued operation of the Generator has a positive Net Present Value, or (b) there is publicly available information demonstrating with reasonable certainty that the Generator will continue operation."

  The NYISO's RMR rules will require a Generator Deactivation Solution to address the Generator Deactivation Reliability Need. The NYISO proposes to include these units because: (i) absent a separate and distinct Generator Deactivation Solution, the NYISO's RMR rules will likely result in the continued operation of these units for the duration of

the Generator Deactivation Reliability Need, and (ii) the inclusion of these units acknowledges and reasonably accounts for the effect of some other Generator Deactivation Solution, if one is eventually identified and selected in lieu of the unit(s) that are deactivating.

- "Except for those included in the definition of Existing Units, … Generators and UDR projects for which there is publicly available information demonstrating with reasonable certainty that they will indefinitely cease operation, shall be identified as Excluded Capacity beginning with the date determined by the NYISO to be consistent with the expected cessation of operations."

- "Generators and UDR projects for which there is publicly available information demonstrating with reasonable certainty that (a) they will return to service shall be included in Additional Units beginning with the date determined by the NYISO to be consistent with its expected return to service, or (b) they will continue operations shall be included in Additional Units until the date determined by the NYISO to be consistent with their expected continuation of operations."

  The NYISO's proposed rules include these two provisions in recognition that even the most meticulously crafted *a priori* rules may not be able to capture every eventuality. There was strong concurrence among diverse stakeholders for the BSM Forecast rule to include a provision specifically designed to act as a "safety valve" against unforeseen circumstances and situations where, for whatever reason, the "standard" rules would not result in BSM Forecasts that were consistent with prevailing expectations. For example, it might be publicly known that a Generator intends to retire but that the date upon which it intends to do so is sufficiently far into the future that it has not yet submitted a Generator Deactivation Notice. In such an instance, it would be reasonable for the NYISO to exclude that Generator from the BSM Forecasts, provided that the information upon which the exclusion was premised provided reasonable certainty that it would indeed retire on or about the identified date.

  While stakeholders agreed that it was appropriate for the NYISO to utilize its judgment in certain circumstances and to include tariff provisions to that effect, those same discussions also highlighted the importance of defining those circumstances as clearly as possible, and the importance of transparency accompanying the administration of such provisions. The NYISO's proposed rules incorporate associated provisions to accompany both of these elements.[14]

- "Where determined by the ISO in its sole judgment to be reasonable, the additional capability associated with the repair of a Generator or UDR project that has been operating under a long term partial derate (such as due to the delay or deferral of repairs) may be treated as if it were in and of itself a separate Generator or UDR project in an ICAP Ineligible Forced Outage [for BSM Forecast purposes]. In such instances, the net

[14] *See* Sections 23.4.5.7.15.7.1 - 23.4.5.7.15.7.4, and 23.4.5.7.15 (requiring the posting of publicly available information relied on in such determination).

present value of the investment required for the Generator or UDR facility to return to its original capability or capability prior to the long term partial derate shall be evaluated in place of the cost of returning to service."

The inclusion of this provision is appropriate because conceptually, a long term partial derate resulting from the delay or deferral of repairs is likely to be economically indistinguishable from an ICAP Ineligible Forced Outage for the purposes of the BSM Forecasts. In these instances, it is appropriate to model the unit in the BSM Forecasts as if it actually were in an ICAP Ineligible Forced Outage.

- "The ISO shall not be required … to determine whether a return to service or continued operation would have a positive Net Present Value … for: (i) Generators in ICAP Ineligible Forced Outages that the ISO determined to have resulted from a Catastrophic Failure; and (ii) Generators that are Retired, provided that in the case of (ii), in the ISO's sole judgment, (a) the Generator was subject to actions that rendered it permanently inoperable, (b) the reversal of such actions would be a nontrivial undertaking, and (c) the NYISO has received confirmation from it that it has permanently ceased operations."

  This provision is appropriate because (i) it provides symmetry with the existing rules governing Generator outage states,[15] which do not require the economic evaluation of Generator with a Catastrophic Failure for the purposes of a physical withholding review, (ii) the data relied upon by the NYISO in these proposed rules and collected as part of the Generator Deactivation process is not collected for units having suffered a Catastrophic Failure, and (iii) it is not reasonable to evaluate the economics of the potential for a return to service of Generators that are Retired and that have taken further actions demonstrating that they have not retained the option to return to service, even if their CRIS has not yet expired.

- Finally, in accordance with Section 23.4.5.7.15.7, "[t]he production and sale of energy from Generators and UDR projects that only have ERIS and no CRIS, or that will have ERIS only after a transfer of CRIS, for which the NYISO has received notice or made a determination in the Class Year [would] be modeled in BSM Forecasts, but [would] be excluded from the BSM ICAP Forecast."

  As required by Attachment S of the OATT, proposed new Section 23.4.5.7.15.7 states that the NYISO must have either: (i) received notice that the transaction is final if a transfer of CRIS at the same location; or (ii) have determined that the facility receiving the transfer is deliverable and such transferee is either in the Class Year being examined, or remained in a prior Class Year at the time of its completion, if a transfer of CRIS from a different location. This limitation is appropriate because it is reasonable to expect these units will not be participating in the ICAP market, given that in order to do so they would need to enter a subsequent Class Year for CRIS.

[15] *See* Services Tariff Section 5.18, commonly referred to as the Generator "Outage States" rules. *See also* Section 23.4.5.6.1 (physical withholding rules).

(d) The Net Present Value ("NPV") Analysis

Proposed new Section 23.4.5.7.15.8 establishes the NPV analysis that is used to determine whether certain resources will be included in or excluded from BSM Forecasts. Several of the tariff provisions presented in this filing, and described above, call for the NYISO to conduct an NPV analysis. Those provisions call upon an NPV analysis because they govern the treatment of units in situations where their return to service or continued operation is contingent upon economic considerations. The purpose of the analysis is to evaluate those economic considerations and to determine whether a Generator or UDR project that could return to service or continue in operation would have a positive NPV under NYISO-predicted market conditions. Consistent with expectations premised upon the resource's rational behavior, Section 23.4.5.7.15.8 provides that it would be included in the relevant BSM Forecast if the analysis indicates that the resource's NPV would be greater than zero, and that it would be excluded if its NPV is less than zero.

The NYISO anticipates that in most instances it will be able to use for NPV analysis the same data that Generators provide in connection with the physical withholding analysis under Section 23.4.5.7.8, and that it gathers from Generators in relation to their submission of a Generator Deactivation Notice.[16] The NPV analysis would consider the entry of proposed projects in the Class Year and projects in prior Class Years that have not yet entered the market in accordance with ISO Procedures.[17] The process would appropriately model the returning unit's opportunity to recover some or all of its investment costs ahead of the new Class Year projects' entry.[18] Units that, as a result of this evaluation, are modeled as returning to service would be modeled as if they were going to remain in service for as long as they continue to receive going forward costs.[19] Units that experienced a Catastrophic Failure and certain kinds of Retired units would not be considered.[20]

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[16] *See* proposed Section 23.4.5.7.15.8.3 of the Services Tariff; *see also* Appendix F of Attachment Y of the NYISO OATT. *See also*, RMR April 2015 Order at 64 ("[a]s for the financial information requirements contained in proposed Appendix F of Attachment Y of the NYISO OATT, we find NYISO's proposal to be just and reasonable…. [The data provided under that process is] consistent with NYISO's responsibility to monitor its markets and competitive market behavior [and is] also consistent with the information requirements NYISO currently imposes on deactivating generators so NYISO can analyze market power considerations" (citing NYISO, Services Tariff, Attachment O, §§ 30.3.3 (2.0.0), 30.6.2 (5.0.0)).

[17] Those procedures are described in the MMU in Assessment of the Buyer-Side Mitigation Exemption Tests for the Class Year 2015 Projects, 2 Feb 2017, at pp**.** 40 - 42, available at <http://www.nyiso.com/public/webdocs/markets_operations/services/market_monitoring/ICAP_Market_Mitigation/Buyer_Side_Mitigation/Class%20Year%202015/MMU%20Report%20on%20CY15%20BSM%20Evaluations%20Final%20-%2002022017.pdf > .

[18] *See* Section 23.4.5.7.15.8.

[19] *See* Section 23.4.5.7.15.8.1.

[20] *See* Section 23.4.5.7.15.7.6.

Finally, proposed new Section 23.4.5.7.15.8.3 would define the types of information that the NYISO would consider in the NPV analysis. It would also empower the NYISO to substitute estimated data, or deem a resource to be an Excluded Unit, if it fails to provide timely and complete data.

(e) Tariff Revisions Related to the NYISO's Proposed Self Supply Exemption

Finally, Section 23.4.5.7.15 states that the rule for "Excluded Capacity," which is set forth in Section 23.4.5.7.15.7.3 (and described above) would apply to "Self Supply Capacity" and "Additional Self Supply Capacity" under Section 23.4.5.7.14.3. The NYISO proposed Section 23.4.5.7.14.3 is part of its pending compliance filing to establish a "Self Supply Exemption" under the BSM Rules in Docket No. ER16-1404-000.[21] As described below in Section V.B of this filing letter, the NYISO is requesting a flexible effective date for this one sentence in Section 23.4.5.7.15[22] and the revisions in Section 23.4.5.7.14. The NYISO would propose a specific effective date after the Commission issues an order accepting the pertinent tariff provisions proposed in Docket No. ER16-1404.

This filing proposes to update pending Section 23.4.5.7.14.3's proposed definitions of "Self Supply Capacity" and "Additional Self Supply Capacity" to replace references to "Expected Retirements" with references to Generators or UDR projects "identified in Excluded Capacity" per Section 23.4.5.7.15.7.3.[23] The update is necessary to conform the already pending language of the NYISO's Self Supply Exemption to the terminology changes and other revisions pertaining to BSM forecasts introduced in this filing

B. Proposed Revisions Related to Escalation Factors and Inflation

1. Background

Starting in late 2016, *i.e.*, at the same time that it was developing the BSM Forecast revisions described above in Section III.A, the NYISO was working with stakeholders to develop separate enhancements to the rules governing the use of inflation and escalation factors under the BSM Rules. The inflation and escalation enhancements are also driven by the NYISO's revision of its ICAP Demand Curve annual filings and provisions on its four-year resets of the ICAP Demand Curves, and will enable the BSM Rules to use similar values where appropriate.

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[21] *See New York Public Service Commission, et al. v. New York Independent System Operator, Inc., Compliance Filing and Request for Commission Action within Sixty Days*, Docket Nos. EL15-64-000, ER16-1404-000.

[22] The sentence reads as follows: "The rule for Excluded Capacity set forth in Section 23.4.5.7.15.7.3 shall apply to Self Supply Capacity and Additional Self Supply Capacity under Section 23.4.5.7.14.3."

[23] The proposed revision in Section 23.4.5.7.14.4.1 incorporates a cross reference to the proposed BSM Forecasting provisions.

2. Proposed Enhancements

The NYISO would revise Section 23.4.5.7's current rule governing the application of inflation to annual adjustments to Offer Floors. Under the proposed change, Offer Floors would be adjusted annually using "the most recent inflation rate that is the twelve month percentage change in the index for the general component of the escalation factor ("Inflation Rate") that is the most recent of (a) the Inflation Rate identified in the index accepted by the Commission after a periodic review in an ICAP Demand Curve Reset Filing Year, as of October 1 of the ICAP Demand Curve Reset Filing Year, and (b) the Inflation Rate in the Annual Update of the relevant effective ICAP Demand Curves published under Section 5.14.1.2.2.1 of the Services Tariff."

The NYISO is also proposing to revise the language in Section 23.4.5.7.4 that addresses the use of inflation in Unit Net CONE calculations. Under the revision, the NYISO would use the most recent "inflation index" defined as "the average of the most recently published median Headline Consumer Price Index (CPI) and Headline Personal Consumption Expenditures (PCE) long-term annual averages for inflation over the ten years that includes the last year of the Mitigation Study Period, as reported by the Survey of Professional Forecasters." In the event that index ceased to exist, the NYISO would "utilize the replacement or successor index established by the publisher, if any, or, in the absence of a replacement or successor index" would select a "substantially similar index" as a replacement.

The revision in Section 23.4.5.7 adds clarity and aligns with the new ICAP Demand Curve annual update rules. The revision maintains the assumed general inflation rate from the effective Demand Curve, which is appropriate when annually adjusting Offer Floors.

The revised inflation index in Section 23.4.5.7.4 represents an enhanced forecast for the future inflation expectations that are needed in Unit Net CONE calculations, relative to that which is currently specified, and that retains the transparency of the same.

The NYISO is also proposing to revise Section 23.4.5.7.3.7 to update an existing provision that governs the inflation treatment of Installed Capacity Suppliers that are subject to an Offer Floor and that offer UCAP prior to the first Capability Year of the Mitigation Study Period for which they were evaluated. The revision would establish that such an Installed Capacity Supplier's Offer Floor would be deflated by the same numerical value under the same inflation index that was used in the final determination issued for it under Section 23.4.5.7.4. This revision would ensure that consistent inflation values are used for different determinations made under the BSM Rules.

IV. Stakeholder Review and Independent MMU Input

The package of proposed revisions included in this filing was approved unanimously (without abstentions) by the NYISO's stakeholder Management Committee at its May 31, 2017 meeting.[24] As noted above, the proposed revisions are a balanced package that addresses

[24] The proposed Tariff sections included as Attachments to this filing include non-substantive ministerial revisions that were made to the versions presented to the NYISO's Management Committee.

complex issues which, in some instances, have taken years to resolve. They represent a carefully negotiated balancing of diverse stakeholder preferences and interests. If the Commission were to require changes to any part of the proposal it would likely cause at least some stakeholders to oppose the proposal as a whole.

The filing of these tariff revisions was authorized by the NYISO's Board of Directors on June 19, 2017.

The NYISO's proposed package of tariff revisions incorporated input from, and has been reviewed by the independent MMU. The MMU has authorized the NYISO to state that it supports the NYISO's proposed tariff revisions and agrees that they enhance the existing BSM Rules.

V. Effective Date

A. With the limited and specific exceptions pertinent to the Self Supply Exemption provisions described above in Section III.A.2.(e) and Attachments III and IV, and also in the next paragraph, the NYISO respectfully requests that the Commission make the tariff revisions proposed in this filing effective at the end of the statutory sixty day notice period (*i.e.*, on September 12, 2017. This will enable the NYISO to administer and apply these enhanced rules when it makes buyer-side mitigation exemption and Offer Floor determinations for Examined Facilities in Class Year 2017. Class Year 2017 is already underway and the NYISO has begun its data collection and analysis process in order to make those determinations. The acceptance of this package of enhancements by September 12, 2017, with that effective date, will provide the NYISO sufficient time to adequately perform all necessary steps to administer these proposed tariff revisions.

B. The exception is that the NYISO requests a flexible effective date for its proposed revisions to Sections 23.4.5.7.14, which pertain to the NYISO's pending compliance tariff revisions in to establish a "Self Supply Exemption" under the BSM Rules, and the corresponding sentence in Section 23.4.5.7.15 set forth in n. 22. The NYISO requests that these revisions, discussed in Section III.A.2.(e) of this filing letter, become effective two weeks after the occurrence of the later of the following: (1) September 12, 2017, the requested effective date for all other tariff revisions proposed in this filing (which are included in Attachments I and II); and (2) the date that the Commission accepts Section 23.4.5.7.14 and the corresponding sentence in Section 23.4.5.7.15, as proposed in Docket No. ER16-1404[25] which are proposed to be modified

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The NYISO notified the Management Committee, Business Issues Committee and Installed Capacity Work Group of these ministerial revisions, and posted a version on its website of the Management Committee-approved tariff revisions with the ministerial incremental revisions highlighted; available at: <http://www.nyiso.com/public/webdocs/markets_operations/committees/mc/meeting_materials/2017-05-31/MST%2023%204%205%20BSM%20Redline%20MC%20_ministerial%20updates.pdf?_cldee=Z2thdmFuYWhAbnlpc28uY29t&recipientid=contact-3164b57d2e27e5119404005056810dcf-73e02bd76682416da2d1fbbce9c92ebd&esid=8aa7fa7e-c468-e711-9432-005056815c52>.

[25] *See* supra at n. 21. The revisions proposed in that docket have a requested effective date of October 9, 2015 in accordance with the Commission's order. *See New York Public Services Commission,*

herein (as shown in Attachments III and IV). The NYISO will promptly notify the Commission, parties to this proceeding, and its stakeholders after those events occur. It will then make a filing to establish a specific effective date for the relevant provisions and will refile the Tariff section to reflect the effective date of the accepted revisions.

VI. Service

The NYISO will send an electronic link to this filing to the official representative of each of its customers, to each participant on its stakeholder committees, to the New York State Public Service Commission, and to the New Jersey Board of Public Utilities. In addition, the complete filing will be posted on the NYISO's website at www.nyiso.com.

VII. Conclusion

The New York Independent System Operator, Inc., respectfully requests that the Commission accept the proposed tariff revisions in this filing in their entirety without any modifications in order to preserve the consensus stakeholder agreement underlying the proposed revisions. Further, the analysis and justification in this filing letter demonstrate that the proposed package of revisions is sound and balanced, and are just and reasonable.

Respectfully submitted,

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et al. v. New York Independent System Operator, Inc., 153 FERC ¶ 61,022 (2015) at P 10. Should the Commission's order on the NYISO's compliance filing in Docket No. ER16-1404-000 require a revision to the revisions proposed in Attachments III and IV, the NYISO's would work with its stakeholders to propose conforming amendments consistent with this filing.