UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Cricket Valley Energy Center, LLC	)	
Empire Generating Company, LLC	)	
	)	
v.	)	**Docket No. EL21-7-000**
	)	
New York Independent System Operator, Inc.	)	

REQUEST FOR LEAVE TO ANSWER AND ANSWER OF THE NEW YORK INDEPENDENT SYSTEM OPERATOR, INC

In accordance, with Rules 212 and 213 of the Commission's Rules of Practice and Procedure, the New York Independent System Operator, Inc. ("NYISO") respectfully submits this request for leave to answer and answer. This filing responds to the *Motion for Leave to Answer and Answer* that the Complainants[1] filed on November 24, 2020 (the "CVEC Answer").

The filings in this proceeding overwhelmingly oppose the Complaint[2] and almost unanimously ask the Commission to reject its requested relief. As discussed below, the CVEC Answer fails to address the arguments set forth in the NYISO Answer[3] and in other pleadings. The NYISO and other parties demonstrated that the Complaint wholly failed to: (i) meet its burden of proof under the Federal Power Act ("FPA"); or (ii) justify ignoring regional differences based on the "standard solution" concept or any other rationale. The CVEC Answer does nothing to remedy these flaws. It also mischaracterizes a key point in the NYISO Answer

[1] The Complainants are Cricket Valley Energy Center, LLC ("CVEC") and Empire Generating Company, LLC.

[2] *Complaint and Request for Fast Track Processing*, October 14, 2020 ("Complaint").

[3] *Answer of the New York Independent System Operator, Inc*., November 18, 2020 ("NYISO Answer").

and falsely insinuates that the NYISO did not faithfully administer its buyer-side market power mitigation measures (the "BSM Rules") in the past. Finally, there is even less justification now for the CVEC Answer's request for expedited Commission action than there was at the time that the Complaint was filed. This answer therefore renews the NYISO Answer's request that the Complaint be denied in its entirety.

I. REQUEST FOR LEAVE TO ANSWER

The Commission has discretion to accept answers to answers when they help to clarify complex issues or to facilitate the resolution of a proceeding.[4] Allowing the NYISO to respond to the CVEC Answer[5] is necessary to correct its mischaracterization of record evidence, the applicable legal standards, and the NYISO's past approach to the BSM Rules. The NYISO's corrections and clarifications will assist the Commission in resolving the issues in this proceeding.

II. ANSWER

A. The CVEC Answer Does Not Remedy the Complaint's Failure to Satisfy the FPA's Burden of Proof

The NYISO Answer demonstrated in detail that the Complaint did not meet its burden of proof under the FPA. The Complaint proposed to overturn the currently-effective, Commission-approved BSM Rules based on claims regarding the price impacts of Zero Emission Credits

[4] *See e.g.*, *New York Independent System Operator Inc.*, 133 FERC ¶ 61,178 at P 11 (2011) (allowing answers to answers and protests "because they have provided information that have assisted [the Commission] in [its] decision-making process"); *Morgan Stanley Capital Group, Inc. v. New York Independent System Operator, Inc.*, 93 FERC ¶ 61,017 at 61,036 (2000) (accepting an answer that was "helpful in the development of the record . . . .")

[5] In order to keep the focus on the most important issues in this case, the NYISO is not seeking leave to respond to any other filing in this proceeding. The NYISO's silence with respect to assertions in the CVEC Answer, or in any other filing, that are not addressed herein should not be construed as agreement or acquiescence.

("ZECs") in the Rest-of-State ("ROS") region and the potential future entry of state-supported renewables. The NYISO explained that Complainants' arguments were overstated on their individual merits and, more generally, had nothing to do with most aspects of the BSM Rules. Specifically, Complainants made no showing that the NYISO's established Part A and Part B Exemption Tests, the Competitive Entry Exemption ("CEE"),[6] Renewable Exemption,[7] or the still-evolving Self Supply Exemption were no longer just and reasonable.[8] They also did not demonstrate that: (i) the NYISO's existing methodology for creating New Capacity Zones, within which the BSM Rules would automatically apply, was inadequate;[9] (ii) the Complaint was not an impermissible collateral attack on numerous orders addressing the BSM Rules;[10] (iii) the Complaint was consistent with directly applicable Commission and judicial precedent;[11] and (iv) the Complaint was consistent with cooperative federalism concerns, particularly in a single state region.[12] Multiple other filings strongly opposed the Complaint.[13] Several of them included

[6] The Shanker Supplemental Affidavit reiterates that Complainants' Clean MOPR proposal would include some form of competitive exemption. By contrast, the CVEC Answer does not address the NYISO Answer's point that there are differences between the NYISO's CEE and PJM's version and that the Complaint had not offered any justification for changing the NYISO CEE. *See* NYISO Answer at 29-30.

[7] Capitalized terms that are not otherwise defined herein shall have the meaning specified in the NYISO's Market Administration and Control Area Services Tariff.

[8] *See* NYISO Answer at 28-31.

[9] *Id.* at 31-33.

[10] *Id*. at 33-35.

[11] *Id*. at 35-38.

[12] *Id*. at 38-40.

[13] *See, e.g., Protest of Exelon Corporation* ("Exelon Protest") at 4-13, *Protest of the Clean Energy Parties* at 33-34 ("Clean Energy Parties"); *Protest of the American Public Power Association and The New York Association of Public Power* ("APPA/NYAPP Protest") at 6-8 (highlighting the Complaint's failure to show that the NYISO's Self-Supply Exemption is unjust and unreasonable and making same point regarding the Renewable Exemption and the Part A and Part B Exemption Tests.); *Comments of the Institute for Policy Integrity at New York University School of Law* at 2-3 ("Policy Integrity Protest"); *Indicated New York Transmission Owners' Protest* at 15-16 ("New York TO Protest"); *Protest of the New York State Public Service Commission, New York State Energy and*

additional arguments backed by expert testimony of their own.[14] No other party argued that Complainants satisfied their burden of proof.

The CVEC Answer makes almost no effort to remedy the Complaint's deficiencies or to engage the substance of the various objections raised against it. Instead, the CVEC Answer tries to wave away the well-supported arguments by mischaracterizing them as "noise"[15] that "rehash"[16] points that were supposedly already resolved by the PJM "MOPR Orders."[17] In fact, the NYISO and other parties clearly identified the Complaint's fundamental flaws. One party has already filed an answer highlighting that the CVEC Answer incorrectly claimed that its argument was a "rehash" of one that it previously made in the MOPR Order proceedings.[18] Another has refuted the CVEC Answer's inaccurate assertion that expert testimony opposing the Complaint constituted an "admission"[19] that somehow endorsed it.[20]

Research Development Authority, Utility Intervention Unit of the New York State Department of State, City of New York, Municipal Electric Utilities Association of New York, and Multiple Intervenors ("NYS Protest") at 3-4.

[14] *See, e.g.,* Clean Energy Parties at Appendix A, *Written Testimony of Dr. Kathleen Spees and Dr. Samuel A. Newell*; New York TO Protest at Attachment 1, *Affidavit of Michael D. Cadwalader*; NYS Protest at Attachment A, *Declaration of Adam B. Evans,* and Attachment B, *Affidavit of Marc D. Montavalo*; NY TO Protest at Attachment I, *Affidavit of Michael D. Cadwalader*.

[15] *See* CVEC Answer at 7.

[16] *Id*. at 3.

[17] *Calpine Corp. v. PJM Interconnection, L.L.C.*, 163 FERC ¶ 61,236 (2018) (the "2018 MOPR Order"); 169 FERC ¶ 61,239 (2019) (the "2018 MOPR Order"); 171 FERC ¶ 61,034 (2020) ("2018 MOPR Rehearing Order"); 171 FERC ¶ 61,035 (2020) ("2019 MOPR Rehearing Order"); 173 FERC ¶ 61,061 (2020) ("October 2020 MOPR Compliance Order") (collectively the "MOPR Orders").

[18] *See Motion for Leave to Respond and Limited Response of the Institute for Policy Integrity at New York University School of Law* at 3-4 (December 1, 2020).

[19] See CVEC Answer at 8 ("[A]s Dr. Shanker explains, the testimony of Exelon's experts confirms that there is 'a material price suppressive effect and substantial cost shifting from consumers to suppliers under the current rules . . . .'")

[20] *See Motion for Leave to Answer and Answer of Exelon Corporation* at 5 (December 3, 2020) ("Exelon Answer") ("Dr. Shanker claims that Exelon's experts have confirmed that the current policy materially suppresses prices and shifts costs from customers to producers. Not so. As Exelon's Patterson/Schnitzer Declaration explained, current prices are at the competitive level because they reflect

The Shanker Supplemental Affidavit makes a limited attempt to counter the NYISO's and independent MMU's explanation that Dr. Shanker's price suppression analysis was overstated and one-sided. Dr. Shanker claims that retirements driven by state policies are not fully offsetting state actions that support existing generation.[21] He also suggests that the NYISO Answer only responded to his ZEC analysis and did not account for his claims regarding expected future renewable entry.

Neither of Dr. Shanker's objections has merit. His ZEC price impact argument would effectively require the NYISO to prove that exiting resources will offset every MW of resources supported by state subsidies. But as the NYISO Answer explained, applicable precedent does not require such precision. Instead, the Commission requires a balancing of the risks of under- and over-mitigation that allows for some limited amount of potential suppression.[22] The Part A Exemption Test and the Renewable Exemption are existing examples of mechanisms that allow limited uneconomic entry to occur without mitigation when market conditions allow. These exemptions permit this new entry to occur without causing significant price suppression. The

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the amounts that clean resources need from the capacity market after accounting for the legitimate compensation they receive for their environmental attributes—a positive externality that the state is free to compensate as the regulator of those attributes and generation facilities.") (Internal footnote omitted). The NYISO does not believe that Exelon's arguments against the Complaint could plausibly be construed as supporting it. Of course, even if Exelon had made "an admission," it would hardly be dispositive in this case given the evidence presented by the independent MMU and NYISO that Dr. Shanker's price suppression analysis is wrong.

[21] *See* Shanker Supplemental Affidavit at PP 18-19.

[22] S*ee, e.g., NextEra Energy Resources, LLC v. FERC*, 898 F.3d 14 at 21 (D.C. Cir. 2018) (upholding the Commission's acceptance of the renewable resources exemption and finding that the Commission reasonably balanced the potential for limited price suppression against competing interests); *New York State Public Service Commission, et al. v. New York Independent System Operator, Inc.*, 154 FERC ¶ 61,088 at P 31 (2016) (reiterating the importance of balancing "the need to mitigate the exercise of buyer-side market power to ensure just and reasonable ICAP market prices with the risk of over-mitigating new entrants."); *Consolidated Edison Co. of New York, Inc. v. New York Independent System Operator, Inc.*, 150 FERC ¶ 61,139 at P 4 (2015); *New York Independent System Operator, Inc*., 143 FERC ¶ 61,217 at P 77 (2013) (noting that the BSM Rules must "appropriately balance the need for mitigation of buyer-side market power against the risk of over-mitigation.")

recent CASPR Rehearing Order confirmed that arrangements that recognize how exiting resources can offset the impact of state support are still valid.[23] Dr. Shanker's approach would also compel the NYISO to act as though state supported resources provide no capacity even though they would in fact provide substantial amounts. As the NYISO and others have noted, doing so would result in artificial capacity price increases. [24]

Similarly, the NYISO Answer did not ignore the Complaint's reference to New York State's ambitious goals that 9,000 MW of offshore wind and 6,000 MW of land-based renewables enter the NYISO-administered capacity market over the next decade and a half. The NYISO Answer discussed how the NYISO's newly accepted Renewable Exemption formula,[25] expected improvements to the NYISO's computation of capacity requirements,[26] and other market enhancements[27] should ameliorate any concern that a future influx of renewable entrants would cause unmitigated price suppression. [28] It should also be noted that 9,000 MW of future offshore wind would provide NYISO with far less than 9,000 MW of capacity given the intermittent nature of the resource. By emphasizing the maximum output of future offshore and

[23] *See ISO New England Inc.*, 173 FERC ¶ 61,161 at PP 43-51 (2020) ("CASPR Rehearing Order"). *See also* CASPR Rehearing Order at P 121 ("[I]n originally accepting the [ISO-NE] renewables exemption, the Commission anticipated that any price suppressive effects would be balanced by a load increase. In the Renewables Exemption Remand Rehearing Order, the Commission recognized that this load increase had not materialized, but also relied on Dr. Ethier's testimony regarding the substantial amount of anticipated retirements to determine that retirements would offset the renewable exemption's price suppressive effects. The *NextEra* court affirmed this analysis.") (Internal footnotes omitted); CASPR Rehearing Order at n. 155; *citing NextEra* 898 F.3d at 21.

[24] *See* NYISO Answer at 33-35 and n. 103; Exelon Answer at 5-6.

[25] *See* NYISO Answer at 29.

[26] *Id*. at 18-19.

[27] *Id.* at 29.

[28] For example, New York State's Climate Leadership and Community Protection Act ("CLCPA"), S.B. 6599, 2019 Leg., 242nd Sess. (N.Y. 2019) (codified as Ch. 106, L. 2019), requires the procurement of 9,000 MW of offshore wind by 2035. This is hardly an immediate threat to the capacity market that would justify expanding the BSM Rules in 2020 or 2021.

land-based wind generation, Dr. Shanker substantially exaggerates how much capacity those resources will ultimately provide and thereby overstates the potential of their entry to suppress capacity prices.

B. The CVEC Answer Fails to Rebut the Overwhelming Record Evidence that Regional Differences Between NYISO and PJM Justify Their Continuing to Have Different Capacity Market Power Mitigation Rules

The CVEC Answer repeats the Complaint's insistence that "there is no difference between the circumstances presented by the Complaint and those addressed by the Commission in the PJM MOPR Orders that would justify a different result here."[29] It also once again tries to justify overriding relevant regional differences by pointing to the "standard solution" language in the original CASPR Order.

The NYISO and other parties have demonstrated that there are significant regional differences between the NYISO and PJM that should prevent the Commission from expanding the scope of the BSM Rules at this time. The NYISO emphasized that, unlike in the MOPR Orders, neither the NYISO nor the MMU favored expanded mitigation at this time.[30] The NYISO also pointed out that New York's status as a single state entity was an important distinction because New York State's policy decisions cannot have the kind of problematic interstate impacts that state decisions can have in the multistate PJM region.[31] Numerous parties supported the NYISO's position.[32] No other party supported the Complainants' radical assertion

[29] CVEC Answer at 5.

[30] *See, e.g.*, NYISO Answer at 2, 11, 24.

[31] *Id.* at 25-26.

[32] *See, e.g.*, Exelon Protest at 2 ("[NYISO] is a single-state RTO, operating wholly within a state that has made a statutory commitment to supporting the entry of large quantities of carbon-free capacity over the next decade. Thus, the Commission's concerns in the PJM Orders about the interstate effects of state subsidy programs---that one state's subsidy programs would impair the price signals relied upon by other states to ensure resource adequacy in a multi-state region---is entirely absent here."); APPA/NYAPP

that regional differences should be ignored in this proceeding. Even IPPNY and EPSA acknowledge that regional differences between the NYISO and PJM justify different approaches in the two regions.[33]

The NYISO Answer and other parties have already explained the faults in Complainant's interpretation of the "standard solution" concept.[34] Just a few weeks ago, the CASPR Rehearing Order underscored the point. That ruling found that the Commission's February 2020 ruling regarding the NYISO's Self-Supply Exemption was not binding on ISO-NE.[35] The fact that the CASPR Rehearing Order continues the Commission's long-established policy of respecting regional differences means that the original CASPR Order cannot plausibly be an excuse for ignoring them. The CVEC Answer's assertion that mitigation should be the same in NYISO and PJM because the same economic principles apply to both[36] is effectively an attempt to use the "standard solution" concept to establish a "standard market design" for capacity market power mitigation.

The CASPR Rehearing Order also referenced earlier Commission rulings that legitimate regional differences could reflect both "particular system characteristics" and "stakeholder input"

Protest at 5; New York TO Protest at 21-22; NYS Protest, Attachment A, Declaration of Adam B. Evans, at P 10.

[33] *See Comments of Independent Power Producers of New York, Inc.* at 3-4; *Comments of the Electric Power Supply Association* at 3. The NYISO disagrees with IPPNY and EPSA to the extent that they assume that price suppression necessitates near-term action in the NYISO. However, the NYISO agrees with them to the extent that they acknowledge that a Clean MOPR is not the right remedy in the NYISO context. The NYISO also agrees that carbon pricing could be a significant market improvement that could help to better harmonize the NYISO-administered markets with New York State's environmental mandates.

[34] *See* NYISO Answer at 9-10.

[35] CASPR Rehearing Order at P 37.

[36] *Id.*

in different regions.[37] The near unanimous opposition by New York stakeholders to the Complaint is thus yet another regional difference that militates against granting it.

PJM itself, the IMM, supplier associations, individual suppliers, a number of utilities, and other parties supported the actions taken by the Commission in the MOPR Orders. Although neither proposal in PJM's Section 205 filing achieved two-thirds super-majority stakeholder support both "jump ball" options also had significant backing. Several PJM state regulators that ultimately opposed the MOPR Orders supported one of those options and thus endorsed some type of action to address the price suppression issues identified by PJM.

In the instant proceeding, by contrast, only Beal Bank, a non-market participant, supports the Complaint.[38] New York State, New York City, the New York State Transmission Owners, New York's large industrial customers, clean energy interests, Exelon, public power interests, and academics are all united in opposition. Even IPPNY and EPSA favor carbon pricing over the Complaint's proposed remedy.

Finally, the CVEC Answer questions the MMU's view, which the NYISO shares, that the use of prompt capacity auctions instead of a forward capacity market, would make a Clean MOPR inappropriate for the NYISO.[39] Dr. Shanker suggests that Dr. Patton is wrong because a Clean MOPR would include an exemption for facilities that "do not receive actionable subsidies."[40] He suggests that competitive entrants will always know whether they would be

[37] *Id*. at P 37 and n. 99.

[38] The *Protest of Complaint by Advanced Energy Management Alliance* ("AEMA Protest") states (at 3) that it "does not disagree" with Complainants that there "may" be price suppression issues in the NYISO but does not support Complainants' requested relief and instead favors collaborative stakeholder discussions led by the NYISO.")

[39] *See* CVEC Answer at 6; Shanker Supplemental Affidavit at PP 14-15.

[40] Shanker Supplemental Affidavit at P 15.

[40] *Id.*

eligible for an exemption in advance and that this should dispel any issues regarding investor uncertainty. Dr. Shanker's expectation is inconsistent with the NYISO's experience administering its existing CEE. It is often unclear whether an applicant has contractual arrangements that might make it ineligible for a CEE at the time that it enters the market. This uncertainty may be part of the reason why relatively few resources have sought a CEE in the NYISO. The same would be true if a Clean MOPR were imposed on New York. In addition, a Clean MOPR would presumably include some form of unit-specific exemption. Entrants could not know in advance whether they would be eligible for such an exemption. Dr. Patton's concerns about grafting a Clean MOPR on to the NYISO's prompt auction-based systems are therefore valid notwithstanding Dr. Shanker's theory.

C. It Is the Complainants, Not the NYISO, that Ask the Commission to Act Arbitrarily and Capriciously

The CVEC Answer mischaracterizes the NYISO Answer as asking the Commission to show "mindless deference" to the NYISO's "preference" that a Clean MOPR not be imposed on New York.[41] Complainants allege that it would be arbitrary and capricious for the Commission to do so.[42]

To be clear, the NYISO Answer did not suggest that the Complaint should be denied simply because the NYISO "preferred" that outcome. The NYISO pointed out that the MOPR Orders, and then-Chairman Chatterjee's statements, established that PJM's and its IMM's support for expanded mitigation were key factors underlying the Commission's decision to impose a Clean MOPR on the PJM region. The fact that the NYISO and MMU oppose

[41] CVEC Answer at 5 and n. 17.

[42] *Id.*

expanded mitigation therefore warrants serious consideration. Several other parties have made the same point.[43]

It is, therefore, the Complainants, not the NYISO, that are asking the Commission to act arbitrarily and capriciously. Complainants would have the Commission ignore the record in this proceeding, and decades of precedent, based on a simplistic and exaggerated interpretation of the CASPR Order's "standard solution" language. The Complaint's invocation of the "standard solution" language is insufficient to justify overturning the BSM Rules. The CVEC Answer's recitation of the phrase is likewise not enough to dispose of the arguments advanced by the NYISO and other parties. If the Commission were to do as the CVEC Answer proposes, it would not be engaging in reasoned decision-making.

D. There Is No Basis for the CVEC Answer's Allegation that the NYISO Is Not Committed to Effective Mitigation

The CVEC Answer asserts that deferring to the NYISO's view that expanded mitigation is unnecessary in New York at this time would be "particularly unwarranted here, given NYISO's history of resistance to effective offer floor mitigation."[44] Complainants cite the Commission's rulings in the *Astoria Generating Co., L.P. v. New York Independent System Operator, Inc.* cases as purported support for their claim.

There is no basis for Complainants' insinuation that the NYISO has not faithfully implemented its tariff. The *Astoria* cases involved a complaint concerning the application of the original version of the BSM Rules. That version contained a number of ambiguities that no longer exist. The Commission denied certain allegations related to the NYISO's interpretation of highly technical tariff provisions and granted others. It never questioned the NYISO's

[43] *See, e.g.*, New York TO Protest at 16; NYS Protest at 19; APPA/NYAPP Protest at 5.

[44] CVEC Answer at n. 17.

independence or impartiality, even though some parties had contended that the NYISO had a "systematic bias" in favor of granting exemptions under the BSM Rules.[45] Complainants have not even attempted to produce evidence, beyond their citation to the *Astoria* cases, of bias by the NYISO. They have overlooked various cases in which the NYISO opposed attempts to create new exemptions under the BSM Rules that the NYISO viewed as inconsistent with Commission precedent.[46] Finally, Complainants overlook the fact that the NYISO's MMU also opposes expanding the BSM Rules in this proceeding.

E. There Is Even Less Justification for the Complainants to Seek Expedited Commission Action Than When the Complaint Was Filed

Finally, the CVEC Answer repeats the Complaint's assertion that there is "no reason why the Commission cannot move expeditiously to grant the Complaint" in order to quickly stop the "continuing harm to unsubsidized suppliers that continues to accrue" that is supposedly occurring now under the BSM Rules.[47]

It is now even clearer than it was when the Complaint was filed that there is no reason to rush to make a ruling in this case. As discussed above, the Complainants have not met their burden of proof and the Commission should not be taking any action beyond denying the Complaint. But even if the Commission were to conclude that some changes should be made, the NYISO,[48] and other parties,[49] have shown that the Complainants did not establish that

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[45] *See, e.g., Confidential Supplemental Answer of the New York Independent System Operator, Inc.,* Docket No. EL11-50-000 (September 8, 2011) (refuting allegations that NYISO had a "systematic bias" in favor of exempting entrants under the BSM Rules.)

[46] *See, e.g., Answer of the New York Independent System Operator, Inc.,* Docket No. EL19-86-000 (August 19, 2019) (opposing the creation of an energy storage exemption under the BSM Rules because the NYISO believed that it had not been shown to be consistent with Commission precedent.)

[47] *See* CVEC Answer at 8.

[48] *See* NYISO Answer at 40-43.

[49] *See, e.g.*, Clean Energy Parties at 40, Exelon Protest at 3.

claimed defects in the BSM Rules were the cause of their claimed financial hardships. IPPNY and EPSA also did not join in Complainants call for expedited relief.[50] Furthermore, the NYISO also explained that even if a Clean MOPR were justified there would be no practicable way to implement it in the NYISO in "several months" as the Complaint imagines.[51]

There is thus no reason for the Commission to seek to make expedited changes in this proceeding. Instead, given the critical importance and substantial implications of the legal and economic issues at stake, should the Commission consider any directives to modify the NYISO's BSM Rules, it should move deliberately. It would reduce uncertainty, and increase the likelihood of a legally durable outcome, if this case were decided by the full Commission (including its newest members). Any Commission directives should be aimed at allowing the NYISO-administered markets to continue to send appropriate investment signals while preserving reliability as they evolve in response to New York State's environmental mandates. The Commission should allow the NYISO and stakeholders to work collaboratively to address the clean energy transition, as most parties in this proceeding prefer.[52]

[50] IPPNY and EPSA both preferred that the Commission implement carbon pricing, a major market design change that would take time to implement.

[51] *See* NYISO Answer at 46.

[52] *See, e.g.*, AEMA Protest at 3; Exelon Protest at 29; Clean Energy Parties at 48-49; New York TO Protest at 3.

III. CONCLUSION

In conclusion, the NYISO respectfully requests that the Commission accept this answer. The NYISO renews its request that the Commission deny the Complaint in its entirety, take no further action, and initiate no new proceedings in response to the Complaint.

Respectfully submitted,

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December 9, 2020

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding in accordance with the requirements of Rule 2010 of the Rules of Practice and Procedure, 18 C.F.R. §385.2010.

Dated at Rensselaer, NY this 9th day of December 2020.

/s/ Joy A. Zimberlin

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