



resource performance challenges during extreme cold weather events. By recalibrating market inputs and rules to reflect seasonal shifts in reliability risk, the NYISO seeks to maintain resource adequacy while supporting efficient investment and resource retention to support winter reliability needs.

The proposal submitted by the NYISO reflects careful consideration of all stakeholder feedback provided throughout the market design process. After reviewing the HQUS Protest, the NYISO's Market Monitoring Unit ("MMU") has authorized the NYISO to state that the MMU reaffirms its support for NYISO's proposal, which, as noted by the MMU, includes changes necessary for the market to provide incentives for reliability during winter conditions and is an important step towards a comprehensive winter capacity market.

The NYISO has demonstrated that all of the proposed revisions in its Winter Reliability Capacity Enhancements Filing are just and reasonable, not unduly discriminatory, and fully supported. This includes the proposed requirement that, at the time of the annual election deadline (i.e., by August 1 prior to the subject Capability Year), holders of Unforced Capacity Deliverability Rights ("UDRs") and External-to-Rest of State Deliverability Rights ("EDRs") must submit two distinct seasonal elections for the upcoming Capability Year, one for the Summer Capability Period and one for the Winter Capability Period, with an accompanying must offer requirement ("Seasonal Election Requirement").

The HQUS Protest fails to show that the Seasonal Election Requirement is not just and reasonable or that it lacks adequate support. Accordingly, the NYISO respectfully reiterates its request that the Commission accept the proposed Winter Reliability Capacity Enhancements Filing to become effective April 20, 2026 (i.e., the day following the end of the statutory 60-day

notice period) without imposing any changes or initiating any additional proceedings. The NYISO would first utilize the proposed enhancements for the 2027-2028 Capability Year.

## **I. REQUEST FOR LEAVE TO ANSWER**

The Commission has discretion to accept, and often accepts, answers to protests.<sup>4</sup> The Commission has previously determined that accepting an otherwise prohibited answer is appropriate when such answer (1) will lead to a more complete and accurate record; (2) helps the Commission better understand the issues; (3) clarifies matters in dispute or errors; or (4) otherwise provides information that will assist the Commission in rendering a decision.<sup>5</sup>

This answer clarifies the facts, corrects erroneous assertions, provides information that will assist the Commission, and assists in the development of a complete record in this proceeding. Accordingly, the Commission should accept and consider this answer.

## **II. ANSWER**

After extensive engagement with stakeholders and the MMU, the NYISO proposed enhancements to the ICAP market rules, which include the Seasonal Election Requirement, in response to the emergence of near-term winter reliability risks that are projected to increase as the NYCA transitions to a winter peaking system.

### **A. The NYISO Met Its Federal Power Act Section 205 Burden and Adequately Supported the Winter Reliability Capacity Enhancements Filing**

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<sup>4</sup> 18 C.F.R. § 385.213(a)(2).

<sup>5</sup> See, e.g., *N.Y. Indep. Sys. Operator, Inc.*, 158 FERC ¶ 61,028 (2017) (accepting answers to protests that provided information that assisted the Commission's decision making process); *N.Y. Indep. Sys. Operator, Inc.*, 134 FERC ¶ 61,058 (2011) (accepting answers to protests because they provided information that aided the Commission in better understanding the matters at issue in the proceeding); *N.Y. Indep. Sys. Operator, Inc.*, 99 FERC ¶ 61,246 (2002) (accepting answers to protests that help clarify issues and did not disrupt the proceeding); *N.Y. Indep. Sys. Operator, Inc.*, 91 FERC ¶ 61,218 (2000) (accepting an answer deemed useful in addressing issues arising in the proceeding at issue); *Morgan Stanley Capital Group, Inc. v. N.Y. Indep. Sys. Operator, Inc.*, 93 FERC ¶ 61,017 (2000) (accepting an answer that was helpful in the development of the record); *N.Y. Indep. Sys. Operator, Inc.*; 175 FERC ¶ 61,012 (2021) (accepting answers because they provided information that assisted the Commission's decision making process).

The NYISO’s Winter Reliability Capacity Enhancements Filing is just and reasonable and adequately supported. The NYISO carefully considered the positions of all parties and adjusted its proposal throughout the stakeholder process in response to feedback. The HQUS Protest does not establish that the NYISO’s proposal is not just and reasonable or that it was not adequately supported.

Under Federal Power Act (“FPA”) Section 205, the NYISO is only obligated to demonstrate that its proposal is just and reasonable. Courts and the Commission have repeatedly recognized that FPA Section 205 does not require the filing party to demonstrate that its proposal is the only reasonable outcome or more reasonable than other potential outcomes.<sup>6</sup> FPA Section 205 “requires the Commission to accept a filing if it is just and reasonable, even if the filing party’s proposal is not the best or preferred approach.”<sup>7</sup> The Commission acknowledges that there “is not a single just and reasonable rate but rather a zone of rates that are just and reasonable; a just and reasonable rate is one that falls within that zone.”<sup>8</sup> The Commission has also explained that “pursuant to FPA [S]ection 205, ‘the filing party need only demonstrate that its proposed revisions are just and reasonable, not that its proposal is the most just and reasonable among all possible alternatives.’”<sup>9</sup> The mere fact that other parties may desire a different outcome or changes to certain aspects of the Winter Reliability Capacity Enhancement

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<sup>6</sup> See, e.g., *N.Y. Indep. Sys. Operator, Inc.*, 122 FERC ¶ 61,064, at P 14, n.12 (2008) (“2008-2011 DCR Order”); *N.Y. Indep. Sys. Operator, Inc.*, 158 FERC ¶ 61,028, at P 156, n.350; *N.Y. Indep. Sys. Operator, Inc.*, 175 FERC ¶ 61,102, at P 130, n.203 (2021); *reh’g denied*, 175 FERC 61,209 (2021); *Indep. Power Producers v. FERC*, 2022 WL 3210362 (D.C. Cir. 2022) (per curiam) (vacating and remanding the 2021-2025 DCR Initial Order); *N.Y. Indep. Sys. Operator, Inc.*, 181 FERC 61,022 (2022); *reh’g granted*, *N.Y. Indep. Sys. Operator, Inc.*, 183 FERC ¶ 61,130, at P 34, n.103 (2023); *reh’g denied*, *N.Y. Indep. Sys. Operator, Inc.*, 185 FERC ¶ 61,010, at PP 12, 32, 41, 49, n.184 (2023) (“2021-2025 DCR Second Remand Rehearing Order”); *New York State Public Service Commission v. FERC*, Case No. 23-1192, (D.C. Cir. 2024).

<sup>7</sup> See, e.g., 2021-2025 DCR Second Remand Rehearing Order at P 32 (footnotes omitted).

<sup>8</sup> See, e.g., *id.* at P 49, n.184 (citation omitted).

<sup>9</sup> See, e.g., *id.* at P 41 (footnote omitted).

Filing does not render that proposal unjust or unreasonable nor does it support the need for any adjustments thereto. As held by the Commission, “we must approve the NYISO’s proposal if supported as just and reasonable even if there are other just and reasonable proposals.”<sup>10</sup>

The NYISO demonstrated that the Winter Reliability Capacity Enhancements Filing, including the Seasonal Election Requirement, is just and reasonable. The NYISO’s transmittal letter specified the need for the Seasonal Election Requirement and justified its acceptance by the Commission. The transmittal letter is reinforced by the affidavits accompanying this answer, which address the HQUS Protest’s specific claims.

The Winter Reliability Capacity Enhancements Filing explained that, currently, unless existing ICAP market power mitigation rules require otherwise, UDR and EDR rights holders may, at times, not offer capacity consistent with their annual elections.<sup>11</sup> As a result, UDR and EDR rights holders that elect to participate in the ICAP market, but do not offer capacity consistent with their elections, can create a misalignment between minimum capacity procurement requirements (“minimum capacity requirements”) and available supply in a capacity delivery month.<sup>12</sup> This misalignment can result in suboptimal market outcomes that may not accurately reflect system conditions, resource adequacy needs, and the resulting value of capacity in consideration of such conditions and needs.<sup>13</sup>

To better reflect the potential for seasonal availability differences of UDRs and EDRs and the corresponding impact that such differences may have on the seasonal availability of capacity supply, the NYISO proposed that, at the time of the annual election deadline (i.e., by

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<sup>10</sup> See, e.g., 2008-2011 DCR Order at P 14, n.12 (citation omitted).

<sup>11</sup> See Winter Reliability Capacity Enhancements Filing at 6.

<sup>12</sup> See *id.*

<sup>13</sup> See *id.*

August 1 prior to the subject Capability Year), UDR and EDR rights holders must submit two distinct seasonal elections for the upcoming Capability Year: one for the Summer Capability Period and one for the Winter Capability Period.<sup>14</sup> These separate election values aim to provide more accurate data on available capacity to inform the assumptions used in the annual NYCA Installed Reserve Margin (“IRM”) study conducted by the New York State Reliability Council, L.L.C (“NYSRC”) and the NYISO’s annual Locational Minimum Installed Capacity Requirements (“LCR”) study as well as the resulting establishment of appropriate seasonal minimum capacity requirements.<sup>15</sup>

In addition, to address the potential misalignment between the proposed seasonal election requirements for UDR and EDR rights holders and actual supply conditions, the NYISO proposed an accompanying must offer requirement.<sup>16</sup> It would require a UDR or EDR rights holder that makes an election to use all or a portion of its rights to supply capacity for a given Capability Period to offer or certify the elected quantity in each ICAP Spot Market Auction for that Capability Period.<sup>17</sup> A UDR or EDR rights holder may meet the must offer requirement by offering its Unforced Capacity (“UCAP”) in the applicable ICAP Spot Market Auctions or certifying the UCAP for use in meeting a Load Serving Entity’s (“LSE”) minimum capacity requirements for the applicable Obligation Procurement Periods.<sup>18</sup>

Under this proposal, if the UDR or EDR rights holder fails to offer or certify UCAP associated with a UDR or EDR that has not been returned to the NYCA in any ICAP Spot

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<sup>14</sup> *See id.* (citing proposed Services Tariff Section 5.12.2.5).

<sup>15</sup> *See id.*

<sup>16</sup> *See id.* at 7.

<sup>17</sup> *See id.* (citing proposed Services Tariff Sections 5.12.2.5 and 5.12.12.4).

<sup>18</sup> *See id.* (citing proposed Services Tariff Section 5.12.2.5).

Market Auction during the subject Capability Period, it shall pay the NYISO an amount for all months of the subject Capability Period equal to the product of (i) 1.5 times the applicable ICAP Spot Market Auction price and (ii) the quantity by which the UCAP associated with the given UDR or EDR that has not been returned to the NYCA exceeds the minimum amount of UCAP associated with the given UDR or EDR that has not been returned to the NYCA that is offered or certified during any month of the subject Capability Period.<sup>19</sup> Further, if the NYISO determines that the UDR or EDR rights holder is subject to a penalty for (1) the failure to offer or certify the UCAP associated with a UDR or EDR as described in Services Tariff Section 5.12.12.4 as well as (2) the failure to offer or sell Mitigated UCAP or External Sale UCAP as described in Services Tariff Section 23.4.5.4.2, the NYISO proposes that the applicable UDR or EDR rights holder shall pay the larger of these two sanction amounts.<sup>20</sup>

The Winter Reliability Capacity Enhancements Filing, including the Seasonal Election Requirement, is just and reasonable and consistent with Commission precedent. Although potential alternative outcomes might be identifiable or advocated by other parties, the existence of any such alternatives does not undermine the demonstration made by the NYISO in this proceeding that its proposal is just and reasonable.

## **B. THE HQUS PROTEST’S ARGUMENTS SHOULD BE REJECTED**

Below, the NYISO explains how the affidavits accompanying this answer address specific matters raised in the HQUS Protest. This additional information refutes HQUS’ claims and reinforces the NYISO’s original justification for accepting the Seasonal Election

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<sup>19</sup> *See id.* (citing proposed Services Tariff Section 5.12.12.4).

<sup>20</sup> *See id.* (citing proposed Services Tariff Sections 5.12.12.4 and 23.4.5.4.2). The penalty that may be assessed under Services Tariff Section 23.4.5.4.2 differs in that it considers the impact of withholding on the resulting market clearing price and includes the total portfolio of MW in the Locality under the control of the Pivotal Supplier and its affiliates. *See id.* at n.18

Requirement as just and reasonable. To the extent that the NYISO has not responded to every point made in the HQUS Protest, it should not be construed as agreement. The NYISO has limited the scope of this response to the most salient issues raised by HQUS consistent with the Commission's preferences regarding the scope of answers to protests.

1. Information Related to the Misalignment Addressed by the Seasonal Election Requirement

HQUS contends the NYISO has not provided sufficient information related to the misalignment addressed by the Seasonal Election Requirement.<sup>21</sup> In addition to the information provided in the Winter Reliability Capacity Enhancements Filing,<sup>22</sup> the NYISO provides the following supplementary information in the Affidavit of Yan Huang ("Huang Affidavit") that is submitted with this answer: (1) a description of the NYISO resource adequacy model used in the NYSRC IRM study and the NYISO's LCR study and its relationship to NYISO ICAP market parameters,<sup>23</sup> (2) a description of the manner in which elections by holders of UDRs and EDRs are reflected in the ICAP market parameters including the ICAP Demand Curves,<sup>24</sup> and (3) an explanation of the potential misalignment addressed by the proposed must offer requirement for UDR and EDR right holders' elections.<sup>25</sup>

2. August 1 Election Deadline

HQUS contends that the proposed deadline to submit elections by August 1 preceding the subject Capability Year should be changed due to special circumstances that apply to the Hydro-Québec ("HQ") system and the system-backed resources that HQUS utilizes for

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<sup>21</sup> See HQUS Protest at 4, 15, 23-24.

<sup>22</sup> See Winter Reliability Capacity Enhancements Filing at 2-11.

<sup>23</sup> See Huang Affidavit at PP 7-37.

<sup>24</sup> See Huang Affidavit at PP 38-41.

<sup>25</sup> See Huang Affidavit at PP 42-47.

participation in the NYISO-administered markets.<sup>26</sup> Contrary to this assertion, HQUS is not uniquely situated in that many other capacity suppliers are also required to submit elections by the August 1 deadline.<sup>27</sup> Thus, even if HQUS' preferred alternative could lawfully be considered in this FPA Section 205 proceeding, it would be unduly discriminatory in HQUS' favor.<sup>28</sup>

HQUS argues that it should be able to change its elected MW amount on a monthly basis, rather than committing to a firm elected MW amount for the entire winter season, so that it can provide additional capacity in the winter shoulder months (November, March and April).<sup>29</sup> The NYISO is not able to incorporate monthly elections in its proposed market design for the same reason it could not adopt semi-annual elections: it would conflict with the timeline for the annual IRM study, which is the responsibility of the NYSRC, and the NYISO lacks authority to change the NYSRC's processes and requirements.<sup>30</sup> Additionally, as discussed below, the NYISO's overall capacity market design seeks to incent the availability of capacity supply during the periods when loss of load risks are most prominent (i.e., the peak period months of each season).<sup>31</sup> Seeking to accommodate additional capacity supply that is solely available during less critical periods, as viewed from the perspective of loss of load risk, would adversely impact the alignment of price signals with the value of capacity in helping to maintain resource adequacy.<sup>32</sup>

### 3. Accommodation of Seasonal Variability in the Capacity Market and Related Penalty Structure

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<sup>26</sup> See Protest at 3, 7, 16-19; Bergevin Testimony at 5-7, 14-15, 17-20; Levitt Testimony at 9, 21-23.

<sup>27</sup> See Affidavit of Zachary T. Smith that is submitted with this answer ("Smith Affidavit") at PP 14-16.

<sup>28</sup> "Discrimination is undue when there is a difference in rates or services among similarly situated customers that is not justified by some legitimate factor." *El Paso Nat. Gas Co.*, 104 FERC ¶ 61,045, at P 115 (2003), *reh'g denied*, 106 FERC ¶ 61,233 (2004).

<sup>29</sup> See Protest at 3, 13, 19-20; Bergevin Testimony at 5, 7, 15-17, 19; Levitt Testimony at 25-27.

<sup>30</sup> See Smith Affidavit at PP 17-19; Huang Affidavit at P 37.

<sup>31</sup> See Smith Affidavit at P 19.

<sup>32</sup> *Id.*

The NYISO's capacity market is designed to reflect system resource adequacy needs and the general loss of load risk profile of the NYCA system.<sup>33</sup> The Seasonal Election Requirement extends this principle to External Resources by requiring a firm seasonal commitment from UDR and EDR rights holders, consistent with the treatment of internal Resources.<sup>34</sup>

Under the NYISO's proposal, if a UDR or EDR rights holder fails to offer or certify in any ICAP Spot Market Auction a quantity of UCAP equivalent to its elected MW value for supplying capacity to the NYCA, such performance failure is subject to penalty.<sup>35</sup> HQUS disputes that it must pay "the NYISO a penalty *for all six months of the season* equal to 1.5 times the applicable spot price multiplied by the shortfall between the amount of retained UDRs/EDRs that should have been offered and the amount that was offered during that month."<sup>36</sup> HQUS' concern represents a misunderstanding of the proposed penalty.<sup>37</sup> While HQUS correctly states that the penalty spans the six-month Capability Period, it misstates the MW quantity subject to penalty.<sup>38</sup> The MW quantity will be determined by the largest shortfall in the Capability Period.<sup>39</sup> The proposed penalty is structured to address the scenario in which a UDR or EDR rights holder may have a financial incentive to elect a higher MW amount than it intends to offer if the ICAP Supplier expects it would still have a net gain in revenue even with a penalty of 1.5 times the market clearing price in only certain months in which it fails to meet its performance

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<sup>33</sup> See Smith Affidavit at PP 20-21.

<sup>34</sup> See *id.*

<sup>35</sup> See proposed Services Tariff Section 5.12.12.4.

<sup>36</sup> See Protest at 14.

<sup>37</sup> See Smith Affidavit at P 23.

<sup>38</sup> See Smith Affidavit at P 23.

<sup>39</sup> See *id.*

obligations.<sup>40</sup> Specifically, a month-by-month penalty structure may not provide an adequate disincentive because, if the capacity supplier has adequate supply in certain months (e.g., shoulder periods), it may only face a penalty in a limited number of months (e.g., peak months).<sup>41</sup> The proposed penalty structure that applies the penalty across all months based on the largest MW insufficiency is intended to address this potential perverse incentive.<sup>42</sup>

#### 4. NYISO Capacity Market Flexibility for Control Area System Resources

HQUS contends that the Seasonal Election Requirement is flawed because the NYISO ICAP market does not provide HQUS an opportunity to buy back capacity commitments at the cost of replacement capacity (a reconfiguration buy-back option) like ISO-New England.<sup>43</sup> This claim is unfounded given the flexibility afforded to HQUS through its participation in the NYISO capacity market as a Control Area System Resource ("CASR").<sup>44</sup> HQUS' participation as a CASR provides it comparable, if not greater, flexibility than other capacity supply resources given that the CASR design affords HQUS the ability to rely on an entire pool of resources and capacity supply arrangements.<sup>45</sup> Reliance on a pool of assets facilitates HQUS' ability to optimize its capacity supply portfolio to meet its commitments to supply capacity to the NYCA, including the ability to leverage its external supply arrangements.<sup>46</sup>

#### 5. Winter Capacity Supply Impacts and Considerations

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<sup>40</sup> *See id.*

<sup>41</sup> *See id.*

<sup>42</sup> *See id.*

<sup>43</sup> *See* Protest at 9-10, 18-19; Bergevin Testimony at 7, 15-16, 21; Levitt Testimony at 4.

<sup>44</sup> *See* Smith Affidavit at PP 24-25.

<sup>45</sup> *See id.* at P 25.

<sup>46</sup> *See id.*

HQUS claims that the Seasonal Election Requirement would prevent HQUS from offering at least an additional 300 MW of capacity in the winter shoulder months (November, March, and April).<sup>47</sup> HQUS contends that the loss of this additional capacity supply will increase capacity costs to New York consumers during the Winter Capability Period.<sup>48</sup> Accordingly, HQUS advocates for the Commission to direct revisions to the NYISO's proposal to accommodate additional capacity supply opportunities for HQUS during the shoulder months of the winter season and suggests certain potential alternatives for the Commission's consideration.<sup>49</sup>

HQUS' analysis includes inaccuracies and fails to properly account for the actual operation of NYISO's capacity market.<sup>50</sup> These flaws undermine the results of HQUS' analysis and produce an overestimation of any alleged impacts.<sup>51</sup> Additionally, HQUS' analysis and suggested alternatives fail to account for broader market impacts.<sup>52</sup> The suggested alternatives would adversely impact the alignment of capacity market price signals with the value of capacity in addressing the resource adequacy needs and loss of load risks faced by the system.<sup>53</sup> Adoption of the proposed alternatives without full consideration of any necessary corollary or complementary rule changes could potentially provide revenues to UDRs or EDRs above and beyond the reliability benefits they are providing to the NYCA system.<sup>54</sup>

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<sup>47</sup> See HQUS Protest at 20-21; Levitt Testimony at 23-24.

<sup>48</sup> See HQUS Protest at 3, 20-21; Levitt Testimony at 4, 24-25, 38-43; Bergevin Testimony at 7-8.

<sup>49</sup> See HQUS Protest at 5, 25-26; Levitt Testimony at 4-5, 27-37; Bergevin Testimony at 8-11.

<sup>50</sup> See Smith Affidavit at PP 27-28.

<sup>51</sup> See *id.*

<sup>52</sup> See *id.* at P 29.

<sup>53</sup> See *id.* at P 30.

<sup>54</sup> See *id.*

6. Interplay Between the Seasonal Election Requirement and the NYISO's Capacity Market Power Mitigation Measures

HQUS claims that, during the stakeholder process, the NYISO did not respond to HQUS' concerns with or address the interplay between the Seasonal Election Requirement and the NYISO's capacity market power mitigation measures.<sup>55</sup> This allegation is unfounded. In fact, the NYISO addressed these concerns at several stakeholder meetings.<sup>56</sup>

Further, HQUS mischaracterizes the Seasonal Election Requirement as conflicting with the NYISO's existing capacity market power mitigation measures.<sup>57</sup> HQUS' concerns reflect a mistaken conflation of the purpose of capacity market power mitigation with the distinct objectives of the proposed Seasonal Election Requirement.<sup>58</sup> HQUS also incorrectly asserts that a seasonal election could expose a UDR or EDR rights holder to claims of physical withholding.<sup>59</sup> Contrary to the assertions of HQUS, the Seasonal Election Requirement does not undermine or conflict with the NYISO's existing capacity market power mitigation framework and should not be expected to result in unwarranted allegations of physical withholding.<sup>60</sup>

7. Inclusion of EDRs

Similar to its concerns expressed with UDRs, HQUS also contends that the Seasonal Election Requirement is unnecessary for EDRs or that the NYISO has not fully supported the rationale for applying such requirement to EDRs.<sup>61</sup> HQUS' position is unfounded. Both UDRs and EDRs can produce the same misalignment between actual supply conditions and the

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<sup>55</sup> See Bergevin Testimony at 24.

<sup>56</sup> See Affidavit of Jonathan Newton that is submitted with this answer ("Newton Affidavit") at PP 6-8.

<sup>57</sup> See *id.* at P 9 (citing Bergevin Testimony at 22; Levitt Testimony at 4, 26).

<sup>58</sup> See *id.* at PP 9-14.

<sup>59</sup> See *id.* at PP 13-14.

<sup>60</sup> See *id.* at PP 14-15.

<sup>61</sup> See Bergevin Testimony at 27-28.

modeling of UDR and EDR elections in the resource adequacy studies that inform the establishment of minimum capacity requirements and other ICAP market parameters.<sup>62</sup>

Accordingly, comparable treatment of both resource types is necessary to address misalignment risks and facilitate continued alignment between capacity market price signals and the resource adequacy risks faced by the electric grid.<sup>63</sup>

#### 8. Investment in Inter-Regional Transmission

HQUS contends that the proposal will deprive it of a valuable source of capacity revenues for its investment in new transmission capacity, which allegedly undermines the purpose of UDRs and EDRs to promote the development of new inter-regional transmission facilities.<sup>64</sup> The Seasonal Election Requirement is a market design mechanism intended to ensure that capacity counted toward minimum capacity requirements reflects the level of capacity that market participants can reasonably and credibly commit to provide during peak conditions when reliability risks are most prominent.<sup>65</sup> The Seasonal Election Requirement also supports the establishment of appropriate seasonal minimum capacity requirements and alignment of capacity market price signals with resource adequacy needs.<sup>66</sup> The NYISO's proposal seeks to facilitate comparability among capacity suppliers and align the valuation of capacity with the evolving reliability risks faced by the system. Contrary to HQUS' claim, this proposed design facilitates signals for capacity supply to meet New York's resource adequacy needs.<sup>67</sup> As such, the NYISO's proposed enhancements are intended to facilitate incentives and

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<sup>62</sup> See Smith Affidavit at P 31; see Huang Affidavit at PP 16-21, 24, 38-47.

<sup>63</sup> See Smith Affidavit at P 31.

<sup>64</sup> See HQUS Protest at 4, 21-23; Bergevin Testimony at 8, 28.

<sup>65</sup> See Smith Affidavit at P 32.

<sup>66</sup> See *id.* at P 32.

<sup>67</sup> See *id.*

price signals for capacity supply availability to meet the resource adequacy risks faced by the system, including supply facilitated by investment in facilities that support the award of UDRs and EDRs.<sup>68</sup>

### **III. HQUS' ALTERNATIVE REQUESTS AND PROCEDURAL PROPOSALS MUST BE REJECTED**

In the wake of the D.C. Circuit's decision in *NRG Power Marketing, LLC v. FERC*,<sup>69</sup> the Commission generally does not have the ability to order significant modifications to proposed tariff revisions submitted under FPA Section 205, such as severing the Seasonal Election Requirement from the rest of the NYISO's proposed enhancements,<sup>70</sup> as HQUS suggests.<sup>71</sup> As mentioned above, the Seasonal Election Requirement addresses a misalignment that can result in suboptimal market outcomes that may not accurately reflect system conditions, resource adequacy needs, and capacity values; therefore, it cannot be severed from the other components of the Winter Reliability Capacity Enhancements Filing. The Winter Reliability Capacity Enhancements Filing gave no indication that the NYISO consented to severing any of its proposed tariff revisions. For the avoidance of doubt, the NYISO views the Winter Reliability Capacity Enhancements Filing as an integrated package that was approved by NYISO stakeholders as a whole and does not consent to the severance of the Seasonal Election Requirement.

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<sup>68</sup> *See id.*

<sup>69</sup> 862 F.3d 108 (D.C. Cir. 2017).

<sup>70</sup> *See id.* at 114-15 (discussing the Commission's limited authority to propose modifications to a utility's FPA Section 205 rate proposal); *Pub. Serv. Co. of Colo.*, 194 FERC ¶ 61,315 at PP 5, 10 (2026) (accepting certain proposed tariff provision and rejecting others after the filing utility had stated that "each of the proposed revisions may be considered severable from the other proposed revisions to the pro forma NOA and that the Commission may approve certain proposed revisions even if it rejects others."); *PacifiCorp*, 179 FERC ¶ 61,089, at PP 35, 39, 51 (2022) (accepting several components of a PacifiCorp interconnection proposal despite a finding that one aspect of the proposal had not been demonstrated to be consistent with or superior to the Commission's pro forma LGIP, where PacifiCorp expressly indicated that the components of its proposal were severable from one another).

<sup>71</sup> *See* HQUS Protest at 5, 26.

HQUS postulates that the “Commission could accept the filing but set the Seasonal Election Requirement for hearing and settlement judge proceedings—and thereby allow the interested parties and FERC staff to work together to develop a just and reasonable alternative.”<sup>72</sup> The Commission has repeatedly discouraged such attempts to make "end-runs" around ISO/RTO stakeholder governance processes by proposing changes, like the alternative proposals described in the HQUS Protest,<sup>73</sup> that have not had the benefit of stakeholder vetting.<sup>74</sup> It does so because it recognizes that stakeholder discussions can help to improve the quality of tariff filings, better balance the interests of the various sectors impacted by proposed changes, and reduce the number and severity of disputed issues.<sup>75</sup> The NYISO's stakeholder shared governance structure arguably vests stakeholders with a greater role in shaping tariff revisions

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<sup>72</sup> HQUS Protest at 4-5, 26; Bergevin Testimony at 11.

<sup>73</sup> In the HQUS Protest, HQUS suggests three alternatives to the Seasonal Election Requirement that were not vetted during the stakeholders process: (1) allowing UDR and EDR rights holders to elect MW amounts on a monthly basis; (2) allowing monthly variability by applying NYISO's proposed must offer obligation only for UDR/EDR elections and capacity offers above a to be determined threshold value; and (3) allowing monthly offers above the elected quantity (but below the aforementioned threshold value) under certain circumstances. *See* HQUS Protest at 3, 5, 13, 19-20, 25-26; Levitt Testimony at 4-5, 25, 27-37; Bergevin Testimony at 5, 7-11, 15-17, 19. Note that, in addition to this procedural flaw, the NYISO also provides a discussion of the substantive flaws of these alternatives. *See* Smith Affidavit at PP 19, 26-29.

<sup>74</sup> *See, e.g., ISO New England Inc.*, 130 FERC ¶ 61,145, at P 34 (2010) ("we encourage parties to participate in the stakeholder process if they seek to change the market rules ... "); *ISO New England Inc.*, 125 FERC ¶ 61,154, at P 39 (2008) ( directing that unresolved issues be addressed through the stakeholder process); *ISO New England Inc.*, 128 FERC ¶ 61,266 at P 55 (2009) (declining to grant a party's specific request for relief because the Commission "will not ... circumvent that stakeholder process"); *N.Y. Indep. Sys. Operator, Inc.*, 126 FERC ¶ 61,046, at PP 53-54 (2009) (directing that a proposal be "presented to and discussed among ... stakeholders and filed as a section 205 proposal, not unilaterally presented to the Commission"); *New England Power Pool*, 107 FERC ¶ 61,135, at PP 20, 24 (2004) (declining to accept changes proposed for the first time in a FERC proceeding by an entity that participated in the stakeholder process because the "suggested revisions have not been vetted through the stakeholder process and could impact various participants").

<sup>75</sup> *See, e.g., California Indep. Sys. Operator, Inc.*, 143 FERC ¶ 61,087, at P 73 (2013) (directing the development of a "long-term solution through the stakeholder process" because it will allow the ISO "and the market participants to thoroughly evaluate the benefits and costs of various alternatives, and development the most efficient long-term solution"); *ISO New England Inc.*, 130 FERC ¶ 61,145 at P 34 (refusing to address stakeholder concerns that were the subject of ongoing stakeholder process and encouraging "parties to participate in the stakeholder process if they seek to change the market rules"); *Consolidated Edison Co.*, 95 FERC ¶ 61,216 at 61,719 ("First, ConEd circumvented the NYISO stakeholder process by unilaterally filing revisions to the in-City mitigation measures. ConEd's failure to use the NYISO stakeholder process has resulted in vigorous opposition to its proposal. We strongly encourage market participants to use the stakeholder process, especially in this type of situation, i.e., where a market participant seeks to modify market measures that impact all market participants.").

than they have in any other market. In particular, under the ISO Agreement, the NYISO's tariffs may generally only be revised pursuant to Section 205 of the FPA if the revision has been approved by a super-majority of the stakeholder Management Committee as well as subsequent approval by the NYISO's independent Board of Directors.<sup>76</sup> While interested parties may ask that tariff changes be imposed under FPA Section 206, the Commission has been clear that such filings are disfavored when the NYISO stakeholder process has not been exhausted.<sup>77</sup>

In short, the Commission should accept the Winter Reliability Capacity Enhancements Filing without modification or unnecessary delay.

#### IV. CONCLUSION

The NYISO respectfully requests that the Commission (1) exercise its discretion to accept this answer; (2) issue an order accepting the Winter Reliability Capacity Enhancements Filing without any modification and without initiating any new proceedings; and (3) establish an effective date of April 20, 2026 for the tariff revisions proposed in this proceeding.

Respectfully submitted,  
/s/ Heidi S. Nielsen  
Heidi S. Nielsen, Senior Attorney  
New York Independent System Operator, Inc.

Dated: April 1, 2026

cc:	Janel Burdick	David Morenoff	Jaime Knepper
	Emily Chen	Jason Rhee	
	James Dawson	Douglas Roe	
	Jignasa Gadani	Leanne Khammal	

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<sup>76</sup> See ISO Agreement, § 19.01.

<sup>77</sup> See, e.g., *Niagara Mohawk Power Corp. v. N.Y. State Reliability Council*, 114 FERC ¶ 61,098, at P 1 (2006) ("For the reasons described below, we will exercise our discretion and require that National Grid first exhaust its methods of resolving this dispute within Reliability Council and NYISO before filing a complaint with the Commission. Thus, we will dismiss the Complaint, without prejudice.").

## 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 1st day of April 2026.

*/s/ Alexander Morse*

Alexander Morse  
New York Independent System Operator, Inc.  
10 Krey Blvd.  
Rensselaer, NY 12144  
(518) 356-6177