Attachment A

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

New York Independent System Operator, Inc.	)	**Docket No. ER26-1431-000**

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

Pursuant to Rules 212 and 213 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission ("Commission"),[1] the New York Independent System Operator, Inc. ("NYISO") hereby submits this Request for Leave to Answer and Answer in response to the Protest of H.Q. Energy Services (U.S.) ("HQUS") filed in the above-referenced docket on March 11, 2026 ("HQUS Protest"). For the reasons set forth below and in the attached affidavits, the Commission should reject the HQUS Protest's arguments and accept all of the NYISO's proposed tariff revisions without requiring any modifications or initiating any new proceedings.

On February 18, 2026, in the above-captioned docket, the NYISO filed proposed revisions to its Market Administration and Control Area Services Tariff ("Services Tariff") to enhance its Installed Capacity ("ICAP") market rules in response to ongoing changes to New York's electric grid, including the emergence of near-term winter reliability risks that are projected to increase over the long-term as the New York Control Area ("NYCA")[2] transitions to a winter peaking system[3] ("Winter Reliability Capacity Enhancements Filing"). Through these proposed enhancements, the NYISO aims to continue to send appropriate signals for winter preparedness through the ICAP market, particularly considering fuel supply constraints and

[1] 18 C.F.R. §§ 385.212 and 385.213.

[2] Capitalized terms not otherwise defined herein shall have the meaning specified in the Services Tariff.

[3] The NYCA is expected to become a winter peaking system in the late 2030s. *See* NYISO 2025 Load & Capacity Data Report, at 17, https://www.nyiso.com/documents/20142/2226333/2025- Gold-Book-Public.pdf

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.[4] 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.[5]

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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[4] 18 C.F.R § 385.213(a)(2).

[5] *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.[6] 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."[7] 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."[8] 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.'"[9] 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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[6] *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).

[7] *See*, *e.g.*, 2021-2025 DCR Second Remand Rehearing Order at P 32 (footnotes omitted).

[8] *See*, *e.g.*, *id*. at P 49, n.184 (citation omitted).

[9] *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."[10]

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.[11] 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.[12] 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.[13]

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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[10] *See*, *e.g.*, 2008-2011 DCR Order at P 14, n.12 (citation omitted).

[11] *See* Winter Reliability Capacity Enhancements Filing at 6.

[12] *See id.*

[13] *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.[14] 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.[15]

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.[16] 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.[17] 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.[18]

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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[14] *See id.* (citing proposed Services Tariff Section 5.12.2.5).

[15] *See id.*

[16] *See id.* at 7.

[17] *See id.* (citing proposed Services Tariff Sections 5.12.2.5 and 5.12.12.4).

[18] *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.[19] 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.[20]

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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[19] *See id.* (citing proposed Services Tariff Section 5.12.12.4).

[20] *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.[21] In addition to the information provided in the Winter Reliability Capacity Enhancements Filing,[22] 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,[23] (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,[24] and (3) an explanation of the potential misalignment addressed by the proposed must offer requirement for UDR and EDR right holders' elections.[25]

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

[21] *See* HQUS Protest at 4, 15, 23-24.

[22] *See* Winter Reliability Capacity Enhancements Filing at 2-11.

[23] *See* Huang Affidavit at PP 7-37.

[24] *See* Huang Affidavit at PP 38-41.

[25] *See* Huang Affidavit at PP 42-47.

participation in the NYISO-administered markets.[26] 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.[27] Thus, even if HQUS' preferred alternative could lawfully be considered in this FPA Section 205 proceeding, it would be unduly discriminatory in HQUS' favor.[28]

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). [29] 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.[30] 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).[31] 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.[32]

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

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[26] *See* Protest at 3, 7, 16-19; Bergevin Testimony at 5-7, 14-15. 17-20; Levitt Testimony at 9, 21-23.

[27] *See* Affidavit of Zachary T. Smith that is submitted with this answer ("Smith Affidavit") at PP 14-16.

[28] "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).

[29] *See* Protest at 3, 13, 19-20; Bergevin Testimony at 5, 7, 15-17, 19; Levitt Testimony at 25-27.

[30] *See* Smith Affidavit at PP 17-19; Huang Affidavit at P 37.

[31] *See* Smith Affidavit at P 19.

[32] *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.[33] 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.[34]

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.[35] 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."[36] HQUS' concern represents a misunderstanding of the proposed penalty.[37] While HQUS correctly states that the penalty spans the six-month Capability Period, it misstates the MW quantity subject to penalty.[38] The MW quantity will be determined by the largest shortfall in the Capability Period.[39] 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

[33] *See* Smith Affidavit at PP 20-21.

[34] *See id.*

[35] *See* proposed Services Tariff Section 5.12.12.4.

[36] *See* Protest at 14.

[37] *See* Smith Affidavit at P 23.

[38] *See* Smith Affidavit at P 23.

[39] *See id.*

obligations.[40] 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).[41] 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.[42]

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.[43] 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").[44] 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.[45] 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.[46]

5. Winter Capacity Supply Impacts and Considerations

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[40] *See id.*

[41] *See id.*

[42] *See id.*

[43] *See* Protest at 9-10, 18-19; Bergevin Testimony at 7, 15-16, 21; Levitt Testimony at 4.

[44] *See* Smith Affidavit at PP 24-25.

[45] *See id.*at P 25.

[46] *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).[47] HQUS contends that the loss of this additional capacity supply will increase capacity costs to New York consumers during the Winter Capability Period.[48] 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.[49]

HQUS' analysis includes inaccuracies and fails to properly account for the actual operation of NYISO's capacity market.[50] These flaws undermine the results of HQUS' analysis and produce an overestimation of any alleged impacts.[51] Additionally, HQUS' analysis and suggested alternatives fail to account for broader market impacts.[52] 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. [53] 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.[54]

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[47] *See* HQUS Protest at 20-21; Levitt Testimony at 23-24.

[48] *See* HQUS Protest at 3, 20-21; Levitt Testimony at 4, 24-25, 38-43; Bergevin Testimony at 7-8.

[49] *See* HQUS Protest at 5, 25-26; Levitt Testimony at 4-5, 27-37; Bergevin Testimony at 8-11.

[50] *See* Smith Affidavit at PP 27-28.

[51] *See id.*

[52] *See id.* at P 29.

[53] *See id.* at P 30.

[54] *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.[55] This allegation is unfounded. In fact, the NYISO addressed these concerns at several stakeholder meetings.[56]

Further, HQUS mischaracterizes the Seasonal Election Requirement as conflicting with the NYISO's existing capacity market power mitigation measures.[57] HQUS' concerns reflect a mistaken conflation of the purpose of capacity market power mitigation with the distinct objectives of the proposed Seasonal Election Requirement.[58] HQUS also incorrectly asserts that a seasonal election could expose a UDR or EDR rights holder to claims of physical withholding.[59] 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.[60]

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.[61] HQUS' position is unfounded. Both UDRs and EDRs can produce the same misalignment between actual supply conditions and the

[55] *See* Bergevin Testimony at 24.

[56] *See* Affidavit of Jonathan Newton that is submitted with this answer ("Newton Affidavit") at PP 6-8.

[57] *See id.* at P 9 (citing Bergevin Testimony at 22; Levitt Testimony at 4, 26).

[58] *See id.* at PP 9-14.

[59] *See id.* at PP 13-14.

[60] *See id.* at PP 14-15.

[61] *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.[62] 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.[63]

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.[64] 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.[65] 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.[66] 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.[67] As such, the NYISO's proposed enhancements are intended to facilitate incentives and

[62] *See* Smith Affidavit at P 31; *see* Huang Affidavit at PP 16-21, 24, 38-47.

[63] *See* Smith Affidavit at P 31.

[64] *See* HQUS Protest at 4, 21-23; Bergevin Testimony at 8, 28.

[65] *See* Smith Affidavit at P 32.

[66] *See id.* at P 32.

[67] *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.[68]

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*,[69] 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,[70] as HQUS suggests.[71] 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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[68] *See id.*

[69] 862 F.3d 108 (D.C. Cir. 2017).

[70] *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).

[71] *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."[72] 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,[73] that have not had the benefit of stakeholder vetting.[74] 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.[75] The NYISO's stakeholder shared governance structure arguably vests stakeholders with a greater role in shaping tariff revisions

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[72] HQUS Protest at 4-5, 26; Bergevin Testimony at 11.

[73] 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.

[74] *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").

[75] *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.[76] 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.[77]

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, Emily Chen, James Dawson, Jignasa Gadani, David Morenoff, Jason Rhee, Douglas Roe, Leanne Khammal, Jaime Knepper

[76] *See* ISO Agreement, § 19.01.

[77] *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

Attachment I

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

New York Independent System Operator, Inc. Docket No. ER26-1431-000

AFFIDAVIT OF YAN HUANG

Ms. Yan Huang declares:

1. I have personal knowledge of the facts and opinions herein and if called to testify could and would testify competently hereto.

2. The purpose of this affidavit is to provide further support for the New York Independent System Operator, Inc.'s ("NYISO") proposal to require holders of Unforced Capacity Deliverability Rights ("UDRs") and External-to-Rest of State Deliverability Rights ("EDRs") to 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.[1] This affidavit provides (i) a description of the resource adequacy model that the New York State Reliability Council, L.L.C. ("NYSRC") uses in its technical study to inform establishment of the annual New York Control Area ("NYCA") Installed Reserve Margin ("IRM") ("IRM study") and that the NYISO uses in its annual Locational Minimum Installed Capacity Requirement ("LCR") study, (ii) a description of the manner in which elections made by holders of UDRs and EDRs are accounted for in parameters for administering the Installed Capacity ("ICAP") market, (iii) an explanation of the potential misalignment between the resource adequacy modeling of the UDR and EDR rights holders' seasonal elections and actual supply conditions addressed by the proposed must offer requirement, and (iv) the reasons that correcting this misalignment outweighs alleged adverse impacts raised in the protest submitted by H.Q. Energy Services (U.S.) Inc. ("HQUS") in the above-referenced proceeding.[2]

I. Qualifications

3. My name is Yan Huang. I am currently the Senior Manager, Installed Capacity Market Operations for the NYISO. My business address is 10 Krey Boulevard, Rensselaer, New York 12144. In this position, I am directly responsible for overseeing the development of minimum capacity procurement requirements ("minimum capacity requirements") for the NYCA, each Locality, and each Transmission District as well as the administration of the

[1] Capitalized terms not otherwise defined herein shall have the meaning specified in the NYISO Market Administration and Control Area Services Tariff ("Services Tariff").

[2] HQUS March 11, 2026 Protest, Docket No. ER26-1431-000 ("HQUS Protest").

ICAP market auctions (i.e., the Capability Period Auctions, the Monthly Auctions and the ICAP Spot Market Auctions) conducted by the NYISO.

4. I joined the NYISO's Market Operations department as a Senior Specialist in Installed Capacity Market Operations in 2020 and was promoted to Manager of Resource Adequacy in the Market Operations department in 2022. In both roles, my primary focus was establishing minimum capacity requirements and evolving the NYISO's resource adequacy model to capture emerging reliability risks in the NYCA. Specifically, I assisted with developing a resource adequacy modeling improvement strategic plan and led the efforts to develop and implement various modeling enhancements, including a new Energy Limited Resources model, an enhanced dynamic external area emergency assistant model, and the introduction of a winter fuel availability constraints model.

5. Prior to joining the NYISO, I worked in the electricity sector in Ontario, Canada for 13 years. During that time, I held positions at Hydro One Inc., an electricity transmission and distribution utility; Ontario Power Authority, an independent, non-profit corporation created to oversee Ontario's long-term electricity planning and resource management; and the Independent Electricity System Operator (IESO), responsible for managing Ontario's electricity system. My experience covered a wide range of issues, including electricity conservation program design and delivery, renewable generation procurement, transmission system planning, and capacity market design.

6. I received a Master in Business Administration from Brock University in Canada and a Bachelor of Arts from Guangdong University of Foreign Studies in China.

II. Background

7. The two tenets of power system reliability are resource adequacy and transmission security. Resource adequacy is "the ability of the electric system to supply the aggregate electrical demand and energy requirements of the customers at all times, taking into account scheduled and reasonably expected unscheduled outages of system elements."[3] Transmission security is "the ability of the electric system to withstand disturbances such as electric short circuits or unanticipated loss of system elements."[4]

8. The ICAP market is designed to maintain resource adequacy through the availability of sufficient generating capacity available to supply energy needs while providing adequate operating reserves. The product bought and sold in the ICAP market is called Unforced Capacity ("UCAP"). UCAP represents the amount of ICAP that is available at a particular time, adjusted for periods when a resource is not available due to a forced outage or other limitations on a resource's operating capability.

9. Resource adequacy in New York State is maintained through a series of related processes administered by the NYSRC and the NYISO. Annually, the NYSRC conducts a rigorous study to inform its establishment of an IRM for the upcoming Capability Year. The IRM

[3] *See* NYSRC Reliability Rules & Compliance Manual, § 3.2, https://nysrc.org/wp-content/uploads/2023/07/RRC-Manual-V46-final.pdf.

[4] *Id.*

represents an additional quantity of capacity that must be procured above the NYISO's forecasted peak load to meet the NYSRC-established resource adequacy criterion of a loss of load expectation ("LOLE") no greater than 0.1 loss of load event days per year.

10. The IRM and the associated study serve as foundational inputs to the NYISO's administration of its ICAP market. More specifically, the NYISO's forecasted peak load, plus the additional capacity required to meet the IRM, establish the minimum capacity requirements for the NYCA. These inputs also serve as the starting point for deriving various other ICAP market parameters, including LCRs for certain transmission-constrained areas (i.e., Localities), Load Serving Entity ("LSE") minimum capacity requirements, and the translation of the ICAP Demand Curves to UCAP terms. Notably, because the NYCA forecasted peak load has historically occurred in the summer period, the minimum capacity requirements have reflected summer peak conditions. In recognition of the ongoing changes to New York's electric grid and system reliability risk profile, the NYISO implemented seasonal ICAP Demand Curves, starting with the 2025-2026 Capability Year.[5] In this proceeding, the NYISO has proposed further enhancements to better account for seasonal differences through the establishment of discrete seasonal minimum capacity requirements and corollary supporting adjustments including seasonal elections for UDRs and EDRs that are subject to a must offer requirement.

III. Description of the NYISO Resource Adequacy Model Used in the IRM Study and LCR Study and Its Relationship to NYISO ICAP Market Parameters

a. IRM Study Model

11. Annually, the NYISO conducts a probabilistic assessment of resource adequacy for the upcoming Capability Year, which the NYSRC uses to inform its establishment of the IRM. The NYISO uses the GE Multi-Area Reliability Simulation software program ("MARS"), which uses a full sequential Monte Carlo simulation, to perform a chronological simulation of the NYCA system—comparing the hourly load demand to the total available generation in the NYCA—adjusted to account for outages and derates.[6] The model captures assumptions for the NYCA system, including the annual load forecast developed by the NYISO (including consideration of forecast uncertainties), generation capability and performance, system topology and limitations, firm external transactions, and available emergency operating procedures. The model also includes neighboring Control Areas and their interconnection capability primarily for reflecting the availability of emergency assistance[7] to support the NYCA in meeting its resource

[5] *See N.Y. Indep. Sys. Operator, Inc.*, Docket No. ER24-701-000 (Feb. 15, 2024) (delegated order) (accepting revisions to the calculation of the reference point price and maximum allowable clearing price of the ICAP Demand Curves to account for seasonal reliability risks).

[6] *See* https://www.gevernova.com/consulting/planos/resource-adequacy.

[7] Emergency assistance refers to the capacity a neighboring Control Area may have and can flow over the facilities when the NYCA system is experiencing an Emergency (i.e., "[a]ny abnormal system condition that requires immediate automatic or manual action to prevent or limit loss of transmission facilities or Generators that could adversely affect the reliability of an electric system"). *See* NYISO Open Access Transmission Tariff, § 1.5 (Definitions – E).

adequacy criterion. The MARS representation of the neighboring Control Areas consists of four interconnected External Control Areas that are contiguous with the NYCA: PJM Interconnection ("PJM") and the Northeast Power Coordinating Council ("NPCC") members ISO New England ("ISO-NE"), Ontario IESO ("Ontario"), and Hydro-Quebec.[8]

12. After establishing the study model reflecting the assumed NYCA system conditions, capacity is either added to or removed from zones west of the Total East Interface that have excess capacity reserves so that the statewide capacity to peak load ratio equals a desired study reserve margin point. A portion of this capacity is added to or removed from such zones throughout the year in order to establish the IRM that meets the NYSRC-established resource adequacy criterion of 0.1 LOLE per year.[9] Based on current and historically persistent system conditions, capacity is removed from these zones to meet the annual 0.1 LOLE criterion.

i. **Modeling Winter Reliability Risks**

13. The ICAP market has historically been designed around summer peak demand; however, increasing winter reliability risks driven primarily by electrification and fuel security concerns have brought increased attention to the seasonal structure of the ICAP market. For example, Winter Storm Elliot and subsequent cold weather operating periods have highlighted the NYCA system vulnerabilities with the dependence on non-firm gas supplies to support electric generation. Unlike summer peaks, winter reliability risks often stem from fuel supply constraints, resource and facility outages, and extreme cold weather events. The NYCA is expected to become a winter peaking system in the late 2030s.[10]

14. Due to emerging winter reliability risks, starting with the 2026-2027 Capability Year, the NYSRC enhanced the IRM study to include winter fuel availability constraints modeling.[11] This modeling represents varying resource capacities that are constrained during different winter conditions.[12] The objective of the winter fuel availability constraints modeling is to account for fuel availability constraints potentially impacting

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[8] *See* NYSRC, 2026-2027 IRM Technical Study Report, § 5.4, https://www.nysrc.org/wp-content/uploads/2025/11/Technical-Study-Report-clean.pdf ("2026-2027 IRM Technical Study Report").

[9] *See* NYSRC Policy No. 5-19, Appendix A (describing the methodology and procedure for adding or removing capacity from each zones to develop the IRM), https://www.nysrc.org/wp-content/uploads/2025/06/NYSRC-Draft-Policy-5-19-Final-6-13-2025.pdf ("NYSRC Policy No. 5-19").

[10] *See* NYISO, 2025 Load & Capacity Data Report, at 17, https://www.nyiso.com/documents/20142/2226333/2025-Gold-Book-Public.pdf.

[11] NYSRC Policy No. 5-19, § 3.5.2.

[12] Gas Constraints Modeling Whitepaper (approved at June 14, 2025 NYSRC Executive Committee meeting), https://www.nysrc.org/wp-content/uploads/2024/06/Gas-Constraints-Modeling-Whitepaper-Final.pdf; Winter Fuel Availability Constraint Model Whitepaper - Phase 2 (approved at Nov. 14, 2025 NYSRC Executive Committee meeting), https://www.nysrc.org/wp-content/uploads/2026/02/Winter-Fuel-Availability-Constraints-Modeling-Whitepaper-Phase-2-11-14-2025-approval.pdf ("Winter Fuel Availability Constraint Model Whitepaper Phase 2").

the availability of thermal generating units in Load Zones F-K during peak winter periods (December-February).[13]

15. Historically, the IRM study has shown that all loss of load risks occurred during the summer season. With the adoption of the winter fuel availability constraints model, loss of load risks during the winter season were identified for the first time in the 2026-2027 IRM study, particularly during the peak winter periods (December-February).[14]

ii. **Modeling of UDRs and EDRs**

16. The MARS model incorporates several types of resource capacity used to serve Load in the NYCA, including UDRs and EDRs.[15]

17. UDRs are capacity rights that allow the holder/owner to receive the locational capacity benefit derived from the addition of a new incremental controllable transmission project that provides a transmission interface to a Locality.[16] The holder of UDRs has the option, on an annual basis, to elect the MW quantity of the UDR (ICAP) it plans on utilizing for capacity contracts over its controllable line.[17] The capacity supplied using UDRs (i.e., the elected MW quantity) is typically modeled as a firm capacity import. Any remaining capability on the transmission line associated with the UDR can be used to support emergency assistance, which may reduce the IRM and minimum capacity requirements. This annual election informs how UDR transfer capability will be represented in the MARS model. The IRM modeling accounts for both the availability of the Resource that is identified for each UDR as well as the availability of the UDR facility itself.[18] The amount of emergency assistance allowed to flow through each of the UDR lines in the MARS simulation is also subject to the overall emergency assistance limit established by the NYSRC.[19]

18. EDRs are capacity rights, as measured in megawatts, that are associated with certain new incremental transmission projects that increase transfer capability over an existing transmission interface between the Rest of State region of the NYCA and an External Control Area.[20] Consistent with UDRs, the holder/owner of the EDR facility also has the option on an annual basis of selecting the MW quantity it plans on utilizing for capacity

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[13] Winter Fuel Availability Constraint Model Whitepaper Phase 2 at 1.

[14] *See* NYISO, *2026-2027 IRM Study Special Sensitivities* (presented at Sept. 3, 2025 NYSRC Installed Capacity Subcommittee meeting), at Slide 4, https://www.nysrc.org/wp-content/uploads/2025/08/2026-2027-IRM-Special-Sensitivities-09032025-ICS.pdf.

[15] NYSRC Policy No. 5-19, § 3.5.2.

[16] *Id*.

[17] In this filing, the NYISO has proposed language in Services Tariff Section 5.12.2.5 regarding this process.

[18] 2026-2027 IRM Technical Study Report, § 5.2.6.

[19] EOP Review Whitepaper, https://www.nysrc.org/wp-content/uploads/2023/10/EOP-Review-Whitepaper-Report_FINAL_For_Posting.pdf. *See also* NYSRC Policy No. 5-19.

[20] *See* NYSRC Policy No. 5-19, § 3.5.2.

contracts over facility.[21] Such elected MW count towards meeting the NYCA minimum capacity requirements, with any remaining capability on the facility used to support emergency assistance.[22]

19. The modeling assumptions for emergency assistance (including consideration of any returned UDRs and EDRs) are determined by the NYSRC in its establishment of the appropriate assumptions for each IRM study. These study assumptions are then carried forward into the NYISO's LCR study.

20. Starting with the 2026-2027 Capability Year, the IRM model included the modeling of the UDRs awarded to the Champlain Hudson Power Express project ("CHPE"). For the 2026-2027 IRM study, due to the lack of historical operating data and tight winter operating margins in Hydro Quebec, the NYSRC modeled the CHPE UDRs with a 0 MW transfer capability assumption during the winter months to align with expected operating conditions and available emergency assistance across all Hydro Quebec interfaces (Chateauguay-Massena, Cedars-Dennison, and CHPE) during the winter months (November – April).[23]

21. The 2026-2027 IRM study indicates a notable shift in the seasonal distribution of reliability risk toward winter. In fact, the study identified that about 14.0% of loss of load risk occurred in winter, compared to 0% in the 2025-2026 IRM study.[24] Two key modeling changes contributed to this shift: (1) the inclusion of winter fuel availability constraints and (2) the inclusion of CHPE modeling assumptions. The introduction of winter fuel availability constraints modeling results in the derating of fossil-fired thermal units in Load Zones F-K during winter peak periods to account for potential limitations on natural gas and/or oil fuel availability. The introduction of the winter fuel availability constraints modeling leads to loss of load risk occurring in the peak winter months of December, January and February.[25] The addition of the CHPE project does not increase total reliability risk but shifts its seasonal allocation. Because CHPE is modeled in the 2026-2027 IRM study as a summer-only resource, it only improves summer risk and when capacity is removed annually to achieve the 0.1 LOLE criteria, available winter

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[21] In this filing, the NYISO has proposed language in Services Tariff Section 5.12.2.5 regarding this process.

[22] NYSRC Policy No. 5-19, § 3.5.2.

[23] *See* NYISO, *Champlain Hudson Power Express (CHPE): 2026-2027 IRM Study Modeling Assumptions* (presented at June 4, 2025 NYSRC Installed Capacity Subcommittee meeting), at Slide 9 (describing CHPE winter availability considerations) and Slide 12 (describing HQ emergency assistance considerations), https://www.nysrc.org/wp-content/uploads/2025/05/CHPE-Modeling-Assumptions-06042025-ICS.pdf; *see also* 2026-2027 IRM Technical Study Report, § 5.2.6.

[24] 2026-2027 IRM Technical Study Report, § 5.6. *See* NYISO, *2026-2027 IRM Study Special Sensitivities* (presented at Sept. 3, 2025 NYSRC Installed Capacity Subcommittee meeting) (describing interaction between winter fuel availability constraints and CHPE on 2026-2027 preliminary base case), https://www.nysrc.org/wp-content/uploads/2025/08/2026-2027-IRM-Special-Sensitivities-09032025-ICS.pdf

[25] 2026-2027 IRM Technical Study Report, § 5.6. *See* NYSRC 2026-2027 IRM Technical Study Report Appendices, Table B.5, https://www.nysrc.org/wp-content/uploads/2025/12/2026-IRM-Study-Technical-Report-Appendices.pdf ("2026-2027 IRM Technical Study Report Appendices").

capacity in the IRM study model is reduced resulting in a higher share of LOLE events occurring in winter.

iii. External Control Area Load and Capacity Models

22. Maintaining reliability of NYCA includes consideration of emergency assistance from the External Control Areas.[26] The load and capacity models for PJM, ISO-NE, Ontario, and Hydro-Quebec are based on data received directly from these External Control Areas, as well as the modeling assumptions from the MARS database used in NPCC studies.

23. For the IRM studies, the development of appropriate load and capacity models for the External Control Areas seeks to avoid overdependence by the NYCA on the External Control Areas for emergency capacity support.[27] For this reason, a limit is placed on the amount of emergency assistance relied upon by the NYCA in maintaining resource adequacy. Along with considering other factors, the NYSRC currently establishes these limits primarily based on consideration of the amount of ten-minute reserves that are assumed to be available in an External Control Area above its required reserve level. Emergency assistance assumptions are reviewed annually by the NYSRC and refined over time. For example, the NYSRC implemented more dynamic modeling of emergency assistance to better align with evolving grid conditions.[28]

24. Once the IRM and LCRs are set for the Capability Year, the NYISO conducts a separate study utilizing the LCR study case to evaluate whether additional capacity import rights, in addition to the already modeled firm capacity imports via the UDRs and EDRs, may be made available to external resources while preserving the necessary amount of emergency assistance available over the inter-control area ties to maintain the IRM and corresponding LOLE.

b. LCR Study Model

25. LCRs require LSEs serving customers within a Locality to procure a portion of their capacity purchase obligations from capacity supply resources electrically located within such Locality (including capacity supplied by UDRs that sink in each Locality).[29] These locational requirements (1) recognize limitations on the system's ability to flow power from less constrained areas into the Localities and (2) seek to safeguard that meeting the minimum capacity requirements does not result in reliance on power flows in excess of Locality-specific transmission security constraints. There are currently three Localities located in the southeastern/downstate region of New York: (1) the G-J Locality (i.e., Load Zones G, H, I, and J); (2) New York City (i.e., Load Zone J); and (3) Long Island (i.e., Load Zone K). As described in Services Tariff Section 5.11.4, among other

[26] NYSRC Policy 5-19, § 3.5.6.

[27] *Id.*

[28] EOP Review Whitepaper, https://www.nysrc.org/wp-content/uploads/2023/10/EOP-Review-Whitepaper-Report_FINAL_For_Posting.pdf. *See also* NYSRC Policy No. 5-19.

[29] *See* Services Tariff, §§ 2.12 (Definitions – L), 5.11.4.

considerations, the NYISO uses transmission security limit ("TSL") floor values represent the minimum capacity requirement for each Locality necessary to respect such Locality-specific transmission security constraints.

26. After the IRM is finalized, the NYISO proceeds with the LCR determination process.[30] The NYISO determines the LCRs for the upcoming Capability Year using MARS, the same modeling software used for the IRM study, with inputs that include the applicable IRM study database, the NYSRC-approved IRM, the NYISO-determined TSL floor values, and net cost of new entry ("Net CONE") curves.

27. For all LCR determinations, the NYISO must satisfy the requirement of a LOLE that is the lesser of (a) 0.100 event-days/year and (b) the LOLE that results from the final IRM database representing the IRM approved by the NYSRC.[31] This LOLE is referred to as the "target LOLE." The NYISO conducts the LCR study using the applicable NYCA Minimum Installed Capacity Requirement set using the IRM approved by the NYSRC.[32]

28. The LCR study also uses Net CONE curves established based on the applicable ICAP Demand Curves in conducting the study's economic optimization of capacity supply among capacity regions.[33]

29. The LCR economic optimization software determines LCRs that minimize the cost of capacity, while at the same time holding unchanged the NYSRC-approved IRM, maintaining a LOLE of less than or equal to the target LOLE, and maintaining minimum capacity requirements greater than or equal to the applicable TSL floor values.[34]

30. While the LCR study must ensure that its results do not exceed the target LOLE, the study results may represent a lower LOLE than the final IRM case. However, the reliability risk posture of the system (i.e., when loss of load risk occurs) typically remains consistent between the IRM and the LCR studies.

c. Calculation of Other ICAP Market Parameters

31. After the LCRs are finalized, the NYISO uses the final LCR study model results for the upcoming Capability Year to calculate the Capacity Accreditation Factors ("CAFs"). CAFs reflect the marginal reliability contribution of the ICAP Suppliers within each Capacity Accreditation Resource Class ("CARC") toward meeting the NYSRC-

[30] *See* Locational Minimum Installed Capacity Requirements Determination Process, https://www.nyiso.com/documents/20142/21537892/LCR-Determination-Process-Triggering-Resource-Revisions.pdf ("LCR Determination Process Document"); *N.Y. Indep. Sys. Operator, Inc.*, 140 FERC ¶ 61,110 (2012); *see also* Services Tariff, §§ 5.11.4, 5.11.7, (establishing that the NYISO will determine the LCRs).

[31] LCR Determination Process Document, § 2.2.

[32] *Id.*

[33] *Id.* § 2.3.3.

[34] *Id.* §§ 2.3-2.3.1.

established resource adequacy criterion of 0.1 LOLE per year for the upcoming Capability Year.[35]

32. CAFs and unit-specific derating factors are used to calculate the UCAP that an ICAP Supplier is qualified to supply. Because UCAP is the metric transacted in the ICAP market, the minimum capacity requirements and ICAP Demand Curves are converted to UCAP values for the purposes of conducting the ICAP Spot Market Auctions. The NYISO also uses the CAFs to determine the available capacity from generating resources and the UCAP requirement for LSEs, as well as the ICAP Demand Curves and UCAP translation thereof.

33. The final LCR study model is also used to determine the amount of additional capacity import rights that may be made available to External Installed Capacity Suppliers to support offering UCAP from an External Control Area to the NYCA.

d. Timeline for Developing IRM Study, LCR Study, and Setting IRM, LCRs and Other ICAP Market Parameters

34. The IRM model and the study input assumptions are updated annually, based on the most recent available information. Starting in February in the calendar year preceding the subject Capability Year, the NYISO presents updated study assumptions and associated impacts to the NYSRC. The NYSRC officially approves the study assumptions for a "preliminary base case" in July preceding the applicable Capability Year[36] and the study assumptions for the "final base case" in October preceding the subject Capability Year.[37] Based on the final based case assumptions and results, the NYSRC Executive Committees finalizes the IRM for the upcoming Capability Year. The NYSRC Executive Committee's approval of the IRM value typically occurs in December prior to the start of the applicable Capability Year.

35. In the fourth quarter of the calendar year preceding the upcoming Capacity Year, the NYISO presents to stakeholders informational/preliminary LCRs and accompanying preliminary input information, as available (such as the peak load forecast, bulk power transmission capability, derating factors, TSL floor values, and Net CONE curves).[38] This includes a discussion of the factors causing year-over-year changes in TSL floor values and preliminary LCRs.[39] Typically, in January of the subject Capability Year, the

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[35] Services Tariff, § 2.3 (Definition – C).

[36] The preliminary base case is developed by starting with the previous year's final base case and inputting base case changes one parameter at a time. The preliminary base case is used to conduct sensitivity studies, which provide a mechanism for illustrating "cause and effect" of how some performance and/or operating parameters and study assumptions can impact reliability and the study outcomes.

[37] The final base case is prepared following receipt of the NYISO's fall load forecast update that provides the most current information available at such time regarding projections for the upcoming Capability Year. The final base case may also include data/assumptions changes and updates since the approval of preliminary base case assumptions, such as the UDR and EDR elections received by August 1.

[38] *See* LCR Determination Process Document, § 4.

[39] *See id*.

LCR study results are presented for stakeholder approval at the NYISO Operating Committee. During January through March, the NYISO develops the remaining ICAP market parameters for the upcoming Summer Capability Period (i.e., the first Capability Period encompassed by the upcoming Capability Year). Such additional information includes, but is not limited to CAFs, resource capacity supply ratings, LSE minimum capacity requirements, and the UCAP translation of the ICAP Demand Curves.

36. Based on the milestones to develop the IRM and associated ICAP market parameters for each Capability Year, the August 1 deadline for submitting elections the year preceding the subject Capability Year is necessary. The timeline is as follows:

February-July	Development of IRM study preliminary base case assumptions commences
July	IRM study preliminary base case assumptions finalized
August 1	Deadline for submitting annual elections (including UDR and EDR elections)
September	IRM study preliminary base case results finalized
October	IRM study final base case assumptions finalized
November/December	IRM study final base case results finalized and NYISO determines preliminary LCRs
December	NYSRC Executive Committee approves final IRM
January	LCR study results finalized
March	Final CAFs are available
May 1	Start of the Capability Year

Annual elections are submitted by August 1 for a variety of Resources in addition to the elections by UDR and EDR rights holders. Additional elections required by August 1 include:

- Duration limit elections for Resources with a limited daily run-time less than 24 hours that qualify to participate as ICAP Suppliers with an Energy Duration Limitation;
- Resources that seek to switch from a retail load modifier to NYISO wholesale market participation or vice versa at the beginning of the upcoming Capability Year;
- Resources that plan to engage in dual participation in the ICAP market and retail programs operated to meet the needs of local distributions systems during the upcoming Capability Year;

- An existing Distributed Energy Resource seeking to change from an Aggregation with a specific participation model to an Aggregation using a different participation model;
- A Behind-the-Meter Net Generation ("BTM:NG") Resource electing not to participate in the NYISO-administered markets as a BTM:NG Resource for the upcoming Capability Year; and
- An ICAP Supplier that elects to enter the firm fuel CARC for the upcoming Capability Year.

37. During the development of the enhancements proposed in this proceeding, the NYISO in collaboration with its stakeholders evaluated the potential for collecting the elections on a semi-annual basis (i.e., having separate timelines for elections made for the summer and winter seasons).[40] Ultimately, such a construct was not included in the NYISO's proposal because it would have required changes to the NYSRC process for determining the IRM, which is outside of the NYISO's purview. To support the timeline of the IRM study, the NYISO proposed to maintain the current August 1 deadline for submitting elections prior to the subject Capability Year, including elections by UDR and EDR rights holders.[41]

IV. Description of Manner in which Elections by Holders of UDRs and EDRs are Reflected in the ICAP Market Parameters Including ICAP Demand Curves

38. The NYISO conducts monthly ICAP Spot Market Auctions to meet the minimum capacity requirements for each delivery month. LSEs are required to purchase any capacity procurement deficiencies and excess in each ICAP Spot Market Auction. The ICAP Demand Curves are used to clear the ICAP Spot Market Auctions.[42]

39. With the emergence of winter reliability risks, the NYISO has proposed in this proceeding a number of enhancements to its capacity market to better account for such

[40] *See* NYISO, *Winter Reliability Capacity Enhancements: Seasonal Election* (presented at Apr. 9, 2025 NYISO Installed Capacity Working Group ("ICAPWG") meeting), at Slide 15, https://www.nyiso.com/documents/20142/50769536/2025%20Winter%20Reliability%20-%20Seasonal%20Elections%204.9.25%20Final.pdf

[41] *See* NYISO, *Winter Reliability Capacity Enhancements: Concept Proposal* (presented at July 29, 2025 ICAPWG meeting), at Slide 8, https://www.nyiso.com/documents/20142/52778669/2025%20Winter%20Reliability%20-%20July%2029%20ICAPWG%20MDC_Final.1.pdf

[42] The ICAP Demand Curves are designed to provide sufficient revenue to cover the estimated cost to construct and operate a hypothetical new capacity supply resource in various locations throughout New York. This cost is offset by an estimate of the potential revenues the hypothetical resource could earn from participating in the NYISO-administered Energy and Ancillary Services markets. The resulting net value determines the revenue the hypothetical resource would need to receive from the ICAP market to obtain sufficient revenues to support market entry under the system conditions postulated for determining the ICAP Demand Curves (i.e., supply conditions equal to the applicable minimum capacity requirement plus the MW value of the hypothetical new capacity supply resource).

risks and align capacity market price signals with seasonal resource adequacy risk. The proposed market design enhancements include:[43]

- Using the modeled capacity in the peak months for each season (including the modeling of capacity supply from UDRs and EDRs), as reflected in the annual IRM study, to establish seasonal minimum capacity requirements;
- Introducing seasonal UDR and EDR elections with an accompanying must offer requirement;
- Removing the winter-to-summer ratio from the determination of the ICAP Demand Curve parameters due to the development of distinct seasonal minimum capacity requirements;
- Determining the winter zero crossing points of the ICAP Demand Curves using the ratio of available capacity that would be used to set the minimum ICAP requirements for the Summer Capability Period of the upcoming Capability Year to the available capacity that would be used to set the minimum ICAP requirements for the Winter Capability Period of the upcoming Capability Year based on the NYSRC's most recently approved assumptions for the IRM study; and
- Updating the determination of the prescribed level of excess annually for the seasonal ICAP Demand Curves based on use of the minimum capacity requirements in effect for the like Capability Period from the immediately preceding Capability Year.

40. When there is substantial difference in the elected MW for a UDR or EDR between each season, it will change the amount of modeled ICAP and hence set different minimum capacity requirements between the seasons. Such differences will impact the resulting seasonal reference price values for the ICAP Demand Curves. The difference in the amount of modeled ICAP will also change the zero crossing points on the seasonal ICAP Demand Curves.

41. As evidenced by the development of ICAP market parameters for the 2026-2027 Capability Year, the introduction of the CHPE UDRs changes the contingency considered for the TSL floor value into Load Zone J and hence materially impacts the minimum capacity requirements for Load Zone J.[44] The NYISO's proposal seeks to ensure alignment between the seasonal elections of UDR and EDR rights holders and the resulting seasonal minimum capacity requirements through, in part, use of must offer

[43] For further discussion of the proposed Winter Reliability Capacity Enhancements, *see* NYISO Feb. 18, 2026 Filing, Docket No. ER26-1431-000, at 3-11.

[44] *See* NYISO, *2026-2027 Locational Minimum Installed Capacity Requirements (LCRs) Study: Final Results* (presented at Jan. 15, 2026 NYISO Operating Committee meeting), https://www.nyiso.com/documents/20142/56359673/06a_2026-2027%20Final%20LCR%20Results%20-%2001152026.pdf; NYISO Locational Minimum Installed Capacity Requirements Study for the 2026-2027 Capability Year, at 6-7, https://www.nyiso.com/documents/20142/56359673/06b_2026-2027%20LCR%20Report%20Final.pdf; NYISO 2026-2027 Locality Bulk Power Transmission Capability Report at 7-8, https://www.nyiso.com/documents/20142/56359673/06c_2026%20Locality%20Bulk%20Power%20Transmission%20Capability%20Report.pdf (discussing CHPE's impact in reducing the New York City Locality TSL floor value by 400 MW).

requirements to facilitate reliance on seasonal elections to provide a credible and reasonable expectation of capacity availability from UDRs and EDRs for the upcoming Capability Year.

V. Explanation of the Potential Misalignment Addressed by the Proposed Must Offer Requirement for UDR and EDR Right Holders' Elections

42. The capacity supply from UDRs and EDRs (as informed by their seasonal elections) is modeled as firm capacity imports in the IRM study. The modeled capacity in the IRM study for each season (including firm capacity imports associated with UDRs and EDRs) will be used to calculate summer and winter minimum capacity requirements. The modeled capacity in each season will also be used to establish the zero crossing points for the winter ICAP Demand Curves. The season-specific minimum capacity requirements and the seasonal ICAP Demand Curves, along with many other ICAP market parameters, are applied for the entire duration of the applicable Capability Period, without monthly adjustments.

43. A misalignment could occur between (1) the modeled capacity in each season that is used to determine the seasonal minimum capacity requirements and the seasonal ICAP Demand Curves derived therefrom and (2) the actual resources available in the ICAP Spot Market Auctions. Any such misalignment may impact the accuracy of the resulting market clearing prices determined by the ICAP Spot Market Auctions. Take for example a given Capability Period during which the seasonal minimum capacity requirement and the ICAP Demand Curves are based on a UDR election of 1,000 MW. If only 500 MW of UDR capacity is actually available in a given delivery month, the minimum capacity requirement for the ICAP Spot Market Auction would be too high, placing upward pressure on the market clearing price and potential divergence from a price signal that more accurately reflects actual supply conditions and system risks. Conversely, if 2,000 MW of UDR capacity is actually available in a given month, the minimum capacity requirement for the ICAP Spot Market Auction would be too low, resulting downward pressure on capacity price signals from the divergence between the supply assumptions used to develop the seasonal minimum capacity requirements and actual supply availability. The proposed seasonal UDR and EDR election requirements with a must offer obligation seek to minimize this misalignment by better aligning the ICAP market price signals and actual market conditions.

44. The annual IRM studies demonstrate that reliability risks are not evenly distributed across all months within each season. As shown in the table below, reliability risk is most evident in the peak months of both the summer and winter periods. The results of the 2026-2027 IRM study identified that the monthly Expected Unserved Energy ("EUE") value was highest in the month of July with notable EUE also present in August.[45] Also, the study found the presence of notable EUE in December and January, indicating the emergence of winter resource adequacy risks. Conversely, minimal (if any) impactful reliability risk is present in the shoulder months. The absence of reliability risks in the shoulder periods indicates that capacity supply during such periods provides

[45] 2026-2027 IRM Technical Study Report Appendices.

comparatively lower reliability value than supply available during the critical risk periods.

Table B.5 Monthly EUE

Monthly EUE (MWh/month)

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
NYCA	14.110	0.272	0.000	0.000	0.000	0.159	140.340	7.712	1.530	0.000	0.000	5.384
ROS	4.953	0.105	0.000	0.000	0.000	0.000	25.503	0.015	0.000	0.000	0.000	1.928
GHI	3.907	0.080	0.000	0.000	0.000	0.000	28.062	0.014	0.000	0.000	0.000	1.405
J	5.251	0.087	0.000	0.000	0.000	0.057	43.824	0.643	0.828	0.000	0.000	2.050
K	0.004	0.000	0.000	0.000	0.000	0.103	43.084	7.039	0.701	0.000	0.000	0.004

45. The following table provides additional details on EUE from the 2026-2027 IRM study.[46] As demonstrated by the table, the study identified the risk hours are concentrated during the peak months of the summer and winter periods.[47]

Table B.6 Monthly EUE Values by Hour

NYCA EUE per month and hour (MWh/hr)

HB	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23
JAN	0.000	0.000	0.000	0.000	0.000	0.000	0.213	1.494	0.537	0.131	0.063	0.045	0.041	0.030	0.001	0.222	1.520	7.299	0.823	0.372	1.246	0.075	0.000	0.000
FEB	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.003	0.017	0.017	0.030	0.002	0.004	0.001	0.000	0.000	0.000	0.073	0.064	0.005	0.055	0.000	0.000	0.000
MAR	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000
APR	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000
MAY	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000
JUN	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.002	0.002	0.043	0.029	0.026	0.017	0.021	0.010	0.005	0.003	0.000	0.000	0.000
JUL	0.002	0.000	0.000	0.000	0.000	0.000	0.000	0.048	0.804	1.882	3.129	5.264	12.259	11.901	6.081	19.723	23.737	22.911	14.029	5.764	9.075	3.471	0.257	0.003
AUG	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.158	0.257	0.709	0.776	1.261	1.617	1.238	1.020	0.555	0.113	0.006	0.000	0.000
SEP	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.011	0.000	0.118	0.197	0.230	0.537	0.394	0.042	0.000	0.000	0.000	0.000	0.000
OCT	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000
NOV	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000
DEC	0.000	0.000	0.000	0.000	0.000	0.020	0.547	0.884	0.057	0.014	0.019	0.005	0.005	0.011	0.000	0.139	1.153	1.690	0.119	0.042	0.667	0.011	0.001	0.000

46. The seasonal UDR and EDR elections with a must offer obligation are an important element of the NYISO's proposal in this proceeding. These proposed market enhancements are intended to more accurately account for emerging winter reliability risks in the NYISO-administered capacity market. This component of the NYISO's proposal supports the establishment of appropriate seasonal minimum capacity

[46] 2026-2027 IRM Technical Study Report Appendices.

[47] *Id.*

requirements and seasonal ICAP Demand Curves to ensure that the capacity market can provide price signals aligned with the system risks.

47. As winter reliability risks emerge on the NYCA system and are captured in the IRM study, resources that are not available during the winter peak months (December, January, and February) will have a significant impact on the reliability risk posture of the system. These impacts are seen in the increasing penetration of winter LOLE and resulting ICAP market parameters, such as CAFs, LSE minimum UCAP requirements, and ICAP Demand Curves. Focusing solely on monthly variations in availability of capacity supply, as appears to be the primary concern discussed in the HQUS Protest, provides an incomplete assessment of the ICAP market implications that the NYISO's proposal seeks to address in a comprehensive and wholistic manner.

48. This concludes my affidavit.

ATTESTATION

I am the witness identified in the foregoing affidavit. I have read the affidavit and am familiar with its contents. The facts set forth therein are true to the best of my knowledge, information, and belief.

Yan Huang
March 31, 2026

Subscribed and sworn to before me
this 31 day of March 2026

Notary Public

My commission expires: 07/24/2026

JEFFREY DUTILE
NOTARY PUBLIC
Commonwealth of
Massachusetts
My Commission Expires
July 24, 2026

Attachment II

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

New York Independent System Operator, Inc. Docket No. ER26-1431-000

AFFIDAVIT OF ZACHARY T. SMITH

Mr. Zachary T. Smith declares:

1. I have personal knowledge of the facts and opinions herein and if called to testify could and would testify competently hereto.

2. The purpose of this affidavit is to provide further support for the New York Independent System Operator, Inc.'s ("NYISO") proposal to require holders of Unforced Capacity Deliverability Rights ("UDRs") and External-to-Rest of State Deliverability Rights ("EDRs") to 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").[1] This affidavit provides (i) context for the Seasonal Election Requirement and (ii) clarifications of aspects of the proposed Seasonal Election Requirement in response to criticisms raised in the protest submitted by H.Q. Energy Services (U.S.) Inc. ("HQUS") in the above-referenced proceeding, including the affidavits of Simon Bergevin ("Bergevin Testimony") and Andrew Levitt ("Levitt Testimony") submitted as part of HQUS' protest.[2]

I. Qualifications

3. My name is Zachary T. Smith. I am currently the Director, Market Solutions for the NYISO. My business address is 10 Krey Boulevard, Rensselaer, New York 12144. I received a Bachelor's of Science degree in Computer Engineering from Union College, and a Master's of Science degree in Engineering and Management Science from Union Graduate College (now Clarkson University).

4. I originally joined the NYISO as a Price Validation Analyst in 2009. I joined the Installed Capacity ("ICAP") Market Operations department in 2013 and was promoted to Supervisor of ICAP Market Operations in 2015. I transitioned to the Manager of Capacity Market Design in 2017, was promoted to Senior Manager of Capacity and New Resource Integration Market Solutions in 2024, and then was promoted to Director of Market Solutions in 2025. As the Supervisor of the ICAP Market Operations department, I collaborated with the NYISO's Capacity Market

[1] Capitalized terms not otherwise defined herein shall have the meaning specified in the NYISO Market Administration and Control Area Services Tariff ("Services Tariff").

[2] HQUS March 11, 2026 Protest, Docket No. ER26-1431-000 ("HQUS Protest").

Design team on the development and implementation of the ICAP Demand Curves for the 2017-2018 through 2020-2021 Capability Years. Additionally, in my roles as the Manager of Capacity Market Design and Senior Manager of Capacity and New Resource Integration Market Solutions, I oversaw the internal team responsible for the development and implementation of the ICAP Demand Curves for the 2021-2022 through 2024-2025 Capability Years, the currently effective ICAP Demand Curves for the 2025-2026 through 2028-2029 Capability Years as well as the NYISO's capacity accreditation framework. In my roles as Senior Manager, Capacity and New Resource Integration Market Solutions and Director, Market Solutions, I oversaw the NYISO's internal team responsible for overseeing the development of capacity market designs and ensuring compliance with the NYISO Tariffs and Commission orders. As part of my current role, I oversee the Product Management and Market Design teams for the NYISO ICAP Market and New Resource Integration efforts, including the integration of market design and implementation functions.

5. I have been directly involved with the market design proposal that is the subject of the NYISO's filing in this proceeding.

II. Context for the Seasonal Election Requirement

6. In preparation for each upcoming Capability Year, annual election information is submitted to the NYISO by August 1 preceding the Capability Year. For example, the annual election deadline for the upcoming 2026-2027 Capability Year was August 1, 2025.

7. UDRs and EDRs are rights associated with either new incremental transmission projects that establish a new transmission interface with the New York Control Area ("NYCA") or increased transfer capability over an existing transmission interface. A qualifying transmission project must submit a formal request to the NYISO to be awarded UDRs or EDRs. Annually, by August 1, the holders of existing UDRs and EDRs may return a quantity of their awarded UDRs or EDRs for the upcoming Capability Year.[3] These elections effectively represent a decision by a rights holder to forego use of all or a portion of its available rights for the upcoming Capability Year. The elections made by UDR and EDR rights holders are used to inform assumptions regarding capacity supply from UDRs and EDRs used in the annual NYCA Installed Reserve Margin ("IRM") study conducted by the New York State Reliability Council, L.L.C. ("NYSRC"). The election assumptions from the IRM study are also used in the NYISO's annual Locational Minimum Installed Capacity Requirement ("LCR") determination process.

8. The NYISO currently assumes that the UDR and EDR elections (i.e., the MW quantity not returned to the NYCA) are available capacity that impacts minimum

[3] *See* proposed Services Tariff Section 5.12.2.5.

capacity procurement requirements ("minimum capacity requirements").[4] For example, if a UDR rights holder elects to use 400 MW of awarded UDRs into New York City, the NYISO will assume the 400 MW is available capacity when determining the New York City LCR. Conversely, if a rights holder elects to return all or a portion of its awarded UDR or EDR MW, this transfer capability may be considered as available to support emergency assistance from neighboring regions in the IRM and LCR studies for the applicable Capability Year. For example, if a UDR rights holder elects to return 400 MW of awarded UDRs into New York City, such election would be expected to place downward pressure on the New York City LCR due to an increase in the level of available emergency assistance resulting from such return. Because UDR and EDR rights holders currently submit one election annually, the IRM study and LCR determination process assume that the available capacity from UDR and EDR elections is constant across the Capability Year.[5]

9. 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. 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 requirements and available supply in a capacity delivery month.[6] 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.[7]

10. 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 and the resource adequacy risks faced by the system, the NYISO proposes that, at the time of the annual election deadline (by 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.[8]

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[4] For additional information regarding the process for setting the minimum capacity requirements, *see* Affidavit of Yan Huang that is also submitted with this Answer ("Huang Affidavit") at PP 7-41.

[5] Note that, for the 2026-2027 IRM study, due to the lack of historical operating data and tight winter operating margins in Hydro Quebec, the NYSRC modeled the UDRs awarded to the Champlain Hudson Power Express project ("CHPE") with a 0 MW transfer capability assumption during the winter months to align with expected operating conditions and available emergency assistance across all Hydro Quebec interfaces (Chateauguay-Massena, Cedars-Dennison, and CHPE) during the winter months (November – April). *See* Huang Affidavit at P 20.

[6] For additional information regarding this misalignment and its impact on market outcomes, see Huang Affidavit at PP 42-47.

[7] *Id*.

[8] *See* NYISO Feb. 18, 2026 Filing, Docket No. ER26-1431-000, at 6 ("Winter Reliability Capacity Enhancements Filing").

These separate election values aim to provide more accurate data on available capacity to inform the assumptions used in the IRM and LCR studies and the resulting establishment of appropriate seasonal minimum capacity requirements.[9]

11. 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 proposes an accompanying must offer requirement. It would require a UDR or EDR rights holder that makes an election to use all or a portion of its rights for a given Capability Period to offer or certify the elected quantity in each ICAP Spot Market Auction for that Capability Period.[10] 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 an LSE's minimum capacity requirements for the applicable Obligation Procurement Periods.[11]

12. 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 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.[12] 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.[13]

III. Responses to HQUS Protest

A. August 1 Election Deadline

[9] For more information on the IRM and LCR studies and establishment of minimum capacity requirements, see Huang Affidavit at PP 10-41.

[10] *See id.*; *see also* proposed Services Tariff Section 5.12.12.4.

[11] *See* proposed Services Tariff Section 5.12.2.5.

[12] *See* proposed Services Tariff Section 5.12.12.4.

[13] 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* Winter Reliability Capacity Enhancements Filing at n.18. For more information on the compatibility of the Seasonal Election Requirement and the NYISO's supply-side market power mitigation measures, *see* Affidavit of Jonathan Newton that is also submitted with this Answer at PP 9-14.

13. 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 participation in the NYISO-administered markets.[14] HQUS claims that it is unable to enter into a binding physical commitment to supply capacity fifteen months before the beginning of the winter because its process for determining internal needs for the winter is not completed until October, immediately prior to the commencement of the Winter Capability Period.[15] It also claims that, at the time of the August 1 deadline, HQUS will only have long-range assessments of HQ's capacity needs that are not sufficiently certain to make a physical capacity commitment.[16] HQUS states that the capability of a system such as HQ to export capacity to New York is uncertain due to many factors, including changes in planned resource availability, unexpected extended outages, updated load forecasts, and changes in demand response enrollment or performance expectations.[17] HQUS contends that the excess capacity available for sale from HQ varies monthly primarily because demand for capacity is heavily dependent on weather and its impacts on resource capability and the load requirements of the HQ system.[18]

14. Contrary to HQUS' assertion, it is not uniquely situated in that many other capacity suppliers are also required to submit elections by the August 1 deadline. As explained in the Huang Affidavit, the August 1 election deadline also applies to the following:

- Duration limit elections for Resources with a limited daily run-time less than 24 hours that qualify to participate as ICAP Suppliers with an Energy Duration Limitation;
- Resources that seek to switch from a retail load modifier to NYISO wholesale market participation or vice versa at the beginning of the upcoming Capability Year;
- Resources that plan to engage in dual participation in the ICAP market and retail programs operated to meet the needs of local distributions systems during the upcoming Capability Year;
- An existing Distributed Energy Resource seeking to change from an Aggregation with a specific participation model to an Aggregation using a different participation model;

[14] *See* HQUS Protest at 3, 16-19; Bergevin Testimony at 5-7, 17-20; Levitt Testimony at 21-23.

[15] *See* HQUS Protest at 3, 7, 16; Bergevin Testimony at 6-7, 14-15, 19-20.

[16] *See* HQUS Protest at 16.

[17] *See* Levitt Testimony at 9.

[18] *See id.*

- A Behind-the-Meter Net Generation ("BTM:NG") Resource electing not to participate in the NYISO-administered markets as a BTM:NG Resource for the upcoming Capability Year; and
- An ICAP Supplier that elects to enter the firm fuel Capacity Accreditation Resource Class ("CARC") for the upcoming Capability Year.[19]

15. All these Resources, like HQUS, must make long-term assessments of available capacity based on forecasts of uncertain factors including changes in planned resource availability, load forecasts, capacity requirements, and the overall balance of supply and demand in making their respective annual elections by the August 1 deadline.

16. HQUS's claim of unique circumstances is further diminished when one considers the business decision posture of an ICAP Supplier that elects to enter a firm fuel CARC that is also subject to the August 1 election deadline. All such ICAP Suppliers must make business decisions 15 months prior to the winter period for which their elections apply. Such elections are subject to not only the uncertainties enumerated by HQUS, but also the documentation and notification requirements that are accompanied by the potential assessment of penalties and referral to the Commission for violations of the performance obligations attendant to such elections.[20]

17. As explained in the Huang Affidavit,[21] during the development of the enhancements proposed in this proceeding, the NYISO in collaboration with its stakeholders evaluated the potential for collecting elections on a semi-annual basis (i.e., having separate timelines for elections made for the summer and winter seasons).[22] Ultimately, such a construct was not included in the NYISO's proposal because it would have required changes to the NYSRC process for determining the IRM, which is outside of the NYISO's purview. To support the timeline of the annual IRM study, the NYISO proposed to maintain the current August 1 deadline for submitting elections prior to the subject Capability Year, including elections by UDR and EDR rights holders.[23]

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[19] *See* Huang Affidavit at P 36.

[20] *See* Services Tariff, §§ 5.12.6.2.2, 5.12.12.3, 5.12.15;.*see also* ICAP Manual, §§ 5.8.1, 5.8.2, 5.8.3, 7.2.1. *See also N.Y. Indep. Sys. Operator, Inc.*, 192 FERC ¶ 61,049 (2025).

[21] *See* Huang Affidavit at P 37.

[22] *See* NYISO, *Winter Reliability Capacity Enhancements: Seasonal Elections* (presented at Apr. 9, 2025 Installed Capacity Working Group ("ICAPWG") meeting), at Slide 15, https://www.nyiso.com/documents/20142/50769536/2025%20Winter%20Reliability%20-%20Seasonal%20Elections%204.9.25%20Final.pdf.

[23] *See* NYISO, *Winter Reliability Capacity Enhancements: Concept Proposal* (presented July 29, 2026 ICAPWG meeting), at Slide 8, https://www.nyiso.com/documents/20142/52778669/2025%20Winter%20Reliability%20-%20July%2029%20ICAPWG%20MDC_Final.1.pdf

18. Of note, during the development of the firm fuel election market design, the NYISO and stakeholder also evaluated moving the election deadline for winter period commitments closer to the commencement of the Winter Capability Period, but concluded that it was necessary to maintain the current August 1 deadline for submitting elections prior to the subject Capability Year to support the timeline of the annual IRM study given that such study is the responsibility of the NYSRC and the NYISO lacks authority to change the NYSRC's processes and requirements.[24]

19. In its protest, 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).[25] 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.[26] Additionally, as further described herein, 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). 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.

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

20. 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. For example, Generator are qualified to participate in the capacity market based on Demonstrated Maximum Net Capability ("DMNC") testing that is conducted under or adjusted to peak seasonal conditions. For both the Summer and Winter Capability Periods, these DMNCs are established at performance under ambient temperature and humidity conditions aligned with the forecasted seasonal peak demand. For example, for the Summer Capability Period, the test condition for water-cooled fossil and nuclear steam units is restricted to the months of July and August.[27] For those resources, demonstrated performance

[24] *See N.Y. Indep. Sys. Operator, Inc.*, 192 FERC ¶ 61,049.

[25] *See* HQUS Protest at 3, 13, 19-20; Bergevin Testimony at 5, 7, 15-17, 19; Levitt Testimony at 25.

[26] *See supra* P 17.

[27] *See* ICAP Manual, § 4.2 (DMNC and DMGC Procedures).

during the two summer peak months sets a limit on the amount of UCAP that may be sold for all six months of the Summer Capability Period.

21. For winter, this includes performance under cold ambient temperatures and potential fuel availability stress, as captured within the firm fuel market design and capacity accreditation rules. The NYISO has implemented firm fuel capacity accreditation rules that distinguish between firm and non-firm resources based on their ability to perform during the peak winter months of December, January, and February. These rules ensure that capacity is available when needed during the Winter Capability Period. 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.

22. Under the NYISO's proposal, if a 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 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.[28]

23. 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."[29] HQUS' concern represents a misunderstanding of the proposed penalty. While HQUS correctly states that the penalty spans the six-month Capability Period, it misstates the MW quantity subject to penalty. The MW quantity will be determined by the largest shortfall in the Capability Period. 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 obligations.[30] Specifically, a month-by-month penalty structure may not provide an adequate disincentive because, if the capacity supplier has adequate supply in

[28] *See* proposed Services Tariff Section 5.12.12.4

[29] *See* HQUS Protest at 14.

[30] *See* NYISO, *Winter Reliability Capacity Enhancements: Market Design Update and Review of Additional Proposed Tariff Revisions* (presented at Oct. 14, 2025 ICAPWG meeting), at Slide 7, https://www.nyiso.com/documents/20142/54406317/2025%20Winter%20Reliability%20-%20October%2014%20ICAPWG.pdf

certain months (e.g., shoulder periods), it may only face a penalty in a limited number of months (e.g., peak months). 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.

C. NYISO Capacity Market Flexibility for Control Area System Resources

24. 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.[31] 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").[32] As HQUS explains, unlike conventional generators that sell capacity from specific assets, as a CASR, HQUS' capacity sales are backed by the entire HQ system and its capacity supply portfolio.[33]

25. Because HQUS participates in the NYISO capacity market as a CASR, unlike other ICAP Suppliers that must identify the specific Resources that supply the UCAP being sold, HQUS does not designate particular Resources as the suppliers of UCAP. A CASR is treated as a single pool of Resources, without visibility into the individual Resources supplying the UCAP. In addition to the fleet of resources internal to the HQ system, this construct also accounts for any contracted capacity that can be firmly delivered to HQ's system from neighboring external control areas.[34] For HQUS, this includes capacity purchased through bilateral contracts with any ICAP Supplier in the NYCA, imports from its direct neighboring systems in Canada to serve HQ load, and any forward capacity obligations that are shed in other neighboring ISO/RTO reconfiguration auctions, including ISO-New England. Therefore, while the NYISO capacity market does not include a capacity buy-back option as in ISO-New England, the NYISO ICAP market design provides HQUS 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. Reliance on a pool of assets facilitates HQUS' ability to

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[31] *See* HQUS Protest at 9-10, 18-19; Bergevin Testimony at 7, 15-16, 21; Levitt Testimony at 4.

[32] A CASR is a "set of Resources owned or controlled by an entity within a Control Area that also is the operator of such Control Area. Entities supplying [UCAP] using [CASRs] will not designate particular Resources as the suppliers of [UCAP]." Services Tariff, § 2.3 (Definitions – C).

[33] *See* HQUS Protest at 8; Levitt Testimony at 8.

[34] *See* ICAP Manual, § 4.11.3. On March 18, 2026, the NYISO Business Committee ("BIC") voted unanimously approved further enhancements to the requirements of capacity supply by CASRs to allows a CASR's pool of capacity to include capacity purchased through bilateral contracts with any ICAP Supplier in Rest of State capacity region. *See* BIC 3/18/2026 Final Motions, https://www.nyiso.com/documents/20142/57399123/031826%20bic%20final%20motions.pdf

optimize its capacity supply portfolio to meet its commitments to supply capacity to the NYCA, including the ability to leverage its external supply arrangements.

D. Winter Capacity Supply Impacts and Considerations

26. 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).[35] HQUS contends that the loss of this additional capacity supply will increase capacity costs to New York consumers during the Winter Capability Period.[36] 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.[37]

27. HQUS's analysis includes inaccuracies and fails to properly account for actual operation of NYISO's capacity market. These flaws undermine the results of HQUS' analysis and produce an overestimation of any alleged impacts. For example, the analysis fails to appropriately account for the clearing price rules for "nested" capacity regions. These rules prevent the clearing price within nested capacity regions from reducing below the clearing price in the broader region(s) into which it is nested. As a result, the clearing price in a Locality cannot be less than the clearing price in the NYCA. However, contrary to the clearing price rules in NYISO's capacity market, the Levitt analysis presumes that the clearing price in a Locality can be less than the NYCA, resulting in an unrealistic and exaggerated estimate of any potential impacts.

28. It is important to note that the NYISO's proposal is designed to align capacity market price signals with the resource adequacy risks faced by the system and provide incentives for capacity availability during the critical periods in which such risks are most prominent.[38] The adverse impacts to consumers alleged by

[35] *See* HQUS Protest at 20-21; Levitt Testimony at 23-24.

[36] *See* HQUS Protest at 3, 20-21; Levitt Testimony at 4, 24-25, 38-43; Bergevin Testimony at 7-8.

[37] HQUS recommends not only (1) allowing UDR and EDR rights holders to elect a MW amount on a monthly basis, discussed above in paragraph 19, but also (2) allowing monthly variability by applying NYISO's proposed must-offer obligation only for UDR/EDR elections and capacity offers above a proposed MW threshold and (3) allowing monthly offers above the elected quantity (but below a specified threshold) under certain circumstances, discussed herein in paragraphs 26-29. *See* HQUS Protest at 5, 25-26; Levitt Testimony at 4-5, 27-37; Bergevin Testimony at 8-11.

[38] Notably, the ICAP Demand Curves are designed to provide annual revenue adequacy for the hypothetical proxy unit used to set each curve under the assumed system excess conditions required in determining the reference point price for each curve. "The cost and revenues of the peaking plant used to set the reference point and maximum value for each ICAP Demand Curve shall be determined under conditions in which the available capacity is equal to the sum of (a) the minimum [ICAP] requirement and (b) the peaking plant's capacity equal to the number of MW specified in the periodic review and used to determine all costs and revenues (for purposes of this Section 5.14.1.2.2 hereinafter referred to as the "prescribed level of excess")." Services Tariff, § 5.14.1.2.2.

HQUS (e.g., by allowing HQUS to sell excess capacity in shoulder months that is not incorporated into the NYISO's minimum capacity requirement setting process) could only be realized if no other adjustments to the requirements or ICAP Demand Curves are made, resulting in demand curves that may fail to ensure revenue adequacy for the hypothetical proxy unit used to establish each curve under the tariff-prescribed level of excess conditions used in setting such curves. Any changes that would permit capacity sales at levels different from the UDR or EDR elections would require additional changes to ensure revenue adequacy of the proxy unit at the tariff-prescribed level of excess conditions.

29. Additionally, HQUS's analysis and suggested alternatives fail to account for the broader market impacts. While it is true that additional capacity supply by HQUS would be expected to increase the revenues that it receives from participation in the NYISO's capacity market, such increased supply also impacts the price signals to the market. As explained in the Huang Affidavit, under current system conditions, winter loss of load risk is limited to the peak winter months.[39] Accordingly, the NYISO's capacity market should seek to provide incentives for capacity supply availability during such peak periods. If certain quantities of capacity supply are available only during the shoulder periods, such supply provides comparatively lower value from the perspective of addressing the system's resource adequacy needs because it is not available to mitigate loss of load risk during peak periods. Additionally, such supply may adversely impact price signals and capacity revenues for supply that is available during the critical peak periods when loss of load risk currently occurs as well as the availability of such capacity in all months to assist with providing operational flexibility to meet system needs. Persistence of such adverse impacts may ultimately undermine the alignment of price signals with resource adequacy needs and incentives for resource availability to serve such needs. Such adverse impacts may place increased risk on consumers for potential loss of load events to arise during critical risk periods.

30. The suggested alternatives would not only 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. 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.

E. Inclusion of EDRs

31. Similar to its concerns expressed with UDRs, HQUS also contends that the Seasonal Election Requirement is unnecessary for EDRs or that the NYISO has

[39] *See* Huang Affidavit at PP 13-15, 21.

not fully supported the rationale for applying such requirement to EDRs.[40] HQUS' position is unfounded. Both UDRs and EDRs can produce the same misalignment between actual supply conditions and the modeling of UDR and EDR elections in the resource adequacy studies that inform the establishment of minimum capacity requirements and other ICAP market parameters.[41] The same misalignment concerns presented by UDR elections apply equally to EDR elections. 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.

F. Investment in Inter-Regional Transmission

32. HQUS contends that the proposal will deprive HQUS 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.[42] 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. 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. 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. As such, the NYISO's proposed enhancements are intended to facilitate incentives and 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.

33. This concludes my affidavit.

[40] *See* Bergevin Testimony at 27-28.

[41] *See* Huang Affidavit at PP 16-21, 24, 38-47.

[42] *See* HQUS Protest at 4, 21-23; Bergevin Testimony at 8, 28.

ATTESTATION

I am the witness identified in the foregoing affidavit. I have read the affidavit and am familiar with its contents. The facts set forth therein are true to the best of my knowledge, information, and belief.

Zachary T. Smith
April 1, 2026

Subscribed and sworn to before me
this 1st day of April 2026

Notary Public

My commission expires: 9/19/2029

GARRETT E. BISSELL
NOTARY PUBLIC-STATE OF NEW YORK
No. 02BI6133400
Qualified in Albany County
My Commission Expires 09-19-2029

Attachment III

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

New York Independent System Operator, Inc. Docket No. ER26-1431-000

AFFIDAVIT OF JONATHAN NEWTON

Mr. Jonathan Newton declares:

1. I have personal knowledge of the facts and opinions herein and if called to testify could and would testify competently hereto.

2. The purpose of this affidavit is to provide further support for the New York Independent System Operator, Inc.'s ("NYISO") proposal to require holders of Unforced Capacity Deliverability Rights ("UDRs") and External-to-Rest of State Deliverability Rights ("EDRs") to 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").[1] This affidavit provides (i) an overview of the interplay between the Seasonal Election Requirement and the NYISO supply-side capacity market power mitigation ("capacity market power mitigation")[2] and (ii) clarifications of aspects of the proposed Seasonal Election Requirement in response to criticisms raised in the protest submitted by H.Q. Energy Services (U.S.) Inc. ("HQUS") in the above-referenced proceeding, including the affidavits of Simon Bergevin ("Bergevin Testimony") and Andrew Levitt ("Levitt Testimony") submitted as part of HQUS' protest.[3]

I. Qualifications

3. My name is Jonathan Newton. I am currently Senior Manager, Capacity Market Mitigation, for the NYISO. My business address is 10 Krey Boulevard, Rensselaer, New York 12144. In this position, I am responsible for overseeing the administration of market power mitigation measures applicable to the NYISO's capacity market also known as the Installed Capacity ("ICAP") market, including the application of analytical frameworks used to support market power mitigation determinations. Prior to my current role, I served as Senior Manager, Withholding and Analysis, where I oversaw analyses related to physical and economic withholding in both the energy and capacity markets administered by the NYISO and supervised staff responsible for conducting market

[1] Capitalized terms not otherwise defined herein shall have the meaning specified in the Market Administration and Control Area Services Tariff ("Services Tariff").

[2] The NYISO capacity market has two market power mitigation frameworks set forth in Services Tariff Section 23.4.5: supply-side market power mitigation measures and buyer-side market power mitigation measures. The supply-side market power mitigation measures are relevant to this proceeding; for ease of reference, in this affidavit, "supply-side market power mitigation" is referred to as "capacity market power mitigation."

[3] HQUS March 11, 2026 Protest, Docket No. ER26-1431-000.

behavior reviews and preparing analyses supporting tariff administration and regulatory filings. Earlier in my tenure at the NYISO, I served as Supervisor, ICAP Market Mitigation, as well as Senior ICAP Mitigation Analyst and ICAP Mitigation Analyst, where I was responsible for conducting in depth mitigation evaluations and assisting in the administration of the NYISO's market power mitigation measures.

4. For over ten years, I have worked for the NYISO in the administration and oversight of its capacity market, including market power mitigation related analysis and implementation. I received a Bachelor of Science from the University at Albany in New York and a Master of Science in Accounting from The College of Saint Rose in New York.

5. I have also been directly involved in responding to questions market participants raised during the stakeholder process associated with the development of the NYISO's proposal in this proceeding and its interaction with the NYISO's existing capacity market power mitigation measures.

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

6. Contrary to the assertion made in the Bergevin Testimony,[4] during the stakeholder process to develop the enhancements proposed in this proceeding, the NYISO did address the interplay between the Seasonal Election Requirement and the NYISO's capacity market power mitigation measures. In addition to responding to questions raised by market participants during stakeholder meetings, including during HQUS' discussion of these issues in its presentation at the October 6, 2025 NYISO Installed Capacity Working Group ("ICAPWG") meeting,[5] the NYISO provided written material on this topic.

7. On July 2, 2025, in response to stakeholders' request, the NYISO provided an overview of the existing capacity market power mitigation measures in the Services Tariff and how such rules apply to holders of UDRs.[6] The NYISO explained that the capacity market power mitigation measures mitigate against the potential abuse of market power that would artificially inflate prices. The NYISO described the two main types of capacity

[4] *See* Bergevin Testimony at 22–24.

[5] *See* HQUS, *Seasonal Election CASR Review Comments of HQUS* (presented at Oct. 6, 2025 NYISO ICAPWG meeting), https://www.nyiso.com/documents/20142/54258786/HQUS%20Presentation_Seasonal%20Election%20and%20CASR%20review%2020251006-FINAL.pdf (providing comments to stakeholders and the NYISO on the Seasonal Election Requirement, including HQUS' concerns on the interplay between the proposal and the NYISO's capacity market power mitigation measures).

[6] *See* NYISO, *Installed Capacity Market Supply-side Mitigation and UDR* (presented at July 2, 2025 NYISO ICAPWG meeting), https://www.nyiso.com/documents/20142/52280993/Supply%20Side%20Mitigation%20and%20UDRs_ICAPWG_20250702.pdf.

market power mitigation.[7] The first are the general physical withholding provisions in Services Tariff Section 23.4.5.6.1 that (1) allow the NYISO to audit decisions to retire, remove, and/or de-rate capacity and (2) assess whether such a decision or proposal has a legitimate economic justification or is based on an effort to withhold capacity in order to affect prices. The second are the Pivotal Supplier measures in Services Tariff Section 23.4.5.4 that (1) subject Pivotal Suppliers to an offer cap and (2) obligate Pivotal Suppliers to offer Mitigated UCAP in the monthly ICAP Spot Market Auctions. The NYISO explained that Pivotal Suppliers may be exempt from this "must offer" requirement if Mitigated UCAP has been exported to an External Control Area or sold to meet minimum capacity procurement requirements ("minimum capacity requirements") outside the Mitigated Capacity Zone in which the ICAP Supplier is a Pivotal Supplier in a transaction that does not constitute physical withholding under the standards specified in Services Tariff Section 23.4.5.4.

8. At the November 12, 2025 NYISO Business Issues Committee ("BIC") meeting, the NYISO clarified the interplay of the capacity market power mitigation penalties and the penalties associated with the Seasonal Election Requirement.[8] Specifically, the NYISO explained that, if the NYISO determines that the holder of a UDR or EDR is subject to penalties for both (1) the failure to offer or certify the UCAP associated with UDR or EDR MW that have not been returned to the NYCA in any ICAP Spot Market Auction during the subject Capability Period as well as (2) the failure to offer or sell Mitigated UCAP or External Sale UCAP in accordance with Section 23.4.5.4.2 of the Services Tariff, then the holder of the applicable UDR or EDR would be required to pay the larger of these two sanction amounts.

III. Compatibility of the Seasonal Election Requirement and Existing Capacity Market Power Mitigation Measures

9. The Bergevin Testimony mischaracterizes the Seasonal Election Requirement as conflicting with the NYISO's existing capacity market power mitigation measures.[9] Similarly, the Levitt Testimony raises concerns regarding the interaction between the Seasonal Election Requirement and the NYISO's existing capacity market power mitigation measures.[10] HQUS' concerns reflect a conflation of the purpose of capacity market power mitigation with the distinct objectives of the proposed Seasonal Election Requirement. As the NYISO explained during the stakeholder process, the Seasonal Election Requirement does not preempt or supersede the NYISO's existing capacity

[7] *See supra* n.2 (explaining that in this affidavit "capacity market power mitigation" refers to supply-side market power mitigation).

[8] *See* NYISO, *Winter Reliability Capacity Enhancements* (presented at Nov. 12, 2025 NYISO BIC meeting), https://www.nyiso.com/documents/20142/54991575/05%20Winter%20Reliability%20Capacity%20Enhancements.pdf

[9] Bergevin Testimony at 22.

[10] Levitt Testimony at 4, 26.

market power mitigation measures, including the Pivotal Supplier and general physical withholding provisions.

10. The purpose of the capacity market power mitigation measures is to identify and address situations in which a market participant withholds capacity, either physically or economically, in order to exercise market power and influence market clearing prices. The capacity market power mitigation framework is designed to evaluate conduct against that objective and to ensure that capacity prices reflect competitive outcomes. It is not intended to establish, or substitute for, the modeling parameters used to determine minimum capacity requirements.

11. The Seasonal Election Requirement is not a capacity market power mitigation measure. Rather, it 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 and to support the establishment of appropriate minimum capacity procurement targets in each Capability Period. The capacity market is structured around meeting peak reliability needs, and the seasonal election framework is designed to align capacity commitments made in seasonal elections and the available capacity in the market with those reliability risk conditions. Once capacity commitments are established through the election process, existing capacity market power mitigation provisions continue to apply to the capacity that is elected and offered. The Seasonal Election Requirement therefore operates upstream of the capacity market power mitigation framework, rather than in conflict with it.

12. HQUS also raises concerns regarding the potential applicability of the general physical withholding provisions in Services Tariff Section 23.4.5.6.1, suggesting that a seasonal election could expose a UDR or EDR rights holder to claims of physical withholding.[11] Section 23.4.5.6.1 does permit the NYISO and the Market Monitoring Unit to review market participant actions if they are taken with the intent to affect, or could reasonably be expected to affect, market prices, and a seasonal election could, in principle, be subject to review if there were evidence that it was undertaken with such intent. However, seasonal elections differ fundamentally from traditional forms of physical withholding. Elections are made sufficiently far in advance that they are directly accounted for in the annual NYCA Installed Reserve Margin ("IRM") and Locational Minimum Installed Capacity Requirement ("LCR") studies and reflected in the resulting ICAP Demand Curves. As a result, changes in elected MW amount are incorporated into the determination of minimum capacity requirements themselves, rather than occurring against a fixed level of demand.

13. Because a seasonal election affects the level of capacity relied upon for maintaining resource adequacy, as reflected in the IRM and LCRs that are used in determining the minimum capacity requirements, it does not function in the same manner as physical or economic withholding in a market with fixed demand. Seasonal elections therefore do

[11] Bergevin Testimony at 3, 22-24.

not present the same characteristics or incentives typically associated with physical or economic withholding. Accordingly, 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.

14. The election framework serves a different and complementary purpose to align the capacity reflected in seasonal elections with credible availability of capacity during periods when loss of load risk is most prevalent. Capacity market power mitigation measures remain available to address improper conduct where warranted, but these measures were not designed to substitute for, or eliminate the need for, appropriate market design mechanisms that seek to ensure the integrity of the elections that are accounted for in the establishment of minimum capacity requirements designed to maintain resource adequacy.

15. This concludes my affidavit.

ATTESTATION

I am the witness identified in the foregoing affidavit. I have read the affidavit and am familiar with its contents. The facts set forth therein are true to the best of my knowledge, information, and belief.

Jonathan Newton
April 15, 2026

Subscribed and sworn to before me
this 15th day of April 2026

Notary Public

My commission expires: 9/19/2029

GARRETT E. BISSELL
NOTARY PUBLIC-STATE OF NEW YORK
No. 02BI6133400
Qualified in Albany County
My Commission Expires 09-19-2029