

April 1, 2013

**ELECTRONICALLY SUBMITTED**

Kimberly D. Bose  
Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, D.C. 20426

Re: New York Independent System Operator, Inc.'s Fifth Informational Report on Efforts to Develop Rules Addressing Compensation to Generators that Are Determined to be Needed for Reliability; Docket No. ER10-2220-000.

Dear Secretary Bose:

In accordance with paragraph 54 and ordering paragraph “(C)” of the Federal Energy Regulatory Commission’s (“Commission’s”) October 12, 2010, Order On Proposed Mitigation Measures in Docket No. ER10-2220-000 (“Order”),<sup>1</sup> the New York Independent System Operator, Inc. (“NYISO”), hereby submits this *Fifth Informational Report on Efforts to Develop Rules Addressing Compensation to Generators that Are Determined to be Needed for Reliability* (“April 2013 Informational Report”). The NYISO submitted its *Fourth Informational Report on Efforts to Develop Rules Addressing Compensation to Generators that Are Determined to be Needed for Reliability* on October 1, 2012, (“October 2012 Informational Report”). **In footnote 44 of its Order the Commission stated that it does not intend to issue public notices, accept comments, or issue orders on this Informational Report.**

Paragraph 54 of the Order stated, in part, as follows:

Because fixed cost recovery issues do not go to whether NYISO’s mitigation proposal is in itself just and reasonable, this proceeding is not the appropriate forum in which to raise such issues. Further, commenters do not present factual evidence that demonstrates that market participants generally will be unable to recover their costs due to application of the proposed mitigation provisions. We note, however, that the NYISO Board of Directors, in its July 29, 2010 decision

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<sup>1</sup>New York Independent System Operator, Inc., 133 FERC ¶ 61,030.

on the appeal of the NYISO Management Committee's adoption of the instant mitigation proposal, directed NYISO management to work with stakeholders to examine the generation owners' claims that existing cost recovery mechanisms are inadequate and to review the process that evaluates permanent solutions to reliability problems. Accordingly, we believe the better course is to await the outcome of the stakeholder process as directed by the NYISO Board of Directors. In this regard, we direct NYISO to file status reports every 180 days beginning 180 days from the date of this order for informational purposes only.<sup>44</sup>

<sup>44</sup>

The Commission does not intend to issue public notices, accept comments, or issue orders on such informational filings.

In compliance with the cited sections of the Order, the NYISO submits this Informational Report.

## **I. Informational Report**

### **A. Summary of the October 2012 Informational Report**

On April 16, 2012 and July 12, 2012, the NYISO presented an Alternative Reliability Resource Compensation ("RRC") proposal at a joint Market Issues Working Group ("MIWG")/Electric System Planning Working Group ("ESPWG")/ICAP Working Group ("ICAPWG") meeting. The alternative proposal would require generators to fund a confidential reliability study by the NYISO and associated Transmission Owner, and for the New York State Public Service Commission ("PSC") to receive confidential notice of the study. These two proposals included enhancements of the prior proposals that the NYISO believes better align the study with the existing Comprehensive Reliability Planning Process ("CRPP") contained in Attachment Y of the NYISO's Open Access Transmission Tariff ("OATT"). Once a reliability need has been determined and the PSC has selected the generator as the appropriate solution, compensation negotiations between the PSC and/or Transmission Owner and the generator may commence immediately after the generator submits its retirement notice.

At the July 12, 2012, joint MIWG/ESPWG/ICAPWG meeting, a representative of the New York State Department of Public Service ("DPS") presented a DPS staff proposal for a retirement compensation timeline and process. The proposed timeline was generally consistent with the existing six month notice period for retirement of generators in excess of 80MW.

### **B. April 2013 Informational Report**

The NYISO has not presented new or updated proposals to its stakeholders since filing the October 2012 Informational Report. In addition, the NYISO has not received any new or updated proposals from its stakeholders or DPS staff. The NYISO continues to actively monitor and assess whether additional rules addressing compensation to generators needed for reliability,

such as the Alternative RRC proposal discussed in the October 2012 Informational Report, are necessary to improve the NYISO administered markets.

### **C. Additional Market Activity Update**

The October 2012 Informational Report included information on a matter that involved certain New York Control Area resources seeking to retire. The PSC issued an order that approved a mechanism for a transmission owner to compensate specific generating units that were seeking to retire but were determined to be necessary to address a reliability need.<sup>2</sup> The subject of the order was a proposal for the transmission owner (Niagara Mohawk Power Corp. d/b/a/ National Grid) to compensate the generator owner (Dunkirk Power LLC, “Dunkirk”) for “reliability support services” (“RSS”) provided by two of the four generating units at the Dunkirk facility. National Grid filed its contract with Dunkirk for RSS with the PSC for approval and cost recovery.

Since October 2012, National Grid issued a Request for Proposal (“RFP”) for solutions to address the continuing reliability needs beyond May 31, 2013. Three responses to the RFP were received and, after review, National Grid determined that the proposal to continue operating one of the Dunkirk units was the preferred solution. The Dunkirk unit provided the least cost solution and the only solution available to operate starting on June 1, 2013. National Grid filed a request with the PSC to extend the RSS agreement for one of the Dunkirk units on March 5, 2013. The agreement provides for the deferral of mothballing one 115 kV-connected 80 MW Dunkirk generating unit. The deferral would allow the continued operation and maintenance of the one Dunkirk unit from June 1, 2013 through May 31, 2015 for a fixed total price of approximately \$72.741 million.

Units at another generating plant in New York are also currently operating under a Reliability Support Service Agreement (“RSSA”) with a transmission owner, which was approved by the PSC. On July 20, 2012, Cayuga Operating Company, LLC (“Cayuga”) filed a 180-day notice with the PSC, stating that Cayuga intended to mothball both of its two generating units at the Cayuga Generating Station on January 16, 2013. In response, New York State Electric & Gas Corporation (“NYSEG”) and the NYISO conducted reliability studies and determined that both units at the Cayuga Generating Station are necessary for reliability needs in NYSEG’s territory. Cayuga and NYSEG then negotiated a Term Sheet under which NYSEG would compensate Cayuga for continuing to run the Cayuga Generating Station for one year beginning January 16, 2013. On October 29, 2012, NYSEG filed the Term Sheet with the PSC and received PSC approval on December 17, 2012. Based on the Term Sheet, NYSEG and Cayuga executed an RSSA. In addition to the PSC proceeding, Cayuga filed a proposed unexecuted reliability must-run agreement (“RMR Agreement”) with the Commission on November 16, 2012. Cayuga stated at the time of its filing with the Commission, however, that a

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<sup>2</sup> NYPSC Case No. 12-E-0136, *Order Deciding Reliability Issues and Addressing Cost Allocation and Recovery* (issued August 16, 2012). Order may be retrieved from <http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={34D25567-D7B7-41EA-822F-6585B344BC0E}>

strong possibility existed that Cayuga would ultimately withdraw the RMR Agreement based on the outcome of the separate PSC proceeding. Cayuga filed a motion to withdraw its proposed RMR Agreement with the Commission stating that the PSC approved the Term Sheet on December 17, 2012. The Commission's proceeding on the motion is ongoing.

While the approaches taken for the Dunkirk and Cayuga units are not dispositive of further consideration of cost recovery mechanisms or the sole means in which reliability needs should be addressed, it may inform the views of the NYISO's stakeholders.

#### **D. Next Steps**

The NYISO will continue to assess whether enhancements to the prior proposals or additional alternate approaches are necessary to address compensation to generators needed for reliability and to improve the NYISO administered markets. The NYISO does not have any presentations scheduled at this time, however, the NYISO will continue to discuss this topic with its stakeholders.

### **III. Service**

The NYISO will send an electronic link to this Informational Report to the official representative of each of its customers, to each participant on its stakeholder committees, to the New York Public Service Commission, to all parties listed on the Commission's official service list in this Docket and to the New Jersey Board of Public Utilities. In addition, the complete filing will be posted on the NYISO's website at [www.nyiso.com](http://www.nyiso.com).

### **IV. Conclusion**

The NYISO respectfully submits this Informational Report in compliance with the Commission's Order. For the reasons explained above, the NYISO is continuing to monitor and assess whether additional rules addressing compensation to generators needed for reliability are necessary to improve the NYISO administered markets. The NYISO's next informational report is due on September 28, 2013.

Respectfully submitted,

/s/ James H. Sweeney

Rana Mukerji, Senior Vice President of Market Structures

Robert E. Fernandez, General Counsel

James H. Sweeney, Attorney

New York Independent System Operator, Inc.

## **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 1<sup>st</sup> day of April, 2013.

/s/ Joy A. Zimmerlin

Joy A. Zimmerlin  
New York Independent System Operator, Inc.  
10 Krey Blvd.  
Rensselaer, NY 12144  
(518) 356-6207