

December 16, 2015

By Electronic Delivery

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

Re: Response to Information Request, Docket No. EL13-62-002

Dear Ms. Bose:

The New York Independent System Operator, Inc. (“NYISO”) respectfully submits this response to the Division of Electric Power Regulation’s November 16, 2015 letter in this proceeding (“November 16 Letter”).

The November 16 Letter requests additional information concerning the NYISO’s June 17, 2015 report (“Compliance Report”) in response to the Commission’s March 19, 2015 *Order Denying Complaint* in Docket No. EL13-62-000 (“March 19 Order”).¹ The March 19 Order “required NYISO ‘to establish a stakeholder process to consider: (1) whether there are circumstances that warrant the adoption of buyer-side mitigation rules in the rest-of-state; and (2) whether resources under repowering agreements similar to Dunkirk’s have the characteristics of new rather than existing resources, triggering a buyer-side market power evaluation because of their potential to suppress prices in the capacity market and what mitigation measures need to be in place to address such concerns.’”²

The November 16 Letter posed four questions regarding the Compliance Report. The NYISO’s answer to each of these questions is set forth in the attachments to this filing, including the appendices.

In support of its responses, the NYISO submits a supplemental confirming affidavit by its subject matter expert on the issues in this docket, Lorenzo P. Seirup, Supervisor, NYISO Market Mitigation and Analysis - Installed Capacity.³ Mr. Seirup was the principal drafter of the responses to Questions 1, 2 and 4, and participated in and led the team conducting the NYISO’s

¹ *Indep. Power Producers of N.Y., Inc. v. N.Y. Indep. Sys. Operator, Inc.*, 150 FERC ¶ 61,214, at P 71 (2015).

² November 16 Order at 1, quoting March 19 Order at P 71.

³ The Supplemental Confirming Affidavit of Lorenzo P. Seirup is Attachment V to this filing

analyses in relation thereto. Mr. Seirup also made stakeholder presentations and facilitated stakeholder discussions regarding Questions 1, 2 and 4 and the NYISO's analysis, including those described herein.⁴

I. Documents Submitted

The NYISO respectfully submits letter and the following documents:

1. Response to Question 1 (Attachment I);
2. Response to Question 2 (Attachment II);
3. Response to Question 3 (Attachment III);
4. Response to Question 4 (Attachment IV);
5. Supplemental Confirming Affidavit of Lorenzo P. Seirup (Attachment V).
6. July 15, 2015 Excel Workbook ("July 15 Workbook", Appendix A);
7. Note to Stakeholders regarding July 15 Workbook (Appendix B);
8. June 18, 2015 Excel Workbook ("June 18 Workbook", Appendix C);
9. November Workbook regarding new entry ("November New Entry Workbook", Appendix D);
10. November Workbook regarding uneconomic retention and repowering (the "Uneconomic Retention and Repowering Workbook", Appendix E)
11. Note to Stakeholders regarding November New Entry Workbook Workbooks and the Uneconomic Retention and Repowering Workbook (collectively, the "November Workbooks") (Appendix F);
12. December Workbook regarding new entry (the "December New Entry Workbook", Appendix G);
13. December Workbook regarding new entry with retirement scenarios (the "December New Entry Retirement Workbook", Appendix H); and

⁴ The Compliance Report, including Mr. Seirup's Confirming Affidavit describes Mr. Seirup's presentations to stakeholders leading up to the Compliance Report. As described therein, Mr. Seirup also was the subject matter expert that participated in and led the team that considered capacity market power issues regarding the uneconomic retention and repowering pursuant to agreements of units principally driven by reliability needs in relation to the NYISO's proposed rules in its "reliability must run" compliance filing. *See* New York Independent System Operator, Inc., *Compliance Filing to Establish Reliability Must Run Tariff Provisions*, Docket No. EL15-37-002 (October 19, 2015) ("RMR Filing") at Section X.B of the filing letter and Mr. Seirup's affidavit attached thereto.

14. December Workbook regarding uneconomic retention and repowering (the “December Uneconomic Retention and Repowering Workbook”, Appendix I.

II. STAKEHOLDER PROCESS

The NYISO convened several meetings of the Installed Capacity Working Group during which the analyses described in Attachments I, II, and IV were presented to and discussed with stakeholders. Stakeholder feedback and the outcome of discussions with stakeholders are also described in those Attachments.

III. NYISO’S RECOMMENDATIONS

Regarding Rest of State⁵ new entry, the NYISO continues to support the Compliance Report’s recommendation that the Commission not take any action at this time. As described in the Compliance Report, “the NYISO has not, to date, observed market behavior that indicates that they are needed, nor does the NYISO see compelling need to conduct further analyses at this time. If the NYISO were to identify a need to apply buyer-side mitigation rules in Rest of State it would propose mitigation measures at that time, as it is required to do under the Services Tariff.”⁶

Regarding uneconomic retention and repowering of units of units similar to Dunkirk’s, the NYISO has identified that there is a concern and that the concern should be addressed. The NYISO describes its analysis in its response to Question 2 (at Attachment II). It also describes that it considered and discussed with stakeholders potential ways to address the concern. The NYISO recommends an approach under which the NYISO would screen and monitor for suspicious behavior, and be required to refer any suspicious behavior identified to the Commission’s Office of Enforcement for further review.

Although the NYISO consulted with the MMU in the preparation of the analyses, as described in this filing, due to time constraints, the NYISO was unable to provide the MMU with an opportunity to fully review the filing. The MMU has authorized the NYISO to state that it the references to the MMU’s views are accurate. Further, the MMU supports the NYISO’s conclusion set forth in Attachment II, Section IV.A that there are concerns surrounding potential issues with artificial price suppression by uneconomically retained or repowered resources under agreements similar to Dunkirk’s, and that mitigation measures need to be in place to address the concerns.

⁵ Capitalized terms not defined herein have the meaning set forth in the NYISO’s Market Administration and Control Area Services Tariff (“Services Tariff”) and if not defined therein, then in the NYISO’s Open Access Transmission Tariff (“OATT”).

⁶ Compliance Report at 5, citing in n. 12, “e.g., Section 23.1.2 of the Services Tariff which obliges the NYISO to file new mitigation measures under Section 205 of the Federal Power Act if it identifies conduct that constitutes an abuse of market power and is not addressed by other tariff provisions.”

IV. SERVICE

As instructed by the November 16 Letter, the NYISO is filing this response with the Commission. This filing will be posted on the NYISO's website at www.nyiso.com. In addition, the NYISO will email an electronic link to this filing to the official representative of each party to this proceeding, to each of its customers, to each participant on its stakeholder committees, to the New York Public Service Commission, and to the New Jersey Board of Public Utilities. Finally, in accordance with the November 16 Letter, the NYISO is emailing an additional electronic copy to Mr. Jorge Moncayo.

V. CONCLUSION

For the foregoing reasons, the NYISO respectfully requests that the Commission accept the responses set forth herein and in the Compliance Report, and act consistent with its recommendations. The NYISO continues support the recommendation that there is no need at this time for buyer-side mitigation of new entry in Rest of State. It also recommends that because there is a concern surrounding uneconomic retention and repowering pursuant to agreements similar to Dunkirk's, the Commission should consider an approach under which the NYISO would monitor and refer potential matters to the Commission's Office of Enforcement to address such concerns.

Respectfully submitted,

/s/ Gloria Kavanah

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