

PUBLIC VERSION - HIGHLY SENSITIVE PROTECTED MATERIALS HAVE BEEN
REDACTED PURSUANT TO PROTECTIVE ORDER IN
FERC DOCKET NO. EL11-50-000 AND CONFIDENTIAL INFORMATION PURSUANT
TO 18 C.F.R. SECTION 388.112

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

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|--|---|------------------------|
| Astoria Generating Company, L.P. and |) | |
| TC Ravenswood, LLC |) | |
| |) | |
| Complainants |) | |
| |) | |
| v. |) | Docket No. EL11-50-000 |
| |) | |
| New York Independent System Operator, Inc. |) | |
| |) | |
| Respondent |) | |

ANSWER OF THE NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.
TO MOTION TO LODGE

In accordance with Rule 213 of the Commission's Rules of Practice and Procedure the New York Independent System Operator, Inc. ("NYISO") respectfully submits this answer to the November 30, 2011, *Motion to Lodge* by Astoria Generating Company, L.P. ("Astoria Motion to Lodge"). The NYISO does not object to Astoria Generating's request to lodge the results of the Installed Capacity ("ICAP") Spot Market Auction¹ for December 2011. The Commission should, however, reject the portions of the Astoria Motion to Lodge that seek to characterize or interpret the auction results or that make assertions regarding the [REDACTED]

[REDACTED]

[REDACTED]. As further explained

¹ Capitalized terms that are not otherwise defined herein shall have the meaning specified in the NYISO's Market Administration and Control Area Services Tariff.

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below, those portions are procedurally improper, irrelevant to issues in this proceeding, and wholly unsupported.

The NYISO's choice to refrain from responding substantively to the unsubstantiated and irrelevant assertions in the Motion to Lodge should not be construed as agreement with them or as an admission of any kind. To the contrary, as with prior motions to lodge in this proceeding, the Astoria Motion to Lodge does not provide any information demonstrating that the NYISO's mitigation exemption determinations for the Astoria Energy II ("AEII") and Bayonne Energy Center ("BEC") projects were incorrect or otherwise unjust or unreasonable.

II. ANSWER

The Commission rejects motions to lodge that attempt to present information that is not relevant or necessary to the resolution of the issues in a proceeding.² The Commission also rejects attempts to characterize or interpret the information included in motions to lodge because the Commission does "not accept argument in a motion to lodge."³ The Astoria Motion to

² See, e.g., *Pittsfield Generating Co., LP*, 115 FERC ¶ 61,059 at P 23 (2006) (denying motion to lodge as an "untimely supplement" to prior answers and protests, finding that it provided no additional evidence "that the Commission should consider in its review"); *Louisiana Public Service Commission*, 117 FERC ¶ 61,203 at P10 (2006) (denying a motion to lodge because the information provided was irrelevant to the issues raised in the proceeding); *San Diego Gas & Electric Co., v. Sellers of Energy and Ancillary Services*, 108 FERC ¶ 61,311 at PP 65-73 (2004), *reh'g denied*, 110 FERC ¶ 61,293 (2005) (denying a motion to lodge because the information was not relevant to the issues being addressed in the proceeding); *Southern California Edison Co.*, 109 FERC ¶ 61,086 at P 13 (2004) (denying motion to lodge where information was not related to the issues under consideration); *Alternative Power Source, Inc. v. Western Massachusetts Electric Co.*, 104 FERC ¶ 61,255 at P 8 (2003) (denying motion to lodge where information was not relevant to the issues being addressed in the proceeding).

³ *Pacific Gas and Electric Co.*, 117 FERC ¶ 61,294 at n. 12 (2006) (accepting a motion to lodge a prior Commission order, but rejecting the arguments included in the motion to lodge interpreting the order), citing, *Midwest Independent Transmission System Operator, Inc.*, 100 FERC ¶ 61,292 at PP 6-7 (2002); *Duke/Louis Dreyfus L.L.C.*, 75 FERC ¶ 61,261 at p. 61,848 (1996); see also *Midwest Independent Transmission System Operator, Inc.*, 122 FERC ¶ 61,172 at P 17 (2008) (accepting a motion to lodge to the extent it brought information to the Commission's attention, but disallowing arguments interpreting the information).

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Lodge's assertions and suggestions regarding [REDACTED]
[REDACTED] the supposed existence of "artificial price suppression" in the In-City
capacity market, and supposed impacts on Complainant Astoria Generating and other market
participants, are all arguments that have no place in a valid motion to lodge. The Commission
should therefore reject those portions of the Astoria Motion to Lodge because they are
procedurally improper.

Astoria Generating's arguments are also beyond the scope of this proceeding. The
reasons why [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] are all irrelevant to the real issues in this proceeding. They have no bearing on the
question of whether the NYISO complied with the tariff provisions that govern its capacity
market mitigation exemption determinations. Thus, even if Astoria Generating's attempt to
inject such information into this case was not procedurally defective, the irrelevance of its
assertions would still necessitate their rejection under the Commission's precedent regarding
motions to lodge.

Finally, Astoria Generating offers no support for its assertion that [REDACTED]
[REDACTED]
[REDACTED]. Astoria Generating's assertion
should therefore be afforded no weight even if it were to be considered by the Commission. If
the Commission accepts the Astoria Motion to Lodge as filed; however, the NYISO is fully

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prepared to respond to such assertions and provide support for its response, and the NYISO respectfully requests that the Commission provide a brief opportunity for it to do so.

III. CONCLUSION

For the reasons set forth herein, the NYISO respectfully requests that the Commission deny the above-described procedurally invalid, irrelevant, and unsubstantiated arguments in the Astoria Motion to Lodge.

Respectfully submitted,

/s/Ted J. Murphy

Ted J. Murphy
Counsel to the
New York Independent System Operator, Inc.

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding in accordance with the requirements of Rule 2010 of the Commission Rules of Practice and Procedure, 18 C.F.R. § 385.2011.

Dated at Washington, D.C. this 13th day of December, 2011.

/s/ Ted J. Murphy
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