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June 29, 2012

FILE NO: 55430.000093

Ms. Kimberly D. Bose
Secretary
Federal Energy Regulatory Commission
888 First St, NE
Washington, DC 20426

**Re: *New York Independent System Operator, Inc.*, Further Compliance Filing
Docket Nos. ER04-449-__, ER12-360-__**

Dear Ms. Bose:

The New York Independent System Operator, Inc. (“NYISO”) submits this further compliance filing proposing market mitigation measures for New Capacity Zones (“NCZs”), pursuant to the Commission’s September 8, 2011 *Order on Compliance Filing* (“September Order”)¹ and to the NYISO’s November 7, 2011 compliance filing (“November 2011 Filing”) in this proceeding. This filing proposes tariff revisions to the NYISO’s Market Administration and Control Area Services Tariff (“Services Tariff”) to implement both buyer-side and supplier-side mitigation measures for NCZs using the same conceptual framework of the existing market mitigation measures currently applicable to the New York City Locality.²

The NYISO requests an effective date of September 1, 2012, or the effective date the Commission accepts for the tariff revisions submitted in the November 2011 Filing.

¹*New York Independent System Operator, Inc.*, 136 FERC ¶ 61,165 (2011) (“September Order”).

² The NYISO will be making additional revisions to the currently existing market mitigation measures applicable to Installed Capacity Suppliers in New York City, in compliance with to the Commission’s June 21, 2012 order in Docket No. EL11-42-000. *See New York Independent System Operator, Inc.*, 139 FERC ¶ 61,244 (2012) (“EL11-42 Order”). The revisions proposed in that compliance filing will be made to then-filed version of the tariff, which will include the modifications proposed herein. Therefore, the compliance filing in response to the EL11-42 Order will also include additional modifications to the changes proposed in this filing so they are consistent with the directives in the EL11-42 Order.

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I. LIST OF DOCUMENTS SUBMITTED

The NYISO respectfully submits the following documents:

1. This filing letter;
2. A blacklined version of the modifications to the Services Tariff (“Attachment I”);
3. A clean version of the modifications to Services Tariff (“Attachment II”);
4. The Affidavit of David B. Patton, Ph.D (“Attachment III”); and
5. The Affidavit of Randall Wyatt (“Attachment IV”).

II. BACKGROUND

In the September Order, the Commission accepted in part and rejected in part a NYISO compliance filing proposing criteria for the implementation of NCZs. Among other things, the September Order confirmed that “additional market power mitigation measures may be needed for an established new capacity zone.”³

On November 7, 2011, the NYISO submitted its compliance filing in response to the September Order.⁴ The November 2011 Filing, however, did not propose market mitigation measures for NCZs, instead noting that discussions between the Market Monitoring Unit (“MMU”) and the NYISO had occurred and a set of such measures were being developed.⁵ The filing stated that the development of the mitigation measures would be complex and that the NYISO would make a further compliance filing by June 30, 2012.⁶

III. DESCRIPTION OF PROPOSED COMPLIANCE TARIFF REVISIONS

In compliance with P 64 of the September Order, the NYISO submits this filing proposing compliance tariff revisions to implement supplier-side and buyer-side market mitigation measures for NCZs (“NCZ Market Mitigation Measures”). As explained in the Patton Affidavit, these measures are necessary because as the NYCA market is further divided to add NCZs, potential market power increases, because the size of the effective

³ September Order at P 64.

⁴ The November 2011 Filing is still pending before the Commission.

⁵ November 2011 Filing at 7.

⁶ The NYISO also requested, to the extent necessary, that the Commission grant an extension of time to make this filing by June 30, 2012, rather than concurrent with the November 2011 Filing.

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market area becomes narrower.⁷ Because NCZs are not expected to have significant amounts of surplus capacity in equilibrium, they raise local market power concerns and thus warrant mitigation.⁸ Further, over mitigation in NCZs is not an issue, because as proposed by the NYISO, the NCZ Market Mitigation Measures are not punitive nor do they create substantial risk for suppliers without market power.⁹ The NCZ Market Mitigation Measures are designed to “preclude conduct that would not be rational for a competitive supplier.”¹⁰ Consistent application of supplier-side and buyer-side mitigation measures to all NCZs will reduce future uncertainty regarding the formation of NCZs over time, for buyers and sellers in the ICAP¹¹ Market.¹² Reducing uncertainty will facilitate long-term investment and contracting decisions, which is the primary purpose of the ICAP Market.¹³

The NCZ Market Mitigation Measures utilize the conceptual framework of the currently effective ICAP market mitigation measures applicable to the New York City Locality.¹⁴ As explained in the Wyatt Affidavit, using the framework of the existing ICAP mitigation measures provides consistent rules across all Mitigated Capacity Zones and allows sufficient flexibility to modify specific Pivotal Supplier thresholds to accommodate differences among NCZs. As explained in more detail below, the NCZ Market Mitigation Measures utilize the current In-City mitigation rules with modifications as necessary to accommodate the differences between NCZs and the New York City Locality.

A. General Revisions

The NYISO proposes these general revisions for ease of implementation of the NCZ Market Mitigation Measures and consistency with other tariff provisions. First, the NYISO proposes the new term “Mitigated Capacity Zone” in Services Tariff Section 2.13. The term “Mitigated Capacity Zone” is defined as “New York City and any Locality added to the definition of “Locality” accepted by the Commission on or after March 31, 2012.” This term

⁷ Patton Affidavit at P 8.

⁸ *Id.* at P 9.

⁹ *Id.* at P 12.

¹⁰ *Id.*

¹¹ Terms with initial capitalization not defined herein shall have the meaning set forth in the Services Tariff, and if not defined therein, then in the November 2011 Filing.

¹² Patton Affidavit at P 14.

¹³ *Id.*

¹⁴ The NYISO will thus be making revisions in compliance with the EL11-42 Order. *See supra* n. 3.

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excludes Long Island, which is an existing Locality and it is presently not subject to the current buyer-side and supplier-side mitigation measures.

The NYISO also proposes to revise references¹⁵ to the “New York City Locality” or “In-City” to “Mitigated Capacity Zone” in order to make the Pivotal Supplier provisions, which currently only apply in the New York City Locality, applicable to Pivotal Suppliers in any Mitigated Capacity Zone. Additionally, the NYISO proposes to revise references,¹⁶ in the provisions in Section 23.4.5.7, *et. seq.*, to the “New York City Locality” or “In-City” to “Mitigated Capacity Zone” in order to make those sections applicable to Installed Capacity Suppliers in any Mitigated Capacity Zone. Sections have also been renumbered, as appropriate.

B. NCZ Supplier-Side Mitigation Measures

The NYISO proposes compliance revisions to Attachment H Section 23.4.5 to implement supplier-side mitigation measures for NCZs. As explained by the Patton Affidavit, the proposed tariff revisions include provisions to ensure that the application of the supplier-side mitigation measures in any Mitigated Capacity Zone is restricted to Pivotal Suppliers. This restriction is necessary to ensure that there are no adverse impacts on suppliers without market power.

First, the NYISO is proposing to revise the definition of Pivotal Supplier to make it applicable to Market Parties that Control a specified MW of Unforced Capacity in a Mitigated Capacity Zone, as follows:

For purposes of Section 23.4.5 of this Attachment H, **“Pivotal Supplier”** shall mean (i) for the New York City Locality, a Market Party that, together with any of its Affiliated Entities, (a) Controls 500 MW or more of Unforced Capacity, and (b) Controls Unforced Capacity some portion of which is necessary to meet the New York City Locational Minimum Installed Capacity Requirement in an ICAP Spot Market Auction; and (ii) for each Mitigated Capacity Zone except New York City, a Market Party that Controls at least the quantity of MW of Unforced Capacity specified for the Mitigated Capacity Zone and accepted by the Commission.

¹⁵ See Attachment H Sections 23.4.5.3, 23.4.5.4, 23.4.5.4.1, 23.4.5.4.2, 23.4.5.4.3, 23.4.5.6, as well as the definitions of “Affiliated Entity,” “Control,” “Going-Forward Costs,” “Net CONE,” “UCAP Offer Reference Level,” “Surplus Capacity,” and “Unit Net CONE” and Attachment O Sections 30.4.6.2.8 and 30.4.6.2.10.

¹⁶ See Attachment H Sections 23.4.5.7, 23.4.5.7.1, 23.4.5.7.2, 23.4.5.7.5, as well as the definitions of “Net CONE,” and “Unit Net CONE” and Attachment O Section 30.4.6.2.11

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Because the configuration of NCZs that may be proposed is currently unknown, the NYISO proposes to indicate the MW level of Unforced Capacity at which a supplier will be deemed to have Control, and is thus a Pivotal Supplier, at the time the NYISO submits a filing proposing a Mitigated Capacity Zone; *i.e.*, the March 31 Filing in a Demand Curve Reset Filing Year.¹⁷

Additionally, the NYISO is proposing to modify Section 23.4.5.2 to establish the UCAP Offer Reference Level for Resources in a Mitigated Capacity Zone in which an Installed Capacity Supplier is a Pivotal Supplier. Because an Installed Capacity Supplier could be a Pivotal Supplier in some, but not all, of the Mitigated Capacity Zones in which it has Resources, the NYISO is proposing to modify Section 23.4.5.2 to establish the UCAP Offer Reference Level to be set at either “the lowest of the UCAP Offer Reference Levels for each Mitigated Capacity Zone in which such Installed Capacity Supplier has Resources” or the applicable Going-Forward Costs.

C. NCZ Buyer-Side Mitigation Measures

The NYISO proposes compliance revisions to Section 23.4.5 of Attachment H to implement buyer-side mitigation measures for NCZs. The modifications include provisions to: (1) exempt projects that have made significant investments prior to the filing of a proposal to create a Mitigated Capacity Zone (*i.e.*, “grandfathering” the projects from the rule), (2) exempt certain Special Case Resources in Mitigated Capacity Zones under a grandfathering provision; and (3) conduct an Offer Floor mitigation exemption/Offer Floor determination for non-grandfathered projects.

1. Grandfathering Generators and UDR Projects

As explained by the Patton Affidavit, the proposed tariff revisions include provisions grandfathering certain projects that, as of the date the NYISO’s filing proposing a Mitigated Capacity Zone, have Commenced Construction and received Capacity Resource Interconnection Service (“CRIS”) or, met specific requirements regarding a CRIS transfer at the same location. In order to ensure that the proposed mitigation measures do not act as a barrier to new investment, the NYISO is proposing changes in Section 23.4.5.7.7 that apply tests to determine whether projects have advanced enough prior to a filing to create an NCZ to warrant being grandfathered from buyer-side mitigation. The new Section 23.4.5.7.7 states:

For any Mitigated Capacity Zone except New York City:

¹⁷ See November 2011 Filing at Attachment I at Services Tariff § 5.16.4.

(I) Any existing or proposed Generator or UDR project that has the characteristics specified in this Section 23.4.5.7.7(I) shall be exempt from an Offer Floor with respect to the MW of CRIS that it received at the time, or for which it satisfied the specific CRIS transfer requirements stated in this Section. To be eligible for an exemption under this Section: (a) the existing or proposed Generator or UDR project's location must be included in the ISO's March 31 Filing in the ICAP Demand Curve Reset Filing Year in which a Mitigated Capacity Zone is first applied to such location; (b) prior to that March 31 Filing the existing or proposed Generator or UDR project must have both: (i) Commenced Construction and (ii) either (1) received the MW of CRIS in a Class Year that was completed or (2) submitted to the ISO a request for an Interconnection Agreement that specifically states that the Generator or UDR project will be requesting or has requested a transfer of a specific MW quantity of CRIS at the same location in accordance with Section 25.9.4 of OATT Attachment S (provided that the transfer is ultimately approved by the ISO and consummated); and (c) the existing or proposed Generator or UDR project must demonstrate to the ISO no later than the deadline established by the ISO that it satisfies the requirements of (b) (i) and (ii) above; and

(II) An existing or proposed Generator or UDR project that is not subject to a deliverability requirement (and therefore, is not in a Class Year and does not receive CRIS MW) shall be exempt from an Offer Floor if it meets the following requirements prior to the ISO's March 31 Filing in an ICAP Demand Curve Reset Filing Year in which a Mitigated Capacity Zone is first applied to such location: (a) has Commenced Construction, (b) has an effective Small Generator Interconnection Agreement pursuant to OATT Attachment Z, and (c) provides specific written notification to the ISO that it meets requirements (a) and (b) of this subsection 23.4.5.7.7(II) no later than the deadline established by the ISO.

The ISO shall consult with the Market Monitoring Unit prior to determining whether an existing or proposed Generator or UDR project has Commenced Construction. Prior to the ISO making its determination, the Market Monitoring Unit shall provide the ISO a written opinion and recommendation regarding whether an existing or proposed Generator or UDR project Commenced Construction. The responsibilities of the Market Monitoring Unit that are addressed in this section of the Mitigation Measures are also addressed in Section 30.4.6.2.11 of Attachment O. The ISO shall only make a determination pursuant to this Section for an existing or proposed Generator or UDR project for the Mitigated Capacity Zone's first application to the location of the project. The Market Monitoring Unit shall also provide a

public report on its assessment of an ISO determination that an existing or proposed Generator or UDR project is exempt from an Offer Floor pursuant to this Section 23.4.5.7.7.

As explained in the Patton Affidavit, the tests proposed by the NYISO are appropriate because they reasonably balance the concerns of exposing investors to the risk that a project could be denied capacity revenues when it was initiated long prior to the creation of an NCZ and not allowing strategic uneconomic investments.¹⁸ The Patton Affidavit further explains that the two proposed “Commenced Construction” tests are appropriate because they will determine whether a project has advanced enough prior to the announcement and filing of the new capacity zone to warrant an exemption from buyer-side mitigation.¹⁹

The NYISO has also proposed to add “Commenced Construction” as a defined term in Section 23.2.1, as follows:

“Commenced Construction” shall mean (a) all of the following site preparation work is completed: ingress and egress routes exist; the site on which the project will be located is cleared and graded; there is power service to the site; footings are prepared; and foundations have been poured consistent with purchased equipment specifications and project design; or (b) as approved by the ISO in accordance with ISO Procedures, a financial commitment comparable to (a) has been made, which includes costs incurred, and costs of cancelling, discontinuing, or suspending the project; and may consist of a combination of actions or commitments. Such actions or commitments may include: major equipment has been purchased; an engineering, procurement, and construction contract for the project has been executed by all parties and is effective; or financing has been completed.

As explained in the Patton Affidavit, the criteria specified in subsection (a) of the definition of Commenced Construction provides milestones that will likely only be satisfied if the project has been under development for a number of years, long before the NCZ was announced by the NYISO, and the project has incurred significant costs.²⁰ The part (b) criterion provides an opportunity for a project that may have a level of commitment by the developer that is comparable to what is required under the part (a) criterion, even though the project does not satisfy all of the elements of part (a).²¹ The second test, therefore, allows the NYISO to

¹⁸ Patton Affidavit at P 16.

¹⁹ *Id.* at 17.

²⁰ *Id.* at 17.

²¹ *Id.* at 19.

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exempt a project if that project can demonstrate other actions or commitments that are comparable to those in the first test.²² As explained in the Patton Affidavit, this test “is beneficial because not all projects follow the same developmental milestones.”²³

In order to be considered for this exemption and a Commenced Construction determination, a project has to have received CRIS or met certain criteria regarding a request for a transfer of CRIS at the same location. Pursuant to this requirement, a project must have either received CRIS MW in a completed Class Year, or received it after having submitted a request for an Interconnection Agreement that states it has requested or will request a transfer of CRIS. Further, any such transfer must be approved by the NYISO and ultimately consummated.²⁴

Section 23.4.5.7.7 requires that a Commenced Construction test and the requirement related to CRIS are met for a project to be exempt from buyer-side mitigation under the grandfathering provision. Further, pursuant to Section 23.4.5.7.7 (and proposed corresponding revisions to Attachment O Section 30.4.6.2.11) the NYISO must consult with the MMU before a project will be determined to be exempt under this two prong test, and the MMU will provide a public report on any such determination by the NYISO.²⁵ As explained in the Patton Affidavit, these requirements provide a reasonable level of oversight.²⁶

Finally, the NYISO is proposing revisions to Section 23.4.5.7.6 that exempt from the Offer Floor existing Generators or UDR projects, in Mitigated Capacity Zones outside of New York City, that have been grandfathered from the deliverability requirements pursuant to OATT Attachment S.²⁷ The proposed exemption is consistent with those described above because Generators and UDR projects that are “existing” now would generally have taken actions that satisfy the “Commenced Construction” test long before the NYISO’s March 31

²² *Id.*

²³ *Id.* at P 19.

²⁴ Since projects 2 MW and under are not subject to the Class Year deliverability rules in OATT Attachment S, the buyer-side mitigation rules for such projects provide for exemption if a project satisfies the “Commenced Construction” criteria and has an effective Small Generator Interconnection Agreement.

²⁵ As explained in n.3 above, the NYISO will be proposing compliance tariff revisions in response to the directives in EL11-42-000 Order. The modifications will include changes providing that the NYISO will announce such determinations and that the MMU’s report will be published concurrently with that announcement.

²⁶ Patton Affidavit at P 19.

²⁷ The NYISO developed this exemption in consultation with Dr. Patton and is authorized to state that he supports it.

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Filing proposing any New Capacity Zone. To be eligible for this exemption, an entity must have been an “existing facility” as of the date of this filing, i.e., June 29, 2012. Such entities will be exempt at the level of CRIS MW at which they were grandfathered from deliverability. Any subsequent increase in CRIS MW for such a facility that is greater than 2 MW will not be covered by the Section 23.4.5.7.6(b) exemption but would have an opportunity to be considered for an exemption pursuant to the Section 23.4.5.7.7 test. If ineligible for either the 23.4.5.7.6(b) or 23.4.5.7.7 exemptions a subsequent increase in CRIS MW beyond 2 MW would be subject to the NYISO’s examination for an Offer Floor or exemption. However, such an increase in the project’s MW of CRIS can be reviewed for an exemption under the proposed grandfathering rule set forth in the revisions to Section 23.4.5.7.7.

2. Grandfathering Special Case Resources

The NYISO proposes to grandfather from the buyer-side mitigation measures any Special Case Resources enrolled with the NYISO prior to the filing of a proposed Mitigated Capacity Zone. Specifically, the NYISO proposes to modify Section 23.4.5.7.5 as follows:

An ~~Mitigated Capacity Zone~~In-City Installed Capacity Supplier that is a Special Case Resource shall be subject to an Offer Floor beginning with the month of its initial offer to supply Installed Capacity, and until its offers of Installed Capacity have been accepted in the ICAP Spot Market Auction at a price at or above its Offer Floor for a total of twelve, not necessarily consecutive months. A Special Case Resources shall be exempt from the Offer Floor if (a) it is located in a Mitigated Capacity Zone except New York City and is enrolled as a Special Case Resource with the ISO for any month within the Capability Year that includes March 31 in an ICAP Demand Curve Reset Filing Year in which the ISO proposes a New Capacity Zone that includes the location of the Special Case Resource, or (b) the ISO projects that the ICAP Spot Market Auction price will exceed the Special Case Resource’s Offer Floor for the first twelve months that the Special Case Resource reasonably anticipated to offer to supply UCAP...

As explained in the Wyatt Affidavit, grandfathering of such Special Case Resources is appropriate because Special Case Resources are existing “facilities that offer capacity in the form of their ability to curtail their system load during specific periods when called upon” and whose “primary business ... is not the provision of capacity.” This makes the “Commenced Construction” criteria unsuitable for SCRs.²⁸ The revisions providing for the period for grandfathering Special Case Resources were proposed because they account for the fact that

²⁸ Wyatt Affidavit at P 5.

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Special Case Resources' willingness or ability to curtail can vary from month-to-month and can vary "significantly from one Capability Period to the next."²⁹ Thus, it is appropriate for the rule to account for variations in Special Case Resource enrollment as an Installed Capacity Supplier in the ICAP Market throughout a Capability Year.³⁰ As the Wyatt Affidavit explains, because Special Case Resources can readily enter and exit the ICAP market, it is appropriate to limit the exemption to those SCRs that were enrolled in the Capability Year that includes the March 31 Filing proposing an NCZ that includes the location of the Special Case Resource.³¹

3. Offer Floor and Mitigation Exemption Determinations

The NYISO proposes to make Offer Floor and mitigation exemption determinations for projects located in a Mitigated Capacity Zone that are not eligible to be grandfathered. The NYISO proposes to apply the tests in Section 23.4.5.7.2 to make the Offer Floor and exemption determinations and proposes the tariff modifications further explained below to establish the procedures and rules necessary to issue those Offer Floor and exemption determinations.

First, the NYISO proposes revisions that identify the projects that will be subject to an Offer Floor or exemption determination, by adding a new defined term "NCZ Examined Project" to Section 23.2.1. An NCZ Examined Project is defined as:

"NCZ Examined Project" shall mean any Generator or UDR project that is not exempt pursuant to 23.4.5.7.7 and either (i) is in a Class Year on the date the Commission accepts the first ICAP Demand Curve to apply to a Mitigated Capacity Zone, (ii) meets the criteria specified in 23.4.5.7.3(II), or (iii) meets the criteria specified in 23.4.5.7.3(III) but the time period therein has passed on the date the Commission accepts the first ICAP Demand Curve. An NCZ Examined Project may be at any phase of development or in operation or an Installed Capacity Supplier.

The NYISO also proposes to revise the previously submitted definition of "Mitigation Net CONE"³² so that it will be applicable to NCZ Examined Projects in a Mitigated Capacity Zone. Specifically, the NYISO proposes to modify the definition as follows:

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² See EL11-42 Order at P 7, n. 11 (explaining that "Mitigation Net CONE" is a new term that NYISO proposed which is still pending Commission review in Docket No. ER10-2371-000 and

For purposes of Section 23.4.5 of this Attachment H, “**Mitigation Net CONE**” shall mean the capacity price on the currently effective In-City ICAP Demand Curve for the Mitigated Capacity Zone corresponding to the average amount of excess capacity above the In-City Mitigated Capacity Zone Installed Capacity requirement, expressed as a percentage of that requirement, that formed the basis for the ICAP Demand Curve approved by the Commission; provided however that if there is not an effective ICAP Demand Curve and the Commission has (i) accepted an ICAP Demand Curve for the Mitigated Capacity Zone that will become effective when the Mitigated Capacity Zone is first effective, then Mitigation Net CONE shall mean the capacity price on such ICAP Demand Curve for the Mitigated Capacity Zone corresponding to the average amount of excess capacity above the Indicative NCZ Locational Minimum Installed Capacity Requirement, as applicable, expressed as a percentage of that requirement that formed the basis for the ICAP Demand Curve accepted by the Commission, or (ii) not accepted an ICAP Demand Curve for the Mitigated Capacity Zone, but the ISO has filed an ICAP Demand Curve for the Mitigated Capacity Zone pursuant to Services Tariff Section 5.14.1.2.11, the Mitigation Net CONE shall mean the capacity price on such ICAP Demand Curve corresponding to the average amount of excess capacity above the Indicative NCZ Locational Minimum Installed Capacity Requirement, expressed as a percentage of that requirement, that formed the basis for such ICAP Demand Curve.

The NYISO also proposes several new subsections to Section 23.4.5.7 which provide the processes and procedures used to evaluate NCZ Examined Projects for Offer Floor and exemption determinations. New Section 23.4.5.7.2.1 provides that such determinations will be made promptly after Commission acceptance of the first ICAP Demand Curve for the NCZ, for projects which are in a completed Class Year. This timing is appropriate because it ensures that the final determinations provided by the NYISO are consistent with the Commission approved ICAP Demand Curves for the applicable Mitigated Capacity Zone.

For NCZ Examined Projects that are not in a completed Class Year, the NYISO proposes revisions in Section 23.4.5.7.2 which provide for an Indicative BSM Determination. As described in the Wyatt Affidavit, the Indicative BSM Determination provisions will allow the NYISO to provide information to a project in a Class Year that is not yet completed and before the Commission accepts the NCZ ICAP Demand Curve that would apply to the

stating that it represents “the price equal to what the Commission defined as the ‘net CONE’ used to design the NYC demand curves”).

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location of the project.³³ An Indicative BSM Determination will provide a project with an indication of whether it might be exempt, or an estimate of the Offer Floor that might apply to the project.³⁴ The proposed tariff revisions make clear that the Indicative BSM Determination is not the determination that will apply to the project. The determination will be made using the filed ICAP Demand Curve because it will provide the most accurate determination.³⁵

The Indicative BSM Determination will be for informational purposes only, and the Offer Floor or exemption determination that applies to the project will be made after Commission acceptance of the first ICAP Demand Curve for the new Locality, based on the Commission-accepted Locality ICAP Demand Curve. Once the Commission accepts an ICAP Demand Curve for the new Locality, the NYISO will cease providing an Indicative BSM Determination. The NYISO will then utilize the accepted ICAP Demand Curve to examine and make examinations or Offer Floor determinations for projects that have received CRIS where the relevant Class Year has been completed, and to examine and issue decisional round determinations for projects that have not been removed from the Class Year Deliverability Study, if the Class Year has not been completed. Such Indicative BSM Determinations will be issued only if the NYISO has filed an ICAP Demand Curve for the applicable NCZ.

New Section 23.4.5.7.2.3 requires NCZ Examined Projects to submit data and information requested by the NYISO, in order to allow the NYISO to make the required determinations. Related Section 23.4.5.7.2.6 provides that where a project fails to provide the required information by the deadline provided by the NYISO, such project will be subject to an Offer Floor, in accordance with Section 23.4.5.7. Additionally, Section 23.4.5.7.2.3 provides how the NYISO will compute the reasonably anticipated ICAP Spot Market Auction forecast price to be used in making the determination. It will be based on Expected Retirements and each NCZ Examined Project. Section 23.4.5.7.2.3.1 explains how Expected Retirements will be determined and Section 23.4.5.7.2.3.2 explains what the load forecast will be based on.

Section 23.4.5.7.2.4 requires the NYISO to post on its web site prior to making Offer Floor or exemption determinations the inputs and ICAP Spot Market Auction forecast prices in accordance with any confidentiality requirements, as well as Expected Retirements and

³³ Wyatt Affidavit at P 11. *See also*, November 2011 Filing at 4 and Attachment I, Services Tariff § 5.14.1.2. (providing that by November 30 in a Demand Curve Reset Year, the NYISO will file concurrent with ICAP Demand Curves for then-existing Localities and the NYCA, a proposed ICAP Demand Curves for any NCZ).

³⁴ *Id.*

³⁵ *Id.*

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NCZ Examined Projects. Section 23.4.5.7.2.4 sets forth revisions which establish that the NYISO's computation of the anticipated ICAP Spot Market Auction forecast price will, when concurrently evaluating projects, assume that projects will clear from lowest to highest. For each NCZ Examined Project the NYISO will use the lower of the project Unit Net CONE or 75 percent of Mitigation Net CONE. As with the other provisions, the buyer-side mitigation examination provisions use the same framework that presently exists for Examined Facilities. These new provisions accommodate the establishment of NCZs.³⁶

Section 23.4.5.7.2.5 provides that the NYISO will seek comment from the MMU on its calculations, and will inform NCZ Examined Projects of the relevant determinations in a prompt manner. Section 23.4.5.7.2.7 provides that where an NCZ Examined Facility is located in more than one NCZ, it will be evaluated based on where the project is electrically located.

Finally, Section 23.4.5.7.3 has been modified to note that the term "Examined Facility" does not include any facility found to be exempt from the Offer Floor pursuant to Section 23.4.5.7.7.

D. Other Revisions

The NYISO also proposes modifications to the term "Locality" which will allow the accommodation of "nested zones" as explained in the November 2011 Filing. The NYISO proposes to modify the definition of "Locality" as follows:

Locality: A single LBMP Load Zone or set of adjacent LBMP Load Zones within one Transmission District or a set of adjacent Transmission Districts (or a portion of a Transmission District(s)) within which a minimum level of Installed Capacity must be maintained, and as specifically identified in this subsection to mean (1) Load Zone J and (2) Load Zone K.

This modification is necessary to ensure that any future configuration of an NCZ, including where an NCZ encompasses more than one Load Zone, is correctly accounted for in Load Forecasts performed pursuant to Services Tariff Article 5.³⁷ The NYISO's November 2011

³⁶ The rules apply only to projects in a Class Year coinciding with the NYISO's filing of a Mitigated Capacity Zone. After the establishment of an NCZ, ICAP Demand Curves will be applicable to such NCZ. Thus, any project in a Class Year will be considered an Examined Facility. As Examined Facilities, projects located in Mitigated Capacity Zones will be subject to examination under the Offer Floor and exemption determination in the current rules.

³⁷ To the extent necessary, the NYISO requests leave to submit this modification, which was inadvertently not included in the pending November 2011 Filing. The Commission has previously

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Filing makes clear in the definition of the proposed term “New Capacity Zone or NCZ” that a Locality cannot be smaller than a Load Zone.³⁸

Additionally, minor corrections were made to (1) the previously submitted definition of “Mitigation Net CONE” to insert “ICAP” before the term “Demand Curve; and (2) remove extraneous internal numbering in 23.4.5.7.3.

IV. STAKEHOLDER AND MARKET MONITORING UNIT REVIEW

The NYISO made presentations at three meetings of its Installed Capacity Working Group (*i.e.*, April 16, May 22, and June 19, 2012) in which it described the proposed mitigation measures and reviewed proposed tariff revisions that comprised the expected content of this compliance filing. The NYISO circulated the draft tariff revisions to stakeholders for their review prior to each meeting. There were extensive discussions at each of the meetings, and an opportunity to provide any additional comments in writing. The NYISO considered stakeholders’ comments and made modifications based on those comments in order to enhance the filing.

In addition, the MMU was given an opportunity to review and comment on the proposed compliance tariff revisions. The NYISO carefully considered and incorporated the MMU’s recommendations in this compliance filing.

V. REQUESTED EFFECTIVE DATE

The NYISO requests that the Commission accept these proposed modifications effective September 1, 2012 or the effective date the Commission accepts for the tariff revisions proposed in the November 2011 Filing. Since the effective date requested in the November 2011 Filing has passed and the filing is still pending, an effective date of September 1, 2012, or the date accepted for the November 2011 Filing revisions will ensure that these proposed NCZ Market Mitigation Measures are in place by the time the NYISO begins the triennial NCZ Study process.³⁹

VI. SERVICE

authorized the NYISO to include these kinds of limited, but necessary, clarifications in compliance filings and should follow that precedent here. *See New York Independent System Operator, Inc.*, 125 FERC ¶ 61,206 (2008), *reh’g*, 127 FERC ¶ 61,042 (2009) (accepting proposed tariff revisions necessary to correct drafting errors or ambiguities).

³⁸ *See* November 2011 Filing at 3 and Attachment I at Services Tariff § 2.14.

³⁹ *See id.* at 4.

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This filing will be posted on the NYISO's website at www.nyiso.com. In addition, the NYISO will e-mail 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.

VII. CONCLUSION

Wherefore, for the foregoing reasons, the New York Independent System Operator, Inc. respectfully requests that the Commission accept this compliance filing to become effective as specified herein.

Respectfully submitted,

/s/ Vanessa A. Colón

Vanessa A. Colón

Counsel for the

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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 Rules of Practice and Procedure, 18 C.F.R. §385.2010.

Dated at Rensselaer, NY this 29th day of July, 2012.

/s/ Joy A. Zimmerlin

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