UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

New York Independent System Operator, Inc.) Docket No. ER20-1718-000

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

In accordance with Rule 213 of the Federal Energy Regulatory Commission's (the "Commission's") Rules of Practice and Procedure,[1] the New York Independent System Operator, Inc. ("NYISO"), respectfully submits this request for leave to answer and answer ("Answer"). This Answer responds to certain arguments included in the *Comments and Protest of Independent Power Producers of New York, Inc.* ("IPPNY Comments") and *Comments and Limited Protest of Helix Ravenswood, LLC* ("Helix Comments"). Those pleadings address the NYISO's April 30, *Proposed Enhancements to the "Part A Exemption Test" Under the "Buyer-Side" Capacity Market Power Mitigation Measures* in this proceeding (the "April 30 Filing").

As discussed below, the Commission should accept the April 30 Filing's proposed enhancements to the "Part A Exemption Test"[2] (the "Part A Enhancements") under the buyer-side capacity market power mitigation measures ("BSM Rules")[3] in the Market Administration and Control Area Services Tariff ("Services Tariff"). The Commission should also make the revisions effective, as requested, at the conclusion of the standard sixty-day notice period (*i.e.*, on June 30, 2020). Both the New York State Public Service Commission ("NYPSC") and the

[1] 18 C.F.R. §385.213 (2019).

[2] The "Part A Exemption Test" and "Part B Exemption Test" are currently described in Section 23.4.5.7.2 of the Services Tariff but they are not defined terms and are not explicitly referred to in the Services Tariff as the "Part A" or "Part B" tests. The proposed tariff revisions in the April 30 Filing would make "Part A Exemption Test" and "Part B Exemption Test" defined terms and standardize references to them throughout the BSM Rules.

[3] The BSM Rules appear at Section 23.4.5.7, *et. seq.* of the Services Tariff.

NYISO's Independent Market Monitoring Unit ("MMU") strongly supported the April 30 Filing[4] and agreed that it is imperative that the proposed Part A Enhancements be implemented in time for Class Year 2019.[5] Moreover, neither the IPPNY Comments nor the Helix Comments ask the Commission to reject the April 30 Filing outright.[6] Instead, they raise narrow issues concerning: (i) the interaction between the NYISO's proposed enhancements to the "Part A Exemption Test" and pending compliance revisions to the Renewable Exemption (an issue that, as noted below, appears to beyond the scope of this proceeding and a collateral attack on an earlier order), (ii) the application of the Part A Exemption Test for the G-J Locality to "nested" resources in New York City; and (iii) the April 30 Filing's proposed definition of "Public Policy Resource."

The NYISO explains in this answer that there is no merit to IPPNY's or Helix's arguments and that they should be rejected. In the alternative, if the Commission were to accept one or more of their arguments it should nevertheless direct any necessary modifications, conditionally accept the April 30 Filing, and allow it to take effect for Class Year 2019. As demonstrated below IPPNY's and Helix's arguments go to secondary issues and it would be unreasonable for disputes concerning them to delay the substantial benefits that the proposed Part A Enhancements would bring.

[4] *See Motion to Intervene and Comments of the New York ISO's Market Monitoring Unit*, Docket No. ER20-1718-000 (May 21, 2020) ("MMU Comments") and *Notice of Intervention and Comments of the New York State Public Service Commission*, Docket No. ER20-1718-000 (May 21, 2020).

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

[6] In fact, the Helix Comments acknowledge the benefits of the proposed Part A Enhancements and ask the Commission to conditionally approve the April 30 Filing. *See* Helix Comments at 2-3.

I. REQUEST FOR LEAVE TO ANSWER

The NYISO is authorized to answer pleadings that are styled as "Comments" as a matter of right.[7] The Commission may also at its discretion accept, and routinely accepts, answers to protests where they help to clarify complex issues, provide additional information, are helpful in the development of the record in a proceeding, or otherwise assist in the decision-making process.[8] The NYISO should be permitted to answer the IPPNY Comments and Helix Comments because they are principally styled as comments. To the extent that the Commission treats them as wholly or partially tantamount to protests, it should permit the NYISO to answer because they raise complex questions concerning the application of the proposed Part A enhancements which have material economic consequences. The NYISO therefore respectfully requests that the Commission accept this Answer.

II. ANSWER

A. The April 30 Filing's Proposal to Allow Resources to Receive Renewable Exemption MWs from Resources that Passed the Part B Exemption Test is Consistent with Earlier Commission Rulings, Will Not Result in "Artificial Price Suppression," and Is Just, Reasonable and Not Unduly Discriminatory

The IPPNY Comments assert that the way that the proposed Part A Enhancements would interact with other exemptions under the BSM Rules, including the proposed Renewable

[7] Rule 213(a)(3) authorizes parties to answer any pleading except to the extent that an answer is expressly prohibited. To the extent that the Commission deems any comment in this proceeding to be tantamount to a protest, the NYISO requests leave to answer it.

[8] *See, e.g., Southern California Edison Co.*, 135 FERC ¶ 61,093, at P 16 (2011) (accepting answers to protests "because those answers provided information that assisted [the Commission] in [its] decision-making process"); *New York Independent System Operator, Inc.*, 134 FERC ¶ 61,058, at P 24 (2011) (accepting the answers to protests and answers because they provided information that aided the Commission in better understanding the matters at issue in the proceeding); *New York Independent System Operator, Inc.*, 140 FERC ¶ 61,160, at P 13 (2012); and *PJM Interconnection, LLC*, 132 FERC ¶ 61,217, at P 9 (2010) (accepting answers to answers and protests because they assisted in the Commission's decision-making process).

Exemption Limit Filing pending in Docket No. ER16-1404,[9] would be inappropriate.[10] IPPNY objects to the fact that the NYISO would conduct the Part B Exemption Test for resources that the NYISO has determined will be awarded a Renewable Exemption or a Part A Exemption. That is, if a Qualified Renewable Exemption Applicant ("QREA") is eligible for a Renewable Exemption but also proved to be eligible for a Part B Exemption the NYISO would not count the QREA megawatts towards the Renewable Exemption Limit. Instead, the Renewable Exemption MWs associated with that resource would become available to other QREAs that have received a prorated amount of Renewable Exemptions. All remaining Renewable Exemption MWs that are not allocated would be placed in the Renewable Exemption Bank.[11] IPPNY contends that this would "increase the level of Renewable Exemptions improperly and cause capacity price suppression . . . ."[12] The Helix Comments raise the same concerns.[13]

These claims are not valid. The Renewable Exemption Limit should not be reduced because a QREA also passes the Part B Exemption Test. What IPPNY depicts as a new "Reallocation Proposal" has in fact been part of the design of the NYISO's Renewable

[9] New York Independent System Operator, Inc., *Compliance Filing and Request for Commission Action No Later than June 8, 2020*, Docket No. ER16-1404-002 (April 7, 2020) ("Renewable Exemption Limit Filing"). The Renewable Exemption Limit Filing proposed a Renewable Exemption Limit formula that would be used to calculate the amount of Unforced Capacity available for Renewable Exemptions for each Mitigated Capacity Zone within each Class Year Study, Additional SDU Study, and Expedited Deliverability Study.

[10] *See* IPPNY Comments at 5-8.

[11] Further, the Renewable Exemption megawatts that are freed up by a QREA that is determined to be economic under the Part B Exemption Test would only be reallocated to the remaining QREAs in the study that have received a prorated Renewable Exemption or added to the Renewable Exemption Bank. These megawatts would not be reallocated into additional Part A Exemptions for other Examined Facilities that are going through the Class Year Study, Additional SDU Study or Expedited Deliverability Study.

[12] IPPNY Comments at 6.

[13] *See* Helix Comments at 13-15.

Exemption from the beginning and has already been accepted by the Commission. Specifically, the NYISO's original April 2016 Filing to establish the Renewable Exemption stated that:

> CRIS MW associated with Generators that are also eligible for a Self Supply Exemption or not subject to an Offer Floor in accordance with existing Section 23.4.5.7.2(a) or (b) (*i.e.*, the Part A Test and Part B Test) would not count towards the 1,000 MW cap or be counted when calculating partial Renewable Exemption amounts. . . . Counting all the projects that are exempt under other tests (*i.e.*, the Part A and Part B Tests or the Self Supply Exemption) would be inappropriate because it is not the purpose of the cap to limit the impact of resources that are able to qualify under those exemptions. Rather, it is to limit the amount of resources receiving a Renewable Exemption that would not have otherwise been exempt from the Offer Floor, and thus would not have otherwise been able to affect capacity market prices.[14]

The Commission's February 20 Order in this proceeding[15] conditionally accepted the April 2016 Filing. The February 20 Order clearly held that it was accepting "all aspects of NYISO's proposed renewable resources exemption not otherwise discussed below as in compliance with the Complaint Order."[16] The February 20 Order did not impose new compliance obligations on the NYISO with respect to the April 2016 Filing's proposal that resources that passed the Part B Exemption Test would not count towards the NYISO's then-proposed 1,000 MW exemption cap. It required the NYISO to propose a different cap, which became the pending Renewable Exemption Limit, but did not specify that resources eligible for a

[14] *See* New York Independent System Operator, Inc., *Compliance Filing and Request for Commission Action within Sixty Days*, Docket No. ER16-1404-000 (April 13, 2016) at 13 ("April 2016 Filing"). At the time of the April 2016 Filing, the Class Year was the only relevant study period for purposes of applying the BSM Rules. Expedited Deliverability Studies and Additional SDU Studies are new study types that were added to the NYISO's interconnection process as part of a comprehensive redesign of its Class Year processes that was accepted by the Commission in early 2020. *See New York Independent System Operator, Inc., Interconnection Process Improvements*, Docket No. ER20-638-000 (Dec 19, 2019) (the "Class Year Redesign Filing") and *Letter Order*, Docket No. ER20-638-000 (Jan. 31, 2020) (accepting the Class Year Redesign Filing). Consequently, the Renewable Exemption Limit Filing provides for Renewable Exemption Limits to be calculated for each of those studies.

[15] *See New York Independent System Operator, Inc.*, 170 FERC ¶ 61,121 (2020) ("February 20 Order").

[16] *Id*. at P 18.

Part B Exemption should count against such a limit. The February 20 Order also did not reject the rationale recited above for excluding MWs receiving a Part B Exemption from the total amount of MWs eligible for a Renewable Exemption.

Accordingly, IPPNY's and Helix's concerns on this point are outside the scope of this Section 205 proceeding, which should be confined to the changes that were actually proposed in the April 30 Filing.[17] IPPNY's and Helix's assertions that they were unaware of the "Reallocation Proposal" until shortly before the April 30 Filing was made[18] are irrelevant. The April 30 Filing did not propose anything new in this area and simply carried forward an approach accepted by the February 20 Order. Moreover, if IPPNY and Helix objected to resources eligible for a Part B Exemption not counting towards a Renewable Exemption cap or limit they should have raised the issue in response to the April 2016 Filing or, at the latest, by seeking rehearing of the February 20 Order. Their arguments here are thus also a collateral attack on the February 20 Order and should be rejected.[19]

Even if IPPNY's and Helix's claims on this point are deemed to be properly raised before the Commission in this proceeding they should be rejected on the merits. IPPNY's and Helix's

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[17] *See, e.g., PJM Interconnection, L.L.C.*, 170 FERC ¶ 61,243 (2020) at P (rejecting arguments beyond the scope of tariff revisions proposed under Section 205); *Midcontinent Independent System Operator, Inc.*, 170 FERC ¶ 61,226 at P 65 (2020) (holding same); *Midcontinent Independent System Operator, Inc.*, 167 FERC ¶ 61,146 at P 74 (2019) (holding same).

[18] *See, e.g.*, IPPNY Comments at 5.

[19] *See, e.g., San Diego Gas & Electric Co. v. Sellers of Energy and Ancillary Services*, 134 FERC ¶ 61,229 at P 15 (2011) ("[c]ollateral attacks on final orders and relitigation of applicable precedent by parties that were active in the earlier cases thwart the finality and repose that are essential to administrative (and judicial) efficiency; for these reasons, collateral attacks and relitigation are strongly discouraged"); *Pacific Gas & Electric Co.*, 121 FERC ¶ 61,065 at P 40 (2007) (explaining that Commission has a well-established policy against "unnecessary re-litigation"); "); *Alamito Co.*, 43 FERC ¶ 61,274, at 61,753 (1988) ("[I]n the absence of new or changed circumstances requiring a different result, it is contrary to sound administrative practice and a waste of resources to relitigate issues in succeeding cases once those issues have been finally determined.").

preferred approach, *i.e.*, counting the MWs of a resource that is eligible for both a Renewable and Part B Exemption against the proposed Renewable Exemption Limit, would result in over-mitigation. The Renewable Exemption and the Part B Exemption are separate evaluations that were established for different reasons. As the MMU Comments observe, the Part B Exemption is available to individual resources that can "demonstrate their annualized net cost of new entry is lower than expected capacity prices over the first three years of operation . . . ."[20] Thus, like the NYISO's Competitive Entry Exemption, it "allows consumers to benefit from low-cost new entry" based on the economics of a specific entrant. By contrast, the Renewable Exemption is intended to exempt resources with specific characteristics, chiefly intermittency and low capacity factors, that result in their having "limited or no incentive and ability to artificially suppress capacity prices."[21]

Commission precedent is clear that the NYISO must strive to administer the BSM Rules in a manner that avoids both over- and under-mitigation.[22] The Commission has never suggested that the Renewable Exemption should be reduced in scope to the extent that individual intermittent renewable resources are found to be economic. To be clear, the NYISO does not anticipate that many resources that qualify as "Exempt Renewable Technologies" under the Services Tariff will qualify for a Part B Exemption. If the economics of a current Exempt

[20] MMU Comments at 4-5.

[21] April 2016 Filing at 3-4, *citing New York State Public Service Commission, et al. v. New York Independent System Operator, Inc.*, 153 FERC ¶ 61,022 (2015).

[22] *See, e.g., New York State Public Service Commission, et al. v. New York Independent System Operator, Inc.*, 154 FERC ¶ 61,088 at P 31(reiterating the importance of balancing "the need to mitigate the exercise of buyer-side market power to ensure just and reasonable ICAP market prices with the risk of over-mitigating new entrants."); *Consolidated Edison Co. of New York, Inc. v. New York Independent System Operator, Inc*., 150 FERC ¶ 61,139 at P 4 (2015); *New York Independent System Operator, Inc.*, 143 FERC ¶ 61,217 at P 77 (2013) (noting that buyer-side market power mitigation rules must "appropriately balance the need for mitigation of buyer-side market power against the risk of over-mitigation.")

Renewable Technology change over time in a way that obviates its need for a Renewable Exemption the NYISO would address that evolution through its quadrennial review of Exempt Renewable Technologies. But lowering the Renewable Exemption Limit that has been calculated by the NYISO because a specific QREA also passes the Part B Exemption Test is not just and reasonable because it thwarts the purpose of the Renewable Exemption and unduly limits the amount of Renewable Exemption megawatts available to other QREAs.

Adopting such a rule here would constitute over-mitigation and unnecessarily require a forfeiture of megawatts available for exemption under the Renewable Exemption Limit formula. Exemption MWs determined to be available under that formula should not be forfeited because a specific QREA passes the Part B Exemption Test. Such a QREA would continue to be an Exempt Renewable Technology, which requires that it be purely intermittent. This intermittence would have an Unforced Capacity Reserve Margin Impact that contributed some portion of the calculated Renewable Exemption Limit for the relevant study period. IPPNY and Helix have not shown why megawatts that would otherwise be fully available under the proposed Renewable Exemption Limit should be forfeited. Further, a portion of the Renewable Exemption Limit megawatts that an economic QREA qualifies to receive would exist because of load growth or public policy retirements that are captured in the relevant Renewable Exemption Limit determination or through the Renewable Exemption Bank. Making these MWs unavailable to other resources, would be unjust and unreasonable over-mitigation because it would undermine the purpose of the Renewable Exemption.

Renewable resources that do not pass the Part B Exemption Test should be eligible to qualify for the Renewable Exemption, up to the proposed Renewable Exemption Limit, because renewable entry at that level will, in accordance with the design of the Renewable Exemption

Limit formula,[23] not result in artificial price suppression. Counting renewable MWs that receive a Part B Exemption against the Renewable Exemption Limit would unnecessarily reduce the size of the Renewable Exemption and inappropriately subject some Renewable resources to mitigation even when their entry would not suppress capacity prices. Although it is true that IPPNY's and Helix's preferred approach would potentially result in higher capacity prices this does not mean that the Commission-accepted approach results in price suppression. IPPNY and Helix are effectively arguing that the Renewable Exemption Limit should establish the maximum amount of renewables that may receive an exemption under the BSM Rules in a given evaluation period. However, the Renewable Exemption Limit is intended to limit the disruption to markets from the entry of uneconomic renewables, not to offset those exemptions by deducting economic renewables from the total.

The Commission's 2015 order establishing the Competitive Entry Exemption ("CEE") is instructive. In that proceeding, parties opposed to creating a CEE argued that the new exemption would allow resources to enter the market even in scenarios where the NYISO projected that they would be uneconomic.[24] The Commission rejected these claims because its "sole focus" was not on the NYISO's projections. The Commission also wished to ensure that private investors who were not receiving state subsidies and wished to place their own capital at risk were not inappropriately mitigated. The Commission did not, however, require the NYISO to reduce the availability of the Part A or B exemptions to correspond to the quantity of CEEs that

[23] *See* Renewable Exemption Limit Filing at 6-10 (summarizing the purpose, design, and core components of the proposed Renewable Exemption Limit formula).

[24] *See, e.g., Consolidated Edison Co. of New York, Inc. v. New York Independent System Operator, Inc.*, 150 FERC ¶ 61,139 at PP 3-4 (2015). *See also Calpine Corp., et. al.*, 169 FERC ¶ 61,239 (2019) at PP 157-61 (accepting an updated "competitive exemption" under PJM's buyer-side capacity market power mitigation measures).

were granted. It would have been inappropriate for the Commission to have done so. The CEE serves a different function, and is separate and independent from the Part A and B Exemption. Because these exemptions exist for different purposes awarding an exemption under a CEE does not require that other available exemptions become less available to Examined Facilities that would otherwise be qualified to receive them.[25] The same principle should apply to the Renewable Exemption Limit. Reducing the availability of Renewable Exemptions because a QREA is economic would not serve any useful purpose and would only result in over-mitigation.

IPPNY has it backwards when it claims that the NYISO's approach is somehow flawed because "a renewable resource technology that could pass the Part B Test is, by definition, economic and therefore does not require a Renewable Exemption."[26] The fact that, for example, an individual intermittent wind resource has characteristics that allow it to pass the Part B Test does not mean that all intermittent wind can. As noted above, the NYISO anticipates that it will be uncommon for QREAs to also pass the Part B Exemption Test. The fact that such resources may exist does not, as IPPNY implies, invalidate the rationale for having a Renewable Exemption in the first place.[27]

[25] Specifically, the NYISO continues to evaluate Examined Facilities that request a Competitive Entry Exemption ("CEE") using the Part B Exemption Test. In addition, if an entity is denied a CEE, or loses a previously granted CEE, it will nevertheless be evaluated for a Part B Exemption. *See* New York Independent System Operator, Inc., *Proposed Enhancements to the Competitive Entry Exemption Under its "Buyer-Side" Capacity Market Power Mitigation Measures*, Docket No. ER20-663-000 (December 20, 2019) at 7-8.

[26] IPPNY Comments at 6.

[27] Furthermore, even if there were conceptual merit to IPPNY's claim it would be beyond the scope of this proceeding which should properly be limited to the NYISO's proposed Part A Enhancements not the rationale for the Commission's 2015 and 2020 orders addressing the NYISO's Renewable Exemption.

Finally, there is no merit to IPPNY's suggestion that every detail of the interaction between the different exemptions must be explicitly stated in the Service Tariff.[28] As noted above, the general principle that the Part A, Part B, and Renewable Exemptions are separate and independent was proposed by the NYISO in 2016 and accepted by the February 20 Order. The accepted and still pending Services Tariff provisions governing the Renewable Exemption and Renewable Exemption Limit are clear and detailed. The Commission's "Rule of Reason" does not require that tariffs address every specific scenario that might arise in the administration of the BSM Rules.[29]

B. Allowing Resources in Load Zone J to Receive an Exemption Under the G-J Locality Part A Exemption Test Is Appropriate

The IPPNY Comments assert that the NYISO should be directed to modify the proposed Part A Enhancements to prohibit the allegedly "impermissible" exemption of Load Zone J (*i.e.*, New York City) resources based on G-J Locality Demand Curve parameters.[30] They claim that the NYISO has "misinterpreted" the "nesting" rules applicable to such resources and that the NYISO's approach would result in price suppression.[31] The Helix Comments raise similar concerns.[32] IPPNY and Helix also refer back to arguments they made on a related issue in the Renewable Exemption Limit proceeding.[33]

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[28] IPPNY Comments at 6 (asserting that the NYISO's approach would be "unauthorized" under the Services Tariff.

[29] *See, e.g., New York Independent System Operator, Inc.*, 170 FERC ¶ 61,051 (2020) at PP 14-16 (rejecting requests that the NYISO include additional details in tariff provisions that already contained a general description of relevant processes and parameters).

[30] *See* IPPNY Comments at 9.

[31] *Id*. at 10.

[32] *See* Helix Comments at 15-16.

[33] *See, e.g.,* IPPNY Comments at 9; Helix Comments at 15-16.

The NYISO explained in its own answer in that proceeding that the nesting relationship between Load Zone J and the G-J Locality has been the same since the G-J Locality was established seven years ago.[34] It is a market design feature that would not be altered by either the pending compliance filing in the Renewable Exemption Limit proceeding or the proposed Part A Enhancements.

The existing nesting structure allows resources located in Load Zone J to fully participate as an ICAP Supplier in the G-J Locality. For example, resources that are located in Load Zone J are fully fungible with resources in the G-J Locality when the NYISO settles the market to ensure that all LSEs have met their G-J Locality Installed Capacity obligation**.** Similarly, if there were a loss of supply in the G-J Locality that caused a shortfall in meeting its Locational Minimum Installed Capacity Requirement, new supply that is located in Load Zone J would be able to resolve that need. In the same vein, a Part A Exemption that is made available in the G-J Locality due to increased demand or loss of supply in Load Zones G, H and I should be equally available to resources seeking to locate in Load Zone J.

Adopting IPPNY's and Helix's recommendations could lead to the following scenario; assume that the Part A Exemption test identified a 200 MW deficiency in meeting the needs of the G-J Locality, but only 100 MWs of new capacity were proposed in Load Zones G-I. This would result in a 100 MW deficiency. It would be unduly discriminatory to exclude 100 MWs of Load Zone J resources from meeting the G-J Locality's needs for purposes of the Part A

[34] *See Request for Leave to Answer and Answer of the New York Independent System Operator, Inc.*, Docket No. ER16-1404-002 (May 13, 2020) at 23-24, explaining that it is well established that Load Zone J prices could be set by offers within the zone or by offers in the G-J Locality and that Part B Exemption Tests for Load Zone J resources could be based on G-J Locality requirements for the relevant time period.

Exemption Test when the Load Zone J resources physically reside within the G-J Locality and would be counted to meet G-J Locality needs for all other purposes within the ICAP market.

In short, IPPNY and Helix have not justified modifying the NYISO's established nesting market design. They are wrong to claim that the G-J Locality parameters are "irrelevant" to Load Zone J resources for the reasons set forth above. Furthermore, IPPNY's price impact analysis does not reveal the allegedly price suppressive effects of a NYISO-proposed change. It shows that prices would be lower, at least in the scenario presented by IPPNY,[35] under the established nesting structure than they would be under an alternative market design with different nesting rules. Adopting IPPNY's and Helix's recommendation would only risk unnecessary cost increases to customers in both Load Zone J and the G-J Locality. It could also discourage investment in new generation supply in Load Zone J by unduly raising barriers to entry by restricting the availability of the Part A Exemption to Load Zone J resources relative to resources located in Zones G, H, and I. That would be a perverse outcome because generation investment in Load Zone J has a greater reliability value and should be encouraged.

C. The NYISO Should Not Be Required to Modify its Proposed Definition of "Public Policy Resource" to Incorporate Standards Established by the NYPSC

The IPPNY Comments take no position on the merits of the April 30 Filing's proposal to prioritize the ranking of Public Policy Resources ("PPRs") in the Part A Exemption test. But IPPNY claims that the proposed definition is too broad because "it may include zero-emitting resource technologies that are not consistent with the State's policy favoring the new entry of certain generating technologies over others."[36] IPPNY therefore asks that the NYISO be

[35] *See* IPPNY Comments at 10.

[36] IPPNY Comments at 11.

required to modify the proposed definition "to limit it to energy storage resources and renewable resources that the NYPSC has defined as a Tier I resource under its Clean Energy Standard or any successor thereto."[37]

The Commission should deny this request. The April 30 Filing explained why the proposed PPR definition included not just Intermittent Power Resources that are solely wind, solar, and storage resources, but also other Examined Facilities that the NYISO may determine would be zero-emitting resources in the future. "[O]ther types of zero-emitting resources that exist now or that may exist in the future, may be supported by future New York State programs that might emerge under the auspices of the CLCPA in the years ahead."[38] IPPNY states that it "is expected that the NYPSC will soon update its Clean Energy Standard program to implement" the CLCPA.[39] But there is no guarantee that the NYPSC will do so, or that future types of zero-emitting resources will be incorporated into the state Clean Energy Standard. The CLCPA is recently enacted legislation. The NYPSC and other state agencies are just beginning to implement its requirements. While it is already clear that intermittent wind and solar and storage technologies are more likely to be constructed in New York State in the coming years, the NYPSC and other state agencies are still at the early stages of identifying what other electric supply technologies may be preferred by the State.

State resource preferences may evolve over the next two decades of working to fulfill CLCPA goals. However, tying the NYISO's "PPR" definition to a specific existing New York State program that was established prior to the enactment of the Climate Leadership and

[37] IPPNY Comments at 12.

[38] April 30 Filing at 14.

[39] IPPNY Comments at 12.

Community Protection Act ("CLCPA") would be overly restrictive and might work against innovative new technologies. In addition, it is consistent with Commission precedent for the NYISO to make final determinations concerning which resources should qualify as PPRs under its Commission-jurisdictional tariff, instead of leaving the determination to New York State laws or regulations.[40] Finally, if experience demonstrates that the proposed PPR definition should be revised the NYISO can work with stakeholders to propose any adjustments that prove to be necessary.

[40] *See, e.g., New York Independent System Operator, Inc.*, 155 FERC ¶ 61,076, at PP 31-38 (2016) (requiring the NYISO, and not the NYPSC, to make certain determinations under the reliability must run rules because "[h]aving two different entities with authority over selecting transmission solutions to the same identified reliability need could result in inefficient implementation of both processes—two entities would perform evaluations of potential solutions, two entities would solicit comments on potential solutions, and one entity would select a temporary solution, which may be different than the permanent solution, or may become permanent itself."); *New York Independent System Operator, Inc.*, 143 FERC ¶ 61,059, at P 79 (2013) (rejecting NYISO's proposal to vest the NYPSC with the authority to select transmission solutions to reliability needs and public policy transmission needs in its regional transmission plan for purposes of cost allocation).

III. CONCLUSION

WHEREFORE, the New York Independent System Operator, Inc. respectfully requests that the Commission accept this Answer, accept the April 30 Filing without modifications or conditions, and make the April 30 Filing effective on June 30, as previously requested. In the alternative, if the Commission requires any changes in response to the IPPNY Comments or Helix Comments, it should conditionally accept the April 30 Filing and allow the Part A Enhancements to be implemented for Class Year 2019.

Respectfully Submitted,

/s/ David Allen
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June 5, 2020

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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 5th day of June 2020.

By: */s/ John C. Cutting*

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