Attachment I

ATTACHMENT I

Responses of the New York Independent System Operator, Inc.

Overview of the Part A Exemption Test

As the April 30 Filing explained,[1] the Part A Exemption Test compares the forecast of capacity prices in the first year of the Mitigation Study Period[2] of an Examined Facility's operation to the Default Offer Floor, which is 75 percent of the Net CONE of the hypothetical unit modeled in the most recent ICAP Demand Curve Reset, such that a new entrant is exempted if the price forecast for the first year is higher than the Default Offer Floor. The test therefore does not focus on the economics of an individual entrant. Instead, it allows new entrants to avoid an Offer Floor at times when the market is approaching the minimum required level of capacity needed in a Locality regardless of whether this is due to load growth or the exit of existing resources. As the NYISO's independent Market Monitoring Unit has stated, the Part A Exemption Test is "[d]esigned to give resources an exemption if their entry does not lead to an abnormally large capacity surplus."[3]

If a project receives an exemption under the Part A Exemption Test, it is included in the Part A Exemption Test for subsequent projects that are being evaluated in sequential order in the same study based upon each Examined Facility's specific Net CONE from lowest to highest. If a project does not receive an exemption, then it is excluded from the ICAP Forecast for the subsequent project in the sequence.

Question 1

1. In order to support the instant proposal, please provide historical examples to illustrate how the Part A exemption test is currently implemented.

NYISO Response

The NYISO's "buyer-side" capacity market power mitigation rules ("BSM Rules") and Class Year processes have both gone through a variety of modifications in the last several years. Consequently, an example based on the NYISO's most recently completed Class Year, *i.e.*, Class Year 2017, best illustrates how the Part A Exemption Test is currently implemented. (The fact that Class Year 2017 was "bifurcated" into a separate Class Year 2017-1 and 2017-2 is not material for purposes of demonstrating how the currently effective version of the Part A Exemption Test is applied.)

In its Class Year 2017-1[4] evaluation under the BSM Rules, the NYISO conducted the Part A Exemption Test for five Examined Facilities after it had conducted the Part B Exemption Test.

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[1] New York Independent System Operator, Inc., *Proposed Enhancements to the "Part A Exemption Test" Under the "Buyer-Side" Capacity Market Power Mitigation Measures*, Docket No. ER20-1718-000 (April 30, 2020) ("April 30 Filing").

[2] Capitalized terms that rare not otherwise defined herein shall have the meaning specified in the NYISO's Market Administration and Control Area Services Tariff ("Services Tariff").

[3] *Motion to Intervene and Comments of the New York ISO's Market Monitoring Unit*, Docket No. ER20-1718-000 (May 21, 2020) at 5.

[4] Class Year 2017 was "bifurcated" into a separate Class Year 2017-1 and 2017-2 under rules that were accepted in *New York Independent System Operator, Inc.*, Interconnection Process Improvements, Docket No. ER18-80-000 (October 16, 2017). The bifurcation rules were subsequently replaced by the NYISO's "Class Year

The NYISO tested these five Examined Facilities sequentially according to their presumptive Offer Floors (*i.e.*, project-specific Unit Net CONE values) from lowest to highest.

The four Examined Facilities that settled as part of CY2017-1 included:

Cricket Valley Energy Center Project ("CVEC Project") - The CVEC Project was a proposed natural gas-fired combined-cycle plant with three units, each having a 1 x 1 x 1 configuration with total nominal capacity of 1020 MW. The CVEC project is located in Zone G and was determined to be exempt from an Offer Floor pursuant to the NYISO's Competitive Entry Exemption ("CEE").

Bayonne Energy Center II Project ("BEC II Project") – The BEC II Project was a 2 x 0 combustion turbine unit with nominal capacity of 120 MW. The project is located in Zone J and was determined to be exempt from an Offer Floor pursuant to the CEE.

Berrians East Replacement ("CY17 Berrians Project") - The CY17 Berrians Project consisted of three combustion turbine units with a total nominal capacity of 508 MW. The CY17 Berrians Project is located in Zone J and requested a CEE, but was deemed to not qualify for it. The NYISO evaluated the CY17 Berrians Project under the Part B Exemption Test and determined the project to be exempt from Offer Floor.

East River 6 Additional CRIS MW Project ("East River 6 Project") – The East River 6 Project entailed a capacity uprate of 8 MW at the existing East River Unit 6 in Zone J. This Additional CRIS MW Project was determined to be exempt under the Part B Exemption Test.

A fifth Examined Facility was evaluated as part of CY2017-1:

Champlain Hudson Interconnection Project ("CHPE Project") - The CHPE Project is a proposed 1000 MW High Voltage Direct Current ("HVDC") merchant transmission line running from the US-Canada border to New York City. The NYISO confidentially provided the CHPE Project an initial determination as part of the CY17-1 BSM Determinations. The project elected to proceed as a member of CY17-2 with no changes to its ERIS or CRIS. The project was evaluated in CY17-2 for an exemption or Offer Floor pursuant to the Part A and Part B Exemption Tests. Although the NYISO evaluated the CHPE Project and confidentially provided it an initial determination as part of CY17-1, the project opted to proceed as a member of CY17-2. Hence, it did not receive a final determination in CY17-1.

In the CY17-1 BSM evaluation, the forecasted UCAP prices for the first year of the MSP were lower than the Default Net CONE of $143 per kW-year UCAP for Zone J and $117 per kW-year

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Redesign" revisions that were accepted by the January 31, 2020 letter order in Docket No. ER20-638-000. Under the previously effective bifurcation rules, for Examined Facilities that remain a member of the completed Class Year X-1 and Expected CRIS Transferees, the determination issued prior to the commencement of the Bifurcated Decision Period would be the same as the final determination; therefore, the determinations would reflect all Examined Facilities in the Class Year at the time such first determination is issued. In computations made for Examined Facilities that remain in Class Year X-2, the ISO would treat Examined Facilities that complete the decision and settlement phase as part of Class Year X-1 in the same manner as Examined Facilities in a prior Class Year that remained a member of the completed Class Year.

UCAP for G-J Locality.[5] Consequently, none of the Examined Facilities that settled in CY17-1 were exempt under the Part A Exemption Test. The lack of exemptions under Part A was appropriate as the forecasted prices reflected a surplus of Installed Capacity in the Localities.

Question 2.a

2. Please provide examples to illustrate how the proposed enhancements to the Part A exemption test would be implemented in practice, assuming the scenarios below. For simplicity, assume we are discussing resources that will be located in Zone J. In addition, for each scenario, please compare the results obtained using the current Part A exemption test with the results that would be obtained using the proposed enhancement to the Part A exemption test. Specifically, this comparison should compare the results obtained under the current BSM Rules, where the Part B exemption test is conducted before the Part A exemption test, with the results obtained using the proposed enhancements, where the Part A exemption test would be conducted before the Part B exemption test. The results should reflect which hypothetical resources (by resource type) receive exemptions (MW) based on the resources' hypothetical unit Net Cost of New Entry (Net CONE) values. Any reference to resource MW capacity values in this question refers to Unforced Capacity (UCAP) values (e.g., a Public Policy Resource that is a wind resource that is already de-rated from its nameplate capacity value to its UCAP value). In addition, please assume that any exemptions under the renewables exemption have already been accounted for.

    a. For this subpart, assume that there are 500 MW of exemptions available under the Part A exemption test. Further, assume that no resource passes the Part B exemption test. Assume that more than 500 MW of Public Policy Resources are seeking Part A exemptions so that the total MW of resources evaluated under the Part A exemption test exceeds 500 MW. Assume there are also non-Public Policy Resources seeking Part A exemptions, and all of these non-Pubic Policy Resources have lower Net CONE values compared to those of the Public Policy Resources seeking Part A exemptions.

NYISO Response

All Examined Facilities, both Public Policy Resources ("PPRs") and non-Public Policy Resources ("non-PPRs") are evaluated for a Part A Exemption and a Part B Exemption through the Part A Exemption Test and the Part B Exemption Test, respectively. Resources do not need to request a Part A Exemption or Part B Exemption in the same way that they would seek a Competitive Entry Exemption or Renewable Exemption. Examined Facilities do not need to request to be identified as a Public Policy Resource. The NYISO will make this determination

[5] The inputs and assumptions used in the NYISO's Offer Floor and exemption determinations under the BSM Rules ("BSM Determinations") are documented and posted to the NYISO's public website concurrent with its issuance of BSM Determinations. The inputs and assumptions used for CY2017-1 are available at: https://www.nyiso.com/documents/20142/3025517/ICAP-Buyer-side-Mitigation-Test-Data-for-Class-Year-2017-2-Initial-Decision-Round-May-16,-2019.xlsx and https://www.nyiso.com/documents/20142/3025517/ICAP%20Buyer%20Side%20Mitigation%20Test%20Data%20for%20Class%20Year%202017-2%20Initial%20Decision%20Round%20May%2014%202019.pdf.

for all Examined Facilities

As a hypothetical example, assume resources in the study are as follows, ordered from lowest to highest Unit Net CONE:

- Examined Facility #1, 150 MW, non-PPR
- Examined Facility #2, 100 MW, non-PPR
- Examined Facility #3, 300 MW, PPR
- Examined Facility #4, 700 MW, PPR
- Examined Facility #5, 100 MW, PPR

Further assume that all resources are interconnecting into Load Zone J (NYC Locality), for simplicity. Further, assume the 500 MW of exemptions available are all in Load Zone J and there are no Part A Exemptions available in the G-J Locality. Further, assume for simplicity that all resources are in Part A "Group 1"[6] Examined Facilities that is evaluated using the Part A Mitigation Study Period Years 1 through 3, for simplicity.

Under the proposed Part A Enhancements, the Part A Exemption Test is conducted before the Part B Exemption Test and all Public Policy Resources would be evaluated for a Part A Exemption prior to all non-Public Policy Resources, regardless of their Unit Net CONE values. In this example with the proposed ordering of Public Policy Resources being ahead of non-Public Policy Resources, the projects would be tested sequentially in the following order: Examined Facility #3, #4, #5, #1, and #2.

- First, Examined Facility #3 is tested using the Load Zone J parameters and meets the criteria to receive a Part A Exemption. This Examined Facility is now assumed to be in-service when evaluating the subsequent projects for a Part A or Part B Exemption.

- Examined Facility #4 is then tested for a Part A Exemption using the Load Zone J parameters and fails[7] because its unit size exceeds the Part A Exemptions that remains available for Load Zone J. Partial Part A Exemptions are not awarded.

- Examined Facility #5 is then tested using the Load Zone J parameters; it passes the Part A Exemption Test and receives a Part A Exemption. This Examined Facility is now assumed to be in-service when evaluating the subsequent projects for a Part A or Part B Exemption.

[6] *See* April 30 Filing at 2, 10-11 (explaining of the NYISO's proposal to introduce separate Group 1 and Group 2 Mitigation Study Periods under the Part A Exemption Test. .*See* proposed Services Tariff Section 23.4.5.7.3.1.1.

[7] Since this Examined Facility did not pass the Part A Exemption Test applicable for Load Zone J, it would then be tested for a Part A Exemption using the G-J Locality parameters if Part A Exemptions were available in the G-J Locality. The same would be true in each of the other scenarios discussed below in which an Examined Facility does not pass the Part A Exemption Test, *i.e.*, if the Examined Facility is located in the G-J Locality it would then be tested for a Part A Exemption using G-J Locality parameters to the extent that Part A Exemptions are available in the G-J Locality. .

- Examined Facility #1 is tested for a Part A Exemption using the Load Zone J parameters and fails because its unit size exceeds the available Part A Exemptions.

- Finally, Examined Facility #2 is tested using the Load Zone J parameters. It passes the Part A Exemption Test and receives a Part A Exemption. This Examined Facility is now assumed to be in-service when evaluating other Examined Facilities for a Part B Exemption.

This example assumes that no resources pass the Part B Exemption Test, which would be conducted at this point in the process. As a final result, a total of 500 MW was exempt, of which 400 MW was from PPRs.

- Examined Facility #1, 150 MW, non-PPR, NOT EXEMPT
- Examined Facility #2, 100 MW, non-PPR, EXEMPT
- Examined Facility #3, 300 MW, PPR, EXEMPT
- Examined Facility #4, 700 MW, PPR, NOT EXEMPT
- Examined Facility #5, 100 MW, PPR, EXEMPT

Under the current BSM Rules, the Part B Exemption Test is conducted before the Part A Exemption Test, the projects would be tested sequentially for a Part B Exemption in order from lowest to highest Unit Net CONE: Examined Facility #1, #2, #3, #4, #5. It is most likely that Examined Facility #1 would pass the Part B Exemption Test and receive an exemption. However, this is dependent on the size of the unit as well as the specific Net CONE values of the Unit and the Default proxy. In this example, assume that no resources pass the Part B Exemption Test. When the Part A Exemption Test is conducted, the projects would be tested in the same order, from lowest to highest Unit Net CONE: Examined Facility #1, #2, #3, #4, #5. Examined Facility #1 and Examined Facility #2 would both pass the Part A Exemption Test and receive Part A Exemptions. There remains 250 MW of Part A Exemption available but both Examined Facility #3 and Examined Facility #4 fail the Part A Exemption Test because their unit sizes exceeds the available Part A Exemptions. Finally, Examined Facility #5 is tested, passes the Part A Exemption Test and receives a Part A Exemption. As a final result, a total of 350 MW was exempt, of which 100 MW was from a PPR.

- Examined Facility #1, 150 MW, non-PPR, EXEMPT
- Examined Facility #2, 100 MW, non-PPR, EXEMPT
- Examined Facility #3, 300 MW, PPR, NOT EXEMPT
- Examined Facility #4, 700 MW, PPR, NOT EXEMPT
- Examined Facility #5, 100 MW, PPR, EXEMPT

Question 2.b

b. For this subpart, assume that there are 500 MW of exemptions available under the Part A exemption test. Further, assume that no resource passes the Part B exemption test. Assume that more than 500 MW of Public Policy Resources are seeking Part A exemptions so that the total MW of resources evaluated under the Part A exemption test exceeds 500 MW. Assume there are also non-Public Policy

Resources that will be evaluated under the Part A Exemption Test. Assume that at least some Public Policy Resources have lower Net CONE values compared to those of non-Public Policy Resources (e.g. the 250 MW of resources with the lowest Net CONE are non-Public Policy Resources, then there are 200 MW of Public Policy Resources with the next-lowest Net CONE, then 250 MW of non-Public Policy Resources, *etc*.).

NYISO Response

As a hypothetical example, assume resources in the study are as follows, ordered from lowest to highest Unit Net CONE:

- Examined Facility #1, 150 MW, non-PPR
- Examined Facility #2, 100 MW, non-PPR
- Examined Facility #3, 150 MW, PPR
- Examined Facility #4, 100 MW, PPR
- Examined Facility #5, 200 MW, non-PPR
- Examined Facility #6, 50MW, non-PPR
- Examined Facility #7, 300 MW, PPR
- Examined Facility #8, 50 MW, PPR

Further, assume that all resources are interconnecting into Zone J (NYC Locality), for simplicity. Further, assume the 500 MW of exemptions available are all in Zone J and there are no Part A Exemption available in the G-J Locality. Further, assume that all resources are Part A "Group 1" Examined Facilities that are evaluated using the Part A Mitigation Study Period Years 1 through 3, for simplicity.

Under the proposed Part A Enhancements, the Part A Exemption Test is conducted before the Part B Exemption Test and all Public Policy Resources would be evaluated for a Part A Exemption prior to all non-Public Policy Resources, regardless of their Unit Net CONE values. In this example, the projects would be tested sequentially in the following order: Examined Facility #3, #4, #7, #8, #1, #2, #5, and #6.

- Examined Facility #3 is tested, passes the Part A Exemption Test and receives a Part A Exemption. This Examined Facility is now assumed to be in-service when evaluating the subsequent projects for a Part A or Part B Exemption.

- Examined Facility #4 is then tested, passes the Part A Exemption Test and receives a Part A Exemption. This Examined Facility is now assumed to be in-service when evaluating the subsequent projects for a Part A or Part B Exemption.

- Examined Facility #7 is then tested for a Part A Exemption and fails because its unit size exceeds the available Part A Exemptions. Partial Part A Exemptions are not awarded.

- Examined Facility #8 is tested, passes the Part A Exemption Test and receives a Part A Exemption. This Examined Facility is now assumed to be in-service when evaluating the subsequent projects for a Part A or Part B Exemption.

- Examined Facility #1 is tested, which is the first non-Public Policy Resource evaluated in the sequence, and passes the Part A Exemption Test and receives a Part A Exemption. This Examined Facility is now assumed to be in-service when evaluating the subsequent projects for a Part A or Part B Exemption.

- Examined Facility #2 is then tested for a Part A Exemption and fails because its unit size exceeds the available Part A Exemptions.

- Examined Facility #5 is then tested for a Part A Exemption and fails because its unit size exceeds the available Part A Exemptions.

- Similarly, Examined Facility #6 is next tested and fails because their unit sizes exceed the available Part A Exemptions.

This example assumes that no resources pass the Part B Exemption Test. As a final result, a total of 500 MW was exempt, of which 300 MW was from PPRs.

- Examined Facility #1, 150 MW, non-PPR, EXEMPT
- Examined Facility #2, 100 MW, non-PPR, NOT EXEMPT
- Examined Facility #3, 150 MW, PPR, EXEMPT
- Examined Facility #4, 100 MW, PPR, EXEMPT
- Examined Facility #5, 200 MW, non-PPR, NOT EXEMPT
- Examined Facility #6, 50MW, non-PPR, EXEMPT
- Examined Facility #7, 300 MW, PPR, NOT EXEMPT
- Examined Facility #8, 50 MW, PPR, EXEMPT

Under the current BSM Rules, the Part B Exemption Test is conducted before the Part A Exemption Test, the projects would be tested sequentially for a Part B Exemption and ordered from lowest to highest Unit Net CONE: Examined Facility #1, #2, #3, #4, #5, #6, #7, and #8. It is most likely that Examined Facility #1 would pass the Part B Exemption Test and receive an exemption. However, this is dependent on the size of the unit as well as the specific Net CONE values of the Unit and the Default proxy. This example assumes that no resources pass the Part B Exemption Test. When the Part A Exemption Test is conducted, the projects would be tested in the same order, from lowest to highest Unit Net CONE: Examined Facility #1, #2, #3, #4, #5, #6, #7, and #8. Examined Facility #1, #2, #3, and #4 would all pass the Part A Exemption Test and receive Part A Exemptions. No Part A Exemption remain available. As a final result, a total of 500 MW was exempt, of which 250 MW was from a PPR.

- Examined Facility #1, 150 MW, non-PPR, EXEMPT
- Examined Facility #2, 100 MW, non-PPR, EXEMPT
- Examined Facility #3, 150 MW, PPR, EXEMPT
- Examined Facility #4, 100 MW, PPR, EXEMPT
- Examined Facility #5, 200 MW, non-PPR, NOT EXEMPT
- Examined Facility #6, 50 MW, non-PPR, NOT EXEMPT
- Examined Facility #7, 300 MW, PPR, NOT EXEMPT
- Examined Facility #8, 50 MW, PPR, NOT EXEMPT

Question 2.c

c. For this subpart, assume that the capacity price forecast before running the Part A or Part B exemption tests are that capacity prices would be at Net CONE; further, assume that absent any exemptions under the Part B exemption test there would be 500 MW of exemptions available under the Part A exemption test. Assume there are at least 500 MW of non-Public Policy Resources with Net CONE values below the Zone J Default Offer Floor. Also, assume that more than 500 MW of Public Policy Resources are seeking Part A and Part B exemptions, but that all of these resources have Net CONE values that exceed the Zone J Net CONE.

NYISO Response

As a hypothetical example, assume resources in the study are as follows, ordered from lowest to highest Unit Net CONE:

- Examined Facility #1, 100 MW, non-PPR
- Examined Facility #2, 400 MW, non-PPR
- Examined Facility #3, 30 MW, non-PPR
- Examined Facility #4, 300 MW, PPR
- Examined Facility #5, 70 MW, PPR
- Examined Facility #6, 100 MW, PPR
- Examined Facility #7, 50 MW, PPR

Further, assume that all resources are interconnecting into Zone J (NYC Locality), for simplicity. Further, assume the 500 MW of exemptions available are all in Zone J and there are no Part A Exemption available in the G-J Locality. Further, assume that all resources are in Part A Group 1 Examined Facilities that is evaluated using the Part A Mitigation Study Period Years 1 through 3, for simplicity.

Under the proposed Part A Enhancements, the Part A Exemption Test is conducted before the Part B Exemption Test and all Public Policy Resources would be evaluated for a Part A Exemption prior to all non-Public Policy Resources, regardless of their Unit Net CONE values. In this example, the projects would be tested sequentially in the following order: Examined Facility #4, #5, #6, #7, #1, #2, #3.

- Examined Facility #4 is tested, passes the Part A Exemption Test and receives a Part A Exemption. This Examined Facility is now assumed to be in-service when evaluating the subsequent projects for a Part A or Part B Exemption.

- Examined Facility #5 is tested, passes the Part A Exemption Test and receives a Part A Exemption. This Examined Facility is now assumed to be in-service when evaluating the subsequent projects for a Part A or Part B Exemption.

- Examined Facility #6 is tested, passes the Part A Exemption Test and receives a Part A

Exemption. This Examined Facility is now assumed to be in-service when evaluating the subsequent projects for a Part A or Part B Exemption.

- Examined Facility #7 is then tested for a Part A Exemption and fails because its unit size exceeds the available Part A Exemptions. Partial Part A Exemptions are not awarded.

- Examined Facility #1 is tested for a Part A Exemption and fails because its unit size exceeds the available Part A Exemptions.

- Examined Facility #2 is tested for a Part A Exemption and fails because its unit size exceeds the available Part A Exemptions.

- Finally, Examined Facility #3 is tested, passes the Part A Exemption Test and receives a Part A Exemption. This Examined Facility is now assumed to be in-service when evaluating other Examined Facilities for a Part B Exemption.

When the Part B Exemption Test is conducted, the projects would be tested sequentially in order, from lowest to highest Unit Net CONE: Examined Facility #1, #2, #3, #4, #5, #6, #7. When evaluating the projects under the Part B Exemption Test, all Part A Exemptions previously granted in the same study are included. Those projects are included as price-takers beginning in the year their Part A Exemption is effective. Assuming the Unit Net CONE value for Examined Facility #1 would remain below the ICAP Forecast value, the Examined Facility would pass and receive a Part B Exemption. Further, assume that Examined Facility #2 now no longer has a Unit Net CONE value below the ICAP Forecast value due to the addition of the previous units. This project would not pass the Part B Exemption Test. Further, assume the Examined Facility #3 have Unit Net CONE values below its respective ICAP Forecast values. The ICAP Forecast still includes previously exempt facilities but due to Examined Facility #3's smaller size, its ICAP Forecast value is greater than the value calculated for Examined Facility #2. Examined Facility #3 would be exempt by a Part B Exemption. Additionally, recall that in this example, Examined Facility #3 had previously received a Part A Exemption. It now is exempted by a Part B Exemption and does not have restrictions on the time the exemption begins as it wouldunder a Part A Exemption. However, the tests conducted for facilities after Examined Facility #3 was awarded the Part A Exemption have already been evaluated and remain unchanged. Examined Facility #3 is included in the ICAP Forecast as having received a Part A Exemption. The remaining projects have Unit Net CONE values that do not pass the Part B Exemption Test. As a final result, a total of 500 MW was exempt by the Part A Exemption Test, of which 470 MW was from PPRs and 30 MW* subsequently received a Part B Exemption. An additional 100 MW, that did not receive a Part A Exemption, were exempt by the Part B Exemption Test.

- Examined Facility #1, 100 MW, non-PPR, EXEMPT by a Part B Exemption
- Examined Facility #2, 400 MW, non-PPR, NOT EXEMPT
- Examined Facility #3, 30 MW, non-PPR, EXEMPT by a Part B Exemption*
- Examined Facility #4, 300 MW, PPR, EXEMPT by a Part A Exemption
- Examined Facility #5, 70 MW, PPR, EXEMPT by a Part A Exemption
- Examined Facility #6, 100 MW, PPR, EXEMPT by a Part A Exemption
- Examined Facility #7, 50 MW, PPR, NOT EXEMPT

Under the current BSM Rules, where the Part B Exemption Test is conducted before the Part A Exemption Test, the projects would be tested for a Part B Exemption and ordered from lowest to highest Unit Net CONE: Examined Facility #1, #2, #3, #4, #5, #6, #7. Assuming the Unit Net CONE value for Examined Facility #1 is below the ICAP Forecast value, the Examined Facility would pass and receive a Part B Exemption. Further, assume that both Examined Facility #2 and Examined Facility #3 have Unit Net CONE values below their respective ICAP Forecast values. Both projects would be exempt by a Part B Exemption. When the Part A Exemption Test is conducted, the projects would be tested in the same order, from lowest to highest Unit Net CONE: Examined Facility #1, #2, #3, #4, #5, #6, #7, and #8. All Part B Exemptions previously granted in the same study are included as in-service when conducting the Part A Exemption Tests. Those projects are included as price-takers and consume the available originally forecasted 500 MW of Part A Exemptions. No Part A Exemption remain available. As a final result, no MW were exempt by the Part A Exemption Test and 530 MW were exempt by the Part B Exemption Test.

- Examined Facility #1, 100 MW, non-PPR, EXEMPT by a Part B Exemption
- Examined Facility #2, 400 MW, non-PPR, EXEMPT by a Part B Exemption
- Examined Facility #3, 30 MW, non-PPR, EXEMPT by a Part B Exemption
- Examined Facility #4, 300 MW, PPR, NOT EXEMPT
- Examined Facility #5, 70 MW, PPR, NOT EXEMPT
- Examined Facility #6, 100 MW, PPR, NOT EXEMPT
- Examined Facility #7, 50 MW, PPR, NOT EXEMPT

Question 3

3. Under the proposed enhancements of the Part A exemption test, will NYISO consider all previously granted exemptions when it evaluates the next resource for Part A exemptions? Please explain and provide hypothetical examples.

NYISO Response

The NYISO will consider all previously granted exemptions when it evaluates the next resource for Part A exemptions but not all resources granted exemptions will be included in the forecast price. Under the proposed Part A Enhancements, the NYISO proposed to modify Section 23.4.5.7.15.5.2 of the Services Tariff to clarify the treatment of previously exempted resources. This clarification covers two groups of exempt resources – 1) resources determined to be exempt within the current evaluation (*i.e.*, resources that have been evaluated earlier in the sequential order); and 2) resources granted an exemption in a prior BSM evaluation that have not entered into service yet.

The proposed Part A Enhancements indicate that any resource receiving a Renewable Exemption or a Part A Exemption in that study are to be included as in-service when evaluating other Examined Facilities for a Part B Exemption in the same study period. In addition, any resource receiving a Renewable Exemption or a PPR receiving a Part A exemption in a prior study will be included in the supply stack unless it is reasonable to anticipate that the project will not enter the

market. All other resources receiving an exemption in a prior evaluation will be included as in the supply stack if the NYISO determine that the project has spent 5 percent or more of its project's costs prior to the time the ISO conducts the BSM evaluations.

As a hypothetical example, assume an Examined Facility from a previous study received an exemption. The NYISO determines if at the time of its analysis whether the project has spent at least 5% of the previously studied total project costs. If this threshold is met, the project is included in the supply stack as generation for the ICAP Forecast. However, if this project was determined to be subject to mitigation, if the threshold is met, the project would be included at its Offer Floor and would only clear capacity if the forecasted values were greater than its Offer Floor value.

Question 4.a

4. You state that NYISO proposes to define Public Policy Resources as "Intermittent Power Resources that are solely wind or solar, energy storage resources, and other Examined Facilities that the NYISO determines would be zero-emitting resources." You also state that NYISO proposes to reorder how resources are evaluated for Part A exemptions, by placing Public Policy Resources ahead of non-Public Policy Resources, to ensure that the resources most likely to enter into service are evaluated first.

    a. Please estimate the amount of resources in NYISO's current Class Year that would meet the proposed definition of Public Policy Resources and become eligible for Part A exemptions.

NYISO Response

As of July 8, 2020, there are twenty-one projects in Class Year 2019, the current Class Year, which would meet the proposed definition of Public Policy Resources in the Mitigated Capacity Zones. These projects are requesting a total of 575.7 MW of CRIS (which is measured in ICAP rather than UCAP). Specifically, there are 37.5 MW in Load Zone J across three projects, none of which are seeking a Renewable Exemption. There are an additional 538.2 MW across eighteen projects located in Load Zones G, H or I which are evaluated in the G-J Locality, of which eight projects (213.2 MW total) are seeking a Renewable Exemption. These numbers are subject to change, as resources still have the ability to withdraw from the current Class Year.

These numbers do not include the five resources that the Class Year study determined require additional System Deliverability Upgrade ("SDU") studies. Four of those resources, totaling 2074 MW of requested CRIS in Zone J, meet the proposed definition of Public Policy Resource. Of that total, 816 MW are associated with resources seeking a Renewable Exemption. Under the NYISO's interconnection process, such additional studies are completed on a separate track, and the associated resources proceed to a decision and settlement period as part of an ongoing Class Year or separately, depending on when those studies are completed. The NYISO estimates that the ongoing additional SDU studies will be completed after the expected completion of Class Year 2019. Therefore, the NYISO will evaluate the projects participating in such studies under the BSM Rules at a point after the remaining projects in Class Year 2019.

It is important to note that just because a resource meets the definition of a Public Policy Resource does not necessarily mean that it will receive a Part A exemption, as noted in example 2b above. The Proposed Part A Enhancements will make PPRs more likely than non-PPRs to receive Part A Exemptions when supply conditions are such that Part A Exemptions are available (which may or may not be the case). This proposed change is consistent with the expectation that PPRs are more likely to enter service, as discussed further in the NYISO's response to 4.d. In addition, Examined Facilities that are Exempt Renewable Technologies will be eligible to qualify for a Renewable Exemption, if the NYISO's Renewable Exemptions rules are accepted and implemented. To the extent that such Examined Facilities do not receive a Renewable Exemption they would also qualify as Public Policy Resources for purposes of the Part A Exemption Test evaluations.

Question 4.b

b. Under the proposed enhancements to the Part A exemption test, will the re-ordering of resources evaluate Public Policy Resources in ascending order of Net CONE, immediately followed by the sequential evaluation of non-Public Policy Resources in ascending order of Net CONE? Please explain.

NYISO Response

Yes, under the proposed Part A Enhancements, the NYISO would evaluate PPRs in ascending order of Net CONE, immediately followed by evaluating non-PPRs in ascending order of Net CONE. The NYISO does not view these as "separate" evaluations. Instead, the evaluations of PPRs and non-PPRs are both part of a single, sequential process.

As the April 30 Filing explained, the current Part A Exemption Test rules are based on an assumption that resources with a lower Net CONE are more likely to enter service as their relative economics would attract investors. However, given the shift in New York State policy as represented by the Climate Leadership and Community Protection Act ("CLCPA")[8], this assumption is becoming increasingly unrealistic. This re-ordering proposed by the April 30 Filing, as discussed further below in the NYISO's Response to Question 4.d, is premised on the expectation that PPRs are more likely to enter service than their non-PPR counterparts because large numbers of PPRs will be required to enter operation in order for the New York State to meet its public policy mandates.

As there are likely to be multiple PPR and non-PPR resources, a construct must exist to order resources for evaluation. The NYISO believes that ordering the evaluations within the PPR and non-PPR categories based on Net CONE will continue to be appropriate in the future. Within the PPR category, the lowest Net CONE resources are more likely than more expensive PPRs to win Requests for Proposal contracts and receive investment to move forward given their relative economics. The same is true within the non-PPR category; the most economic non-PPR, is more likely to enter the market relative to other non-PPRs.

[8] Chapter 106 of the laws of 2019 (July 18, 2019).

Question 4.c

c. Please explain how NYISO will independently verify the projected Net CONE values of sponsored Public Policy Resources. Will NYISO need to develop any new procedures to determine the unit specific Net CONE of these resources?

NYISO Response

The NYISO will follow already established procedures to independently verify the project Net CONE value of sponsored Public Policy Resources. Section 23.4.5.7.3 of the Services Tariff already requires the NYISO to calculate a unit specific Net CONE for each Examined Facility. The NYISO is also required to seek comments from the MMU for each calculation. In addition the NYISO tariffs require these facilities to provide the data requested by the NYISO. No new procedures, or tariff language, is needed to calculate a unit specific Net CONE for sponsored Public Policy Resources as a result of April 30 Filing.

Question 4.d

d. Please explain how the proposed reordering of evaluated resources for the Part A exemption test results in "efficient, competitive, economic outcomes that benefits consumers," as compared to the solution obtained using the current Part A exemption test. [Footnote omitted]

NYISO Response

The ordering of evaluated resources under the currently effective version of Part A Exemption Test is producing "efficient, competitive, economic outcomes that benefit consumers" today and should continue to be viewed as just and reasonable. The revised ordering method under the proposed Part A Enhancements will also produce efficient, competitive, economic outcomes that benefit consumers.[9] The new method should be adopted going forward because it will more accurately reflect evolving market and system conditions in New York State that are expected to

[9] It is well established by judicial and Commission precedent that different versions of market rules may simultaneously be just, reasonable, and not unduly discriminatory. *See, e.g., Me. Pub. Utils. Comm'n v. FERC*, 520 F.3d 464, 470-71 (D.C. Cir. 2008), *rev'd in part on other grounds sub nom. NRG Power Mktg., LLC v. Me. Pub. Utils. Comm'n*, 558 U.S. 165 (2010) ("there is not a single 'just and reasonable rate' but rather a zone of rates that are just and reasonable; a just and reasonable rate is one that falls within that zone."*)*; *Petal Gas Storage, L.L.C. v. FERC*, 496 F.3d 695, 703 (D.C. Cir. 2007) ("FERC is not required to choose the best solution, only a reasonable one"); *Cal. Indep. Sys. Operator Corp.*, 128 FERC ¶ 61,282, at P 31 (2009) (having found the independent system operator's proposal just and reasonable, the Commission was not required to assess the justness and reasonableness of an alternative proposal); *ISO New England Inc.*, 153 FERC ¶ 61,223, at P 90 (2015) (it is well established that there can be more than one just and reasonable rate); *PJM Interconnection, L.L.C.*, 147 FERC ¶ 61,103, at P 59 (2014) ("In submitting proposed tariff changes pursuant to a FPA section 205 filing, PJM need only demonstrate that its proposed revisions are just and reasonable, not that its proposal is the most just and reasonable among all possible alternatives."); *Louisville Gas and Elec. Co.*, 114 FERC ¶ 61,282, at P 29 (2006) (The just and reasonable standard under the FPA is not so rigid as to limit rates to a "best rate" or "most efficient rate" standard; rather, a range of alternative approaches often may be just and reasonable.), *reh'g denied, E. ON U.S. LLC*, 116 FERC ¶ 61,020 (2006).

result from State policy mandates, will continue to prevent artificial price suppression, and will avoid having the NYISO-administered capacity market incentivize the construction of resources that will not actually be needed in New York.

The currently effective ordering method, which is solely based on the Net Cost of New Entry, is founded on an assumption that that the most economic resources will ultimately enter the market. This assumption was reasonable when it was first adopted and is still a reasonable way to rank PPRs (and non-PPRs) relative to each other. But relying solely on economic ranking would be increasingly likely to lead to uneconomic outcomes for consumers in the future. As New York State works to meet the CLCPA's mandates it is expected to continue to promote the development of zero emitting resources and technologies. These new technologies will likely be more costly to build than conventional technologies, especially early on. The development of these resources will be incented by State-policy outside of the current NYISO-administered market design that will make PPRs more likely to enter into service than non-PPRs.[10] New York State is also likely to take other environmental and energy policy steps that will have the effect of delaying or preventing the entry of non-PPRs.[11] The NYISO is proposing to better reflect these evolving factual circumstances in the BSM Rules by sequencing its evaluations under Part A to evaluate all PPRs before evaluating non-PPRs. To be clear, the NYISO is not asking the Commission to endorse or "accommodate" New York State's policy choices. The sole purpose of the proposed reordering is to update the BSM Rules to more accurately account for how those State policies will influence which resources are more likely to actually enter the market in New York. It would be unreasonable for the BSM Rules to ignore these developments.

The proposed approach carefully balances the New York State's CLCPA mandates while protecting the FERC-jurisdictional wholesale markets from artificial price suppression. It does so by only granting exemptions to these otherwise uneconomic resources when expected prices are at competitive ranges. Thus, these modifications create a mechanism for these resources to enter in and receive compensation from the wholesale markets, when expected prices are at a level that would support new entry. As indicated by some of the examples in the NYISO's response to Question 2, the NYISO's proposal would not create an exemption under the BSM Rules for PPRs. Instead, it would only allow PPRs that do not qualify for another exemption to avoid an Offer Floor when forecasted conditions indicate that their entry would not suppress prices. Consumers will receive relief because the BSM Rules would no longer signal a need for conventional resources that are not likely to be needed. The NYISO's proposal is thus a

[10] *See, e.g.*, https://www.governor.ny.gov/news/governor-cuomo-announces-30-day-amendment-accelerate-renewable-energy-projects-and-drive (February 21, 2020) (press release describing New York State legislation to establish a new office of renewable energy siting to "dramatically speed up the permitting and construction of renewable energy projects" in accordance with CLCPA mandates. In April, New York enacted the Accelerated Renewable Energy Growth and Community Benefit Act is part of the 2020-21 state budget law. Chapter 58 (Part JJJ) of the laws of 2020 (April 3, 2020). The statute authorized the creation of an Office of Renewable Energy Siting, which will supplant the role of the Article 10 Siting Board for permitting larger renewable energy facilities, and contains provisions to upgrade the state's transmission system to deliver renewable energy to consumers. The objective of the legislation is to prioritize and expedite the construction of renewable resources needed to meet CLCPA mandates.

[11] *See, e.g.*, https://www.bloomberg.com/news/articles/2020-05-15/new-york-again-blocks-controversial-natural-gas-pipeline; and *https://www.governor.ny.gov/news/governor-cuomo-announces-adoption-final-regulations-make-new-york-power-plants-coal-free-end*.

balanced approach, which still accounts for Unit Net CONE and non-PPRs, which will result in efficient, competitive, and economic outcomes that benefit consumers. The Affidavit of David B. Patton, which is Attachment II to the NYISO's response, supports the NYISO's position. Dr. Patton affirms that the proposed reordering of evaluated resources under the Part A Enhancements will result in efficient, competitive, market outcomes that benefit consumers. As Dr. Patton explains, the proposed Part A Enhancements will "continue to protect the integrity of the NYISO's Installed Capacity market prices while more effectively avoiding inefficient capacity surpluses by testing PPRs first under the Part A Exemption Test."[12] Such artificial surpluses could lead to higher costs for consumers, market distortions, and higher costs for PPRs.[13]

[12] Attachment II at P 11.

[13] *See* Attachment II at P 10.