

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

New York Independent System Operator, Inc.

Docket Nos. EL07-39-____
ER08-695-____

AFFIDAVIT OF JOSHUA A. BOLES

1. My name is Joshua A. Boles, and I am the Supervisor of Monitoring, Analysis, and Reporting for the Market Mitigation and Analysis Department (“MMA”) of the New York Independent System Operator, Inc. (“NYISO”). My responsibilities include supporting the Manager of Market Monitoring in administering the NYISO’s Market Mitigation Measures (“MMM”), which are set forth in Attachment H to the NYISO’s Market Administration and Control Area Services Tariff (“Services Tariff”). I hold an M.A. in Applied Economics and a B.A. in Economics from the State University of New York at Buffalo.
2. I am submitting this affidavit to explain the analysis and methodology used to determine whether the NYISO should maintain the current 500 MW exemption for Pivotal Suppliers¹ for the report submitted as part of the NYISO’s August 12, 2010 compliance filing in response to the Commission’s May 20, 2010 order (“May 20 Order”) in these proceedings. The Commission’s May 20 Order directed the NYISO to review the merits of the exemption in light of the market power concerns the NYISO raised with respect to the Commission’s directives on the NYISO’s proposed broader definition of “Control” and submit a report on whether the exemption should be retained.

¹ Capitalized terms that are not otherwise defined herein shall have the meaning specified in Attachment H, or if not defined therein, the Services Tariff.

3. Attachment H of the NYISO's Services Tariff contains provisions on Pivotal Supplier mitigation measures for the New York City capacity market. Under the mitigation measures, Pivotal Suppliers are Installed Capacity Suppliers that Control at least 500 MW of Unforced Capacity ("UCAP") and some portion of UCAP which is necessary to meet the New York City Locational Minimum Installed Capacity ("ICAP") Requirement in an ICAP Spot Market Auction. Pivotal Suppliers are required to offer all of their available capacity at or below the UCAP Offer Reference Level, the price on the demand curve that would result if all available UCAP was offered at a price of zero. The must-offer requirement prevents Pivotal Suppliers from physically withholding capacity, and the price ceiling prevents economic withholding.
4. As represented in the formula below, an Installed Capacity Supplier can profitably withhold capacity if the percentage increase in price in the ICAP Spot Market Auction exceeds the percentage reduction in quantity (*i.e.*, the own-price elasticity for residual demand is less than one).

$$(1) \% \Delta P > \% \Delta Q$$

$$(2) (P_2 - P_1) / P_1 > (Q_2 - Q_1) / Q_1$$

$$(3) \text{Rearranging terms and substituting slope: } Q_1 > P_1 / \text{slope}$$

5. Prices typically are higher in months in the Summer Capability Period, so the same amount of capacity withheld in Summer Capability Period months will have a smaller percentage price impact than in months in the Winter Capability Period. Therefore, control of a greater amount of MW is required for profitable withholding in months in the Summer Capability period.

6. In order to determine whether the 500 MW exemption for Pivotal Suppliers should be retained, I performed an analysis using the methodology noted above with Demand Curve parameters and ICAP Spot Market Auction Market-Clearing Prices from May 2008 to June 2010 for the New York City Locality. The updated analysis indicated that both the average and median size required for Installed Capacity Suppliers to be able to engage in profitable withholding from May 2008 to June 2010 was above 500 MW.
7. Specifically, over the 26 months, the average required size for profitable withholding was 575.8 MW and the median size was 676.5 MW. The Summer Capability Period average (14 months) was 818.9 MW, and the Winter Capability Period average (12 months) was 292.1 MW. Clearly, the 500 MW exemption can be justified during the Summer Capability Period. The Winter Capability Period shows that a smaller MW value could result in profitable withholding. However, prices in months in the Winter Capability Period frequently are significantly lower than in months in the Summer Capability Period, and the clearing price in months in the Winter Capability Period frequently are set by the NYCA clearing price rather than the New York City Locality Market-Clearing Price.² Accordingly, the opportunity to benefit from withholding Capacity during the Winter Capability Period is much lower than that in the Summer.
8. The low risk of withholding with a 500 MW exemption is lessened further by the other aspects of the In-City Capacity market mitigation structure, and other mitigation measures, which deter Capacity withholding.

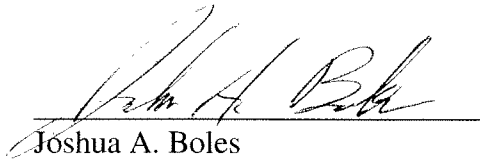
² See New York Independent System Operator, Installed Capacity Manual at Section 5.15.2 (June 2010) available at < http://www.nyiso.com/public/markets_operations/documents/manuals_guides/index.jsp>.

9. As set forth in the filing, the NYISO will include in its annual Installed Capacity Demand Curves Report In-City Capacity that is offered, and offered and unsold.³ The inclusion of that information will provide transparency, which also will aid in deterring withholding. Therefore, I agree with the NYISO's determination to retain the current 500 MW exemption for Pivotal Suppliers.
10. I have also discussed this determination with the NYISO's Independent Market Monitoring Unit ("MMU") and confirmed that the MMU supports this determination.
11. This concludes my affidavit.

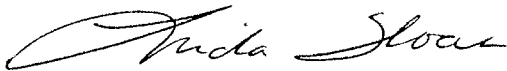
³ See *New York Independent System Operator, Inc.*, 130 FERC ¶ 61,237, at P 4 (2010).

ATTESTATION

I am the witness identified in the foregoing Affidavit of Joshua A. Boles dated August 12, 2010 (the "Affidavit"). I have read the Affidavit and am familiar with its contents. The facts set forth therein are true to the best of my knowledge, information, and belief.



Joshua A. Boles
Supervisor of Monitoring, Analysis, and
Reporting
New York Independent System Operator, Inc.
August 12, 2010



Subscribed and sworn to before me
this 12th day of August 2010

LINDA SLOAN
Notary Public - State of New York
No. 01SL6198599
Qualified in Schenectady County
My Commission Expires December 29, 2012