

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

<b>SENECA POWER PARTNERS, L.P.</b>	)	
	)	
<b>Complainant,</b>	)	
	)	
<b>v.</b>	)	<b>Docket No. EL12-6-000</b>
	)	
<b>NEW YORK INDEPENDENT SYSTEM</b>	)	
<b>OPERATOR, INC.</b>	)	
	)	
<b>Respondent.</b>	)	

**NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.’S**  
**ANSWER TO COMMENTS AND**  
**REQUEST FOR TECHNICAL CONFERENCE**

Pursuant to Rule 213 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“FERC” or “Commission”),<sup>1</sup> the New York Independent System Operator, Inc. (“NYISO”) hereby submits this answer to (i) the *Comments in Support and Request for Technical Conference or Other Commission Assistance of TC Ravenswood, LLC*;<sup>2</sup> and (ii) the *Motion to Intervene and Comments in Support of Independent Power Producers of New York, Inc.*<sup>3</sup> The comments of TC Ravenswood, LLC (“TC Ravenswood”) and the Independent Power Producers of New York, Inc. (“IPPNY”) are not germane because they do not provide cost or other information relevant to the calculation of reference levels for the

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<sup>1</sup> Because these pleadings are “comments,” the NYISO is entitled to answer them under Commission Rule 213(a)(3). In addition, the NYISO is entitled to respond to the TC Ravenswood pleading, since it seeks affirmative relief in the form of a technical conference, and thus is in effect a motion.

<sup>2</sup> TC Ravenswood, LLC November 28, 2011 Comments (“TC Ravenswood Comments”).

<sup>3</sup> Independent Power Producers of New York, Inc. November 28, 2011 Motion and Comments (“IPPNY Comments”).

Seneca Power Partners, L.P. (“Seneca”) Batavia Generator (“Batavia”), which is the only issue raised by Seneca’s complaint (“Seneca Complaint”). In addition, the Commission should deny TC Ravenswood’s request for a technical conference, because: (1) the issues posed by TC Ravenswood for consideration at a technical conference are not placed at issue by the Seneca Complaint; and (2) the determination of the three elements of the Batavia reference levels that are at issue under the complaint turns on confidential, unit-specific cost information that could not meaningfully be assessed in a multi-party technical conference involving the owners or bidders of other Generators that participate in the New York markets.<sup>4</sup>

## **I. ANSWER**

### **A. The Commission Should Disregard TC Ravenswood’s and IPPNY’s Comments As They Do Not Provide Information Relevant to the Calculation of Batavia’s Reference Levels**

Because they cannot possibly know the unit-specific costs or operating characteristics of Batavia, TC Ravenswood’s and IPPNY’s comments simply assume that the assertions in the Seneca Complaint are all factually correct and fully substantiated. Thus, to the limited extent that the IPPNY and TC Ravenswood comments purport to address the issues raised in the complaint, the reasoning of the comments is at best redundant and that only if the facts alleged in the Seneca Complaint are 100% true and accurate. The November 28, 2011 *Answer of the New York Independent System Operator, Inc.* (“Answer”) shows that this is not the case.

Third-party Generators are not in a position to contribute to the resolution of the Seneca Complaint. The NYISO calculates Batavia’s reference levels by determining Batavia’s marginal

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<sup>4</sup> Terms with initial capitalization that are not otherwise defined herein shall have the meaning set forth in the NYISO Market Administration and Control Area Services Tariff, and if not defined therein, in the NYISO Open Access Transmission Tariff.

costs through a detailed assessment of confidential, Generator-specific data in accordance with the requirements in the Market Power Mitigation Measures set forth in Attachment H to the NYISO's Market Administration and Control Area Services Tariff ("Mitigation Measures").<sup>5</sup> The NYISO and Seneca can address concerns regarding Batavia's reference levels through consultations pursuant to the process set forth in the Mitigation Measures.<sup>6</sup> TC Ravenswood and IPPNY do not have access to Batavia's confidential reference levels or to the confidential, Generator-specific data used by the NYISO to calculate the Batavia reference levels. TC Ravenswood and IPPNY do not and, as potentially competing Generators, should not, participate in the consultations between the NYISO and Seneca regarding Batavia's reference levels.

In the absence of any facts, the TC Ravenswood and IPPNY comments merely parrot back Seneca's arguments from its complaint and make unsupported, conclusory statements that Seneca has demonstrated that the NYISO has not calculated Batavia's reference levels in accordance with the Mitigation Measures.<sup>7</sup> IPPNY and TC Ravenswood's comments do not and cannot contribute in any meaningful way to the Commission's resolution of the fact-based, unit-specific reference level determinations placed in issue by the Seneca Complaint.

TC Ravenswood, citing an order in a proceeding that did not involve the determination of reference levels, claims that "the NYISO continues to make overly exclusionary decisions with respect to variable costs in reference prices by excluding natural gas commodity basis adjustments, local transportation rates and gas balancing costs."<sup>8</sup> As shown in the NYISO's

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<sup>5</sup> See New York Independent System Operator, Inc. November 28, 2011 Answer at 12-19 ("NYISO Answer").

<sup>6</sup> See NYISO Answer at 20-22.

<sup>7</sup> See, e.g., TC Ravenswood Comments at 6; IPPNY Comments at 7.

<sup>8</sup> TC Ravenswood Comments at 9.

Answer, however, the problem with Seneca's gas costs claims is not some nuance in the definition of "variable" costs, but rather Seneca's failure to come forward with *any* data on the variable costs of local gas transportation service to Batavia.<sup>9</sup>

The Commission should similarly disregard TC Ravenswood's and IPPNY's scattered attacks on the NYISO's process for setting and reviewing a Generator's reference levels.<sup>10</sup> The NYISO sets and reviews each Generator's reference levels in accordance with the process and timetable accepted by the Commission and set forth in the Mitigation Measures. TC Ravenswood's and IPPNY's complaints regarding the NYISO's process are simply a collateral attack on the Commission's approval of this process in other dockets, and are not relevant to the calculation of the three specific elements of Batavia's reference levels at issue in this proceeding.

Finally, the Commission should disregard TC Ravenswood's assertions regarding the reference levels of TC Ravenswood's Generators. Such complaints are beyond the limited scope of this proceeding. While initially indicating that it may have to seek Commission action to resolve its own issues,<sup>11</sup> TC Ravenswood then proceeds to detail its concerns regarding the calculation of the reference levels of its own Generators and requests broad Commission action to address these claims.<sup>12</sup> The calculation of the reference levels for TC Ravenswood's Generators are not at issue in this proceeding. Rather, the Seneca Complaint solely concerns the calculation of the reference levels for local gas transportation cost, minimum run time, and operating and maintenance costs for Batavia.

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<sup>9</sup> NYISO Answer at 6-7, 24-25.

<sup>10</sup> *See, e.g.*, TC Ravenswood Comments at 6; IPPNY Comments at 8.

<sup>11</sup> TC Ravenswood Comments at 2.

<sup>12</sup> *See* TC Ravenswood Comments at 8-11.

TC Ravenswood's comments are, essentially, a new complaint against the NYISO regarding the calculation of the reference levels for TC Ravenswood's Generators. The Commission has previously denied intervenors' attempts to initiate a new complaint through another party's proceeding and should, therefore, reject any attempt to expand the scope of this docket beyond a determination regarding the three elements of Batavia's reference levels raised in the Seneca Complaint and addressed in the NYISO's Answer.<sup>13</sup>

**B. The Commission Should Deny TC Ravenswood's Request for a Technical Conference As the Request Goes Beyond the Complaint and a Technical Conference Is Not a Suitable Forum for Addressing Generator-Specific Determinations**

TC Ravenswood asks the Commission to "convene a technical conference or other Staff/ALJ administered proceeding to define certain standard definitions to be used in reference price calculations."<sup>14</sup> TC Ravenswood proposes that the technical conference should cover the setting of "certain generic and recurring cost items and types."<sup>15</sup> The Commission should deny TC Ravenswood's request.

First, the Seneca Complaint does not request relief based on the resolution of conflicting definitions of "generic and recurring cost items and types." Rather, the complaint turns on whether Seneca has in fact "shown that it has a cost foundation for each NYISO-proposed

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<sup>13</sup> See, e.g., *Golden Spread Elec. Coop., Inc.*, 115 FERC ¶ 61,136, at P 4 (2006) ("[T]he Commission has long held that a complaint cannot be submitted as part of a motion to intervene."); see also, *Louisiana Power & Light Co.*, 50 FERC ¶ 61,040 at 61,062-63(1990) (stating that complaints must be titled as such and cannot be included as part of a protest or motion to intervene); *Yankee Atomic Elec. Co.*, 60 FERC ¶ 61,316 at 62,096-97 n.19 (1992) (explaining importance of filing complaint separately from motion for clarification); *Entergy Servs., Inc.*, 52 FERC ¶ 61,317 at 62,270 (1990) (stating that complaints must be filed separately from motions to intervene and protests).

<sup>14</sup> TC Ravenswood Comments at 8.

<sup>15</sup> TC Ravenswood Comments at 2.

change to the reference price.”<sup>16</sup> TC Ravenswood may wish to dispute other issues, but those issues are not relevant to the complaint now before the Commission.

Second, as described in its Answer, the NYISO calculates each Generator’s reference levels by determining that Generator’s marginal costs through a detailed assessment of the Generator’s unique, confidential data pursuant to the process set forth in the Mitigation Measures.<sup>17</sup> A technical conference addressing multiple Generators’ reference levels is not a suitable forum for this determination, as it is specific to each Generator and based on an independent evaluation of that Generator’s confidential costs and operating data and other proprietary, unit-specific information.

TC Ravenswood’s request for a technical conference is another effort to inject its own issues into another Generator’s proceeding. If TC Ravenswood has a concern regarding its Generators’ reference levels, it should be required to follow the consultation process set forth in the Mitigation Measures. If TC Ravenswood does not agree with the NYISO’s determination regarding its reference levels through this process, it should seek assistance from the NYISO’s independent Market Monitoring Unit or the Commission to address its specific claims, rather than seeking to inject extraneous issues into this docket.

## **II. CONCLUSION**

WHEREFORE, for the reasons set forth above, the NYISO respectfully requests that the Commission disregard TC Ravenswood’s and IPPNY’s comments in making its determination and deny TC Ravenswood’s request for a technical conference.

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<sup>16</sup> Seneca Complaint at 36.

<sup>17</sup> See NYISO Answer at 12-19.

Respectfully submitted,

/s/ William F. Young

William F. Young

Michael J. Messonnier

HUNTON & WILLIAMS LLP

2200 Pennsylvania Ave., N.W.

Washington, D.C. 20037

202 • 955 • 1500

202 • 778 • 2201 Fax

Attorneys for New York Independent System  
Operator, Inc.

Dated: December 13, 2011

**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 these proceedings in accordance with the requirements of Rule 2010 of the Rules of Practice and Procedure, 18 C.F.R. § 385.2010.

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

/s/ William F. Young  
William F. Young  
HUNTON & WILLIAMS LLP  
2200 Pennsylvania Ave., N.W.  
Washington, D.C. 20037  
202 • 955 • 1500  
202 • 778 • 2201 Fax