

April 4, 2012

ELECTRONICALLY SUBMITTED

Kimberly D. Bose
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

Re: New York Independent System Operator, Inc.'s Third Informational Report on Efforts to Develop Rules Addressing Compensation to Generators that Are Determined to be Needed for Reliability; Docket No. ER10-2220-____.

Dear Secretary Bose:

In accordance with paragraph 54 and ordering paragraph “(C)” of the Federal Energy Regulatory Commission’s (“Commission’s”) October 12, 2010 Order On Proposed Mitigation Measures in Docket No. ER10-2220-000 (“Order”),¹ the New York Independent System Operator, Inc. (“NYISO”), hereby submits this *Third Informational Report on Efforts to Develop Rules Addressing Compensation to Generators that Are Determined to be Needed for Reliability* (“Informational Report”). The NYISO submitted its *Second Informational Report on Efforts to Develop Rules Addressing Compensation to Generators that Are Determined to be Needed for Reliability* on October 7, 2011 (“October Informational Report”). **In footnote 44 of its Order the Commission stated that it does not intend to issue public notices, accept comments, or issue orders on this Informational Report.**

Paragraph 54 of the Order stated, in part, as follows:

Because fixed cost recovery issues do not go to whether NYISO’s mitigation proposal is in itself just and reasonable, this proceeding is not the appropriate forum in which to raise such issues. Further, commenters do not present factual evidence that demonstrates that market participants generally will be unable to recover their costs due to application of the proposed mitigation provisions. We

¹ *New York Independent System Operator, Inc.*, 133 FERC ¶ 61,030.

note, however, that the NYISO Board of Directors, in its July 29, 2010 decision on the appeal of the NYISO Management Committee's adoption of the instant mitigation proposal, directed NYISO management to work with stakeholders to examine the generation owners' claims that existing cost recovery mechanisms are inadequate and to review the process that evaluates permanent solutions to reliability problems. Accordingly, we believe the better course is to await the outcome of the stakeholder process as directed by the NYISO Board of Directors. In this regard, we direct NYISO to file status reports every 180 days beginning 180 days from the date of this order for informational purposes only.⁴⁴

⁴⁴

The Commission does not intend to issue public notices, accept comments, or issue orders on such informational filings.

In compliance with the cited sections of the Order, the NYISO submits this Informational Report.

I. Documents Submitted

1. This Informational Report;
2. A December 6, 2011 presentation titled *Reliability Resource Compensation Proposal* by Randy Wyatt, of NYISO, to a joint meeting of the NYISO's Electric System Planning Working Group, Market Issues Working Group and ICAP Working Group ("Attachment A");
3. Three sets of comments on the *Reliability Resource Compensation Proposal* proposal included in Attachment A that were submitted by the IPPNY, New York Transmission Owners, LIPA and NYPA, and Multiple Intervenors ("Attachment B").

II. Informational Report

A. Summary of the October Informational Report

On July 18, 2011, IPPNY presented a revised proposal at a joint Market Issues Working Group ("MIWG")/Electric System Planning Working Group ("ESPWG") meeting. IPPNY proposed that Attachment Y to the NYISO's OATT be amended to expressly incorporate a right for a generator that is needed for reliability, but chooses to retire, to file a cost-of-service agreement at FERC under section 205 of the Federal Power Act. The majority of the discussion at the July 18 meeting occurred between stakeholder representatives. Representatives of New York loads (industrial, municipal and Transmission Owners) and the New York State Department of Public Service ("DPS") Staff again participated actively in the stakeholder discussion; asking questions about and commenting on IPPNY's proposal.

B. December 6, 2011 Joint ESPWG/MIWG/ICAP Working Group

On December 6, 2011, the NYISO presented to stakeholders a new proposal to compensate generators that are planning to retire but are necessary for reliability. The proposal was presented to a joint meeting of the MIWG/ESPGW/ICAP Working Group ("Proposal"). The Proposal provided that a generator required for reliability would be able to recover its going forward avoidable costs ("GFACs") for the period in which it was required to meet a reliability need. Under the proposal, the NYISO's tariff would be revised so that a generator may request that the NYISO, in collaboration with the local Transmission Owner ("TO"), perform a confidential reliability study. Notice of the confidential request would be provided to the New York Public Service Commission ("PSC"). If the generator is found to be required for reliability, the Proposal would entitle the generator to a potential payment (referred to as "Reliability Resource Compensation") based on its GFACs. However, the generator would have to first submit its notice of retirement to the PSC in order to receive RRC payments. Generators receiving RRC payments would be required to offer into the ICAP spot market as a price taker (*i.e.*, at \$0.00). The Proposal also contemplates that, concurrent with the RRC payments, the PSC would consider other market-based and regulated solutions to the reliability need, which, if implemented, would allow the generator to retire. The RRC payments would continue only until the reliability need is otherwise satisfied. The Proposal also specifies that RRC payments must be returned to the NYISO if a generator receives RRC payments and fails to retire when the reliability need ends.

The NYISO and stakeholders engaged in a robust discussion of the Proposal at the December 6, 2011 joint stakeholder meeting. Stakeholders actively involved in the dialogue at the meeting included representatives of New York Loads (end users, municipal utilities, Load Serving Entities), the City of New York, New York Power Authority, Long Island Power Authority, and the New York State Department of Public Service staff. Subsequent to the meeting, the NYISO received written comments from IPPNY, Multiple Interveners, and a joint response from the TOs, NYPA, and LIPA.

C. Next Steps

The NYISO evaluated the comments from stakeholders and plans to present an alternative proposal at a joint stakeholder meeting later this month.

III. Service

The NYISO will send an electronic link to this Informational Report to the official representative of each of its customers, to each participant on its stakeholder committees, to the New York Public Service Commission, to all parties listed on the Commission's official service list in this Docket and to the New Jersey Board of Public Utilities. In addition, the complete filing will be posted on the NYISO's website at www.nyiso.com.

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IV. Conclusion

The NYISO respectfully submits this Informational Report in compliance with the Commission's Order. For the reasons explained above, the NYISO is hopeful that it will be able to develop and submit for the Commission's consideration tariff revisions that have been approved in the NYISO's stakeholder governance process. The NYISO's next informational report is due on October 1, 2012.

Respectfully submitted,

/s/ James H. Sweeney

Rana Mukerji, Senior Vice President of Market Structures

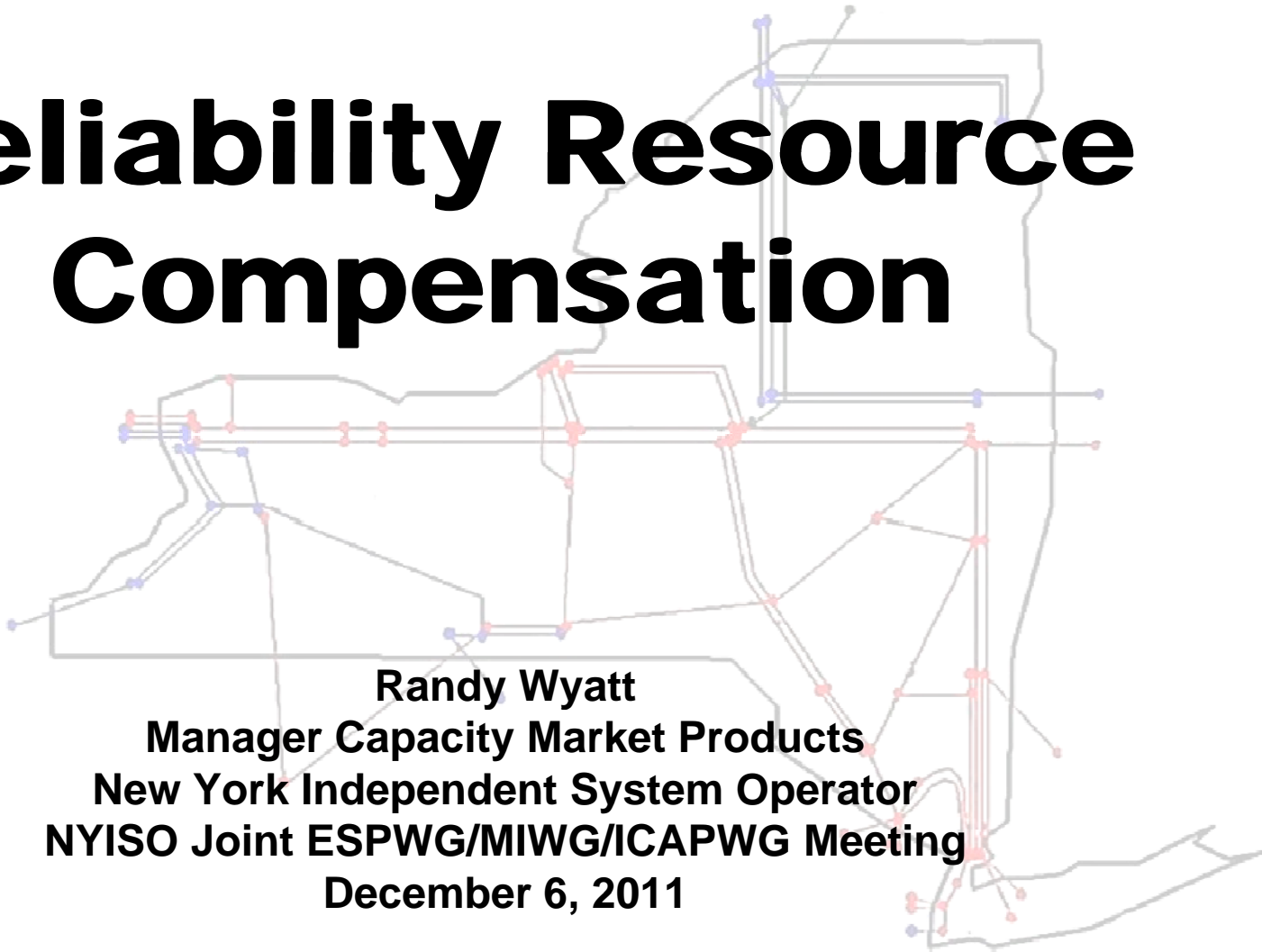
Robert E. Fernandez, General Counsel

James H. Sweeney, Attorney

New York Independent System Operator, Inc.

Attachment A

Reliability Resource Compensation



Randy Wyatt
Manager Capacity Market Products
New York Independent System Operator
NYISO Joint ESPWG/MIWG/ICAPWG Meeting
December 6, 2011

Agenda

- ◆ **Background**
- ◆ **Details of Proposal**
 - *Qualification*
 - *Compensation*
- ◆ **Transparency**
- ◆ **Questions, Concerns, Recommendations**
- ◆ **Next Steps**

Background

- ♦ **July 07, 2010 NYISO MIWG/ESPPWG presentation**
- ♦ **NYISO ROS reliability mitigation filing**
- ♦ **BOD comments for NYISO to investigate fixed costs**
- ♦ **FERC response to ROS filing**
- ♦ **February 10, 2011 NYISO MIWG/ESPPWG proposal**
- ♦ **July 18, 2011 IPPNY MIWG/ESPPWG Proposal**

Current process

- ◆ **6 months advanced notice of retirement**
- ◆ **Notice kicks off NYISO/TO retirement studies**
- ◆ **NYISO may find an imminent threat to reliability and consult with NYDPS and TO regarding gap solution**
- ◆ **No reliability payment during the notice period for the generator**
- ◆ **Generator may not be able to cover going forward avoidable costs (GFACs) in the market**
 - **if a generator is not recovering GFAC, an economically rational investor would retire the unit during the notice period, and not make investments necessary to meet the reliability need.**

Purpose Statement

- ◆ **Compensate* a generator that is needed for reliability, providing for its continued availability during the applicable PSC retirement notice period, and for any additional period until the reliability issue is addressed through an Attachment Y process, or is otherwise resolved**

“A Bridge to the Gap”

- * **Compensation determination may not always result in a reliability payment.**

Elements of NYISO Proposal

- ♦ **Generator requests NYISO & TO to conduct a reliability evaluation**
 - *Evaluations are anticipated to be complete within 6 months of request / study scope agreement*
 - *If a generator submits multiple units for reliability evaluation, generator will be required to rank units in the order in which they would plan on retiring them.*
 - *Cost of study borne by the Generator (May be recovered if needed for reliability)*
- ♦ **NYISO & TO determine if the generator is needed for reliability for the next 2 capability periods**
 - *If an imminent threat to system reliability is found, the NYISO board, after consultation with the NYDPS, may request the appropriate TO, to propose a gap solution outside the normal planning process (section 31.2.5.9.2 of Att. Y)*
- ♦ **If generator is needed for reliability, Generator is offered Reliability Resource Compensation (RRC) until the reliability need is eliminated, or for up to 12 months, whichever occurs first**
 - *Period may be extended if reliability need still exists*

RRC Compensation

- + Going forward avoidable costs (defined for RRC purposes)**
 - Net revenues (energy, ancillary services, other?)**
- + Capped project investment (PI)**

Reliability Resource Compensation (RRC)

- ♦ **RRC payment analogous to energy market BPCG, paid to units needed for reliability**

Underlying premise is that if a generator is not recovering GFACs, an economically rational investor would retire this unit during the notice period, and not make investments necessary to meet the reliability need.

Elements of NYISO Proposal

- ♦ **If generator accepts offer for RRC:**
 - *Generator must submit notification of planned retirement [mothball] to NYDPS*
 - *Generator must offer into the ICAP spot auction as price taker*
 - Generator is paid RRC in exchange for sustaining the Reliability Resource
 - Generator is only paid RRC, and does not get additional revenues even if the ICAP Spot Market Clearing price is higher than the RRC
 - Generator retains all the obligations of a unit clearing in the ICAP Market
 - *NYISO shall consult with the NYDPS & TO with regard to whether a Gap Solution is necessary and appropriate*
 - *NYISO will remove the resource from the RNA base case*
 - *Generator will be obligated to refund RRC payments and incur a penalty if Generator does not retire according to the retirement plan*
- ♦ **If generator declines offer for RRC:**
 - *Generator continues to offer into the market as usual, subject to all the rules and obligations of a participant in the ICAP market; or*
 - *Generator may elect to file its retirement notice with the PSC*

Additional elements of the proposal

- ◆ **Reliability evaluation will be coordinated with the PSC so that transmission or other alternatives are identified for a long term solution**
- ◆ **This proposal augments the current unit retirement notification process (described in TB 185)**
 - *Allows reliability assessment and GFAC determination without submitting a retirement notice*
 - *Provides payment during the PSC's applicable retirement notice period*
- ◆ **The RC payment is a guarantee payment for reliability for the shorter of 12 months, or until the reliability need is eliminated**
 - *If reliability need still exists at end of 12 months, re-evaluate and renew the RRC for shorter of the next 12 months, or until the reliability need is eliminated*
- ◆ **Cost for RRC payments accrue to the capacity zone(s) receiving the benefit**
 - *NYCA wide cost allocation for NYCA reliability needs*
 - *Local reliability costs will be allocated to the locality*

Transparency

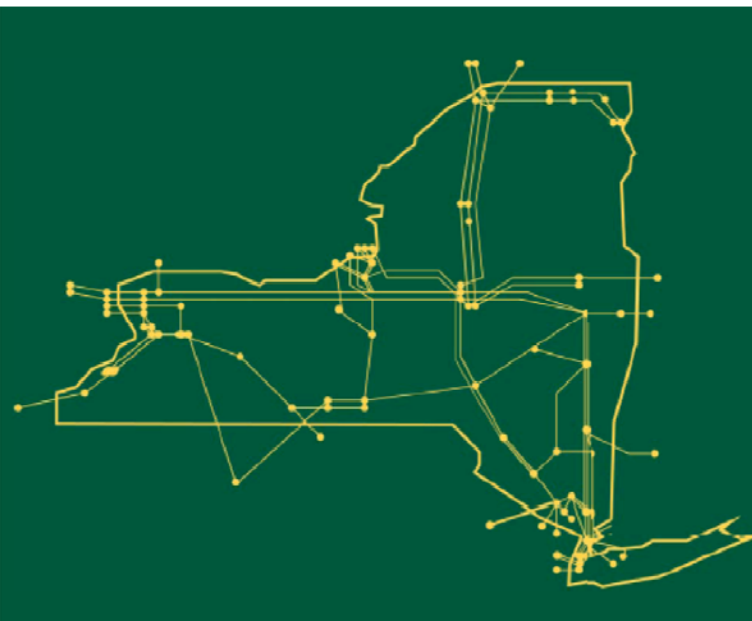
- ◆ **NYISO will notice the marketplace when a generator accepts the RRC payment offer for reliability services**

Questions, Comments, Concerns



- ◆ **Please Submit Feedback in Writing to Leigh Bullock by January 4 :**
lbullock@nyiso.com
- ◆ **Next joint Meeting to be Scheduled in February**

The New York Independent System Operator (NYISO) is a not-for-profit corporation responsible for operating the state's bulk electricity grid, administering New York's competitive wholesale electricity markets, conducting comprehensive long-term planning for the state's electric power system, and advancing the technological infrastructure of the electric system serving the Empire State.



www.nyiso.com

Attachment B



INDEPENDENT POWER PRODUCERS OF NEW YORK, INC

Independent Power Producers of New York, Inc.

19 Dove Street, Suite 302, Albany, NY 12210

P: 518-436-3749 F: 518-436-0369

www.ippny.org

Christopher@ippny.org

To: Randy Wyatt

From: Chris LaRoe

Date: 1/4/12

Re: IPPNY Comments on NYISO Reliability Resource Compensation Proposal

As requested during the joint ESPWG, MIWG, and ICAPWG meeting held on December 6, 2011, IPPNY submits the following comments on the NYISO's "Reliability Resource Compensation" proposal. IPPNY appreciates that the NYISO, through its proposal, recognizes that existing processes relating to retirements and reliability determinations create circumstances where a generator needed for reliability can be compelled to remain in the market for a period of at least six months without adequate compensation. The NYISO's proposal, though flawed, at least acknowledges that additional compensation is warranted in these circumstances.

As you are aware, IPPNY has proposed a different process to provide compensation to generators that wish to retire but are needed for reliability. Unlike the NYISO proposal, IPPNY's proposal provides generators with compensation equivalent to what a "Gap" or "Reliability Backstop" solution is entitled to following selection by the Public Service Commission because, essentially, all reliability resources are providing the same service. IPPNY is unable to support the NYISO proposal because it falls short of providing the cost-of-service rate that is necessary and appropriate. Unless and until that core issue is modified in the NYISO proposal, IPPNY sees no value in offering feedback on other aspects of the proposal.

COMMENTS ON THE NYISO'S RELIABILITY RESOURCE COMPENSATION PROPOSAL
SUBMITTED ON BEHALF OF
THE NEW YORK TRANSMISSION OWNERS, LIPA AND NYPA

The following comments on the NYISO's presentation on Reliability Resource Compensation at the joint ESPWG/ICAPWG meeting on December 6, 2011 are submitted on behalf of the New York Transmission Owners, LIPA and NYPA (the NYTOs). These comments are submitted at the request of the NYISO and do not indicate that a decision has been made by the NYTOs, as a group or individually, to support or oppose this or any other proposal to provide out-of-market compensation to a generator needed for reliability. The NYTO comments also address the proposal made by IPPNY on July 18, 2011 and the need for clarification of the objectives of the IPPNY proposal.

Relevant NYISO Tariff Provisions and PSC Rulings

First, it is important to review the existing NYISO tariff provisions for the identification and solution of reliability needs, and relevant New York Public Service Commission rulings, including the Commission's Order Adopting Requirements for Generation Unit Retirements (PSC Retirement Order)¹ and the Commission's Policy Statement on Backstop Project Cost Recovery and Allocation (PSC Policy Statement).² The NYISO should explain the need for its proposal given the existing tariff provisions and PSC rulings and also clarify the relationship of its proposal to these tariff provisions and PSC rulings.

The relevant provisions in Attachment Y of the NYISO's OATT include the following:

Section 31.2.5.9 Gap Solutions

31.2.5.9.1 If the NYISO determines that neither market-based proposals nor regulated proposals can satisfy a reliability need in a timely manner, the NYISO will set forth its determination that a Gap Solution is necessary in the CRPP. The NYISO will also request the Responsible Transmission Owner to seek a Gap Solution. Gap Solutions may include a generation, transmission or demand-side resources.

¹ Case 05-E-0889, December 20, 2005.

² Case 07-E-1507, February 18, 2009.

31.2.5.9.2 If there is an imminent threat to the reliability of the New York power system, the NYISO Board, after consultation with the NYDPS, may request the appropriate Transmission Owner or Transmission Owners to propose a Gap Solution outside the normal planning cycle.

31.2.5.9.3 Upon the NYISO's determination of the need for a Gap Solution, pursuant to either sections 31.2.5.9.1 or 31.2.5.9.2 above, the Responsible Transmission Owner will propose such a solution as soon as reasonably possible, for consideration by the NYISO and the NYDPS.

31.2.5.9.4 Any party may submit an alternative Gap Solution proposal to the NYISO and NYDPS for their consideration. The NYISO shall evaluate all Gap Solution proposals and determine whether they will meet the Reliability Need or imminent threat. The NYISO will report the results of its evaluation to the party making the proposal as well as to the NYDPS and/or other appropriate governmental agency(ies) and/or authority(ies) for consideration in their review of the proposals. The appropriate governmental agency(ies) and/or authority(ies) with jurisdiction over the implementation or siting of Gap Solutions will determine whether the Gap Solution or an alternative Gap Solution will be implemented to address the identified Reliability Need.

Section 31.4.4.3 Costs related to regulated non-transmission reliability projects will be recovered by Responsible Transmission Owners, Transmission Owners and Other Developers in accordance with the New York Public Service Law, New York Public Authorities law, or other applicable state law. ...

PSC Retirement Order

In its Retirement Order, the PSC stated that: "an appropriate regulatory mechanism is needed to address the possibility that generation unit retirements might undermine

electric system reliability and render service unsafe or inadequate" (Retirement Order, p.13). The Commission noted that the six month notice period for larger generators equates with the minimum period that the NYISO indicated as adequate to identify and resolve reliability concerns. The Commission required that generators proposing to retire serve their notice on the PSC Secretary, the NYISO, and any affected T&D utility and that those entities will be involved in conducting an analysis of the impact of a retirement and in devising a solution in the event the retirement adversely affects reliability. The Commission requested that the NYISO notify its market participants of any retirement notices it receives, in order to apprise those potentially-affected parties. The Order stated that if a bulk-system need is identified, the NYISO should request that the responsible T&D utility develop a gap solution, similar to the one envisioned in the CRPP, for consideration by the NYISO and Commission staff. If a local reliability concern is identified, the appropriate T&D utility was expected to coordinate a solution with NYISO and the PSC.

PSC Policy Statement on Backstop Project Cost Recovery and Allocation

In its Policy Statement, the Commission clearly asserted jurisdiction over the cost recovery and cost allocation for non-transmission (i.e., generation and demand response) regulated reliability projects; and rejected proposals that would have placed the cost recovery for such projects under the NYISO's tariff (Policy Statement, pp. 9 & 10).

With respect to the mechanism for cost recovery, the Commission adopted the Model 1 proposal supported by its staff (Model 1 is set forth in the All Parties Report appended to the Policy Statement). Under Model 1, the proponent of a generation or demand-based reliability project would file the project costs with the PSC for recovery authorization. Model 1 also proposed a master contract between project proponent and the beneficiaries of the project as the cost recovery mechanism. The Commission adopted as its policy an approach to cost recovery that is consistent with Model 1, but did not adopt the specific cost recovery mechanism proposed by its staff to the exclusion of all others. The Commission stated that cost recovery mechanisms will be developed depending on the specific circumstances "to allow regulated reliability project costs to be collected in accordance with the Public Service Law in a fair, equitable, and non-discriminatory manner, and with due consideration of existing competitive markets" (Policy Statement, p. 10).

Suggested Revisions to NYISO Proposal

At the outset, we note that the adoption of a forward capacity market would generally provide more advance warning concerning possible resource adequacy needs including potential generator retirements and the need to resolve possible reliability issues.

In view of the current provisions in the NYISO tariff and the PSC rulings, the NYTOs believe that the NYISO has yet to demonstrate that the current Attachment Y process is inadequate and requires revision, *e.g.*, the NYISO has failed to demonstrate the need for compensation during the retirement notice period (we note that there are RTOs that do

not provide supplemental compensation during the notice period). Notwithstanding the foregoing, and in response to the NYISO's request, the NYTOs submit the proposals set forth below to clarify and/or revise the NYISO's proposal for providing compensation during the notice period. In making these comments, we also recommend that that any compensation proposed here be available, but not limit, the supplemental compensation that may be necessary to temporarily keep a generator in operation after the end of the notice period. As noted above, the submission of these comments does not indicate that the NYTOs, as a group or individually, have decided to support or oppose any proposal to provide out-of-market payments to a generator needed for reliability.

- In order to be considered for any out-of- market payment, a generator would have to submit a retirement notice, as required by the PSC Retirement Order.
- The NYISO and the appropriate TO, in consultation with PSC staff, would conduct an analysis of the potential impact of the proposed retirement on the reliability of the NYS power system.
- If the retirement or mothballing of a generator would result in a reliability need, and the generator certifies to the NYISO with appropriate documentation that it is unlikely that it will be able to recover its net going forward costs, the generator may have the opportunity to request out-of-market payments limited to its net going forward costs at least over the course of the retirement notice period. The generator may have the opportunity to request additional out-of-market payment for the period of time subsequent to the retirement notice period
- The appropriate TO and other parties would be able to suggest alternative solutions to the reliability need identified by the NYISO. These solutions would potentially eliminate the need to provide the generator with out-of-market payments .
- Net going forward costs would be specifically defined and would be limited to the costs actually incurred by the generator that it would have avoided if it had retired or been mothballed, net of related expense reductions and revenue increases. It would not include any capital costs except as set forth below. Net going forward costs would be calculated after the conclusion of the retirement notice period. Any revenues in excess of the generator's verifiable going-forward costs would be transferred to the NYISO and credited to the appropriate TO(s) and other LSE's responsible for funding the out-of-market payments.
- Any capital investments that may be required for the generator to operate during the retirement notice period would be clearly identified and quantified and would be considered by the NYISO, the appropriate TO and the PSC staff in determining whether such investments are indeed required in order for the generator to operate during the retirement notice period is appropriate. In addition, all other alternative means for enabling the generator to remain in operation should be exhausted (e.g., temporary relief from environmental regulations).

- A request to the appropriate regulatory agency for authorization to provide the generator with an out-of market-payment would be made jointly by the NYISO and the retiring generator, and supported by NYISO determinations that: (1) the retirement of the generator would cause a reliability problem; (2) the generator is unlikely to recover its going forward costs during the retirement/mothball notice period and an out-of-market payment is justified after considering all relevant circumstances; and (3) the NYISO has identified no better option for securing reliability during the retirement notice period. If the reliability need is a local reliability need, the appropriate TO would be the filing party. As noted above, under the NYISO tariff, cost recovery for a non-transmission regulated reliability project is subject to state law.
- The generator receiving these payments would be required to participate in the ICAP market as a price taker during the relevant period. These generators actually provide capacity, so excluding them from the ICAP market would be inefficient. It would cause the price of ICAP to be higher than it should be, given the amount of capacity being provided, which could lead to the procurement of excessive capacity in the long term, as prices would not fall as much as they should when there is over-supply. It could also expose the market to gaming by giving generator owners an incentive to claim that economically viable units may retire or be mothballed, as misclassifying such units would increase ICAP prices and could boost portfolio revenues without increasing reliability.
- The retiring generator could submit a proposal to serve as a gap or permanent solution to the reliability need, subject to the relevant provisions of Attachment Y, which requires consideration of all solutions, generation, transmission and demand side management.
- At the end of the retirement notice period, the tariff provisions with respect to a gap or permanent reliability solution would be implemented. As currently provided in the Attachment Y, cost recovery for a regulated transmission solution would be under the NYISO tariff, and cost recovery for a non-transmission solution would be in accordance with state law
- NYISO should remove any remaining reference to allocating cost for Reliability Resource Compensation (RRC) payments to existing capacity zones, and instead the costs should be allocated statewide or to applicable Subzone(s) depending on whether the need for the unit arises from bulk or local transmission constraints.

IPPNY Proposal

The NYTOs also would like to comment on the need for IPPNY to clarify the objectives of its proposal. As noted in the NYTO comments on the IPPNY proposal submitted on August 31, 2011, the rationale provided in support of the IPPNY proposal is that a

generator that has given notice of retirement may be forced to operate at a loss during the PSC's retirement notice period. However, the IPPNY proposal is not limited to addressing those circumstances. Instead, it appears that the proposal seeks to establish a right for a generator to make a Section 205 filing with FERC for a cost of service rate, without submitting a retirement notice. Furthermore, the IPPNY proposal does not address the current tariff provisions that provide that cost recovery for a non-transmission regulated reliability project is subject to state law, or the PSC Policy Statement in which the PSC rejected proposals for the recovery of such costs under the NYISO tariff rather than under state law, and reserved the right to determine whether a non-transmission regulated reliability solution should be implemented to address a reliability need identified by the NYISO.

In order for the stakeholder process to intelligently consider the IPPNY proposal, it is necessary for IPPNY to clearly explain its objectives and how those objectives are compatible with the current FERC-approved NYISO tariff provisions and applicable rulings by the PSC.

January 4, 2012

VIA E-MAIL

Mr. Randy Wyatt
Manager, Capacity Market Products
New York Independent System Operator, Inc.
10 Krey Boulevard
Rensselaer, New York 12144

Re: December 6, 2011 Reliability Resource Compensation Proposal

Dear Randy:

Pursuant to your request, this letter provides Multiple Intervenors' comments on the Reliability Resource Compensation Proposal (the "Proposal") presented by the New York Independent System Operator, Inc. ("NYISO") at the December 6, 2011 joint meeting of the Electric System Planning Working Group, the Installed Capacity Working Group, and the Market Issues Working Group. As you probably are aware, Multiple Intervenors is an unincorporated association of approximately 55 large industrial, commercial and institutional energy consumers with manufacturing and other facilities located throughout New York State.

Initially, Multiple Intervenors has submitted written comments to the NYISO on various reliability resource compensation issues on four prior occasions. Those comments, dated (i) March 11, 2010, (ii) July 28, 2010, (iii) March 15, 2011, and (iv) August 31, 2011, are incorporated herein and attached for your convenience. Additionally, with respect to the Proposal, Multiple Intervenors provided the NYISO with extensive verbal comments thereon at the December 6th meeting and, generically, prior to that meeting. Thus, the remainder of this letter simply summarizes, briefly, Multiple Intervenors' primary positions with respect to the Proposal.

1. Multiple Intervenors understands the need for and, if structured properly, can support the availability of cost-based, out-of-market compensation to generators that otherwise would retire but which are directed to continue operating to maintain reliability.
2. The rules governing reliability resource compensation need to be equitable and consistent with the NYISO's existing planning processes and the notice requirements adopted by the New York State Public Service Commission ("PSC") governing the retirement of generation facilities.

3. Thus far, New York has avoided the myriad of issues and problems associated with other regions' reliance on "Reliability Must Run" (or "RMR") contracts. The necessity to provide out-of-market compensation to a retiring generator needed for reliability purposes has yet to be demonstrated in New York. Accordingly, even if, arguendo, such necessity is demonstrated in the future, the payment of such compensation pursuant to RMR contracts should be the rare exception and not the norm.
4. Multiple Intervenors fundamentally objects to providing – or even offering – out-of-market compensation to a generator that has not first filed a retirement notice with the PSC. While a generator may request the NYISO and the relevant Transmission Owner(s) to conduct a reliability evaluation – to be funded by the generator (unless an RMR contract is necessitated) – no out-of-market compensation should be offered to the generator unless (i) it is needed for reliability, and (ii) it has filed the requisite retirement notice. As indicated above, there may be rare occasions when out-of-market compensation is required for a generator needed for reliability purposes that otherwise would retire. Significantly, however, the only way to determine conclusively that the generator "otherwise would retire" is for it to file the required retirement notice.
5. Multiple Intervenors fundamentally objects to providing out-of-market compensation to a generator needed for reliability until the PSC-mandated retirement notice has expired. For instance, if, arguendo, there is a 180-day notice requirement applicable to the retirement of a hypothetical generation facility and that facility submits the PSC-required retirement notice exactly 180 days prior to its desired retirement date, then that facility should be entitled to market-based compensation for the first 180 days following its retirement notice. Out-of-market compensation would be triggered only if that facility is directed to remain in operation – instead of retire – due to an unresolved reliability need. For this hypothetical facility, such trigger would occur on the 181st day following the retirement notice. Moreover, one of the primary purposes of the retirement notice requirements is to allow the PSC and impacted Transmission Owner(s), in coordination with the NYISO, to identify and resolve potential reliability issues. It may be possible that a gap solution can be implemented within the 180-day notice period, thereby obviating any need for the retiring facility to remain in operation (or to provide that facility with out-of-market compensation).
6. Transparency should be a fundamental element of any reliability resource compensation proposal. Importantly, however, transparency is lacking in the Proposal presented on December 6th. Pursuant to the Proposal, neither the public nor NYISO stakeholders apparently would be advised of: (i) the conducting of a reliability evaluation; (ii) the results of the reliability evaluation; (iii) the

generator's possible plans to retire absent out-of-market compensation; (iv) the amount of compensation offered to a generator shown to be needed for reliability that otherwise would retire; and (v) the cost bases for the compensation offered. In fact, according to the Proposal, the goal of transparency purportedly would be satisfied merely by providing the marketplace of notice whenever an out-of-market compensation proposal is accepted by a generator needed for reliability. Such "notice" is woefully inadequate in the context of a cost-based, out-of-market compensation scheme where consumers are asked to fund the continuing operation of an otherwise retiring generator due to a market failure.

7. The aspects of the Proposal (i) offering compensation that includes "Capped project investment," and (ii) imposing penalties if the generator does not retire according to its retirement plan, are not well-defined and require clarification before being ripe for comment. If, arguendo, a reliability resource compensation proposal is advanced that adopts Multiple Intervenors' positions regarding, inter alia, (i) the necessity of a retirement notice prior to the offering of any out-of-market compensation, and (ii) the expiration of the retirement notice before any payment of such compensation, then Multiple Intervenors would be willing to consider – and, if equitable, support – the availability of more "traditional" cost-based compensation schemes than that advanced in the Proposal.

As indicated at the December 6th meeting, Multiple Intervenors does not support the Proposal, as advanced. Indeed, given the strong opposition to the Proposal from virtually every sector of stakeholders, Multiple Intervenors does not believe that further consideration of the Proposal – at least in its present form – is likely to be productive.

Please contact me if you have any questions concerning and/or would like to discuss these comments. Multiple Intervenors has no objections if the NYISO elects to share these comments with other market participants.

Very truly yours,

COUCH WHITE, LLP

Michael B. Mager

Michael B. Mager

MBM/cgw
Attachments

cc: Ms. Leigh Bullock (via E-Mail; w/attachments)
Mr. Tariq Niazi (via E-Mail; w/attachments)

January 4, 2012
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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 4th day of April, 2012.

/s/ Joy A. Zimmerlin

Joy A. Zimmerlin
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