

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

New York Independent System Operator, Inc.

Docket No. ER10-3043-____

**AFFIDAVIT OF
DAVID LAWRENCE**

Mr. David Lawrence declares:

1. I have personal knowledge of the facts and opinions herein and if called to testify could and would testify competently hereto.
2. The purpose of this Affidavit is to provide supporting information for the NYISO's assumed start date for buyer-side mitigation exemption tests three years after a project's Class Year ("Three-Year Look-Ahead Rule"), as proposed in the September 27, 2010 filing in this proceeding ("September 27 Filing").

I. Qualifications

3. My name is David Lawrence, and I am the Manager of Auxiliary Market Products for the New York Independent System Operator, Inc. ("NYISO"). In this position I am responsible for the design and implementation of, and enhancements to, the Installed Capacity ("ICAP") product in the NYISO market, including market mitigation measures, and for working with stakeholders on such matters. Prior to my current position, I was employed for 24 years by Power Technologies, Inc., where, among other positions, I served as the Director of the Instrumentation and Energy Management Department. I received a Bachelor of Science degree in Engineering and a Master of Science degree in Electric Power Engineering from Rensselaer Polytechnic Institute in Troy, New York.

II. Background

4. The NYISO performs a market mitigation and exemption analysis to determine whether new facilities should be exempt from the New York City (“In-City”) Offer Floor. The tariff provisions in effect prior to the September 27 Filing used the Reasonably Anticipated Entry Date Rule for the exemption analysis. The Reasonably Anticipated Entry Date Rule based the exemption test on price data starting with the Capability Period in which an ICAP Supplier “is reasonably anticipated to offer to supply UCAP.” In its September 27 Filing addressing revisions to its market power mitigation measures applicable to the In-City Installed Capacity (“ICAP”) market, the NYISO proposed to replace the Reasonably Anticipated Entry Date Rule with the Three-Year Look-Ahead Rule. The Three-Year Look-Ahead Rule uses the ICAP Spot Market Auction prices for future Capability Periods beginning with the Summer Capability Period that begins three years from the start of a proposed facility’s Class Year for the exemption analysis.
5. As described in the transmittal letter into which this Affidavit is incorporated, the Commission’s Order on Proposed Revisions to In-City Buyer-Side Mitigation Measures issued November 26, 2010 directed the “NYISO to either file support for a start date three years after a project’s class year or to delete this provision, in a compliance filing to be made within 60 days of the date of this order.”¹ This Affidavit is provided in support of the start date as proposed by the NYISO in its September 27 Filing.

¹ *New York Independent System Operator, Inc.*, 133 FERC ¶ 61,178 (2010) (“November 26 Order”).

III. Rationale for Using a Three-Year Look-Ahead for Evaluating Mitigation Exemptions

6. The Three-Year Look-Ahead Rule was proposed and discussed with stakeholders at the July 16, 2010 and July 27, 2010 Installed Capacity Working Group (“ICAP Working Group”) meetings.²
7. Prior to the identified July meetings, at the June 28, 2010 ICAP Working Group meeting, while discussing with the ICAP Working Group proposed revisions to the In-City buyer-side mitigation rules, the NYISO proposed using each project’s proposed in-service date³ as a component of its exemption and Offer Floor analysis.⁴ Certain stakeholders identified that proposed projects often change their proposed in-service date. There was extensive discussion during the meeting of stakeholder concerns regarding use of a project’s self-identified in-service date, including the possibility that a project could self-identify a date in order to obtain a more favorable mitigation exemption/Offer Floor determination. Participants in the ICAP Working Group were generally not comfortable with the use of the in-service date for purposes of the forecast used in the test.
8. The NYISO revised its proposal after considering stakeholder comments on this point and, among other things, an informal review by NYISO staff of the NYISO’s past interconnection queues. That informal review revealed that the in-service dates projects self-identified changed significantly throughout the period the project was in

² July 16, 2010 NYISO presentation to ICAPWG, p. 7, located at http://www.nyiso.com/public/webdocs/committees/bic_icapwg/meeting_materials/2010-07-16/In_City_Mitigation_July_16_2010.pdf and definition of “Starting Capability Period” in draft tariff revisions proposed to ICAPWG located at: http://www.nyiso.com/public/webdocs/committees/bic_icapwg/meeting_materials/2010-07-16/Att_H_Proposed_Revisions_7_14_10.pdf. July 27, 2010 NYISO presentation to ICAPWG, p. 7, located at http://www.nyiso.com/public/webdocs/committees/bic_icapwg/meeting_materials/2010-07-27/In_City_Mitigation_Update_July_27_2010.pdf and draft tariff revisions located at : http://www.nyiso.com/public/webdocs/committees/bic_icapwg/meeting_materials/2010-07-27/Att_H_Package_2.pdf

³ Projects are required to self-identify their proposed in-service date for the interconnection queue and to update it periodically.

⁴ June 28, 2010 NYISO presentation to ICAP Working Group at p. 4, located at http://www.nyiso.com/public/webdocs/committees/bic_icapwg/meeting_materials/2010-06-28/In-City_Mitigation_June_28_20106-24.pdf

the Interconnection Queue. At the July 16, 2010 ICAP Working Group meeting, the NYISO proposed that the exemption tests be modified to:⁵

(a) NYISO's forecast for the average annual Spot Auction price in the two Capability Periods beginning with the Summer Capability Period **three years from the year of the Class Year...**

(b) NYISO's forecast for the average of the Spot Auction prices for the six Capability Periods beginning with the Summer Capability Period **three years from the year of the Class Year...**

9. At the July 16, 2010 ICAP Working Group meeting, stakeholders debated the merits of this revised proposed provision and other options, including using the project's self-identified in-service date, and creating multiple start-time horizons based upon specific technologies. For example, one suggestion vetted among the stakeholders was to distinguish between peaking units, baseload units, and UDR projects due to the differing durations of construction. The tenor at the conclusion of the discussion indicated that using different start times for various technologies was a complication that would not necessarily yield more accurate exemption determinations. It was also generally acknowledged by stakeholders that a project's self-identified in-service date changes over time, and allowing the proposed project's self-identified in-service date provides an opportunity for a project to identify a date in order to give it an advantage over other projects for purposes of the exemption test.
10. The NYISO considered the comments provided at the July 16, 2010 meeting, and on July 27, 2010, specifically addressed the start-time for the exemption test as follows:⁶

The NYISO considered the concept of refining the three-year-ahead timing of the exemption test:

⁵ Slide 7, July 16 ICAPWG presentation

⁶ Cite slide 7 from the July 27th ICAPWG presentation

- Distinguish lead time differences between simple cycle and combined cycle facilities
- UDR lead time
- Additional complexities include facility MW, location

Given the inherent difficulties in identifying and agreeing to multiple criteria for setting forecast time horizon, and the lack of precision that would be inherent in some of the factors and when combining different factors, the NYISO has opted for the rule proposed on 7/16: a three-year-ahead exemption forecast.

- This proposed rule would give developers and suppliers a greater degree of predictability.

Stakeholders did not state any objections to the NYISO's proposed approach at the July 27, 2010 ICAPWG meeting. Nor were there objections noted in any written comments sent to the NYISO subsequent to the meeting and prior to the NYISO's September 27 Filing with the Commission.

11. On October 22, 2010, Hudson Transmission Partners, LLC ("HTP") filed a Motion to Intervene and Protest which, among other things, urged the Commission to preserve the Reasonably Anticipated Entry Date Rule and reject the Three-Year Look-Ahead Rule. HTP argued that the Three-Year Look-Ahead Rule would lead to incorrect results in the exemption analysis and was inconsistent with other proposals where the NYISO was using facility-specific data. HTP argued that the Reasonably Anticipated Entry Date Rule was reasonable, as it is based on when a facility is expected to start operations.
12. In response to the Commission's request for additional supporting information on the Three-Year Look-Ahead Rule, the NYISO reviewed the project Interconnection Queue for In-City projects over the 2005 through current 2010 period. Exhibit 1, attached hereto, shows by project the number of changes in proposed in-service dates

over this period. On the list are projects that have not provided updates to in-service dates as well as projects with projected in-service dates that are inconsistent with their status in the Class Year process. For all interconnection projects in Zone J, the average change in self-identified in-service dates is 2 years; for projects actually completed and in-service as of December 1, 2010, the average change is 2.5 years.

13. The NYISO's analysis of the project Interconnection Queue substantiates the NYISO's and its stakeholders' concerns with using project-self-identified in-service dates for establishing reasonable periods to evaluate the mitigation exemption or determine the Offer Floor of new entry under the buyer-side mitigation rules. As an approximation to the average time between Class Year entry and in-service date, the NYISO's Three-Year Look-Ahead Rule is a reasonable approximation for purposes of examining new facilities for mitigation exemption, one that had been vetted with stakeholders well before the NYISO's September filing.

This concludes my Affidavit.

ATTESTATION

I am the witness identified in the foregoing 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.

/s/ David J. Lawrence
David J. Lawrence

Subscribed and sworn to before me
this ____ day of December 2010

Notary Public

My commission expires: _____

EXHIBIT 1

Summary

Since February 2008, the interconnection queue tracks the original in service date proposed for all active projects. There are a total of 36 projects on this list. Over time, the in service date for some of these projects have changed, some by more than once. The list provided here captures the maximum and minimum value of these changes.

Project List

Queue Position	Project Name	Date of Interconnection Request	Original In Service Date	Modified In Service Date	Change (Years)
13	Linden 7	3/25/1999	2005	2010	5
16	ABB Oak Point Yard	4/15/1999	2008	2009	1
18	Poletti Expansion*	4/30/1999	2005	2006	1
19	NYC Energy LLC	5/7/1999	2004	2010	6
31	Astoria Energy	11/16/1999	2006	2010	4
35	Gotham Power - Bronx I	1/12/2000	2006	2006	0
90	Fortistar VP	3/20/2001	2005	2010	5
91	Fortistar VAN	3/20/2001	2005	2010	5
96	CPN 3rd Turbine, Inc. (JFK)	5/29/2001	2004	2011	7
106	TransGas Energy	10/5/2001	2007	2012	5
125	Linden VFT Inter-Tie*	7/18/2002	2005	2009	4
151	West Side Switching Station	6/30/2004	2011	2011	0
153	Sprain Brook-Sherman Creek	8/13/2004	2007	2011	4
195	Harbor Cable Project II	6/14/2005	2008	2011	3
201	Berrians GT	8/17/2005	2008	2013	5
206	Hudson Transmission	12/14/2005	2009	2011	2
224	Berrians GT II	8/23/2006	2010	2013	3
232	Bayonne Energy Center	11/27/2006	2008	2011	3
243	Astoria Uprate	4/12/2007	2010	2010	0
252	Manhattan Cable	8/1/2007	2011	2011	0
255	Cross Hudson	8/23/2007	2010	2010	0
261	South Pier Improvement	10/2/2007	2010	2012	2
265	CityGreen	11/16/2007	2012	2012	0
266	Berrians GT III	11/28/2007	2010	2013	3
267	Winergy NYC Wind Farm	11/30/2007	2015	2017	2
268	Arthur Kill	12/7/2007	2010	2010	0
272	Benchmark Generator	12/20/2007	2014	2014	0

274	PSEG Fossil Bergen Unit 2	1/23/2008	2011	2011	0
295	Cross Hudson II	5/6/2008	2011	2013	2
305	Farragut HVDC	7/18/2008	2014	2015	1
306	Clay HVDC	7/18/2008	2014	2014	0
307	New York Wire-Phase 1	7/29/2008	2013	2014	1
308	Astoria Energy II	8/20/2008	2011	2011	0
317	CityGreen AC	11/5/2008	2012	2012	0
327	Offshore Wind	3/20/2009	2020	2015	-5
351	Linden VFT Uprate	3/2/2010	2010	2010	0

* Projects currently in service