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May 18, 2011

SENT VIA ELECTRONIC FILING
Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Room 1-A209
Washington, D.C. 20426

Re: Docket No. ER11-2224-000 - New York Independent System Operator, Inc.

Dear Secretary Bose:

Attached, for filing, is the Motion to Lodge And For Expedited Ruling On An Amendment To The New York Real Property Tax Law To Provide Tax Abatements For Peaking Generating Facilities By The City Of New York And The New York Public Service Commission in the above-entitled proceeding. The parties have also been provided with a copy of this filing, as indicated in the attached Certificate of Service. Should you have any questions, please feel free to contact me at (518) 473-7136.

Very truly yours,

Leonard Van Ryn

Leonard Van Ryn
Assistant Counsel

Attachment
cc: Service List

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

New York Independent System Operator, Inc.	))	Docket Nos. ER11-2224-000, -002, -003, -004, and -005

MOTION TO LODGE AND FOR EXPEDITED RULING ON AN AMENDMENT TO THE NEW YORK REAL PROPERTY TAX LAW TO PROVIDE TAX ABATEMENTS FOR PEAKING GENERATING FACILITIES BY THE CITY OF NEW YORK AND THE NEW YORK PUBLIC SERVICE COMMISSION

Pursuant to Rule 212 of the Federal Energy Regulatory Commission's ("Commission") Rules of Practice and Procedure, 18 C.F.R. § 385.212, the City of New York ("City") and New York Public Service Commission ("NYPSC") respectfully move to lodge material new information that will have a substantial impact on the Commission's consideration of the petitions for rehearing, and of the New York Independent System Operator, Inc.'s ("NYISO") compliance filings, in these proceedings. On May 18, 2011, New York State Governor Andrew M. Cuomo signed into law Chapter 28 of the Laws of 2011, which amends Title 2-F of Article 4 of the Real Property Tax Law to create an as-of-right property tax abatement for peaking generating facilities located in New York City. The law has an effective date of March 1, 2011. Because this law directly and completely addresses a concern raised by the Commission in its January 28 Order in these proceedings, the Commission should grant this motion expeditiously and consider this law in deciding whether to grant rehearing and modify the January 28 Order, and also in considering the other matters pending in these proceedings.[1]

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[1] *New York Independent System Operator, Inc.*, 134 FERC ¶ 61,058 (2011) ("January 28 Order").

I. BACKGROUND

In August 2010, the New York City Industrial Development Agency ("NYCIDA") adopted a revision to its Uniform Tax Exemption Policy ("UTEP") to provide for property tax abatements and other benefits for certain peaking generating facilities. The UTEP revision was adopted at the request of certain generators and developers to replace a statutory tax abatement program that expired in 2008 and to provide clarity on the eligibility requirements for the tax abatement.

In developing the Installed Capacity Demand Curves for the 2011/2012, 2012/2013 and 2013/2014 Capability Years for New York City pursuant to Section 5.14.1.2 of its Market Administration and Control Area Services Tariff ("Services Tariff"), the NYISO recognized the existence of the tax abatement available to generating facilities including the proxy peaking unit and excluded property taxes in the calculation of the cost of new entry of the proxy peaking unit for New York City.[2] In the January 28 Order, however, the Commission did not accept the NYISO's decision to recognize the full tax abatement, stating:

> We find that it is not just and reasonable to assume full or, in fact, any tax abatement for the NYC LMS100 peaking unit when granting the tax abatement is discretionary under the provisions of the UTEP and not a matter of right as it was under the predecessor program, ICIP.[3]

The City, NYPSC, NYISO, and New York Transmission Owners have provided information to the Commission on the detrimental impact of this determination. Based on the most recent information available, the NYPSC calculates the effect as ranging between $500

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2 *New York Independent System Operator, Inc.*, Docket No. ER11-2224-000, "Tariff Revisions to Implement Revised ICAP Demand Curves for Capability Years 2011/2012, 2012/2013 and 2013/2014," filed November 30, 2010.

3 January 28 Order at P 88.

million and $1.0 billion over the three Capability Years covered by the new in-City Installed Capacity Demand Curves.

In response to the Commission's concerns, and to avoid the deleterious impacts associated with the Commission's January 28 Order, Governor Andrew M. Cuomo signed into law a provision that amends and expands the Industrial and Commercial Abatement Program to encompass all peaking generating facilities constructed in New York City.[4] Pursuant to that now-effective state law, such facilities will receive as-of-right a 100 percent tax abatement on all equipment and structures for a 15-year period.

II. THE LAW

Chapter 28 of the Laws of 2011, a copy of which is attached hereto as Appendix A, amends certain Industrial and Commercial Abatement Program-related provisions of the New York Real Property Tax Law and of the Administrative Code of the City of New York. A brief synopsis of the most pertinent aspects of the Chapter follows.

Section 2 of the Chapter modifies the definition of utility property for purposes of the Industrial and Commercial Abatement Program to exclude peaking units (*i.e.*, peaking units are now defined as industrial property, not utility property, and therefore eligible for an as-of-right tax abatement under the Industrial and Commercial Abatement Program).[5] It also defines a peaking unit as the generating unit selected under Section 5.14.1.2 of the NYISO's Services Tariff, and any other generating unit that has average annual operations of less than 18 hours after each start. Operations during emergency conditions are excluded from the calculation of the

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4 In 2008, the State Legislature enacted the Industrial and Commercial Abatement Program to replace the expired Industrial and Commercial Incentive Program ("ICIP"), which had provided an as-of-right tax abatement to all utility property, not just electric generating facilities.

5 Utility property, as previously defined in the statute, remains ineligible for Industrial and Commercial Abatement Program benefits.

annual average, and all equipment that comprises the generating facility is covered by the tax abatement. Section 3 of the Chapter sets the abatement period at 15 years and addresses certain details related to the calculation of the abatement.

Historically, the ICIP was renewed every three years (*i.e.*, the availability of the program would expire unless extended by statutory amendment). Importantly, though, all benefits awarded under the ICIP would remain in effect for the duration of the award period, even if, and when, the program expired.[6] The Industrial and Commercial Abatement Program follows a similar path and its initial term expired as of March 1, 2011. Therefore, Sections 4 and 5 of the Chapter extend the term of the program by four years, and Section 14 establishes the effective date of the Chapter as March 1, 2011 to make the extension seamless and ensure that there is no gap in the availability of the program.[7] The Industrial and Commercial Abatement Program will operate in a similar fashion as the ICIP, meaning that once awarded, all benefits remain in effect for the duration of the award period.

III. MOTION TO LODGE

The City and NYPSC respectfully request that the Commission grant this motion and consider this fundamental change in circumstances in deciding the petitions for rehearing filed by the City, NYPSC, NYISO, and New York Transmission Owners as they relate to the treatment of property taxes for the New York City proxy peaking unit. Further, the City and NYPSC respectfully request that the Commission consider this new information in addressing

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6 For example, if a property received a 15-year tax abatement under the ICIP in 2006, it will continue to receive that abatement through the end of the 15-year period even though the ICIP expired in 2008.

7 At the time this legislation was introduced, there was already a bill pending in the Legislature to extend the Industrial and Commercial Abatement Program for four years. For efficiency purposes, the contents of that bill were incorporated into this Chapter and addressed collectively.

the NYISO's compliance filings and its final determination of the 2011/2012, 2012/2013, and 2013/2014 Installed Capacity Demand Curves for New York City. The Commission has granted similar motions in prior proceedings when parties "have presented the Commission with information about a material change in the facts that the Commission relied on in reaching its decision ... and that was not available at the time [the parties] filed their rehearing request."[8]

As discussed above, the primary basis of the Commission's determination on the appropriate property tax treatment for the New York City proxy peaking unit was the absence of an as-of-right tax abatement. The Commission also expressed a lesser concern regarding the eligibility criteria for the discretionary abatement. Chapter 28 fully addresses the Commission's concerns. All peaking units constructed in New York City are now eligible for as-of-right tax abatements for 15-year periods.

There can be no legitimate dispute that the new law constitutes a material change in the information the Commission relied upon in reaching its initial determination on this issue in the January 28 Order. Inasmuch as the new law was enacted only today, it clearly was not available to the City, NYPSC, or any other party at the time the petitions for rehearing, or any other pleadings, were filed in these proceedings. Moreover, the impact of this new law on these proceedings is substantial. In addition to providing, on an as-of-right basis, millions of dollars of property tax savings to developers of peaking units, it should constitute sufficient evidence for the Commission to reverse its prior decision and modify the increases to the in-City Installed Capacity Demand Curves required under the January 28 Order to arrive at just and reasonable

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[8] *Central Maine Power Company and Maine Public Service Company*, 129 FERC ¶ 61,153 (2009) at P 14; *see also The Salt River Project Agric. Improvement Power Dist. v. Tucson Elec. Power Co.*, 79 FERC ¶ 61,336 (1997) at 62,452 (granting motion to lodge where "information . . . is relevant to our consideration").

rates that will save New York City consumers hundreds of millions of dollars in capacity charges each year.

The beneficial impact of the law on consumers also constitutes good cause for the Commission to grant this motion and consider this information in its determinations in these proceedings. Indeed, because of this law, it would be irrational to assume that a new peaking unit in New York City would not receive a full tax abatement on its equipment and structures. For the same reason, capacity charges that include such an assumption would be unjust and unreasonable.

IV. MOTION TO EXPEDITE CONSIDERATION

It is not known exactly when the Commission will consider the pending petitions for rehearing or the NYISO's compliance filings. However, it is reasonable to assume that the Commission will take action imminently. For the reasons set forth herein, expeditious consideration of this motion to lodge (*i.e.*, no later than concurrent with the Commission's consideration of the above matters) is in the public interest.

The information at issue is objective in nature and should not be subject to any legitimate dispute or objection. That is, the information provided is now the law of the State of the New York, and the Commission should be aware of, and base its decisions on, the law of the State of New York as it now exists. No party reasonably could ask the Commission to ignore pertinent State law or decide the pending issues in a manner that is inconsistent with, or contrary to, such law. Indeed, any such requests would be improper and can summarily be rejected by the Commission.

As discussed above, the implications of this new law are dramatic. Application of the law to the consideration of the matters raised on rehearing and in the compliance filings will

result in substantial reductions to capacity charges over the three-year period covered by the Demand Curves at issue. Because, as the Commission has frequently noted, its primary purpose is to serve and protect consumers, it should expeditiously grant this motion and factor the law into its analysis of the pending issues and arguments presented by the parties. Because the issue addressed by this motion is narrow in scope and serves to alert the Commission to a material change in New York law that addresses specific concerns raised in the January 28 Order, the motion is not intended to, and should not, provide justification for any party to raise new or unrelated issues or seek to supplement their prior pleadings.

V. CONCLUSION

For the reasons set forth herein, the City and NYPSC respectfully request that the Commission grant their motion to lodge, do so on an expedited basis, and consider the new law and as-of-right tax abatement for peaking generating facilities in its decisions on the pending petitions for rehearing and compliance filings.

Respectfully submitted,

Dated: May 18, 2011

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Public Service Commission
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STATE OF NEW YORK

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CHAP 28 LAWS OF 20 11

2011-2012 Regular Sessions

IN ASSEMBLY

May 6, 2011

Introduced by M. of A. SILVER, FARRELL -- (at request of the Governor) -- read once and referred to the Committee on Ways and Means

AN ACT to amend the real property tax law and the administrative code of the city of New York, in relation to applications for tax abatements for industrial and commercial construction work on properties in a city of one million or more persons and to tax abatements for certain electricity generating facilities in such city

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Legislative findings. The legislature hereby finds that the New York city industrial and commercial incentive program granted, as of right, reductions in real property taxes to new industrial and commercial projects, including power plants. That program lapsed in 2008 and its successor, the industrial and commercial abatement program, enacted by chapter 119 of the laws of 2008, did not provide for tax abatements for new electricity generating facilities in New York city. In August 2010 the board of directors of the New York city industrial development agency revised its uniform tax exemption policy to provide a discretionary tax abatement program, and other benefits, for certain peaking generating facilities. However, the tax benefits of the program were not recognized by the federal energy regulatory commission in setting the installed capacity demand curves for the City of New York for 2011/2012, 2012/2013 and 2013/2014, potentially resulting in a significant increase in the level of the demand curves and corresponding capacity prices paid by customers in the city of New York. The legislature further finds that it is in the best interest of customers to prevent such impacts by amending the real property tax law for the purpose of making peaking units eligible for benefits, as of right, under the industrial and commercial abatement program.

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [ ] is old law to be omitted.

LBD12038-06-1

§ 2. Subdivision 17 of section 489-aaaaaa of the real property tax law, as added by chapter 119 of the laws of 2008, is amended to read as follows:

17. "Utility property" means property and equipment as described in paragraphs (c), (d), (e), (f) and (i) of subdivision twelve of section one hundred two of this chapter that is used in the ordinary course of business by its owner or any other entity or property as described in paragraphs (a) and (b) of subdivision twelve of section one hundred two of this chapter that is owned by any entity that uses in the ordinary course of business property and equipment as described in paragraphs (c), (d), (e), (f) and (i) of subdivision twelve of section one hundred two of this chapter, without regard to the classification of such property and equipment for real property tax purposes pursuant to section eighteen hundred two of this chapter, except that any such property and equipment used solely to serve the building to which they are attached shall not be deemed utility property. Notwithstanding any provision of this title to the contrary, peaking units shall not be considered utility property. For purposes of this title, "peaking unit" shall mean a generating unit that: (a) is determined by the New York independent system operator or a federal or New York state energy regulatory commission to constitute a peaking unit as set forth in section 5.14.1.2 of the New York independent system operator's market administration and control area services tariff, as such term existed as of April first, two thousand eleven; or (b) has an annual average operation, during the calendar year preceding the taxable status date, of less than eighteen hours following each start of the unit; for purposes of calculating the annual average, operations during any period covered by any major emergency declaration issued by the New York independent system operator, northeast power coordinating council, or other similar entity shall be excluded. A "peaking unit" under this title shall include all real property used in connection with the generation of electricity, and any facilities used to interconnect the peaking unit with the electric transmission or distribution system, but shall not include any facilities that are part of the electric transmission or distribution system; it may be comprised of a single turbine and generator or multiple turbines and generators located at the same site. Notwithstanding any provision of this title to the contrary, a peaking unit shall be considered industrial property, provided however that the benefit period for a peaking unit shall be as set forth in paragraph (b-1) of subdivision three of section four hundred eighty-nine-bbbbbb of this title.

§ 3. Subdivision 3 of section 489-bbbbbb of the real property tax law is amended by adding a new paragraph (b-1) to read as follows:

(b-1) Abatement for industrial construction work on a peaking unit. Upon approval by the department of a final application for benefits, an applicant who has performed industrial construction work in any area on a peaking unit, shall be eligible for an abatement of real property taxes, as follows:

(i) Amount of abatement. The first year of the abatement shall be the tax year with the first taxable status date that follows the sooner of (A) completion of construction; or (B) four years from the date the first building permit was issued, or if no permit was required, the commencement of construction. For years one through fifteen, the abatement shall be the amount of the abatement base. The abatement shall be adjusted for inflation protection as provided in subparagraph (ii) of this paragraph. The following table illustrates the abatement computation:

Tax year during benefit period:	Amount of abatement:
Years 1 through 15	100% of abatement base

(ii) Inflation protection. (A) Industrial construction work, effect of assessed valuation increases. For years two through thirteen of the benefit period, except as provided in clause (B) of this subparagraph, if there is any increase in tax in that year that is based on an increase of taxable assessed valuation since the immediately prior tax year, such excess tax liability shall be added to the amount of the abatement base. Such addition to the amount of the abatement base shall be determined using the initial tax rate.

(B) Physical increases. Notwithstanding the provisions of clause (A) of this subparagraph, if in any of years two through thirteen of the benefit period, a physical change to the property results in an increase in the taxable assessed value of the property of more than five percent for that year, then any increase in taxes for that year shall not be added to the amount of the abatement base in any year.

(C) If the taxable assessed value upon which an adjustment to the abatement under this paragraph is based is later reduced by a court order or application to the tax commission, then the appropriate adjustment to the abatement base shall be made in accordance with the reduced taxable assessed value.

(iii) Minimum required expenditure. For industrial construction work on a peaking unit, the minimum required expenditure is thirty percent of the property's taxable assessed value in the tax year with a taxable status date immediately preceding the issuance of the first building permit, or if no permit was required, the commencement of construction. Expenditures for residential construction work or construction work on portions of property to be used for restricted activities shall not be included in the minimum required expenditure.

§ 4. Paragraph (a) of subdivision 1 of section 489-dddddd of the real property tax law, as amended by chapter 138 of the laws of 2008, is amended to read as follows:

(a) Application for benefits pursuant to this title may be made immediately following the effective date of a local law enacted pursuant to this title and continuing until March first, two thousand [eleven] fifteen.

§ 5. Section 489-dddddd of the real property tax law is amended by adding a new subdivision 3 to read as follows:

3. (a) No benefits pursuant to this title shall be granted for construction work performed pursuant to a building permit issued after April first, two thousand fifteen.

(b) If no building permit was required, then no benefits pursuant to this title shall be granted for construction work that is commenced after April first, two thousand fifteen.

§ 6. Subdivision 1 of section 489-eeeeee of the real property tax law, as added by chapter 119 of the laws of 2008, is amended to read as follows:

1. Continuing use. For the duration of the benefit period, the recipient of benefits shall file biennially with the department, on or before the appropriate taxable status date, a statement of the continuing use of such property and any changes in use that have occurred, provided, however, that any recipient of benefits receiving benefits for property defined as a peaking unit shall file such statement biannually. This statement shall be in a form determined by the department and may be in any format the department determines, in its discretion, is appropriate, including electronic format. The department shall have authority to

terminate such benefits upon failure of a recipient to file such statement by the appropriate taxable status date. The burden of proof shall be on the recipient to establish continuing eligibility for benefits and the department shall have the authority to require that statements filed under this subdivision be certified.

§ 7. Section 489-ffffff of the real property tax law is amended by adding a new subdivision 5-a to read as follows:

5-a. Conversion of use by peaking units. Any applicant whose property has been granted benefits under this title for industrial construction work as a peaking unit and who converts such property in any tax year to a use that no longer qualifies it as a peaking unit, or who uses such property in a manner inconsistent with the definition of a peaking unit, shall be ineligible for abatement benefits during any such tax year. Any such recipient of benefits shall pay with interest taxes for which an abatement was claimed during any portion of such tax year.

§ 8. Subdivision q of section 11-268 of the administrative code of the city of New York, as added by local law number 47 of the city of New York for the year 2008, is amended to read as follows:

q. "Utility property" means property and equipment as described in paragraphs (c), (d), (e), (f) and (i) of subdivision twelve of section one hundred two of the real property tax law that is used in the ordinary course of business by its owner or any other entity or property as described in paragraphs (a) and (b) of subdivision twelve of section one hundred two of such law that is owned by any entity that uses in the ordinary course of business property and equipment as described in paragraphs (c), (d), (e), (f) and (i) of subdivision twelve of section one hundred two of such law, without regard to the classification of such property and equipment for real property tax purposes pursuant to section eighteen hundred two of such law, except that any such property and equipment used solely to serve the building to which they are attached shall not be deemed utility property. Notwithstanding any provision of this part to the contrary, peaking units shall not be considered utility property. For purposes of this part, "peaking unit" shall mean a generating unit that: (a) is determined by the New York independent system operator or a federal or New York state energy regulatory commission to constitute a peaking unit as set forth in section 5.14.1.2 of the New York independent system operator's market administration and control area services tariff, as such term existed as of April first, two thousand eleven; or (b) has an annual average operation, during the calendar year preceding the taxable status date, of less than eighteen hours following each start of the unit; for purposes of calculating the annual average, operations during any period covered by any major emergency declaration issued by the New York independent system operator, northeast power coordinating council, or other similar entity shall be excluded. A "peaking unit" under this part shall include all real property used in connection with the generation of electricity, and any facilities used to interconnect the peaking unit with the electric transmission or distribution system, but shall not include any facilities that are part of the electric transmission or distribution system; it may be comprised of a single turbine and generator or multiple turbines and generators located at the same site. Notwithstanding any provision of this part to the contrary, a peaking unit shall be considered industrial property, provided however that the benefit period for a peaking unit shall be as set forth in paragraph two-a of subdivision c of section 11-269 of this part.

§ 9. Subdivision c of section 11-269 of the administrative code of the city of New York is amended by adding a new paragraph 2-a to read as follows:

(2-a) Abatement for industrial construction work on a peaking unit. Upon approval by the department of a final application for benefits, an applicant who has performed industrial construction work in any area on a peaking unit, shall be eligible for an abatement of real property taxes, as follows:

(a) Amount of abatement. The first year of the abatement shall be the tax year with the first taxable status date that follows the sooner of (i) completion of construction; or (ii) four years from the date the first building permit was issued, or if no permit was required, the commencement of construction. For years one through fifteen, the abatement shall be the amount of the abatement base. The abatement shall be adjusted for inflation protection as provided in subparagraph (b) of this paragraph. The following table illustrates the abatement computation:

Tax year during benefit period:	Amount of abatement:
Years 1 through 15	100% of abatement base

(b) Inflation protection. (i) Industrial construction work, effect of assessed valuation increases. For years two through thirteen of the benefit period, except as provided in clause (ii) of this subparagraph, if there is any increase in tax in that year that is based on an increase of taxable assessed valuation since the immediately prior tax year, such excess tax liability shall be added to the amount of the abatement base. Such addition to the amount of the abatement base shall be determined using the initial tax rate.

(ii) Physical increases. Notwithstanding the provisions of clause (i) of this subparagraph, if in any of years two through thirteen of the benefit period, a physical change to the property results in an increase in the taxable assessed value of the property of more than five percent for that year, then any increase in taxes for that year shall not be added to the amount of the abatement base in any year.

(iii) If the taxable assessed value upon which an adjustment to the abatement under this paragraph is based is later reduced by a court order or application to the tax commission, then the appropriate adjustment to the abatement base shall be made in accordance with the reduced taxable assessed value.

(c) Minimum required expenditure. For industrial construction work on a peaking unit, the minimum required expenditure is thirty percent of the property's taxable assessed value in the tax year with a taxable status date immediately preceding the issuance of the first building permit, or if no permit was required, the commencement of construction. Expenditures for residential construction work or construction work on portions of property to be used for restricted activities shall not be included in the minimum required expenditure.

§ 10. Paragraph 1 of subdivision a of section 11-271 of the administrative code of the city of New York, as added by local law number 47 of the city of New York for the year 2008, is amended to read as follows:

(1) Application for benefits pursuant to this part may be made immediately following the effective date of the local law that added this section and continuing until March first, two thousand [eleven] fifteen.

§ 11. Section 11-271 of the administrative code of the city of New York is amended by adding a new subdivision c to read as follows:

c. (1) No benefits pursuant to this part shall be granted for construction work performed pursuant to a building permit issued after April first, two thousand fifteen.

(2) If no building permit was required, then no benefits pursuant to this part shall be granted for construction work that is commenced after April first, two thousand fifteen.

§ 12. Subdivision a of section 11-272 of the administrative code of the city of New York, as added by local law number 47 of the city of New York for the year 2008, is amended to read as follows:

a. Continuing use. For the duration of the benefit period, the recipient of benefits shall file biennially with the department, on or before the appropriate taxable status date, a statement of the continuing use of such property and any changes in use that have occurred, provided, however, that any recipient of benefits receiving benefits for property defined as a peaking unit shall file such statement biannually. This statement shall be in a form determined by the department and may be in any format the department determines, in its discretion, is appropriate, including electronic format. The department shall have authority to terminate such benefits upon failure of a recipient to file such statement by the appropriate taxable status date. The burden of proof shall be on the recipient to establish continuing eligibility for benefits and the department shall have the authority to require that statements filed under this subdivision be certified.

§ 13. Section 11-273 of the administrative code of the city of New York is amended by adding a new subdivision e-1 to read as follows:

e-1. Conversion of use by peaking units. Any applicant whose property has been granted benefits under this part for industrial construction work as a peaking unit and who converts such property in any tax year to a use that no longer qualifies it as a peaking unit, or who uses such property in a manner inconsistent with the definition of a peaking unit, shall be ineligible for abatement benefits during any such tax year. Any such recipient of benefits shall pay with interest taxes for which an abatement was claimed during any portion of such tax year.

§ 14. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after March 1, 2011.

APPROVED

MAY 18 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 this proceeding.

Dated: Albany, New York
May 18, 2011

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