

**STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION**

<b>Proceeding on the Motion of the Commission to Consider Resource Adequacy Matters</b>	) ) )	<b>Case 19-E-0530</b>
---	-------------	-----------------------

**COMMENTS OF THE INDICATED NEW YORK TRANSMISSION OWNERS**

The New York Transmission Owners<sup>1</sup> submit these comments in response to the New York State Public Service Commission’s (“Commission”) July 20, 2020 Notice Soliciting Comments in this proceeding.<sup>2</sup> The New York electric sector is in the early stages of dramatic changes to reduce greenhouse gas (“GHG”) emissions and to meet the challenges of the Climate Leadership and Community Protection Act (“CLCPA”).<sup>3</sup> Substantial investment in renewable energy and energy storage resources (“State Policy Resources”) is required to meet the goals of CLCPA. The Notice invited comments on two reports by the Commission’s consultants, The Brattle Group (“Brattle”),<sup>4</sup> on the qualitative and quantitative ramifications of five structures for capacity or resource adequacy to address how New York may maintain reliability while achieving its clean energy goals at least cost.

---

<sup>1</sup> For purposes of these comments, the New York Transmission Owners (“NYTOs”) include: Central Hudson Gas & Electric Corp.; Consolidated Edison Company of New York, Inc.; Niagara Mohawk Power Corporation d/b/a National Grid; New York Power Authority (“NYPA”); New York State Electric & Gas Corp.; Orange & Rockland Utilities, Inc.; and Rochester Gas and Electric Corporation. Earlier in this proceeding NYPA submitted separate comments and the remaining NYTOs submitted comments as the Joint Utilities.

<sup>2</sup> Case 19-E-0530, *Proceeding on Motion of the Commission to Consider Resource Adequacy Matters* (“Resource Adequacy Proceeding”), Notice Soliciting Comments (issued July 20, 2020) (“Notice”).

<sup>3</sup> Climate Leadership and Community Protection Act (“CLCPA”), A.8429 (Englebright)/S.6599 (Kaminsky) (N.Y. 2019), *available at*: <https://legislation.nysenate.gov/pdf/bills/2019/S6599>.

<sup>4</sup> *See* Resource Adequacy Proceeding, The Brattle Group, Qualitative Analysis of Resource Adequacy Structures in New York (May 19, 2020) (“Brattle Qualitative Report”); Resource Adequacy Proceeding, The Brattle Group, Quantitative Analysis of Resource Adequacy Structures (July 1, 2020) (“Brattle Quantitative Report”) (collectively, the “Brattle Reports”).

Of the five structures that Brattle analyzed, only the aptly named Co-Optimized Resource Adequacy and Clean Procurements (Structure 5)<sup>5</sup> attempts to co-optimize procurements for renewable, nuclear, storage, and fossil-fuel resources. Structure 5 has several similarities to those that the NYTOs have advanced both in this proceeding<sup>6</sup> and in the New York Independent System Operator, Inc. (“NYISO”) stakeholder process: Multiple Value Pricing (“MVP”)<sup>7</sup> and Future Clean Capacity Requirement (“FCCR”).<sup>8</sup> The NYTOs support further vetting the advantages of co-optimization (Structure 5 and/or MVP) in this proceeding and in the NYISO stakeholder process because of the potentially significant efficiency gains they may produce for customers. If these structures are deemed too time-consuming to implement at the outset of a Commission-administered or transformed NYISO market, then the NYTOs advocate further exploration of Structure 3, Centralized Market for Resource Adequacy Credits (“RACs”) with buyer-side mitigation (“BSM”) limited to intentional abuse of market power as a transitional step, while developing and implementing Structure 5/MVP as soon thereafter as possible.

---

<sup>5</sup> See Brattle Qualitative Report, pp. 18-26.

<sup>6</sup> See Resource Adequacy Proceeding, Initial Comments of the Joint Utilities on the Order Instituting Proceeding and Soliciting Comments (filed Nov. 8, 2019) (“JU Initial Comments”), pp. 4, 21-26; Initial Comments Addressing Resource Adequacy (filed Nov. 8, 2019 by NYPA), pp. 26-27 (“NYPA Initial Comments”).

<sup>7</sup> Under the MVP approach, the NYISO would develop Statewide demand curves for each relevant class of capacity, which would reflect the Net CONE of a proxy unit for that class and the amount of that type of capacity based on Commission-determined State policy and other applicable reliability requirements. Each resource that clears the capacity auction would receive a price based on the classes of capacity which it is eligible to offer. For example, if there were a premium for capacity in a Locality and also a premium for renewable capacity, a renewable resource in a Locality would receive a capacity price that reflects both the marginal value of capacity in the Locality and the marginal value of renewable capacity compared to the marginal value of non-renewable capacity.

<sup>8</sup> Under the FCCR proposal, the NYISO would increase the Unforced Capacity (“UCAP”) requirement for each region to the extent necessary to account for the difference between the amount of UCAP that a given portfolio of State Policy Resources can provide, and the amount of UCAP that would be provided by “perfect capacity” that could be displaced by the entering renewable resources. Such an adjustment may be needed if factors other than resource adequacy lead to a significant difference between the amount of UCAP that a portfolio of State Policy Resources qualifies to provide and the amount of perfect capacity that could be displaced by those resources. Additionally, FCCR includes a capacity price floor so the Installed Capacity (“ICAP”) price in each location will remain sufficient to retain existing resources that are needed for reliability. The NYPA Initial Comments did not address FCCR and NYPA takes no position on FCCR in these comments.

The NYTOs are active participants in this proceeding and in the NYISO stakeholder process, and remain committed to working on the market design changes necessary to achieve CLCPA objectives efficiently. This tenet underscores the NYTOs' recommendations.

Finally, the NYTOs request that the Commission consider allowing Investor-Owned Utilities to develop and/or own State Policy Resources as part of a portfolio to satisfy CLCPA's aggressive schedule for renewable and storage expansion. Utility ownership would provide savings to customers while expediting efforts to meet the goals of CLCPA.

**I. The NYTOs Support Significant Changes to “Harmonize” the NYISO Markets with New York’s Clean Energy Policy**

The NYTOs continue to support modifications to the NYISO's capacity, energy, and ancillary service markets so they can efficiently contribute to achieving New York's clean energy policy. For purposes of this section, without taking a position on whether the Commission should assert regulatory control over resource adequacy, the NYTOs provide comments on market structures, were the Commission to assert such control. Many of the NYTOs' positions concern the merits of market design and apply with equal force under a variety of allocations of responsibility and oversight among the Commission, the NYISO, and the Federal Energy Regulatory Commission (“FERC”).

**A. The NYTOs Support Ending Mitigation of State Policy Resources**

The NYTOs previously expressed concern that a market in which entry of State Policy Resources is subject, in substantial measure, to the NYISO's BSM rules would inappropriately increase costs to consumers.<sup>9</sup> Brattle corroborates this concern, estimating that BSM could increase costs of renewable entry on the order of approximately \$0.4-\$0.9 billion per year under

---

<sup>9</sup> See JU Initial Comments, pp. 18-20.

the NYISO's current BSM rules, or approximately \$1.3-\$2.8 billion per year if BSM were to be expanded.<sup>10</sup>

The Brattle Qualitative Report is consistent with the NYTOs' earlier observations that State Policy Resources are needed to reduce GHG emissions and comply with State law; and that such entry does not constitute entry to achieve price suppression.<sup>11</sup> FERC recently approved a limited exemption for renewable resources,<sup>12</sup> which will permit appreciable new entry of renewable resources to clear the NYISO capacity market in the near term. While this step will diminish the deleterious impacts of NYISO's BSM regime, it does not eliminate the intermediate- to long-term impediment to achieving CLCPA goals that BSM rules impose.

Over the intermediate term, the continued application of BSM to State Policy Resources would result in a failure to recognize the reliability contributions of such resources, particularly given the substantial build-out of these resources required to meet the goals of CLCPA. Moreover, the NYISO's current BSM construct continues to favor incumbent fossil-fuel generation under an implied assumption that all such generators are entitled to be shielded from competition from resources that offer attributes beyond reliability. Brattle's report further corroborates the NYTOs' observation that this disconnect between the actual capacity on the system and the amount the market recognizes would send inefficient price signals on the value of existing and the need for new fossil-fuel resources.<sup>13</sup>

---

<sup>10</sup> See Brattle Quantitative Report, p. 4.

<sup>11</sup> See JU Initial Comments, pp. 15-17; Brattle Qualitative Report, p. 3.

<sup>12</sup> See *New York Indep. Sys. Operator, Inc.*, 172 FERC ¶ 61,058 (2020).

<sup>13</sup> See JU Initial Comments, pp. 15-16; Brattle Qualitative Report, pp. 4-5.

While Structures 3 through 5 would eliminate the application of BSM to State Policy Resources, these approaches are not equal.<sup>14</sup>

### **B. Structure 5 and MVP Warrant Further Development**

Brattle identified several advantages associated with Structure 5 that are unique among the five structures analyzed.<sup>15</sup> Structure 5 could readily be adapted to incorporate improvements made to the MVP model since its introduction in the Joint Utilities' initial comments.<sup>16</sup> The NYTOs address below the concerns Brattle observed that Structure 5 has not been implemented and is more complicated than Structure 3 (similar to today's NYISO market with limited BSM and Commission control) and the Load Serving Entity ("LSE") Contracting for RACs ("Structure 4") (a bilateral resource adequacy contract system).<sup>17</sup>

The NYTOs believe there are advantages to modifying and continuing the market structures that currently exist within the NYISO markets, including the markets' ability to implement solutions that are more robust and efficient. As contemplated by Brattle Structures 3 and 4, the State would engage in six separate procurement processes: (1) resource adequacy; (2) nuclear power supported by Zero-Emissions Credits ("ZECs"); (3) off-shore wind ("OSW") supported by Offshore Wind Renewable Energy Credits; (4) renewable energy supported by RECs; (5) distributed solar; and (6) electric storage.

---

<sup>14</sup> Regardless of what structure the Commission may choose to pursue, if any, the NYTOs support the assertion in the NYPA Initial Comments that "it is imperative that [the Commission] ensure that existing resources such as NYPA's hydro facilities and renewable resources whose [Renewable Energy Credits ("RECs")] are expiring be afforded the opportunity to earn appropriate compensation to ensure their continued availability and economic viability. Failure to do so will greatly impede the State's ability to achieve [State policy goals]." NYPA Initial Comments, p.30.

<sup>15</sup> See Brattle Qualitative Report, pp. 18-26.

<sup>16</sup> See JU Initial Comments, pp. 22-24.

<sup>17</sup> See Brattle Qualitative Report, pp. 13-18.

In contrast, Structure 5, like MVP, would rely on different demand curves for different attributes for all relevant resource types, such as generic resource adequacy, OSW, renewable generation, and storage. Structure 5, like MVP, would co-optimize the auctions across resource types to achieve sufficient resource adequacy and satisfaction of State policy requirements more efficiently than solving for each product in separate bilateral contract solicitations.<sup>18</sup> Structure 5, like MVP, can send price signals to incent development of resources where their combined value from both a capacity (resource adequacy) and clean energy perspective will be greatest. For example, if there is a State-wide procurement of OSW, and the cost of development is lower in Zone K than in Zone J, there is an incentive for project developers to choose Zone K. If, however, there were a price adder reflecting the greater value of capacity (resource adequacy) in Zone J, then developers could respond to price signals reflecting that greater value and reduce overall cost to consumers.<sup>19</sup> Structure 5, like MVP, can complement and does not have to displace REC auctions, but may reduce reliance on RECs as the market captures the value of each resource class.

### **C. Structure 5, Like MVP, Would Provide Significant Benefits**

Brattle states that Structure 5's auction process "would procure the least-cost combination of offers" using demand curves to account for the value of resource adequacy and State Policy Resources.<sup>20</sup> Brattle finds that Structure 5 can accommodate a "wide range of design variations to address specific policy priorities"<sup>21</sup> and "enable ZEC participation to meet longer-term 2040 clean energy goals."<sup>22</sup> Brattle also cites several additional advantages of Structure 5:

---

<sup>18</sup> See Brattle Qualitative Report, pp. 18-26.

<sup>19</sup> The NYTOs discuss this approach as an alternative to "value-stack" pricing as mentioned in the Brattle Qualitative Report (at p. 21).

<sup>20</sup> Brattle Qualitative Report, pp. 20-21.

<sup>21</sup> *Id.*, p. 21.

<sup>22</sup> *Id.*, p. 23.

- “An enhanced role for retail choice...;”<sup>23</sup>
- “An enhanced role for merchant resource developers to take on more risks (shifting away from customers)...;”<sup>24</sup>
- “Enhanced competition across resource types, vintages, and across products that may achieve lower total costs...;”<sup>25</sup>
- “Efficiency benefits achieved of co-optimized resource clearing to meet all RAC, clean energy, and other policy requirements simultaneously;”<sup>26</sup>
- “Opportunities to more fully express policy objectives through downward-sloping demand curves including the value of accelerated decarbonization and enabling some competition between nuclear and renewable resources;”<sup>27</sup>
- “Eliminates inefficiencies of BSM;”<sup>28</sup> and
- “Continued use of time-tested ICAP market approaches for [resource adequacy] needs.”<sup>29</sup>

In addition, Structure 5 solves Brattle’s critiques of Structure 4 for market power concerns.<sup>30</sup> MVP also provides all of the foregoing benefits.

The NYTOs support further development of Structure 5/MVP to realize these benefits of harmonization of the capacity/resource adequacy market to facilitate entry of and appropriately value State Policy Resources.

---

<sup>23</sup> *Id.*, p. 25.

<sup>24</sup> *Id.*, p. 26.

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*, p. 27.

<sup>29</sup> *Id.*

<sup>30</sup> *See id.*, p. 25.

#### **D. The Benefits of Structure 5/MVP Outweigh Concerns of Complexity**

Today, several different procurements take place independently from one another, imparting lost efficiencies which can be achieved through co-optimization. Brattle acknowledges that Structure 5 is the only structure that addresses this inefficiency, while Structures 3 and 4 make no attempt to solve it.<sup>31</sup>

Under its current market rules, the NYISO resets the capacity market demand curves every four years based on the cost of new entry (“Net CONE”) for representative units of each relevant technology and at different locations in New York. The NYISO estimates the margins such units would earn from energy and ancillary services sales to develop the Net CONE of each proxy unit. This Net CONE forms the demand curve price at the equilibrium point reflecting the “desired” amount of capacity (necessary to satisfy a loss of load probability of one time in ten years).

The NYTOs believe it would be far more effective to establish demand curves for different technologies and with different equilibrium points based on State policy requirements and objectives and to co-optimize capacity procurements across technology types. The NYTOs consider the incremental work associated with Structure 5, noted by Brattle,<sup>32</sup> or MVP to be insignificant compared to the potential benefits of conforming the NYISO markets or a State-controlled structure to reflect State policies.

Moreover, the NYTOs believe that Structure 5/MVP would be less complex than Structure 1 (the status quo market), Structure 3 or Structure 4. The status quo and Structures 3 and 4 share a common flaw which confers more market complexity and risk on renewable and storage projects and their sponsors. Today, the REC markets predominantly supply the missing money for

---

<sup>31</sup> Brattle Qualitative Report, p. 27.

<sup>32</sup> *Id.*



renewable projects – the shortfall in revenues (margins) a project receives from providing energy and ancillary services. Each project developer must forecast the market revenues (including energy, capacity, and ancillary services) that its project is expected to earn and submit bids reflecting the amount of revenue the developer expects to need to make its project financially viable. These bids, in turn, set REC prices. This process creates significant price uncertainty, as developers must incorporate risk premiums in these bids to reflect market revenue forecast uncertainty. The resulting market complexity is intrinsic in separate REC procurements that are independently conducted for different technologies and are independent of the capacity market. In authorizing the Indexed REC construct for OSW and the Tier 1 REC Procurements, the Commission earlier this year recognized the excess costs that such disjointed procurements impose on projects and ultimately customers.<sup>33</sup> Co-optimization of the markets through Structure 5/MVP, however, is a more direct method of resolving this problem by reducing complexity and risk for all resource types, thereby reducing the costs to consumers of meeting the bold challenges of CLCPA and helping to achieve more timely deployment of needed capital.

#### **E. FCCR Elements Can Work in Tandem to Improve Structure 1, 3, or 5/MVP**

The Joint Utilities also proposed consideration of FCCR,<sup>34</sup> which would recognize the differences between the contributions that State Policy Resources and conventional dispatchable resources make in meeting transmission security or other local reliability requirements, given that intermittency and duration limitations are not reflected in the UCAP calculations.<sup>35</sup> Brattle did not

---

<sup>33</sup> See Case 15-E-0302, *Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and a Clean Energy Standard*, Order Modifying Tier 1 Renewable Procurements (issued January 16, 2020) (“The use of an Index REC should also reduce the risk premiums that developers account for in their bids to accommodate for uncertainty in power market revenues, thereby lowering ratepayer costs...” *Id.*, p. 2).

<sup>34</sup> See JU Initial Comments, pp. 24-26. As mentioned previously, NYPA takes no position on FCCR.

<sup>35</sup> See *id.*, p. 24.

expressly address FCCR, but observed that under Structure 3, prevailing prices would be low as more State Policy Resources come online, but that RAC prices would serve as a signal to retire more inefficient resources.<sup>36</sup> The Brattle Qualitative Report does not adequately address the need to retain resources that provide needed flexibility to balance increasing intermittency and maintain transmission system security. If price signals cause the retirement of such units, then the market design is flawed and will result in either reliability problems or a potentially growing patchwork of reliability must run contracts, both of which will end up driving up costs. Alternatively, if price signals result in retention of obsolete and near valueless resources, the market design is also flawed.

The retention of needed flexible resources will be influenced by several factors outside of the capacity or resource adequacy market. The NYISO is considering whether to adopt new ancillary service products, such as ramping and new regulation products and whether and how to shift margins from the capacity to the ancillary services markets.<sup>37</sup> These NYISO real-time market initiatives interact with the capacity market to send price signals for entry, retrofitting of existing resources, retention, and retirement. The NYTOs urge further review of FCCR or a similar mechanism both in the NYISO stakeholder process and in this proceeding to provide for a rational market design which recognizes the interdependence of energy, ancillary service, capacity, and REC markets. This exercise is appropriate to develop efficient price signals to maintain reliability.

---

<sup>36</sup> Brattle Qualitative Report, p. 13.

<sup>37</sup> For a description of the ongoing stakeholder process concerning balancing intermittency, *see* New York Indep. Sys. Operator, Inc., Reliability and Market Considerations for a Grid in Transition: Reliability Gap Assessment Potential Market Design Improvements, Part 3 (July 28, 2020), *available at*: <https://www.nyiso.com/documents/20142/14102665/Grid%20in%20Transition%20Discussion%20MIWG%2007282020.pdf/1404b1ec-a874-171a-d864-f31c2ace1af9>.

## **F. Brattle Corroborates Most of the Shortcomings of Structure 4 Identified by the NYTOs**

The Brattle Report echoes the NYTOs' cautions against a mandatory bilateral contract system (Structure 4).<sup>38</sup> Consistent with the Joint Utilities' and NYPA's Initial Comments, Brattle raises significant concerns with Structure 4, including: shifting of risks from sellers to customers, loss of transparency, loss of liquidity, reduced ability for monitoring and mitigation of market power, increased volatility and increased transaction costs.<sup>39</sup>

Brattle does not address, however, the enormity of shifting to a bilateral contract system. In order to displace the NYISO capacity market, LSEs would have to contract for their peak load plus installed reserve margin. On day one, contracts would have to be in place for over 35 GW of capacity. The security and balance sheet impacts of such major financial commitments could impact each utility and LSE's cost of capital, which may translate into higher customer costs, and shift risk away from merchant developers and onto customers. In sharp contrast, alternatives to Structure 4 that rely on capacity auctions keep the investment risk where it belongs: with those making such investments.

The Joint Utilities' Initial Comments and the NYPA Initial Comments also address the State assurances necessary to fairly implement a bilateral contract system while partially reducing the risks on LSEs/utilities. These include approval of the pass through of costs under every power purchase agreement for the term of the agreement, Commission review of each agreement, and non-bypassable stranded cost recovery if load shifts to a different LSE or commodity supplier.<sup>40</sup>

---

<sup>38</sup> Any proposal by the NYTOs in these comments should be construed as permitting bilateral contracts, which is different than requiring them as the predominant means of procuring resource adequacy.

<sup>39</sup> Brattle Qualitative Analysis, pp. 16, 27; JU Initial Comments, pp. 31-37; Initial Comments Addressing Resource Adequacy of the New York Power Authority (filed Nov. 8, 2019), pp. 28-29.

<sup>40</sup> JU Initial Comments, p. 32; NYPA Initial Comments, p. 29.

While recognizing that the potential volatility of a bilateral contract system could at times lead to prices too low to support needed resources,<sup>41</sup> Brattle thus far has not adequately addressed the ramifications of this problem. Brattle also has not addressed the inefficiencies intrinsic in a resource adequacy market under Commission control, bifurcated from energy and ancillary services markets under NYISO control. This bifurcation adds complexity to achieving the right price signals to retain or attract the right resources to respond to intermittency and to maintain reliability. RACs would assume the role of providing the missing money without necessarily having an integrated market design among the different product markets and sources of revenue.

Brattle observes that Structure 4 is “the greatest departure from the current New York resource adequacy structure as compared to all other options.”<sup>42</sup> The NYTOs agree and believe Structure 4 is the least desirable of Structures 3 through 5, and that it would take longer to implement than Structure 3 or 5.

### **G. Summary of Assessment of the Five Market Structures**

The NYTOs favor development of Structure 5/MVP as a superior market design.

Structure 1 (the status quo market) would continue the application of BSM to State Policy Resources, which the NYTOs oppose. The recently-approved renewables exemption, however, will decrease the near-term impacts of BSM on renewable entry under the current market.

Structure 2 (an expanded BSM regime which would also apply to units receiving ZECs), does not currently appear imminent. Structure 2, however, would substantially increase the negative impacts of BSM and the costs this would impose on consumers. For reasons explained in NYTOs’ initial comments and in the Brattle Reports, Structure 2 should be avoided.

---

<sup>41</sup> Brattle Qualitative Report, p. 18.

<sup>42</sup> *Id.*, p. 17.

Structure 3 would be similar to today's NYISO capacity market with greater NYPSC oversight or control and with limits so BSM would not apply to nuclear retention or State Policy Resource entry. As discussed above, Structure 3 would not attempt optimization of the several procurement processes and markets. Notwithstanding this shortcoming, the NYTOs appreciate Structure 3's potential value if it were deemed necessary and sufficient to avoid Structure 2. Even in this circumstance, the NYTOs would support using Structure 3 as a steppingstone while developing Structure 5/MVP for implementation as soon as possible.

The NYTOs believe Structure 4 is the least effective or desirable design of Structures 3 through 5, would take the longest to implement, and would be the most difficult to implement.

Finally, FCCR, whether considered as an enhancement to the current market design, Structure 3 or Structure 5/MVP, may present elements to improve the market by helping to retain needed resources. Any element specifically targeting retention should be analyzed to determine that it is not incentivizing retention of obsolete resources or raising capacity prices without commensurate market benefits measured through efficiency gains. This evaluation must also consider initiatives to shift revenues (margins) from the capacity market to the energy and ancillary services markets. This proposed vetting would determine whether elements of FCCR should be incorporated into the future market structure.

## **II. The NYTOs Are Committed to Working in this Proceeding and in the NYISO Stakeholder Process to Achieve Needed Market Reform**

The NYTOs have been active participants in this proceeding and will continue to participate to help develop market reforms to harmonize the capacity, energy, and ancillary services markets with CLCPA and State policy. In parallel, the NYTOs have been actively participating in the NYISO stakeholder process with the same objective and plan to continue doing so. The overarching objectives in both forums are to achieve an efficient market design and

implement it in a timeframe needed to meet the challenge of CLCPA, to rely on competitive markets wherever reasonable and to maintain reliability through significant increases in intermittent and duration-limited resources.

Recognizing that major changes were needed to harmonize the NYISO's markets with State policies even before CLCPA was enacted, the NYTOs started advancing or supporting a number of reforms through the NYISO's stakeholder process and have stepped up such efforts following CLCPA.<sup>43</sup> If the NYISO stakeholder process can produce timely results to reform the NYISO markets,<sup>44</sup> there would likely be strong benefits in pursuing this path, including an integrated market with more efficient price signals; decreased litigation risk and regulatory uncertainty; and potentially more expedited results, depending in part on FERC's willingness to rule on tariff changes.<sup>45</sup> Expediency and minimizing regulatory risk are desirable objectives.

---

<sup>43</sup> For a description of the ongoing stakeholder process concerning balancing intermittency, see New York Indep. Sys. Operator, Inc., Reliability and Market Considerations for a Grid in Transition: Reliability Gap Assessment Potential Market Design Improvements, Part 3 (July 28, 2020), *available at*: <https://www.nyiso.com/documents/20142/14102665/Grid%20in%20Transition%20Discussion%20MIWG%2007282020.pdf/1404b1ec-a874-171a-d864-f31c2ace1af9>.

<sup>44</sup> As evidenced by comments in this proceeding, many stakeholders from different sectors now recognize the need for market reform. *See, e.g.*, Resource Adequacy Proceeding, Comments of Autumn Lane Energy Consulting, LLC (filed November 8, 2019), p. 3; Comment of the City of New York (filed November 8, 2019), pp. 6-10; Consumer Power Advocates Comments (filed November 8, 2019), pp. 3-7; Dutchess County Comments (filed November 8, 2019), pp. 2-3; Initial Comments of Helix Ravenswood, LLC (filed November 8, 2019), p. 3; H.Q. Energy Services [U.S.] Inc. Initial Comments (filed November 8, 2019), pp. 1-2; Hydrostor Inc. Comments (filed November 8, 2019), pp. 2-4; Institute for Policy Integrity at New York University School of Law Comments (filed November 8, 2019), pp. 1-2; Comments of Independent Power Producers of New York, Inc. (filed November 8, 2019), pp. 7-10; Comments of Key Capture Energy (filed November 8, 2019), pp. 2-3; New York Energy Consumers Council, Inc.'s Comments (filed November 8, 2019), pp. 2-3; Initial Comments of the New York Independent System Operator, Inc. on Resource Adequacy Matters (filed November 8, 2019), pp. 8-10; Initial Comments of Potomac Economics, Ltd. [Market Monitoring Unit for NYISO] (filed November 8, 2019), pp. 3, 8-15; Utility Intervention Unit Comments on Resource Adequacy Matters (filed November 8, 2019), p. 1; and Comments of Calpine Corporation and Vistra Energy Corp. (filed November 8, 2019), p. 3.

<sup>45</sup> Structures 3 through 5 involve Commission assertion of control over certain aspects of the NYISO market. To the extent the NYISO requires FERC approval to abandon any aspects of its current capacity market, the timing of a FERC order would influence the ability to implement the new market design. If issues with potentially broader precedential ramifications, such as preemption and jurisdiction are central to the disputes, then they may take longer to resolve, impart greater market uncertainty in the interim and implicate several forums as cases may be brought in state court, federal district court and before FERC.

Over the coming months, the Commission will have the opportunity to further develop Structures 3 and 5 in this proceeding and to consider relevant market design initiatives in the NYISO stakeholder process. The processes should inform each other. If, due to a failure of the NYISO process to timely approve sufficient market design changes or for other reasons, the Commission decides to pursue an alternative market structure with greater State control, then the NYTOs urge the Commission to consider the benefits of an improved Structure 5/MVP to co-optimize the different clean energy and resource adequacy markets, as described above. If Structure 5 is deemed too time-consuming to implement at the outset of a Commission-administered market, then the NYTOs advocate pursuing Structure 3 as a transitional step, while developing and implementing Structure 5 as soon thereafter as possible.

### **III. Authorize Utilities to Help Meet CLCPA's Goals**

CLCPA's goals require unprecedented investment in renewable and storage projects. The NYTOs support application of BSM only in situations of price suppression as opposed to investments to satisfy public policy requirements. If successful on this point, then BSM would not apply to utility rate-based investments in and ownership of State Policy Resources. The NYTOs urge the Commission to provide an opportunity for utility development and/or ownership of State Policy Resources.

Advantages of allowing utility ownership as part of a broader portfolio include:

- Customers would reap the benefit of project residual value, including repowering options with lower or no site acquisition and interconnection costs;
- Lower cost of capital with a regulated rate of return would lower costs and provide competitive pressure on the market; and

- NYSERDA (or Structure 5/MVP) procurements could proceed in parallel with utility investments to facilitate more rapid deployment.

Utilities can be an effective part of CLCPA solution with the Commission's support and oversight.

#### **IV. Conclusion**

The NYTOs urge the Commission to further explore the potential of Structure 5/MVP to achieve the benefits of co-optimized markets with input from the NYISO and its stakeholders. The NYTOs further urge the Commission to consider allowing utilities to develop and/or own State Policy Resources as part of a portfolio of tools to address the clean energy goals of CLCPA, and to achieve savings for customers.

Respectfully submitted,

By: /s/ Stuart A. Caplan  
Stuart A. Caplan  
Jessica M. Lynch  
Troutman Pepper Hamilton Sanders LLP  
875 Third Avenue  
New York, NY 10022  
Tel: 212-704-6060  
Tel: 202-274-2855  
Email: stuart.caplan@troutman.com  
Email: jessica.lynch@troutman.com

*Counsel for the Indicated Transmission Owners*

#### **CENTRAL HUDSON GAS & ELECTRIC CORPORATION**

By: /s/ John Borchert  
John Borchert  
Senior Director of Energy Policy and  
Transmission Development  
Central Hudson Gas & Electric Corporation  
284 South Avenue  
Poughkeepsie, NY 12601  
Email: jborchert@cenhud.com

#### **CONSOLIDATED EDISON COMPANY OF NEW YORK, INC. and ORANGE AND ROCKLAND UTILITIES, INC.**

By: /s/ Neil H. Butterklee  
Neil H. Butterklee  
Associate General Counsel  
  
Susan LoFrumento  
Associate Counsel  
  
Consolidated Edison Company



of New York, Inc.  
4 Irving Place, Room 26-610  
New York, N.Y. 10003  
Tel: 212-460-1089  
Email: butterkleen@coned.com  
Email: lofrumentos@coned.com

**NEW YORK STATE ELECTRIC &  
GAS CORPORATION and  
ROCHESTER GAS AND ELECTRIC  
CORPORATION**

By: /s/ Amy A. Davis  
Amy A. Davis  
Senior Regulatory Counsel  
89 East Avenue  
Rochester, New York 14649  
Tel: (585) 771-4234  
Email: amy.davis@avangrid.com

**NIAGARA MOHAWK CORPORATION  
d/b/a/ NATIONAL GRID**

By: /s/ David C. Lodemore  
David C. Lodemore  
Senior Counsel  
National Grid USA  
40 Sylvan Road  
Waltham, MA 02451  
Email: David.Lodemore@nationalgrid.com

**NEW YORK POWER AUTHORITY**

By: /s/ Glenn D. Haake  
Glenn D. Haake  
Special Counsel

Alan Michaels  
Lead Energy Market Advisor

New York Power Authority  
30 South Pearl Street – 10<sup>th</sup> Floor  
Albany, NY 12207-3245  
Tel: (518) 433-6720  
Tel: (518) 433-6716  
Email: Glenn.Haake@nypa.gov  
Email: Alan.Michaels@nypa.gov

Dated: August 21, 2020