STATE OF NEW YORK DEPARTMENT OF PUBLIC SERVICE

THREE EMPIRE STATE PLAZA, ALBANY, NY 12223-1350

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December 20, 2013

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. ER14-500-000 - New York Independent System Operator, Inc.

Dear Secretary Bose:

For filing, please find the Notice of Intervention and Comments of the New York State Public Service Commission in the above-entitled proceeding. Should you have any questions, please feel free to contact me at (518) 473-8178.

Very truly yours,

David G. Drexler
Assistant Counsel

Attachment

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

New York Independent System Operator, Inc.	))	Docket No. ER14-500-000

NOTICE OF INTERVENTION AND COMMENTS
OF THE NEW YORK STATE
PUBLIC SERVICE COMMISSION

INTRODUCTION

Pursuant to the New York Independent System Operator, Inc's (NYISO) Market Administration and Control Area Services Tariff (Services Tariff), the NYISO is required to conduct a review every three years to determine appropriate parameters for the Installed Capacity (ICAP) Demand Curves over the next three Capability Years. The ICAP Demand Curves are based on estimates of the Cost of New Entry, net of energy and ancillary services revenues, and are used in the NYISO-administered ICAP Spot Market Auctions to establish the price of ICAP relative to the amount of supply. On November 29, 2013, the NYISO filed amendments to its Services Tariff, proposing updated ICAP Demand Curves for the three upcoming Capability Years (i.e., 2014/2015, 2015/2016, and 2016/2017).

As discussed below, the New York State Public Service Commission (NYPSC) generally supports the NYISO's filing. The NYPSC commends the NYISO and its consultants on their responsiveness to stakeholder input on the appropriate proxy units proposed for use in establishing the ICAP Demand Curves for the three upcoming Capability Years. The NYPSC further concurs with the NYISO's decision to reflect the value of tax abatements available in New York City (NYC) in setting the net Cost-of-New-Entry (CONE) for the NYC locality during the upcoming Capability Years. The NYPSC is also supportive of the NYISO's proposal to phase in the Demand Curves for Zones G through J (i.e., the Lower Hudson Valley New Capacity Zone (NCZ)). These proposals will help ensure ICAP prices remain just and reasonable.

While supporting these aspects of the NYISO's proposal, the NYPSC seeks two modifications to avoid the overstatement of the Demand Curves. In particular, the NYISO's recommended amortization periods are unduly short and unsubstantiated. In addition, the NYISO arbitrarily increased the proposed cost-of-equity above the results of the Capital Asset Pricing Model (CAPM) analysis. These proposals have the effect of unreasonably inflating the CONE used to establish the Demand Curve parameters.

NOTICE OF INTERVENTION

The NYPSC submits its Notice of Intervention in the above-captioned proceeding pursuant to the Federal Energy

Regulatory Commission's (FERC or Commission) Combined Notice of Filings #1, issued on November 29, 2013 (Notice), and Rule 214 (18 C.F.R. §385.214) of the Commission's Rules of Practice and Procedure.

Copies of all correspondence and pleadings should be addressed to:

David Drexler Assistant Counsel New York State Department of Public Service Three Empire State Plaza Albany, New York 12223-1350 david.drexler@dps.ny.gov	William Heinrich Manager, Policy Coordination New York State Department of Public Service Three Empire State Plaza Albany, New York 12223-1350 william.heinrich@dps.ny.gov

DISCUSSION

I. The Commission Should Approve The NYISO's Proposed Proxy Units, Inclusion of Property Tax Abatements for NYC, and a Phase-In of The Demand Curves for The Lower Hudson Valley

The NYPSC agrees with the NYISO's selection of the simple cycle frame combustion turbine, with Selective Catalytic Reduction (SCR), as the designated proxy unit for the New York City (NYC), Long Island, and Lower Hudson Valley localities. As part of the additional analysis requested by the NYISO Board, the Brattle Group evaluated SCR systems for Frame-Type Combustion Turbines, and concluded that "the F-Class frame combustion turbine can be and has been successfully coupled with

SCR to meet strict environmental standards."[1] This unit type has been demonstrated as a viable technology at the Marsh Landing Generating station in Contra Costa County, California. Moreover, there is precedent for selecting this technology as a proxy unit in PJM Interconnection.[2]

Other parties may argue that the simple cycle frame combustion turbine with SCR is not a viable technology. The NYPSC disagrees for the reasons noted above. If the Commission entertains the other parties' positions, it should still select a simple cycle frame turbine without SCR as the proxy unit for the Lower Hudson Valley NCZ because this unit would be capable of complying with applicable emissions limits in the absence of a dual-fuel requirement in this locality. The Commission should not presume that interruptible gas tariffs would require dual-fuel capability since a generator in the Lower Hudson Valley could be served directly by an interstate gas pipeline to avoid the need for such capability. For example, the prospective Cricket Valley Energy project is seeking to locate in the Lower Hudson Valley, and is proposed as a gas-only unit connected directly to the interstate pipeline.

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1 Independent Evaluation of SCR Systems for Frame-Type Combustion Turbines, prepared by The Brattle Group/Licata Energy & Environmental Consulting, Inc. (dated November 1, 2013), p. iv.

2 PJM Interconnection, Open Access Transmission Tariff, Attachment DD, §2.58.

For the Rest-Of-State (ROS) locality, we support the use of the simple cycle frame combustion turbine without SCR. Based on the economic and environmental analysis prepared by National Economic Research Associates, Inc., with Sargent and Lundy, it has been demonstrated that this unit would run well within the operation cap of 1,075 hours in order to comply with applicable environmental restrictions. These operating parameters are consistent with the selection of a "peaking unit" under the Services Tariff.[3] Similar to prior Demand Curve resets, the frame unit continues to be the most economically viable technology for this region.

In addition, we support the inclusion of property tax abatements in the CONE for NYC. It is reasonable to conclude, as the NYISO did, that the selected proxy unit would qualify as a peaking unit eligible for full property tax abatements for the first 15 years of operation. Furthermore, any such units entering the NYC locality during the upcoming three-year Demand Curve reset period would need to receive a construction permit prior to the April 1, 2015 deadline for the abatements, given the lead-time necessary for construction (i.e., more than two years). Moreover, we expect that the property tax abatement program will be extended for NYC.

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3 Services Tariff §5.14.1.2.

The NYPSC also agrees with the NYISO's proposal to phase in the CONE for the Lower Hudson Valley NCZ in order to mitigate the price impacts on consumers. This approach would not interfere with the price signals intended to attract new entry in the NCZ. The Commission should recognize that there are new State transmission initiatives underway that will affect the long-term price signals for new entry in the NCZ. In particular, two initiatives will result in the addition of major transmission facilities in the corridor identified in the NCZ Filing as congested. The first of these sought transmission solutions that can be constructed by the summer of 2016; the NYPSC recently decided that several proposed transmission solutions should proceed.[4] The second proceeding solicited alternating current transmission proposals, with the goal of adding at least 1,000 MW of transfer capability over the Upstate New York/Southeast New York and Central East interfaces.[5]

In light of the NYPSC's ongoing proceedings, potential new entrants contemplating entry in the Lower Hudson Valley three or four years from now will not look at the prices set in

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[4] Case 12-E-0503, Generation Retirement Contingency Plans, Order Accepting IPEC Reliability Contingency Plans, Establishing Cost Allocation and Recovery, and Denying Requests for Rehearing (issued November 4, 2013).

[5] Case 12-T-0502, Alternating Current Transmission Upgrades, Order Instituting Proceeding (issued November 30, 2012). Several applications were filed by the October 1, 2013 deadline, and are currently under review.

the summer of 2014 as a valid and indicative "long run price signal." Fully implementing the NCZ in 2014 will only serve to provide an extremely high short-term price that provides incumbent generators in the Lower Hudson Valley with an economic windfall. This skewed short-term price bears no relation to the long-term price signal the NCZ is intended to produce, and would be completely meaningless for prospective developers. The Commission's goal of providing long-term price signals would be successfully achieved by allowing for a phase-in approach, as proposed by the NYISO, or a delay until 2017 for the implementation of the NCZ, so that prices in the NCZ would reflect the new configuration of the transmission system.

II. <u>The Commission Should Modify The NYISO's Proposed Amortization Periods and Cost Of Equity</u>

In determining the levelized cost of the proxy units, the NYISO arbitrarily chose to shorten the amortization period from 30 years to 20 years for the Siemens simple cycle frame unit. This is an unsupported departure from past Demand Curve resets. Moreover, this assumption is inconsistent with the operational experience with the Siemens SGT6-5000F fleet leader, which has over 104,000 hours of operation. Even with a 40% capacity factor, this unit could run for 30 years and well beyond, assuming it is properly maintained and serviced. A move from the 30-year amortization period for the proxy units is unsupported and inconsistent with past and current assumptions. Accordingly, the Commission should direct the NYISO to modify this assumption in a compliance filing.

Finally, we request modifications to the assumed Cost of Equity. The NYISO's consultant estimated the cost of equity using the CAPM, resulting in a return on equity of 11.29%. However, NERA and the NYISO concluded that the CAPM model result of 11.29% should be adjusted to 12.5%, an adjustment of over 100 basis points. While this adjustment was made to include a factor for the risk associated with the investment, the CAPM model already accounts for this risk. As a result the NYISO included an unsubstantiated and excessive double counting of risk associated with the Cost of Equity. The actual results from the evaluation using the CAPM model should supersede subjective judgment. Therefore, the return on equity for the Demand Curve reset should be set no higher than 11.3%.

CONCLUSION

For the foregoing reasons, the Commission should accept the NYISO's proposal, and direct the NYISO to incorporate the modifications noted above.

Respectfully submitted,

Peter McGowan
General Counsel
Public Service Commission
of the State of New York
By: David G. Drexler
Assistant Counsel
3 Empire State Plaza
Albany, NY 12223-1305
(518) 473-8178

Dated: December 20, 2013
Albany, New York

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
December 20, 2013

David G. Drexler
Assistant Counsel
3 Empire State Plaza
Albany, NY 12223-1305
(518) 473-8178