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October 23, 2017

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. RM18-1-000 – Grid Reliability and Resilience Pricing.

Dear Secretary Bose:

Attached for filing in the above-referenced proceeding, please find the Comments of the New York State Public Service Commission, the New York State Energy Research and Development Authority, the New York State Department of Environmental Conservation, and the Long Island Power Authority. Should you have any questions regarding the attached, please feel free to contact me at (518) 474-1585.

Very truly yours,

s/ Alan T. Michaels
Alan T. Michaels
Manager

Attachment

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Grid Reliability and Resilience Pricing	))))	Docket No. RM18-1-000

COMMENTS OF THE NEW YORK STATE PUBLIC SERVICE COMMISSION, THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY, THE NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, AND THE LONG ISLAND POWER AUTHORITY

INTRODUCTION

On September 28, 2017, the Secretary of Energy (Secretary) submitted a proposed rule for final action by the Federal Energy Regulatory Commission (FERC or Commission).[1] The Secretary proposed that FERC exercise its ratemaking authority under Sections 205 and 206 of the Federal Power Act[2] to allow for the full recovery of costs for certain qualified fuel-secure generation units frequently relied upon for reliability and resiliency.[3] On October 2, 2017, the Commission issued a Notice Inviting Comments within this docket, and encouraged interested persons to submit comments regarding the proposal to FERC. On October 4, 2017, Commission Staff released a series of questions

[1] 42 U.S.C. § 7173 (2012).

[2] 16 U.S.C. § 824d, 824e.

[3] Proposal at 11.

for commenters to consider within their responses in order to assist Staff in understanding the implications of the Proposal. On October 10, 2017, a modified version of the proposal, identified as part of a Notice of Proposed Rulemaking (Proposal), was published in the Federal Register.[4]

The New York State Public Service Commission[5] (NYPSC), New York State Energy Research and Development Authority (NYSERDA), New York State Department of Environmental Conservation (NYDEC), and Long Island Power Authority (LIPA)[6] (collectively, NYS Respondents) respectfully submit the following comments on the Proposal. While the NYS Respondents recognize the stated intent of the Proposal -- to promote the reliability and resiliency of our nation's electrical grid --

[4] Grid Resiliency Pricing Rule, 82 Fed. Reg. 46940 (Oct. 10, 2017)(amending 18 C.F.R. § 35). The version printed in the Federal Register included an additional requirement for eligibility. In order for a generation unit to be eligible to receive cost of service under the Federal Register version of the Proposal, the facility must be located in an ISO/RTO region with a mandatory capacity market. See, Id. at 46948. Since the NYISO has a mandatory capacity market, the presence of this requirement does not change the Proposal's impact on New York.

[5] The views expressed herein are not intended to represent those of any individual member of the NYPSC. Pursuant to Section 12 of the New York Public Service Law, the Chair of the NYPSC is authorized to direct this filing on behalf of the NYPSC.

[6] Additional comments are being sponsored by the Long Island Power Authority's subsidiary Long Island Lighting Company d/b/a Power Supply Long Island as part of a filing by the New York Transmission Owners.

NYS Respondents have significant concerns with the manner in which the Secretary proposes to meet those goals. The Secretary's Proposal would not only require New York ratepayers to bear the cost of subsidizing coal-fired power plants that emit large amounts of greenhouse gases, it would impede state-level energy and climate policies with an unnecessary one-size-fits-all federal rule. The continued use of carbon-intensive coal-fired power plants will result in further acceleration of climate change, which will lead to stronger storms, as experienced in 2017, droughts that may impair the production of baseload hydroelectric facilities, and higher peak temperatures that would strain the electricity grid.

In addition, the Proposal fails to demonstrate that the existing reliability assessment is insufficient for evaluating and addressing reliability needs. This Proposal would substitute the existing process, which carefully considers local needs and ensures that solutions are compatible with competitive market conditions, with an ineffective, across-the-board requirement. As an example, New York State Reliability Council (NYSRC) and the NYISO set minimum fuel resiliency

operating requirements[7] to ensure reliability,[8] and through its Local Distribution Company gas tariffs pursuant to its statutory mandate to ensure the safety and reliability of New York State's energy system, the NYPSC also sets minimum (typically a 5-day supply) standby fuel inventory requirements in certain circumstances for distribution generators.[9] These requirements are proven resiliency requirements, and they result in enhanced system reliability.

As discussed further below, the NYS Respondents present four areas of significant concern regarding the Proposal. First, the Proposal interferes with various environmental policies of New York and other states. For example, the NYPSC is mandated by statute to ensure the safety and reliability of the State's energy system.[10] Consistent with that mandate, New York has made great strides in reducing the greenhouse gas emissions that cause climate change, modernizing

[7] See e.g., New York State Reliability Council's Local Reliability Rule I-R3 -- Loss of Generator Gas Supply (New York City) or I-R5 -- Loss of Generator Gas Supply (Long Island).

[8] See e.g., NYISO Market Services Tariff Section 4.1.9.

[9] See e.g., Keyspan Gas East Corp. DBA Brooklyn Union of L.I. gas tariff Leaf 187 – Service Classification No. 14 "Customers contracting or interruptible service must have complete standby fuel and equipment available at the beginning of the winter season to withstand interruptions of gas service for at least five days."

[10] Public Service Law §65.

its grid and achieving other environmental benefits. This Proposal threatens the progress made by many States in pursuing their policy goals by overriding their policies with an ill-tailored federal market requirement.

Second, if the intent is to support the two goals of reliability and resiliency, then NYS Respondents note that the present rules approved in the New York Independent System Operator, Inc. (NYISO) stakeholder governance process and established in the NYISO tariff, requires, among other things, payments under Reliability Must Run (RMR) agreements for certain generation facilities that are necessary for reliability purposes when called upon by the NYISO. These have been rare and temporary measures, rather than the wholesale return to cost-of-service regulation seemingly proposed here.

Third, NY Respondents are concerned with the Proposal's impact on the market. The Proposal lacks detail, fails to allege that current rates are unjust or unreasonable, and is unclear with respect to how its proposed market change would be effectuated. Without a definitive plan, it is uncertain how to determine costs and impacts on the markets. If market participants and the Commission alike cannot determine market impacts resulting from this Proposal, it is unknown how FERC may legally determine that the Proposal is just, reasonable, and not unduly discriminatory.

Lastly, the Proposal is facially insufficient because it does not clearly address the issue presented. The Secretary's letter in support of his Proposal describes a need for additional reliability and resiliency in the face of extreme weather conditions. However, the facts selected to justify the request of additional revenues to "fuel-secure" generation facilities do not address the stated goals of strengthening the reliability and resiliency of the grid. Instead, the Proposal leaps to the conclusion that reliability and resiliency can only be assured by a return to cost-of-service regulation. Accordingly, NYS Respondents urge FERC to abandon this unnecessary intrusion into the operation of electricity markets.

BACKGROUND

The Secretary stated that he submitted his Proposal to the Commission out of concern for the need to promote a reliable and resilient electric grid.[11] In order to protect from the threat of energy outages that could result from the loss of traditional baseload capacity, the Secretary asks FERC to issue certain rules.[12] The Secretary cites devastation wrought by recent extreme weather conditions, including Superstorm Sandy in

[11] Letter at p.1.

[12] Id.

2012, the 2014 Polar Vortex, and the recent string of hurricanes that impacted the United States. He further suggests that work needs to be done to preserve and prevent premature retirements of generation resources that have "on-site fuel supplies and the ability to provide voltage support, frequency services, operating reserves, and reactive power."[13]

The Secretary selectively relies upon sections of a report prepared by Department of Energy Staff, which was a review of the wholesale markets and reliability.[14] Citing the DOE Staff Report, the Secretary notes significant coal and nuclear plants have retired or announced retirement. The Secretary refers to the DOE Staff Report to demonstrate the performance of these generation resources during extreme weather conditions. He concludes that premature retirements of fuel-secure resources impose a serious risk to the grid.[15]

Based on the foregoing, the Secretary states that FERC "must adopt rules requiring the Commission-approved ISOs and RTOs to reduce the chronic distortion of those markets

[13] Id.

[14] U.S. Department of Energy, Staff Report to the Secretary on Electricity Markets and Reliability, August 2017 (DOE Staff Report), available at https://energy.gov/downloads/download-staff-report-secretary-electricity-markets-and-reliability.

[15] Letter at 5.

threatening the resilience of the nation's electricity system."[16] The Secretary proposes to add compensation for certain qualified generation resources. To promote the stated goals of strengthening reliability and resiliency, the Secretary recommends that FERC adopt a rule that allows for full recovery of costs for eligible generation units frequently relied upon for reliability and resiliency of the grid. "Eligible units must also be able to provide essential energy and ancillary reliability services and have a 90-day fuel supply on site".[17]

The Secretary asks FERC to invoke this Proposal using FERC's statutory authority. Under Section 205 of the Federal Power Act, the Commission has ratemaking authority, provided all rates subject to FERC's jurisdiction are just and reasonable and not unduly discriminatory or preferential.[18] Without such findings, any decision by FERC to support the Proposal would be legally deficient.

DISCUSSION

NYS Respondents share and promote the goals of resiliency and reliability, as has been demonstrated in numerous NYPSC proceedings, rate cases with New York's local utilities,

[16] Letter at 7.

[17] Proposal at 11.

[18] Federal Power Act Section 205, 16 U.S.C. §824d(b).

and through their advocacy for these important attributes in the New York wholesale markets through the NYISO governance process. However, the Secretary's Proposal is inconsistent with New York State policies.

A. Inconsistency with State Policies

The Proposal interferes with the environmental policies New York and other States have implemented. Through various policy initiatives, New York has made significant advances in promoting lower emission-emitting generation resources and moving toward an energy system more focused upon distributed generation. This has reduced the greenhouse gas (GHG) emissions that cause climate change and has had other environmental benefits. These state-level policies are in close keeping with both this Commission's and the federal courts' repeated affirmation that such policies are appropriate for state regulatory decision-making.[19] By supporting emission-intensive generation facilities, the Proposal would counter State policy and could have the effect of indefinitely

[19] "The State's reserved authority includes control over in-state 'facilities used for the generation of electric energy.'" Hughes v. Talen Energy Mktg. 136 S.Ct. 1288, 1292 (2016)(citing, Federal Power Act, 16 U.S.C.S. 824(b).

continuing the substantial emission of greenhouse gases from coal plants in the State.

For example, in the aftermath of Superstorm Sandy, New York began its comprehensive reform of the State's energy system. The Reforming the Energy Vision (REV) strategy aligns markets with significant regulatory changes in order to enhance reliability, integrate distributed energy resources, and achieve greater use of advanced energy management technology. Through the REV initiative, New York State is siting generation closer to consumption through the development of distributed energy resources and microgrids, thereby reducing constraints on transmission infrastructure. REV also supports demand response mechanisms to reduce load during peak periods and reduce load-pocket extremes.

In its January 21, 2016 Order Establishing the Benefit Cost Analysis Framework, the NYPSC detailed a series of benefits and cost metrics for consideration in future DER tariffs.[20] The PSC listed improved "Reliability/Resiliency" as a result of lower system outages and restoration costs as a benefit. The BCA Framework was created to enable the careful comparison of the value of the benefits obtained through a potential projector

[20] Case 14-M-0101, Proceeding on Motion of the Commission in Regard to Reforming the Energy Vision, Order Establishing the Benefit Cost Analysis Framework (Jan. 21, 2016) appendix C.

action (e.g. DER installation) against the costs incurred in effectuating that project or action. In sum, New York is finding improvements to reliability and resiliency through new regulatory mechanisms designed to strengthen the electric grid while providing affordable, clean energy to ratepayers.

Additionally, New York has established a Clean Energy Standard (CES).[21] The CES requires that 50 percent of the State's electricity come from renewable energy sources such as wind and solar by 2030. The CES includes requirements for load serving entities in New York to obtain Renewable Energy Credits (RECs) and Zero Emission Credits (ZECs), which are generated by eligible resources. Eligible resources include various nuclear units, which are being compensated for the environmental benefit of avoided GHG emissions. There is no demonstrated need in New York for further support to such "fuel-secure" resources under this Proposal. Therefore, applying the Proposal to New York would be both inappropriate and in conflict with State policy goals.

In addition to the CES, New York State participates in the Regional Greenhouse Gas Initiative (RGGI), which is a

[21] Case 15-E-0302, Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and a Clean Energy Standard, Order Adopting a Clean Energy Standard (Aug. 1, 2016).

multistate[22] market-based program to reduce GHG emissions. RGGI applies to fossil fuel-fired generation resources, regardless of the specific fuel type. The RGGI participating states have already achieved an approximately 45% reduction in GHG emissions from power plants since 2005, and recently announced additional proposed program changes that would further reduce the regional GHG emissions cap to be 65% below the 2009 cap.[23] These positive environmental outcomes have been coupled with economic benefits for the States. Independent analyses have found that RGGI is generating billions of dollars in net economic benefit, including tens of thousands of job-years, all while GHG emissions continue to decline. In addition, grid reliability and resiliency have not been adversely impacted by the RGGI program, in part because New York already has appropriate rules to ensure grid reliability and resilience. The Proposal conflicts with New York's participation in RGGI by presumably maintaining coal-fired generation indefinitely, which could lead to increased GHG emissions within the region without providing any offsetting reliability or resiliency benefits.

[22] In addition to New York, the States participating in RGGI are: Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, Rhode Island, and Vermont.

[23] RGGI, Inc. RGGI States Announce Proposed Program Changes: Additional 30% Emissions Cap Decline by 2030. (August 23, 2017) Available at: http://rggi.org/news.

Furthermore, New York State has committed to phase out coal-fired generation by 2020. In particular, the State is dedicated to ensuring that electric generating units, which burn coal, either repower utilizing a cleaner fuel source or close no later than 2020. This commitment is largely due to the need to continue transitioning to lower-emitting sources of generation and avoid the most carbon-intensive energy sources, in order to minimize the State's contribution to climate change. The NYDEC is considering adopting a regulation that would implement this commitment and impose carbon dioxide emission limits on existing electric generating facilities. Such a regulation would be adopted under the State's legal authority, and, if adopted, would be in place regardless of the Proposal. Nevertheless, the Proposal would conflict with the State's own policy and may make it more challenging or costly to implement, further demonstrating how the Proposal interferes with the State's own environmental prerogatives. These State programs have been enacted without any negative impact on reliability.

Moreover, even though New York State has only modest coal-fired power regardless of the Proposal, the Proposal would have a significant adverse environmental impact by maintaining coal-fired generation in other States. The impact of carbon emissions is not site specific, and coal-fired generation

outside of the State already contributes to significant environmental problems in New York State.

In addition to climate-related impacts due to increased GHG pollution, artificially extending the life of coal-fired generation outside of New York will also lead to increases in conventional pollutants. This includes emissions of nitrogen oxides (NOx), sulfur dioxide (SO_2), and mercury, all of which have been demonstrated to have significant detriment to human health. Besides creating local air quality impacts and potential issues regarding local attainment status under the Clean Air Act (CAA), such emissions also contribute to problems associated with the transport of emissions across state lines. These transport issues with emissions from outside of New York are already creating challenges regarding the State's own actions to achieve attainment status, including with regard to ozone.

These attainment challenges would only be exacerbated by the Proposal. Air quality and emission issues regarding NOx, SO2, ozone, and mercury would be even worse as a result of the Proposal, as the coal-fired plants that are the primary source for these transport emissions would likely continue to operate beyond what had previously been assumed. This extension of operating life will directly conflict with the CAA regulatory analyses, which served as the foundation for New York's

implementation planning. Therefore, contrary to New York State policy and regulatory initiatives, the Proposal would have significant adverse air quality impacts, with the potential for associated negative impacts on human health, particularly amongst more vulnerable populations such as children and the elderly. Any additional impact regarding the attainment status of criteria pollutants would need to be addressed by Environmental Protection Agency (EPA) and the States as required by the CAA.

B. Intended Goals Are Satisfied in the NYISO Markets

One of the Secretary's specified goals for this Proposal is to prevent premature retirements of certain generation facilities.[24] However, there is no stated criteria to avoid a never-ending level of support to meet this objective. Under the Proposal, there is nothing offered that would provide an expeditious replacement of the units receiving maintenance. It seems the Proposal would potentially keep old and inefficient fossil units open indefinitely, without any assessment as to any actual impact on system reliability.

[24] Letter at 1, "As a first step, it is especially urgent to prevent premature retirements of the resources that have these critical attributes."

FERC has established policies and procedures through their independent system operators and regional transmission organization (ISOs/RTOs) to evaluate proposed generator retirements and determine if retirement of a certain plant would cause reliability issues. After such an evaluation, if certain units are needed for reliability purposes, the ISOs/RTOs have provided out-of-market payments to maintain the needed unit as a last resort and for as short a term as possible. At the NYISO, the existing reliability evaluation process was well-vetted across the five sectors in the NYISO's shared governance process, and passed through the voting committees.

Under already-existing FERC practice, if older units are required for reliability purposes, FERC may already continue its process for permitting reliability must run (RMR) agreements to provide additional compensation to generators for reliability services. New rules are not required to achieve this goal.

Moreover, as part of its Comprehensive Reliability Plan (CRP), the NYISO conducts a Reliability Needs Assessment (RNA) every two years in order to assess both the resource adequacy and transmission security of the bulk power transmission system over a 10-year horizon. If a reliability need is identified, market based solutions are solicited (including generation options) to meet the need. If no market based solution materializes, the local transmission operator

(TO) must designate a solution to meet the identified need. Therefore, any additional monetary support for the kinds of reliability attributes specified in the Secretary's Proposal would be an unnecessary cost to New York's ratepayers, and may ultimately not be needed to meet the reliability requirement identified through NYISO assessments.

C. The Proposal Would Have Uncertain Impacts on the Market Because the Proposal Lacks Sufficient Detail and Does Not Address the Issue Presented

The Secretary's Proposal has three main requirements that must be satisfied by a generator to be eligible for the recovery of full cost of service. The first requirement is that the resource must provide "essential energy and ancillary reliability services."[25] The second requirement is that the eligible generation unit must have a 90-day fuel supply on site. The third requirement is that the unit must be able to provide the essential energy in the event of a supply disruption, caused

[25] Proposal at 11, "Eligible units must also be able to provide essential energy and ancillary reliability services and have a 90-day fuel supply on site in the event of supply disruptions caused by emergencies, extreme weather, or natural or man-made disasters." In addition to these three elements, the Proposal further states that the generation facility must be: physically be located within the Commission-approved organized markets, compliant with all applicable environmental regulations, and not otherwise subject to cost-of-service regulation. Id. at 11-12.

by either emergency or extreme weather. These requirements present several questions. First, the requirements are so vague and undefined that it is unclear how the Commission may make a determination and satisfy its statutory standard to promote the Proposal. Second, the requirements do not support the assertion that resilience or reliability are enhanced, as revealed by the facts presented. These omissions are inconsistent with the Administrative Procedure Act, the Federal Power Act, and the National Environmental Policy Act.

1. The Proposal Lacks Sufficient Detail

The Proposal lacks sufficient detail regarding the requirements for eligibility, as further described below, making it unclear how the Commission could direct the implementation of the conceptual Proposal, given the Commission's requirements for decision-making. The Proposal directs "the Commission to issue a final rule requiring its organized markets to develop and implement market rules that accurately price generation resources necessary to maintain the reliability and resiliency of our Nation's bulk power system."[26] Without a definitive plan, it is uncertain how to determine costs and impacts on the markets.

[26] Proposal at 11.

If there is no ability to ascertain costs and impacts, the Commission cannot find this Proposal to be just, reasonable, and unduly discriminatory. This lack of detail also frustrates the ability of New York and other stakeholders to meaningfully comment on certain substantive matters associated with the Proposal, which would need to be addressed in any final Commission regulation. This makes it unlikely that the Commission could adopt any final rule while also complying with certain statutory and procedural requirements, including proper public notice and comment.

Each of the three requirements stated in the Proposal leave many questions regarding implementation. The first identified requirement is that the eligible unit must provide "essential energy." This requirement resonates as if the generation facility must prove need to qualify for the added compensation. If this is the intent, it is unclear how the need for a unit will be established. A test for need may be presented in a number of ways, and a number of factors may be explored within a test for need. This could lead to a review of the reliability within a locality. If so, the Proposal does not define the size of the locality to be reviewed. It is so unclear what is meant by the requirement to demonstrate that the unit provides essential energy, that it is impossible to substantively comment on the subject. If participants are

unable to formulate opinions, the Commission cannot be expected to reach a legal conclusion that the requirement for a unit to provide essential energy is just, reasonable, and not unduly discriminatory.[27]

The second requirement to be an eligible unit is to have a 90-day fuel supply on site. The Proposal does not explain how to measure a 90-day supply of fuel. For example, New York's coal plants have low capacity factors. If, to be eligible, the Proposal requires the New York facilities to possess an on-site, 90-day stockpile of fuel to maintain their recent output rather than to operate at full capacity, then a cache of nearly nothing would constitute a 90-day supply.

Moreover, although the Secretary's letter and the Proposal both refer to the possible eligible units as those fueled by coal or nuclear fuel, a more resource neutral definition of resiliency should be considered. For example, a renewable resource arguably has an infinite supply of fuel available. A run-of-river hydro plant could be seen as having a more consistent fuel than any other resource. Based on the

[27] "Notice must not only give adequate time for comments, but must also provide sufficient factual detail and rationale for rule to permit interested parties to comment meaningfully." Florida Power & Light Co. v. U.S., 846 F.2d 765, 771 (App. D.C., 1988)(referencing the requirement of the Administrative Procedure Act, 5 U.S.C.S. Section 553).

vague definition, it is unclear if any renewable resource could be eligible under this Proposal. Again, the lack of explanation creates a disconnect between the requirement to possess on-site a 90-day supply of fuel and how it relates to reliability and resiliency of the grid.

If the 2014 Polar Vortex experience is to serve as an example, as noted in the next section, a 90-day coal supply may actually contribute to, rather than relieve, fuel disruption. A technology-neutral requirement, which could allow renewable or liquid fuel inventories of far lower supply requirements, may help to relieve these disruptions. As such, the proposed 90-day requirement thus lacks the essential correspondence between resiliency and reliability.

The third requirement is to provide essential energy during a disruption to supply. This appears to create a criterion for resiliency. The Proposal considers an eligible unit resilient when it has the ability to provide energy for reliability purposes (i.e., essential energy) during a natural or human-initiated disaster. Again, the Proposal does not explain how a facility's resiliency may be tested or established. Without details to implement the Proposal, it is impossible to review the impacts, costs, and outcomes. Stakeholders may not review whether the Proposal is beneficial, nor whether it assists the federal government in achieving its

stated goals of reliability and resiliency. Without such an ability, the Commission cannot be expected to determine whether the Proposal is just, reasonable, and not unduly discriminatory. Therefore, without such a thorough review by FERC, the Proposal cannot be approved.

2. Facts Referenced Do Not Justify the Proposal

The Secretary relies upon the DOE Staff Report to justify the requirements of his Proposal. Within his letter in support, the Secretary cites many selections from the DOE Staff Report to bolster his final conclusion. However, there were additional portions of the DOE Staff Report that were not quoted, and if reviewed, illustrate a different picture compared to that which was given in the Proposal.

In particular, the Proposal's second requirement for a 90-day fuel supply is not supported by the facts presented as a solution to the issue presented. The Secretary explains that during the Polar Vortex of 2014, PJM Interconnection (PJM) had difficulty meeting demand because many generation plants were unable to run, but a number of coal plants that were slated for retirement were dispatched to meet the need for electricity.[28]

[28] Letter at 3.

Although this is true, DOE Staff provided additional information from their research that explained why these older coal units were called upon. The referenced paragraph in the DOE Staff Report opens with a sentence omitted by the Secretary which states, "Many coal plants could not operate due to conveyor belts and coal piles freezing, which—coupled with outages across other fuels and high electricity demand—led operators to call on older plants nearing the end of their useful lives."[29] This fuller description of the scenario questions the validity of the 90-day fuel element as a means of strengthening resilience.

According to this omitted sentence, much of the strain on the grid was attributed to a significant number of coal plants that were offline due to freezing conditions. This includes generation units with stockpiles of on-site coal, which presumably would qualify as eligible units under the Proposal. The DOE Staff Report continued to explain that, of the generation outages experienced due to the extreme weather conditions, 26% were coal plants.[30] This additional information

[29] DOE Staff Report at 98, citing, PJM Interconnection, Analysis of Operational Events and Market Impacts during the January 2014 Cold Weather Events (PJM Interconnection, May 8, 2014) (PJM 2014 Cold Weather Report), available at: http://www.pjm.com/~/media/library/reports-notices/weather-related/20140509-analysis-of-operational-events-and-market-impacts-during-the-jan-2014-cold-weather-events.ashx.

[30] DOE Staff Report at 98, citing, North American Electric Reliability Corporation (NERC), Polar Vortex Review (Atlanta,

calls into question the conclusions that lead to the elements of the Proposal. From the experience of the 2014 Polar Vortex, coal plants, including those with on-site fuel, did not, in fact, improve resilience in extreme weather conditions.

By contrast, NY's dual fuel capacity requirements and liquid fuel inventory requirements carried the day, preventing significant electric supply disruptions. NY requires that generation customers taking interruptible gas service from a Local Distribution Company have standby fuel and standby fuel capable facilities to allow for a multi-day gas interruption. New facilities locating in certain downstate regions are required to be dual fuel capable. During the 2014 Polar Vortex, NYISO heavily dispatched these liquid capable units. These rules do not require cost of service regulation, and are fully integrated into NYISO's wholesale market mechanisms.

PJM assessed its own situation after the Polar Vortex, and developed a number of lessons learned and recommendations. None of the solutions proposed included requiring a particular amount of on-site coal for generation units.[31] PJM proffered numerous recommendations, including improving market constructs

GA: NERC, September 2014), available at: http://www.nerc.com/pa/rrm/January%202014%20Polar%20Vortex%20Review/Polar Vortex Review 29 Sept 2014 Final.pdf.

[31] See, PJM 2014 Cold Weather Report at 53-56.

for incentives for performance and penalties for non-performance, enhancing fuel coordination (gas-electricity), strengthening communications, improving fuel tracking technologies, and further consideration for calls upon the public for conservation.[32]

The Secretary further supports his Proposal referencing the recent hurricanes that impacted the United States. However, once again the facts do not support the conclusion of this Proposal. In a letter from NRG to the Public Utility Commission of Texas, the company explains that unprecedented flooding experienced during Hurricane Harvey lead to difficulties with on-site coal reaching silos. According to the letter, "[t]he external coal pile at W. A. Parish became so saturated with rain water that coal was unable to be delivered into the silos from the conveyer system."[33] As a result, these generation units transferred to natural gas. The facts resulting from these extreme conditions further question the

[32] Id.

[33] Public Utility Commission of Texas Project No. 47552, "Issues Related to the Disaster Resulting from Hurricane Harvey." (Sept. 26, 2017) available at: http://interchange.puc.texas.gov/WebApp/Interchange/application/dbapps/filings/pgControl.asp?TXT_UTILITY_TYPE=A&TXT_CNTRL_NO=47552&TXT_ITEM_MATCH=1&TXT_ITEM_NO=&TXT_N_UTILITY=&TXT_N_FILE_PARTY=&TXT_DOC_TYPE=ALL&TXT_D_FROM=&TXT_D_TO=&TXT_NEW=true.

Proposal's conclusion to support older fossil burning units in the name of resiliency.

Rather than attempting to use its ratemaking authority by acting upon the Proposal, the Commission should exercise its reliability authority by looking to the North American Electric Reliability Corporation (NERC) to investigate the Secretary's concerns. NERC is well suited to develop any appropriate reliability and resiliency standards for the Commission's consideration.

The Secretary further states his Proposal is an effort to prevent premature retirements of resources that have critical reliability and resiliency attributes. However, in the Polar Vortex scenario, PJM did not call upon units that were "prematurely retiring" as the Secretary suggests. According to DOE Staff, operators called upon older plants that were "nearing the end of their useful lives."[34]

CONCLUSION

For the reasons set forth herein, the NYS Respondents respectfully urge the Commission to not adopt the Proposal. The existing NYISO tariff adequately supports reliability and resiliency, and no modification is needed at this time.

[34] DOE Staff Report at 98.

Respectfully submitted,

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