

# **Proposed ICAP Buyer-Side Mitigation Modifications- Competitive Entry Exemption, Offer Floor Change, Renewables Exemption and Muni Exemption**

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# Proposal

- ◆ **The NYISO is proposing to pursue**
  - *A CEE/Merchant Exemption,*
  - *A modified offer floor,*
  - *A Renewable Resource Exemption, and*
  - *Muni Self Supply Exemption,*
- ◆ **NYISO does not propose to include in this proposal exemption for reliability**
  - *The NYISO will explore the possibility of this exemption at a later date.*
- ◆ **Today's meeting will focus on the proposed Renewable and Muni/Coop Exemptions and on the incremental tariff changes to CEE and the Offer Floor changes since the tariff changes presented at the March 19 ICAP WG meeting.**

# Offer Floor Proposal

- ◆ **NYISO is proposing to change the definition of Offer Floor for Examined Facilities/Projects that are not exempt to:**
  - ***The lower of***
    - ***90% Mitigation Net CONE (“MNC”) (i.e., change from 75% to ~~100%-90%~~ ), or***
    - ***Unit Net CONE.***
- ◆ **The NYISO is not proposing to change the 23.4.5.7.2 test.**
- ◆ **The proposed effective date of the Offer Floor modification will continue to be Examined Facilities in Class Year subsequent to Class Year 2012.**

# Renewable Generator Exemption

- ◆ **Proposing to exempt wind and solar units and all small (less than 50 MW) generators that have technology types eligible for NY Renewable Portfolio Standard (RPS).**
  - *The current BSM test does not fully account for the benefits (externalities) that these technologies have (as evidenced by their inclusion in the list of RPS technologies).*
  - *Wind and solar installations are usually expensive and have a low capacity factor/nameplate ratio (relative to other technologies.) They have little impact on capacity prices and are therefore an unlikely mechanism for exercising buyer side market power.*
  - *Small RPS eligible projects (less than 50 MW) are also exempt because they are generally expensive so potential benefits from capacity price decreases are at a significant cost.*
  - *Generators that are partially eligible for RPS would be exempt if they reasonably anticipate that the majority of their output would be eligible for RPS credits.*

# Municipal Utilities Exemption

- ◆ **Municipal Electric Systems (“Munis”) and Cooperatively Owned Electric Systems (“Coops”) in Mitigated Capacity Zones can request an exemption for to exempt some or all MW of a proposed new Generator or UDR project from Buyer Side Mitigation.**
  - *The Examined Facility must be located in a Mitigated Capacity Zone in which the Muni or Coop is serving load.*
- ◆ **The exemption will be for up to the lesser of the Muni or Coop’s net load MW (net of long term capacity supply contracts and any generation owned by the Muni or Coop) or 50 MW.**
  - ◆ *Net load MW means their load, including projected load growth for the next 10 years, net of any long term supply contracts (with more than 5 years remaining) and net of any ICAP resources owned by the Muni or Coop.*
- ◆ **If the generator is not owned by the Muni/Coop it needs to have a long term contract with the Muni/Coop for a minimum of 10 years.**
- ◆ **Each Muni or Coop is only eligible for one exemption every 10 Capability Years.**

# CEE

- ◆ There was a request to explain why the certifications continue until the unit first produces energy (and not until it first offers capacity or after the test period)
  - *This milestone is a proxy for when the developer has put its money on the line and built the generator or UDR. This is achieved when the unit first produces energy and the unit does not need to wait until any of the later milestones suggested by some stakeholders at the last ICAP WG meeting.*
- ◆ There was a request to “carve out” gas transportation contracts
  - *Gas transportation contracts are an unlikely mechanism for depressing capacity prices.*
    - Gas transportation contracts are not a major component of the costs of a new facility.
  - *The NYISO is proposing to “carve out” gas transportation contracts as permissible.*

# CEE (2)

- ◆ There was a stakeholder request for the NYISO to review the penalty amount because it was too small
  - *The penalty for providing false or misleading information that led to an exemption when none was due has been updated:*
    - The penalty is the revocation of the exemption and a financial penalty of 1.5 times the maximum capacity revenue the unit could have earned in each month it offered (for a maximum of 2 years).
- ◆ Penalty disbursement- there was a request to review if loads are harmed by ICAP Suppliers selling capacity that should not have been exempt
  - *When a CEE unit enters the market based on false/misleading information and suppresses the ICAP prices, ICAP purchasers always benefit more from the price suppression than the additional cost of the increase in surplus (because total UCAP MW available is a large number compared to ICAP supplier's UCAP MW)*
  - *The NYISO is not proposing to change the penalty disbursement mechanism (to Installed Capacity Suppliers)*
- ◆ Several additional small changes based on discussion at the last ICAP WG are outlined on the next slide.

# Tariff Sheets and CEE Certification: Incremental Changes

- ◆ **MST 23.2 – Change of the offer floor to 90% of mitigation net CONE.**
- ◆ **MST 23.4**
  - *23.4.5.7.2 -omitted in error when we separated the tariff changes for CEE from the Repowering changes (was presented Feb 19). Retains the test at 75% of mitigation net CONE.*
  - *23.4.5.7.6.1.2 (a), (c) – updated based on ICAP WG discussion*
  - *23.4.5.7.6.1.3 (vii) – bounding eligible reliability contracts*
  - *23.4.5.7.6.1.3 (viii) (new section) – gas transportation contracts are permitted*
  - *23.4.5.7.6.1.3 (ix) (was (viii)) – changed to “not to exceed” one year*
  - *23.4.5.7.6.1.5 – changed to have the NYISO make eligibility determinations*
  - *23.4.5.7.6.5.3 – update to penalty calculation amount*
- ◆ **CEE certification**
  - *No Changes.*
- ◆ **MST 30.4.6.2.11 – cross references to changes in MST 23.4 have not yet been updated. They will be included in the BIC material.**



# Next Steps

- ◆ BIC & MC

# **APPENDIX: Background**

# Summary of the CEE Design

- ◆ **The competitive entry exemption is intended to exempt from Installed Capacity (ICAP) buyer-side mitigation measures (*i.e.*, exempt from Offer Floor) a new entrant that at the time of entry has not received, is not receiving, and does not have an agreement to receive support outside of competitive markets from an entity with an incentive to affect New York capacity prices.**

# Summary of the CEE Design

- ◆ The exemption would be granted if the project has no direct or indirect (i) contracts with, (ii) financial support from, or (iii) in kind support from any NY electric distribution company, Municipal Utility, or any NY state or local governmental entity, including but not limited to Public Authorities.
  - *Eligibility for the exemption will not be limited by*
    - “fair market value” leases or sale agreements for land,
    - several different types of contracts, which are enumerated; e.g., interconnection agreements, developmental grants, etc (see the tariff for a full list), and
    - up to a *de minimus* amount.

# Summary of the CEE Design

- ◆ **Any NY electric distribution company, Municipal Utility, or any NY state or local governmental entity, including but not limited to Public Authorities are not eligible for the exemption if they build a project themselves.**

# Summary of CEE Exemption Process

- ◆ **Prior to Start Date of the Class Year, developers can request a Competitive Entry Exemption.**
  - *The deadline for the request will be set by the NYISO and published on the NYISO web site.*
  - *The transition mechanism to be available to projects subsequent to Class Year 2012.*
  
- ◆ **Applicants that meet the CEE criteria will be granted an exemption from ICAP buyer-side mitigation**
  - *Applicants still must provide costs data used in the Unit Net CONE examination (“Part B Test”).*
  - *NYISO and the MMU will review and approve or deny exemption applications.*

# Summary of CEE Exemption Process

- ◆ Application determination will be based on certifications by applicant.
  - *The NYISO may ask applicants to provide additional information.*
  - *A company officer must provide certifications.*
  - *The certification requirement has been revised from what was previously proposed to only require the applicant to certify.*
  - *There would be an initial certification at the time of application.*
  - *Recertification would be required at different points up to when the unit enters the market.*
    - *Applicants must notify NYISO if the certification is no longer true up to when the project first produces energy.*
- ◆ Concurrently, the NYISO will post on its website whether a request for a Competitive Entry Exemption was denied or granted, notify the project of the determination, and the Market Monitoring Unit shall publish a report on the NYISO's determination.

# CEE Failure to Recertify- Summary of provision

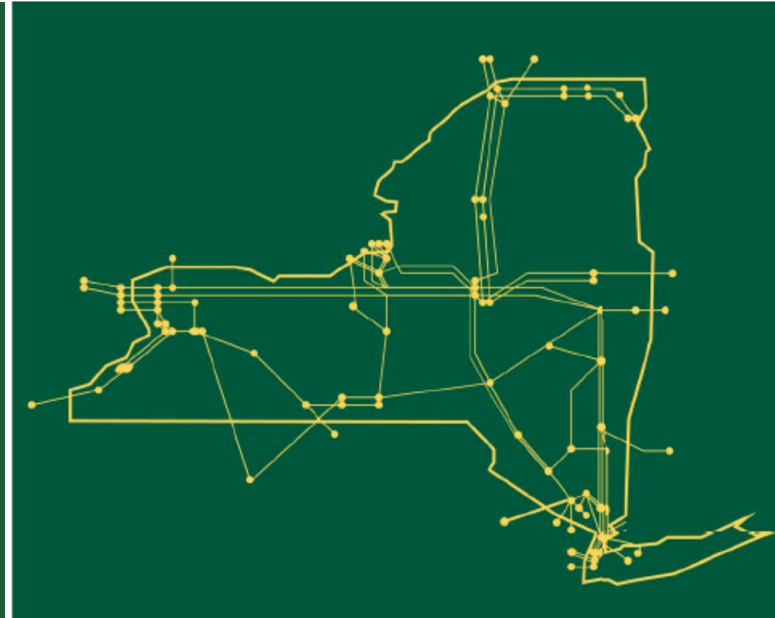
- ◆ Failure to certify or recertify to the satisfaction of the NYISO, or the MMU, will result in the removal of the exemption and the unit being subject to the default Offer Floor.
  - *This design element is required because conducting a unit specific analysis would, if it occurred during the Class Year process, delay the completion of the Class Year process or, if the failure to recertify occurred after the Class Year Process was completed, the Offer Floor could not be determined.*



# Summary of the Penalty for False Certification

- ◆ False, misleading, or inaccurate certification, or an attempt to circumvent the rules would violate the Services Tariff and would be referred to the MMU for referral to the FERC Office of Enforcement.
- ◆ In addition, a project that is determined to have provided a false, misleading, or inaccurate certification would be penalized unless the NYISO determines that it would have granted the Competitive Entry Exemption if complete and accurate information had been submitted.
  - *The penalty is the revocation of the exemption and a financial penalty of 1.5 times the maximum capacity revenue the unit could have earned in each month it offered (for a maximum of 2 years).*
  - *The penalty is refunded to ICAP Suppliers in the same Mitigated Capacity Zone(s) as the project.*

The New York Independent System Operator (NYISO) is a not-for-profit corporation responsible for operating the state's bulk electricity grid, administering New York's competitive wholesale electricity markets, conducting comprehensive long-term planning for the state's electric power system, and advancing the technological infrastructure of the electric system serving the Empire State.



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