

NYS Department of Public Service Staff Comments on
NERA's July 1, 2010 Demand Curve Reset Study

Location for Statewide CONE

The estimate of the Statewide Cost of New Entry (CONE) should be based on the location within the New York Control Area with the lowest net CONE. NERA indicates that the lowest net CONE is on Long Island, due to its relatively high net energy revenues. Since generation on Long Island is also part of the statewide market, this location should be considered suitable for setting the Statewide CONE. This determination is consistent with historical trends, where, due to consistent energy flows into the major load centers of Southeast New York, most peaking units within New York have been built on Long Island or in NYC. This indicates that Long Island is a rational place to build peaking units, and should therefore be used in establishing the CONE, assuming Long Island is in fact determined to have the lowest net CONE.

Deliverability

Contrary to the arguments by various generators, deliverability costs should not be included in setting the net CONE for the demand curve. As the NYISO indicated in comments presented at the March 15, 2010 ICAPWG meeting, "[i]ncluding Deliverability costs in the demand curve reset process would

result in loads paying for all Deliverability upgrades, which would violate a fundamental tenant of the Deliverability rules." Department of Public Service Staff (DPS Staff) concur with the NYISO's view and the comments submitted on behalf of the New York Transmission Owners on April 21, 2010, which provide the rationale for excluding deliverability costs in setting the net CONE.

IPPNY proposes to address deliverability by setting a higher statewide CONE based on costs in the Lower Hudson Valley (LHV). However, by paying the same price to upstate generators in zones A-F as generators in LHV, IPPNY's proposal would fail to provide any upstate locational price signal. Thus, even if the NYISO were to consider incorporating deliverability costs, the IPPNY proposal would be inappropriate. Instead, the advisability of creating a new capacity zone should be thoroughly evaluated as part of the stakeholder process investigating the development of criteria for new capacity zones. Moreover, it should be recognized that because of the consistent flow of energy from north and west into Southeast New York, peakers located on Long Island should satisfy deliverability requirements at least as well as peakers located in LHV.

Special Case Resources

While acknowledging that demand response is expected to increase, the Draft Report indicates that no adjustment was made to energy revenues to account for this increase. The report states on page 46 that "[w]hile we recognize that special case resources calls would be expected to increase and more revenue expected to be shifted to the energy market as special case resource penetration increases, those increases will materialize over time and be recognized over time." However, it is essential that this increase in energy revenues be reflected as part of the current Demand Curve reset process. The Demand Curve Model is designed to establish the annual CONE at the reference point in order to provide for the full recovery of capital costs over a 30-year capital recovery period, and therefore this expected shift in revenues to the energy market should be reflected in the energy offset used to calculate net CONE.

NYC Tax Abatement Issue

The net CONE estimated for the demand curve reset should reflect a tax abatement which is consistent with the New York City Economic Development Corporation (NYCEDC) tax abatement policy. To the extent NYCEDC tax abatement policy

differs between new and existing suppliers, the NYISO should address this difference in its Demand Curve reset.

Regulatory Risk

DPS Staff agrees with the decision of NERA to exclude an additional adder for regulatory risks in the determination of net CONE. Risk is already included in the projected return on equity and the average excess capacity assumptions, and it would therefore be duplicative to include such risk as a separate factor in net CONE. While there may be additional risks due to regulatory interventions, it must be recognized that all markets are impacted by decisions involving regulatory and other governmental agencies. Moreover, while some of these interventions could lead to temporary reductions in capacity prices, others could lead to increases in capacity prices. For example, environmental requirements on new entrants, increased equipment costs for new entrants, and increased siting opposition for new transmission or generation could all result in higher capacity prices. The NERA study provides no clear indication that regulatory risks will all affect capacity prices in one direction or another. Finally, it should be noted that the Comprehensive Reliability Planning Process limits regulatory backstop solutions to capacity needed to meet reliability needs,

and therefore does not create a surplus warranting a risk factor.