KEYSPAN

175 East Old Country Road
Hicksville, New York 11801-4280

Direct Dial: (516) 545-4529

October 16, 2006

VIA FEDEX
Karen Antion
Chair of the NYISO Board
c/o Mark S. Lynch, President and Chief Executive Officer
NYISO
290 Washington Avenue Extension
Albany, NY 12065

RE: KeySpan-Ravenswood, LLC Appeal of the September 29, 2006 Management Committee Approval of Motion #4

Dear Ms. Antion:

Attached are three copies of KeySpan-Ravenswood, LLC's ("Ravenswood") appeal of the September 29, 2006 Management Committee Approval of Motion #4.

Ravenswood requests the opportunity to present oral argument to the NYISO Board of Directors related to this appeal.

In addition, Ravenswood requests waiver of the 10-page limitation because this is a very complex issue. Ravenswood does not object to increasing the page limits for responses as necessary.

Sincerely,

James M. D'Andrea, Esq.
Senior Counsel
KeySpan-Ravenswood, LLC

cc: Robert E. Fernandez, NYISO General Counsel

NOTICE OF APPEAL OF KEYSPAN-RAVENSWOOD, LLC TO THE NYISO BOARD OF DIRECTORS FROM THE MANAGEMENT COMMITTEE'S DECISION AT ITS SEPTEMBER 29, 2006 MEETING

I. SUMMARY STATEMENT

KeySpan-Ravenswood, LLC ("Ravenswood" or "KeySpan") appeals[1] the decision of the Management Committee on September 29, 2006 ("MC") in connection with Motion #4 and the underlying Joint Proposal (or "$82 Proposal") presented by The Consolidated Edison Company of New York Inc. ("ConEd") and NYPSC Staff. The $82 Proposal is a bad idea that results from a highly-politicized process in which draconian interests have trumped the public interest. The $82 Proposal is about price, not competition. There is no economic or analytic support for the $82 Proposal; instead, it rests on the unfounded, self-serving assertions of its supporters. Moreover, the Market Participants ignored the facts and evidence presented during the stakeholder process and did not adequately consider or address all the issues associated with changes to the NYISO In-City capacity market when the $82 Proposal was approved.[2] The views and concerns of the NYISO Market Monitoring Unit ("MM") and

---

[1] KeySpan also supports the appeals submitted by IPPNY and ECS. KeySpan appealed the BIC's denial of a motion to table the "Original" Joint Proposal because it was not sufficiently evaluated. Many of the issues raised in that appeal apply equally to the $82 Proposal. KeySpan's appeal of the BIC is posted on the NYISO web site at: http://www.nyiso.com/public/webdocs/committees/mc/meeting_materials/2006-09-29/agenda_07_Keyspan_appeal.pdf. The MC voted down the appeal.

[2] While the reasons certain market participants voted in the manner they did could be the subject of endless speculation and debate, the approval of the $82 Proposal at the MC was not as resounding as the percentage might otherwise indicate. To the extent any supplier voted for the proposal, they need not wait for a tariff change to provide financial certainty to load. Any supplier may enter into a contract for differences at or below $82 if that is what the two parties think is a reasonable price. Moreover, any supplier may give back any past revenues above $82 to loads if they think revenues in excess of $82 were excessive.

What can also be said is many market participants voted for the proposal simply because they want prices to be lower. Moreover, numerous abstentions, including NYSEG's and Central Hudson's, were made after expressing grave concerns with moving forward with the motion. Both NYSEG and Central Hudson recognized that a more comprehensive analysis should be conducted, and that a more comprehensive market redesign should be developed rather than the proposed mitigation. The NYISO stakeholder process is broken, and the market is subject to the whims of market participants that can muster votes via any means necessary, but that is the subject of a different complaint. Neither the meeting minutes nor the audio transcript from the MC were available at the time this appeal was prepared.

Finally, it should be noted that the schedule for the MC meeting was revised at the last minute and KeySpan's expert was unable to attend until his presentation time slot had passed. KeySpan's expert was able to participate in a question and answer session but again, a market participant vote denying the return to the original schedule is just another indication that the NYISO stakeholder process is broken.

Independent Market Advisor were also ignored.[3] The MM and Independent Market Advisor opined, after articulating numerous issues, that the proposal was not ready for implementation.[4] The change to the $82 Proposal has not changed their view that a more in-depth analysis is required before moving forward with any change.[5]

Specifically, the detailed White Paper[6] and Presentation,[7] provided to the MC by Dr. William Hieronymus, outlined the need for viable capacity markets and how the current mitigation measures and market structure were established. Whitepaper at 1-10. Dr. Hieronymus concluded, as did the NYISO,[8] that the recent market results were expected. Whitepaper at 11-12. Dr. Hieronymus also concluded that the advent of the Demand Curve did not warrant additional supply-side mitigation. *Id.* At 17-19. He also concluded the actual prices for in-City capacity during the summer of 2006 were not unjust or unreasonable (*Id.* at 12-13), nor were they excessive. *Id.* At 13-17.

In addition, Dr. Hieronymus concluded the existing market design, rules and mitigation provide revenues "at best marginally sufficient to support market entry." *Id.* at 30. Moreover, Dr. Hieronymus concluded that the Joint Proposal, either the proposal made at the August 9, 2006 Business Issues Committee ("BIC") or the revised $82 Proposal approved at the MC, would wholly subvert the efficacy

---

3 The Preliminary Analysis of the MM was provided to market participants as part of the 9/5/06 ICAP WG meeting materials and is posted at: http://www.nyiso.com/public/webdocs/committees/bic_icapwg/meeting_materials/2006-09-05/ICAPWG_Preliminary_Analysis_Incity_ICAP_090506.pdf ("Preliminary Analysis").

4 See, Preliminary Analysis at Slide 12.

5 At the 10/4/06 ICAP WG meeting the MM indicated they have not yet finished their analysis.

6 The White Paper is posted as part of the MC meeting materials at: https://www.nyiso.com/public/webdocs/committees/mc/meeting_materials/2006-09-29/agenda_08_KeySpan_Hieronymus_White_Paper.pdf

7 The Presentation is posted as part of the MC meeting materials at: http://www.nyiso.com/public/webdocs/committees/mc/meeting_materials/2006-09-29/agenda_08_CRA_International_Summary_of_Findings.pdf

8 The NYISO informed FERC that based on the approval of the existing mitigation measures, the in-City capacity clearing prices for the summer of 2006 were expected. The letter is posted on the NYISO web site at: http://www.nyiso.com/public/webdocs/committees/bic_icapwg/meeting_materials/2006-07-20/Ltr_to_FERC_re_Installed_Capacity_Mkt.pdf ("NYISO Letter").

of the demand curve and of the NYISO markets more generally. *Id.* at 30.[9] The $82 Proposal does not even correct the purported problems that supposedly warrant its implementation.

Even assuming the $82 Proposal made conceptual sense, its details are based on the misapplication of the ISO-NE market design and unsupported calculations that use inconsistent cost of new entry data.

Essentially, the NYISO markets are failing to provide market signals that ensure reliability investments will be made under the current rules and mitigation. The $82 Proposal will simply reduce prices and strand investments made in divested units and other market-based merchant units, such as the KeySpan 250 MW combined cycle facility, that rely on the market. The $82 Proposal would further justify discriminatory, above-market priced procurement.[10] The $82 Proposal is the beginning of the end for competitive markets in New York State.

Most notably, Dr. Hieronymus found that instead of the additional mitigation on certain supply resources outlined in the Joint Proposal, changes to the in-City capacity market need to be considered and implemented to address, monopsony market power (whether intended or not), the slope of the in-City demand curve, the short-term nature of the NYISO capacity markets, and the existing capacity market mitigation rules. The additional supply-side mitigation is not necessary.

Based on the evidence presented during the stakeholder process, recent FERC decisions in adjacent markets and the above referenced analysis by Dr. Hieronymus, Ravenswood requests the NYISO Board of Directors overturn the MC action and remand any purported issues related to the in-City capacity market to the ICAP WG for detailed analysis, evaluation and resolution as part of the demand curve reset process or other schedule deemed appropriate.[11] This is where a comprehensive

[9] The depth of the White Paper and Presentation is in stark contrast to the lack of analysis presented in support of the $82 Proposal.

[10] Case 02-E-1656, *Consolidated Edison Company of New York, Inc.*, Declaratory Ruling on Cost Recovery (Issued January 24, 2003).

[11] In his response to The Honorable Paul D. Tonko, Joseph T. Kelliher, The Commission's Chairman, stated that adequate investment in New York City's electric system is needed and these reliable supplies be at reasonable prices. He also

(footnote continued on next page)

review will most efficiently occur. The proposed changes referenced in KeySpan's motion at the MC and referred to in the White Paper should be considered as part of that detailed analysis and evaluation.

II. ARGUMENT

A. Recent market results were expected and the advent of the Demand Curve does not warrant the need for additional supply-side mitigation. Actual prices for in-City capacity during the summer of 2006 were not unjust or unreasonable nor were they excessive.

When ConEd divested three of its four in-City generation bundles, it sought, and obtained, approval of various market rules that would mitigate the exercise of supply-side market power. These rules included a price and bid cap of $105/kW-year applicable to all four bundles of divested in-City units. The $105/kW-year is a cost-based value that is slightly less than ConEd's 1996 cost of service for the four bundles. This mitigation was eventually incorporated into the NYISO tariff.

At the time the mitigation was approved, ConEd, the NYPSC, FERC, and market participants, all expected that the in-City capacity market would clear at the price cap; that is, until new resources with costs assumed to be below this level were developed. However, the assumption that the price and bid cap was above the cost of new in-City entry ("CONE") was incorrect. Considering the CONE is in excess of the price and bid cap, and additional in-City capacity is being called for, it should not be surprising that the market clearing price remains close to the price and bid cap. Moreover, it is illogical to expect market clearing prices will be significantly below the CONE, let alone below the FERC approved cost-based price and bid cap, when significant quantities of additional resources that are required to meet minimum reliability requirements are being procured at prices above market clearing prices.[12]

---

referred to using the stakeholder process to resolve these issues. This letter is posted at: http://www.nyiso.com/public/webdocs/committees/bic_icapwg/meeting_materials/2006-07-20/FERC_Response_to_Tonko_Letter.pdf

[12] The actual Purchase and Sale Agreement between Con Ed and Astoria Energy LLC ("Astoria"), dated April 29, 2003, was provided to the NYISO and made available to market participants at the MC meeting. KeySpan obtained the agreement from SCS after contacting FERC's enforcement hotline. The contract is a public document because it was listed in Astoria's electric quarterly report filed at FERC and under; FERC regulations at 35.1(g), the EQR orders, 99 FERC P61,107 at P 92, and order on reh'g 100 FERC 61,074 at PPs 13-17, any interested party may obtain a copy of the unredacted contract. FERC has rejected the notion that the terms of a jurisdictional contract can be kept confidential. The
(footnote continued on next page)

The demand curve ("DC") did not fundamentally change the market requiring additional supply-side mitigation as ConEd claims. The DC is self correcting – supply is expected to enter and exit the market by indicating its willingness to sell at specified prices. The market results in the summer of 2006 indicate that certain supply is unwilling to take on the capacity obligations for less than the FERC approved cost-based price and bid cap. The NYISO reached this same conclusion from both a legal[13] and economic[14] perspective.

Although it is true that loads procure more capacity in the current market design than they did under the old market design at the same unit price, the various DC proceedings at FERC established that this was reasonable in that there were reliability and economic benefits to procuring and paying for this additional capacity.[15] The claims by ConEd that the implementation of the DC - an implementation that occurred over three years ago and that recently went through a reset process intended to set market rules for three years - suddenly requires additional supply side mitigation, is contradicted by the facts and is a collateral attack on the DC and reset process. The DC filings and supporting analysis showed a supply curve that would intersect the DC and continue above and beyond the intersection point. It is clear from the filings that supply could and would at times be offered at prices in excess of the DC clearing price. The DC is designed such that supply determines the price. The DC implementation never intended for suppliers; to be indiscriminate price takers, to have to offer at levels below their all inclusive costs, nor to have to offer below the FERC approved cost-based price and bid cap.

Agreement has not yet been posted on the NYISO website, however, the pertinent terms and conditions are outlined in the spreadsheet prepared by KeySpan and posted on the NYISO website at: http://www.nyiso.com/public/webdocs/committees/mc/meeting_materials/2006-09-29/agenda_08_SCS_capacity_payment_KeySpan.pdf. ("KeySpan Spreadsheet"). NYPA's procurement and retirement activities as well as the NYISO Comprehensive Reliability Plan ("CRP") indicate both existing and additional resources are needed to meet reliability needs.

13 *See*, NYISO Letter.

14 *See*, Preliminary Analysis.

15 *See*, *New York Independent System Operator Operator, Inc.*, 103 FERC ¶ 61,201(2003); *New York Independent System Operator Operator, Inc.*, 111 FERC ¶ 61,117 (2005).

Finally, considering; the Levitan CONE estimates, the cost of recent in-City development projects, actual bilateral contract terms and conditions,[16] and the need for additional supply resources in NYC,[17] a market clearing price that is slightly below the CONE is not unjust, unreasonable or excessive. Clearing prices at the levels suggested by ConEd would be significantly below what is required for the market to achieve an equilibrium price that supports new entry without out-of-market arrangements.

B. The existing market design, rules and mitigation provide revenues, "at best marginally sufficient to support market entry."

As noted in the White Paper, the existing FERC approved cost-based price and bid cap is below the CONE. ConEd and NYPA capacity additions cost in excess of; the existing price and bid cap, actual market clearing prices, and the proposed mitigation reference price. These additions, well in excess of minimum reliability needs and long before actual need, indicate a significant margin above minimum reliability levels will be maintained regardless of cost. Accordingly, clearing prices above mitigated levels do not appear to be realistic at this time. Nevertheless, even if minimum reliability requirements were met exactly in the near future, the White Paper concludes the existing market design, rules and mitigation provide revenues that are, "at best marginally sufficient to support market entry" because current revenues are too low.

The $82 Proposal, and its even more restrictive mitigation, would provide even less revenue.[18]

---

[16] *See*, KeySpan Spreadsheet.

[17] *See*, NYISO CRP.

[18] An "analysis" presented at the 8/1/06 ICAP WG meeting, which claimed equilibrium prices in the current and proposed market design would support new entry, assumed minimum reliability requirements would not be met in the same exact proportion as the minimum reliability requirement being exceeded. This is a convenient assumption, but it is simply unrealistic and not supported by the facts or statements by the NYISO, NYC, ConEd or NYPSC during various stakeholder meetings. Not meeting minimum reliability requirements will simply not be tolerated. A conclusion that the existing market will provide the correct price signal for new entry, which is based on the assumption that the long run equilibrium prices in the market will average the cost of new entry, is not a conclusion at all, it is merely an assumption, an unrealistic and contradicted assumption at that. Query, when will NYC have a capacity deficiency of 1,000 MWs such that prices will increase sufficiently to offset the prices that would result if all capacity during this period of excess behaved essentially as price takers? This presentation is posted at: http://www.nyiso.com/public/webdocs/committees/bic_icapwg/meeting_materials/2006-08-01/ICAPWG_Cost_Recovery_Competitive_ICAP_Market_8106.pdf

C. The Joint Proposal, either the proposal made at the August 9, 2006 BIC or the $82 Proposal approved at the MC, will wholly subvert the efficacy of the demand curve and of the NYISO markets more generally. The $82 Proposal does not even correct the purported problem that supposedly warrants its implementation.

Considering the existing market design, rules and mitigation provide revenues that are, "at best marginally sufficient to support market entry" the Joint Proposal, either the proposal made at the August 9, 2006 BIC or the $82 Proposal approved at the MC, will wholly subvert the efficacy of the demand curve and of the NYISO markets more generally. There has been no effort in the NYISO stakeholder process or a completed analysis by MM to establish whether the resulting total revenue requirements and net energy and ancillary service payments are representative of the Divested Generator Units, either collectively, as individual bundles, or by unit. Therefore the proposed reference price can only be described as arbitrary.

Moreover, the $82 Proposal does not resolve the purported problems articulated by ConEd. First, the "high price" concern presented by ConEd is not an issue because the market clearing price is not too high. The market clearing price is below the CONE at a time when additional capacity is required; it is probably too low. This issue is really an issue with the DC slope and nothing is being done to address it.

The second purported issue, that is, the failure of unsold locational capacity clearing the statewide market, is not resolved by the $82 Proposal. Under the $82 Proposal, there will still possibly be locational capacity that is unsold in both the locational and statewide market. Accordingly, the $82 Proposal appears to be nothing more than a regulated price change.

D. The $82 Proposal will simply reduce prices and strand investments made in divested units and other market-based merchant units, such as the KeySpan 250 MW combined cycle facility, that rely on the market. The $82 Proposal would further justify discriminatory, above-market priced procurement.

The reference price proposed by the $82 Proposal is nothing more than a new, albeit lower, bid cap. NYC and ConEd essentially admitted they want excess capacity, regardless of cost, to reduce market clearing prices.[19] Nevertheless, market power and, more generally non-competitive and very low market prices, need not be driven by transparent price or profit motives. The lack of a profit motive is not relevant in FERC's consideration of competitive market design rules. In the NYISO market the ability exists to cause uncompetitive low market prices. This exists regardless of motive and that ability to impact market prices needs to be addressed immediately or in conjunction with any other in-City capacity market design revisions. The $82 Proposal ignores this important issue and, without any commitment, merely indicates some market participants have raised the issue. The steep slope of the DC is what provides this ability and nothing is proposed to address it.

Claims that the competitive market would result in all the in-City capacity being offered to the market such that it would be sold at prices of approximately $3/kW-year ignores the fact that prices of approximately $3/kW-year would never be produced by a competitive market. A competitive market would not have created quantities of capacity that would even come close to current levels or the prices being advocated. Concentration exists on both sides of the market but only the supply side is mitigated. If there were an infinite number of purchasers and suppliers (*i.e.*, an ideal competitive market), the market prices would fluctuate in a very narrow range and very close to the cost of new entry. Ideal economic theory cannot be applied to the current supply and demand imbalance in NYC. Although in theory excess supply does cause price to go down, large amounts of excess supply that costs well in excess of the market clearing price would not exist in a competitive market. So if the $82 Proposal is mplemented, the market will be left with supply being further mitigated and load able to drive prices down to anti-competitive levels.

But, price suppression appears to have been the very goal of the City of New York and ConEd. The NYC Energy Policy Task Force 2006 Status Report presented to the New York City Bar Association Energy Committee on September 12, 2006, indicated that development of 1,000 MWs in

[19] The NYPSC Staff's initial analysis of the in-City capacity market results and its expectation that prices should be lower is posted on the NYISO web site at: http://www.nyiso.com/public/webdocs/committees/bic_icapwg/meeting_materials/2006-06-12/in_city_capacity_market_performance_nydps.pdf

excess of the minimum reliability requirement was completed and that it was for market stability.[20] At the MC meeting, Mike Delaney, representing the City of New York, clarified that the purpose of the 1,000 MWs was not to meet reliability needs but that its purpose was to reduce prices. ConEd stated numerous times that it expected the development of 1,000 MWs in excess of minimum requirements would reduce in-City capacity prices. These parties, the leading proponents of the $82 Proposal, essentially admitted that reducing market prices was the intent and expected result of out-of-market capacity additions.

The $82 Proposal would increase this ability and incentive of large purchasers to suppress market prices because it would guarantee market prices would be lower than current levels (*i.e.*, the FERC approved cost-based price and bid cap) if capacity in excess of the minimum requirement was added.

The $82 Proposal increases the market power of large purchasers. Regulatory approval would essentially help the monopsonist achieve the intended result (*i.e.*, lower market prices regardless of actual cost of entry). To the extent that the current price and bid cap of $105/kW-year is the current price floor, the new DGO reference price of $82 will become the new price floor. Lower prices, not competitive prices, are the result of the $82 Proposal.

Therefore, new, environmentally clean and efficient, merchant, market-based capacity was built with the expectation that market prices would support such an investment at a time when additional resources were sorely needed appears to be out of luck. Essentially, there was a reliance on the market and an expectation that the market would support investments made in new entry that was necessary to maintain reliability. The $82 Proposal is essentially stating "now that you have made the investment, and different additional resources were procured in a discriminatory process in excess of reliability

[20] The power point presentation is posted on the NYISO web site at: http://www.nyiso.com/public/webdocs/committees/mc/meeting_materials/2006-09-29/agenda_08_Quiniones_presentation_91206.pdf

needs and ignoring market prices, your investment is sunk and only worth whatever the NYISO stakeholder process vote says it is worth." This is an unjust and unreasonable result.

E. Even assuming the $82 Proposal made conceptual sense its details are based on the misapplication of the ISO-NE market design and unsupported calculations that use inconsistent cost of new entry data. The NYISO Market Monitor and Independent Market Advisor do not think the Joint Proposal is ready for implementation.

ConEd stated that the basis for its proposed reference price (which is intended to prevent the exercise of supplier market power) was ISO-NE's recently approved capacity market design. In calculating the reference price, it stated the application of a 0.75 multiplier to the cost of new entry was based on the ISO-NE settlement agreement p. 27 section III.H. The ConEd calculation then further reduces the reference price by $50/kW-year (*i.e.*, 100% of an estimated net energy and ancillary service revenue). The ISO-NE market is being blatantly misapplied in order to reach an intended result (*i.e.*, a lower reference price).

The ISO-NE market design is very complicated and the result of a very long and detailed process. A complete explanation of that market design is beyond the scope of this appeal. Nevertheless, it is inappropriate to try and pick one rule from that market and apply it to the NY market without considering all the other rules. The ISO-NE market design addresses the high concentrations of market power of both buyers and sellers thereby ensuring prices are not too low as well as not too high.[21]

ConEd is attempting to further mitigate supply in a manner it claims is consistent with ISO-NE, but it ignores purchaser market power, and it does not even apply that rule correctly.

---

[21] In its description of the ISO-NE proposed settlement agreement the Commission stated: "The FCM contains several rules to address high concentrations of market power, whether held by buyers or sellers." *Devon Power LLC*, 115 FERC ¶ 61,340, at P 27 (2006) ("ISO-NE Order"). *See also*, *PJM Interconnection* 115 FERC ¶ 61,079, at P6 (2006), "[I]f the capacity market is to provide sufficient incentives for new entrants, the market must be confident that the capacity construct will continue long enough for entrants to recover their investment costs."

The 0.75 multiplier, and section III.H of the ISO-NE settlement agreement[22] referred to by ConEd, is intended to prevent an uneconomic *decline* in prices not prevent an uneconomic increase in prices. Section III.H is entitled "New Capacity and New Import Bids *below* 0.75 CONE." (emphasis added). The ISO-NE market design therefore ensures market prices are not negatively impacted by "out-of-market" bids and the self supply of capacity by loads. The ISO-NE market uses the implementation of an Alternative Price Rule to prevent uneconomic low prices.[23]

In the Commission's conclusion approving the use of the Alternative Price Rule, the Commission found that it was reasonable by saying:

> We find that the alternative price rule is a reasonable provision of the settlement because it helps to ensure that capacity prices will reflect the price needed to elicit new entry when new capacity is needed. In the absence of the alternative price rule, the price in the FCA could be depressed below the price needed to elicit entry if enough new capacity is self-supplied (through contract or ownership) by load. That is because self-supplied new capacity may not have an incentive to submit bids that reflect their true cost of new entry. New resources that are under contract to load may have no interest in compensatory auction prices because their revenues have already been determined by contract. And when loads own new resources, they may have an interest in depressing the auction price, since doing so could reduce the prices they must pay for existing capacity procured in the auction. If the owners of these two categories of resources control more new capacity than the amount of new capacity needed in a capacity zone, their low bids could artificially depress the price in the FCA.
>
> (ISO-NE Order at P 113)

The provisions relied on by ConEd were not intended to prevent prices from increasing, they were specifically designed to prevent prices from artificially decreasing. In contrast, the sections of the ISO-NE settlement agreement that are intended to protect against supply-side market power use very different rules and calculations. Supply-side mitigation uses a multiplier of 0.8 times CONE. Moreover, only super peak[24] net energy revenues are deducted from capacity payments and this credit is only made if in fact the revenues are achieved.

---

[22] The ISO-NE settlement agreement is posted as part of the MC meeting materials at: http://www.nyiso.com/public/webdocs/committees/mc/meeting_materials/2006-09-29/agenda_08_ISONE_Settlement.pdf

[23] *See*, ISO-NE Order at PP 109 - 112.

[24] ISONE does not use a net energy and ancillary services offset, but rather a post facto"peak energy rent," which is designed as a hedge against price spikes in the energy market. The negotiated characteristic on which the peak energy rent

(footnote continued on next page)

With respect to ConEd's use of specific cost of new entry and net energy and ancillary service revenue offsets from the NY market further reflects the result oriented approach of the $82 Proposal. First, the proposed reference price on which capacity bids would be mitigated is described as taking 75% of the 2005 cost of new entry, from which energy and ancillary services revenue is subtracted. In its presentation to the MC, ConEd claimed the numbers it was using, $176/kW-year and $50/kW-year respectively, to be from the Levitan Report, on which the 2005 Demand Curve reset was based. The $176/kW-year cost of new entry does not reflect the current NYISO market which applies an inflation factor to this number. Moreover, the net energy and ancillary services offset is not what the Levitan Report concluded nor what FERC approved. The stochastic model used in the Levitan report produced an estimate of $48/kW-year, which KeySpan continues to think is too large. The NYISO proposed a value of $50/kW-year in its filing to FERC for the DC reset, but it was reduced by FERC to $48/kW-year. When this was pointed out to ConEd at the MC meeting, ConEd simply refused to make the correction, stating that the proposal was for an offset of $50/kW-year, and offering the unsupported conjecture that including revenue for voltage support services in the DC reset process would have resulted in an estimate of $50/kW-year. An amendment by PSEG to correct the proposal to account for the FERC approved values, including inflation, failed to gain sufficient votes to pass.

In addition, the failure to apply the 75% factor to the net energy and ancillary service revenue offset does not make sense. The units that this mitigation will apply to do not have heat rates or availability factors similar to a new simple cycle unit. Thus, if the mitigation is going to apply to older divested units there should be recognition that 100% of the purported net energy and ancillary service revenues of a new combined cycle facility will not be available to the older divested units. Thus, the CONE in the context of the NYISO demand curve is the demand curve reference price after subtraction of net energy and ancillary services revenue. Accordingly, any mitigation factor (*e.g.*, 0.75 or 0.8)

---

is developed includes a heat rate of 22,000 Btu/kWh, which would make the peak energy rent very small in comparison to the NYISO energy and ancillary services offset (see Section V.B of the ISONE Settlement Agreement).

should be applied to the overall net number not simply to the full revenue requirement and then subtract 100% of some irrelevant net energy and ancillary services revenue. If the 75% is applied to the CONE, as described in Section III.H of the ISONE Settlement Agreement, it should properly be applied to the NYISO Demand Curve Reference Price.

These are not the only issues associated with the Joint Proposal. At the 8/30/06, MC meeting Mark Lynch indicated that the NYISO's market monitor was finalizing its preliminary analysis and that Dr. David Patton, the Independent Market Advisor, concurred with the NYISO's preliminary analysis. That preliminary analysis was presented at the 9/5/06 ICAP WG meeting and, after outlining its own list of issues, concluded, among other things, that the Joint Proposal "is not ready for implementation."[25]

Specifically, the NYISO Preliminary Analysis found that the DC was not a justification for additional mitigation. In fact, it was noted that the DC reduces incentives to economically withhold capacity because, although the slope of the demand curve is fairly steep, it is not as steep as the previous market design, which was characterized as having vertical demand. The NYISO staff stated it was concerned with market confidence if the Joint Proposal was implemented.

In addition, KeySpan submitted a four page list, consisting of 61 issues, to the NYISO on September 13, 2006, as requested by the NYISO at the 9/5/06 ICAP WG meeting. This list summarized

---

[25] Slide 12 provides an outline of what additional work the MM thinks is required before changing the market rules:
"1. A change of this type requires a full market impact assessment to ensure that implementation will not interact with other market arrangements in way that produces unintended outcomes

MMP wants to evaluate this fully to:

1. Ensure that it does not distort long-run investment signals
2. Understand energy, ancillary services and capacity price impacts across the investment cycle
3. Understand short and long-run impacts on
   * Virtual trading
   * Seams issues and inter-jurisdictional transactions
   * Reliability
   * Constraint and scarcity pricing
4. Understand interactions between the proposed approach and the current setting of the demand curve

2. We have concern about the level of various parameters
   * MMP want to conduct analysis to ensure an appropriate setting for the conduct and impact thresholds
3. The required technical/software modifications are as yet undetermined"

None of the analysis outlined by the market monitor has been completed nor has it been vetted with market participants in an open and transparent stakeholder process. Most of the issues raised by the NYISO MM have not been addressed. Additional analysis is needed before market revisions are implemented to avoid unintended consequences (unless the intended consequence is simply lower prices regardless of actual costs)."

the issues KeySpan and other market participants discussed at the 9/5/06 ICAP WG meeting.[26] To this date, these, and potentially other issues submitted by other market participants, have not been evaluated or addressed in an open market participant process.

F. Instead of the additional mitigation on certain supply resources outlined in the $82 Proposal, changes to the in-City capacity market need to be considered and implemented to address monopsony market power (whether intended or not), the slope of the in-City demand curve, the short term nature of the NYISO capacity markets, and the existing capacity market mitigation rules.

The White Paper outlines numerous issues and presents proposed solutions that should be further developed in the stakeholder process.

[26] This list is posted as part of the NYISO 9/5/06 ICAP WG meeting material.

III. CONCLUSION

The MC did not adequately consider all the facts and issues associated with changes to the NYISO In-City capacity market when it approved Motion #4. Ravenswood respectfully requests the NYISO Board of Directors overturn the MC action and remand any purported issues related to the In-City capacity market to the ICAP working group for detailed analysis, evaluation, and resolution as part of the demand curve reset process or other schedule deemed appropriate. Only after a complete and comprehensive analysis is performed should any market design changes be proposed, otherwise there can be no assurance that reliability and appropriate market signals are maintained.

Dated: October 16, 2006

Respectfully submitted,

/s/James M. D'Andrea
James M. D'Andrea
KeySpan – Ravenswood, LLC
175 East Old Country Road
Hicksville, NY 11801