# STATE OF NEW YORK DEPARTMENT OF PUBLIC SERVICE
# THREE EMPIRE STATE PLAZA, ALBANY, NY 12223-1350

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July 2, 2013

SENT VIA E-MAIL
Mr. Robert A. Hiney
Chair, Board of Directors
c/o Stephen G. Whitley
President and CEO
New York Independent System Operator, Inc.
10 Krey Boulevard
Rensselaer, NY 12144

Re: DPS Staff Motion in Opposition to the Notice of Appeal filed by TC Ravenswood on June 25, 2013.

Dear Mr. Hiney:

Attached, please find the Department of Public Service Staff's Motion in Opposition to the Notice of Appeal filed by TC Ravenswood (TCR) on June 25, 2013. This matter relates to the Management Committee's rejection of tariff revisions proposed by TCR that would have extended the New York City mitigation measures to the Rest-of-State market.

Very truly yours,

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BEFORE THE BOARD OF DIRECTORS
OF THE NEW YORK
INDEPENDENT SYSTEM OPERATOR

**New York State Department of Public Service Staff's Motion in Opposition to the Notice of Appeal Filed By TC Ravenswood**

On June 11, 2013, the NYISO Management Committee rejected tariff revisions proposed by TC Ravenswood (TCR) that would have extended New York City (NYC) mitigation measures to the Rest-of-State (ROS) market. On June 25, 2013, TCR filed an appeal to the NYISO Board requesting that the Board direct actions to implement those proposed mitigation measures in ROS. Department of Public Service Staff (DPS Staff) hereby files this motion in opposition to TCR's appeal.

DPS Staff maintains that the current "buyer-side" mitigation rules that apply to NYC are seriously flawed and incapable of being administrated fairly. It would therefore be unjust and unreasonable to extend such flawed rules to ROS as TCR has proposed.

As discussed below, there are several aspects of the PJM mitigation rules that could improve the NYC mitigation measures. These rule changes should be examined and adopted before any expansion of the mitigation measures is considered. DPS Staff suggests that the NYISO focus on several enhancements to the PJM Minimum Offer Price (buyer-side) mitigation rules recently approved by FERC in Docket No. ER13-535. Specifically, the rule changes that should be considered here include: 1) a "competitive entry" exemption; 2) a self-supply exemption; and, 3) a limit of the mitigation rules to only gas units.

Regarding the first rule change, an automatic competitive entry exemption is available for units in PJM that do not receive out-of-market funding. These resources have no incentive to suppress market prices. FERC correctly stated "[t]he purpose of the MOPR, however, is not to protect a merchant resource from making a poor investment decision with its own capital."[1] In New York, however, such a unit would almost surely be mitigated. The pending NYISO proposal to provide for a merchant exemption is tailored so narrowly that it is highly unlikely that any project would be exempted by that process.

The PJM competitive entry exemption is also available for units that do receive out-of-market funding, but have acquired that funding via an open, competitive process. As FERC stated in its Order, "[w]hen all resources are competing fairly, the resources selected in such a competitive auction will represent the least cost resources needed to meet PJM's reliability needs."[2] FERC further stated that it "agree[s] with PJM that a resource procured through a procurement process that is deemed competitive and non-discriminatory should be eligible for this exemption, even if the state imposes a non-bypassable charge on its loads linked to the project clearing in the RPM auction or construction." The current rules in New York make for no such allowance.

Regarding the second rule change, PJM proposed an exemption for self-supplying Load Serving Entities (LSE), including municipalities/cooperatives, single customer entities,

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[1] Docket Nos. ER13-535 et al., PJM Interconnection, L.L.C., Order Conditionally Accepting In Part, And Rejecting In Part, Proposed Tariff Provisions, Subject To Conditions (issued May 2, 2013), ¶57.

[2] Docket Nos. ER13-535 et al., supra, Order Conditionally Accepting In Part, And Rejecting In Part, Proposed Tariff Provisions, Subject To Conditions, ¶24.

and vertically integrated utilities, provided that these resources meet certain "net-short" or "net-long" thresholds. FERC stated that "a self-supply LSE that owns or contracts for a large proportion of the capacity needed to meet its load has no reason to finance uneconomic entry given that such a strategy would not be profitable."[3] Once again, FERC made a distinction that if an entity had no economic motive to suppress prices, they would not be subject to the offer floor.

Finally, regarding the third rule change, FERC agreed with PJM that only gas units should be potentially subject to the offer floor, as these resources would be the most likely units used to suppress prices. For example, FERC agreed that renewable resources would not be a realistic tool to suppress market prices. DPS strongly encourages the Board to pursue these three rule change improvements to the existing NYC market mitigation measures, and to uphold the Management Committee's rejection of TCR's proposal at this time.

Respectfully submitted,

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Dated: July 2, 2013
Albany, NY

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3 Docket Nos. ER13-535 et al., supra, Order Conditionally Accepting In Part, And Rejecting In Part, Proposed Tariff Provisions, Subject To Conditions, ¶25.