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July 8, 2013

VIA E-MAIL AND HAND DELIVERY

Robert A. Hiney, Chairman of the Board
c/o Stephen G. Whitley, President & CEO
New York Independent System Operator, Inc.
10 Krey Boulevard
Rensselaer, New York 12144

Re: Entergy Nuclear Power Marketing, LLC
Motion in Support of TC Ravenswood, LLC's June 25, 2013 Appeal

Dear Mr. Hiney:

Pursuant to the Procedural Rules for Appeals to the NYISO Board, enclosed are three originally executed copies of Entergy Nuclear Power Marketing, LLC's ("ENPM") motion in support of TC Ravenswood LLC's June 25, 2013 appeal.

ENPM requests that the NYISO post this document on its website and serve a copy via email to all members of the Management Committee.

Very truly yours,

GREENBERG TRAURIG, LLP



Doreen U. Saia

DUS/sm
Enclosures
cc: Ms. Leigh Bullock (via email w/encl.)

ALB 1707842v1

**MOTION OF ENTERGY NUCLEAR POWER MARKETING, LLC
IN SUPPORT OF
TC RAVENSWOOD, LLC'S JUNE 25, 2013 APPEAL**

In the face of efforts by New York State to use regulated dollars to bring new generation projects on line outside of the market, TC Ravenswood, LLC ("Ravenswood") introduced a proposal to address the uneconomic activity that such actions would trigger. Given that the New York City capacity market supplier-side and buyer-side market power mitigation measures ("NYC Market Power Rules") have previously been extensively reviewed through the stakeholder process and refined through litigation, Ravenswood proposed to revise the NYISO's Market Administration and Control Area Services Tariff ("Services Tariff") to extend the NYC Market Power Rules to the Rest of State capacity market. Following three presentations in response to which Ravenswood modified its proposal to address concerns raised, Ravenswood presented its motion to the June 11, 2013 Management Committee ("MC") meeting for discussion and action. Ravenswood's motion was rejected with a vote of 46.40% in favor of it.

On June 25, 2013, Ravenswood filed an appeal ("Appeal") requesting that the NYISO Board take actions to implement these proposed measures to protect its competitive markets from uneconomic activities. As demonstrated herein and in the Motion in Support of the Independent Power Producers of New York, Inc. ("IPPNY"),¹ Ravenswood's proposed tariff changes are critical to ensure the long-term sustainability of New York's competitive markets. Thus, Entergy Nuclear Power Marketing, LLC ("ENPM") hereby files this Motion in Support of the Appeal and respectfully urges the NYISO Board to grant Ravenswood's requested relief.

¹ See Motion of Independent Power Producers of New York, Inc. In Support Of Appeal (dated July 8, 2013). ENPM supports the IPPNY motion.

I. BACKGROUND

In 2007, the Federal Energy Regulatory Commission (“FERC”) rejected a proposal to increase the New York City capacity market bid and price cap levels but instituted an investigation under Federal Power Act (“FPA”) Section 206 “upon consideration of the pleadings filed in this case and the problems they identify with the current in-city ICAP market rules.”² Specifying that the proceeding must consider the justness and reasonableness of the NYISO’s in-city capacity market rules, the FERC directed that the market rules that were proposed must “provide a level of compensation that will attract and retain needed infrastructure and thus promote long-term reliability while neither over-compensating nor under-compensating generators.”³

Following a paper hearing, the FERC approved the NYC Market Power Rules in 2008.⁴ For the first time, these rules included buyer-side market power rules which the FERC held were required “to prevent uneconomic entry that would reduce prices in the NYC capacity market below just and reasonable levels.”⁵ On rehearing, the FERC reaffirmed the need for buyer-sider market power rules, finding that “...all uneconomic entry has the effect of depressing prices below the competitive level...”⁶ Since that time, the NYC Market Power Rules have been enhanced and refined through FPA Section 205 filings and as the result of FERC’s determinations addressing FPA Section 206 complaints.⁷

² See New York Independent System Operator, Inc., 118 FERC 61,182 (2007) at P 17.

³ Id.

⁴ New York Independent System Operator, Inc., 122 FERC 61,211 (2008).

⁵ Id. at P 100.

⁶ See New York Independent System Operator, Inc., 124 FERC 61,301 at P 29.

⁷ See, e.g., FERC Docket ER10-3043, New York Independent System Operator, Inc.; FERC Docket EL11-50, Astoria Generating Company, et al. v. New York Independent System Operator, Inc.

Prior to Ravenswood's motion, corresponding capacity market power mitigation rules had not previously been acted upon by the MC for the Rest of State market (defined as Zones A-F). Moreover, the NYISO's Market Monitoring Unit, Potomac Economics ("MMU"), previously has found that the NYISO markets, including its capacity markets, have "performed competitively" and have produced market outcomes that were "generally efficient and consistent with the fundamental supply and demand in New York."⁸ While the MMU has proposed capacity market improvements in its annual reports, these improvements were not specific to Zones A-F.⁹ Generally, this has been due to the fact that there are a larger number of buyers and sellers in Zones A-F, and thus, market power concerns have been less prevalent (*i.e.*, supply and demand, to date, have been better able to remain in balance due to natural market forces).¹⁰

However, within the past year, several new undertakings have been proposed that – if implemented – will adversely impact that balance. Specifically, in his 2012 State of the State Address, Governor Andrew Cuomo announced his Energy Highway Initiative ("EHI"). To date, that announcement has spawned a series of new proceedings before the New York Public Service Commission ("NYPSC") including the RCP Proceeding and the Repowering Proceeding.¹¹ Projects are being considered in these proceedings that may have a substantial adverse impact on the New York Control Area ("NYCA") capacity market clearing price by using regulated dollars

⁸ See, *e.g.*, Potomac Economics, "2011 State of the Market Report for the New York ISO Markets" (dated April 2012) at i.

⁹ See, *e.g.*, *id.* at 36-39.

¹⁰ See, *e.g.*, FERC Dockets ER01-3001, ER03-647, New York Independent System Operator, Inc., "Annual Report in Docket Nos. ER01-3001-000, ER03-647-000 and Request for Privileged Treatment of Attachments V and VI (filed February 14, 2013).

¹¹ See PSC Case 12-E-0503, Proceeding on Motion of the Commission To Review Generation Retirement Contingency Plans (hereinafter, "RCP Proceeding"); see also PSC Case 12-E-0577, Proceeding on Motion of the Commission To Examine Repowering Alternatives to Utility Transmission Reinforcements (hereinafter, "Repowering Proceeding").

to support otherwise uneconomic entry. For example, in response to the request of the NYPSC,¹² the New York Power Authority (“NYPA”) issued a request for proposals on April 3, 2013 that includes a draft Master Power Purchase and Sales Agreement containing the following capacity bidding requirement:

Capacity Bidding Requirements: For each settlement Period, Seller shall have full discretion to determine whether, to what extent and at what bid price it may decide to bid all or a portion of the Facility’s Actual UCAP into the ICAP Strip Auction (“Strip Auction”), ICAP Monthly Auction (“Monthly Auction”) or, except as provided below, the ICAP Demand Curve Spot Market Auction (“Spot Auction”) administered by the NYISO for the same Settlement Period pursuant to Section 5.14(3) of the NYISO ICAP Manual (or its successor), provided, however, that Seller must either bid or certify the entirety of the Facility’s Actual UCAP into the Spot Auction. ...The bid price to be submitted by Seller in the Spot Auction shall be no greater than (i) the Facility’s marginal going forward costs, recognizing the Capacity revenues anticipated to be received under the Master Agreement and this Confirmation, or (ii) if the Capacity is subject to mitigation pursuant to an order or rule of FERC or any other regulatory authority or the NYISO, the lowest offering price permitted under such mitigation rule.¹³

As a further example, repowering proposals have been filed in the Repowering Proceeding that identify project benefits that may be based on the project’s ability to suppress the NYCA capacity market clearing prices.¹⁴

At this juncture in the RCP Proceeding, the RFP responses have been submitted, NYPA has completed the initial screening and evaluation by the Staff of the New York State Department of Public Service (“DPS Staff”), aided by the NYISO for technical support and The Brattle Group, an outside consultant, is underway. NYPA and Con Edison have suggested that the NYPSC issue an order in September, 2013 authorizing, and providing regulated cost

¹² See PSC Case 12-E-0503, supra, “Order Upon Review of Plan To Issue Request for Proposals” (dated March 15, 2013) at 10-12.

¹³ See New York Power Authority, “Contingency Procurement of Generation and Transmission Request for Proposals” (dated April 3, 2013), Transaction Confirmation, Exhibit 2 to Master Power Purchase and Sale Agreement at 2 (emphasis supplied). The Transaction Confirmation contains the terms specific to this NYPA RFP.

¹⁴ See, e.g., NYPSC Case 12-E-0577, supra, “Report and Recommendations Comparing Repowering of Dunkirk Power LLC and Transmission System Reinforcements” (filed May 17, 2013) at 15.

recovery for, projects to proceed forward. Per NYPA, a September order would allow NYPA to enter into contracts by the end of November, 2013. Likewise, the Repowering Proceeding also appears to be moving forward, with both transmission and repowering proposals filed, reports and recommendations by the respective responsible Transmission Owner issued, and a public statement hearing scheduled for mid-July.

Based upon these developments, Ravenswood asserted at the April 10, 2013 Business Issues Committee (“BIC”) meeting that the mitigation of uneconomic activity in the Rest of State market was an issue that must be addressed in the stakeholder process. Given the currently expected tight time frames for final decisions in these proceedings and the fact that the NYC Market Power Rules have been the subject of extensive review and refinement, Ravenswood proposed to adopt the NYC Market Power Rules for the Rest of State market. Presentations and full discussions took place at two Installed Capacity (“ICAP”) working group meetings and a BIC meeting before Ravenswood brought its motion for discussion and action to the June 11, 2013 MC meeting.

II. ARGUMENT

The NYISO Should Take Actions To Implement the NYC Market Power Rules in the Rest of State Market To Prevent Uneconomic Activities That Will Undercut the Long Term Sustainability of its Markets

In its Appeal, Ravenswood begins by highlighting the fact that “[u]nchecked uneconomic entry paralyzes otherwise economic investments.”¹⁵ Ravenswood establishes that it has proposed changes to the NYISO’s Services Tariff as “a high level approach that would start to protect the markets from unmitigated uneconomic activities.”¹⁶ In response to claims that exemptions to these rules should be developed before these rules are applied to the Rest of State

¹⁵ See Appeal at 1.

¹⁶ Id.

market, Ravenswood further establishes that these basic rules should be implemented “as part of a reliable market design” without further delay. Exemptions then may be “created on an as needed basis after evaluating the impact on the market and its market participants.” As demonstrated, infra, Ravenswood’s Appeal should be granted.

Since 2003, the NYCA capacity spot market clearing price has been determined based upon the amount of capacity that clears in the New York City, Long Island and Rest of State capacity sub-regions. The NYC Market Power Rules – when applied properly – correctly have defined the amount of capacity that clears the New York City market while market forces have determined the amount of capacity that clears the Rest of State market. This structure has produced an efficient outcome because neither suppliers nor buyers could produce an uneconomic result.

However, proposals by New York State to use regulated dollars in support of otherwise uneconomic entry represent a major potential change that may threaten this balance in the Rest of State market. Unlike the New York City market, and the LHV NCZ when it is established, the Rest of State market currently has no market power mitigation structure to protect it. The implications of this difference in the face of the EHI efforts are very significant. Any new projects brought on line in New York City or the Lower Hudson Valley pursuant to any of the EHI related proceedings will be added to the system subject to the market power mitigation protections. However, unless the actions proposed by Ravenswood are taken, the Rest of State market will be exposed to uneconomic activity that will undercut the sustainability of competitive markets in New York in the long run.

Moreover, time is of the essence. At this stage, both the RCP Proceeding and the Repowering Proceeding are progressing forward. While the NYPSC to date has expressly found

that whether any “follow-up” in the RCP Proceeding is needed would not be determined until after the NYPSC reviewed the contingency plan, parties in that proceeding have advocated for the NYPSC to authorize, and provide regulated cost recovery for, projects. Likewise, it is possible that regulated dollars may be used to construct an otherwise uneconomic repowering project in the Repowering Proceeding. Rules must be put in place expeditiously to ensure that any actions that are ultimately taken in these or other proceedings do not adversely affect the Rest of State capacity markets.

Nor is it necessary to work through the exemptions to the rule before putting the rule itself into place. As Ravenswood demonstrated, where a rule is needed, it should not be held up because there is a perceived need to address all possible exemptions from the rule.¹⁷ The NYISO’s tariffs are organic documents that have been revised as time has gone on to, inter alia, address changes in market circumstances as they have developed. Indeed, the NYC Market Rules themselves have been refined over the past five years and, as the FERC recently has held in the context of the LHV NCZ market power mitigation rules, mitigation rules can be implemented subject to the requirement that the NYISO must complete a further evaluation as to their structure using a defined time line.¹⁸

¹⁷ Id. at 3.

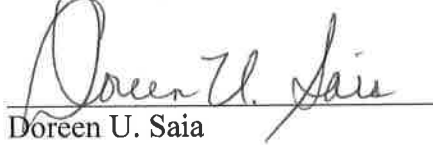
¹⁸ See New York Independent System Operator, Inc., 143 FERC 61,217 (2013) at P 77 (conditionally accepting the NYISO proposal to generally apply the New York City buyer-side rules to the LHV NCZ but directing the NYISO to evaluate and consider whether these rules provide the appropriate balance in this part of the State and submit a compliance filing within 120 days).

III. CONCLUSION

For the foregoing reasons, ENPM respectfully urges the Board to grant the relief requested in Ravenswood's Appeal.

Dated: July 8, 2013
Albany, New York

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Doreen U. Saia", written over a horizontal line.

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