

DEWEY & LEBOEUF

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To: Randy Wyatt

From: Paul Gioia

Date: May 9, 2012

Re: Comments on the NYISO's Alternative Reliability Resource Compensation Proposal Submitted on Behalf of the New York Transmission Owners, LIPA and NYPA (the "NYTOs")

1. The NYTOs continue to question the justification for any out-of-market compensation to a generator during the PSC's retirement notice period. The notice period was intended to provide an opportunity to assess the impact of the retirement of a generator, which assumes that the generator will be in operation during the notice period or the notice requirement would be rendered meaningless. However, if it should be determined that, for any reason, compensation during the retirement notice period is justified, compensation during that period should be limited to going forward avoided costs, which should be clearly defined.
2. A confidential reliability study should be allowed only if both the PSC and the relevant TO(s) are involved in determining the study scope and assumptions and the NYISO is ultimately responsible for the final scope and assumptions. In addition, a generator cannot seek compensation during the notice period, unless the generator submits its request for a study at least six months prior to submitting a retirement notice and submits preliminary cost information that shows a need for compensation with that notice. The reliability study should be paid for by the generator.
3. The process for a DPS/PSC determination of the out-of-market compensation for a generator should be defined. Interested parties should have an opportunity to participate in the process.
4. Consistent with existing tariff provisions, cost recovery for a generator needed for reliability should be recovered in accordance with the New York Public Service Law or other applicable state law. The cost recovery mechanism for any out-of-market compensation should be defined.
5. The proposal should address a situation where a generator submits a retirement notice, receives out-of-market compensation, and subsequently withdraws its retirement notice. This conduct should be investigated by the NYISO's market monitoring unit to determine if market manipulation has occurred.

6. A FERC review of the state determination will only be requested to address contentions that the state determination will have an adverse impact on the NYISO's FERC regulated wholesale electricity markets.
7. The NYISO needs to expedite consideration of additional issues related to providing a cost effective solution to a reliability need, e.g., interconnection point, deliverability, transmission planning reforms and the degree to which a forward capacity market might provide advanced notice.