

REPOWERING PROPOSAL

Presentation by the City of New York
to the
Installed Capacity Working Group

December 1, 2010

Purpose of Proposal

- **PlaNYC 2030**

- establishes a goal to repower the existing fleet of in-City generating facilities to:
 - increase their efficiency
 - enhance their reliability
 - reduce emissions
 - improve air quality

- **State Energy Plan**

- calls for the repowering of older facilities as a way to:
 - maximize the use of existing infrastructure
 - provide sources of more economic power
 - lower emissions through the replacement of less efficient units

Need for Tariff Amendment

- The FERC adopted buyer-side mitigation so that “uneconomic new capacity will not be allowed to distort market supply curves and inefficiently depress market clearing prices below a competitive level.” 124 FERC ¶ 61,301 at ¶ 27.
- There is a tension between the mitigation rule and the City and State public policies because the present test for mitigation does not factor these public policies into the analysis or recognize that there could be very important, non-economic reasons for repowering an existing facility.
- The market power mitigation rules in Attachment H to the NYISO’s Market Services Tariff are ultimately intended to benefit consumers. In practice, however, it appears that the present structure of the mitigation has the unintended effect of harming consumers by creating a barrier to the achievement of important public policies.

City Proposal

- Capacity which is replacing “existing capacity” as part of a repowering project will not be subject to mitigation
- Incremental capacity added as part of a repowering project should be treated the same as entirely new capacity (*i.e.*, subject to the mitigation test)

Scope of Repowering

- Must be objectively determinable
- Part of an integrated plan which calls for:
 - the retirement of an existing facility and its replacement with a new facility, or
 - the replacement of substantial components of the existing facility
- A common owner of the two facilities is not required, but privity must exist between the owners and/or beneficiary (*i.e.*, the counter-party to a long-term contract with a generation owner) of the facilities
- CRIS rights must be transferred from the former facility to the new facility

Exclusions from Repowering

- Mere transfer of CRIS rights from a generation owner to a developer
- Where retirement and entry decisions are separate and independent actions
 - a retirement decision unaccompanied by a coincident plan for a replacement of the retired capacity
 - entry that is not conditioned on, or otherwise tied to, the retirement, shutdown, or permanent reduced operation of an existing facility

Examples of Repowering

- An owner of a 50-year old, 500 MW facility decides to build a new, more efficient 500 MW facility, retire the existing facility, and transfer the CRIS rights from the existing facility to the new facility. Because of space issues, the new facility will be built 1,000 yards from the existing facility. Additionally, because of system planning and load pocket issues, Con Edison directs the owner to change the interconnection from the 345 kV system (to which the existing facility is connected) to the 138 kV system. The entire 500 MW would be exempt from mitigation.
- Same example as above, but the new facility will be 750 MW. 500 MW would be exempt from mitigation, and the remainder would be subject to the market power mitigation procedures set forth in Section 23.4.5.7 of Attachment H of the NYISO's Market Services Tariff.
- An owner of a 10-year old 500 MW facility has a long-term contract with an LSE for the entire output of the facility. The facility experiences a catastrophic equipment failure. After discussing options with the LSE, the owner issues an RFP to determine whether a third-party project would be more cost-effective than rebuilding the facility. As a result of the RFP, the owner retires its facility and enters into a contract with a third-party developer whereby its obligation to the LSE will be served by a facility to be built by the third-party developer at an adjacent site, and its CRIS rights are transferred to the third-party developer. 500 MW of the capacity of the third-party developer's facility would be exempt from mitigation.

Examples of Exclusions from Repowering

- The developer of a 550 MW facility purchases CRIS rights from the owner of a 600 MW facility in Zone J that was retired one month earlier. The developer anticipates that its new facility will commence commercial operations in 32 months. Other than the purchase of the CRIS rights, there is no relationship between the parties.
- The owner of a 675 MW facility in Manhattan announces that it has decided to retire the facility in two years, that it no longer wants to own generation in New York City, and that it will remediate and sell the site for redevelopment as offices and condos. A developer conducts an analysis of the implications of the retirement and determines that it could acquire a site in Brooklyn that can be electrically connected to the same substation as the to-be-retired facility. Although it will take five years to obtain permits and approvals and build a new facility (and therefore, cannot use the CRIS rights from the to-be-retired facility), the deliverability costs are expected to be nominal.

Proposed Tariff Amendment

(a) A new plant shall be considered a repowering of an existing plant, and exempt from market power mitigation under Section 23.4.5.7 up to the CRIS capacity of the existing plant in accordance with its maximum UCAP value, if: (1) the new plant commences commercial operation within three years of the retirement of the existing plant; and (2) the new plant is electrically connected to the same Zone J transmission zone as the existing plant; and (3) the construction of the new plant is undertaken pursuant to a written, integrated plan of the owner of the existing plant that calls for the output of the new plant to replace the output from the existing plant, provided that only the capacity of new plant that replaces the capacity of the existing plant shall be exempt from mitigation (*i.e.*, any incremental capacity of the new plant over and above the capacity of the existing plant must comply with the requirements of Section 23.4.5.7). The developer/owner of the new plant need not be the same or an affiliated entity of the owner of the existing plant, provided that there is a contractual relationship between the two whereby the output of the new plant will be used to satisfy the contractual obligations of the owner to a third-party, such as pursuant to a long-term power purchase agreement.

(b) To qualify for this exemption, the existing plant and new plant may not simultaneously offer their respective outputs for sale in the NYISO's markets. Once the new plant commences commercial operation, the existing plant must cease offering its output for sale in all NYISO markets.

(c) This rule is not applicable to any facility that retired prior to _____ [its effective date].

Questions?