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To: Debbie Eckels

From: David Johnson

Date: December 9, 2015

Re: IPPNY Comments on NYISO Study on ROS BSM and Uneconomic Retention/Repowering (Study)

In response to the NYISO's request for comments on the Study following its presentation at the December 2, 2015 Installed Capacity (ICAP) Working Group meeting, Independent Power Producers of New York, Inc. offers the following comments.

As requested at last Wednesday's meeting, the NYISO should provide market participants with the new entry NPV calculations for all unit types using the updated November figures, fold that information into the bar chart appearing at page 9 of the NYISO's December 2 presentation and include this information, together with the bar chart, in the NYISO's December 16 compliance filing. In addition, to provide a complete picture in response to FERC's November 16, 2015 deficiency letter, the NYISO should perform the new entry NPV calculations for all unit types assuming the unit retirements that were reflected in last Wednesday's NPV spreadsheet and provide that information for each unit type separately. In addition to this information and the updated bar chart, the NYISO should include a narrative explaining the bases for its determination that there is no need to extend the BSM new entrant rules to the ROS market in light of this information.

With respect to the NYISO's screening proposal for uneconomic retention and repowering, the NYISO correctly acknowledged during the December 2 ICAP Meeting that its Study clearly demonstrates that LSEs have an incentive to exercise buyer-sider market power Statewide and measures must be imposed to mitigate such conduct. It is important to note that the Study produced these results even with the 30% load share assumption built into the model, the basis for which IPPNY continues to contest. Currently, buyer-side market power mitigation measures apply to repowerings in New York City and the Lower Hudson Valley zones if a generator must submit an interconnection request or otherwise seek CRIS rights. As demonstrated with respect to the Dunkirk repowering proposal, repowering projects that are in the ROS and/or do not require an interconnection request or CRIS rights are not subject to mitigation measures.

The NYISO's proposed screens are an important first step but are not adequate standing alone to prevent the exercise of market power. Simply reporting suspicious conduct to FERC is not enough of a disincentive because there can be no refund of suppressed capacity revenues for the time required for a FERC decision. In addition, in the absence of NYISO tariff provisions that clearly defines the prohibited conduct and applies specific mitigation measures, FERC may be reluctant to impose mitigation measures on a case by case basis.

As discussed at the meeting, the NYISO should focus its monitoring on, and apply a rebuttable presumption to, compensation arrangements between generators and LSEs and State entities whose costs are recovered from electric customers in New York through any form of non-bypassable charge or are assessed to customers that do not have an effective alternative to the service. It is unlikely an LSE would enter into an above-market contract for the purpose of artificially suppressing capacity prices if it had no guarantee of cost recovery of the above-market payments.

Rather than referring such compensation arrangements to FERC for potential enforcement, the NYISO tariff should define an offer floor that must be used by the generator when it submits its offers for its UCAP unless the NYISO is able to confirm that: (i) the compensation arrangement was entered into pursuant to a non-discriminatory procurement process that was open to both new and existing resources, and (ii) the generator was the lowest cost resource. The NYISO's analysis shall be subject to review by the MMU which shall be required to issue a written report detailing its findings. Limiting the application of an offer floor to generators whose costs are recovered through a non-bypassable charge or such other mechanism having the same purpose will avoid capturing bilateral contracts that are frequently entered into by LSEs to provide a hedged service to their "provider of last resort" customers, *i.e.*, those customers that have not chosen to take service from a competitive energy service company.

The offer floor should be set based on the rate in the compensation arrangement less expected energy and ancillary service revenues. This should not be burdensome for the NYISO to monitor and enforce because any cost recovery through a non-bypassable charge will require NYPSC approval in a public proceeding or, in the case where a State entity enters into the payment arrangement, approval by the State entities' governing body. In all other instances, the NYISO tariff should specify that the NYISO or the MMU will report conduct that is inconsistent with a competitive outcome to the FERC Office of Enforcement for review.