



**Department of  
Public Service**

**Public Service Commission**

**Audrey Zibelman**  
Chair

**Patricia L. Acampora**  
**Gregg C. Sayre**  
**Diane X. Burman**  
Commissioners

**Paul Agresta**  
General Counsel  
**Kathleen H. Burgess**  
Secretary

Three Empire State Plaza, Albany, NY 12223-1350  
www.dps.ny.gov

November 8, 2016

Diane L. Egan  
Corporate Secretary &  
Secretary to the Board  
New York Independent System Operator, Inc.  
10 Krey Boulevard  
Rensselaer, NY 12144

Re: Docket No. ER16-2451-000 - ISO New England Inc. and  
New England Power Pool

Dear Secretary Egan:

Attached please find the Response of the New York State Department of Public Service to the Independent Power Producers of New York, Inc. Appeal regarding a capacity market solution adopted by the Management Committee on October 26, 2016.

Please do not hesitate to contact me with any questions.

Respectfully submitted,

*S. Jay Goodman*

S. Jay Goodman, Esq.  
Assistant Counsel  
New York State  
Department of Public Service

Attachment  
cc: Gloria Kavanah, Esq.

ISO New England Inc. and New  
England Power Pool

)  
)  
)  
)

Docket No. ER16-2451-000

**NEW YORK STATE DEPARTMENT OF PUBLIC SERVICE**  
**RESPONSE TO IPPNY APPEAL**

**INTRODUCTION**

The New York State Department of Public Service Staff (DPS Staff) hereby submits this response to the Independent Power Producers of New York, Inc. (IPPNY) Appeal of the Management Committee’s October 26, 2016 approval of Motion #2. In its Appeal, IPPNY requests that the NYISO Board of Directors (NYISO Board) ignore and reverse a motion that was approved by a broad majority of Management Committee members.<sup>1</sup>

Specifically, planned capacity exports to ISO-NE through participation in its forward capacity market (FCM) and FCM reconfiguration auctions revealed a market design flaw that caught the NYISO and market participants by surprise.<sup>2</sup> NYISO Staff rushed to develop a potential solution while the NYISO simultaneously petitioned FERC to delay certain ISO-NE tariff changes that would accelerate when the capacity market and consumers could be impacted

---

<sup>1</sup> This broad majority included members of the following sectors: Other Suppliers; Transmission Owners; End Use Consumer; and Public Power.

<sup>2</sup> NYISO Staff’s analysis indicates that the transfer capability across the SENY interface will increase if capacity is exported from Zones G-J to ISO-NE. IPPNY claims that this increase constitutes a reliability “benefit.” This claim is incorrect and without any merit. The modeled flow of energy from the Rest-of-State (ROS) to Zones G-J offsets part, but not all, of the export. Absent a net increase in capacity or other beneficial change in the Zone G-J system, the simple moderation of capacity lost from that Locality does not constitute a reliability “benefit.”

by this market design flaw.<sup>3</sup> FERC denied the requested delay,<sup>4</sup> although no party disputes the fact that NYISO Staff's evaluation is incomplete.

On October 26, 2016, 63.62% of Management Committee members approved an interim solution to the capacity market design flaw whereby the Locational Exchange (LE) Factor for Zones G-J will be (i) 80% for the Capability Year (CY) 2017/2018 (CY 17/18), and (ii) revised thereafter to adopt the LE Factor that results from the final NYISO Staff analysis that examines power flows under a range of conditions and assumptions (the MC Market Solution).

Given that NYISO Staff studied only one potential scenario (e.g., assuming that the export from Zones G-J occurs only during NYCA peak and when the SENY interface is constrained), it is reasonable to assume that the "truth" lies somewhere between this scenario and one in which 100% of the export can be replaced from the ROS. The MC Market Solution accounts for this uncertainty and reasonably balances consumer and investor interests while providing for updates when NYISO Staff completes its analysis.

IPPNY contends that the proposal to adopt an 80% LE Factor for Zones G-J in CY 17/18 should be rejected because it purportedly would send a distorted price signal and interfere with the competitive market. This argument should be rejected in its entirety. The MC Market Solution reasonably addresses the uncertainty of incomplete and ongoing analyses while increasing capacity prices to signal a need for increased investment in Zones G-J. Market signals arising from exports to ISO-NE, however, are transient and unreliable because the exporting unit

---

<sup>3</sup> Docket No. ER16-2451-000, ISO New England Inc. and New England Power Pool Participants Committee, Motion to Intervene and Limited Protest of the New York Independent System Operator, Inc. (dated September 9, 2016) (NYISO Protest), and Request for Leave to Answer and Answer of the New York Independent System Operator, Inc. (dated October 12, 2016) (NYISO Answer).

<sup>4</sup> Docket No. ER16-2451-000, ISO New England Inc. and New England Power Pool Participants Committee, 157 FERC ¶61,025 (issued October 18, 2016).

can buy out of its commitment and re-enter the New York capacity market. Developers are unlikely to base investment decisions solely on such a price signal. Finally, IPPNY claims that certain FERC precedent demonstrates that FERC would reject the MC Market Solution. The cited precedent is distinguishable, however, and is not inconsistent with the MC Market Solution.

The potential export revealed a seam and market design flaw that must be remedied, but not in a way that harms consumers. For the reasons detailed herein, DPS Staff respectfully urges the NYISO Board to deny IPPNY's Appeal in its entirety, and direct NYISO Staff to file tariff leaves that implement, and supporting information that justifies, the MC Market Solution.

### COMMENTS

#### **I. THE MC MARKET SOLUTION IS A REASONABLE INTERIM SOLUTION THAT ACCOUNTS FOR DATA GAPS WHILE NYISO STAFF COMPLETES ITS ANALYSES**

NYISO Staff repeatedly explained during the stakeholder process that its proposal to set the LE Factor for Zones G-J to 48% was based on an incomplete power flow analysis. The sole scenario that NYISO Staff modeled assumed that the export occurred during NYCA peak with the SENY interface binding. NYISO Staff conducted certain sensitivities of its power flow analysis, but each sensitivity assumed that the export would occur with the SENY interface binding and NYCA at system peak. NYISO Staff did not present any analysis of when ISO-NE might call the export, nor did it conduct a probabilistic analysis to evaluate how frequently the export might coincide with a constraint at the SENY interface or with the NYCA system peak. Further, although any qualified resource may sell capacity into ISO-NE for CY 17/18, NYISO Staff has not presented any analysis of what other resources might export capacity, or how such exports might impact power flows and market signals.

The NYISO explained to FERC that its analysis was incomplete, and additional time was needed to develop a comprehensive solution to the market design flaw.<sup>5</sup> The MC Market Solution specifies that further analysis is needed, as well as additional modifications to the rules addressing exports from constrained Localities.

In short, NYISO Staff quickly evaluated part of a market solution but never presented its analysis as full and complete. NYISO Staff's analysis was a reasonable effort to address the market design flaw within the abbreviated time allowed by FERC, but the analysis necessarily was limited by external time constraints.

Based on the ongoing analysis, it appears that earlier, competing proposals to set the LE Factor for Zones G-J at 100% or 48% are "bookends" that represent the outer bounds of how the export should be modeled. The former scenario would minimize customer impacts by treating the export as originating entirely from the ROS, whereas the latter scenario maximizes customer impacts by assuming that the export occurs only during the NYCA peak and when SENY is constrained. The additional analyses that NYISO Staff must complete should identify the point between these two poles that will serve as the LE Factor beginning in CY 18/19.

Significantly, SENY was constrained in less than approximately 10% of hours in 2015. As noted, NYISO Staff has not conducted a power flow analysis that assumes the ROS export occurs when the SENY interface is not constrained, although power flows will change under different system conditions. Nor has NYISO Staff conducted a power flow analysis that assumes the export occurs when the NYCA system is not at peak load. It reasonably can be expected that power flows also would differ under such conditions.

---

<sup>5</sup> NYISO Protest; NYISO Answer.

It is likely, therefore, that the LE Factor for Zones G-J ultimately will fall between the 48% and 100% bookends. The MC Market Solution reasonably accounts for the present uncertainty by specifying that the LE Factor for Zones G-J will be 80% for CY 17/18, but subsequently will be replaced with the final outcome of NYISO Staff's comprehensive analysis.

The MC Market Solution was supported by a broad coalition of stakeholders that included representatives from the Other Suppliers, Transmission Owners, Public Power, and End Use Consumer Sectors. The NYISO Board should not reverse the decision of a stakeholder coalition by granting the Appeal. Such reversal would undermine confidence in the stakeholder process as well as in the Board's ability to balance consumer and investor interests.

**II. THE MC MARKET SOLUTION WILL NOT DISTORT MARKET SIGNALS OR INTERFERE WITH MARKET COMPETITION**

IPPNY claims that the MC Market Solution will distort market signals and harm reliability. These claims are misplaced and distort the facts and circumstances surrounding the market design flaw revealed by the capacity export from Zones G-J.

Initially, the MC Market Solution establishes an interim solution for Zones G-J in CY 17/18 that will be replaced in CY 18/19 with an LE Factor that is based on the final outcome of NYISO Staff's comprehensive analysis. IPPNY does not oppose use of one booked (i.e., the 48% LE Factor) from NYISO Staff's ongoing analysis. In fact, a number of Generation Owners voted at the October 20th BIC meeting to implement this LE Factor in CY 17/18. The Appeal, therefore, pertains to the portion of the MC Market Solution that addresses uncertainty surrounding the ongoing analysis by setting the CY 17/18 LE Factor for Zones G-J at 80%.

IPPNY claims that the 80% LE Factor would produce a distorted market signal by artificially suppressing capacity prices. Initially, the 48% LE Factor that Generation Owners supported is based on an incomplete analysis and premised on assumptions that maximize the

potential spike in capacity prices. A potential solution that is premised on such assumptions is irrational and would yield unjust and unreasonable capacity prices.

IPPNY's claim that the CY 17/18 LE Factor presented in the MC Market Solution would distort market signals is nonsensical. Any price signal based on a capacity export that emanates from Zones G-J will be distorted in any event because units in that Locality can export into ISO-NE, but units located in ISO-NE cannot export into Zones G-J. This market design flaw also must be fixed, and should be addressed as part of NYISO Staff's continuing evaluation of broader market issues relative to Locational Capacity Exports.

In any event, the 80% LE Factor would be used only for CY 17/18. No rational developer would decide whether to enter, or re-enter, the market based on a transient price signal that persists for one year or less.<sup>6</sup> Any such decision instead would be based on the developer's assessment of whether prices will remain inflated by the loss of exported capacity, and whether those prices would yield an economic project.

Significantly, any NYCA resource with capacity cleared in the ISO-NE FCM can buy out of its position in a future reconfiguration auction. This is exactly what has happened to most such capacity exports from New York.<sup>7</sup> This historic practice neuters the reliability of any market signal potentially arising from capacity exports to ISO-NE, and any such market signal would be artificial and/or illusory because it cannot be assumed to persist beyond the next reconfiguration auction. There has been minimal discussion of whether a developer would rely on a transient price signal that could disappear after the close of any reconfiguration auction. It

---

<sup>6</sup> As noted above, the potential market signal distortion identified by IPPNY is associated only with the use of an 80% LE Factor for the LHV during CY 17/18.

<sup>7</sup> NYISO Study on ROS BSM and Uneconomic Retention/Repowering, Presentation to ICAPWG/PRLWG/MIWG (dated May 18, 2015) at 6-7.

is unlikely that developers would sink tens or hundreds of millions of dollars to enter the Zones G-J capacity market in pursuit of this will-o-the-wisp.

**III. THE BOARD SHOULD DISMISS IPPNY’S CHARACTERIZATION OF THE MC MARKET SOLUTION AS A PHASE-IN THAT FERC WOULD REJECT**

IPPNY claims that the MC Market Solution constitutes a phase-in that FERC would reject. This claim is based on FERC precedent that is distinguishable from the circumstances underlying the capacity export issue. It also ignores FERC precedent that allows the gradual implementation of market rule changes to moderate unanticipated consumer impacts.

FERC “has allowed variations of phase-ins to protect customers from substantial rate increases,” provided the such phase-in balances consumer and investor interests and does not yield inefficient outcomes arising from artificially reduced rates.<sup>8</sup> There has been no demonstration that setting the LE Factor at 80% for a period of less than one year will result in an inefficient outcome. IPPNY’s contrary claim apparently is premised on its unproven assumption that ISO-NE only will call exports from Zones G-J when the SENY interface is constrained, and/or when the NYCA is at system peak. Further, because NYISO Staff’s analysis is incomplete, it is impossible to identify with any confidence the point at which the LE Factor crosses the threshold between artificially increasing capacity prices by inaccurately assuming that a large portion of the export originates in Zones G-J, to artificially decreasing capacity prices by inaccurately assuming that a large portion of the export originates in ROS. The 80% LE Factor thus lies within a zone of reasonableness that would yield an efficient outcome.

---

<sup>8</sup> Docket No. ER14-500-001, New York Independent System Operator, Inc., 147 FERC ¶61,148 at P59 (issued May 27, 2014).



IPPNY argues that FERC rejected proposals to phase-in the rate increases arising from implementation of the G-J Locality. There, however, FERC rejected stakeholder proposals to implement a phase-in that the NYISO did not include in its tariff filing to create the new capacity zone.<sup>9</sup> In so ruling, FERC explained that there had been adequate notice of the potential consumer impact and time to address it, given that issues relative to the new capacity zone had been discussed over a seven-year period.<sup>10</sup> FERC explained that the new capacity zone was needed to induce investment in a capacity-constrained region, and that such investment should not be delayed by phasing-in the price impact of the new capacity zone.<sup>11</sup>

Here, any price signal potentially arising from the MC Market Solution would be transient and unreliable for the reasons detailed in Point II, supra. The price signal would not be sufficient, standing alone, to elicit investment when the exporting unit could buy out of its commitment to ISO-NE and re-enter the New York market.<sup>12</sup> Significantly, whereas FERC's decision not to phase-in the new G-J Locality was based in part on the many years that stakeholders had to consider the consumer impact of a new Locality, the market design flaw addressed by the MC Market Solution was sudden and unanticipated. NYISO detailed in its Limited Protest and Answer that there has been inadequate time to complete a comprehensive analysis of the issue and, therefore, the NYISO requested additional time to develop a solution. The MC Market Solution would provide a limited mechanism to moderate the impact of an unanticipated, substantial spike in capacity prices while this work is completed.

---

<sup>9</sup> Docket No. ER13-1380-000, New York Independent System Operator, Inc., 144 FERC ¶61,126 at P27-28, 31 (issued August 13, 2013).

<sup>10</sup> Id. at P31.

<sup>11</sup> Id.

<sup>12</sup> In fact, such action could be used strategically to discourage new investment that is responding solely to a capacity price increase caused by the Locational Capacity Export.

IPPNY next explains that FERC also rejected a proposal to moderate consumer rate shock by phasing-in the installed capacity demand curve for the new G-J Locality. Relying on its prior finding that the new G-J Locality should not be phased-in, FERC reiterated that stakeholders had many years to consider the impact of the new G-J Locality, and respond to it:

As Entergy states in its protest, information regarding possible rate impacts that may occur in the G-J Locality have been considered extensively throughout a seven-year time period. We find that there was sufficient notice provided so that a phase-in is not necessary to further address “rate-shock” to consumers.<sup>13</sup>

A phase-in, FERC continued, would delay the capacity market’s ability to attract new investment, including short-term supply resources.<sup>14</sup>

This decision similarly is distinguishable. Any price signal potentially attributable to the MC Market Solution would be transient and unreliable for the reasons detailed above and in Point II, supra. Importantly, the ISO-NE reconfiguration auctions take place in March and April. Consequently, it will not be known whether capacity will be exported from Zones G-J for CY 17/18 until April 2017. Given that CY 17/18 begins on June 1, 2017, supply resources would have only approximately two months to respond to the price signal associated with an export.

Significant changes since the Zone G-J Locality was created, however, make it highly unlikely that any short-term supply resource will be available to respond to such an abrupt price signal. When FERC issued those decisions, the Danskammer generating facility was not operating because it needed repair, and the Bowline generating facility was operating under a de-rate that limited its total available capacity. Those facilities responded to the price signal sent by

---

<sup>13</sup> Docket No. ER14-500-000, 146 FERC ¶61,043 at P162-63 (issued January 28, 2014) (citation omitted; quotation marks in original).

<sup>14</sup> Id. at P164.

the new G-J Locality and its associated installed capacity demand curve by re-entering the market.

There currently are no similar facilities that quickly could re-enter the market in response to a short-term price signal. An existing market design flaw prevents ISO-NE units from responding to short-term price signals by exporting capacity into Zones G-J. Although there is approximately 80 MW of demand response available in Zones G-I, it is unlikely that new demand response resources could be marketed to, and enrolled, quickly enough to respond to a short-term price signal that might arise if a unit in Zones G-J begins exporting capacity in June 2017. Notably, however, the MC Market Solution would increase Zones G-J capacity prices in CY 17/18, thereby signaling a need for new demand response resources.

In sum, the MC Market Solution reasonably balances consumer and investor interests and, when combined with the unanticipated market design flaw, presents circumstances that should lead FERC to approve the MC Market Solution.

### **CONCLUSION**

As detailed herein, the potential export revealed a seam and market design flaw that must be remedied, but not in a way that harms consumers. DPS Staff respectfully urges the NYISO Board to deny IPPNY's Appeal in its entirety, and direct NYISO Staff to file tariff leaves that implement, and supporting information that justifies, the MC Market Solution.