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VIA E-MAIL TO DEMAND CURVE COMMENTS (D. Egan and D. Eckels)

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
Comments on NYISO Staff's Final Proposed Installed Capacity Demand Curves
For Capability Years 2014/2015 Through 2016/2017

Dear Mr. Hiney:

Pursuant to Section 5.14.1.2.9 of the NYISO's Market Administration and Control Area Services Tariff ("Services Tariff"), Section 5.6.6 of the NYISO's Installed Capacity Manual and NYISO Staff Recommendations, Appendix E and in accordance with the notices that the NYISO issued on September 27, 2013 and October 1, 2013, attached are Entergy Nuclear Power Marketing, LLC's ("ENPM") Comments on NYISO Staff's Final Proposed Installed Capacity Demand Curves for Capability Years 2014/2015 Through 2016/2017. Pursuant to Section 5.14.1.2.10 of the NYISO's Services Tariff, ENPM hereby requests the opportunity to present oral argument to the Board.

As reflected in NYISO Staff Recommendations, Appendix E, ENPM understands that the NYISO will post all of the comments that are submitted addressing the NYISO Staff Recommendations on its web site.

Very truly yours,

GREENBERG TRAURIG, LLP

Doreen U. Saia

DUS/sm
Enclosure
cc: Ms. Debbie Eckels (via email; w/enc.)
Ms. Diane Egan (via email; w/enc.)

ALB 1726730v1

COMMENTS OF ENTERGY NUCLEAR POWER MARKETING LLC ON NYISO STAFF'S FINAL PROPOSED INSTALLED CAPACITY DEMAND CURVES FOR CAPABILITY YEARS 2014/2015 THROUGH 2016/2017

On September 6, 2013, NYISO Staff issued its recommended ICAP Demand Curves for this reset process which spans Capability Years 2014/2015 through 2016/2017.[1] Following nearly seven years of stakeholder discussion and review and a series of Federal Energy Regulatory Commission ("FERC") filings and orders, the NYISO was required to develop the ICAP Demand Curve for the new, FERC-approved, capacity zone in New York, the Lower Hudson Valley ("LHV"), for the first time as part of this reset process. The LMS-100 unit equipped with selective catalytic reduction ("SCR") control technology had been selected as the proxy unit for the NYC and LI Demand Curves for the last two reset processes. After extensive review and comments concerning technology choice, both the Consultants and NYISO Staff determined that the LMS-100 unit with SCR remains the lowest fixed cost, highest variable cost, economically viable facility for the NYC and LI Zones and it is also the lowest fixed cost, highest variable cost, economically viable facility for the new LHV Zone.[2]

Thus, acting in accordance with the NYISO's tariffs, both the Consultants and NYISO Staff have recommended that the LMS-100 unit with SCR be selected as the proxy unit for the LHV, NYC and LI Demand Curves. For the reasons set forth herein, Entergy Nuclear Power Marketing, LLC concurs with the Consultants' and NYISO Staff's findings and

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[1] See New York Independent System Operator, Inc., "Proposed NYISO Installed Capacity Demand Curves For Capability Years 2014/2015, 2015/2016 and 2016/2017 - Final" (dated September 6, 2013, revised September 13, 2013) (hereinafter, "Staff Recommendations").

[2] See Staff Recommendations at 28; see also, NERA Economic Consulting, "Independent Study to Establish Parameters of the ICAP Demand Curve for the New York Independent System Operator – Final Report" (dated August 2, 2013) (hereinafter, "Consultants Final Report") at 9. The Consultants Final Report was prepared jointly by NERA Economic Consulting and Sargent & Lundy (individually, "NERA" and "S&L" and, collectively, "Consultants"). As discussed at length during the ICAP Working Group meetings, given its expertise in this area including, e.g., its work with clients proposing power projects, S&L took the lead role in calculating the CONE for each proxy unit and addressing equipment related issues including siting, construction and operational issues.

recommendations in this regard and urges the NYISO Board to file proposed Demand Curves for the LHV, NYC and LI Zones with the FERC that are based on selecting the LMS-100 unit with SCR as the proxy unit for all three Curves.[3, 4]

BACKGROUND

Responding to FERC directives in 2007, the NYISO and the New York Transmission Owners jointly filed their Consensus Deliverability Plan ("CDP") which, inter alia, identified the need to evaluate new capacity zones ("NCZs") as one of the CDP's nineteen core capacity deliverability points.[5] At the time the CDP was being discussed and developed, the NYISO's very earliest Reliability Needs Assessments ("RNAs") which were issued beginning in 2005, already had identified reliability needs in Southeastern New York. In 2007, the NYISO and the New York Transmission Owners expressly recognized the need to collaborate with Market

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[3] Entergy Nuclear Power Marketing, LLC ("ENPM") is a power marketing company that, inter alia, markets at wholesale the energy, capacity and other products from the New York-based generating facilities that are owned by its affiliates, the Indian Point nuclear generating facility and the FitzPatrick nuclear generating facility. Indian Point is located in the Lower Hudson Valley within the new LHV Zone. FitzPatrick is located in the part of New York State that will remain known as the Rest of State ("ROS") capacity region. ENPM is actively engaged in the NYISO's capacity markets, is a member of the NYISO Management Committee ("MC") and actively participated in the ICAP Working Group meetings addressing the reset process. Appendix E of Staff Recommendations initially established that stakeholder comments to the NYISO Board were due on September 30, 2013. By notice issued on September 27, 2013, the NYISO extended the September 30, 2013 due date for comments on the Staff Recommendations to October 2, 2013. ENPM hereby submits these comments pursuant to Section 5.6.6 of the NYISO Installed Capacity Manual, Section 5.14.1.2.9 of the NYISO's Market Administration and Control Area Services Tariff ("Services Tariff") and the timeline set forth in Staff Recommendations, Appendix E. Pursuant to Section 5.14.1.2.10, ENPM respectfully requests the opportunity to present oral argument to the Board on this matter at the October 14, 2013 scheduled session.

[4] ENPM has reviewed and contributed to the comments of the Independent Power Producers of New York, Inc. ("IPPNY") that are being contemporaneously submitted to the Board to address these issues. ENPM supports IPPNY's comments and joins in IPPNY's request that the Board modify limited aspects of the Staff Recommendations as identified in the IPPNY comments for the reasons established therein.

[5] See FERC Docket ER04-449-016, New York Independent System Operator, Inc., et al., "Consensus Deliverability Plan of the New York Independent System Operator, Inc. and the New York Transmission Owners" (dated October 5, 2007) (hereinafter, "CDP Filing"), Attachment I at 8. FERC approved the conceptual framework proposed in the CDP Filing, provided guidance to the NYISO and its members, and directed the filing of revisions to the NYISO's tariffs to comport with the CDP. (New York Independent System Operator Inc., et al., 122 FERC ¶ 61,267 (2008).)

Participants concerning the creation of NCZs in New York. That effort has taken the better part of six years.

Meanwhile, during this six year period when all issues associated with NCZs have been under review, no significant entry has occurred in the Lower Hudson Valley in the form of either new facilities or new demand response. In fact, there has been no significant entry in this part of the State since the NYISO's markets began in 1999. During this same time period, much generation has been lost. For example, the Danskammer facility was retired. The Bowline 2 facility has been derated.

As was documented at length in the NCZ FERC proceedings, the reason for these system changes is readily apparent: the net cost of new entry ("Net CONE") for a proxy unit in the Lower Hudson Valley substantially exceeds the Net CONE of the Rest of State ("ROS") proxy unit which is used to set the New York Control Area ("NYCA") Demand Curve, the current basis to set capacity payments for LHV suppliers. Put simply, even assuming that equilibrium conditions would persist in the NYCA for extended periods of time, it is uneconomic to build a new generating facility in the Lower Hudson Valley based on the NYCA Curve. Indeed, this situation, which has evolved in the Lower Hudson Valley over the past thirteen years, led the NYISO to advise the FERC that "[t]he lack of a capacity price signal has contributed to a reduction in capacity in these Load Zones."[6]

The NYISO's Market Monitoring Unit, Potomac Economics ("MMU") (acting initially in its role as the NYISO's independent market adviser) has long tracked the issues associated with the creation and implementation of NCZs in New York State. Beginning in its 2006 State of the Market Report, the MMU linked the reliability needs identified in Southeastern New York with

[6] See FERC Docket ER13-1380, New York Independent System Operator, Inc., "Proposed Tariff Revisions To Establish and Recognize a New Capacity Zone and Request for Action on Pending Compliance Filing," (dated April 30, 2013) (hereinafter "NCZ Filing") at 7 (citation omitted).

the need to create an NCZ in that region to provide more accurate price signals.[7] The MMU then repeatedly confirmed the need for NCZs in subsequent annual reports.[8]

After more than five years of study, discussion and review, the NCZ efforts in New York culminated this past spring with the NYISO's application of its NCZ test in accordance with its tariffs and its determination that an NCZ was required for the Lower Hudson Valley. On April 30, 2013, the NYISO submitted its NCZ Filing with the FERC. Pointing to the fact that the LHV zone was "necessary to send more efficient price signals, enhance reliability, mitigate potential transmission security issues and serve the long-term interests of all consumers in New York State," the NYISO specified to the FERC that it "strongly support[ed] the establishment of the NCZ."[9] The MMU concurred, noting that the NCZs were designed to allow the capacity market to attract investment in the areas where it will provide the greatest reliability benefit.[10]

Approving the NYISO's NCZ Filing, the FERC rejected protests centered on the short term rate impacts that will result when the currently artificially understated price signals in the Lower Hudson Valley are finally corrected to reflect the costs in this area of the State. The FERC focused on the need to establish accurate price signals to attract investment in new and needed existing facilities, and thus, to promote long-term reliability, holding:

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[7] See Potomac Economics, Ltd., "2006 State of the Market Report – New York ISO" (dated July, 2007) at p. vi (focusing on reliability needs identified in the Lower Hudson Valley, the MMU stated, "...[i]t is important to address any market issues that could cause market signals to be understated, rather than relying on regulated solutions to meet the reliability needs of the system. Defining additional zones in the ROS area may be needed to allow the market to more accurately reveal the value of resources throughout the state.")

[8] The need for an NCZ in the Lower Hudson Valley was further revealed in the NYISO's class year studies beginning in 2008, which were undertaken as part of the NYISO's interconnection requirements. With so many factors pointing to the need for the LHV Zone, the Consultants have been directed to produce preliminary data defining the CONE for the Lower Hudson Valley in the last two reset processes. That data highlighted the substantial cost differential between the Lower Hudson Valley area and the remainder of the Rest of State region.

[9] See NCZ Filing at 1.

[10] Id., Attachment XI, "Affidavit of David B. Patton, Ph.D." (dated April 29, 2013) at P 11 (establishing that "[t]he lack of a capacity zone that reflects the reliability needs of [Southeastern New York] has already diminished the efficiency of investment signals in the capacity market by: a) under-valuing capacity in [sic] Lower Hudson Valley and b) inflating prices in other areas of the state.").

> Finally, we disagree with the [New York Public Service Commission] that creating a new capacity zone would provide no economic benefits and would needlessly increase customers' bills. We conclude that creating a new capacity zone is necessary to provide more accurate price signals over the long run to encourage new investment in the new capacity zone when it is needed.[11]

DEMAND CURVE RESET PROCESS

On November 7, 2011, the NYISO submitted its second compliance filing with the FERC to implement the NCZ test criteria.[12] As designed by the NYISO, the NCZ process was structured to be a three-year process that generally tracked the NYISO's existing Demand Curve Reset Process.[13] As reflected throughout its NCZ Criteria Filing and in its subsequent NCZ Filing, the NYISO's intent was clearly to implement any new NCZs that were identified through its NCZ test as part of its next triennial reset process (i.e., the current reset process that commenced in the fall 2012 and has been underway over the past year).[14] Accordingly, while the NYISO's NCZ Filing remained pending before the FERC, the Consultants were directed to calculate the Net CONE for the LHV proxy unit and provide the other parameters for the LHV Demand Curve.

To establish Net CONE, the technology that is selected as the proxy unit for each Curve is a threshold determination. The NYISO's Services Tariff defines how the proxy unit must be chosen. Specifically, Section 5.14.1.2 of the NYISO's Services Tariff dictates that the proxy

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[11] See New York Independent System Operator, Inc., 144 FERC ¶ 61,126 (2013) (hereinafter, "FERC NCZ Order") at P 25 (emphasis supplied).

[12] See FERC Docket ER12-360, New York Independent System Operator, Inc., "Compliance Filing" (dated November 7, 2011) ("NCZ Criteria Filing").

[13] Id. at 3-4.

[14] Id. at 8; see also NCZ Filing at 2.

unit must be "...the unit with technology that results in the lowest fixed costs and highest variable costs among all other units' technology that are economically viable..."[15]

During the ICAP Working Group meetings, the technology choice for all four Demand Curves was the subject of extensive discussion. From the outset, the Consultants determined that the LMS-100 unit with SCR met the NYISO's Services Tariff requirements for the LHV and NYC zones.

In the last few months of the NYISO's demand curve reset process efforts, some Market Participants countered that dual fuel capability was not required for all interconnection points in the Lower Hudson Valley, and thus, the LHV Demand Curve should be based on the uncontrolled Siemens unit.[16] Alternatively, pointing to the recent commercial operation of the Marsh Landing facility in California, some Market Participants also argued that the Siemens unit with SCR should be the proxy unit for both the LHV and NYC Demand Curves. In an attempt to further support this argument, these parties pointed to the fact that the PJM Demand Curve is based on the Siemens unit with SCR configuration.[17]

All of these points were debated at length in the last few ICAP Working Group meetings before the Consultants issued their Final Report. Specifically, at the July 9, 2013 ICAP Working Group meeting, S&L reported that it had reviewed the potential frame unit with SCR configuration in detail. S&L reported that it had found that past applications of SCRs to a simple cycle turbine involved machines with lower exhaust temperatures. Attempts to apply SCRs to

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[15] See Services Tariff, Section 5.14.1.2.

[16] Ultimately, the Consultants recommended that the ROS proxy unit should be the uncontrolled Siemens unit. For the reasons set forth in detail in the IPPNY comments, the LMS-100 unit also should be designated as the ROS proxy unit. Alternatively, the Net CONE of the ROS proxy unit must be increased to reflect increased permitting and financing costs as well as the increased regulatory risks of proceeding forward with an uncontrolled facility.

[17] It bears noting that the Siemens proxy unit used in the PJM markets upon which some Market Participants now seek to rely is equipped with dual fuel capability.

turbines with higher exhaust temperatures, however, have failed causing major equipment damage. With the Marsh Landing facility only operational since May, 2013, S&L found that there will not be adequate data to support any findings on the viability of the Siemens unit with SCR configuration. Per S&L, at least a full year of data is required to understand forced outages and other factors and patterns in order to gain industry acceptance.

On August 2, 2013, the Consultants issued the Final Report. Addressing the technology choice question, the Consultants pointed to the fact that the gas transportation tariffs of the local distribution utilities in the Lower Hudson Valley and New York City all mandate that electric generators must have dual fuel capability.[18] Focusing on the prevalence of more severe air quality issues and the need for dual fuel operations in Southeastern New York, the Consultants expressly found that the stand alone Siemens unit was "...not a practical economically viable unit in Zones G through K."[19] The Consultants further confirmed their findings that past attempts to operate an SCR with a frame unit had failed and the ability to apply this configuration going forward remains unproven at this juncture.[20] Thus, the Consultants reported that "[t]he LMS100 with an SCR was selected as the peaking unit for the [NCZ] proposed as Load Zones G-J (G-J Locality), NYC and LI."[21]

After receiving two sets of comments from Market Participants, NYISO Staff issued the Staff Recommendations setting forth its recommended Demand Curves for all four capacity regions for the next three capability years, Capability Years 2014/2015 through 2016/2017. In the Staff Recommendations, NYISO Staff explained that, in response to some Market

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[18] See Consultants Final Report at 50.

[19] Id. at 8.

[20] Id. at 9, 25.

[21] Id. at 9.

Participants' requests, it had directed the Consultants to evaluate the alternative Siemens unit with SCR proxy unit configuration that had been raised at the time that the Consultants' second draft report was issued.[22] NYISO Staff further specified that these Market Participants' requests were based on the recent completion of the Marsh Landing facility and PJM tariff provisions.[23]

NYISO Staff pointed to the fact that S&L had comprehensively re-evaluated this issue and once again confirmed in the Consultants Final Report that the frame unit with SCR was not a proven application based on the following major factors:

- Consideration of the design and operational challenges inherent in introducing diluent air to achieve uniformly lower gas turbine exhaust temperatures to allow successful operation of current selective catalytic reduction technology.
- Current Sargent and Lundy experience with clients developing power projects.
- Two previous unsuccessful deployments of frame gas turbines with selective catalytic reduction in Kentucky and Puerto Rico.
- The very limited experience (May 1, 2013 commercial operation date) with the recently completed Marsh Landing Generating Plant in California.[24]

Based on the Consultants' analyses, NYISO Staff agreed that the viability of the frame unit with SCR configuration simply has not been proven.

Turning to the point that PJM has elected to base its demand curves on the frame with SCR facility, NYISO Staff reported that it had reviewed PJM's efforts in this area and found that PJM's decision appeared to have been based entirely on the facts that Marsh Landing was due to be completed in 2013 and that three potential "hot SCR controls" suppliers had received inquiries about their equipment. Concluding that "[t]here was apparently little or no effort

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[22] See Staff Recommendations at 13.

[23] Id.

[24] Id. at 13-14.

expended to assess the technical feasibility of the technology, or to show that the technology had been previously applied in a significant number of applications, and was therefore, a proven, reliable technology,"[25] NYISO Staff instead elected to rely upon the far more extensive review completed by the Consultants. NYISO Staff concurred with the Consultants' determination that there was simply not enough data to be able to designate the Siemens unit with SCR configuration as a proven technology in this reset process, and thus, the LMS-100 unit with SCR must be selected as the proxy unit to set the NYC and LHV Demand Curves in accordance with the requirements set forth in the NYISO's Services Tariff.[26]

NYISO Staff also addressed the dual fuel capability issues. Specifically, NYISO Staff reported that the local distribution companies in New York City continue to require electric generators to have dual fuel capability.[27] Based on its review of the gas service tariffs for the utilities in the Lower Hudson Valley and a discussion with the Staff of the New York Department of Public Service, NYISO Staff found that dual fuel capability requirements also applied to electric generators in the Lower Hudson Valley.[28] NYISO Staff further reported that providing for dual fuel capability for the NYC, LHV and LI proxy units was consistent with the plant configuration of generators that have either recently interconnected, or have plans to interconnect, to the system in these zones.[29] Based upon all of these factors, NYISO Staff also concurred with the Consultants that the NYC, LI and LHV proxy units should be modeled with dual fuel capability.

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[25] Id. at 14.

[26] Id. at 13-14.

[27] Id. at 15.

[28] Id.

[29] Id. at 15-16.

COMMENTS

THE CONSULTANTS AND NYISO STAFF CORRECTLY DETERMINED THAT THE LMS-100 UNIT WITH SCR MUST BE SELECTED AS THE PROXY UNIT FOR THE NYC AND LHV DEMAND CURVES TO COMPLY WITH THE NYISO'S TARIFFS

In its previous orders, the FERC has repeatedly made it clear that capacity markets must be designed to "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."[30] In the NYC Zone, and now in the newly formed LHV Zone, the Demand Curve market rules (inclusive of the rules that govern the demand curve reset process) and the capacity market power mitigation rules are designed to work together to ensure that this level of compensation is provided.

As the NYISO recognized in its NCZ Filing, the LHV Zone was required to, inter alia, send more efficient price signals in this part of the State which, in turn, would serve the long-term interests of all consumers in New York State.[31] In approving the LHV NCZ, the FERC rejected the protests filed by Market Participants raising concerns that the prices would be higher in the Lower Hudson Valley if the NCZ was formed.[32] Concurring with the NYISO's findings, the FERC held:

> In order to encourage new resources to be built in the new capacity zone when they are needed, capacity prices on average over time must approximate the net cost of new entry in the new capacity zone. Otherwise, developers will be reluctant to build the new capacity that will be needed as load grows and resources retire over time. Because the net cost of new entry in the new capacity zone is higher than in the Rest of State, the new capacity zone needs its own ICAP Demand Curve, reflecting its higher net cost of new entry, in order to send the necessary price signals over the

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[30] See e.g., New York Independent System Operator, Inc., 118 FERC ¶ 61,182 (2007) at P 17.

[31] See NCZ Filing at 1.

[32] See FERC NCZ Order at PP 20-26.

> long run and provide the higher capacity revenue over the long run needed to encourage new investment.[33]

The NYISO and its stakeholders have spent the better part of the last seven years working diligently to develop the LHV Zone. It is now critical that the correct proxy unit be chosen for that zone to send accurate price signals to the market for the first time to incentivize investment in new and needed existing facilities in this region of New York State.

During the last few ICAP Working Group meetings addressing the demand curve reset process and in written comments to NYISO Staff, some Market Participants have taken the position that: (i) dual fuel capability should not be provided for the LHV proxy unit; and (ii) even if dual fuel capability is provided, the Siemens gas turbine unit with SCR configuration, a currently unproven technology, should be selected as the proxy unit.[34] As both the Consultants and NYISO Staff concluded, however, neither of these assertions has merit.

Turning to the first assertion which, at its root, attempts to trivialize the need for dual fuel capability, the gas transportation tariffs of the local distribution companies in the Lower Hudson Valley, as the Consultants reported, mandate that electric generators must have dual fuel capability. Moreover, the Lower Hudson Valley is part of the highly constrained Southeastern New York part of the system. The FERC correctly has begun to focus on electric and gas market coordination issues, and in conjunction therewith, an important consideration is ensuring that properly structured incentives are built into the market design for generators to equip their

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[33] Id. at P 26.

[34] See, e.g., "Comments of the Indicated New York Transmission Owners" (dated August 29, 2013). It bears noting that these very same parties initially opposed the need to even define criteria for creating new zones during working group discussions, next opposed the criteria that were ultimately chosen, then opposed the formation of the LHV Zone notwithstanding the fact that the NCZ test determined that the LHV Zone was needed, and lastly have sought rehearing of the LHV NCZ Order. Indeed, while the rehearing requests on the LHV NCZ Order were filed weeks ago, some of these same parties (including the NYPSC) took the highly unusual step on the eve of the due date for these comments and Senate hearings scheduled by Senator George Masiarz (addressing the NYPSC's Reliability Contingency Plan proceeding) of issuing a press release to publicize their rehearing request.

facilities with dual fuel capability.[35] This is particularly important where, as here, the LHV Demand Curve sets the market investment signal for a highly constrained part of the system, and thus, it must be structured to promote the long-term reliability of this part of the system. NERA has proposed a 25-year amortization period for the LHV proxy unit. The proposed equipment composition for the LHV proxy unit must be designed to address system needs over that time period.

Likewise, the second assertion urging the selection of the Siemens gas turbine unit with SCR configuration is equally unavailing As the Consultants emphasized during the ICAP Working Group meetings and in the Consultants Final Report, past attempts to apply an SCR to a frame unit have ended with catastrophic failure due to an inability to control gas temperature.

Moreover, while the Marsh Landing facility is now operational, there are at least two major factors that prevent relying on this fact to move away from continuing to endorse the LMS-100 technology. First, as S&L has advised based on its expertise, an inadequate amount of operational data is available to confirm that the flaws that have manifested themselves in past deployment attempts will not be repeated.[36] Second, while not revealed by the parties that have previously held this facility up as evidence that the Consultants and NYISO Staff should be overruled, the Marsh Landing facility was constructed and is being operated pursuant to a 10-

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[35] In that regard, the NYISO has convened the electric-gas coordination working group to comprehensively review these issues. At the September 30, 2013 MC meeting, the Chairman of the Budget & Priorities Working Group presented the draft 2014 budget which specified, inter alia, that "expanded electric/gas coordination" was a priority for 2014. As depicted in the presentation, this work will include a two-phase gas/electric study and will focus on "enhance[ing] NYISO operations and planning in an environment of expanded dependency on natural gas-fired generation, renewable generation and retirements of less efficient generation." (See September 30, 2013 BPWG Presentation at 4.)

[36] As established by S&L at the July 9, 2013 ICAP Working Group meeting, to gain industry acceptance, at least one year of operational data is required for analytical purposes but the Marsh Landing facility has been operational only since May, 2013.

year power purchase agreement for the full output (energy and capacity) of that facility.[37] Given that the demand curve reset process is designed to set accurate price signals for merchant facilities to proceed forward to secure their revenues from the market, the proxy unit that is chosen to set the Demand Curves must not be based on a contracted facility.

The Services Tariff expressly provides that the proxy unit must be the lowest fixed cost, highest variable cost, economically viable facility. To ensure that accurate price signals are sent in the LHV Zone, the Consultants and NYISO Staff determined that the LMS-100 with SCR must be selected as the LHV proxy unit. The NYISO and its stakeholders have worked diligently over the past seven years to define criteria, to define the associated market power mitigation rules, to test for and, now, to create and implement the new LHV Zone. It is critical that short-term pocketbook considerations not be permitted to skew the price signal that is sent for this Zone. Thus, the NYISO Board should adopt the Consultants' and NYISO Staff's recommendations and select the LMS-100 unit with SCR as the proxy unit to set the proposed LHV Demand Curves for the Capability Years 2014/2015 through 2016/2017.

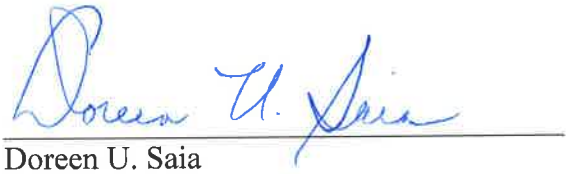
[37] Based upon the research conducted to date concerning the California proceeding involving the Marsh Landing facility, it appears that the key transaction provisions were placed under seal. From the publicly available information, it appears that the power purchase agreement is based on an underlying tolling agreement whereby NRG operates the Marsh Landing facility subject to PG&E's dispatch instructions for which it receives a regulated payment from PG&E. PG&E then recovers the costs of the Marsh Landing contract from its retail ratepayers.

CONCLUSION

The NYISO Board of Directors should adopt the Consultants' and NYISO Staff's recommendation embodied in the Consultants Final Report and Staff Recommendations to calculate the LHV Demand Curve based on the LMS-100 with SCR proxy unit.

Dated: October 2, 2013
Albany, New York

Respectfully submitted,



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