COUCH WHITE, LLP
COUNSELORS AND ATTORNEYS AT LAW

Couch White, LLP
540 Broadway
P.O. Box 22222
Albany, New York 12201-2222
(518) 426-4600

Michael B. Mager
Partner

Direct Dial: (518) 320-3409
Telecopier: (518) 320-3498
E-Mail: mmager@couchwhite.com

March 21, 2018

VIA ELECTRONIC FILING

Mr. Michael Bemis
Chair of the Board
c/o Mr. Brad Jones
President & Chief Executive Officer
New York Independent System Operator, Inc.
10 Krey Boulevard
Rensselaer, New York 12144

Re: Motion in Opposition to Appeal

Dear Chair Bemis:

On behalf of Multiple Intervenors and the City of New York ("City"), we hereby file the attached Motion in Opposition to the appeals filed by Helix Ravenswood, LLC, NRG Energy, Inc., and the Long Island Power Authority and its operating subsidiary, the Long Island Lighting Company d/b/a Power Supply Long Island, from the February 28, 2018 decision by the Management Committee to approve revisions to the New York Independent System Operator, Inc.'s Market Administration and Control Area Services Tariff to establish an alternative methodology for the calculation of locational capacity requirements.

Multiple Intervenors and the City do not seek oral argument on the aforementioned appeals. Nevertheless, if oral argument is scheduled, Multiple Intervenors and the City request an opportunity to participate therein.

Respectfully submitted,

COUCH WHITE, LLP

Michael B. Mager

Michael B. Mager

MBM/dap
Attachment
cc: Ms. Diane Egan, NYISO Corporate Secretary (w/Att.)
Ms. Leigh Bullock, NYISO Management Committee Liaison (w/Att.)
S:\DATA\Client2 9000-11399\09588\corres\2018\Bemis 03-21-18.docx

MOTION IN OPPOSITION TO APPEALS OF MULTIPLE INTERVENORS AND NEW YORK CITY

PRELIMINARY STATEMENT

Multiple Intervenors and the City of New York ("City") jointly submit this Motion in Opposition to the appeals filed by Helix Ravenswood, LLC ("Ravenswood"), NRG Energy, Inc. ("NRG"), and the Long Island Power Authority and its operating subsidiary, the Long Island Lighting Company d/b/a Power Supply Long Island (collectively, "LIPA"), from the February 28, 2018 decision by the Management Committee ("MC") to approve revisions to the Market Administration and Control Area Services Tariff of the New York Independent System Operator, Inc. ("NYISO") to establish an alternative methodology for the calculation of locational capacity requirements ("LCRs;" hereinafter, the "Alternative LCR Methodology").[1] For the reasons set forth herein, Multiple Intervenors and the City urge the NYISO Board of Directors ("Board") to deny the appeals by Ravenswood, NRG, and LIPA in their entirety.

ARGUMENT

The intent of the Alternative LCR Methodology is to serve as a "robust, transparent, and intuitive (predictive) process for developing proper capacity requirements that maintain reliability while producing a lower cost solution."[2] Specifically, the Alternative LCR Methodology determines LCRs for the Localities (*i.e.*, New York City, Long Island, and the Lower Hudson

---

[1] Multiple Intervenors is an unincorporated association of approximately 60 large industrial, commercial and institutional energy consumers with manufacturing and other facilities located throughout New York State. Multiple Intervenors, through four of its members – Alcoa, Inc., IBM Corporation, Occidental Chemical Corp. and Wegmans Food Markets – and the City each participate actively in NYISO stakeholder committees, subcommittees, working groups and task forces.

[2] NYISO Presentation, "Alternative Methods for Determining LCRs: Final Market Design," dated February 28, 2018 ("NYISO Presentation") at Slide 7; available at http://www.nyiso.com/public/webdocs/markets_operations/committees/mc/meeting_materials/2018-02-28/4_AlternativeMethodsforLCRs_FinalMarketDesign.pdf.

Valley) in a manner that minimizes the total cost of capacity to consumers, while maintaining a loss-of-load-expectation equal to or less than 0.1 days per year, complying with the applicable Installed Reserve Margin ("IRM"), and not exceeding transmission security limits.[3] As noted by NYISO staff, the Alternative LCR Methodology maintains reliability, is cost-effective, provides proper investment incentives, and is simple, stable, robust, and predictable.[4]

The Alternative LCR Methodology (Motion #2 at the February 28th MC meeting) was supported by a super-majority of stakeholders and approved by the MC with 77.55% of the vote.[5] Notably, there was at least 50% support for the Alternative LCR Methodology from each of the five sectors of stakeholders, and on a numeric basis, there were 29 votes cast in support compared to only four votes cast in opposition.[6] While not dispositive of the instant appeals, the Board should accord considerable weight to the overwhelming – and broad-based – support for the Alternative LCR Methodology by stakeholders from all sectors.

In their appeal, Ravenswood and NRG express concern about customer impacts. (Ravenswood at 1; NRG at 2) Inasmuch as Ravenswood and NRG are generation owners located in New York City with a vested financial interest in maximizing wholesale electricity prices and revenues, such concern appears misplaced, or perhaps is motivated by anticipated consumer savings in Zone J that are expected to result from application of the Alternative LCR methodology (*i.e.*, the new method is expected to result in decreased capacity revenues for Zone J suppliers). In any event, in the End-Use Consumer Sector, all 12 votes cast at the February 28th MC meeting

---

3 *Id.* at Slide 9.

4 *Id.* at Slide 22.

5 Management Committee Meeting, February 28, 2018, Final Motions at 1-2; available at http://www.nyiso.com/public/webdocs/markets_operations/committees/mc/meeting_materials/2018-02-28/MC_Final_Motions_0228.pdf.

6 *Id.* at 2.

were in favor of the Alternative LCR Methodology.[7] This voting outcome – which included the affirmative vote of the Utility Intervention Unit, the statewide consumer advocate – is a much better indicator of how customers view the likely impacts of the Alternative LCR Methodology.

In their respective appeals, Ravenswood, NRG, and LIPA all advance arguments regarding the projected or anticipated effects of implementing the Alternative LCR Methodology. (Ravenswood at 4-5; NRG at 2; LIPA at 3-7) Specifically, these parties all seem to object – either explicitly or implicitly – to the fact that, when compared to the LCR methodology employed by the NYISO today, the Alternative LCR Methodology may increase, at least initially, the LCR for Long Island and lower the LCRs for New York City and the Lower Hudson Valley. (*Id.*) Significantly, however, these arguments all suffer from the same infirmity – they are based on an assumption that existing LCRs are appropriate and do not reflect material inequities between the Localities.

Because the NYISO's existing LCR methodology was developed prior to the implementation of the Lower Hudson Valley capacity zone, it calculates the LCR for the Lower Hudson Valley by relying in large part on the LCRs for New York City and Long Island. In other words, the NYISO implemented a new capacity zone in the Lower Hudson Valley and, rather than adjusting or attempting to optimize its existing methodology, it simply appended the Lower Hudson Valley LCR calculation at the end of the existing process. This approach has produced counterintuitive outcomes for a number of years (which even LIPA apparently recognizes; *see* LIPA at 9). Multiple Intervenors and the City applaud NYISO staff's efforts to address this problem and develop the Alternative LCR Methodology in such a manner as to optimize the LCRs

[7] Management Committee Meeting, February 28, 2018, Final Motions at 2.

on a statewide basis, thereby lowering overall costs for consumers and doing so without impairing reliability.

Thus, when Ravenswood, NRG, and LIPA complain about raise concern over the potential impacts of implementing the Alternative LCR Methodology, such appeals lack merit because they are based on comparisons against a flawed baseline. For instance, when LIPA contends that optimizing LCRs somehow creates a subsidy flowing from Long Island (*see, e.g.*, LIPA at 7), such contention assumes – without just cause in this case – that the status quo against which the Alternative LCR Methodology is being compared should be considered appropriate and equitable, or that LIPA and other parties have some reasonable expectation that the status quo would and should be maintained. Given the well-documented concerns regarding the NYISO's existing methodology for calculating LCRs, however, that assumption is not justified. Indeed, Multiple Intervenors and New York City contend that comparisons between the status quo and the Alternative LCR Methodology likely reveal existing subsidies flowing from customers in the New York City and/or the Lower Hudson Valley capacity zones to customers on Long Island. Moreover, the appellants' requested relief – precluding or delaying implementation of the Alternative LCR Methodology – not only would prevent the realization of statewide consumer savings, but also would perpetuate existing subsidies that warrant correction.

Furthermore, LIPA's appeal focuses solely on alleged impacts to Long Island, and thereby ignores potential impacts on consumers in other regions, as well as changes to the State's electric grid that occur from year to year. While certain regions undoubtedly benefit from LIPA being interconnected with the rest of the State, it is equally true that LIPA, and its customers, derive substantial benefits from the same interconnections. There is no real dispute that the Alternative LCR Methodology will result in statewide consumer cost savings. While LIPA may argue that

such savings could come at the expense of its customers, this effort was intended to address statewide concerns, and it must be considered on that basis. To be clear, regional impacts are important considerations, but they should not be determinative considerations for measures intended to address statewide problems. In this case, Multiple Intervenors and the City would have preferred that all customers realize lower costs, but that result was not possible. Importantly, most customers statewide should experience savings, and that fact should outweigh some limited regional impacts. Equally as importantly, the results for Zone K are within historical bounds, meaning that the new methodology will not result in material changes to Long Island capacity costs.

In their appeals, Ravenswood and NRG question the MC's decision to modify the NYISO's existing methodology for calculating LCRs without also "optimizing" or modifying IRM determinations. (Ravenswood at 4; NRG at 4) Importantly, however, and as at least Ravenswood recognizes, while the NYISO is responsible for determining LCRs, the IRM is established each year by the New York State Reliability Council ("NYSRC"). The NYISO lacks any authority to modify an IRM methodology for which it is not responsible. Consequently, to argue that the Alternative LCR Methodology cannot or should not be adopted unless certain changes first are made to the NYSRC's IRM methodology is to establish an artificial barrier to implementing the Alternative LCR Methodology.[8]

Inasmuch as the NYSRC – and not the NYISO – is the entity responsible for establishing the IRM, it was perfectly appropriate that NYISO staff would model the Alternative LCR Methodology using the NYSRC-established IRM. To do otherwise would require NYISO staff –

[8] As a practical matter, Multiple Intervenors and the City recognize that the successful implementation of the Alternative LCR Methodology may spur future changes to the NYSRC's IRM methodology, but that is not a matter for this appeal.

and stakeholders – to engage in rank speculation as to how a separate, independent entity (*i.e.*, the NYSRC) might establish IRMs in the future. Importantly, NYISO staff made numerous presentations to the NYSRC concerning the Alternative LCR Methodology throughout 2017[9] and the NYSRC has not advocated any positions – let alone opposition – with respect thereto.

All appellants seek to prevent the Alternative LCR Methodology from being implemented by compiling and advancing a list of additional analyses that NYISO staff allegedly should perform.[10] The undertaking of even a small portion of these requests would delay implementation of the Alternative LCR Methodology – a clear improvement to the status quo – and also unnecessarily divert limited NYISO staff resources. There is no proffer or evidence that any of these additional analyses are necessary or will lead to a different overall result, and many are irrelevant to the development of LCRs..

Significantly, the Board also should be aware that NYISO staff and its outside consultant already have conducted a multitude of analyses, and sensitivities, with respect to the Alternative LCR Methodology. The proposal approved overwhelmingly by the MC was not rushed through

---

9 *See* NYISO Presentation at Slide 11.

10 For instance, Ravenswood desires analyses of, *inter alia*, how LCRs may be impacted by (i) significant (but unspecified) future changes in transmission capability and/or IRMs, (ii) increases in the Dunwoodie South transmission limit, (iii) changes to wholesale markets due to a dramatic increase in renewable generation, and (iv) the (potential) development of new products and/or forward market designs. (Ravenswood at 4-5) NRG desires analyses of, *inter alia*, how LCRs may be impacted by (i) existing and/or developing emissions restrictions in New York City, (ii) the Clean Energy Standard, (iii) the State's off-shore wind initiative, and (iv) multiple combinations of individual scenarios examined previously by NYISO staff. (NRG at 2-5) LIPA desires analyses of, *inter alia*, how LCRs may be impacted by (i) the retirement of Indian Point, (ii) completion of the Alternating Current and/or Western New York transmission upgrades, (iii) the potential significant expansion of onshore and offshore renewable generation, and (iv) the potential future elimination of the Lower Hudson Valley capacity zone. (LIPA at 8)

by NYISO staff while ignoring legitimate avenues of inquiry, but rather thoughtfully and deliberately developed over the course of three years.

Indeed, as early as March 5, 2015, NYISO staff convened an LCR Task Force to address concerns relating to the existing LCR methodology and the counterintuitive results being produced thereby, particularly in the Lower Hudson Valley capacity zone.[11] Since the beginning of 2017 alone, NYISO staff has made 13 presentations on this topic.[12] Multiple Intervenors and the City encourage the Board to consider the substantial amount of effort that has been invested in the Alternative LCR Methodology – in terms of quantity, scope and quality – before considering delaying its implementation to accommodate even more analyses that are unlikely to confer incremental benefits above and beyond what has been proposed to date. As demonstrated by the MC's decision, an overwhelming majority of stakeholders agreed with NYISO staff that no further analyses are required.

Ravenswood alleges that the Alternative LCR Methodology somehow will harm reliability. (Ravenswood at 2) There is no justification for such allegation, nor are any facts advanced supporting it. The primary goal of the Alternative LCR Methodology is to optimize LCRs, thereby producing consumer savings, without harming reliability. The methodology requires, without

---

[11] *See*, *e.g.*, NYISO Presentation, LCR Process Review, LCR Task Force (dated March 5, 2015), available at http://www.nyiso.com/public/webdocs/markets_operations/committees/bic_icapwg_lcrtf/meeting_materials/2015-03-05/02_LCR%20Alternative%20for%20Kick-off%20meeting.pdf.

[12] *See* NYISO Presentation at Slide 4. The presentations made just in the past year or so addressed the following topics: (a) Recap of 2016 Effort, 2017 Plan, and Current Status; (b) 2017 Commitment and Base Case; (c) Proof of Concept and Refining Methodology; (d) Sensitivities and Cost Curves; (e) Sensitivity Results and Refining Methodology; (f) Refining Methodology; (g) Refining Methodology and Transmission Security; (h) Transmission Security, Results and Timeline; (i) Transmission Security and Results; (j) Final Market Design; (k) Uncollared Net CONE Recommendation; (l) 2018 Results for Collared and Uncollared Net CONE; and (m) 2017 & 2018 Base Case Discussion. *Id.*

exception, that the applicable reliability criterion be maintained at all times.[13] In fact, during the stakeholder process and in response to certain preliminary concerns raised therein, an earlier version of the Alternative LCR Methodology was modified to add a transmission security test to further ensure that reliability would be fully maintained.

Ravenswood also argues that if the Board declines to reject the MC-approved Alternative LCR Methodology, changes to New York City and Long Island LCRs "should be limited with a transition mechanism to prevent rate shock." (Ravenswood at 2)[14] Ravenswood's argument should be rejected for at least two reasons. First, as addressed above, Ravenswood seems to be defining or measuring "rate shock" as the difference between (i) LCRs calculated under the Alternative LCR Methodology and (ii) LCRs calculated under the NYISO's existing methodology. Such comparison is inapposite because consumers – and generation owners like Ravenswood – have no reasonable expectation that a flawed methodology, which has produced counterintuitive results for years, would or should be continued indefinitely, or at all, thereby perpetuating existing inequities. Ravenswood also fails to advance any definition of how much of a change in LCRs would produce "rate shock," nor does it rebut – or even address – NYISO staff's analyses indicating that the Alternative LCR Methodology should produce more stable (*i.e.*, less volatile) LCRs than the existing methodology.

Second, while Multiple Intervenors and the City do believe that transition mechanisms or phase-ins may be appropriate in certain circumstances, particularly those involving major market design modifications, it is noteworthy that the last two phase-ins proposed – involving

---

[13] *Id.* at Slide 9.

[14] Ravenswood's motivation for advancing such a transition mechanism may be more about limiting revenue impacts to New York City generators than any concern about price impacts to Long Island consumers.

implementation of the Lower Hudson Valley capacity zone and constrained locality capacity exports – ultimately were rejected by the Federal Energy Regulatory Commission ("FERC") and never implemented.[15] While such rejections should not preclude legitimate, well-justified transition mechanisms or phase-ins in the future – after all, FERC did approve a phase-in for the initial implementation of the installed capacity demand curves[16] – Ravenswood has failed to justify why such an approach would be necessary or appropriate here.

Finally, in its appeal, LIPA argues in the alternative for some form of cost allocation methodology. (LIPA at 10) Such argument should be rejected. There is no evidence that some reallocation of benefits is necessary or appropriate here. Again, this request assumes that if a capacity zone's LCR were to rise as a result of implementing the Alternative LCR Methodology, such rise should be considered a "cost" warranting sharing by other zones. Such assumption is not valid here because there is no "entitlement" to the LCRs that would have been calculated under the existing methodology, which is flawed (hence the NYISO's three-year-plus efforts to develop an improved approach). There is no justification to adopt some cost allocation methodology that would ameliorate cost impacts solely to one region in this case when similar relief has never been accorded to other regions in other matters (particularly the cost impacts borne by customers in the Lower Hudson Valley when a new capacity zone was created).

Moreover, a cost allocation methodology – in addition to being unnecessary and unjustified in this instance – is impractical. LCRs are modified annually, and sometimes by meaningful amounts, due to changes to the State's electric system. Thus, LCRs for all zones are likely to

---

[15] It also is noteworthy that in both instances such phase-ins were universally opposed by the Generation Owners sector, including Ravenswood.

[16] *See New York Independent System Operator, Inc.*, 103 FERC ¶ 61,201 (2003) at ¶¶ 6, 44 (describing a phase-in of the implementation of installed capacity demand curves).

increase in some years and decrease in other years. There is no clear "standard" against which LCRs should be evaluated for cost allocation purposes, nor should NYISO staff be required to conduct various hypothetical calculations to undo or mitigate the consequences of a well-justified and overdue market design improvement. Importantly, the Alternative LCR Methodology is intended to optimize LCRs in a manner that minimizes costs to consumers on a statewide basis. All consumers – including those located on Long Island – benefit tremendously from New York State's interconnected electric grid. LIPA's arguments for the development of some form of cost allocation methodology should therefore be rejected.

CONCLUSION

For the reasons set forth herein, Multiple Intervenors and the City urge the Board to deny the appeals of Ravenswood, NRG and LIPA in their entirety. The Board should not overturn the MC's decision to approve the Alternative LCR Methodology overwhelmingly, with considerable stakeholder support from all five sectors.

Dated: March 21, 2018
Albany, New York

Respectfully submitted,

Michael B. Mager
Michael B. Mager, Esq.
COUCH WHITE, LLP
Counsel for Multiple Intervenors
540 Broadway, P.O. Box 22222
Albany, New York 12201-2222
Tel. 518-426-4600

Kevin M. Lang
Kevin M. Lang, Esq.
COUCH WHITE, LLP
Counsel for the City of New York
540 Broadway, P.O. Box 22222
Albany, New York 12201-2222
Tel. 518-426-4600

Susanne DesRoches
Deputy Director, Energy + Infrastructure
NYC Mayor's Office of Recovery and Resiliency
253 Broadway, 14th Floor
New York, New York 10007
Tel. 212-788-7554