NOTICE OF APPEAL OF KEYSPAN-RAVENSWOOD, LLC TO THE MANAGEMENT COMMITTEE FROM THE BUSINESS ISSUES COMMITTEE'S DECISION AT ITS AUGUST 9, 2006 MEETING

I. SUMMARY STATEMENT

KeySpan-Ravenswood, LLC ("Ravenswood") appeals the decision of the Business Issues Committee ("BIC") on August 9, 2006 in connection with Motion #2.a-Motion to table motion# 2. The BIC did not adequately consider all the facts and issues associated with changes to the NYISO In-City capacity market when it denied motion #2.a and moved forward with consideration of In-City capacity market revisions. Ravenswood requests the Management Committee ("MC") overturn the BIC denial of Motion # 2.a and remand any purported issues related to the In-City capacity market to the ICAP working group for detailed analysis and evaluation, similar to the process used to develop and revise the demand curves.

II. ARGUMENT – THE IN-CITY CAPACITY MITIGATION MEASURES PROPOSED IN MOTION #2 ARE BASED ON INCOMPLETE FACTS, WERE HASTILY PREPARED, ARE RESULT-ORIENTED, FAIL TO ADDRESS THE ACTUAL CAPACITY MARKET ISSUES, WERE NOT SUBJECTED TO ADEQUATE ANALYSIS, ARE NOT COMPREHENSIVE, AND WILL UNNECESSARILY DISRUPT THE MARKET AND CREATE UNCERTAINTY.

. INCOMPLETE FACTS

Market Participants have rushed to judge market results without the benefit of all the facts or the recognition that the actual market results are less than the actual cost of entry. Prices well below the cost of entry are being called for during a period of time when the retirement of existing capacity is being delayed to ensure reliability and new capacity needs to be developed. Somehow these existing resources and new resources are expected to respond to these below cost market signals with the provision of necessary reliability services. Prices below cost send a market signal that existing and new resources have limited value and should be retired or not developed.

Market participants claim that over 1000 MW of additional capacity entered the market this summer, and that this additional capacity should have caused prices to drop significantly. Ravenswood does not agree that additional capacity should automatically cause market prices to drop. Nevertheless, public information obtained by Ravenswood casts doubt on the actual amount of capacity that was available in New York City during May and June 2006.

On May 11, 2006, in Docket Nos. ER99-2251-005, *et al.*, Consolidated Edison Company of New York, Inc. told the Federal Energy Regulatory Commission ("FERC") that "[t] he Astoria Energy facility, which has not yet generated the 500 MW specified in the Agreement [Power Sale Agreement], commenced making partial deliveries to Con Edison under the Agreement on May 1, 2006. Con Edison understands that Dependable Maximum Net Capability Testing of this new generating facility is scheduled for June 2006."

Accordingly, it appears there was 500 MW less capacity available in NYC during May and June 2006 than what was included in the NYPSC analysis and market participant assumptions. This discrepancy needs to be investigated further before implementing market design changes based on an assumption that additional capacity existed in the market.

In addition, market participants are assuming special case resources, emergency demand response resources, and other existing capacity suppliers do not require capacity payments at or above current clearing prices in order to provide the reliability service associated with capacity commitments. With respect to the current In-City capacity mitigation, market participants ignored the fact that the In-City capacity market was in fact mitigated on the supply side. Each of the divested generating units must be offered for sale through the NYISO auctions. Therefore, capacity cannot be physically withheld. Moreover, bilateral transactions are prohibited. In addition, capacity from divested units is subject to a cost-based price and bid cap.

However, the cost-based price and bid cap was calculated using cost data that is over 10 years old and was set less than Con Edison's cost of capacity.

Finally, market participants ignore the fact that the market power of purchasers is not similarly mitigated. There are no rules in the NYISO wholesale tariff that address the potential of Con Edison, a large transmission owner with a large native load and large retail access load serving entity ("LSE") affiliate, from exercising market power to drive clearing prices down to uncompetitive levels via uneconomic out of market contracts. Competitive markets would not result in substantial amounts of additional capacity being constructed and contracted for at costs in excess of the current market price signal unless market power is exercised.

Accordingly, claims that In-City capacity is not mitigated, or not adequately mitigated, ignore the facts. Proposals to revise the rules should therefore be remanded to the ICAP Working Group where they can be properly addressed after further reasoned consideration.

. HASTILY PREPARED

The proposal presented at the August 9, 2006 BIC meeting was hastily prepared after only two meetings of the ICAP Working Group. Moreover, input from the NYISO was not yet received, and it is not known how the proposal will impact the market as a whole when all other aspects of mitigation, including energy and ancillary service markets, are considered. This stands in stark contrast to other market design and rule changes such as the demand curve and the existing market mitigation plan.

Accordingly, Motion #2 should have been tabled and the MC should overturn the BIC and remand the issue to the ICAP Working Group for further consideration.

. RESULT-ORIENTED

The joint proposal presented by Con Ed and the NYPSC is result-oriented. It is intended to reduce market prices regardless of whether their "more competitive market design" proposal in fact results in "competitive" market prices and payments in excess of those currently being signaled by the market. The proposal is to develop reference prices for divested and other capacity in a manner that ensures market prices are less than or equal to the existing bid and price cap applicable to the divested units. It is unclear why, if the proposed revisions will create a "more competitive market," the more competitive result would only be acceptable if it results in prices and payments less than the current price and bid cap. The proposal is simply a price reduction measure disguised as an additional mitigation measure and therefore it should have been tabled at the BIC because market rule changes should not be used to hedge the positions of parties unwilling to enter into appropriate financial or contractual agreements.

A. ACTUAL CAPACITY MARKET ISSUES

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It is troubling that several areas where market participants and the NYPSC agree market design changes are required are being ignored. These important issues are being put off to be dealt with at an unspecified future date in an unspecified manner. For example, the slope of the In-City demand curve is steep, but the proposal does nothing to adjust it. Bilateral contracting continues to be prohibited even though the NYISO proposed removing that restriction when the demand curve was implemented. The NYPSC even alludes at NYISO meetings to being open to removing the bilateral restriction, but it is unwilling to make a commitment. In addition, considering the demand curve effectively places a price cap on the market, it is questionable why additional discriminatory price caps need to be retained in contravention of the economic principle of using a single price to settle the market. The existing price and bid caps are unnecessary if lower bid caps are going to be imposed and the demand curve price cap is in place. Moreover, although the benefits of long-term capacity markets are being implemented in adjoining ISOs, and New York market participants appear to be interested in doing the same in New York, the proposal merely states it will consider these changes at some unspecified date in the future.

The fact that all of these important issues are not being addressed, in favor of a single purported issue, prevents a comprehensive analysis with respect to how to revise the markets. If market revisions are required, they should be implemented as a package and part of a comprehensive stakeholder process, not haphazardly. Incremental changes that focus on achieving short-term price reductions, instead of maintaining reliability, should not go forward and the motion to table should have been approved because important issues are being ignored.

E. INADEQUATE ANALYSIS

Considering all the issues that exist in the market, a single revision with the intent of reducing prices is ill-advised. There has been no showing that the existing supply side mitigation is unreasonable. Moreover, there has been no showing that the proposed supply side mitigation is reasonable and will result in existing and new resources being able to continue providing reliability services. The proposal results in marginal resources receiving, at most, their short-run avoidable costs in some years and even less in others. This is an immediate signal to retire these marginal units because in the long run something much less than actual costs will be available from the market. Even disfavored reliability must run agreements will likely not remedy this issue and reliability will be jeopardized.[1] Accordingly, the motion to table should have been approved because reliability is at risk without further study.

[1] It should be noted that reliability must run agreements are not even part of the proposal, and FERC has determined suppliers may retire units even if offered reliability must run agreements by ISOs.

III. CONCLUSION

Ravenswood respectfully requests the Management Committee reverse the decision made by the Business Issues Committee to deny Motion 2.a-Motion to table motion # 2. The Management Committee should direct the ICAP Working Group to convene additional meetings and conduct further analysis of the purported issues in the NYISO Capacity Market, and then present a comprehensive market design proposal that ensures appropriate market signals and reliability is maintained.

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Respectfully submitted,

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