

READ AND LANIADO, LLP

ATTORNEYS AT LAW
25 EAGLE STREET
ALBANY, NEW YORK 12207-1901

(518) 465-9313 MAIN
(518) 465-9315 FAX
www.readlaniado.com

KEVIN R. BROCKS
JEFFREY B. DUROCHER
CRAIG M. INDYKE
DAVID B. JOHNSON
SAM M. LANIADO

STEVEN D. WILSON

HOWARD J. READ
RICHARD C. KING
Of Counsel

Via Electronic Mail and Hand Delivery

August 31, 2006

Mr. Ray Stalter
Secretary of the Management Committee
New York Independent System Operator, Inc.
10 Krey Blvd.
Rennselaer, NY 12144

Re: Motion of Independent Power Producers of New York, Inc. in support of Notice of Appeal of KeySpan-Ravenswood, LLC

Dear Mr. Stalter:

Attached is the Motion of Independent Power Producers of New York, Inc. in support of KeySpan-Ravenswood, LLC's appeal to the Management Committee of the Business Issues Committee's August 9, 2006 rejection of Motion #2.b to table consideration of proposed in-City installed capacity market monitoring and mitigation measures.

I have e-mailed a copy of the Motion to Debbie Eckels, of the NYISO's staff, who has agreed to serve it on each member of the Management Committee today.

Very truly yours,

/s/David B. Johnson
David B. Johnson

cc: Debbie Eckels, via e-mail

MOTION OF INDEPENDENT POWER PRODUCERS OF NEW YORK, INC.,
IN SUPPORT OF NOTICE OF APPEAL OF KEYSpan-RAVENSWOOD, LLC TO THE
MANAGEMENT COMMITTEE FROM THE BUSINESS ISSUES COMMITTEE'S
DECISION AT ITS AUGUST 9, 2006 MEETING

SUMMARY

Pursuant to Section 15.03 of the Bylaws of the New York Independent System Operator (“NYISO”) Management Committee (“MC”), Independent Power Producers of New York, Inc. (“IPPNY”),¹ acting on behalf of its members on the MC, hereby files this Motion in support of the Notice of Appeal (“Appeal”) filed on August 23, 2006 by KeySpan-Ravenswood, LLC (“Ravenswood”). Ravenswood appeals the August 9, 2006 decision of the Business Issues Committee (“BIC”) denying Motion #2.b, which sought to table Motion #2. Motion #2, which passed by 60.31% affirmative votes, recommends that the MC adopt, at its August 30, 2006 meeting, proposed in-City installed capacity (“ICAP”) market monitoring and mitigation measures (“Mitigation Measures Proposal”). The Mitigation Measures Proposal was produced to Market Participants for the first time only the week before at the ICAP Working Group meeting. A significant number of issues were raised at that time – issues that were not addressed, much less resolved, either prior to, or at, the BIC meeting. The Mitigation Measures Proposal is flawed and its consideration by the MC is premature. Therefore, the MC should reverse the BIC’s decision to deny the motion to table Motion #2 and remand any issues concerning the Mitigation Measures Proposal to the BIC’s ICAP Working Group for analysis and thereafter further discussion and development.

¹ IPPNY is a not-for-profit trade association representing more than 100 companies involved in the development, operation, marketing and sale of electric power in New York.

ARGUMENT

The Mitigation Measures Proposal seeks to develop reference prices for divested generation and other capacity in a manner that appears to be designed to ensure that market prices will be less than or equal to the existing bid cap applicable to divested generation. At its heart, the Mitigation Measures Proposal is nothing more than a reckless attempt to address a mistaken belief that prices set in the recent in-City ICAP auctions are too high. In the short time since the New York State Department of Public Service Staff (“DPS”) first expressed its concern with the recent in-City ICAP auction results, a number of market participants have exhibited a rush to judgment that the fact that in-City ICAP clearing prices did not drop given recent capacity additions constitutes proof that a market flaw exists requiring immediate market rule changes. None of these market participants have addressed the compelling explanation set forth in the NYISO’s June 7, 2006 letter to the Federal Energy Regulatory Commission (“FERC”) demonstrating that the market results and bidding behavior, of which these market participants now complain, were explicitly recognized and expected by FERC, the New York Public Service Commission (“PSC”) and Consolidated Edison Company of New York, Inc. (“Con Edison”) when the PSC authorized Con Edison to divest its generation assets in three relatively large bundles.

To address market power concerns, the PSC required, and FERC approved, a pre-defined set of mitigation provisions, including the \$105/kW/year bid and price cap applicable to divested generation owners (“DGOs”). Based on the cost-of-entry studies performed in support of the development of the ICAP Demand Curve, it is clear that the bid cap approved more than eight years ago is grossly understated and results in prices that are well below the cost of new entry.

Nor has there been any analysis demonstrating that the proposed thresholds and structure for reference prices are appropriate. For example, when asked how the three percent threshold was derived, Con Edison acknowledged that the threshold was its estimate and was only meant to take into account inflation. There was a similar lack of any evidentiary support provided by Con Edison at the BIC meeting or any other time for the other major aspects of the proposal. The reason is simple. None has been developed.

Lastly, there has been no analysis or discussion concerning what impacts changes in the capacity market would have on other aspects of the NYISO's market, including its TCC markets, its energy markets and its ancillary services markets. The failure to do so contrasts starkly against the support provided for the ICAP demand curve proposal which, among other things, included a dollar impact on the energy markets.

At a time when new capacity is needed, market prices must support new entry. They should not send the signal that existing and new resources have limited value and should be retired or not developed. In their zeal and haste to reduce costs, market participants representing load interests ignore this basic fact notwithstanding the findings in the NYISO's Comprehensive Reliability Plan just overwhelmingly approved by both the NYISO Board and the MC. If allowed to go into effect, the hastily designed and poorly considered Mitigation Measures Proposal would be the death knell of the efficacy of the NYISO's ICAP markets. It would be devastating to the ability of New York to attract new investment and retain existing needed facilities and would jeopardize reliability.

It is noteworthy that the ICAP demand curve was not approved by the Management Committee until after more than six months of extensive debate and deliberation in the NYISO committee process. This demonstrates the complexity of the ICAP market and the need to

carefully craft any significant changes to it. In contrast to the development process for the ICAP demand curve, the Mitigation Measures Proposal was hurriedly prepared after only one meeting of the ICAP Working Group. Parties have not had adequate time nor been given adequate information to perform a comprehensive analysis of the many complicated issues that need to be addressed before such significant changes to the ICAP markets can be seriously considered. Neither NYISO Staff nor Dr. David Patton has had adequate time to provide their analysis. Further, no record has been developed to demonstrate that the existing mitigation is unreasonable or that the Mitigation Measures Proposal will allow existing and new units to continue providing reliability services. In addition, issues such as the slope of the in-City demand curve, bilateral contracting for DGOs, the potential for large, regulated load serving entities to exercise market power through out-of-market capacity contracts, the interaction between capacity and energy market mitigation measures and thresholds, and long-term capacity markets all are key considerations that also should be addressed but were ignored.

CONCLUSION

In light of the foregoing, IPPNY respectfully requests that the MC reverse the BIC's decision to deny the motion to table Motion #2 and remand any issues concerning the Mitigation Measures Proposal to the BIC's ICAP Working Group for analysis and further discussion and development.

Respectfully submitted,

READ AND LANIADO, LLP
25 Eagle Street
Albany, New York 12207
(518) 465-9313 (phone)
(518) 465-9315 (fax)
Attorneys for Independent Power
Producers of New York, Inc.

By: /s/David B. Johnson
David B. Johnson

Dated: August 31, 2006
Albany, New York