

Proposed ICAP Buyer Side Mitigation Competitive Entry Exemption

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Joint ICAP WG- MIWG Meeting

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NYISO, KCC

Rensselaer, NY



Agenda

- ◆ **Purpose and Nature of Exemption**
- ◆ **Proposed Process**
- ◆ **Criteria for the Exemption**
- ◆ **Required Certifications**
- ◆ **In the Event a Certification Could Not Be Refreshed**
- ◆ **Next Steps**

Purpose and Nature of the Exemption

- ◆ By necessity tariff buyer side mitigation (“BSM”) measures are formulaic and not dynamic.
 - *For example, the tests do not reflect potential future retirements when estimating the level at which the Demand Curve will clear.*
- ◆ Competitive entrants may legitimately have a different view of the market than specified by the tariff formula.
- ◆ **The competitive market exemption would exempt from buyer side mitigation competitive entry that is not receiving support outside of competitive markets, thus allowing such entrants to enter at their own risk and based on their own business outlook.**
- ◆ Both the MMU and FTI have expressed the view that NYISO should provide for this type of exemption.

Proposed Process

- ◆ **Prior to commencement of the Class Year, developers could request a Competitive Entry Mitigation Exemption.**
 - *The deadline for the request would be set by the NYISO and published in the ICAP event calendar.*
 - *A transition mechanism for developers that are in the Class Years that have already commenced is being considered.*
- ◆ **Applicants who meet the criteria would be granted an exemption.**
 - *NYISO would review and approve exemption applications after review and comment by the MMU.*

Proposed Process (2)

- ◆ **Exemption determinations would be based on certifications by applicants.**
 - *Certifications would be of an ongoing nature requiring applicants to notify NYISO if the certification was no longer true up to when the unit first produces energy.*
- ◆ **If a unit fails to provide a certification after being granted an exemption, the unit would be mitigated at Default Net Cone for its Class Year and would lose the alternative of using a lower Unit Net Cone.**

Criteria for the Exemption

◆ Proposed Criteria:

- *The exemption would be granted if the project has no contracts (direct or indirect) with any NY distribution company, Municipal Utility, or any governmental entity including but not limited to Public Authorities. This includes:*
 - **No contracts to construct and/or operate the generation facility for which the exemption is sought , and**
 - **No contracts for the physical or financial provision of, or related to, electric energy and capacity.**
- *A NY distribution company, Municipal Utility, or any governmental entity including but not limited to Public Authorities cannot get the exemption if they build a unit themselves.*

Criteria for the Exemption (2)

- ◆ **Developers will be able to obtain long term contracts as long as they are not with a NY distribution company, Municipal Utility, or any governmental entity including but not limited to Public Authorities.**

Required Certifications

- ◆ **Company Officers would provide certifications.**
- ◆ **There would be an initial certification at the time of application.**
- ◆ **Recertification would be required:**
 - *Upon acceptance of SDU costs and/or SUF project cost allocations.*
 - *At the date when the security posts for SDU and SUFs.*
 - *Upon first selling energy.*
- ◆ **In addition to the certifications, the applicant would be required to make available to the NYISO:**
 - *All contracts for the physical or financial supply of, or related to, electricity or capacity from the facility held by any owner of the facility or any affiliate thereof.*
 - *All contracts for any physical or financial supply of, or related to, electricity or capacity held by any owner of the facility or any affiliate thereof.*

Required Certifications (2)

- ◆ **False certification or an attempt to circumvent the rules would be a violation of the Tariff and would be referred to FERC Office of Enforcement. The NYISO is also considering assessing a penalty.**

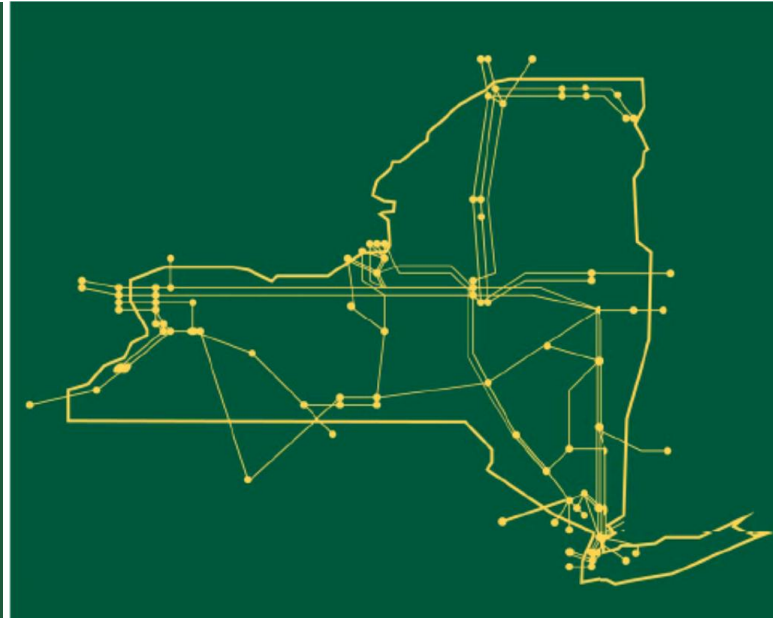
In the Event a Certification Could Not Be Refreshed

- ◆ Failure to certify or recertify to the satisfaction of the NYISO, in consultation with the MMU, (i) upon acceptance of SDU costs and/or SUF project cost allocations, (ii) at the date when the security posts for SDU and SUFs and/or (iii) upon first selling energy, would remove the exemption.
- ◆ The facility would be mitigated at Default Net CONE and would lose the alternative of using a lower unit specific Offer Floor.
 - *This is required because conducting a unit specific analysis would, if it occurred during the Class Year process, delay the closing the Class Year process or, if the failure to refresh the certification occurred after the Class Year Process, the Offer Floor could not be performed.*

Next Steps

- ◆ **The NYISO will consider any comments made at this meeting as well as any written comments received by January 3rd.**
- ◆ **Next presentation is expected to be at the January 14 ICAP WG.**

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