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Via Electronic Delivery

January 18, 2019

Hon. Kathleen H. Burgess
Secretary
New York State Public Service Commission
Three Empire State Plaza
Albany, New York 12223-1350

Re: Case 18-E-0623 - In the Matter of New York Independent System Operator,
Inc.'s Proposed Public Policy Transmission Needs for Consideration for 2018.

Dear Secretary Burgess:

On October 10, 2018, the New York Independent System Operator, Inc. ("NYISO") filed with the New York Public Service Commission ("Commission"), in the above-referenced case, proposed transmission needs driven by Public Policy Requirements for consideration by the Commission as a part of the NYISO's 2018-2019 transmission planning cycle ("NYISO Filing"). The Commission published a notice of proposed rulemaking in the November 21, 2018 State Register ("Notice") soliciting comments on whether the proposed transmission needs "should be identified as Public Policy Transmission Needs/Public Policy Requirements that may drive the need for transmission and should be referred to the NYISO to solicit and evaluate potential solutions."

Pursuant to the Notice, Independent Power Producers of New York, Inc. ("IPPNY") hereby comments on the proposal submitted by H.Q. Energy Services (U.S.), Inc. ("HQUS"), which recommends that the Commission identify an RFP process for transmission to deliver "large volumes of clean and renewable energy supply" to New York as a transmission need driven by public policy requirements pursuant to Section 31.4 of the NYISO's Open Access Transmission Tariff. HQUS requests that the Commission consider expanding HQUS' proposed RFP process for transmission "to include the purchase of a large quantity of energy on a long-term basis." HQUS recommends that its proposed RFP be coupled with changes to the resource eligibility requirements under the Clean Energy Standard ("CES") "to ensure that all clean energy purchased under such an RFP would be credited towards CES compliance requirements." HQUS does not define "clean energy" but presumably it includes the

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large scale storage impoundment hydroelectric plants its parent company, Hydro Quebec, owns in Quebec.

The Commission should reject HQUS' proposed RFP for the purchase of energy and changes to the Commission's CES resource eligibility requirements. The purpose of the NYISO's Public Policy Transmission Planning Process ("PPTPP") is to consider public policy-driven transmission needs. The Commission's role in this process is to identify public policies that may drive the need for transmission and to refer any such identified needs to the NYISO. The NYISO's role is to conduct a process to solicit, evaluate and select the most efficient or cost-effective transmission project to meet the identified needs. HQUS' proposal that an RFP be issued, presumably by the NYISO, to purchase energy on a long-term basis is far outside of the scope of the NYISO's PPTPP and the Commission's implementation of that process, and, therefore, must be rejected. The NYISO has no authority under its PPTPP, or any other provision in its tariffs, to enter into long-term energy contracts with suppliers.

HQUS' proposal to expand the CES resource eligibility requirements to include all clean energy purchased under its proposed RFP is also far outside the scope of the Commission's implementation of the PPTPP. If HQUS wants the Commission to change the resource eligibility requirements, it can file a petition for reconsideration of the Commission's CES Order in the CES case so that all interested parties will receive timely notice of the request.¹

Even if the Commission decides to consider HQUS' proposals on the merits, it should still reject them. As IPPNY has repeatedly argued, large-scale hydroelectric facilities should remain ineligible for Tier 1 participation.² Likewise, the Commission, in its December 15, 2016 order on rehearing, reaffirmed its decision to limit the eligibility for Tier 1 of the CES to low-impact run-of river hydroelectric facilities with no new storage impoundments and the incremental production associated with hydroelectric upgrades with no new storage impoundments, thereby upholding its prohibition on existing and new large-scale hydroelectric resources that rely on storage impoundment as Tier 1 resources.³ Specifically, the Commission responded to an argument made by HQUS in the CES proceeding that, because impounded hydroelectric facilities are included in the CES baseline, it is irrational to not allow new impoundments. The Commission found that the argument "ignores the fact that environmental impacts related to existing facilities have already occurred and it is the additional environmental impacts from new impoundments that the Commission has no interest in funding or otherwise promoting

¹ Case 15-E-0302, *Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and a Clean Energy Standard*, Order Adopting a Clean Energy Standard (August 1, 2016).

² Case 15-E-0302, *Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and a Clean Energy Standard*, Comments of Independent Power Producers of New York, Inc. (April 22, 2016).

³ Case 15-E-0302, *Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and a Clean Energy Standard*, Order on Petitions for Rehearing (December 15, 2016).

and warrant exclusion of new impoundments from the CES program.”⁴

The Commission should not reconsider its previous findings on CES eligibility as part of the PPTPP. Nor should the Commission identify a transmission need or order selection criteria that would require the NYISO’s selection of transmission projects to consider projects that allow the export of storage impoundment produced energy to New York. Requiring New York ratepayers to socialize the costs of transmission to allow Canadian government-owned resources that are ineligible to meet load serving entity obligations under the CES would significantly skew the playing field and disadvantage private, competitive, CES eligible merchant projects in New York. If the Commission identifies any transmission needs driven by the CES in this case, it should define such needs broadly to ensure that all proposed transmission projects, including ones that enhance transmission capability for renewable facilities located in New York, can fairly compete to satisfy the CES at the lowest cost to the State’s ratepayers.

Respectfully submitted,

/s/ Matthew Schwall

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⁴ *Id.* at 7-8.