NEW YORK STATE
PUBLIC SERVICE COMMISSION

Case 19-E-0530 - Proceeding on Motion of the Commission to Consider Resource Adequacy Matters.

REPLY COMMENTS OF INDEPENDENT POWER PRODUCERS OF NEW YORK, INC.

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Pursuant to the Secretary's notice extending the deadline to file reply comments in the above-captioned case, Independent Power Producers of New York, Inc. ("IPPNY") hereby offers its reply comments to certain initial comments that were made in response to the New York State Public Service Commission's ("Commission") August 8, 2019 order initiating this proceeding to consider whether there are issues inherent in the New York Independent System Operator, Inc.'s ("NYISO") installed capacity ("ICAP") market structure that could impede the achievement of the State's clean energy mandates.[1] IPPNY, along with approximately 40 other parties, including independent entities and parties from every market sector, submitted initial comments on the Instituting Order on November 8, 2019.[2]

Based on the initial comments submitted and subsequent developments, it has become more apparent that the Commission should immediately express its support for the NYISO's proposal to internalize the value of carbon dioxide ("carbon") emissions reductions in wholesale energy prices. In light of the Federal Energy Regulatory Commission's ("FERC") order issued last month directing PJM Interconnection, L.L.C. ("PJM") to significantly expand the scope of

[1] Case 19-E-0530, *Proceeding on Motion of the Commission to Consider Resource Adequacy Matters*, Order Instituting Proceeding and Soliciting Comments (Aug. 8, 2019) ("Instituting Order"). Case 19-E-0530, *supra*, Notice Extending Reply Comments Deadline (Dec. 20, 2019). All aspects of IPPNY's reply comments do not necessarily represent the position of its individual members.

[2] Case 19-E-0530, *supra*, Comments of Independent Power Producers of New York, Inc. (Nov. 8, 2019) ("IPPNY Initial Comments").

its Minimum Offer Price Rule ("MOPR"),[3] it is now more likely that the application of the NYISO's FERC-approved buyer-side market power mitigation measures ("BSM Measures") will be extended to both new and existing resources receiving out-of-market support in the entire State, such as nuclear, hydro, solar and wind. In its Initial Comments, IPPNY urged the Commission to support the NYISO's carbon pricing proposal because it is the quickest, most efficient and most cost effective way to incent the competitive development of clean energy resources to achieve the State's clean energy mandates while limiting application of mitigation under the BSM Measures.[4] As demonstrated in the initial comments submitted in this case, the carbon pricing proposal is broadly supported by a diverse set of stakeholders.[5]

Second, the NYISO and nearly all other commenters advocated that potential changes to the NYISO's resource adequacy structures to achieve the State's clean energy mandates should be addressed collaboratively through the NYISO's stakeholder process. IPPNY agrees. Both the NYISO and its Market Monitoring Unit ("MMU") have proposed market rule changes in addition to the carbon pricing proposal that, if approved by FERC, would allow some clean energy resources entering the market to receive exemptions under the NYISO's BSM Measures.[6] Other proposals were offered by the commenters in this proceeding. All proposals should be considered in the NYISO's stakeholder process, in coordination with system modeling revisions developed by the New York State Reliability Council ("NYSRC"), to ensure technical analyses

[3] *Calpine Corporation v. PJM Interconnection, L.L.C.*, 169 FERC ¶ 61,239 at P 7–9 (2019) ("December 2019 Order").

[4] IPPNY Initial Comments at 11–12.

[5] *See* Point I, *infra.*

[6] Lorenzo Seirup, *Comprehensive Mitigation Review: Revisions to Part A Exemption Test for Public Policy Resources*, NYISO Installed Capacity Working Group (Jan. 13, 2020), https://www.nyiso.com/documents/20142/10252714/CMR%20Part%20A%20Rev%2001132020.pdf/4f901c4f-58a4-35e4-ef3c-c97b03bd71b0 at 5 ("ICAPWG Mitigation Review").

can be completed and reviewed. This will allow the proposals to be fully vetted by all stakeholders in an organized, comprehensive and efficient manner together with other changes to the NYISO's energy, ancillary services and capacity markets to ensure reliability is maintained over the next 20 years as electric markets become carbon-free. As a number of parties noted in their initial comments, the Climate Leadership and Community Protection Act's ("CLCPA") mandates are aggressive and investors will require certainty to continue to invest their capital, and participate, in New York's markets. Attempts to change New York's resource adequacy structure unilaterally would likely entail significant litigation, delaying achievement of New York's clean energy mandates, and may well jeopardize electric system reliability.[7]

I. THE COMMISSION SHOULD IMMEDIATELY EXPRESS SUPPORT FOR THE NYISO'S CARBON PRICING PROPOSAL

The Commission initiated this case to address concerns that resources receiving State support may not be counted as ICAP resources because they will be subject to offer floor mitigation review under the BSM Measures, they may have an offer floor applied to them and they may not clear their ICAP in the market.[8] Parties advancing these claims assert consumers would be forced to pay twice for capacity.[9] Subsequent to parties filing initial comments in this case, FERC issued an order that is likely to have implications with respect to New York's BSM Measures. On December 19, 2019, FERC issued the December 2019 Order directing PJM to significantly expand the scope of its MOPR, the mechanism that serves the same functions generally as the NYISO's BSM Measures, to all resource types with grandfathering exemptions

[7] *See* Point II, *infra.*

[8] Instituting Order at 4.

[9] *See, e.g.*, Case 19-E-0530, *supra*, New York Power Authority Resource Adequacy Comments (Nov. 8, 2019) at 6 ("NYPA Comments").

for certain existing resources to address the price-distorting impact of resources receiving out-of-market support through state subsidies on PJM's ICAP market.[10]

FERC's December 2019 Order is the culmination of a paper hearing process that began in June 2018, when FERC ruled that PJM's tariff was unjust and unreasonable because it fails to protect the wholesale capacity market against price distortions from state-sponsored out-of-market support for the entry and retention of uneconomic resources.[11] In its June 2018 Order, FERC preliminarily found that a replacement rate should expand the MOPR to cover out-of-market support for all new and existing resources receiving such support, with few to no exemptions.[12] FERC also identified a resource-specific Fixed Resource Requirement ("FRR") Alternative option as a possible method of accommodating resources that receive out-of-market support while protecting the integrity of the PJM capacity market for competitive resources and load. Nevertheless, FERC acknowledged there were a number of open issues that would need to be resolved and invited parties to provide comments on such issues.[13] FERC initiated a paper hearing to allow parties to comment and submit additional evidence regarding a replacement rate.[14]

Notably, in its Instituting Order, the Commission solicited comments on California's resource adequacy model and the resource-specific FRR Alternative option identified by FERC

[10] December 2019 Order at P 37–42.

[11] *Calpine Corporation v. PJM Interconnection L.L.C.*, 163 FERC ¶ 61,236, at PP 150, 156 ("June 2018 Order") ("[O]ut-of-market payments by certain PJM states have reached a level sufficient to significantly impact the capacity market clearing prices and the integrity of the resulting price signals on which investors and consumers rely to guide the orderly entry and exit of capacity resources." FERC found "based on this record, [] the PJM Tariff allows resources receiving out-of-market support to significantly affect capacity prices in a manner that will cause unjust and unreasonable and unduly discriminatory rates in PJM regardless of the intent motivating the support.")

[12] *Id.* at P 167.

[13] *Id.* at P 8.

[14] *Id.*

in its June 2018 Order, which could provide for the removal of state-favored resources and a commensurate amount of load from the PJM capacity market and thus avoid application of the MOPR to these resources.[15] In its December 2019 Order, however, FERC rejected PJM's proposed resource-specific FRR Alternative option, finding its proposed "accommodation of state subsidy programs would have unacceptable market distorting impacts that would inhibit incentives for competitive investment in the PJM market over the long term."[16]

While FERC's holding concerning the FRR Alternative construct does not directly apply to the NYISO markets, it was widely acknowledged in the initial comments that changes to the NYISO's capacity market structure must be approved by FERC.[17] FERC's rejection of this construct in the December 2019 Order strongly suggests that FERC would not accept proposals by New York to take on a resource adequacy role by removing State-favored resources and associated load from the NYISO's ICAP market to avoid application of the BSM Measures. Thus, the Commission should reject Natural Resources Defense Council ("NRDC") et al.'s request[18] to remove resources and associated load from the NYISO's ICAP market and then require these load serving entities to meet resource adequacy requirements through State-mandated bilateral contracts, like California's resource adequacy model. Such action is not only unlikely to be accepted by FERC as a replacement to the NYISO's ICAP market, it is

[15] Instituting Order at 11–12. Because the FRR Alternative was not fully developed and remained under review before FERC, many parties asserted it was premature to consider it in New York. Meanwhile, there was nearly universal agreement that New York should not "go down the California road," emphasizing that doing so would expose consumers to higher risks and potentially stranded costs and would cause the utilities to face higher capital rates. *See, e.g.*, Case 19-E-0530, *supra*, Initial Comments of the Joint Utilities on the Order Instituting Proceeding and Soliciting Comments (Nov. 8, 2019) at 32-36 ("Joint Utilities Comments"); Case 19-E-0530, *supra*, Initial Comments of Multiple Intervenors (Nov. 8, 2019) at 14 ("MI Initial Comments").

[16] December 2019 Order at P 6.

[17] *See* Point II, *infra.*

[18] Case 19-E-1530, *supra*, Comments of NRDC, Sustainable FERC Project, Sierra Club, New Yorkers for Clean Power, Environmental Advocates of New York and Vote Solar (Nov. 8, 2019) at 3 ("NRDC Comments").

unnecessary to achieve the State's clean energy goals because it would, 1) produce far less efficient outcomes, and 2) shift risks from merchant parties directly back onto consumers.[19] Further, as discussed below, attempting to replace the NYISO's resource adequacy structures would likely entail significant litigation, delaying achievement of such goals.

While parties in the initial comments universally agreed that changes to the existing wholesale market mechanisms are necessary because they are not designed to account for the attributes provided by certain resources to achieve the State's clean energy mandates, the Commission can take decisive action in the short term to begin resolving this problem by advising the NYISO it will support the carbon pricing proposal. As IPPNY demonstrated in its Initial Comments, the carbon pricing proposal is the most immediate and effective action the Commission can take to harmonize State environmental policy with the NYISO's wholesale market design.[20]

This is especially true if the BSM Measures are expanded to all resource types as FERC did with respect to the MOPR in PJM's market.[21] As the Analysis Group established in its assessment of the potential impacts of implementing the NYISO's carbon pricing proposal, "[a] carbon pricing policy as proposed through the NYISO stakeholder process represents a fair and transparent, competitive, market-based mechanism to compensate resources based on generating

[19] It is noteworthy that consumers would face these increased risks at the same time they are being required to pay higher rates to support incentive payments made to resources under the State's public policy programs.

[20] IPPNY Initial Comments at 11–12.

[21] The Commission should reject any arguments made that, under FERC's accepted definition of state subsidy in its December 2019 Order, incorporating a carbon price in the wholesale market would constitute a state subsidy and therefore would subject zero-emissions resources that benefit from the carbon price to mitigation under the BSM Measures. As parties demonstrated in their requests for clarification of the December 2019 Order, programs like the Regional Greenhouse Gas Initiative and the carbon pricing proposal impose costs on generators no different than any other environmental compliance costs. *See, e.g.*, FERC Docket No. EL16-49-002, Limited Request for Rehearing and Clarification of the Electric Power Supply Association and the PJM Providers Group (Jan. 21, 2020) at 13–16. It would be absurd to consider these costs as subsidies subject to mitigation merely because they have the incidental impact of providing additional revenues through higher energy clearing prices.

resource attributes (*i.e.*, zero-emissions or renewable resource attributes). Administration of a carbon pricing mechanism would help to align state policy with the NYISO's competitive wholesale markets and reduce the potential for FERC to impose further BSM actions by guiding the development of new clean energy resources substantially through pricing in competitive wholesale markets."[22] Thus, depending upon the level of the cost of carbon included in the market clearing prices, the carbon pricing proposal may eliminate the need for out-of-market subsidies for most clean energy resources today, and with technological advancements over time, may entirely eliminate the need for such subsidies thereby reducing mitigation concerns under the BSM Measures. It would also help to send efficient price signals incenting the construction of new transmission that will undoubtedly be required to move large quantities of upstate carbon-free energy to downstate load centers.

Many commenters that addressed the carbon pricing proposal in their initial comments, representing a broad and diverse mix of interests, expressed their strong support for it. Several independent bodies recognized the benefits of the carbon pricing proposal. For example, the Institute for Policy Integrity stated that "[a] sector-specific carbon pricing policy, like the one developed by NYISO, could improve market efficiency in a way that provides technology-neutral support for progress toward the State's emissions-reduction goals."[23] Likewise, the MMU explained that "market reforms [like carbon pricing] would generally shift investment away from older inflexible inefficient fossil generation, which rely on capacity payments for the

[22] *See* Susan F. Tierney & Paul J. Hibbard, Analysis Group, Clean Energy in New York State: The Role and Economic Impacts of a Carbon Price in NYISO's Wholesale Electricity Markets 42–43 (2019); *see also id.* at 4–5 (concluding the carbon pricing proposal would provide many benefits, including "provid[ing] an economic basis for avoiding FERC action to mitigate New York's market and avoiding consumer costs impacts of such mitigation policies.").

[23] Case 19-E-0530, *supra*, Institute for Policy Integrity Comments on Resource Adequacy (Nov. 8, 2019) at 6.

vast majority of their revenue, towards newer, flexible efficient resources, which would help to better integrate the intermittent renewable generation."[24]

In addition, representatives from every market sector advocated for its immediate implementation. For example, Exelon demonstrated that, in the near term, carbon pricing would avoid the cost impact of expanded mitigation under the BSM Measures.[25] It calculated that the carbon pricing proposal would avoid consumer cost increases of $1.35 billion per year initially and approximately $600 million in 2025.[26] In light of these benefits, Exelon stated that "the [PSC] should direct New York generators to comply with state decarbonization goals by paying a carbon charge through the proposed NYISO carbon pricing mechanism and urge NYISO to move forward expeditiously to seek FERC approval of the proposed tariff language."[27]

In addition, the New York Association of Public Power urged the State to "actively support the NYISO's carbon pricing proposal in the wholesale energy market at FERC and work to implement it on just and reasonable terms."[28] Similarly, the Joint Utilities (Central Hudson Gas & Electric Corp.; Consolidated Edison Company of New York, Inc.; Niagara Mohawk Power Corporation d/b/a National Grid; New York State Electric & Gas Corp.; Orange & Rockland Utilities; and Rochester Gas and Electric Corporation) stated that to the extent "a cost of carbon would increase the E&AS revenue offsets for renewable and zero emission resources

[24] Case 19-E-0530, *supra*, Initial Comments of Potomac Economics, LTD. (Nov. 12, 2019) at 10–11 ("MMU Comments").

[25] Case 19-E-0530, *supra*, Comments of Exelon Corporation (Nov. 8, 2019) at 18–19.

[26] *Id.*

[27] *Id.* at 23–24.

[28] Case 19-E-0530, *supra*, Initial Comments of the New York Association of Public Power (Nov. 8, 2019) at 2 ("NYAPP Comments").

such that their Net CONE would be below market-clearing levels, then carbon pricing may be a tool to allow BSM to coexist with the CLCPA."[29]

The New York Utility Intervention Unit demonstrated that "there is no immediate need to significantly alter the NYISO's markets" as "NYISO and its stakeholders have spent substantial time and analytical resources exploring market design changes that would allow for the explicit incorporation of the societal cost of carbon into the energy market."[30] Calpine Corporation and Vistra Energy Corp. stated their belief that "the most effective way to meet the CLCPA mandates while maintaining the NYISO market structure is through the NYISO's carbon pricing proposal, a market-based mechanism that would most efficiently recognize and compensate resources for their low and zero-carbon emissions attributes."[31]

According to the NYISO, while carbon pricing would not apply directly to the capacity market, its carbon pricing proposal would address two of the Commission's concerns expressed in its Instituting Order by paying resources for their environmental attributes through the NYISO's markets.[32] The NYISO stated that "carbon pricing would ameliorate concerns that the NYISO's existing ICAP product does not compensate resources for environmental and local reliability benefits.[33] Similarly, by making resources less dependent on capacity revenue it would help to reduce the risk that consumers would be exposed to 'double payments' for capacity."[34]

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[29] Joint Utilities Comments at 11 n.31.

[30] Case 19-E-0530, *supra*, UIU Comments on Resource Adequacy Matters (Nov. 12, 2019) at 1.

[31] Case 19-E-0530, *supra*, Comments of Calpine Corporation and Vistra Energy Corp. (Nov. 8, 2019) at 4.

[32] Case 19-E-0530, *supra*, Initial Comments of the New York Independent System Operator, Inc. on Resource Adequacy Matters (Nov. 8, 2019) at 62–63 ("NYISO Comments").

[33] *Id.*

[34] *Id.* at 63.

According to the Advanced Energy Economy Institute ("AEEI"), the Alliance for Clean Energy New York, the American Wind Energy Association, and the Solar Energy Industries Association, the carbon pricing proposal "would provide a near-term opportunity to align the NYISO markets with New York State public policy goals."[35] As opposed to the City of New York's argument that the carbon pricing proposal is outside the scope of this case,[36] AEEI et al. asserted it falls squarely within its four corners, urging the Commission "to consider the valuable role of carbon pricing in addressing the tensions between state policy goals and the NYISO wholesale markets underlying this proceeding."[37]

As recognized by these commenters, the carbon pricing proposal is a market-based, technology-neutral means to comprehensively and cost effectively address the State's mandate to develop and maintain clean energy resources. Carbon pricing is the most efficient mechanism to compensate resources for their environmental benefits. Pricing carbon in the market appropriately values the carbon reduction benefit of renewable generation at different times and different locations. It can be a tool to align, in part, the State's resource adequacy requirements with its clean energy mandates. To be clear, clean energy is a product. Resource adequacy is a product, albeit a reliability one. With the enactment of the CLCPA, both are required and both must be adequately compensated. While there is some overlap between them, clean energy alone—today and during the 20-year transition period to the CLCPA's 2040 end state for New

[35] Case 19-E-0530, *supra*, AEEI, ACENY, AWEA, SEIA Comments on Resource Adequacy (Nov. 8, 2019) at 6 ("AEEI Comments").

[36] Case 19-E-0530, *supra*, Comments of the City of New York (Nov. 8, 2019) at 5 n.12.

[37] AEEI Comments at 6.

York's electric markets—indisputably cannot fully meet the State's resource adequacy requirements.[38]

With carbon pricing in place, the BSM Measures, even if expanded, would continue to effectively assess the economics of supply resources without adversely impacting achievement of the State's goals. To date, the NYISO's capacity market construct has successfully procured adequate generation to meet reliability needs at lowest cost. Going forward, it will remain a critical source of revenue for generators needed to maintain reliability, including flexible and dispatchable resources required to balance the system when intermittent resources lack their "fuel." Carbon pricing addresses the concern in this proceeding that the BSM Measures will altogether prevent the State's preferred resources from counting towards capacity requirements. Thus, the Commission should formally endorse the NYISO's carbon pricing proposal.

II. PROPOSED CHANGES TO THE NYISO'S MARKET DESIGN ARE REQUIRED TO ACHIEVE THE STATE'S CLEAN ENERGY MANDATES AND WILL BE IDENTIFIED AND RESOLVED MOST EFFECTIVELY IN THE NYISO'S STAKEHOLDER PROCESS.

Pointing to studies identifying the need for market rule changes to ensure adequate flexible and dispatchable resources remain on the system and the many other initiatives being considered by the NYISO and stakeholders in the NYISO committee process to enhance the market design and harmonize the competitive markets with the State's clean energy mandates, IPPNY urged the Commission in its Initial Comments to avoid duplicating or interfering with those efforts in this proceeding.[39] As IPPNY demonstrated in its Initial Comments, the Commission is legally barred from changing the NYISO resource adequacy structure

[38] *See, e.g.*, NYISO Initial Comments at 60-61 (highlighting efforts to attract and retain flexible resources to ensure the ongoing reliability of the New York system in the face of the significant increase in intermittent resources).

[39] IPPNY Initial Comments at 16.

unilaterally, a fact echoed by a number of other commenters.[40] Unilateral changes made outside of the NYISO's stakeholder process would instead likely entail significant litigation, delaying achievement of New York's clean energy mandates, and potentially jeopardizing reliability.

Expressing similar concerns, other commenters advocated that potential changes to the NYISO's resource adequacy structures to achieve the State's clean energy mandates should be addressed collaboratively through the NYISO's stakeholder process. Referencing the time frames established in the CLCPA to bring large amounts of renewable resources on line, the Joint Utilities warned that "[w]hen parties disagree on the dividing line between FERC and State jurisdiction, costly and lengthy litigation generally ensues, delaying needed market modifications and dampening developer interest in pursuing new projects until more certainty is achieved."[41] They correctly concluded that New York cannot afford to allow legal challenges to delay compliance with the State's clean energy mandates.[42] Similarly, the NYISO advised that "[a]lthough FERC will not necessarily insist that New York must retain a market-based capacity framework, any proposed change to that structure, including a proposal to replace it with a bilateral contracting model, will require FERC's approval under the FPA's standards."[43] The NYISO also stated that a FERC filing would be required to modify the NYISO's capacity market absent FERC action under Section 206 of the Federal Power Act.[44]

Multiple Intervenors stated that the line between FERC's and the Commission's jurisdiction "is not clear in all respects" and suggested that, "rather than seeking to act

[40] *Id.* at 17; *see, e.*g., Joint Utilities Comments at Appendix B.

[41] Joint Utilities Comments at 14.

[42] *Id.*

[43] NYISO Comments at 78.

[44] *Id.* at 78–79.

unilaterally, the Commission preferably should consult and work collaboratively with the NYISO, and DPS Staff should advance any desired modifications to the existing ICAP market design through the NYISO stakeholder process."[45] The New York Power Authority expressed its belief "that an approach that can garner sufficient stakeholder support to achieve a 58% vote, or one that FERC could endorse under an FPA 206 complaint, may have considerable benefit compared to an approach that is more likely to require lengthy litigation to implement."[46]

As voiced at the January 22 meeting of the NYISO's Management Committee by NYISO CEO and President Rich Dewey, with the aggressive CLCPA targets and the short time to achieve them, reliability must remain the number one priority as these targets are implemented.[47] Repeatedly echoed in the initial comments submitted in this proceeding, independent entities and many market participants from different market sectors also widely recognized that the State's transition to a carbon-free market over the next 20 years must be matched with sufficient market signals to support the ongoing investment in and operations of flexible and dispatchable resources to ensure reliability is maintained.

For example, noting "it is essential" that the NYISO, the Commission, and other stakeholders "work cooperatively to ensure that the state can achieve its renewable resource goals as promptly and effectively as possible, while maintaining the reliability of the state's bulk power system . . . ," the NYSRC observed that the planning and operation of the State's bulk

[45] *See* MI Initial Comments at 15.

[46] NYPA Comments at 25–26.

[47] Mr. Dewey's remarks were given in his State of the Grid address before the NYISO Management Committee at its January 22, 2020 meeting. While his remarks were not published, a summary of them will become available in the minutes posted for this meeting and the NYISO has issued a press release capturing the main themes of his address. *See* Press Release, New York Independent System Operator, Inc., NYISO President and CEO Rich Dewey Delivers State of the Grid Address, (Jan. 22, 2020), available at https://www.nyiso.com/-/press-release-nyiso-president-and-ceo-rich-dewey-delivers-state-of-the-grid-address.

power system face challenges from the intermittent nature of renewable resources.[48] These challenges have been confirmed by a NYISO analysis included in the NYSRC's recently released draft High Renewable Resource Modeling White Paper,[49] which indicates the addition of 12 GW of renewables to today's system (an amount reflecting only roughly half of the amount needed to achieve New York's public policy mandates) would more than double the required New York Control Area ("NYCA") Installed Reserve margin ("IRM"), raising it to 142.9% of peak load (as compared to the NYCA IRM for Capability Year 2020-2021 of 118.9%). The Locational Capacity Requirement ("LCR") for New York City would increase to 97.9% and Long Island would increase to 131.6% (as compared to next Capability Year's 86.6% and 103.4%, respectively).[50] While the draft IRM and LCR results are significantly inflated because they are presented in terms of installed capacity and reflect the low capacity factors of the added renewable capacity, the draft report also showed that substantial additions of renewable resources increased the requirements for unforced capacity as well. This indicates that as more renewables are added to the system, the NYISO's current estimate of those resources' Unforced Capacity overstates the resources' reliability benefits.

Likewise, consumers, generators and transmission owners all emphasized the need to modify the market design to maintain adequate flexible and dispatchable resources on the

[48] Case 19-E-0530, *supra*, Comments Submitted by the New York State Reliability Council (Nov. 8, 2019) at 4–5.

[49] NYSRC Installed Capacity Subcommittee, Draft High Renewable Resource Modeling White Paper, (Jan. 7, 2020), available at http://www.nysrc.org/PDF/MeetingMaterial/ICSMeetingMaterial/ICS%20Agenda%20228/AI%205%20-%20High%20Intermittent%20Renewable%20Resources%20White%20Paper.pdf

[50] *See* White Paper at NYISO, *Locational Minimum Installed Capacity Requirements Study*: For the 2020-2021 Capability Year. January 8, 2020. Available at https://www.nyiso.com/documents/20142/10252714/LCR2020_Report.pdf/a1b83a70-5c13-f42e-d564-85c255a7d446

system.[51] Focusing on this issue, the NYISO established in its initial comments "[t]he objectives set forth in the CLCPA require a significant transformation in the energy sector" that warrant review of the NYISO's energy and ancillary service products to ensure they "will continue to support reliable operations and the necessary resource investment as the system evolves."[52] To that end, the NYISO has completed studies and is currently engaging in additional initiatives to define necessary market rule changes.[53]

In the next fifteen-year period, the nature of resources on the electric system will become more intermittent and further technological advances will be required to effectively balance these resources. Because it will become increasingly necessary for the ICAP market to send the price signals necessary to attract investment in existing and new generation needed to meet reliability requirements, it would be imprudent to make radical changes to its operation and management.[54] The NYISO, which has 20 years of experience successfully operating the electric system and wholesale markets reliably and at the lowest possible cost, should continue in its role of managing and enforcing compliance with the State's resource adequacy requirements.

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[51] *See, e.g.*, MI Initial Comments at 8, n.14; Case 19-E-0530, *supra*, Initial Comments of Helix Ravenswood, LLC (Nov. 8, 2019) at 5–7; Joint Utilities Comments at 3, 10–11.

[52] *See* NYISO Initial Comments at 41–42, 61–62.

[53] *See, e.*g., New York Independent System Operator, Inc., 2019-2028 Comprehensive Reliability Plan -- Final Report (July 16, 2019) ("2019-2028 CRP") at 28 (identifying major system impacts associated with the retirement of a large number of peaking plants in New York City and on Long Island), *available at* https://www.nyiso.com/documents/20142/2248481/2019-2028CRP-FinalReportJuly-2019.pdf; *see also* New York Independent System Operator, Inc., 2019 Reliability and Market Considerations for a Grid in Transition (Dec. 20, 2019) ("Grid in Transition White Paper"), *available at* https://www.nyiso.com/documents/20142/6785167/20190522%20NYISO%20-%20Grid%20in%20Transition%20MIWG%20Presentation%20053019.pdf/4a8a3bc1-4fda-2997-98ee-88e7e60b319e (comprehensively addressing reliability and market impacts of State public policy initiatives).

[54] In their initial comments, a few parties proposed that the NYISO's capacity structure should be transformed into a residual market. *See, e.*g., NRDC Comments at 16; NYAPP Comments at 4. Not only would this proposal require FERC action or face significant legal challenges, the vast majority of initial comments confirm that the solution is to *enhance* the current capacity market construct, not *erode* it.

To implement the CLCPA reliably, efficiently and cost effectively, market design changes to all three of the NYISO's markets as well as its planning mechanisms will be required. Beyond development of its carbon pricing proposal, the NYISO is engaged in a series of additional initiatives with its stakeholders to enhance its energy and ancillary service markets, such as its ongoing effort to, *e.g.*, refine its ancillary service shortage pricing rules.[55] Significant progress on many of these efforts took place in 2019 with market design completion for a number of these projects slated for the first half of this year. In addition, the NYISO recently proposed in the NYISO committee process market rule changes recommended by the MMU in this case that would potentially allow some number of clean energy resources entering the market to be exempt from mitigation under the NYISO's BSM Measures.[56] The modifications would require the NYISO to conduct its Part A test before its Part B test and, in its Part A test, review generators designated as State Public Policy Resources ("PPRs") for an exemption from offer floor mitigation under the existing BSM Exemption Tests before other Class Year resources.[57] The NYISO is continuing its work in earnest to develop these tariff modifications and has proposed that stakeholders vote on a complete market design in March 2020.[58] Assuming stakeholder and FERC approval, the NYISO would apply the new rules to the projects in Class Year 2019.[59]

[55] *See* New York Independent System Operator, Inc., 2020 Markets Presentation (Dec. 19, 2019) at 57–59, *available at* https://www.nyiso.com/documents/20142/9869531/2020%20Market%20Design%20Project%20Outlook.pdf/324f466d-42cb-7435-a74a-94fb470627e8.

[56] ICAPWG Mitigation Review at 5.

[57] *Id.* at 7.

[58] *Id.* at 12.

[59] *Id.*

By their operation, the existing BSM Measures are designed to increase the likelihood that a new facility passes either the Part A or Part B exemption test and becomes exempt from an offer floor when more generation in the mitigated capacity zones (Zones J and G-J) retires.[60] The MMU expects that the near term retirement of 2,000 MW at Indian Point by 2021 and substantial amounts of other existing fossil generators in 2023 and 2025 to comply with much tighter environmental standards, *e.g.*, the Department of Environmental Conservation's recently adopted Ozone Season Oxides of Nitrogen (NOx) Emission Limits for Simple Cycle and Regenerative Combustion Turbines rule, will create opportunities for new PPRs to enter the market without leading to excessive surpluses of capacity if the BSM Measures can be modified accordingly.[61] To produce this outcome, the MMU proposes to change the BSM Measures to test PPRs before conventional resources and, separately, to revise the mitigation study period (*i.e.*, the 1-year and 3-year ICAP price forecast period) to apply to each PPR based upon the characteristics of the technology that it uses.[62] Each of these proposals would increase the likelihood that PPRs required to meet the State's clean energy mandates would receive an exemption from offer floor mitigation. The NYISO also has suggested a proposal to transfer retiring generators' Capacity Resource Interconnection Service rights to new entrants coupled with a BSM exemption, a mechanism that, if developed, should also be designed to avoid excess surplus conditions.[63]

While IPPNY takes no position at this time on these and other proposals offered by the NYISO and commenters in this proceeding, they should be considered in the NYISO's

[60] MMU Comments at 17.

[61] *Id.* at 17 n.13. Recognizing more economic, conventional generation may also be encouraged to respond to these market signals, the MMU has proposed to test PPRs before conventional resources and allow the PPRs to secure the exemptions made available by unit retirements. *Id.* at 17-18.

[62] ICAPWG Mitigation Review at 7.

[63] *See, e.*g., NYISO Initial Comments at 73-74.

stakeholder process where they can be fully vetted by all stakeholders in an organized and efficient manner.

The Commission's participation in the NYISO stakeholder process through DPS Staff is extremely important. There are issues outside the NYISO and its stakeholder process, however, that the Commission can address to enhance resource adequacy, maintain reliability and ensure that the State meets its public policy/clean energy goals under CLCPA. In addition to supporting the carbon pricing proposal, one action the Commission can and should take to enhance reliability is to ensure that renewable resources awarded renewable energy credit ("REC") contracts do not cause the output of their own or existing renewable resources to be curtailed due to transmission bottlenecks.[64] IPPNY agrees with AEEI et al. that renewable-on-renewable curtailments are increasing under certain system conditions and that this issue must be rectified to meet the State's clean energy mandates. As an initial step, IPPNY proposes that the Commission direct its staff to work with NYSERDA and NYPA and encourage them to include express provisions in their solicitation materials requiring that selected projects will not cause the curtailment of existing renewable facilities or REC-awarded renewable projects—either their own or others—before awarding new REC contracts to them.

Additionally, regulated public policy transmission solutions procured through competitive solicitations under the NYISO Public Policy Transmission Needs ("PPTN") processes will enable new generation of all types to be interconnected safely, reliably and in a

[64] In 2018, the NYISO issued a study identifying four areas of the State that either already were facing, or were likely to face, curtailment of renewable resources due to inadequate transfer capability. *See* New York Independent System Operator, Inc., Public Policy Transmission Needs Study: Transmission Constrained Renewable Generation Pockets (July 27, 2018) at 25-29, *available at* https://www.nyiso.com/documents/20142/2176070/PPTN_genpockets_ESPWG_20180727.pdf/27ba1fee-59ed-6602-02ba-1cc7ad8ffa60). In addition, the NYISO's project-specific system reliability impact study reports reveal a mounting dispatchability issue that ultimately may even more significantly undermine the State's ability to meet the CLCPA's mandates. In a number of these studies, the NYISO has identified significant amounts of renewable generation from the project itself or other facilities that must be backed down to address thermal limitations.

manner consistent with the State's resource adequacy needs. As the NYISO has documented, New York State will not meet its goals under the CLCPA without additional expansion and upgrade of its local and bulk transmission networks. IPPNY strongly encourages the Commission to: (i) carefully consider and decide on the proposed public policy requirements identified by all the parties in the proceeding currently pending before the Commission; and (ii) focus attention on the PPTN that the NYISO will initiate on August 1st of this year and all future PPTN matters. These steps are critical to encourage the continued viability of competitive solicitations supporting regulated public policy transmission to provide reduced emissions and increased ratepayer benefits.

III. CONCLUSION

In light of the foregoing, IPPNY's Initial Comments, the widespread concurrence in the initial comments filed by the vast majority of parties, and significant developments since initial comments were submitted, the Commission should direct DPS Staff to work through the NYISO's stakeholder process to comprehensively and expeditiously develop and implement market design changes, such as the carbon pricing proposal, that—in coordination with NYSRC system modeling efforts—will most reliably, efficiently and cost effectively maintain system reliability over the ensuing 20-year period while New York transitions to a carbon-free electric market and that will harmonize the State's public policy initiatives with the NYISO's competitive electricity markets for the benefit of consumers in New York State.

Respectfully submitted,

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