

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

New York Independent System Operator, Inc.)

Docket No. ER16-1404-002

**COMMENTS AND PROTEST OF
INDEPENDENT POWER PRODUCERS OF NEW YORK, INC.**

Pursuant to Rule 211 of the Federal Energy Regulatory Commission’s (the “Commission”) Rules of Practice and Procedure¹ and the Commission’s April 8, 2020 Combined Notice of Filings #1, Independent Power Producers of New York, Inc. (“IPPNY”)² hereby submits the following comments and protest on the New York Independent System Operator, Inc.’s (“NYISO”) proposed revisions to its buyer-side market power mitigation measures (“BSM Measures”) in Attachment H to the Market Administration and Control Area Services Tariff (“Services Tariff”) filed on April 7, 2020 in the above-captioned docket.³ In response to the directive in the Commission’s February 20, 2020 order to file a revised renewable exemption cap proposal,⁴ the NYISO proposed, *inter alia*, a new methodology for calculating the limit on the amount of Unforced Capacity (“UCAP”) available for a Renewable Exemption (the “Renewable Exemption Limit”) for each Mitigated Capacity Zone⁵ within each Class Year Study, Additional

¹ 18 C.F.R. § 385.211 (2020).

² IPPNY is a trade association representing companies involved in the development of electric generating facilities and the generation, sale, and marketing of electric power in the State of New York. IPPNY member companies produce more than 60% of New York’s electricity utilizing almost every generation technology available today, such as wind, solar, natural gas, oil, hydro, biomass, energy storage, and nuclear. IPPNY’s fundamental interest remains rooted in the continued development and enhancement of reliable, efficient, and non-discriminatory integrated regional wholesale competitive electricity markets.

³ Docket No. ER16-1404-002, *New York Indep. Sys. Operator, Inc.*, Compliance Filing and Request for Commission Action No Later Than June 8, 2020 (Apr. 7, 2020) (“April 2020 Filing”).

⁴ *New York Indep. Sys. Operator, Inc.*, 170 FERC ¶ 61,121 (2020) (“February 2020 Order”).

⁵ Capitalized terms that are not otherwise defined herein shall have the meaning specified in the Services Tariff.

SDU Study and Expedited Deliverability Study (collectively referred to as “Interconnection Studies”).

As discussed further below, the NYISO’s proposed formulaic methodology to calculate the Renewable Exemption Limit is a substantial improvement over the fixed 1,000 MW installed capacity (“ICAP”) renewable exemption cap that the Commission rejected in its February 2020 Order because, unlike the NYISO’s initial proposal which would have had such a significant impact on market prices that it was not just and reasonable, the formulaic methodology—if implemented as intended—would tie components of the formula to actions by the State that reduce supply from the market. While its proposal is thus less harmful to the competitive market than the large fixed exemption cap it initially had proposed in this proceeding, certain aspects must be clarified or modified to codify in the tariff the Commission’s intent that the renewable exemptions be narrowly tailored and not significantly impact market prices in violation of the Commission’s February 2020 Order. Accordingly, the Commission should direct the NYISO to:

- clarify its proposed tariff language to specify that Incremental Regulatory Retirements will not include generators that have retired due to changes in market conditions or fluctuations that have rendered—or are expected to render—the resource uneconomic;
- clarify that the Renewable Exemption granted to a renewable resource and any banking of exemption credits will reflect the NYISO’s forthcoming update to the UCAP rating methodology;
- clarify that Incremental Regulatory Retirements shall not include proposed retirements of resources that have triggered or could trigger a reliability need until the resource actually retires;

- clarify that a renewable resource that is granted a Renewable Exemption but that does not proceed will be deemed to have forfeited its Renewable Exemption before the same MWs associated with that resource may be assigned to the Renewable Exemption Bank and used to support an exemption to another renewable resource in a future final Interconnection Study; and
- modify its proposal to prohibit the NYISO from applying the Renewable Exemption Limit for the G–J Mitigated Capacity Zone to Renewable Resources in the New York City Mitigated Capacity Zone.

I. COMMENTS

In its February 2020 Order, the Commission rejected the NYISO’s proposed 1,000 MW per Class Year renewable exemption cap to be applied to eligible renewable resources in Mitigated Capacity Zones on an ICAP basis and directed the NYISO to develop a new renewable exemption cap that: (1) is narrowly tailored to the mitigated capacity zones, and not based on the entire New York Control Area (“NYCA”); (2) is based on UCAP rather than ICAP; and (3) will limit the risk that the renewable exemption will significantly impact market prices.⁶ Specific to this last criterion, critical to the development of a new cap is the Commission’s explicit recognition that “a MW cap limits the risk that the renewable resources exemption will significantly impact market prices and it is such limitation that makes this tariff revision just and reasonable.”⁷ To ensure its holding was implemented, the Commission emphasized that the NYISO must “be mindful of the relationship between: (1) the size of the MW cap; and (2) the limit the MW cap imposes on the renewable resource exemption’s impact to market prices.”⁸

⁶ February 2020 Order at P 48.

⁷ *Id.*

⁸ *Id.*

The NYISO's proposed Renewable Exemption Limit would be set for the mitigation exemption test conducted in each final Interconnection Study comparing two MW limits, the latter of which would be based on a four-part formula (the "Formula") that encompasses the UCAP MW associated with the change in forecasted peak load and the UCAP MW of generator retirements caused by direct regulatory action ("Incremental Regulatory Retirements").⁹ The NYISO also proposed that the Formula include the increase in the annual minimum reliability margin that is caused by the addition of renewable resources to the system (the "Unforced Capacity Reliability Margin Impact" or "URM Impact") and any unused UCAP MWs that remain after exemptions were granted in previous final Interconnection Studies (the "Renewable Exemption Bank"). To set the first limit, the NYISO proposed as a default mechanism a Minimum Renewable Exemption Limit that would reflect the amount of UCAP MW that would be forecasted to cause a \$0.50/kW-month impact on ICAP prices for the Mitigated Capacity Zone.¹⁰ The NYISO proposed that the Renewable Exemption Limit be the greater of the Formula as calculated or the Minimum Renewable Exemption Limit.¹¹

The NYISO's proposed formulaic methodology for calculating the Renewable Exemption Limit, with certain clarifications and modifications to the proposed tariff language described below, is a substantial improvement over its previously proposed 1,000 MW renewable exemption cap. The NYISO's proposal is consistent with the Commission's input that a renewable exemption cap could be based on load growth and retirements. The NYISO's

⁹ In its February 2020 Order, the Commission noted that it was not directing the NYISO to base its proposed cap on load growth as IPPNY and the MMU had requested but further established the NYISO was not proscribed from doing so or from basing its cap on some combination of both projected load growth and retirements in some way. *See* February 2020 Order at P 51.

¹⁰ April 2020 Filing at 6–7.

¹¹ *Id.*

proposal to calculate the Renewable Exemption Limit based on Incremental Regulatory Retirements, i.e., incremental generator retirements caused by direct regulatory action that has occurred since the prior Class Year study period, appropriately balances the relationship between the size of the Renewable Exemption Limit and the limit the cap imposes on the exemption's impact to market prices. It is precisely the proposal that only Incremental Regulatory Retirements, as opposed to all retirements, may be counted towards the Renewable Exemption Limit that makes the Formula reasonable, because it ensures that economic retirements appropriately move the market closer to long run equilibrium status that is necessary to support the entry of new, and maintenance of existing, resources needed to meet reliability requirements as New York State continues to advance its public policy goals.

The NYISO has proposed a \$0.50/kW-month Minimum Renewable Exemption Limit as reasonable because it is the same value used in physical withholding thresholds under the NYISO's supplier-side capacity market power mitigation measures and would have a limited impact on ICAP market prices.¹² Any proposal to increase the Minimum Renewable Exemption Limit beyond \$0.50/kW-month or to combine it with the level produced under the Formula and apply an additive approach (i.e., set the cap by including both limits) would result in unreasonable market price suppression and should be rejected by the Commission.

With IPPNY's proposed clarifications and modifications to the NYISO's proposed tariff language, the Renewable Exemption Limit is narrowly tailored to its corresponding Mitigated Capacity Zone because it is largely based on forecasted changes in load and a narrow subset of retirements caused by direct regulatory action in each Mitigated Capacity Zone. As with the general principle underlying Competitive Auctions with Sponsored Policy Resources

¹² See Services Tariff Section 23.4.5.6.3.

(“CASPR”) rules accepted by the Commission and implemented in ISO New England, Inc., the Renewable Exemption Limit is expected to not substantially suppress market prices during the year in which it is applied because the price suppression caused by the entry of renewable resources is offset by retirements caused by direct regulatory action or load growth. That, however, presumes that no resources also enter the capacity market under the Competitive Entry Exemption. If that were to occur, entry of exempt renewable resources would reduce the market clearing price below competitive levels.

II. PROTEST

A. The Commission Should Direct the NYISO to Clarify Proposed Section 23.4.5.7.13.5.3 to Ensure that Incremental Regulatory Retirements Exclude Retirements Rooted in Economic Factors.

The NYISO proposes that it is just and reasonable for Renewable Exemption Limits to be based on Incremental Regulatory Retirements, not all retirements, because Incremental Regulatory Retirements are the result of out-of-market actions that reduce supply (i.e., cause prices to rise) and therefore offset the effects of the out-of-market renewable resource policies that increase supply (i.e., cause prices to fall). The NYISO stated: “[u]ltimately, it is the net effect of State policy on supply in the capacity market that matters, including both those policies that increase supply and those that reduce supply. Therefore, recognizing this principle in the proposed renewable entry exemption rules is reasonable and appropriate.”¹³ Critical to the justness and reasonableness of its proposal, the NYISO expressly acknowledged that this principle requires that Incremental Regulatory Retirements must include only retirements that are substantially caused by changes in regulatory policies or regulations and “would not encompass market exit that is a result of changes in market conditions or fluctuations that render a resource

¹³ April 2020 Filing at 8.

uneconomic.”¹⁴ The NYISO correctly explained that “a Generator that is uneconomic and unable to recover its costs sufficiently via the markets, irrespective of external policy actions, is expected to exit and thus would not be included as an Incremental Regulatory Retirement.”¹⁵

While the NYISO is clear in its filing letter that retirements rooted in economic factors be excluded from an Incremental Regulatory Retirement, the NYISO’s proposed tariff language must be clarified to reflect this requirement. Proposed Section 23.4.5.7.13.5.3 states:

Incremental Regulatory Retirements to be used in the calculation of the Renewable Exemption Limit described above shall include the incrementally new MW of Generator Retirements forecasted in accordance with Sections 23.4.5.7.15.6 and 23.4.5.7.15.7 of the Services Tariff that have retired, or are planning to permanently cease operation in order to comply with or in response to new or amended regulations or statutes, or other regulatory or related action, including but not limited to those that impact (i) Generator emissions, (ii) inability to renew or modify the necessary operating permits, (iii) availability of fuel supply, (iv) assessment of property taxes, and (v) compensation or other incentive outside of the ISO markets received by a Generator that is contingent upon its permanently ceasing operation. In order for the ISO to identify UCAP MW of Incremental Regulatory Retirements such regulatory action must be a significant factor in the retirement of the Generator (i.e., a factor that contributes materially to the retirement).¹⁶

The NYISO’s proposed language is silent as to whether it will ensure that Incremental Regulatory Retirements exclude a generation owner’s economic decisions. If a retired, or potentially retired, generator’s retirement decision was rooted in economic factors, it should not qualify as an Incremental Regulatory Retirement because some regulatory action has made it even less economic. It should continue to be treated as a retirement caused by market conditions, not a direct regulatory action.

¹⁴ *Id.*

¹⁵ *Id.* at 9.

¹⁶ *Id.* at Attachment III, Section 23.4.5.7.13.5.3.

To ensure that a generator that would have retired due to changes in market conditions or fluctuations that render it uneconomic is excluded from an Incremental Regulatory Retirement, the Commission should direct the NYISO to modify its proposed 23.4.5.7.13.5.3 to clarify that Incremental Regulatory Retirements exclude retirements rooted in economic factors. To accomplish this result, IPPNY proposes that the language the NYISO used to delineate its proposal be incorporated into this tariff provision. For example, this provision could be revised as follows:

“...or other regulatory or related action. Incremental Regulatory Requirements shall not encompass market exit that is a result of changes in market conditions or fluctuations that render a resource uneconomic. Regulatory actions shall include but not be limited to those that impact...”

The Commission should also direct the NYISO to propose tariff language that requires it to perform an economic analysis of retiring generators to provide an adequate basis for this determination, which shall be provided to the market monitoring unit (“MMU”) as part of its consultation process with the MMU. Moreover, the Commission should clarify that regulatory changes that increase operating costs but are applicable to all businesses in New York State do not result in Incremental Regulatory Retirements, as they are part of the normal costs of doing business in the State.

B. The Commission Should Direct the NYISO to Clarify that the Renewable Exemption Granted to Renewable Resources Will Reflect the NYISO’s Forthcoming Update to the UCAP Rating Methodology.

The NYISO stated that “[t]he URM Impact value is intended to capture the change in Unforced Capacity Reserve Margin in a Mitigated Capacity Zone that reflects how URM market requirements are expected to increase in response to renewable resource entry.”¹⁷ The URM

¹⁷ April 2020 Filing at 9.

Impact value is an adder in the Formula, thereby increasing the Renewable Exemption Limit. The NYISO proposed its URM Impact value to account for the fact that the NYISO's UCAP rating methodology overstates the UCAP rating for intermittent renewable resources (the "UCAP Rating Flaw").¹⁸ The UCAP rating exceeds the reliability value of intermittent renewable resources because it does not adequately adjust for the decrease in the reliability value of such resources as more of them are added to the system. The New York State Reliability Council confirmed the UCAP Rating Flaw in its High Intermittent Renewables Resource Report that evaluated the impact of adding significant amounts of on- and off-shore wind and wholesale level solar PV.¹⁹

Several issues need to be considered regarding the URM Impact value. Ideally, rather than embedding a URM Impact value into the Formula that would increase the Renewable Exemption Limit to account for the UCAP Rating Flaw, the NYISO should correct and update its UCAP rating methodology to make it consistent with the reliability value of renewables. The NYISO plans to perform this updating process every four years.²⁰ Given the expected time to bring renewable resources online after the completion of the Class Year and the quadrennial process to review the UCAP rating methodology, it is likely that, by the time a renewable resource enters the market, the URM Impact value for that particular resource will be greatly reduced or eliminated altogether. It would be more efficient to allow the updating of the UCAP

¹⁸ *Id.*

¹⁹ See *High Intermittent Renewable Resources Report*, New York State Reliability Council: Installed Capacity Subcommittee (Mar. 31, 2020), <http://www.nysrc.org/PDF/MeetingMaterial/ECMeetingMaterial/EC%20Agenda%20252/4.2a%20HR%20White%20Paper%20-%20Clean%20Final%20Draft-Attachment%204.2a.pdf>.

²⁰ See Emily Conway, *Tailored Availability Metric*, presentation to the NYISO Business Issues Committee (Apr. 8, 2020) at p. 8 <https://www.nyiso.com/documents/20142/11732566/10%20040820%20bic%20Tailored%20Availability%20Metric.pdf/e14f37fb-dcea-4c00-d6ef-58ab22c6f319>.

ratings over time to correct for the UCAP Rating Flaw, rather than increase the Renewable Exemption Limit by a URM Impact value. Otherwise, the impact of the URM Impact value will need to be eliminated later when it is no longer valid.

If the Commission accepts the NYISO's proposed URM Impact value, it should order the NYISO to modify its proposal to clarify that the URM Impact value will not inappropriately inflate the Renewable Exemption Limit. The URM Impact value is resource type specific. On-shore wind resources, off-shore wind resources, and solar resources will have different mismatches between their current UCAP ratings and the reliability value they provide to the system. Consequently, the URM Impact value should be calculated for a specific resource that receives a Renewable Exemption. The increase in the Renewable Exemption Limit that results from the URM Impact value should not be available to all renewable resources equally, neither in the granting of an exemption nor in the calculation of the Renewable Exemption Bank.

In addition, the NYISO's proposal is silent as to whether or how a Renewable Exemption would be modified to reflect the NYISO's updated renewable UCAP rating. Since the NYISO will be periodically revising the UCAP rating methodology, the manner in which the NYISO provides the exemption to the specific renewable resource must be designed to ensure that when the UCAP Rating Flaw is corrected, it does not effectively increase Renewable Exemptions that had been granted prior to the updated UCAP rating. If a renewable facility receives a Renewable Exemption with respect to a portion of its UCAP, the exemption should be designated as a percentage of the facility's ICAP nameplate rating instead of defining it in terms of a UCAP value that has been inflated because, at the time the resource was evaluated, the UCAP Rating Flaw caused a mismatch between the NYISO UCAP rating methodology and the reliability value of the resource.

C. The Commission Should Direct the NYISO to Clarify that Incremental Regulatory Retirements Shall Not Include Potential Retirements of Resources that Trigger a Reliability Need Unless and Until the Resource Retires and Is Not Replaced with a Non-Renewable Project that is Required to Meet the Reliability Need.

As discussed above, the NYISO proposed to calculate the Renewable Exemption Limit, in part, based on Incremental Regulatory Retirements. However, the regulatory actions that are expected to cause retirements may also create reliability impacts. For example, the New York State Department of Environmental Conservation’s “Peaker Rule,”²¹ which, absent investments in improved emissions control technology, is expected to force several New York City and Long Island peaking units to retire and is also forecast to cause reliability needs that must be met. In March 2019, the NYISO and Consolidated Edison Company of New York, Inc. presented the results of their review of reliability rule violations that would result from the deactivation of all the generators affected by the Peaker Rule.²² The presentation stated that deactivation of all the affected peaking units would result in locally-defined reliability needs causing 660 MW of reliability rule violations in these localities.²³ This means that either the affected generators would need to continue operating, invest in improved emissions control technology, be replaced by other peakers that complied with the reliability rule, or be replaced by some other kind of resource or transmission upgrade that could meet the reliability need.

²¹ See 6 NYCRR Subpart 227-3; see also *Adopted Subpart 227-3, Ozone Season Oxides of Nitrogen (NOx) Emission Limits for Simple Cycle and Regenerative Combustion Turbines*, Dep’t of Env’tl. Conserv., <https://www.dec.ny.gov/regulations/116131.html>.

²² See Kevin DePugh et al., *2019–2028 CRP: Peaker Scenario Assessing DEC’s Draft NOx Limits Rule for Simple Cycle and Regenerative Combustion Turbines (‘Peaker Rule’)*, NYISO (Mar. 19, 2019) https://www.nyiso.com/documents/20142/5552484/2018CRP_NYISO_PeakerScenario_pptMarch19ESPWG.pdf/871cdd4d-963a-4a81-38f6-f60a063b1d21; *CRP: Peaker Scenario Assessing DEC’s NOx Limits (Draft) Ruling for Simple Cycle and Regenerative Combustion Turbines Con Edison Results*, Consol. Edison Co. of New York, Inc. https://www.nyiso.com/documents/20142/5552484/2018CRP_Con_Edison_Slides.pdf/ee821d59-a957-d051-1070-02275773e07b.

²³ DePugh et al., *supra* note 22, at 18.

As the NYISO established in its Filing, its proposal is structured to ensure it will not cause prices to fall as the result of regulatory actions.²⁴ Thus, if the proposed retirement of a resource triggers a reliability need, the NYISO should only consider that retirement an Incremental Regulatory Retirement if a renewable resource is selected to meet the reliability need. Taking any other approach would inappropriately increase the number of renewable MWs exempted.

D. The Commission Should Direct the NYISO to Clarify that a Renewable Resource that is Granted a Renewable Exemption but that Does Not Proceed Will Be Deemed to Have Forfeited its Renewable Exemption Before the Same Exemption May Be Counted Towards the Renewable Exemption Bank or Granted to Another Renewable Resource.

The NYISO's proposed revisions to Sections 23.4.5.7.13.3.1 and 23.4.5.7.13.3.3 include new language stating: "any UCAP MWs previously found exempt under Section 23.4.5.7.13.4.2 or Section 23.4.5.7.2(a) which do not meet the criteria per Section 23.4.5.7.15 to be included into the NYISO forecast shall be added back to the Renewable Exemption Bank."²⁵ Section 23.4.5.7.15 sets forth the assumptions the NYISO must use to conduct its mitigation exemption test determinations. In determining whether to issue a Renewable Exemption to a future resource, this language would allow the NYISO to ignore exemptions it had already granted to renewable resources if those resources do not meet its criteria for inclusion in its BSM Assumptions forecast. However, the NYISO's proposed language is silent as to whether the NYISO would revoke the previously granted Renewable Exemption or if the resource would be required to forfeit its exemption. This leaves open the possibility that the NYISO could use the same amount of MWs in the Renewable Exemption Bank as the basis for two different

²⁴ April 2020 Filing at Attachment III, P 21.

²⁵ *Id.* at 17.

renewable exemptions, i.e., to double-count exemptions by permitting the resource first given the awarded MWs to retain its exemption and subsequently using the same MWs to provide an exemption to a second project.

The Commission should direct the NYISO to clarify that any renewable resource that has been granted a Renewable Exemption will be assumed to be proceeding when the NYISO evaluates other projects for a Renewable Exemption until the renewable resource that has received the Renewable Exemption forfeits its exemption or the NYISO revokes it. The Commission should further direct the NYISO to include in the BSM Forecast for each set of decision round determinations for the Interconnection Studies any renewable resource that was granted a Renewable Exemption in a previously completed Interconnection Study if the ISO has determined that 5% or more of its respective total project costs have been spent. Such language would be consistent with tariff language approved by stakeholders at the April 15, 2020, Management Committee meeting as part of the NYISO's proposed revisions to the BSM Part A Exemption Test and which are expected to soon be filed with the Commission.²⁶

E. The Commission Should Direct the NYISO to Modify its Proposal to Prohibit the NYISO from Applying the Renewable Exemption Limit for the G–J Mitigated Capacity Zone to Renewable Resources in the New York City Mitigated Capacity Zone.

As discussed above, the NYISO's proposed Formula is intended to calculate Renewable Exemption Limits for *each* Mitigated Capacity Zone. The NYISO's proposed tariff provides that Renewable Exemptions are awarded to renewable resources in a Mitigated Capacity Zone up to, but not to exceed, the Renewable Exemption Limit calculated for that Mitigated Capacity Zone.

Proposed Section 23.4.5.7.13.6 provides:

²⁶ *Final Revised MST 23.4.5.7.15 (Clean) as of April 15, 2020*, NYISO Management Committee (Apr. 15, 2020), https://www.nyiso.com/documents/20142/11878588/Final%20Revised%20MST%2023.4.5.7.15_PartA_DRAFT_0415_MC_clean.pdf/25aa6be3-74d0-f1a1-40e1-72f64510cf9b.

The ISO shall award Renewable Exemptions to Qualified Renewable Exemption Applicants in each Mitigated Capacity Zone up to but not to exceed the UCAP MW value calculated by the ISO in the Class Year Study, Additional SDU Study or Expedited Deliverability Study to be the Renewable Exemption Limit for the Mitigated Capacity Zone as provided in Section 23.4.5.7.13.5 of the Services Tariff.²⁷

While not readily apparent in its April 2020 Filing, the NYISO advised market participants during the stakeholder process that it will address pro rata allocation of the Renewable Exemption Limit sequentially, i.e., the Renewable Exemption Limit for Zone J will be applied on a pro rata basis to renewable resources in the New York City Mitigated Capacity Zone and then, if all MWs have not been exempted, these resources can be awarded Renewable Exemptions made available by the Renewable Exemption Limit calculated for the G–J Mitigated Capacity Zone after the Renewable Exemption Limit for New York City has been exhausted.²⁸ However, if the NYISO were permitted to implement the Renewable Exemption Limit to the Mitigated Capacity Zones in this manner, it would clearly violate the Commission’s directive to the NYISO that the renewable exemption cap must be narrowly tailored to the Mitigated Capacity Zones, and not based on the entire NYCA. It would also fail to effectively limit “the risk that the renewable resources exemption will significantly impact market prices,”²⁹ and thus, cannot be just and reasonable.

²⁷ April 2020 Filing at Attachment III, Section 23.4.5.7.13.6.

²⁸ See Christina Duong, *Part A Exemption Test Proposal: Example*, NYISO ICAP/MIWG/PRLWG Meeting (Apr. 10, 2020) at 6–7, <https://www.nyiso.com/documents/20142/11907110/2020%20April%2010%20Part%20A%20Exemption%20Test%20Proposal%20Example.pdf/5a6e0c2b-1ad4-6d07-c038-533e21e1fb54>.

²⁹ February 2020 Order at P 48. The NYISO stated that it would apply the G–J Renewable Exemption Limit to renewable resources in the New York City Mitigated Capacity Zone because the New York City Mitigated Capacity Zone is nested in the G–J Mitigated Capacity Zone. The Commission rejected a similar rationale advocated by the New York Transmission Owners (“NYTOs”) in their protest of the NYISO’s tariff filing proposing to evaluate for mitigation exemption a new entrant that is located in more than one Mitigated Capacity Zone based on the smallest Mitigated Capacity Zone that contains the load zone in which such entrant is located, i.e. nested zone. *New York Indep. Sys. Operator, Inc.*, 143 FERC ¶ 61,217, at P 89 (2013). The NYTOs argued that the tariff should be

Applying the G–J Renewable Exemption Limit to renewable resources in the New York City Mitigated Capacity Zone would cause the cumulative New York City Renewable Exemptions to exceed the New York City Renewable Exemption Limit that the NYISO separately calculated as being appropriate for the New York City Mitigated Capacity Zone. In compliance with the Commission’s directive that the NYISO be mindful of the price impact in crafting its Renewable Exemption cap proposal, the NYISO’s proposed Renewable Exemption Limit is based on capacity locality load growth and regulatory forced retirements for each Mitigated Capacity Zone. As designed, the Formula limits associated market price impacts to the amount of Renewable Exemption MWs that are awarded to a renewable resource up to the Renewable Exemption Limit for each Mitigated Capacity Zone. Once all the New York City Renewable Exemption Limit is exhausted, the NYISO has allowed all the Renewable Exemptions that could be accommodated without causing a price suppressive impact that is not just and reasonable. Thus, price impacts would be excessive and unjust and unreasonable if Renewable Exemption MWs are awarded to a renewable resource beyond the Renewable Exemption Limit for the Mitigated Capacity Zone.

As shown in the example below, the NYISO’s proposal would result in excessive market price impacts. Assume that if all the New York City Renewable Exemption Limit is awarded, the market clearing price in the New York City Mitigated Capacity Zone is \$10/kW-month. The market clearing price would drop below this level if the NYISO awarded additional Renewable

modified to allow suppliers in nested zones to bid into the larger Mitigated Capacity Zone if they cannot clear in the smaller nested zone. *Id.* at PP 81–82. The Commission rejected the NYTOs’ argument, ruling that it would “allow[] the supplier to circumvent the creation of the new zone by allowing it to ignore the pricing and capacity requirements, among others, of that zone, requirements that reflect the reasons for creating the new zone and requiring mitigation in that zone in the first place.” *Id.* at P 89. If a New York City Renewable Resource were allowed to use the G–J Renewable Exemption Limit to obtain a Renewable Exemption, it would similarly ignore the reasons for creating separate G–J and New York City Mitigated Capacity Zones.

Exemptions to a New York City renewable resource based on available MWs from the G–J Renewable Exemption Limit. This price reduction would directly be caused by the simple fact that more Renewable Exemptions were awarded to Zone J resources than calculated by the NYISO’s methodology to determine the just and reasonable level of exemptions for the New York City market.

The inherent flaw in this approach is laid bare if the BSM Measures were applied in the NYCA market as a whole. Under the NYISO’s rationale for allowing New York City renewable resources to draw available MW from the G–J Renewable Exemption Limit, the NYISO would also grant Renewable Exemptions to New York City renewable resources if there were MWs available in the Renewable Exemption Limit for the entire NYCA because New York City is nested within the NYCA. This would inappropriately determine the availability of Renewable Exemptions in a specific Mitigated Capacity Zone based on a statewide calculation of a renewable exemption cap, the very proposal the Commission just rejected in the February 2020 Order because it violated the Commission’s directive that the cap be narrowly tailored to the Mitigated Capacity Zones, and not based on the entire NYCA.

Thus, to ensure the NYISO proposal does not significantly impact market prices in violation of the Commission’s February 2020 Order, the amount of Renewable Exemptions awarded to New York City renewable resources must be limited to the calculation of the New York City Renewable Exemption Limit. Any available G–J Renewable Exemption Limit must be limited to renewable resources located in the G–J Mitigated Capacity Zone.

III. CONCLUSION

The Commission should direct the NYISO to clarify and modify its proposed methodology to calculate Renewable Exemption Limits as discussed above.

Respectfully submitted,

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Dated: April 28, 2020

CERTIFICATE OF SERVICE

I hereby certify that on this day, I served the foregoing document by electronic mail or first-class mail upon each person designated on the official service list compiled by the Secretary to the Commission in this proceeding.

David B. Johnson
David B. Johnson

Dated: April 28, 2020