

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

New York Independent System Operator, Inc.)
)
) **Docket No. ER21-502-000**

**MOTION FOR LEAVE TO ANSWER AND ANSWER OF
INDEPENDENT POWER PRODUCERS OF NEW YORK, INC.**

Pursuant to Rules 212 and 213 of the Federal Energy Regulatory Commission’s (“Commission”) Rules of Practice and Procedure, 18 C.F.R. §§ 385.212 and 385.213, Independent Power Producers of New York, Inc. (“IPPNY”) hereby moves for leave to file the following answer to the comments and protests that were filed by the Market Monitoring Unit (“MMU”),¹ the New York Transmission Owners (“NYTOs”)² and the Consumer Stakeholders³ on December 21, 2020 and the answer submitted by the New York Independent System Operator, Inc. (“NYISO”)⁴ on January 5, 2021 in the above-captioned docket.

On November 30, 2020, the NYISO filed, pursuant to Section 205 of the Federal Power Act, proposed tariff revisions to its Market Administration and Control Area Services Tariff (“Services Tariff”), which define new installed capacity (“ICAP”) Demand Curves applicable for the 2021/2022 Capability Year and proposed inputs and parameters for conducting the annual

¹ Docket No. ER21-502-000, *New York Independent System Operator, Inc.*, Motion to Intervene and Comments of the Market Monitoring Unit on the New York ISO’s ICAP Demand Curve Reset (Dec. 21, 2020) (“MMU Comments”).

² The NYTOs are: Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., New York Power Authority, New York State Electric & Gas Corporation, Niagara Mohawk Power Corp. (d/b/a National Grid), Orange and Rockland Utilities, Inc., Long Island Power Authority, and Rochester Gas and Electric Corporation. Docket No. ER21-502-000, *supra*, Limited Protest and Comments of New York Transmission Owners (Dec. 21, 2020) (“NYTOs Protest”).

³ The Consumer Stakeholders are the New York State Public Service Commission (“NYPSC”), the City of New York and Consumer Power Advocates. Docket No. ER21-502-000, *supra*, Comments and Protest of the Consumer Stakeholders (Dec. 21, 2020) (“Consumer Stakeholders Protest”).

⁴ Docket No. ER21-502-000, *supra*, Request for Leave to Answer and Answer of New York Independent System Operator, Inc. (Jan. 5, 2021) (“NYISO Answer”).

updates to determine the ICAP Demand Curves for the 2022/2023, 2023/2024, and 2024/2025 Capability Years.⁵ In its protest and supporting comments filed on December 21, 2020, IPPNY supported most of the NYISO's proposal because its terms were just and reasonable but demonstrated a number of flaws in the NYISO's modeling of the Demand Curves had not been demonstrated by the NYISO to be just and reasonable and, in fact, produced proposed reference values that do not adequately reflect the net cost of new entry ("Net CONE") of the proxy peaking plants and, thus, must be corrected.⁶ IPPNY also demonstrated that the NYISO Filing included determinations that are critical if the proposed reference values are to accurately reflect the Net CONE of the proxy peaking plants and that the NYISO rightfully rejected requests by some market participants to make modifications to the NYISO Staff's Final Report which would otherwise unreasonably have driven down reference prices even further.

As discussed below, the Commission should reject the MMU's and the Consumer Stakeholders' argument that it is reasonable to assume a fossil peaking plant will be able to continue operating beyond 2039 economically and that the Commission should, therefore, order the NYISO to adopt a 20-year amortization period. The Commission should also reject the arguments advanced by the NYTOs and Consumer Stakeholders that selective catalytic reduction ("SCR") emissions control technology and dual fuel technology should not continue to be included in the assumed Net CONE of the Zone G (Dutchess County) proxy peaking plant. As demonstrated in the IPPNY Protest, the Commission should direct the NYISO to adopt a 15-year amortization period to accurately reflect statutory mandates faced by the proxy peaking plant. In

⁵ Docket No. ER21-502-000, *supra*, 2021-2025 ICAP Demand Curve Reset Proposal (Nov. 30, 2020) ("NYISO Filing").

⁶ Docket No. ER21-502-000, *supra*, Protest and Supporting Comments of Independent Power Producers of New York, Inc. (Dec. 21, 2020) ("IPPNY Protest").

addition, the NYISO has demonstrated that its proposals for dual fuel and SCR emissions control technologies to continue to be included in the assumed Net CONE of the Zone G (Dutchess County) proxy peaking plant were just and reasonable and the Commission should accept these aspects of the NYISO's proposal. Lastly, because the NYISO has failed to demonstrate that its proposed TETCO M3 plus \$0.27/MMBtu transportation adder designation for the Zone G (Rockland County) proxy peaking plant is just and reasonable—including in its Answer which simply repeats points that have previously been demonstrated to be flawed—the Commission should direct the NYISO to replace the gas hub for this proxy peaking plant, complete the ICAP Demand Curve calculations for the G-J Locality accordingly and refile the 2021-2022 ICAP Demand Curve for the G-J Locality with the Commission.⁷

I. MOTION FOR LEAVE TO ANSWER

Although Rule 213(a)(2) generally prohibits certain types of answers, including answers to protests and answers to answers, the Commission has discretion to waive that prohibition for good cause shown. The basis for such waiver has included whether the answer leads to a more accurate and complete record, helps the Commission understand the issues, clarifies matters in dispute or errors, responds to new issues raised, or provides information that will assist the Commission in its decision-making process.⁸ IPPNY's answer responds to new issues raised in comments and protests and corrects certain mischaracterizations in the NYISO Answer, and thus, will help to ensure a complete and accurate record that will assist the Commission in reaching its decision. Accordingly, IPPNY respectfully requests that the Commission accept its answer.

⁷ IPPNY's silence on the other issues raised by the NYTOs and Consumer Stakeholders in their comments and protests should not be construed as IPPNY's assent with respect to such issues.

⁸ See, e.g., *Mirant Energy Trading, et al. v. PJM Interconnection, LLC*, 122 FERC ¶ 61,007 at P 33 (2008); *BP West Coast Products LLC, et al. v. SFPP, L.P., et al.*, 121 FERC ¶ 61,239 at P 34 (2007); *PJM Interconnection, L.L.C.*, 110 FERC ¶ 61,254 at P 13 (2005); *Pinnacle West Energy Corp. v. Nevada Power Co., et al.*, 105 FERC ¶ 61,053 at P 34 (2003); *PJM Interconnection, L.L.C.*, 104 FERC ¶ 61,309 at P 18 (2003).

II. THE COMMISSION SHOULD REJECT ARGUMENTS THAT THE NYISO SHOULD APPLY A 20-YEAR AMORTIZATION PERIOD AND DIRECT THE NYISO TO ADOPT A 15-YEAR AMORTIZATION PERIOD.

As demonstrated in the IPPNY Protest, the NYISO’s proposal to reduce the amortization period currently used in the 2017-2021 Demand Curve reset from 20 to 17 years considered the impact the mandates clearly established in the Climate Leadership and Community Protection Act enacted in 2019⁹ would have on fossil-fuel generation in New York.¹⁰ The NYISO reasonably assumed that the Climate Act’s mandate that the electric power sector must be zero carbon emitting by 2040 would bar the fossil-fueled, H class frame turbine peaking unit technology that is the chosen proxy peaking plant in each Zone from operating beyond 2039 economically.

The MMU argued that the NYISO’s assumption that fossil units must retire by 2040 is “highly speculative” because units will be able to switch to non-emitting fuels, the Climate Act will allow fossil generation to operate beyond 2040 because the zero emissions target will be interpreted on a net basis, and critical fossil generation will be permitted to operate to ensure reliability.¹¹ The Consumer Stakeholders similarly argued that a fossil-fueled plant will be able to operate beyond 2039 by retrofitting to use zero-emitting fuels.¹² The MMU also argued that the implications of the Climate Act’s mandate that the statewide electrical demand system be zero emissions by 2040 for existing fossil generation are unclear because regulations concerning

⁹ Climate Leadership and Community Protection Act, 2019 N.Y. Sess. Laws Ch. 106 (McKinney) (“Climate Act”).

¹⁰ NYISO Filing at 51.

¹¹ MMU Comments at 6.

¹² Consumer Stakeholders Protest at 19.

the mandate have not been issued and the Climate Act authorizes the NYPSC to temporarily suspend or modify the mandate to maintain reliability.¹³

As demonstrated in the IPPNY Protest and the NYISO Filing, the assumptions that the proxy peaking plant will be needed to ensure reliability and will be able to switch to non-emitting fuels economically are purely speculative. It is far too uncertain for potential developers to reasonably estimate whether a reliability need will exist beyond 2039 that will require the continued operation of their fossil peaking plants constructed over the next four years, whether compliant technologies will even exist that would allow operation economically beyond 2039 under entirely unknown future market conditions and, even if so, whether future Demand Curve reset processes will provide enough additional revenues for such new technologies to effectively retrofit *this* peaking plant technology selected in this reset process (which may well be different than the technologies chosen in the future as past reset processes have demonstrated). Indeed, the H series being proposed in this reset process is significantly less expensive than the F series that is the basis for the currently effective ICAP Demand Curves. As the NYISO noted in the NYISO Filing, attempting to estimate the future costs of the proxy peaking unit to comply with the Climate Act beyond 2039 in light of such uncertainty would contradict the Commission's prior mandates regarding allowable considerations during each Demand Curve reset.¹⁴

In any event, the MMU's assertion that the Climate Act may permit fossil generation to operate beyond 2040 because the zero emissions target will be interpreted on a net basis is contrary to the express provisions of the law. The Climate Act provides for an alternative

¹³ MMU Comments at 5.

¹⁴ NYISO Filing at 52.

compliance mechanism to be used by *a limited subset* of sources subject to greenhouse gas emissions limits to achieve net zero emissions to, *e.g.*, offset their carbon emissions through technologies such as carbon capture and sequestration.¹⁵ However, importantly, the Climate Act explicitly *prohibits* “sources in the electric generation sector” from being eligible for the alternative compliance mechanism.¹⁶ The Commission cannot ignore the Legislature’s express mandates.

The MMU also argued that future capacity prices will be higher because Demand Curves will increase to include the costs of fossil peaking units complying with regulations implementing the Climate Act, and a peaking plant installed over the next four years will benefit from such higher prices.¹⁷ Higher capacity prices are purely speculative because there may very well be other technological improvements to the proxy peaking plant 10 years from now that will offset the costs of technologies that allow for burning non-emitting fuels.

Indeed, the MMU’s Comments are themselves internally inconsistent. On the one hand, the MMU asserted that it is too speculative to assume no residual value at the end of 2039 but, on the other hand, the MMU acknowledges that there are no technological advances far enough along in their development, and thus, their costs are entirely speculative. The MMU’s solution to this dilemma to just presume some day “it will all just even itself out,” however, leaves the proxy peaking plant (and developers that build in reliance thereon) revenue inadequate in this reset period.¹⁸ Such an approach is not just and reasonable. Likewise, on the one hand, the MMU argued that there will be regulations enacted in the future to resolve these issues that will give the

¹⁵ Climate Act § 2 (enacting N.Y. Env’t Conserv. Law §§ 75-0107(4), 75-0109(4) (McKinney)); N.Y. Env’t Conserv. Law §75-0109(4)(c) (McKinney).

¹⁶ N.Y. Env’t Conserv. Law §75-0109(4)(f) (McKinney).

¹⁷ MMU Comments at 10.

¹⁸ *Cf.* MMU Comments at 3; *Id.* at 9.

plants value but, on the other hand, correctly acknowledged that future law changes must be left addressed in future reset processes when their parameters are known.¹⁹ Here, too, simply presuming resolution of these issues leaves the proxy peaking plant revenue inadequate in this reset process and is, thus, not just and reasonable.

A developer will not invest in a project today based on the expected revenues from a retrofitted unit with technology that does not currently exist, the costs for which cannot be known and absolutely no certainty future Demand Curves will be structured to compensate it for future retrofit costs if technology were to be developed over time. Rather, investors will require that developers must demonstrate that they can recoup their capital investment in its entirety prior to 2040, which, as IPPNY demonstrated in the IPPNY Protest, requires a 15-year amortization period.

III. THE COMMISSION SHOULD REJECT THE ARGUMENTS THAT SCR AND DUAL FUEL TECHNOLOGIES SHOULD NOT CONTINUE TO BE INCLUDED IN THE ASSUMED NET CONE OF THE ZONE G (DUTCHESS COUNTY) PROXY PEAKING PLANT.

As demonstrated in the IPPNY Protest, the NYISO demonstrated that it is just and reasonable for the Zone G (Dutchess County) proxy peaking plant to continue to include SCR emissions control technology for the purpose of setting Net CONE.²⁰ To support its position, the NYISO, *inter alia*, stated in the NYISO Filing that “only those resources that are capable of operating for at least 8 hours daily will be valued equivalent to a resource that is not subject to any daily run-time limitations. Ensuring the capability to operate 8 hours per day during the

¹⁹ *Cf. Id.* at 5-6; *Id.* at 10; *see also id.* at n.6 (citing to Commission decision in last Demand Curve reset process confirming new regulations promulgated in the future are then taken into account in future reset processes).

²⁰ IPPNY Protest at 30–32.

period of the Summer Capability Period when loads tend to be the highest (June – August) would require the ability to operate for approximately 720 hours.”²¹

The NYTOs argued that the Services Tariff does not require the proxy peaking plant in Zone G (Dutchess County) to operate for 720 hours.²² They asserted that the H class frame turbine generator would not be subject to a daily run-time limit and, therefore, a fossil fuel generator that operated for only 312 hours per year would be eligible to supply ICAP.²³ The NYTOs misunderstand the NYISO’s point and, by seeking to parse operations in this hour-by-hour way, have in the first instance entirely misconstrued the purpose of establishing ICAP Demand Curves based on peaking plant technology.

In short, it is well-established that the function of the proxy peaking plant is to be the reliability resource that is available under peak operating conditions. In highlighting its new capacity eligibility rules developed and approved by the Commission to more accurately compensate resources for the reliability value they provide to the system, the NYISO did not state that the proxy peaking plant in Zone G (Dutchess County) would be subject to a daily run-time limit. Rather, as the reliability unit for the system, the issue is whether the proxy peaking plant *could* be available during the peak summer and winter operating periods. Developing a structure as the NYTOs and Consumer Stakeholders are proposing that would too narrowly constrict operating hours would mean that the resource would not have enough availability to sell capacity in the peak periods and satisfy the need for that reliability resource.

²¹ NYISO Filing at 16.

²² NYTOs Protest at 9; *see also id.*, at 11-12 (correctly noting that ICAP requirements are based on availability but erroneously concluding the Zone G (Dutchess County) proxy peaking plant “would be able to run often enough”). The Consumer Stakeholders’ arguments on this point essentially parrot the NYTO claims and are equally unavailing.

²³ *Id.*

Thus, the NYISO referenced the daily run-time limit because it recently determined that maintaining system reliability requires availability of resources that can operate a minimum of eight hours consecutively.²⁴ In this vein, the NYISO reasonably determined that the proxy peaking plant in Zone G (Dutchess County) would be needed for a minimum of 720 hours to support reliable system operations during the June to August period. However, the NYISO determined that reliable system operation would be threatened if the proxy peaking plant did not have SCR because run-time emissions limitations for the plant when burning oil would limit annual operation to as little as 312 hours.²⁵

The NYTOs also argued that the NYISO's concern that the plant would be limited to 312 hours is unrealistic because it is "highly unlikely" the plant would never operate on natural gas.²⁶ The NYTOs claimed, incorrectly, that if the plant were to operate just half of the time on natural gas, it would be able to operate for 686 hours per year.²⁷ The NYTOs' calculation of 686 hours is incorrect. They did not estimate the allowed number of hours the plant could operate assuming half the hours burning gas and the other half of the hours burning oil. They calculated 530 hours burning natural gas and 156 hours burning oil based on the unit being able to operate solely on gas for 1,060 hours.²⁸ The NYTOs' calculation fails to reflect that each hour of burning oil uses the equivalent operating hours of approximately three hours burning natural gas. If the peaking plant operated half its hours on natural gas, it would be able to operate only 265

²⁴ See *New York Independent System Operator, Inc.*, 170 FERC ¶ 61,033, at P 78 (2020) (explaining that study found that "overwhelming majority of resource adequacy concerns fall within a daily consecutive eight-hour period.").

²⁵ NYISO Filing at 16.

²⁶ NYTOs Protest at 10.

²⁷ *Id.*

²⁸ *Id.*

hours on gas and 265 hours on oil ($1060 - (3 \times 265) = 265$). Thus, if the peaking plant operated on natural gas for half of its operating hours, it would be able to operate for only 530 hours in total, well below the 720 hours that it would be reasonably required to operate during the June to August period of the Summer Capability Period to reliably support system operations.

The NYTOs and Consumer Stakeholders also argued that: (1) there is no legal requirement for a generating unit located in Zone G (Dutchess County) to include SCR,²⁹ (2) there is no demonstration that the increased net energy and ancillary services (“EAS”) revenue received by the Zone G (Dutchess County) peaking plant due to the installation of SCR is sufficient to financially justify the increased up-front SCR installation cost,³⁰ (3) the Commission supported the continued use of a federally-enforceable limitation on annual operating hours for peaking plants located in Zones C and F in the NYCA in lieu of installing SCR emissions controls to achieve compliance with applicable emissions requirements in the last NYISO Demand Curve reset proceeding,³¹ and (4) the Zone G (Dutchess County) peaking plant will not be required to operate additional hours due to increased levels of battery energy storage systems and transmission added to the State’s electric system in the coming years, which will increase the electric energy import capability into Zone G.³²

With respect to the first three arguments, the NYTOs and the Consumer Stakeholders have unearthed and rehashed the very same arguments they made to the Commission in protests of the NYISO’s proposal to include SCR in the G-J Locality peaking plant in the NYISO’s last Demand Curve reset filing in 2016. The Commission considered and rejected these arguments

²⁹ NYTOs Protest at 8; Consumer Stakeholders Protest at 8.

³⁰ NYTOs Protest at 13–14; Consumer Stakeholders Protest at 10.

³¹ Consumer Stakeholders Protest at 14.

³² *Id.* at 10.

then in its order accepting NYISO’s proposal to include SCR for the Zone G-J peaking plant in 2017.³³ The Commission noted in its 2017 Order that the Zone G-J peaking plant has included SCR since 2013 (two resets ago) and that nothing has changed since the 2013 reset that would reduce the need for SCR emissions controls for the plant.³⁴ The same result obtains now. Indeed, as IPPNY demonstrated in the IPPNY Protest, the need for SCR emission controls is even greater now due to the heightened need for more flexible dispatchable resources to balance the higher penetration of intermittent resources mandated by the Climate Act.³⁵

The argument that the Zone G (Dutchess County) peaking plant must not include SCR because the Commission rejected the NYISO’s proposal to include SCR on the NYCA peaking plant in the 2017 Order is also without merit. In its 2017 Order, the Commission distinguished between the peaking plants in the G-J Locality and the NYCA.³⁶ Importantly, unlike the Zone G (Dutchess County) peaking plant, the NYCA plant has not been and is not proposed in the current reset to be dual fuel. The Commission determined that dual fuel for the G-J peaking plant supports the need for SCR for that unit.³⁷ As the NYISO correctly indicated in its Final Report, the use of a “synthetic minor source” approach has been limited to gas only plant designs located in areas of New York that are subject to less restrictive emissions limits, such as Zones C and F.³⁸ This is because, as discussed above, a peaking plant that burns oil could be limited to as

³³ *New York Independent System Operator, Inc.*, 158 FERC ¶ 61,028 at P 59 (2017) (“2017 Order”).

³⁴ *Id.*

³⁵ *See* IPPNY Protest at 31.

³⁶ *Id.* at PP 59-60.

³⁷ *Id.* at P 59.

³⁸ *Proposed NYISO Installed Capacity Demand Curves for the 2021-2022 Capability Year and Annual Update Methodology and Inputs for the 2022-2023, 2023-2024, 2024-2025 Capability Years*, NYISO (Aug. 2020), <https://www.nyiso.com/documents/20142/13248786/NYISO-Staff-Draft-DCR-Recommendations-Final.pdf>, at 13–14. NYISO Staff’s final recommendations are included as Exhibit A of the *Affidavit of Zachary T. Smith*, Docket No. ER21-502-000, *supra*, 2021-2025 ICAP Demand Curve Reset Proposal (Nov. 30, 2020), Attachment V, Exhibit A.

few as 312 operating hours annually, making the synthetic minor approach impractical for a resource in the G-J Locality needed to maintain reliability. As the NYISO and its consultants determined, the additional operating flexibility provided by SCR provides additional resource adequacy value.³⁹

The argument that energy storage resources and additional transmission to Zone G will reduce the required hours of operation of the peaking plant is also without merit because it fails to consider other system changes that will impose greater reliance on the Zone G (Dutchess County) peaking plant. Increased intermittent resources, as noted above, and the retirement of the baseload Indian Point nuclear facilities will likely more than offset any benefits new transmission and energy storage bring to the G-J Locality. Indeed, as demonstrated in the affidavit supporting the GenOn Bowline LLC and GenOn Energy Management, LLC (collectively, “GenOn”) protest, the retirement of the first 1,000 MW Indian Point nuclear generating unit beginning May 1, 2020 has resulted in a significant increase in the need for fossil-fueled operations.⁴⁰ Those impacts continue now and will only become even more exacerbated when the second 1,000 MW Indian Point unit retires in just four months at the end of April, 2021.

Likewise, the NYISO has demonstrated that it is just and reasonable for the Zone G (Dutchess County) peaking plant to continue to be configured with dual fuel capability in this zone. Arguments made in protests to the contrary are also without merit. Specifically, the Consumer Stakeholders argued that (1) dual fuel capability in Load Zone G is not required by

³⁹ See *id.* at 15.

⁴⁰ See Docket No. ER21-502-000, *supra*, Limited Protest of GenOn Bowline, LLC and GenOn Energy Management, LLC (Dec. 21, 2020) (“GenOn Limited Protest”), Attachment 1, Affidavit of Anthony Scott at P 54 (establishing nuclear generation fell by 19% year over year in summer 2020 post-Indian Point Unit 2 retirement with fossil-fueled generation increasing to fill the gap and stating similar impacts will result in 2021 post-Indian Point Unit 3 retirement which will place further strain on the natural gas grid in New York).

law, regulation or New York State reliability rule; (2) a generation facility can interconnect directly into an interstate gas pipeline, thus avoiding LDC backup fuel requirements and transportation charges, and (3) it is more economic for generation facilities to interconnect with an interstate gas pipeline as opposed to an LDC.⁴¹

The same arguments were made to the Commission in protests of the NYISO's proposal to include dual fuel in the G-J Locality peaking plant in the last Demand Curve reset filing in 2016 and the one before it in 2013. The Commission considered and rejected these arguments in both its orders on the NYISO's Demand Curve reset filings.⁴² As the consultants and NYISO have demonstrated, nothing has changed over the past seven years, so it is inappropriate to alter the Commission's prior determinations on this issue. With respect to the Consumer Stakeholders' specific arguments, the peaking plant design and cost elements are based on generic site conditions, not on the peaking plant in the G-J Locality connecting to a local distribution company natural gas system rather than an interstate natural gas pipeline.

In its order accepting the NYISO's proposal in its 2017 Order, the Commission agreed with the NYISO that "the G-J Locality is a relatively geographically constrained region; therefore, the inclusion of dual fuel capability is important for providing increased siting flexibility" and that "the G-J Locality is primarily located downstream of constraints on the interstate natural gas pipeline system."⁴³ Dual fuel capability provides reliability benefits in the G-J Locality because the ability to expand natural gas pipeline infrastructure and capacity in New York is very limited. In addition, dual fuel capability is consistent with New York State policy supporting increased reliance on intermittent renewable resources, which will need to be

⁴¹ Consumer Stakeholders Protest at 16.

⁴² 2017 Order at PP 91-92.

⁴³ *Id.* at P 91.

firmed up with traditional, non-intermittent resources. And, as noted above, the GenOn Limited Protest demonstrated that, with the retirement of the second 1,000 MW Indian Point nuclear generating unit on the eve of Capability Year 2021-2022, fossil-fueled resources will be the primary resource used to fill this gap in 2,000 MW of baseload, 24x7 generation. The need for dual fueled resources, particularly during the peak operating periods, will only be more acute than ever before over this entire Demand Curve reset period. Thus, contrary to the claims of these load entities, dual fuel capability for the G-J Locality proxy peaking plant must be maintained.

Based on these factors, the Commission agreed with the NYISO and the independent consultant that a developer would more often than not include dual fuel capability in a new peaking plant in the G-J Locality.⁴⁴ Further, as the NYISO demonstrated, its recently conducted fuel study highlighted the importance of dual fuel capability to maintaining reliability throughout the ongoing transition to a clean energy system in New York, especially in the downstate region including the lower Hudson Valley.⁴⁵ As reflected in the NYISO Filing, dual fuel capability in this area of the State has only become more pronounced in the intervening three years since the last reset process due to the anticipated loss of 1,800 MW of peaking facilities resulting from the New York State DEC's Peaker Rule and the increasing constraints in the natural gas system as evidenced by certain local gas distribution corporations imposing restrictions on service to new gas customers in 2019.⁴⁶

⁴⁴ *Id.*

⁴⁵ NYISO Filing at 15.

⁴⁶ *Id.* at 18-19.

IV. THE NYISO'S ANSWER DOES NOT CURE ITS FAILURE TO MEET ITS REQUIREMENT TO DEMONSTRATE THAT THE NATURAL GAS HUB DESIGNATION FOR THE ZONE G (ROCKLAND COUNTY) PROXY PEAKING PLANT IS JUST AND REASONABLE.

In its Answer, the NYISO reiterated the statement from its filing that the parties that have demonstrated the Zone G (Rockland County) proxy peaking plant natural gas hub designation is not just and reasonable relied solely on the availability of interruptible service and failed to account for secondary service options.⁴⁷ In addition, pointing to the MMU's analysis of secondary service, the NYISO noted that secondary transportation can often be an economic alternative. Finally, the NYISO turned to the MMU's supplemental affidavit attached to its Answer to argue that points east of Rockland County continue to be more significantly constrained.

No party disputes that gas costs are a major driver affecting whether a generator is dispatched and, if so, the net revenues it earns. To be just and reasonable, the NYISO must demonstrate the Zone G (Rockland County) proxy peaking plant can secure TETCO M3 gas at the \$0.27/MMBtu transportation adder *during peak operating periods*. As demonstrated by the protests filed, the NYISO failed to do so in its Filing. Nothing contained in the NYISO's Answer refutes the core deficiencies with its designation as identified in the protests submitted in this proceeding.

First, as established in the GenOn Protest, *neither* interruptible service nor secondary service *at the \$0.27/MMBtu transportation adder* proposed by the NYISO for the Zone G (Rockland County) proxy peaking plant is a viable alternative for this plant to secure TETCO M3 gas during peak operating periods. The data demonstrates that since 2018 there has been

⁴⁷ See NYISO Answer at 10.

essentially no interruptible service available on the Algonquin pipeline.⁴⁸ Indeed, while the MMU focuses on the fact that there are more constraints east of Rockland County, GenOn demonstrated that there is no ability to replenish gas taken down in Rockland County at anything less than the Iroquois Zone 2 price.⁴⁹ In addition, while the MMU in the Filing and the NYISO in its Answer acknowledged that a marketer will recover its opportunity costs to make secondary sales, they continued to argue that, on average, a small transportation fee will be charged. However, as GenOn demonstrated, that approach misses the point. The key consideration is the price the generator will face to secure secondary service *during peak operating conditions*.⁵⁰ During those times, the marketer will be able to demand the Algonquin Citygate price which trades at multiples higher than the NYISO's proposed transportation adder.⁵¹ Thus, the NYISO must be directed to rerun the model for the Zone G (Rockland County) proxy peaking plant to correct these deficiencies and refile the ICAP Demand Curve for the G-J Locality for Capability Year 2021-2022.

V. CONCLUSION

For the foregoing reasons, IPPNY respectfully requests that the Commission reject the arguments proffered by the MMU, NYTOs and Consumer Stakeholders and direct the NYISO Staff to make the revisions to the Demand Curve assumptions requested in the IPPNY Protest to produce just and reasonable 2021-2022 ICAP Demand Curves and to establish parameters and methodology to calculate just and reasonable Demand Curves for Capability Years 2022-2025.

Respectfully submitted,

⁴⁸ See GenOn Limited Protest at 10-17.

⁴⁹ *Id.*, Scott Affidavit at P 38.

⁵⁰ *Id.* at 19-22.

⁵¹ *Id.*

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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: January 6, 2021