

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

New York Independent System Operator, Inc.)))	Docket No. ER22-772-000
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COMMENTS OF THE ELECTRIC POWER SUPPLY ASSOCIATION

Pursuant to Rule 212 of the Federal Energy Regulatory Commission’s (“FERC” or “Commission”) Rules of Practice and Procedure, 18 C.F.R. § 385.212 (2021), the Electric Power Supply Association (“EPSA”)¹ respectfully submits these comments on the New York Independent System Operator, Inc.’s (“NYISO”) filing submitted to the Commission on January 5, 2022, pursuant to Section 205 of the Federal Power Act (“FPA”) with its proposed Comprehensive Mitigation Review reforms in the above-referenced proceeding.² Specifically, the NYISO proposes to enhance the currently effective buyer-side capacity market power mitigation measures (“BSM Rules”), improve the NYISO’s valuation of resources’ capacity contributions through adoption of a Marginal Capacity Accreditation market design, and enhance the procedures for defining Installed Capacity (“ICAP”) Demand Curves to better reflect a rapidly changing resource mix.

¹ EPSA is the national trade association representing competitive power suppliers in the U.S. EPSA members provide reliable and competitively priced electricity from environmentally responsible facilities using a diverse mix of fuels and technologies. EPSA seeks to bring the benefits of competition to all power customers. This pleading represents the position of EPSA as an organization, but not necessarily the views of any particular member with respect to any issue. EPSA submitted a timely document-less motion to intervene in this proceeding on January 24, 2022.

² New York Independent System Operator, Inc., Excluding Certain Resources from the “Buyer-Side” Capacity Market Power Mitigation Measures, Adopting a Marginal Capacity Accreditation Market Design, and Enhancing Capacity Reference Point Price Translation, Docket No. ER22-772-000 (filed January 5, 2022) (“NYISO Filing”).

As discussed herein, EPSA supports the NYISO Filing as a just and reasonable and balanced set of revisions that ensure competitive suppliers are neither under nor over-compensated to preserve the long-term reliability of the system. This is consistent with the requirements of Section 205 of the FPA and Commission precedent addressing the NYISO's capacity markets in orders spanning more than a decade.³ To maintain the balance achieved, EPSA urges the Commission to approve the filing as a package without modification or initiating settlement or other proceedings, to be effective on March 6, 2022, as requested by the NYISO. Additionally, EPSA has reviewed the detailed supporting comments and accompanying expert affidavit filed concurrently by the Independent Power Producers of New York ("IPPNY") in response to the NYISO Filing,⁴ and EPSA supports and incorporates by reference the IPPNY Supporting Comments filed in this proceeding.

I. COMMENTS

There are several key points that EPSA would like to highlight in support of the NYISO Filing and to underscore the rationale for expeditious FERC approval without modifications.

First, the NYISO Filing is the result of an extensive stakeholder process and the proposal received overwhelming stakeholder support across stakeholder sectors. As stated in the NYISO Filing, the proposal "reasonably balances consumer and investor

³ See *New York Independent System Operator, Inc.*, 118 FERC ¶ 61,182 (2007) at P 17 (establishing capacity market must provide level of compensation that attracts and retains needed infrastructure to support long term reliability of system); see also *New York Independent System Operator, Inc.*, 170 FERC ¶ 61,121 (2020) at P 48 (reaffirming exemption structure must limit risk of significantly impacting market prices).

⁴ Supporting Comments of Independent Power Producers of New York, Inc., with Affidavit of Mark D. Younger ("Younger Affidavit"), Docket No. ER22-772-000, (filed January 26, 2022) ("IPPNY Supporting Comments").

interests” and is the product of an extensive shared governance process that resulted in a Management Committee measure that was approved by 82% of NYISO stakeholders.⁵ Specifically, the proposal was approved by stakeholders across all five stakeholder sectors, including and importantly, unanimous support from New York State entities, as well as New York City, municipal interests and the New York Transmission Owners, and significant support from both existing capacity suppliers and consumer interests. Additionally, the NYISO emphasizes the independent market monitoring unit for the ISO, Potomac Economics (“MMU”), played a major role in developing the NYISO Filing and the ISO anticipates that the MMU will submit supportive comments. The NYISO conducted an in-depth stakeholder process to develop the filing, including extending its timeline to allow for further input prior to submission and allowing multiple opportunities for written stakeholder comments to the ISO during the process. The overwhelming stakeholder support for the NYISO Filing on a comprehensive and complex set of reforms is a testament to the balancing of interests reflected in the overall proposal developed by the NYISO and its stakeholders and filed with the Commission.

Second, the NYISO Filing reflects a balanced approach in developing the set of proposed capacity market reforms resulting in a just and reasonable proposal. There has been a long-standing tension between New York State’s clean energy policy and the NYISO’s minimum offer price rules, such as the BSM Rules, that have protected the market against uneconomic new entry, including resources that are subsidized by out-of-market payments. Most recently, application of the current BSM Rules to state-

⁵ NYISO Proposal at 1.

supported resources (“Public Policy Resources”) has raised concerns that the result is costly for consumers and creates other inefficient market outcomes.⁶ The NYISO Filing resolves this tension by coupling the revised BSM Rules with the new Marginal Capacity Accreditation market design, which improves the process by which each resource’s capacity is valued, or “accredited,” to more accurately reflect the resource’s marginal contribution to resource adequacy as more duration-limited and intermittent Public Policy Resources are added to the system.⁷ This approach is also supported by the MMU.⁸ The NYISO explained the benefit of a Marginal Capacity Accreditation market design for the ISO as follows:

The NYISO believes that using marginal capacity accreditation values will result in more efficient signals for attracting and retaining resources in New York, regardless of whether those resources receive out of market payments or rely more heavily on capacity market revenues, by properly signaling which resource types are best suited to support grid reliability.⁹

Significantly, the NYISO’s consultants determined in their analysis that the adoption of the proposed Marginal Capacity Accreditation Revisions will ensure that the exemption of Excluded Facilities from the BSM Rules will not cause significant artificial price suppression in the NYISO capacity auctions to levels that would be insufficient to adequately compensate suppliers and support the long-term reliability of the system.¹⁰ It is therefore critical that the Commission approve the Marginal Capacity Accreditation

⁶ NYISO Filing at 3.

⁷ See IPPNY Supporting Comments at 4-7, Younger Affidavit at PP 4 and 8.

⁸ NYISO Filing, Attachment VI, Potomac Economics, NYISO Market Monitoring Unit, NYISO Capacity Accreditation: Consumer Impact Analysis at Slide 4. (“Marginal Accreditation is projected to be significantly more efficient than the two alternative methods.”)

⁹ NYISO ICAP Working Group, October 18, 2021, NYISO Presentation on Comprehensive Mitigation Review at Slide 15, *available here* <https://www.nyiso.com/documents/20142/25440628/20211018%20NYISO%20-%20CMR%20v9.pdf/4475e775-159c-75c7-9cf8-7050dad9a363>.

¹⁰ NYISO Filing, Attachment III, Affidavit of Paul J. Hibbard and Charles Wu at P 36.

Revisions as part of the BSM Rule Reforms package to ensure a just and reasonable outcome.¹¹ As EPSA and its members have urged before FERC and in eastern ISO/RTO stakeholder processes, there are interrelated capacity market reforms which must be undertaken together to ensure that the resulting market design supports reliability through viable price signals.¹² The NYISO package demonstrates this principle and therefore the ISO seeks approval of its reform package as submitted. The proposed revisions are carefully and appropriately balanced to achieve the needed outcomes.

Third, Commission precedent allows for regional differences in ISO/RTO capacity market design proposals. As the NYISO Filing explains, the proposal would leave the NYISO with BSM Rules that continue to differ in various ways from those that recently became effective in PJM, and similarly, the ISO's marginal accreditation framework will differ from what is currently used in PJM and elsewhere.¹³ Of note, the NYISO examined these alternatives as part of the education and analysis undertaken to develop its proposal. Additionally, as noted above, the NYISO understands the

¹¹ See [Post-Conference Comments of the Electric Power Supply Association](#) at 5, *Resource Adequacy in the Evolving Electricity Sector: ISO New England, May 25, 2021 Conference*, Docket No. AD21-10-000 (filed July 19, 2021) (“[I]t is critical that ISO-NE expedite its efforts to develop an “ELCC” framework to be put in place in conjunction with the removal of the MOPR. Absent such action, as [Dr. David Patton, MMU for ISO-NE] further noted, ‘there’s just no way we can deliberately over accredit resources and still expect the market to perform well.’”).

¹² *Id.* at 3 and 5. (“[I]t is critical that the [ISO-NE] pair any effort to remove the MOPR with the development and implementation of durable, long-term market reforms that utilize efficient market signals and sufficient pricing to preserve reliability and energy security. These reforms will ultimately lead to better retirement signals and likely lessen the ISO’s potential reliance on future Reliability Must Run (“RMR”) agreements to retain critical resources. No gap or lag-time should be allowed between any MOPR elimination and implementation of market improvements. Any staggering of such changes will only perpetuate the potential for RMRs and lead to under-investment in other resources needed for reliability.”)

Also, “While implementation of an ELCC is a critical component of any post-MOPR market, it is not the only necessary reform. The ISO and New England stakeholders must take additional steps to ensure that the Forward Capacity Auction (“FCA”) can provide the necessary revenue opportunities and price signals following the price-suppression caused in the both the capacity and energy markets by increasing quantities of state sponsored renewable and intermittent generation. The FCA exists to ensure that New England has a reliable electric system and thus it is critical that it be healthy enough to attract capital investment in both new and existing resources that preserve reliability in the region.”)

¹³ NYISO Filing at 42.

interrelated nature of the capacity market reforms addressed in its comprehensive package – a principle not reflected in PJM’s Focused MOPR proposal, for instance, and which renders the PJM proposal not just and reasonable.¹⁴ Hence, EPSA fully supports the New York proposal based on the balanced, comprehensive approach to capacity market reform. The Commission has routinely allowed for differences in market rules across regions in light of geographical and other regional and market circumstances, and the Commission should continue to respect this regional differences precedent in evaluating the NYISO Filing.

¹⁴ *PJM Interconnection, L.L.C., [Protest of the Electric Power Supply Association](#)* at 58-59, Docket No. ER21-2582-000, (filed August 20, 2021) (“Moreover, if PJM were pursuing a balanced approach to reforming the RPM construct, it would not be racing ahead with MOPR elimination without concurrently addressing these and other important issues as part of a more holistic review.”).

II. CONCLUSION

WHEREFORE, EPSA supports the NYISO Filing as a just and reasonable and balanced set of revisions that ensure competitive suppliers are neither under nor over-compensated to preserve the long-term reliability of the system. This is consistent with the requirements of Section 205 of the FPA and Commission precedent addressing the NYISO's capacity markets in orders spanning more than a decade. To maintain the balance achieved, EPSA urges the Commission to approve the filing as a package without modifications, to be effective on March 6, 2022.

Respectfully submitted,

/s/Nancy Bagot

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Dated: January 26, 2022

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document on each person designated on the official service list compiled by the Secretary of the Federal Energy Regulatory Commission in this proceeding.

Dated at Washington, D.C., this 26th day of January, 2022.

/s/Nancy Bagot

Nancy Bagot, Senior Vice President