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June 25, 2007

Hon. Jaclyn A. Brillling  
Secretary  
New York State Department  
of Public Service  
Three Empire State Plaza  
Albany, New York 12223-1350

Re: Case 06-M-1017 – Proceeding on Motion of the Commission As to the Policies, Practices and Procedures For Utility Commodity Supply Service to Residential and Small Commercial and Industrial Customers. PHASE II.

Dear Secretary Brillling:

Enclosed please find the Staff Reply Comment in the above-captioned proceeding. A copy has been served on all active parties via e-mail and regular mail.

Very truly yours,



Leonard Van Ryn  
Staff Counsel

Enclosure  
cc: All Active Parties

STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION



Case 06-M-1017 - Proceeding on Motion of the Commission As to the Policies, Practices and Procedures For Utility Commodity Supply Service to Residential and Small Commercial and Industrial Customers. PHASE II.

***STAFF REPLY COMMENT***

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Dated: June 25, 2007  
Albany, New York

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STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION

Case 06-M-1017 - Proceeding on Motion of the Commission As to the Policies, Practices and Procedures For Utility Commodity Supply Service to Residential and Small Commercial and Industrial Customers. PHASE II.

**STAFF REPLY COMMENT**

PRELIMINARY STATEMENT

In conformance with the Longer-Term Issues Order,<sup>1</sup> on June 5, 2007, parties filed Initial Comments on planning for the future of New York's electric supply infrastructure, long-term contractual arrangements, and other issues. Staff received Initial Comments from twenty-seven other parties, listed at Appendix A. The parties took a wide variety of positions on the questions raised in the Longer-Term Issues Order. Staff responds to those arguments that substantially conflict with its positions.

DISCUSSION AND CONCLUSION

The Longer-Term Issues Order requested responses to eleven questions. To facilitate and organize this Reply, Staff follows the formatting of the questions into groups from its Initial Comment.

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<sup>1</sup> Case 06-M-1017, supra, Order Requiring Development of Utility-Specific Guidelines for Electric Commodity Supply Portfolio and Instituting a Phase II to Address Longer-Term Issues (issued April 19, 2007).

Resource Planning (Question 1)

In its Initial Comment, Staff identified a need for planning efforts that would be conducted in addition to the New York Independent System Operator's (NYISO) Annual Comprehensive Reliability Planning (CRP) and Economic Planning processes. In the CRP, the reliability of the bulk electric system is evaluated over a ten-year period, and needs that must be met to maintain system reliability are identified. In the current Economic Planning effort, the benefits of relieving congestion for historic periods are estimated. The scope of economic planning, however, is likely to expand as a result of NYISO efforts to comply with Federal Energy Regulatory Commission (FERC) directives.<sup>2</sup> For example, NYISO proposes to project benefits of relieving congestion based on forecasts of future conditions as well.

A substantial majority of the parties agree that additional planning beyond that performed by the NYISO in issuing the CRP is needed. Even some parties that oppose the re-institution of government-directed planning, like SCMC, propose that at least a study process be conducted to build upon the CRP results.<sup>3</sup>

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<sup>2</sup> See Undue Discrimination and Preference in Transmission Service, Order No. 890, FERC Stats. & Regs. ¶31,241 (2007).

<sup>3</sup> Hess Comment, pp. 9-10; SCMC Comment, pp. 8-9.

The varying positions of most of the parties can be built into a rough consensus. The Dynamic Energy Planning Process (DEPP) Staff proposed in its Initial Comment would begin with the NYISO's release of its CRP and Economic Planning products. Given the scope and depth of the efforts the NYISO undertakes in promulgating the CRP, including allowing for interested party input and evaluation of proposed revisions, it appears that the conclusions reached in the CRP on reliability needs are dependable, and that a further inquiry need not be conducted into those conclusions.

The CRP conclusions, however, are focused only on reliability. The backstop solutions to meeting reliability needs proposed in the CRP are not evaluated for their consistency with public policy goals. Moreover, the Economic Planning efforts may be viewed as incomplete to the extent they are limited to merely projecting benefits of relieving congestion. Building upon the NYISO's reliability planning efforts, the DEPP would augment economic planning and also address public policy planning. By coordinating with the NYISO CRP and Economic Planning efforts, the DEPP procurement mechanisms methods would better align the selection of projects with economic and public policy concerns while still preserving reliability.

The CRP process for ensuring a reliability need is met with an infrastructure project that satisfies the need begins with a search for market solutions to that need. Relying first and primarily upon individual developers of infrastructure projects competing to make a profit from the market for infrastructure is beneficial. Infrastructure built in response to market forces will be the most cost beneficial and efficient. As a result, this principle underlying the CRP should be respected in the development of the DEPP.

If new merchant infrastructure is not proposed and timely installed in response to NYISO market pricing, however, the CRP would require regulated entities to develop and pursue implementation of the back-stop solution. Public policy goals established in the DEPP would guide the development of backstop alternatives. Moreover, if the trigger point is reached where the NYISO requires that implementation of the backstop be pursued, that implementation would take place in the DEPP planning or procurement process. There, consistent with the CRP process, providers other than the regulated utility responsible for the backstop solution would be afforded the opportunity to propose a competitive infrastructure project alternative to the utility backstop solution. Through the DEPP, the Commission would then decide which of the competing solutions that satisfy reliability needs identified by NYISO would be selected.

The search for a back-stop solution is thereby dovetailed with the broader considerations that would be reflected in a DEPP procurement effort.<sup>4</sup> That solution is best decided within the DEPP process, where a procurement effort would be directed toward meeting the goals identified in the DEPP.

The DEPP process would similarly address potential solutions to economic planning opportunities. The CRP process does not currently require the pursuit of projects to meet economic opportunities, and it would not be appropriate for it to do so. The NYISO's Economic Planning process, however, is expected to expand to encompass forecasts of the benefits of relieving congestion. That information can be incorporated into the DEPP, and, after carefully-conducted cost-benefit analyses, infrastructure projects that offer economic benefits can be identified.

Most importantly, the DEPP would identify public policy goals that must be met. A decision would be reached on environmental, fuel diversity, market power mitigation, energy efficiency, and, as some parties point out, economic development objectives. A process for attaining those objectives, through the necessary procurement efforts, would be proposed. The DEPP could also establish priorities among competing approaches to

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<sup>4</sup> The DEPP procurement effort is discussed in more detail below.

meeting resource needs and set a preferred order of procurement. For example, in California, cost-effective energy efficiency has been identified as a preferred resource, followed by renewable generation. Less-preferable resources then are queued according to their priorities.

Once the public policy goals are properly identified, and the resources necessary to meet those goals are procured, the procurement outcomes can become an input into the CRP process, completing the circle. For example, the current RPS program, undertaken for public policy reasons, results in the installation of renewable generation resources, which are subsequently treated as an input into the CRP. Similarly, any solutions undertaken in the DEPP process to address economic opportunities or public policy needs could also become inputs into the CRP.

AES-PowerGen claims that market power mitigation is not a proper objective of State policy, and is within the province of the Federal Energy Regulatory Commission (FERC).<sup>5</sup> That analysis is incorrect. The Commission may take steps to mitigate market power, through long-term contracting in conformance with the DEPP, without interfering with FERC jurisdiction. A proper statement of the interface between the effectuation of Commission planning efforts through long term

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<sup>5</sup> AES-PowerGen Comment, p. 20.

contracting and FERC jurisdiction generally, including market power mitigation, is discussed below.

Therefore, the DEPP process can be readily coordinated with the NYISO's CRP and Economic Planning efforts. In fact, the CRP and Economic Planning effort would serve as the foundation for the DEPP process. The result would be a proper coordination of State and Federal efforts to ensure that electric service is reliable, is cost-effective, and is supplied in conformance with public policy goals.

A minority of parties argue that no new planning process is needed. They maintain either that the NYISO's CRP process is adequate or that similar planning efforts failed in the past.<sup>6</sup> This reasoning is not sound.

The NYISO process cannot adequately guide energy policy for New York. By its terms, it is limited to addressing reliability needs and does not require either the pursuit of projects yielding solely economic benefits or public policy goals. As a result, the CRP process will not ensure that the energy policies necessary to advance the general welfare of New York and its citizens will be implemented.

Nor is it inevitable that a properly-designed planning process would repeat the mistakes of the past. One fault with past processes was that circumstances often changed between the

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<sup>6</sup> See Constellation Comment, pp. 3-9.

initiation of the planning effort and the issuance of the plan. With the CRP available as the foundation of the DEPP, however, the gap between the initiation of the plan's development and its issuance can be reduced substantially, rendering DEPP results more timely.

In addition, past planning efforts were not tied to procurement, but merely served as guidance. The DEPP will be directly related to procurement, because procurement mechanisms will be developed that conform to the DEPP. To the extent that circumstances change, the procurement mechanisms can be adapted to those changes as the DEPP is updated. As a result, the Commission should institute the DEPP process Staff recommends. Arguments against conducting planning efforts should be rejected.

Long-Term Contract Issues (Questions 2, 3 & 5)

In its Initial Comment, Staff emphasized that long-term contracts can serve an important function in effectuating DEPP goals. A number of parties, however, pointed out that in the past those contracts have created stranded costs that ratepayers were compelled to fund. Other parties fear that the contracts would adversely affect the functioning of NYISO markets or could drive prices in those markets to lower levels, adversely affecting the financial viability of existing

generators. Staff's approach to long-term contracting, however, would prevent either of those adverse effects from occurring.

Under the Staff proposal, long-term contracts are integrated into the DEPP process. Such a contract is entered into only if it effectuates a goal stated in the DEPP. Moreover, the magnitude of the contractual obligation is limited to the magnitude of the resource described in the DEPP. As a result, the kind of unrestrained contractual activity that accompanied long-term contracting efforts in the past will not occur again.

In particular, parties reference the adverse impacts attending the contracting that took place under Public Utility Regulatory Policy Act of 1978 (PURPA) mandates.<sup>7</sup> The fault inherent in PURPA, however, was not the long-term contractual device itself. Rather, under PURPA, long-term fixed prices were made available to any project developer that requested them. Those prices were set on an administrative basis and were not tested against the market. The result was prices that deviated substantially from market, for purchases at volumes that were unconstrained in any significant way.

Tying long-term contracting to the DEPP process avoids both of those faults. Contracts would be entered into only in conformance with the procurement mechanisms described in the

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<sup>7</sup> Constellation Comment, p. 11; Grid Comment, pp. 31-32.

DEPP, which, as AES-PowerGen suggests,<sup>8</sup> would generally require issuance of an RFP and competition amongst suppliers to obtain the contract that would be entered into at the conclusion of the RFP process. The result is a competitive price for the contract, arrived at through a functioning market. That this reliance on the RFP market might be different from sole reliance on the NYISO spot markets does not render the RFP any less effective in discovering the lowest price at which a desired supply can be secured.

Moreover, the RFP process limits the amount of supply that will be procured. Only the winning bidder will obtain a contract, in contrast to PURPA where any willing supplier could obtain the fixed price merely by applying for it. As a result, the DEPP procurement process both provides for a competitive price and limits the supply that will be purchased at that price. The faults of PURPA are thereby avoided.

The DEPP long-term contracting efforts should not unfairly or unreasonably impede the functioning of NYISO markets. Those markets are expected to respond to changes in supply and demand, and the long-term contracts will merely constitute additional supply that, even though not built in response to the NYISO market prices, are of the type that could be anticipated in advance in any event. Because the volume of

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<sup>8</sup> AES-PowerGen Comment, pp. 21-22.

the supply obtained through long-term contracts should be limited, their cumulative magnitude on NYISO market prices should be limited as well. Again, the mistakes attending PURPA, where a tidal wave of over-supply distorted electricity pricing in New York, would not be repeated.

Moreover, the long-term contracts developed through the DEPP should have a salutary effect on NYISO markets. At some point, these long-term contracts will reach the end of their terms. The generator holding the contract that has expired may then be expected to participate as a merchant plant, without entering into another contract with a regulated utility, in the NYISO markets, contributing to the vitality of those markets. In addition, it might also be anticipated that generation project developers obtaining a long-term contract for an identified amount of capacity might be able to build facilities larger than the contracted for amount, in anticipation of participating in the NYISO markets with the additional capacity as a merchant player. Again, that participation in NYISO markets will contribute to their vitality.

NYC believes that it may be necessary to develop generic terms and conditions for long-term contracts.<sup>9</sup> This sort of constraint should be avoided. Attempting to devise generic

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<sup>9</sup> NYC Comment, p. 13.

terms and conditions for contracts is an exercise in futility -- it is not possible to draft generic language that fits a substantially broad set of circumstances to make the effort useful. Moreover, disputes over the writing of generic terms and conditions inevitably grind any administrative proceeding on the topic to a halt. As a result, efforts to develop generic contract language should be avoided, and the necessary contractual conditions should be developed through negotiation of the contract entered into with the winner of the RFP.

To the extent some specification of contract terms are necessary, that function can be performed when the RFP is drafted. For example, as MI posits, it may be necessary to advise RFP participants of proposed performance guarantees needed to ensure that projects are timely brought to fruition.<sup>10</sup> But this function can be performed by identifying specifications in the RFP without necessarily drafting detailed contract language.

Therefore, the Commission should find that long-term contracts should be entered into for the purpose of meeting specific needs, either for reliability, economic or public policy purposes. The contracts would generally be limited to the amounts of supply identified in the DEPP, with each contract

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<sup>10</sup> MI Comment, p. 17.

executed only with the winner of an RFP process.<sup>11</sup> The protections inherent in this DEPP process would prevent the harms that the parties identify as attending previous long-term contracting policies, and will achieve the goals, identified by Staff, New York City and other parties, anticipated for the contracts. As a result, objections to long-term contracting should be rejected.

Resource Procurement (Questions 4, 6 & 7)

Parties presented a wide variety of proposals on resource procurement mechanisms. Some cited the Renewable Portfolio Standards (RPS) approach to resource procurement as a model.<sup>12</sup> Under RPS, the New York Research and Development Authority performs a centralized procurement function, expending funds transmitted to it by utilities after their collection from ratepayers.<sup>13</sup> This model has proven successful in the RPS context, and may be similarly deployed in other areas. The RPS

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<sup>11</sup> Utilities will enter into some long-term contracts, at their discretion, with existing as well as new resources for hedging purposes, but it can be anticipated that the pricing of these hedging contracts will be related in some way to the prices available to NYISO markets, thereby enhancing instead of obstructing their functioning. Moreover, utilities will often select suppliers through a competitive process that will yield market prices.

<sup>12</sup> NYISO Comment, p. 3; Suez Comment, p. 6.

<sup>13</sup> See Case 03-E-0188, Retail Renewable Portfolio Standard, Order Regarding Retail Renewable Portfolio Standard (issued September 24, 2004).

model also has the advantages of minimizing impacts on NYISO competitive markets and allowing for at least some of their cost recovery from ratepayers on a state-wide basis. As a result, it is one of several mechanisms that may be considered in the DEPP, and when procurement processes are developed in conformance with the DEPP.

Grid, however, proposes a preference for procurement through RPS-type mechanisms.<sup>14</sup> Such a constraint is not in the public interest. Procurement should be tailored to the most cost-effective means of obtaining the needed resource; restricting procurement to a centralized mechanism might mean that least-cost opportunities might be missed. Moreover, the centralized procurement model might not accommodate regional differences. As a result, Grid's limitation should be rejected.

A number of parties propose restrictions on the RFP process, such as requiring that all RFPs be open to all willing participants.<sup>15</sup> In a similar vein, AES-PowerGen propounds that all providers of capacity must be paid the same price,<sup>16</sup> preventing issuance of RFPs soliciting offers from only developers proposing the construction of new projects. The RFP device should not be so constrained. To properly effectuate

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<sup>14</sup> Grid Comment, pp. 22-26.

<sup>15</sup> See IPPNY Comment, p. 11.

<sup>16</sup> AES-PowerGen Comment, p. 22.

public policy and pursue least cost objectives, it may be necessary to limit an RFP to a particular location or type of resource. The proper structuring of the RFPs should be addressed in the DEPP process, not decided beforehand through the adoption of artificial constraints.

Several utilities, including Central Hudson, Con Ed/O&R, and NYSEG/RG&E, have seized upon this proceeding as an avenue to obtaining permission to re-enter the generation business.<sup>17</sup> It has long been Commission policy, however, that utilities should exit that business.<sup>18</sup> As several parties point out, the record of utilities that built generation facilities and sought the recovery of their costs through rate base has not been good. Massive cost over-runs have been frequent and failures to meet in-service deadlines numerous. The only recent experience with a utility rate base generation project has also yielded poor results.<sup>19</sup>

As a result, utility-owned generation, rate based or otherwise, should be pursued only as a last resort. Whatever the circumstances, given that the prospect of prudence review

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<sup>17</sup> NEMA's effort to go beyond the questions asked in this proceeding, by asking that it be decided here that utilities should exit retail markets, should be disregarded (NEMA Comment, p. 18).

<sup>18</sup> Case 94-E-0952, Competitive Opportunities Regarding Electric Service, Opinion No. 96-12 (issued May 20, 1996).

<sup>19</sup> IPPNY Comment, p. 10.

has failed to deter utilities from incurring excess costs when building generation facilities, another means of limiting ratepayer exposure to utility cost over-runs is needed.

Consequently, whenever a utility proposes to build a generation facility, it should be required, as several parties propose,<sup>20</sup> to issue an open RFP where competitors may offer to construct the needed generation plant. The utility would build its plant only if it can demonstrate that it is the least-cost bidder in the RFP process. Moreover, its bid would then serve as a ceiling on the amount of the cost it could recover from its ratepayers. It would be incumbent upon the utility to propose the ratemaking mechanism that would ensure the ceiling is not exceeded.

The ratemaking mechanism selected could raise other issues that the utility must resolve. For example, if the utility plans to bid its generation into NYISO markets, vertical market power concerns could arise out of the relationship between the utility's participation in the market and its ownership of transmission assets. As discussed in the Vertical Market Power Policy Statement,<sup>21</sup> engaging in both activities requires a utility to rebut the presumption that ownership of generation by a transmission and distribution utility, or its

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<sup>20</sup> See NEMA Comment, p. 16.

<sup>21</sup> Case 96-E-0900, et al., Plans For Electric Rate Restructuring, Statement of Policy Regarding Vertical Market Power (issued July 17, 1998).

affiliate, would unacceptably exacerbate the potential for vertical market power. Besides perhaps compromising incentives for utilities to act in the best interests of their ratepayers, the vertical re-integration inherent in utility ownership of generation might also affect utility behavior in the NYISO stakeholder process, perhaps unraveling the existing NYISO governance structure that is delicately balanced among buyers, sellers, and other parties.

Therefore, most procurement issues should be decided in the DEPP as it is devised and implemented. Policies governing utility ownership of generation, however, should be established beforehand to guide the DEPP process. Those policies should restrict utility generation endeavors to exigent circumstances, and obligate utilities to satisfy cost, ratemaking, and market power concerns before proceeding.

Contract Review and Cost Recovery (Questions 8 & 9)

Most parties believe that cost recovery is best accomplished by ensuring that the beneficiaries of a particular resource pay for that resource. There is a broad consensus among the parties on that principle. Many parties, however, propose particular cost-recovery mechanisms tied to particular forms of procurement or types of resources. This sort of detailed mechanism need not be considered at this stage of this proceeding. Instead, the detailed cost allocation and recovery

mechanisms should be developed at the time procurement is embarked upon in conformance with the DEPP and the approval of particular procurement mechanisms.

Besides proposing that beneficiaries fund cost recovery, Staff adumbrated a process for deciding future cost recovery in proceedings where the approval of long-term contracts would be addressed soon after their time of filing. A few parties argue that such an approval would be ineffectual, because one Commission cannot bind a future Commission.<sup>22</sup> That principle, however, is easily overstated.<sup>23</sup>

A future Commission may modify a determination made by a prior Commission only if it justifies the modification. In a prudence review conducted in connection with the approval of a particular contract entered into in conformance with a DEPP procurement mechanism, determinations would be made based on a thorough review of the contract's reasonableness. While a future Commission cannot be prevented from reopening such a determination, finding justification for reversing that determination would be difficult. And such a reversal of a prior determination would be sustained by the courts only if the rationale proffered in support of the reversal were persuasive.

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<sup>22</sup> Suez Comment, p. 17.

<sup>23</sup> See Case 02-E-1656, Consolidated Edison Company of New York, Inc., Declaratory Ruling on Cost Recovery (issued January 24, 2003).

As a result, conducting a prudence review and approving a contract for recovery in advance of the time when that recovery will commence offers utilities significant protection from subsequent prudence reviews.

Con Ed/O&R suggests that a form of the Mobile-Sierra doctrine governing FERC review of contracts might afford additional certainty.<sup>24</sup> To a certain extent, that doctrine will be available to utilities that enter into long-term contracts for the purchase of energy at wholesale. To begin with, the Commission can direct a utility to enter into such a contract under the Public Service Law. In conformance with the Pike County doctrine,<sup>25</sup> such a directive would not interfere with FERC jurisdiction.<sup>26</sup> As FERC itself has explained it, its jurisdiction preempts states from reviewing the prudence of a power purchase decision only if the purchaser had no legal choice but to make a particular purchase and the state's review would interfere with FERC's plenary authority over inter-state wholesale rates.<sup>27</sup> Therefore, the Commission may direct

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<sup>24</sup> Con Ed/O&R Comment, p. 14.

<sup>25</sup> Pike County Light & Power Co. v. Pennsylvania PUC, 465 A.D.2d 735 (Pa. Commw. 1983); see also, Monongahela Power Co. v. PUC of Ohio, 322 F. Supp.2d 902 (E.D. Ohio 2004).

<sup>26</sup> Contracts entered into for the purposes of market power mitigation fall within this analysis as well.

<sup>27</sup> Central Vermont Public Service Corporation, 84 FERC ¶61,194 (1998).

utilities to enter into long-term contracts when they have a choice among options.

Once a long-term contract for a wholesale purchase is filed with FERC, however, FERC assumes jurisdiction over the terms and conditions of the contract. Its future review of those terms and conditions is presumably constrained by the Mobile-Sierra doctrine, if the contract is properly structured. Given this FERC jurisdiction, and a Commission pre-approval of prudence, long-term contracts should acquire sufficient certainty to enable the suppliers holding those contracts to obtain financing for the construction of their facilities.

Therefore, cost recovery mechanisms can buttress the efficacy of long-term contracts as a means for obtaining additional generation resources, by providing the certainty needed to support the financing of the construction of those resources.<sup>28</sup> Long-term contracts also may serve a similar function for obtaining other type of resources consistent with DEPP requirements.

NYISO Market Rules (Question 10)

Several parties maintain that ISO-operated forward capacity markets (FCM) are a mechanism superior to long-term

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<sup>28</sup> As Con Ed/O&R points out, contract approval would also trigger anti-trust immunity, an appropriate result that would prevent disappointed bidders from instituting vexatious litigation (Con Ed/O&R Comment, p. 15).

contracts for obtaining generation supply.<sup>29</sup> As Staff noted in its Initial Comments, reaching such a conclusion is premature. At the very least, it is difficult to develop FCM mechanisms that accommodate public policy considerations and prevent market power abuse in smaller load pockets. Moreover, devising an FCM has often proven contentious, and it might be a substantial period of time before an FCM could be implemented in New York, and the success of that mechanism demonstrated. As a result, a process for embarking upon long-term contracts quickly is superior to relying solely on the development of an FCM.<sup>30</sup>

Some parties suggest that long-term contracts for capacity should be bid into the NYISO markets at their cost or the cost of new entry (CONE). These proposals suffer the same flaw as creating a floor price for capacity in those markets. As Staff argued previously, the result could be that the contract will not clear in the NYISO markets, preventing the contract purchaser from obtaining the benefit of the contract. As a result, these proposals should be rejected.

#### CONCLUSION

For the foregoing reasons, the Staff Proposals on Resource Planning and Long-Term Contracting should be adopted,

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<sup>29</sup> Con Ed/O&R Comment, p. 11; Grid Comment, pp. 20-22.

<sup>30</sup> Staff has no additional comment on Question 11 (Innovative Solutions).

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and the positions of parties contrary to those proposals should  
be rejected.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Leonard Van Ryn".

Leonard Van Ryn  
Staff Counsel

Dated: June 25, 2007  
Albany, New York

PARTIES FILING COMMENTSConsumer-Government

Consumer Protection Board (CPB)  
Long Island Power Authority (LIPA)  
Multiple Intervenors (MI)  
New York City (NYC)  
New York Independent System Operator, Inc. (NYISO)  
New York Power Authority (NPA)  
New York State Energy Research  
and Development Authority (NYSERDA)  
Nucor Steel Auburn, Inc. (Nucor)  
Staff of the Department of Public Service (Staff)

Utilities

Central Hudson Gas & Electric Corporation (Central Hudson)  
Consolidated Edison Company of New York, Inc./Orange and  
Rockland Utilities, Inc. (Con Ed/O&R)  
Energy Association of New York (EA)  
National Grid (Grid)  
New York State Electric & Gas Corporation/Rochester Gas  
and Electric Corporation (NYSEG/RG&E)

Generators

AES Eastern Energy, L.P., Dynegy Power Corporation, Inc.,  
Entergy Nuclear Power Marketing, Inc., The Mirant Parties,  
US Power Generating Company LLC (AES-PowerGen)  
FPL Energy LLC (FPL)  
Independent Power Producers of New York, Inc. (IPPNY)  
KeySpan Corporation (KeySpan)  
Mirant New York, Inc. (Mirant)  
The NRG Companies (NRG)

ESCOs

Consolidated Edison Solutions, Inc. (Con Ed Solutions)  
Constellation New Energy, Inc. (Constellation)  
Direct Energy Services LLC (Direct)  
Hess Corporation (Hess)  
Liberty Power Corporation (Liberty)  
National Energy Marketers Association (NEMA)  
Retail Energy Supply Association and Small Customer Marketer  
Coalition (SCMC)  
Suez N.A., Inc. (Suez)