STATE OF NEW YORK DEPARTMENT OF PUBLIC SERVICE

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January 13, 2009

SENT VIA ELECTRONIC FILING
Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Room 1-A209
Washington, D.C. 20426

Re: Docket Nos. EL07-39-002; ER08-695-000; ER08-695-001 - New York Independent System Operator, Inc.

Dear Secretary Bose:

For filing, please find the Motion to File Answer and Answer of the New York State Public Service Commission in the above-entitled proceeding. Should you have any questions, please feel free to contact me at (518) 473-8178.

Very truly yours,

David G. Drexler
Assistant Counsel

Attachment

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

New York Independent System Operator, Inc.	)	Docket Nos. EL07-39-002
	)	ER08-695-000
	)	ER08-695-001

MOTION TO FILE ANSWER AND ANSWER OF THE PUBLIC SERVICE COMMISSION OF THE STATE OF NEW YORK

Pursuant to Rules 212 and 213 of the Federal Energy Regulatory Commission's (FERC or Commission) Rules of Practice and Procedure, the New York State Public Service Commission (NYPSC) respectfully moves for leave to file this Answer in response to the "Request for Clarification Or, In The Alternative, Rehearing," filed by TC Ravenswood (Ravenswood) on October 30, 2008 (October 30, 2008 Rehearing). Good cause exists to accept this Answer, which, as demonstrated below, contributes to the development of a complete and accurate record, provides useful information, and assists the Commission's understanding and deliberation on this matter. The Commission has granted motions to file supplemental comments on

similar grounds,[1] and accordingly the Commission should grant the NYPSC's Motion to File Answer.

BACKGROUND

On March 7, 2008, the Commission issued an order approving market power mitigation measures applicable to the Installed Capacity (ICAP) market in New York City (NYC).[2] On September 30, 2008, the Commission issued an Order on Rehearing directing the NYISO to modify certain market power mitigation measures applicable to suppliers of ICAP in NYC.[3] The Commission directed the NYISO to file mitigation rules applicable to Special Case Resources (SCRs).[4] The Commission also clarified that buyer market power mitigation only applies to "'new' uneconomic entrants, not existing capacity."[5]

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[1] See, Transcontinental Gas Pipe Line Corporation, 42 FERC ¶63,024 (issued March 2, 1988); AES Power, Inc., 69 FERC ¶61,345 (issued December 15, 1994); and Wyoming Interstate Company, Ltd., 91 FERC ¶63,014 (issued June 28, 2000).

[2] 122 FERC ¶61,211 (March 7, 2008 Order).

[3] New York Independent System Operator, Inc., Order on Rehearing and Further Order on Compliance Tariff Sheets, 124 FERC ¶61,301 (2008) (September 30, 2008 Order).

[4] September 30, 2008 Order at ¶41. Special Case Resources refer to demand response providers that agree to curtail power usage when directed to do so by the NYISO. SCRs may curtail their usage by either reducing operations or by utilizing on-site generation to provide a portion of their power needs.

[5] September 30, 2008 Order at ¶44.

Ravenswood's October 30, 2008 Rehearing seeks to expand the definition of a "new entrant," which is used for purposes of applying buyer-side mitigation measures (i.e., mandatory minimum bids by Ravenswood's competitors). Ravenswood requests that the Commission define a "new entrant" to include: 1) any SCR resource that "receives revenues in excess of the [ICAP] spot market clearing price;" and, 2) any ICAP resource that is sold or transferred.[6]

ANSWER

Ravenswood offers little support for its position, other than an erroneous argument that an SCR resource will receive revenues in excess of the spot market clearing price, or an ICAP resource will be sold or transferred, in order to suppress ICAP prices. Ravenswood concludes that such an ICAP supplier that receives compensation outside the market would not otherwise participate in the ICAP market, and should therefore be subjected to mitigation measures. However, these arguments ignore the fact that there are additional forms of compensation available to resources that are unrelated to the provision of ICAP, and that there are valid reasons for providing such payments. Ravenswood's position is merely self-serving because it is a pivotal ICAP supplier in NYC and would likely benefit

[6] October 30 Rehearing at pp. 3-4.

from selling its ICAP at higher prices due to the imposition of mandatory minimum bids, and the accompanying additional risk of being mitigated, upon a greater number of its competitors.

The Commission should recognize that there are legitimate reasons why an SCR provider may receive compensation for services unrelated to ICAP. For example, the NYPSC has undertaken efforts to reduce electricity demands on heavily loaded distribution networks in NYC during periods when relief is required, by compensating participants for load reductions made during load relief periods designated by Consolidated Edison Company of New York, Inc (Con Edison).[7] This compensation is unrelated to SCR participation as an ICAP provider, as it is designed to provide load relief on the local distribution system, to avoid, or at least defer, the need for costly distribution system upgrades and to assist in preventing system failures.[8] Therefore, Ravenswood's apparent attempt to create barriers to entry in the ICAP market for SCR providers, which

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[7] This program is commonly referred to as the Rider U - distribution load relief program (DLRP). See, NYPSC Case 07-E-0392 et al., Rider U - DLRP, Untitled Order (issued April 24, 2008).

[8] In recent years, several heavily loaded distribution lines in NYC have failed during heat waves, leading to lengthy blackouts. In response, Con Edison is investing in major distribution system upgrades, as well as demand response measures to reduce the risk of blackouts until the upgrades can be completed.

incidentally receive compensation under Con Edison's distribution load relief program or for other purposes, should be rejected.[9]

Furthermore, the Commission should reject Ravenswood's efforts to gain the benefits of having their competitors' ICAP withheld from the market by imposing mitigation on existing ICAP resources that are sold or transferred. The Commission's purpose for applying the buyer-side mitigation rules (i.e., to affect prospective entry) is absent where an existing ICAP resource has merely changed ownership and "already exist[s] in the market."[10] Accordingly, there is no rational basis to treat an existing ICAP resource as a new entrant because that generator was sold or transferred.

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[9] ICAP suppliers connected at the bulk system level cannot provide load relief on the distribution system, and thus, would not qualify for payments under Con Edison's Rider U DLRP.

[10] September 30, 2008 Order at ¶44.

CONCLUSION

In accordance with the above discussion, the Commission should grant the NYPSC's Motion to File Answer and reject Ravenswood's October 30, 2008 Rehearing.

Respectfully submitted,

Peter McGowan
General Counsel
Public Service Commission
of the State of New York

By: David G. Drexler
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Dated: January 13, 2009
Albany, New York

CERTIFICATE OF SERVICE

I, Ruth Tarrance, do hereby certify that I will serve on January 13, 2009, the foregoing Motion to File Answer and Answer of the New York State Public Service Commission, upon each of the parties of record indicated on the official service list compiled by the Secretary in this proceeding.

Ruth Tarrance

Ruth Tarrance

Dated: January 13, 2009
Albany, New York