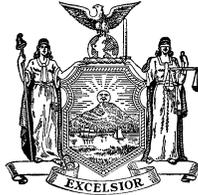


STATE OF NEW YORK DEPARTMENT OF PUBLIC SERVICE

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PUBLIC SERVICE COMMISSION

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General Counsel

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Secretary

October 19, 2001

Honorable David Boergers
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Room 1-A209
Washington, D.C. 20426

Re: Docket No. EX01-1-000 - Ensuring
Sufficient Capacity Reserves In Today's
Energy Market

Dear Secretary Boergers:

For filing please find the revised Comments of the New York State Public Service Commission in the above-entitled proceedings. The version submitted on October 17, 2001 inadvertently contained the phrase "one-size-fits-all" in the first sentence of the full paragraph on page 2. Enclosed is a corrected version. We apologize for any inconvenience this caused.

Should you have any questions, please feel free to contact me at (518) 486-2652.

Very truly yours,

Saul A. Rigberg
Assistant Counsel

Enclosures

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

ENSURING SUFFICIENT CAPACITY)
RESERVES IN TODAY'S MARKET) Docket No. EX01-1-000
)
)

**COMMENTS OF THE PUBLIC SERVICE COMMISSION
OF THE STATE OF NEW YORK**

Pursuant to a Notice Requesting Comments dated September 27, 2001, the Public Service Commission of the State of New York (NYPSC) takes this opportunity to comment upon the Commission Staff Study Team Discussion Paper entitled "Ensuring Sufficient Capacity Reserves in Today's Energy Markets" (Staff Paper).

Copies of all correspondence and pleadings should be addressed to:

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Director Fed. En. Interv.
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The Staff Paper raises timely issues in that the NYPSC, the New York Independent System Operator, Inc. (NYISO), and New York Market Participants are participating in an ICAP Working Group¹ that is wrestling with the question of how the NYISO's installed

¹ The ICAP Working Group is a subset of the NYISO's Business Issues Committee.

capacity reserve rules in a market environment might be altered to better achieve the goals of operational reliability and diminution of market power. As the Commission Staff notes, electric energy is unlike almost all other commodities. It "must be produced as it is consumed," and must "'be there' the moment the switch is thrown." Sufficient capacity must be available to accommodate planned and unplanned outages and surges in demand due to hot temperatures. Supply and demand do not readily achieve equipoise due to the high cost and long lead time associated with construction of new base load generation.

We take exception, however, to the Staff Paper's suggestion on page 3 that the Commission should impose an installed capacity reserve requirement on electricity customers. The appropriate level of installed capacity reserves is heavily dependent upon the specific characteristics of each control area's electric grid. A particular system configuration, and transmission constraints, vary among regions and will affect the reserve requirement. The provision of installed capacity reserves is accomplished through the NYISO pursuant to its FERC-approved tariffs and the level of installed capacity reserves is determined by the Reliability Council. The need for, and magnitude of, reserves should be determined, however, at the state level because an installed capacity requirement, and particularly the level of reliability provided to customers, is

primarily needed to ensure reliable deliveries of energy to retail customers.

Staff Recommendations

The Staff Paper identifies problems it believes could prevent market forces from providing sufficient installed reserve capacity and questions whether any regulatory body would have the authority to order generation to be built. It also acknowledges that while high energy prices may encourage the development of capacity to provide energy, they may not encourage the construction of capacity that would primarily provide reserves and energy in extreme situations (i.e., GTs).

The Staff Paper identifies three mechanisms that may be available to ensure adequate installed capacity reserves:

- 1) Current ICAP mechanism that imposes capacity obligations on LSEs, and provides a revenue stream that helps to cover the carrying costs of units that receive little or no revenue from the energy market;
- 2) Requiring either LSEs or the system operator to obtain generation that would provide reserve capacity at some time in the future (in other words, a call option on energy); and,
- 3) Allowing LSEs to meet part of their ICAP requirement with curtailable loads or use of price-sensitive bids.

Over the long term, whatever approach is used should address the goal of ensuring the development of installed capacity reserves, including GTs, sufficient to meet

requirements as load grows.² At the same time, however, the approach used must be successful at protecting end-users from the exercise of market power in installed capacity markets.

The Staff Paper Suggests Additional Approaches That Warrant Further Development.

The NYPSC expects that the ICAP Working Group will study many facets of ICAP including a concept that borrows from the second and third alternatives discussed in the Staff Paper. A possible approach would allow/require system operators to line up pure forward reserves from existing and proposed GT facilities as well as interruptible loads under multi-year contracts. All other potential ICAP suppliers would continue to have the option of selling bilaterally or through the ISO's or RTO's auction process.

Setting the deficiency charge on a sliding scale, centering on a value of one times the carrying cost of a GT when capacity offered into the market is just adequate to satisfy the desired reserve margin, is another feature the ICAP Working Group is expected to explore. Such an approach may reduce the volatility of installed capacity prices, providing more stable incentives for GTs and interruptible load, while reducing the incentive to exercise market power in the installed capacity market.

²In the near term, and under current North American Electric Reliability Council (NERC) guidelines, ICAP requirements are needed to demonstrate control of adequate capacity reserves.

These and other approaches merit further discussion.

CONCLUSION

The NYPSC looks forward to participating in this discussion with the Commission, its Staff, and other parties. As appropriate, modifications to the NYISO's ICAP market will be submitted to the Commission for approval.

Respectfully submitted,

Lawrence G. Malone
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Dated: October 19, 2001
Albany, New York

