

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

New York Public Service Commission,)	
New York Power Authority,)	
Long Island Power Authority,)	
New York State Energy Research and Development Authority,)	
City of New York,)	
Advanced Energy Management Alliance, and)	
Natural Resources Defense Counsel)	
)	
v.)	Docket No. EL16-92-000
)	
New York Independent System Operator, Inc.)	

**MOTION TO INTERVENE AND COMMENTS
OF THE
NEW YORK ISO’S MARKET MONITORING UNIT**

Pursuant to Rules 212 and 214 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (Commission), 18 C.F.R. §§ 385.212 and 214 (2007), Potomac Economics respectfully moves to intervene in the above-captioned proceedings.¹ The Complaint was filed by the New York Public Service Commission (“NYPSC”), the New York Power Authority, the Long Island Power Authority, the New York State Energy Research and Development Authority, the City of New York, the Advanced Energy Management Alliance, and the Natural Resources Defense Counsel (together, the “Complainants”).

The Complaint seeks to modify the buyer-side market power mitigation rules (“BSM Rules”) to exempt Special Case Resources (“SCRs”). The Complainants state that their

¹ We respectfully ask the Commission to accept these comments, which are two days out of time.

proposed changes are needed because they assert that the BSM Rules “limit full SCR participation” and interfere with public policy objectives. Alternatively, if a “blanket exemption” is not granted, Complainants ask that the Commission adopt what they refer to as “program-specific” exemptions.

Potomac Economics is the Market Monitoring Unit (“MMU”) for NYISO and is responsible for monitoring the electricity markets, evaluating potential rule changes that impact these markets, and consulting with the NYISO on its application of the market power mitigation measures.

I. NOTICE AND COMMUNICATIONS

All correspondence and communications in this matter should be addressed to:

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II. BACKGROUND AND COMMENTS

In its March 2015 Order, the Commission ordered that the offer floor used in the BSM Rules for SCRs should be set at a level equal to the sum of payments received by the SCR. This was to prevent an entity from subsidizing participation by SCRs in order to suppress capacity prices below competitive levels. However, the Commission acknowledged that the BSM Rules should not prevent SCRs from selling capacity if the subsidies they receive come from a state

program with legitimate policy goals (rather than to suppress capacity prices). The Commission indicated that a party could seek an exemption for a specific program by submitting a 206 filing explaining the reasons why an exemption is appropriate.

The Complainants seek to modify the BSM Rules to exempt all SCR programs because they assert that the BSM Rules “limit full SCR participation” and interfere with public policy objectives. Alternatively, if a “blanket exemption” is not granted, Complainants ask that the Commission adopt what they refer to as “program-specific” exemptions. Furthermore, the Complainants ask that mitigation be removed from existing SCRs that have already been mitigated.

The purpose of the BSM Rules is to prevent an entity from subsidizing resources that are not economic in order to increase supply and suppress capacity prices below competitive levels. However, it is important to ensure that the BSM Rules do not act as a barrier to: competitive wholesale market entry, investment that is motivated by distribution-level reliability needs, and/or legitimate public policy initiatives. Accordingly, the Commission’s response to the Complaint should balance the need to protect the market from anticompetitive conduct while ensuring there are not inappropriate barriers to legitimate activities that also affect the wholesale market. In order to strike a reasonable balance, we recommend the Commission:

- Evaluate individual state and utility SCR programs on a case-by-case basis and exempt only those programs that are designed to achieve public policy benefits that are not fully reflected in the NYISO market prices; and
- Require a periodic (e.g., annual) reevaluate the exemption for each program since the rules and incentives of individual programs may change over time.

To be granted an exemption, a complaint should explain that program funding levels and the selection of resources are based on criteria that do not consider the effect on capacity prices. State and utility demand response programs are typically funded based on an assessment of costs

and benefits relative to alternative investments or the alternative of doing nothing, so it should be possible to assess the funding levels and criteria for each program. Likewise, it should be possible to assess whether the criteria for selecting resources does not favor resources that have a larger effect on capacity prices.

III. CONCLUSIONS

The Complainants request blanket exemption or exemption of all existing programs. A blanket exemption would be inappropriate because it could encourage the development of programs for resources that specifically designed to suppress capacity prices. Program-specific exemptions are likely to be appropriate in many cases. Before granting a program-specific exemption, we respectfully recommend that the Commission evaluate the criteria for funding the program and selecting resources to ensure it is not based on public policy benefits that do not include the objective of suppressing capacity prices.

The Complainants have not provided the information necessary for the Commission to perform such an evaluation. Therefore, we recommend that the Commission grant such exemptions only after requiring the provision of information that the Commission deems necessary to evaluate the programs.

Respectfully submitted,

/s/ David B. Patton

David Patton
President
Potomac Economics, Ltd.

July 22, 2016

CERTIFICATE OF SERVICE

I hereby certify that I have this day e-served a copy of this document upon all parties listed on the official service list compiled by the Secretary in the above-captioned proceeding, in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2010).

Dated this 22nd day of July 2016 in Fairfax, VA.

/s/ David B. Patton
