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## II. COMMENTS

The Commission issued a series of orders between February 19, 2015 and April 23, 2018 to establish a process for retaining and compensating units needed for reliability. The NYISO's subsequent compliance filings in this matter included tariff provisions that would govern the generator deactivation process. In a December 18, 2017 filing, Entergy requested clarification regarding the deadline for the NYISO's market power reviews related to the retirement of Indian Point Units 2 and 3. In its April 23, 2018 order, the Commission denied Entergy's request that NYISO complete its market power review for Indian Point by March 13, 2018. However, it also directed the NYISO to file tariff provisions that would establish timelines for its market power reviews. The Commission indicated that establishing a timeline for the NYISO's market power reviews would enhance the transparency for the deactivating generators.

Accordingly, the NYISO in its compliance filing dated May 23, 2018 proposed changes to the tariff that cover, inter alia, issues related to the timeline for completing for market power reviews. The NYISO's filing contemplates and proposes market power review timelines for two types of deactivation events:

1. First, if a unit owner submits a complete request at least 60 days before its specified deactivation date, the NYISO would issue a determination based on a physical withholding analysis at least 30 days before the deactivation date.
2. Second, if the owner indicates that it is required to take irreversible decisions regarding the deactivation prior to the specified deactivation date (i.e. a trigger date), the NYISO

would issue a physical withholding determination at least 30 days prior to the trigger date.

As required by the Commission, the NYISO's proposed timeline works back from deactivation date rather than the complete notice date in both scenarios. This is good because the NYISO will be better positioned to perform its evaluation based on market conditions that are close to the time of deactivation.

Furthermore, in the second type of deactivation event, the NYISO (in consultation with the MMU) will determine whether the owner-specified trigger date is reasonable prior to issuing the physical withholding determination. The proposed tariff provision requires the NYISO to consider whether the deactivation process "will become, essentially and practicably, irreversible" beyond the trigger date.<sup>1</sup> In some cases, it would be straightforward to determine whether a particular decision would be irreversible in the strictest sense. However, the proposed tariff language allows for the NYISO to apply reasonable judgement in cases where the *practical* implications of a particular decision would be expected to set a generator on a path towards deactivation.

For example, a nuclear plant may be able to defer refueling beyond the usual cycle, but this would lead it to forego significant energy market revenues without corresponding cost reductions. Thus, the decision to forego refueling would not be strictly irreversible, but it would adversely affect the outlook for the project to a significant degree. If the project was already uneconomic, the decision to forego refueling would significantly exacerbate the situation. Similarly, there may be other types of capital expenditures (e.g. major maintenance expenditures), which if deferred, could result in higher costs or unreasonably increase the risk of reliable operation. Hence, delaying such decisions to act (or not act) could render the unit more

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<sup>1</sup> See proposed MST §23.4.5.6.4.2.2.2.

uneconomic and may not be consistent with good utility practice. If the magnitude of such capital expenditures was large relative to the overall economics of the project, such capital expenditures could be deemed “practicably irreversible,” while if the capital expenditures were relatively modest, they would not be deemed as such. We believe that the proposed tariff language would allow the NYISO to consider and classify such decisions appropriately as practicably irreversible for the purpose of physical withholding evaluations.

### **III. CONCLUSIONS**

For the reasons stated herein, we find the NYISO’s proposed tariff revisions to be reasonable and respectfully recommend the Commission accept them.

Respectfully submitted,

*/s/ David B. Patton*

David Patton  
President  
Potomac Economics, Ltd.

June 13, 2018

**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 13th day of June 2018 in Fairfax, VA.

*/s/ David B. Patton*

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