

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

<b>New York State Public Service Commission,</b>	)	<b>Docket Nos. EL16-92-002 and</b>
<b>New York Power Authority, Long Island Power</b>	)	
<b>Authority, New York State Energy Research</b>	)	
<b>and Development Authority, City of New York,</b>	)	
<b>Advanced Energy Management Alliance,</b>	)	
<b>and Natural Resources Defense Council</b>	)	
	)	
<b>v.</b>	)	
	)	
<b>New York Independent System Operator, Inc.</b>	)	
	)	
<b>New York Independent System Operator, Inc.</b>	)	<b>ER17-996-001</b>
	)	<b>(not consolidated)</b>

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**PROTEST OF THE NYISO MARKET MONITORING UNIT**

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Pursuant to Rule [] of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (the “Commission”)<sup>1</sup> [and the Commission’s March 13, 2019 Combined Notice of Filings #1], Potomac Economics, the Market Monitoring Unit of the New York Independent System Operator, Inc.’s (“NYISO”) hereby protests the NYISO’s compliance plan that was filed on March 11, 2020 (“NYISO Compliance Plan”).<sup>2</sup>

**I. NOTICE AND COMMUNICATIONS**

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

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<sup>1</sup> 18 C.F.R. § 385.211 (2020).

<sup>2</sup> *Notice of Compliance Plan and Request for Conditional Waiver of the New York Independent System Operator, Inc.*, Docket No. ER17-996-001, filed March 11, 2020.

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## II. COMMENTS

On February 20, 2020, the Commission granted rehearing of a February 2017 order that had found it unjust and unreasonable to subject Special Case Resources (“SCRs”) to offer floor mitigation in the capacity market. The February 2020 order found that retail-level demand response program payments should be included in offer floor calculations for SCRs going forward, except for compensation to resources for “distribution-level reliability needs.” The Commission determined that a paper hearing would be needed to determine which retail-level program payments should qualify for this exception.<sup>3</sup>

On March 11, 2020, the NYISO Compliance Plan was filed noting “the unique procedural history of the applicable tariff language” and admitting that clarification was needed “to eliminate any potential uncertainty among stakeholders” regarding the wording of its currently effective tariff. The NYISO Compliance Plan goes on to assert that its currently effective tariff provision 23.4.5.7.5 is:

A Mitigated Capacity Zone Installed Capacity Supplier that is a Special Case Resource shall be subject to an Offer Floor beginning with the month of its initial offer to supply Installed Capacity, and until its offers of Installed Capacity have been accepted in the ICAP Spot Market Auction at a price at or above its Offer Floor for a total of twelve, not necessarily consecutive, months. A Special Case Resource shall be exempt from the Offer Floor if (a) it is located in a Mitigated Capacity Zone except New York City and is enrolled as a Special Case Resource with the ISO for any month within the Capability Year that includes March 31 in an ICAP Demand Curve Reset Filing Year in which the ISO proposes a New

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<sup>3</sup> *New York State Pub. Serv. Comm’n, et. al. v. New York Indep. Sys. Operator, Inc.*, 170 FERC ¶ 61,120, (“February 2020 Order”).

Capacity Zone that includes the location of the Special Case Resource, or (b) the ISO projects that the ICAP Spot Market Auction price will exceed the Special Case Resource's Offer Floor for the first twelve months that the Special Case Resource reasonably anticipated to offer to supply UCAP. . . . The Offer Floor for a Special Case Resource shall be equal to the minimum monthly payment for providing Installed Capacity payable by its Responsible Interface Party, plus the monthly value of any payments or other benefits the Special Case Resource receives from a third party for providing Installed Capacity, or that is received by the Responsible Interface Party for the provision of Installed Capacity by the Special Case Resources. *The Offer Floor calculation shall include any payment or the value of other benefits that are awarded for offering or supplying Mitigated Capacity Zone Capacity except for payments or the value of other benefits provided under programs administered or approved by New York State or a government instrumentality of New York State.*

Thus, the NYISO Compliance Plan states that the last sentence of the currently effective tariff 23.4.5.7.5 would categorically exclude payments from state programs. The NYISO did not explain the basis for this assertion other than to say that the currently effective tariff language precedes a particular compliance filing that was submitted in April 2015.

We agree that portions of 23.4.5.7.5 were accepted by the Commission in earlier orders. However, while the italicized sentence was submitted to the Commission in various filings, we are unaware that it was ultimately accepted by the Commission. Therefore, we do not believe this last sentence is part of the NYISO's currently effective tariff.

**III. CONCLUSION**

Therefore, we respectfully recommend that the Commission direct the NYISO to explain why the italicized sentence in the previous section should be considered part of the NYISO's currently effective Market Services Tariff.

Respectfully submitted,

*/s/ David B. Patton*

David Patton  
President  
Potomac Economics, Ltd.

April 1, 2020

**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 1st day of April, 2020 in Fairfax, VA.

*/s/ David B. Patton*

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Document Content(s)

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