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May 2, 2014

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. ER13-1380-000 and ER14-500-000 - New York Independent System Operator, Inc.

Dear Secretary Bose:

For filing, please find the Answer of the New York State Public Service Commission to the Motion filed by Central Hudson Gas & Electric Corporation in the above-entitled proceedings. The parties have also been provided with a copy of this filing, as indicated in the attached Certificate of Service. Should you have any questions, please feel free to contact me at (518) 473-8178.

Very truly yours,

A handwritten signature in black ink, appearing to read 'David G. Drexler'. The signature is written in a cursive, flowing style.

David G. Drexler  
Assistant Counsel

Attachment  
cc: Service Lists

UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION

New York Independent System        )     Docket Nos. ER13-1380-000  
Operator, Inc.                        )                     ER14-500-000

**ANSWER OF THE NEW YORK STATE PUBLIC SERVICE COMMISSION  
IN SUPPORT OF MOTION FOR A STAY OF NEW CAPACITY ZONE AUCTIONS  
AND FOR EXPEDITED RULING ON REQUESTS FOR REHEARING**

INTRODUCTION

The New York State Public Service Commission (NYPSC) hereby responds, pursuant to Rule 213 of the Federal Energy Regulatory Commission's (FERC or Commission) Rules of Practice and Procedure (Procedures), to the Motion filed by Central Hudson Gas & Electric Corporation (CHG&E) on April 30, 2014. The NYPSC supports CHG&E's Motion, which seeks a stay of the New York Independent System Operator, Inc's (NYISO) Installed Capacity auctions for load zones G thru J (i.e., the "New Capacity Zone") beginning with the June monthly auction on June 8, 2014.

The stay requested by CHG&E is necessary while the requests for rehearing, which raise significant legal issues with the formation of the New Capacity Zone and seek to avoid, delay or, in the alternative, phase-in its implementation, are still pending in Dockets ER13-1380-000 and ER14-500-000. Granting a stay will avoid irreparable injury to electric consumers that will otherwise be required to pay hundreds of

millions in unjust and unreasonable costs while the parties await the Commission's final determinations on the requests for rehearing and seek judicial review of those determinations, as appropriate. The NYPSC joins CHG&E in urging FERC to expedite its rulings on the pending requests for rehearing.

### DISCUSSION

#### I. The Commission Should Grant An Immediate Stay Of Any Additional Capacity Auctions For the New Capacity Zone

In determining whether to grant a stay, the Commission generally considers three factors, which include: 1) whether the party requesting the stay will suffer irreparable injury absent a stay; 2) whether issuing the stay may substantially harm other parties; and, 3) whether a stay is in the public interest.<sup>1</sup> Based on these factors and the circumstances present in this case, the Commission should find that a stay is warranted.

It is now clear that electric consumers in the New Capacity Zone are experiencing a significant and unwarranted increase in capacity prices. On April 29, 2014, the NYISO released the results from the May Capacity Spot Auction. The

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<sup>1</sup> Docket QF87-237-000, et al., CMS Midland, Inc., Midland Cogeneration Venture Limited Partnership, Order Denying Request for Rehearing, Rejecting Supplemental Filings and Denying Motion for Stay, 56 FERC ¶61,177 (issued July 31, 1991), at 61,631.

resulting price for the New Capacity Zone was \$12.38 per kilowatt-month, which represents an unexpected jump by over \$2.00 per kilowatt-month from the Strip and Monthly auctions held earlier in April. We estimate that FERC's establishment of the New Capacity Zone will now cause capacity prices to increase by approximately \$280 million per year, cumulatively, for customers located in load zones G, H and I (excluding New York City, which is coterminous with load zone J).<sup>2</sup> This updated projection of the ratepayer impact and the potential windfall to incumbent generators is even higher than anticipated at the time of our request for rehearing on the New Capacity Zone Demand Curves.

The increase in capacity costs to lower Hudson Valley consumers within the New Capacity Zones comes on the heels of extremely high energy bills associated with the extreme weather and natural gas shortages experienced in the northeast this past winter, which led to extremely high electric energy prices. For December, January, and February, electric Locational-Based

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<sup>2</sup> We estimate that the Winter 2014-15 clearing price will be \$8.23 per kilowatt-month for the New Capacity Zone. In contrast, the average prices for the capacity year ending April 30, 2014 for the Lower Hudson Valley were \$5.80 per kilowatt-month in the Summer and \$3.10 per kilowatt-month in the Winter. Thus, capacity prices for the Lower Hudson Valley are expected to increase over 100% in the Summer and over 150% in the Winter. The increase, then, will be approximately \$158 million for the 6 months of Summer 2014. We therefore estimate that the increase in capacity costs in the Lower Hudson Valley will be approximately \$281 million (\$158 million + \$123 million) for the capability year May 2014-April 2015.

Marginal Prices in the New York Control Area (NYCA) increased 49%, 130%, and 44%, respectively, over 2013. These increases lead to an estimated increase of over \$2 billion in statewide energy costs on an unhedged basis.

Compounding the impacts to lower Hudson Valley consumers is the expectation that summer electric energy prices will be higher than normal, given weather forecasts that suggest the Northeast is likely to have a hotter than normal summer. This anticipated higher price is reflected in the NYMEX futures market for electricity for NYISO Zone G, which is priced at \$53.05 per MWh for June-September for this year,<sup>3</sup> as compared to \$42.85 and \$40.45 per MWh for the same period in 2013 and 2012, respectively. This potential increase of over 20% in energy prices could lead to over \$70 million in increased electric energy costs for the Lower Hudson Valley for these four months alone. When taken in total, the consumers in the lower Hudson Valley will come out of a winter period of high energy prices straight into a summer period of high energy prices with no relief in sight. While the Commission should be looking for measures to mitigate the price impacts for consumers in the lower Hudson Valley, forcing a price spike through the

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<sup>3</sup> This price is the average of NYMEX Around-the-Clock Zone G futures prices for June-September as of April 23, 2014.

imposition of the New Capacity Zone will only aggravate these impacts.

Electric consumers in the New Capacity Zone are likely to experience irreparable harm from these high capacity prices. These harms are irreparable because of the difficulties the NYISO would experience in attempting to fashion refunds in the capacity market. To determine refunds accurately, it would be necessary to re-run the NYCA auctions with the Lower Hudson Valley capacity included in the Rest-of-State market. There could be some sellers of capacity who cleared at the New Capacity Zone prices that would not have cleared at the NYCA price. This could affect the NYCA clearing price and quantity traded, therefore impacting every capacity purchaser and supplier in the State. Further, the trading of bilateral contracts that are settled based on the spot market results would be severely impacted. Moreover, there is already some capacity in the New Capacity Zone that has cleared in the Strip and Monthly auctions based on the New Capacity Zone higher prices, and there will be more trading soon with the NYISO opening the next Monthly auction on May 8, 2014, and the June Spot auction on May 23, 2014.<sup>4</sup> The results and financial consequences of these auctions will be difficult, if not

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<sup>4</sup> We note that most of the June capacity will likely trade at the June spot auction on May 23, 2014.

impossible, to reverse. Therefore, it is imperative that FERC stay further auctions harming electric consumers.

It is also apparent that other parties will not be substantially harmed by issuing the stay. FERC's policy goal is to incentivize new generation facilities in the Lower Hudson Valley region, in order to make up for limitations in the electric transmission grid's ability to transmit power into the region.<sup>5</sup> However, it will take at least 3 years to build a new generator from the time it is first proposed. Thus, a stay in implementing the New Capacity Zone at this time will not affect such parties' response to a price signal expected in three years. Granting the stay will, however, prevent incumbent generators from receiving a \$280 million annual windfall that offers no compensating benefit to electric consumers. Alternatively, a stay in implementing the NCZ until next summer would avoid a near-term windfall for incumbent generators, but still allow some generating units in the lower Hudson Valley to come back on-line and provide relief from increasing electric capacity costs. Based on the foregoing reasons, a stay of the NYISO's planned auctions for the New Capacity Zone beginning

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<sup>5</sup> The NYPSC's initiatives to address congestion and deliverability constraints within the lower Hudson Valley, as fully described in the NYPSC's requests for rehearing, further justify a stay in implementing the New Capacity Zone.

with the June monthly auction on June 8, 2014 is in the public interest.

**II. The Commission Should Act Expeditiously On The Pending Requests For Rehearing**

The NYPSC continues to urge expedited action by the Commission in Dockets ER13-1380-000 and ER14-500-000. The NYPSC filed requests for rehearing in these proceedings on September 12, 2013, and February 27, 2014, respectively. However, the NYPSC's requests for rehearing, which seek to avoid the imposition of unjust and unreasonable rate increases on electric consumers within the New Capacity Zone in New York's lower Hudson Valley, are still pending. Given the need to ameliorate the significant and unwarranted price increases being thrust upon electric consumers in the lower Hudson Valley, we ask that the Commission act promptly on the petitions for rehearing.

As the NYPSC maintains in Docket ER13-1380-000, New York's efforts to address congestion and deliverability constraints are expected to address the underlying need for establishing the NCZ. Accordingly, the NYPSC requests that FERC reject the need to implement the NCZ in order to prevent improper and meaningless price signals to incumbent resources and prospective developers, without any concomitant ratepayer benefits. The NYPSC takes the same position in docket ER14-500-000, where the NYISO seeks to implement Installed Capacity



Demand Curves within the NCZ for the three upcoming Capability Years (i.e., 2014/2015, 2015/2016, and 2016/2017).

**CONCLUSION**

In accordance with the discussion above, the NYPSC respectfully requests that the Commission grant CHG&E's Motion for a stay in conducting further New Capacity Zone auctions, and act expeditiously of the pending requests for rehearing.

Respectfully submitted,

Handwritten signature of Kimberly A. Harriman in black ink, with the initials 'SH' written at the end of the signature.

Kimberly A. Harriman  
General Counsel  
Public Service Commission  
of the State of New York  
By: David G. Drexler  
Assistant Counsel  
3 Empire State Plaza  
Albany, NY 12223-1305  
(518) 473-8178

Dated: May 2, 2014  
Albany, New York

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service lists compiled by the Secretary in these proceedings.

Dated: Albany, New York  
May 2, 2014



David G. Drexler  
Assistant Counsel  
3 Empire State Plaza  
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(518) 473-8178