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Via E-mail to econway@nyiso.com, mdesocio@nyiso.com

To: New York Independent System Operator ("NYISO")
From: Matthew Schwall, Director of Market Policy & Regulatory Affairs
Date: April 1, 2021
Re: **CRIS Expiration Evaluation**

On behalf of its members who are market participants in the New York Independent System Operator, Inc.'s ("NYISO") administered markets, Independent Power Producers of New York, Inc. ("IPPNY") submits these comments in response to the NYISO's March 11, 2021, ICAPWG presentation titled "CRIS Expiration Evaluation."[1] The project objective and deliverable is to investigate opportunities to revise the CRIS retention rules in cases where CRIS is not fully utilized in order to create deliverability headroom and potentially lessen the need for deliverability upgrades. The three potential sets of rule changes include: (1) modification to the 3-year retention of CRIS by certain retired units; (2) rules to provide for partial CRIS expiration; and (3) modifications to allow more flexibility with respect to CRIS transfers. The second and third potential changes have merit and productive discussions in the stakeholder process should proceed. However, at this time, the NYISO does not propose changing the fundamental rule set involving the 3-year CRIS rule for retired units and it is a contentious issue that could distract from and delay the other proposed changes. IPPNY supports the NYISO's conclusion, recommends that no further consideration be given to changing the 3-year retention of CRIS rule, and requests that the NYISO eliminate consideration of changes to the 3-year rule from future presentations so that the remaining two rule changes may by further considered through the stakeholder process.

During the meeting in which this presentation was given, certain stakeholders suggested that generators who pre-existed the establishment of the CRIS process "did not fund" deliverability upgrades, and, to the extent they hold unutilized CRIS rights, should not be allowed to retain those deliverability rights based on the current tariff requirements. The issue of whether generators who existed prior to the establishment of the NYISO's deliverability requirements are responsible for deliverability upgrade costs was heard and settled by FERC in an order issued March 21, 2008, in docket no. ER04-449.[2] In that order, FERC rejected arguments that the deliverability requirements should be applied to existing generators retroactively (pre-Class Year 2007), stating that applying the deliverability requirements "would require the imposition of additional requirements on interconnection customers that have already

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[1] CRIS Expiration Evaluation, available at https://www.nyiso.com/documents/20142/19871290/CRIS%20Expiration_ICAPWG_03112021.pdf/df86f481-4985-7ca5-7377-1b6010817762.
[2] ER04-449-007, 008, & 016, Guidance Order on Conceptual Proposal, March 21, 2008 ("Guidance Order").

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accepted their obligations to interconnect under existing tariff rules and that have already committed to and made their economic decisions based on the information and requirements at that time."[3] The Commission further found in a subsequent order that "the proposed three-year period after deactivation strikes a reasonable balance between allowing generators to remove themselves from the capacity market, NYISO being required to maintain this quantity of megawatts as deliverable from the market, and the ability of the generator to obtain value from this deliverability right through transfer."[4] Therefore, the issues of whether generators who pre-dated the 2007 Class Year were deliverable prior to upgrades and whether the three-year CRIS-retention period after retirement are just and reasonable have already been heard and settled by FERC.

[3] *Id.* at P 65.

[4] ER04-449-005, 126 FERC ¶ 61,046, Order Conditionally Accepting Compliance Filing at P 60.