July 7, 2015

Solicitation of Comments regarding the ICE Futures U.S. Inc. Futures Contracts in New York Independent System Operator ("NYISO") Electric Power for Zone G

I. Background

The New York Independent System Operator ("NYISO") Zone G is one of the eleven control zones for the region and is based on the Hudson Valley load zone situated to the north of New York City. According to public figures from NYISO the total generation for 2014 in the entire ISO was 37,978 MW, and total 2013 usage was 163,514 thousand MWh.[1] The ICE NYISO Zone G futures contracts are major United States (U.S.) futures markets and principal vehicles for hedging and pricing by U.S. firms with commercial interests in electric power for that region. Those futures contracts rank among the most actively traded electric power commodity futures contracts in the U.S. ICE also lists contracts for additional areas within NYISO including Zones: A, C, D, F and J; with other exchanges also listing contracts for the same and additional areas of the ISO.

The NYISO Zone G Day-Ahead Off-Peak contracts[2], for the year 2014, had average daily open interest of approximately 274,000 lots, exceeding 11million MWh of electricity. For the same period the total volume was over 525,000 lots, representing over 15million MWh/Yr. Similarly, for the NYISO Zone G Day-Ahead Peak contracts[3], the average daily open interest for 2014 was nearly 77,000 lots or approximately 15million MWh, and the total trading volume for the year was approximately 190,000 contracts representing nearly 27million MWh/Yr.[4] Activity in these contracts has been at or near these levels over the previous two years and represents significantly more electric power then is generated or used in the entire ISO.[5]

The preponderant use of these markets is by commercial participants. For example, over the past 12 months, reportable producer merchant traders combined held highs of 8,559 and 11,256 reportable long and short sides respectively for NYISO Zone G Day-

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[1] NYISO website is available at http://www.nyiso.com/public/media_room/key_facts/index.jsp.

[2] NYISO Zone G Day-Ahead Off-Peak contracts include monthly ("NGO"), daily ("NOD") and mini ("ONG") contracts and are aggregated together for this number.

[3] NYISO Zone G Day-Ahead Peak contracts include monthly ("NGY"), daily ("GDP") and mini ("NMG") contracts and are aggregated together for this number.

[4] Numbers for Open Interest (OI) and reportable producer merchants can be found in the CFTCs Commitment of Traders Reports at http://www.cftc.gov/MarketReports/CommitmentsofTraders/index.htm and data on traded volume is available via the market data section of the ICE website at https://www.theice.com/index.

[5] These activity levels for ICE NYISO Zone G electric power futures contracts were not examined prior to 2013 since these contracts were not futures before that time. Although OTC data prior to 2013 is available, these contracts became futures as part of a larger group of electric power swaps that were futurized by ICE in mid-October of 2012 in response to the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank").

Ahead Peak contracts.[6] The reportable NYISO Zone G electric power futures market contract's open interest for merchant longs or shorts ranged from an average of 70% to as high at 95% of total open interest over the same period. Reportable producer merchants included on average 16 participants for longs and shorts and up to 22 participants in some periods, illustrative of an active and diverse market.[7] These numbers are indicative of a mature market where multiple commercial participants with physical positions are also participating in the futures markets.

The predominant economic function of the ICE NYISO Zone G electric power futures markets is risk-transfer and price-basing, rather than merchandising or title transfer for the underlying commodity. Consistent with this, the preponderance of positions established in these markets are liquidated through the purchase or sale of offsetting futures contracts, rather than through making or taking delivery of the commodity. Nonetheless, the orderly convergence of futures prices and cash market merchandising values is essential to these contracts' risk-transfer and price-basing functions, and this convergence is dependent on the unimpeded opportunity of market participants to conduct arbitrage between the cash and futures markets. As a result, it is essential that the estimated delivery supply of these contracts effectively link futures trading to the underlying cash markets.

II. Questions for Commenters

The Commission has determined that publication of the request for public comment will assist the Commission in its consideration of these issues, including in particular, ICE's method for estimating deliverable supply. Accordingly, the Commission is requesting written data, views or arguments from interested and knowledgeable members of the public. Commenters are specifically requested to address the following issues:

1. When estimating deliverable supply is nameplate capacity ("NPC") appropriate to reflect the structure of the cash market for the underlying commodity?[8]

2. Since all generating units do not operate throughout the day and supply must always equal demand to maintain an electric power systems operations how can these two factors be accounted for in a deliverable supply estimate?

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[6] Reportable traders are individuals or firms that hold futures positions of 1MWh or more in any one contract month through any U.S. or foreign broker.

[7] Number for reportable producer merchants can be found in the CFTCs Commitment of Traders Reports at http://www.cftc.gov/MarketReports/CommitmentsofTraders/index.htm.

[8] Name Plate Rating ("NPR") is provided by ICE and is believed to be generally equivalent to Nameplate Capacity ("NPC") installed as defined by the Energy Information Agency ("EIA"). EIA defines generator nameplate capacity (installed) as, "The maximum rated output of a generator, prime mover, or other electric power production equipment under specific conditions designated by the manufacturer. Installed generator nameplate capacity is commonly expressed in megawatts (MW) and is usually indicated on a nameplate physically attached to the generator." *See*, U.S. Energy Information Administration Glossary at www.eia.gov/tools/glossary/?id=electricity.

3. When estimating deliverable supply, is total transfer capability (TTC) appropriate to reflect the structure of the cash market for the underlying commodity?[9]

4. Does TTC include or exclude electric power generated to meet demand in the zones outside NYISO Zone G? Would it be appropriate to reduce estimated deliverable supply for zones other than Zone G where power contributed to the TTC flows comes from those areas?

5. What adjustment to TTC should be made to account for demand, transmission and node constraints? Is the use of a flowgate model appropriate to account for TTC?

6. Is the use of historic capacity electric power data appropriate for the estimation of deliverable supply? Or should historic flow data for that zone be used, where available?

7. How does NPC and/or TTC relate to historical electric power flows?

8. Is the use of average load appropriate to estimate supply of electric power over a period of time at a zone?

9. What adjustments if any should be made for historical load data containing periods of exceptionally high or low load for the zone?

10. To what extent do the current ICE deliverable supply estimates for the futures contract for NYISO Zone G electric power contracts reflect seasonality effects on the market?

11. Is it appropriate to calculate two separate estimates of deliverable supply for both peak and off-peak electric power futures contracts?

12. What, if any, other factors should be considered by ICE in estimating supply of electric power that would be available at NYISO Zone G in a particular month?

[9] EIA defines transfer capability as, "The overall capacity of interregional or international power lines together with associated electrical system facilities, to transfer power and energy from one electrical system to another." *See*, EIA Glossary.

13. Is it appropriate to calculate deliverable supply on historical delivered electric power to account for the merit-order curve? Is another method more appropriate?

14. When estimating deliverable supply should there be reductions made for ancillary services (e.g. load following, frequency response, spinning reserve capacity, etc.) given their role in normal grid operations?

15. How does the methodology of estimating deliverable supply impact the contracts hedging or price-basing utility?

16. How should deliverable supply estimates relate to the speculative position limits and accountability levels for similar contracts traded on other exchanges be viewed?

17. To what extent should consideration be given to environmental constraints, ramp-rate limits, dynamic constraints, start-up costs, operation scheduling, no-load costs, and pricewise linear cost curves when estimating deliverable supply?