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**BY ELECTRONIC TRANSMISSION**

Submission No. 15-101s
June 23, 2015

Mr. Christopher J. Kirkpatrick
Secretary of the Commission
Office of the Secretariat
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

**Re: Supplement to Amendments to Resolution No. 2 of Chapter 18 - Submission Pursuant to Section 5c(c)(1) of the Act and Regulation 40.6(a)**

Dear Mr. Kirkpatrick:

Pursuant to Commodity Futures Trading Commission ("CFTC" or "Commission") Regulation 40.6(a), ICE Futures U.S., Inc. ("Exchange" or "IFUS") submitted Submission No. 15-101 on May 11, 2015, to amendment Resolution No. 2 of Chapter 18 of the Exchange's Rulebook.

In response to the request of staff of the Division of Market Oversight (the "Division"), IFUS hereby submits this filing as a supplement to the explanation of the rule amendments contained in IFUS Submission No. 15-101. The effectiveness of those rule amendments was stayed by the Division on May 26, 2015 and the Division has advised the Exchange that the Submission will be published for a 30-day public comment period. The issues discussed below address those aspects of the deliverable supply analysis that accompanied Submission 15-101 which the Division asserts were inadequately addressed.

Peak/Off-Peak and Seasonality

For the purpose of estimating deliverable supply, which is used to determine appropriate position limits, paragraph (b)(1)(i)(C) of Appendix C to Part 38[1] of the CFTC's Regulations expressly require such estimate to cover a period of time that is representative of the underlying commodity's actual pattern of consumption, among other requirements. The estimate provided by IFUS covers a period of three full years and is based upon numbers published by NYISO for Zone G. Accordingly, the average deliverable

[1] Pursuant to Paragraph c(1) of Appendix C to Part 38, cash-settled contracts should consider the size of the underlying cash market pursuant to Paragraph (b)(i) of Appendix C.

supply calculated by IFUS includes and incorporates the peak and off-peak periods and all four seasons for each year of such period in compliance with the requirements of this paragraph.

In addition, unlike certain agricultural commodities which may have growing seasons where supply may vary greatly over the course of a year, electric power generator characteristics don't materially change between peak and off-peak periods or across different seasons[2]. The infrastructure and the ability to produce electricity remains the same during peak and off-peak periods, as well as whether the supply is allocated to ancillary services. Additionally, while seasonality does increase and decrease generation and Total Transfer Capability (the amount of electric power that can be moved from one area to another) based on thermal characteristics of the equipment, the difference between peak summer and peak winter is only about 5%. In that respect, by incorporating off-peak and low demand season numbers into its deliverable supply analysis, IFUS has already built in a discount/haircut into such estimate.

Finally, IFUS lists separate peak and off-peak contracts, each with multiple expirations throughout the year for its NYISO Zone G contracts. Consistent with paragraph (b)(1)(i)(B) of Appendix C to Part 38, variations in the patterns of consumption for all electric power contracts, including the NYISO Zone G contracts, is properly addressed in the terms and conditions established by IFUS for such contracts. As you would expect based on the law of supply and demand, peak electric power contracts trade at a premium to off-peak electric power contracts and high demand expirations, such as summer months, trade at a premium over low demand expirations, a strong indication that the contracts are functioning properly.

Total Transfer Capability

IFUS included in its estimate of deliverable supply TTC along interfaces into NYISO Zone G. These interfaces have an overlapping path of power flow, which ensures that the same resources cannot transmit over multiple power flows or be double counted. Power can flow into Zone G from other NYISO zones to the north and south, and from PJM or ISO-NE which operate in New Jersey and Connecticut, respectively. NYISO's Operating Studies include interfaces called "Total East," "UPNY-ConEd" and "ISO-NE". Data for the Total East interface shows power flow from the northeastern Zones (A through F) in NYISO into Zone G and power from PJM into NYISO, including Zone G. The UPNY-ConEd interface data provides the transfer capability between NYISO's southern Zones (H through K) and Zone G, while the ISO-NE interface data provides power flow between ISO-NE and Zone G.

To ensure that usage of TTC is an appropriate measure of actual power flows, IFUS reviewed NYISO intertie flow data and found that the maximum actual intertie flow for the UPNY-ConEd from Zone G was 98% of the Operating Study's reported TTC for the same interface, Total East into Zone G was 101% of the Operating Study's TTC and ISO-NE into Zone G was 88%[3]. All together, the total

[2] IFUS calculation based on 2013 Form EIA-860 Data - Schedule 3, 'Generator Data' (Operable Units Only) http://www.eia.gov/electricity/data/eia860/ data downloaded 26 May 2015.Data filtered for New York Generators, volume weighted average capacity calculated for summer and winter, finally, one minus the ratio of calculated winter to summer multiplied by 100.

[3] IFUS calculation based on OASIS RTD Internal External Limits and Flows data downloaded from NYISO website and tables 1.a, 1.b and 2.b in NYISO's Operating Study's 2012-2014.
http://www.nyiso.com/public/markets_operations/market_data/power_grid_data/index.jsp

actual tie flow in max hours at each interface to Zone G was 98% of the TTC listed in NYISO's Operating Studies. Put another way, if the Operating Study listed 100 MW of TTC at a given interface into Zone G, at some point during the last year 98 MW of power has been on that line at least one time.

Generation

The Exchange used Nameplate Rating (NPR) to quantify the capacity of generation available in Zone G. NPR is defined by the Energy Information Administration ("EIA") as the "capacity determined by the generator's manufacturer and indicates the maximum output a generator can produce without exceeding design thermal limits."[4] IFUS used NPR data published annually by NYISO in its annual Load & Capacity Data report (referred to as the "Gold Book") to calculate Deliverable Supply. Alternatively, NPR data is collected annually by the EIA in Form No. 860, which surveys the operating characteristics of all U.S. generators with a capacity greater than 1 MW.

To ensure that usage of NPR is an appropriate measure of actual generation, IFUS reviewed data from Form 860, which includes generator-specific Net Summer and Net Winter performance-based generation data demonstrated by a multi-hour test gauging a generator's output.[5] Form 860 data for New York showed 736 generators in the state. Total Net Winter Capacity was 98% of total NPR. This means that for every 100 MW of Nameplate generation performance testing, an average 98 MW of power would be available in peak winter conditions[6]. Moreover, 202 generators, or 27% of New York's total, had a Net Winter Capacity greater than NPR.

For the foregoing reasons, IFUS believes that the Deliverable Supply Analysis (attached hereto as Exhibit A for reference) which accompanied Submission 15-101 is consistent with the requirements of paragraph (b)(1)(i)(C) of Appendix C to Part 38. Further, the Exchange believes that the amended spot month position limit levels continue to comply with the current standard set forth in CFTC Regulation 150.5(c) as they do not increase the potential for manipulation or distortion of the underlying market.

If you have any questions or need further information, please contact me at 212-748-4021 or at jason.fusco@theice.com.

Sincerely,

Jason V. Fusco
Assistant General Counsel
Market Regulation

Enc.
cc: Division of Market Oversight
New York Regional Office

[4] http://www.eia.gov/tools/faqs/faq.cfm?id=101&t=3

[5] http://www.eia.gov/tools/glossary/index.cfm?id=N#net_sum_cap

[6] Similarly, total net summer capacity was 93% of total NPR.

# EXHIBIT A

# DELIVERABLE SUPPLY ANALYSIS

## NYISO

### I. Cash Market Overview

The New York Independent System Operator ("NYISO") manages the electric power flow in the state of New York from over 500 generators on 10,900 miles of transmission lines. NYISO's wholesale electricity market has over 400 market participants. NYISO is divided into eleven control area load zones: West, Genesee, Central, North, Mohawk Valley, Capital, Hudson Valley, Millwood, Dunwoodie, Long Island, and New York City. NYISO publishes actual and forecasted hourly load and LMP for each of its zones.

The Zone G contracts are based on the aforementioned Hudson Valley load zone and, as such, reference LMPs published by the ISO for the Hudson Valley load zone. NYISO publishes hourly load-weighted average LMPs for both real-time and day-ahead markets. LMP data is available at: http://www.nyiso.com/oasis/index.html.

In its November 18, 2011, final position limit rulemaking, the Commission defined deliverable supply as "the quantity of the commodity meeting a derivative contract's delivery specifications that can reasonably be expected to be readily available to short traders and saleable by long traders at its market value in normal cash marketing channels at the derivative contract's delivery points during the specified delivery period, barring abnormal movement in interstate commerce."[7]

ICE determined that the sum of capacity of generation *at* a hub[8] or zone and total transfer capability[9] (TTC) available *into* a hub or node best meets the definition of the supply of electricity readily available for delivery.[10] This measurement represents a knowable, standardized measurement of only the

[7] 17 CFR 1,150-51 (2011), http://www.cftc.gov/ucm/groups/public/@lrfederalregister/documents/file/2011-28809a.pdf.

[8] An area within the independent service operator comprised of a group of nodes, also called buses, within a predetermined region and at which the ISO calculates individual Locational Marginal Pricing (LMP), for which the individual LMP values are averaged to create a single pricing reference. A hub is a group of physical points of infrastructure where power is added to the electric grid. Hub and zone may be used interchangeably to define a specific area within an ISO. "Section 2: Definitions." *PJM Manual 35: Definitions and Acronyms*. Vol. 23. PJM, 2014. 46. Print.

[9] Total transfer capability is an industry-wide definition describing the amount of electric power that can be moved or transferred reliably from one area to another area of the interconnected transmission systems by way of all transmission lines (or paths) between those areas under specified system conditions. "Total Transfer Capability." *Glossary of Terms Used in NERC Reliability Standards*. North American Electric Reliability Corporation, 3 Mar. 2015. Web. <http://www.nerc.com/files/glossary_of_terms.pdf>.

[10] "Mandatory Standards Subject to Enforcement." North American Electric Reliability Corporation. Web. 9 Mar. 2015. <http://www.nerc.net/standardsreports/standardssummary.aspx>.

supply of electricity that can be delivered at the contract's delivery points and excludes excess supply (electricity held in reserve or otherwise unavailable for delivery) that could never be delivered.

Today, hubs provide an active wholesale marketplace where electricity service providers execute a variety of transactions to serve local distribution companies and other customers. These transactions are typically executed through a centralized mechanism where the service providers supply hourly offer curves to the ISO and the lowest cost generation is awarded to fulfill the demand of customers. Frequently, to meet the demand of its customers, ISOs will allocate generation from outside the hub and supply the electricity through its existing transfer capability with other zones or ISOs.[11] Hubs are comprised of many types of physical assets, participants and transactions, and it is the utilization of both generation capacity and transfer capability that facilitates the needs of all participants to make the electricity market liquid, efficient, and reliable.

The scheduling of generation and transfer capability by ISOs are knowable, industry-wide practices enforced by the Federal Energy Regulatory Commission ("FERC") and the North American Energy Reliability Corporation ("NERC"). In April 1996, the FERC issued Order 888 requiring public utilities that own, control or operate facilities used for transmitting electric energy in interstate commerce to file open access non-discriminatory transmission tariffs that contain minimum terms and conditions of non-discriminatory service.[12] FERC has since updated Order 888 to protect and promote generation competition and enforce fair treatment of external users of the transmission system. Additionally, Section 215 of the Federal Power Act requires the Electric Reliability Organization to develop mandatory and enforceable reliability standards. One of NERC's "Modeling, Data, and Analysis" standards defines the reason for and methods of calculating Total Transfer Capability ("TCC").[13] NERC requires Transmission Providers to post the TTC of a posted path.[14]

An electric utility reports its generation capacity annually through FERC Form 1 and supplements the information reported quarterly through Form 3-Q.[15] Each ISO must publish daily the amount of generation that is available in each hub or zone. If a generator were unavailable, the report would reflect the decreased generation capacity at the location. For example, routine maintenance will cause portions of a utility's generation fleet to be offline for a period of time. The transfer capability available to a hub or zone is constantly expanding, as FERC requires the ISOs and its utilities to update existing transmission infrastructure to develop an interregional transmission planning process.[16]

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[11] As an example, to satisfy the demand for power, the NYISO, the ISO representing New York and it's surrounding areas, will import power from PJM Interchange and from Independent Electricity System Operator (IESO), the corporation responsible for operating the electricity market and directing the operation of the wholesale electrical system in the province of Ontario, Canada.

[12] 18 CFR 35 (1996), http://www.ferc.gov/legal/maj-ord-reg/land-docs/rm95-8-00v.txt.

[13] "Available Transmission System Capability: R4-R6." *Standard MOD-001-1a*. North American Electric Reliability Corporation, 1 Apr. 2011. Web. 9 Mar. 2015. <http://www.nerc.com/files/MOD-001-1a.pdf>.

[14] "Information to be posted on the OASIS," 18 CFR 37.6(b)(1)(vi) (2008). <https://www.law.cornell.edu/cfr/text/18/37.6>

[15] "FERC Form No. 1: Annual Report of Major Electric Utilities, Licensees and Others and Supplemental Form 3-Q: Quarterly Financial Report." FERC, 31 Dec. 2014. Web. 9 Mar. 2015. <http://www.ferc.gov/docs-filing/forms/form-1/form1-3Q.pdf>.

[16] FERC Order 1000, 18 CFR 35, 136 FERC 61051 (July 2011), http://www.ferc.gov/whats-new/comm-meet/2011/072111/E-6.pdf.

Given the Exchange's electricity contracts are based on hubs and zones, and generation capacity *and* total transfer capability plays an integral part of the efficiency, liquidity, and reliability of those hubs and zones, ICE determined that the sum of generation capacity in and the total transfer capability available into the hub or zone represents the best estimate of the quantity of electricity that could reasonably be expected to be readily available to short traders and saleable by long traders at its market value at the contracts' delivery points.

## II. Deliverable Supply Analysis

For the Exchange's deliverable supply analysis, it reviewed the total Name Plate Rating ("NPR") corresponding to Zone G provided by NYISO in its annual Load & Capacity Data report (referred to as the "Gold Book") from 2012 to 2014.[17] The Gold Book indicated that during the aforementioned time period, the average total NPR in Zone G was 3,097 MW. To accommodate regular transfers of power into Zone G, the Exchange reviewed the TCC limits corresponding to transfers into Zone G provided by NYISO in its seasonal NYISO Operating Studies.[18] The Studies indicated that during the aforementioned time period, the average total transfer capability into Zone G was 11,008 MW. To calculate the total amount of electricity deliverable at Zone G, the Exchange used the sum of average NPR and TCC for the aforementioned time period. The Exchange determined that the deliverable supply of electricity in Zone G was 14,105 MW.

ICE set the spot month speculative position limits for each NYISO Zone G contract at 25% of the estimate of deliverable supply. ICE lists three 50 MWh off-peak Zone G contracts, three 800 MWh on-peak Zones G contracts, and two 1 MW Zone G Contracts. For the three 50 MWh off-peak contracts, considering the average number of off-peak hours in a month is 390, Market Regulation calculated a limit of 27,505 contracts. For the three 800 MWh peak contracts, considering the average number of peak hours in a month is 336, Market Regulation calculated a limit of 1,481. And for the two 1 MW mini contracts, the limit was simply 25% of the 14,105 MW total deliverable supply, or 3,526 contracts.

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[17] "Table III-2: Existing Generating Facilities." *2014 Load and Capacity Data (Gold Book)*. New York Independent System Operator, Apr. 2014. Web. 9 Mar. 2015. <http://www.nyiso.com/public/webdocs/markets_operations/services/planning/Documents_and_Resources/Planning_Data_and_Reference_Docs/Data_and_Reference_Docs/2014_GoldBook_Final.pdf>.

[18] "NYISO Cross-State Interface Thermal Transfer Limits - Winter 2014-15." *NYISO Operating Study: Winter 2014-15*. New York Independent System Operator, 11 Dec. 2014. Web. 9 Mar. 2015. <http://www.nyiso.com/public/webdocs/markets_operations/market_data/reports_info/operating_studies/thermal_transfers/Winter2014-15_Operating_Study_Report_OC_Approved.pdf>.