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November 21, 2013

Via E-Mail

Hon. Kathleen H. Burgess
Secretary
New York Public Service Commission
Three Empire State Plaza
Albany, New York 12223-1350

RE: Case 13-E-0012 - Dynegy Danskammer LLC, Petition for Waiver of the Generation Facility Retirement Notice Period and Requesting Other Related Relief

Dear Secretary Burgess:

We are writing on behalf of Helios Power Capital, LLC ("Helios") in response to a letter submitted by the Independent Power Producers of New York, Inc. ("IPPNY") in this proceeding on November 12, 2013 (the "Letter"). In the Letter, IPPNY requested that the Commission issue a notice providing interested parties with the opportunity to submit comments on certain determinations made in the Commission's Order Modifying Prior Order and Establishing Further Procedures issued in this proceeding on October 28, 2013 (the "Order").

In the Order, the Commission confirmed its prior order authorizing Dynegy Danskammer LLC ("Dynegy") to sell the Danskammer Generating Station (the "Facility") to Helios. In addition, the Commission also transferred responsibility to notify the Commission of any election to retire the Facility from Dynegy to Helios and granted Helios 45 days from the date of the closing of its purchase of the Facility from Dynegy to determine whether it wished to proceed with retirement of the Facility as originally planned or return the Facility to service. The Commission found providing this option to Helios to be in the public interest in light of the increased need for installed capacity in the lower Hudson Valley resulting from the recent establishment by the New York Independent System Operator, Inc. ("NYISO") of a New Capacity Zone in the lower Hudson Valley.

In the Letter, IPPNY requested that the Commission issue a notice providing interested parties with the opportunity to submit comments on the Commission's decision to provide Helios with the option to return the Facility to service. IPPNY expressed concern in the Letter that the result of granting this option to Helios would be to permit the Facility to be transferred to a buyer who could only return the

Facility to service “after making significant physical changes, presumably required as a result of extensive flood damage at the plant.”

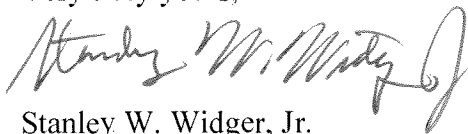
Helios respectfully submits that there is no need for the Commission to issue the notice and request for comments sought by IPPNY at this time. As the Commission made clear in the Order, any decision by Helios to return the Facility to service will remain subject to review by the Commission as an acquisition of electric plant under section 70 of the Public Service Law (“PSL”) if and when Helios elects to return the Facility to service. Accordingly, to the extent that IPPNY or any other party has any concerns with respect to that transaction that may properly be brought before the Commission in a proceeding under PSL § 70, they will have ample opportunity to do so at that time. Until Helios submits an application for such authority, there is no need for the Commission to review comments from IPPNY or any other party speculating on the actions Helios may or may not take in the future.

Helios would also note that IPPNY’s expressed concerns about the cost of returning the Facility to service have never been a consideration in any prior PSL § 70 proceeding involving the transfer of ownership of a merchant generating facility operating in New York’s competitive wholesale markets. Instead, the Commission has routinely allowed owners of such facilities to freely transfer ownership of their facilities to a qualified owner/operator except where such transfers are likely to create or enhance horizontal or vertical market power.

Helios respectfully submits that it would be extremely harmful to the competitive wholesale power markets that the Commission has consistently sought to foster for many years if the Commission were to expand the scope of its review of ownership transfers under PSL § 70 to permit competing suppliers to contend that the transfer should be rejected based on self-serving allegations that the facility to be transferred was no longer economic to operate. This is especially true where, as the Commission expressly found in the Order, any decision to return the Facility to service would be taken in response to the higher prices for installed capacity resulting from the New Capacity Zone recently established by NYISO for the express purpose of providing an economic incentive for the provision of more installed capacity in the lower Hudson Valley.

For the foregoing reasons, IPPNY’s request should be denied.

Very truly yours,



Stanley W. Widger, Jr.

cc: David B. Johnson, Esq.
Leonard Van Ryn, Esq.
Edward Schrom
Paul A. Colbert, Esq.
David Allen, Esq.
Jeffrey D. Kuhn, Esq.