

Proposed NYISO Services Tariff

Proposed Stage IA Tariff on Implementation of a Permanent Installed Capacity Market

BLACKLINED AGAINST THE CURRENT TARIFF

- Additions to the current Stage I Services Tariff are double underlined like this.
- Deletions to the current Stage I Services Tariff are struck through ~~like this~~.

(Tariff as Modified by the February 1, April 28, and
September 1, 2000 FERC Filings, and the
October 11 and November 21, 2000 FERC Orders)

Prepared for the December 12, 2000 BIC Meeting

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I. Definitions

2.2a Adjusted Actual Peak Load

Actual peak Load adjusted to reflect: (i) Load relief measures such as voltage reduction and Load Shedding; (ii) peak Load reductions provided by Interruptible Load Resources; ~~and (iii) normalized design weather conditions, as necessary;~~ and (iv) adjustments for Special Case Resources.

2.17 Capability Period

Six month periods which are established as follows: (1) from May 1 through October 31 of each year (“Summer Capability Period”); and (2) from November 1 of each year through April 30 of the following year (“Winter Capability Period”).

~~2.17a~~ 2.17b Capability Year

A Summer Capability Period, followed by a Winter Capability Period (*i.e.*, May 1 - April 30).

2.18a CARL Data

Control Area Resource and Load (“CARL”) data submitted by Control Area System Resources to the ISO.

2.32a Control Area System Resource

A set of Resources owned or controlled by an entity within a Control Area that also is the operator of such Control Area. Entities supplying Installed Capacity using Control Area System Resources will not designate particular Resources as the suppliers of Installed Capacity.

2.38a Deficiency Procurement Auction

An auction conducted pursuant to Section 5.14.1(a) to procure sufficient Installed Capacity to cover the remainder of the LSEs’ Installed Capacity requirement for an Obligation Procurement Period.

2.46a DMNC Test Period

The period within a Capability Period during which a ~~Generator’s, System Resource’s or Special Case Resource’s~~ Resource required to do so shall conduct a DMNC test ~~must be conducted~~ if that DMNC test is to be valid for purposes of determining the amount of Installed Capacity that

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~~resource~~ this Resource is permitted to provide in the NYCA. Such periods will be established pursuant to the ISO Procedures.

2.49a Energy Limited Resource

Capacity ~~resources~~ Resources that, due to design considerations, environmental restrictions on operations, cyclical requirements, such as the need to recharge or refill, or other non-economic reasons, are unable to operate continuously on a daily basis, but are able to operate for at least four consecutive hours each day.

~~2.49b~~ 2.49c Excess Amount

The difference, if any, between the dollar amounts charged to purchasers of Installed Capacity in an ISO-administered Installed Capacity auction and the dollar amounts paid to sellers of Installed Capacity in that ISO-administered Installed Capacity auction.

2.52a Expedited Dispute Resolution Procedures

The procedures set forth in Section 5.16 of this Tariff.

2.59b GADS Data

Data submitted to the NERC for collection into the NERC's Generating Availability Data

2.74 Installed Capacity

External or Internal Capacity, in increments of 100 kW, that is ~~continuously~~ made available, pursuant to Tariff requirements and ISO Procedures, for the portion of an Obligation Procurement Period for which that Capacity is being sold ~~for the purpose of satisfying the NYCA's Installed Reserve Requirement.~~ used to satisfy the NYCA Installed Capacity Requirement.

~~2.74a~~ 2.74b Installed Capacity Marketer

An entity which has signed this Tariff and which purchases Installed Capacity from qualified Installed Capacity Suppliers, or from LSEs with excess Installed Capacity, either bilaterally or through an ISO-administered ~~auctions~~ auction. Installed Capacity Marketers that purchase Installed Capacity through an ISO-administered ~~auctions~~ auction may only resell Installed Capacity purchased in such auctions in the NYCA.

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2.74b 2.74c Installed Capacity Supplier

An Energy Limited Resource, Generator, Installed Capacity Marketer, Interruptible Load Resource, Special Case Resource ~~or~~, Intermittent Power Resource, municipally-owned generation, System Resource or Control Area System Resource that satisfies the ISO's qualification requirements for ~~selling~~ supplying Installed Capacity.

2.77a Intermittent Power Resource

Capacity Resources that depend upon wind or solar energy for their fuel.

2.107a Monthly Auction

An auction administered by the ISO pursuant to Section 5.13.3 of the ISO Services Tariff.

2.107b 2.107a Native Load Customers

The wholesale and retail power customers of the Transmission Owners on whose behalf the Transmission Owners, by statute, franchise, regulatory requirement, or contract, have undertaken an obligation to construct and operate the Transmission Owners' ~~system~~ systems to meet the reliable electric needs of such customers.

2.120a NYCA Installed Capacity Requirement

The requirement established for each Capability Year by multiplying the NYCA peak Load forecasted by the ISO by the quantity one plus the NYCA Installed Reserve Margin.

2.120b NYCA Installed Reserve Margin

The ratio of the amount of additional Installed Capacity required by the NYSRC in order for the NYCA to meet NPCC reliability criteria to the forecasted NYCA upcoming Capability Year peak Load, expressed as a decimal.

2.122a Obligation Procurement Period

The period of time during which LSEs shall be required to satisfy their Installed Capacity requirements. Obligation Procurement Periods shall begin and end on the same dates as the Capability Periods defined by Section 2.17 of this Tariff.

2.128b Operating Data

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Pursuant to Section 5.12.5 of this Tariff, Operating Data shall mean GADS Data, data equivalent to GADS Data, CARL Data, metered Load data, or actual system failure occurrences data, all as described in the ISO Procedures.

2.160b Resource

An Energy Limited Resource, Generator, Installed Capacity Marketer, Interruptible Load Resource, Special Case Resource, Intermittent Power Resource, municipally-owned generation, System Resource, or Control Area System Resource.

2.172a Special Case Resource

Loads capable of being interrupted upon demand, and distributed ~~generators~~ Generators, rated 100 kW or higher, that are not visible to the ISO's Market Information System and that are subject to special rules, set forth in Section ~~5.12.8(a)~~ 5.12.11(a) of this Tariff and related ISO Procedures, in order to facilitate their participation in the Installed Capacity market as Installed Capacity Suppliers.

2.177a System Resource

A portfolio of Installed Capacity provided by ~~Generators~~ Resources located in a single ISO-defined Locality, the remainder of the NYCA, or any single External Control Area, that is owned by or under the control of a single entity, which is not the operator of the Control Area where such Resources are located, and that is made available, in whole or in part, to the ISO.

~~System Resources may be External or Internal to the NYCA.~~ **II. Article 5**

5.9 Installed Capacity — Transitional Implementation of Revised Installed Capacity Market Provisions

During the Capability Year ending April 30, 2001, and through the 2001 Summer Capability Period, the provisions of Sections 5.10 - 5.15 and of other relevant Sections of this Tariff shall govern Installed Capacity requirements in the NYCA. If a permanent Installed Capacity market design cannot be implemented in time for the 2001 ~~Summer~~-2002 Winter Capability Period, the ISO Board shall have the unilateral right to continue the provisions of Sections 5.10 - 5.15 of this Tariff in effect until such time as a permanent Installed Capacity market design is in place.

5.10 NYCA Installed Capacity Requirement

The NYCA Installed Capacity requirement Requirement is derived from the NYCA's NYCA Installed Reserve Margin, which is established each year by the NYSRC. The NYCA Installed Capacity ~~requirement~~ Requirement for the Capability Year beginning each May 1 will be established by multiplying the NYCA peak Load forecasted by the ISO by the quantity of one plus the NYCA Installed Reserve Margin, ~~expressed on a percentage basis.~~

The ISO will calculate a NYCA peak Load each year by applying regional Load growth ~~unit~~ factors to the prior calendar year's Adjusted Actual Peak Load. Regional Load growth factors shall be proposed by the Transmission Owners and reviewed by the ISO pursuant to procedures agreed to by ~~all~~ Market Participants ~~which shall be~~ and described in the ISO Procedures. Disputes concerning the development of regional Load growth factors shall be resolved through the ISO's Expedited Dispute Resolution Procedures set forth in Section 5.16 of this Tariff.

The ISO shall determine the amount of Installed Capacity that must be sited within the NYCA, and within each Locality, and the amount of Installed Capacity that may be procured from areas External to the NYCA, in a manner consistent with the Reliability Rules.

5.11 Requirements Applicable to LSEs

5.11.1 Allocation of the NYCA Installed Capacity Requirement to LSEs

Each Transmission Owner and each municipal electric utility will submit to the ISO, for its review pursuant to mutually agreed upon procedures which shall be described in the ISO Procedures, a weather-adjusted Capability Year peak Load forecast for its Transmission District. The ISO Procedures shall authorize the ISO to approve each Transmission Owner's forecasting methodology.

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Each Transmission District's peak Load forecast shall assume, as a starting point, the relevant Transmission District's Adjusted Actual Peak Load during the prior calendar year, and shall incorporate regional Load growth factors developed pursuant to Section 5.10 of this Tariff. Each Transmission Owner must also submit aggregate peak Load data, coincident with the Transmission District peak, for all customers served by each LSE active within its Transmission District. The aggregate peak Load data may be derived from direct meters or Load profiles of the customers served. Each Transmission Owner shall be required to submit such forecasts and aggregate peak Load data, ~~no later than February 15th each year, which shall reflect verified Load shifting through December 31 of the previous year~~ in accordance with the ISO Procedures. Each municipal electric utility may choose to submit its peak Load forecast based on the Transmission District's peak Load forecast provided by a Transmission Owner or to provide its own. Any disputes arising out of the submittals required in this paragraph shall be resolved through the Expedited Dispute Resolution Procedures set forth in Section 5.16 of this Tariff.

All aggregate peak Load data submitted by a Transmission Owner must be accompanied by documentation indicating that each affected LSE has been provided the data regarding the assignment of customers to the affected LSE. Any disputes between LSEs and Transmission Owners regarding such data or assignments shall be resolved ~~pursuant to~~ through the ISO's Expedited Dispute Resolution Procedures set forth in Section 5.16 of this Tariff, or the Transmission Owner's retail access procedures, as applicable. The ISO shall allocate the NYCA Installed Capacity ~~requirement~~ Requirement among all LSEs serving Load in the NYCA prior to the beginning of each Capability Year. Each LSE's Installed Capacity requirement will equal the product of: (i) the NYCA Installed Capacity ~~requirement~~; Requirement, and (ii) the peak Load of that LSE's customers in each Transmission District, coincident with the Transmission District peak, adjusted for applicable regional Load growth, divided by the sum of the forecasted peak Loads located in all Transmission Districts.

~~The~~ Prior to the beginning of each Capability Year, the ISO shall calculate a preliminary Installed Capacity requirement estimate for each LSE, ~~which will reflect~~ reflecting documented Load-shifting adjustments ~~through the end of February, and;~~ provide it to each LSE ~~no later than March 22nd each year;~~ and notify each LSE of its Installed Capacity requirement applicable at the beginning of the Capability Year, all in accordance with the ISO Procedures. Transmission Owners ~~must~~ shall submit the required Load-shifting information to the ISO and to each LSE affected by the Load-shifting ~~no later than March 7th each year. The ISO shall notify,~~ in accordance with the ISO Procedures. In the event that there is a pending dispute regarding a Transmission Owner's forecast, the ISO shall nevertheless establish each LSE of its final Installed Capacity requirement on April 10th each year. Each LSE's final Installed Capacity requirement ~~shall reflect documented Load shifts as of April 1st that are scheduled to occur before May 1st. Transmission Owners must submit the required Load shifting information to the~~

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~~ISO and to each LSE affected by the Load shifting no later than April 1 each year. In the event that there is a pending dispute regarding a Transmission Owner's forecast as of April 10th, the ISO shall nevertheless establish each LSE's final Installed Capacity requirement in accordance with the schedule established in the ISO Procedures, subject to possible adjustments ~~consistent with the ISO's that may be required as a result of resolution of the dispute through the Expedited~~ Dispute Resolution Procedures set forth in Section 5.16 of this Tariff.~~

Each month, as Transmission Owners report ~~Customers~~ customers gained and lost by LSEs through Load-shifting, the ISO will adjust the requirement for each LSE such that (a) the total Transmission District Installed Capacity requirement remains constant and (b) an individual LSE's requirement reflects the gains and losses. If an LSE loses a customer as a result of that customer leaving New York State, the Load-losing LSE shall be relieved of its obligation to procure Installed Capacity to cover the Load associated with the departing customer as of the date that the customer's departure is accepted by the ISO and shall be free to sell any excess Installed Capacity. In addition, when a customer leaves New York State, the ISO will adjust each LSE's Installed Capacity requirement so that the total Transmission ~~District~~ District's share of the NYCA Installed Capacity ~~requirement~~ Requirement remains constant.

5.11.2 LSE Obligations

Each LSE must procure Installed Capacity₂ in an amount equal to its Installed Capacity requirement₂ from any Installed Capacity Supplier through Bilateral Transactions and/or purchases in ISO-administered Installed Capacity auctions. Each LSE must demonstrate that it has obtained a sufficient amount of Installed Capacity prior to the beginning of each Obligation Procurement Period, and again prior to the beginning of each month. To satisfy this requirement, each LSE must submit completed Installed Capacity certification forms to the ISO by the date specified in the ISO Procedures, ~~which shall be no later than ten (10) days prior to the beginning of an Obligation Procurement Period, and again during each month by the date specified in.~~ The Installed Capacity certification forms submitted by the LSEs shall be in the format and include all the information prescribed by the ISO Procedures, which shall be no later than the twenty fifth (25th) day of each month within an Obligation Procurement Period. The ISO shall develop appropriate certification forms which shall, at a minimum, require LSEs to: (i) ~~designate the total amount of Installed Capacity they have procured;~~ (ii) ~~specify how much Installed Capacity is associated with resources located in each ISO-defined Locality, the remainder of the NYCA and each External Control Area;~~ and (iii) ~~identify any Installed Capacity Supplier from which they have procured Installed Capacity pursuant to Bilateral Transactions.~~

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LSEs that fail to timely satisfy their Installed Capacity requirement, or that fail to make timely submissions of the required Installed Capacity certification forms, shall be required to participate in a Deficiency Procurement Auction pursuant to Section 5.14.1 of this Tariff.

5.11.3 Load-Shifting Adjustments

The ISO shall account for Load-shifting among LSEs each month using the best available information provided to it and the affected LSEs by the individual Transmission Owners. The ISO shall, upon notice of Load-shifting by a Transmission Owner and verification by the relevant Load-losing LSE, increase the Load-gaining LSE's Installed Capacity requirement and decrease the Load-losing LSE's Installed Capacity requirement to reflect the Load-shifting. The Load-gaining LSE shall pay the Load-losing LSE a portion pro-rated ~~portion~~ on a daily basis of the Market-Clearing Price of Installed Capacity, as established at the most recent previous regular monthly Installed Capacity auction for that month that successfully cleared, or, in the event that no such clearing price exists, a portion pro-rated on a daily basis of the Market-Clearing Prices Price in the Obligation Procurement Period Auction divided by six (6) for each day that the Load-gaining LSE serves the Load, until the first day of the month after the ~~next regular~~ nearest following monthly Installed Capacity auction is held. The amount paid by a Load-gaining LSE shall be reduced by the Load-losing LSE's share of any rebate associated with the lost Load paid pursuant to Section 5.15 of this Tariff. By the time specified in the ISO Procedures, the Load-gaining LSE must procure sufficient Installed Capacity to meet its increased Installed Capacity requirement for the remainder of the Obligation Procurement Period, and the Load-losing LSE may sell Installed Capacity that it no longer needs to satisfy its Installed Capacity requirement.

~~By the seventh (7th) day of each month, each~~ Each Transmission Owner shall report to the ISO and to each LSE serving Load in its Transmission District the updated, aggregated LSE Loads documented as of the end of the prior month. ~~By the tenth (10th) day of the current month, the~~ and by the date set forth in the ISO Procedures. The ISO shall provide each LSE with a revised Installed Capacity requirement for the following month, which shall reflect all documented Load-shifts as of the end of the current month. Any disputes among Market Participants concerning Load-shifting shall be resolved ~~pursuant to~~ through the ISO's Expedited Dispute Resolution Procedures set forth in Section 5.16 of this Tariff, or the Transmission Owner's retail access procedures, as applicable. In the event of a pending dispute concerning a Load-shift, the ISO shall make its monthly Installed Capacity adjustments as if the Load-shift reported by the Transmission Owners had occurred, or if the dispute pertains to the timing of a Load-shift, as if the Load-shift occurred on the effective date reported by the Transmission Owner, but will retroactively modify these allocations, as necessary, based on determinations made pursuant to the ISO's Expedited Dispute Resolution Procedures set forth in Section 5.16 of this Tariff, or the Transmission Owner's retail access procedures, as applicable.

5.11.4 LSE Locational Installed Capacity Requirements

The ISO will determine the Locational Installed Capacity Requirements, stated as a percentage of the Locality's forecasted Capability Year peak Load, that shall be uniformly applicable to each LSE serving Load within a Locality. In establishing Locational Installed Capacity Requirements, the ISO will take into account all relevant considerations, including the total NYCA Installed Capacity ~~requirement~~ Requirement, the NYS Power System transmission Interface Transfer Capability, the Reliability Rules, and any other FERC-approved Locational Installed Capacity Requirements.

Any Locational Installed Capacity Requirements operative at the commencement of ISO operations adopted by LIPA or under settlement agreements approved by the PSC shall continue in effect in accordance with their terms unless and until the ISO implements new or modified Locational Installed Capacity Requirements.

Each LSE will secure the required amount of Installed Capacity for the upcoming Obligation Procurement Period from ~~resources~~ Resources consistent with the locational requirements established by the ISO. Installed Capacity associated with Generators located in the New York City Locality that are subject to market mitigation measures may not be sold at a price greater than the locational price cap, except as explicitly provided in Sections 5.13.2, 5.13.3 and 5.14.1 of this Tariff.

In addition, any Customer that purchases Installed Capacity associated with any Generator that is subject to market mitigation measures in an ISO-administered auction may ~~not~~ resell that Installed Capacity in a subsequent auction for ~~a price higher than~~ no greater than the mitigated price cap or the price it paid for ~~#~~ that Installed Capacity, in accordance with Sections 5.13.2, 5.13.3, and 5.14.1 of this Tariff. The ISO shall inform Customers that purchase Installed Capacity in an ISO-administered auction of the number of MWs they have purchased that are subject to market mitigation measures.

The ISO shall have the right to audit all executed Installed Capacity contracts and related documentation of arrangements by an LSE to use its own ~~Generation~~ generation to meet its Locational Installed Capacity ~~Requirements~~ Requirement for an upcoming Obligation Procurement Period.

5.12 Requirements Applicable to Installed Capacity Suppliers

5.12.1 Installed Capacity Supplier Qualification Requirements

In order to qualify as an Installed Capacity Supplier in the NYCA, Energy Limited Resources, Generators, Installed Capacity Marketers, Interruptible Load Resources ~~or~~, Intermittent Power Resources, and System Resources rated 1 MW or greater, other than ~~entities purchasing Installed~~

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~~Capacity from External System Resources located in External Control Areas that and Control Area System Resources which~~ have agreed to certain ~~curtailment conditions (see below)~~ Curtailment conditions as set forth in the last paragraph of Section 5.12.1, below, and other than Special Case Resources ~~which, existing municipally-owned generation, Energy Limited Resources, and Intermittent Power Resources, to the extent those entities~~ are subject to the ~~information~~ requirements of Section ~~5.12.8~~ 5.12.11 of this Tariff, ~~must:~~ (i) shall:

- (i) provide information reasonably requested by the ISO including the name and location of Generators ~~and,~~ Interruptible Load Resources; ~~(ii) provide documentation to the ISO, of DMNC testing for the previous like Capability Period, or, and System Resources;~~
- (ii) in accordance with the ISO Procedures, perform DMNC tests and submit the results to the ISO, or provide to the ISO appropriate historical production data for the previous like Capability Period, no more than twelve (12) months old, except in the case of new Generators, or, in the case of Interruptible Load Resources, documentation of sustained disconnection for one (1) hour or longer that is no more than one (1) year old, in accordance with ISO Procedures; (iii)
- (iii) abide by the ISO Generator maintenance coordination procedures;
- (iv) ~~(iv)~~ provide the expected return date from any outages (including partial outages) to the ISO;
- (v) ~~(v)~~ provide documentation demonstrating that it will not utilize the same Installed Capacity for more than one (1) buyer at the same time;
- (vi) ~~(vi) if the resource is an Energy Limited Resource, Generator or System Resource, it must commit that it will either~~ except for Installed Capacity Marketers and Interruptible Load Resources, schedule it in Day-Ahead Bilateral Transactions to supply Load within the NYCA or bid it Bid into the Day-Ahead Energy Market, unless the Energy Limited Resource, Generator, or System Resource is unable to do so due to a maintenance or forced outage or due to temperature related ~~de-ratings;~~
~~(vii) if the resource~~ deratings. Generators may also enter into the MIS an upper operating limit that would define the operating limit under normal system conditions. The circumstances under which the ISO will direct a Generator to exceed its upper operating limit are described in the ISO Procedures;

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- (vii) if the Resource is an Interruptible Load Resource, it must commit that it will bid Bid, at the price at which it is willing to be interrupted, in the Day-Ahead Market, for both Energy and Operating Reserves;
- (viii) ~~(viii) abide by ISO Procedures; and (ix) prior to May 1, 2001, provide Operating Data in accordance with Section 5.12.5 of this Tariff;~~
- (ix) comply with the ISO Procedures;
- (x) when the ISO issues a Supplemental Resource Evaluation request (an SRE), Bid into the in-day market unless the entity has a Bid pending in the Hour-Ahead Market when the SRE request is made or is unable to Bid in response to the SRE request due to a maintenance outage or forced outage, or due to other operational issues, or due to temperature related deratings; and
- (xi) Installed Capacity Suppliers located east of the central-east constraint shall bid Bid in the Day-Ahead and Real-Time Markets all capacity Capacity available for supplying 10-Minute NSR Non-Spinning Reserve (NSR) (unless the Generator is unable to meet its commitment because of a scheduled or forced outage), except for the generators Generators described in subsections (a), (b), (c) and (d) below:
 - ~~(a)~~
 - (a) Generators providing Energy under ~~existing contracts~~ contracts executed and effective on or before November 18, 1999 (including PURPA contracts) in which the power purchasers do not control the operation of the supply source but would be responsible for penalties for being off-schedule, with the exception of Generators under ~~existing~~ must-take PURPA contracts executed and effective on or before November 18, 1999, who have not provided telemetering to their local TO and historically have not been eligible to participate in the NYPP market, which will continue to be treated as TO ~~load~~ Load modifiers under the ISO-administered markets;
 - (b) ~~(b)~~ Existing topping turbine Generators and extraction turbine Generators producing ~~electric~~ Energy resulting from the supply of steam to the district steam system located in New York City (LBMP Zone J) in operation on or before November 18, 1999, and/or topping or extraction turbine Generators

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utilized in replacing or repowering ~~existing~~ steam supplies from such units (in accordance with good engineering and economic design) that cannot follow schedules, up to a maximum total of 365 MW of such units;

- (c) ~~(e)~~ Existing intermittent (i.e., non-schedulable) renewable resource Generators in operation on or before November 18, 1999 within the NYCA, plus up to an additional ~~50~~ 500 MW of such Generators; and
- (d) ~~(d)~~ Units that have demonstrated to the ISO that they are subject to environmental, contractual or other legal or physical requirements that would otherwise preclude them from providing 10-Minute NSR.

The ISO shall inform each potential Installed Capacity Supplier that is required to submit DMNC data of its approved DMNC ratings for the Summer Capability Period ~~no later than February 15th,~~ and for the Winter Capability Period ~~no later than August 15th.~~ in accordance with the ISO Procedures.

~~In the case of entities purchasing Requirements to qualify as Installed Capacity from Suppliers for External System Resources and Control Area System Resources located in External Control Areas that have agreed not to curtail Curtail the Energy associated with such Installed Capacity or to afford it the same curtailment Curtailment priority that they afford their it affords its own Control Area Load, the requirements for certification as an Installed Capacity Supplier shall be established in the ISO Procedures.~~

5.12.2 Additional Provisions Applicable to External Installed Capacity Suppliers

~~External Generators and entities purchasing from them, External System Resources, and Control Area System Resources may qualify as Installed Capacity Suppliers if they demonstrate that their Installed Capacity is deliverable to the NYCA and will not be recalled or curtailed by an External Control Area to satisfy its own Control Area Loads, or, in the alternative, if they demonstrate-~~

~~Alternatively, an entity that purchases Installed Capacity from an External System Resource located in an External Control Area may qualify to sell Installed Capacity in the NYCA if it demonstrates that the External Control Area will afford the NYCA Load the same curtailment priority that it affords its they afford their own Control Area Native Load- Customers. The amount of Installed Capacity that may be supplied by such entities will be de-rated qualifying pursuant to the alternative criteria may be reduced by the ISO, pursuant to ISO Procedures, to reflect the possibility of curtailment.~~

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LSEs with External Installed Capacity as of the effective date of ~~the~~ this Tariff will be entitled to designate External Installed Capacity at the same NYCA Interface with another Control Area, in the same amounts in effect on the effective date of ~~the~~ this Tariff. To the extent such External Installed Capacity corresponds to Existing Transmission Capacity for Native Load as reflected in Table 3 of Attachment L to the ISO OATT, these External Installed Capacity rights will continue without term and shall be allocated to the LSE's retail access customers in accordance with the LSE's retail access program on file with the PSC and subject to any necessary filings with the Commission. External Installed Capacity rights existing as of September 17, 1999 that do not correspond to Table 3 of Attachment L to the ISO OATT shall survive for the term of the relevant External Installed Capacity contract or until the relevant External Generator is retired.

5.12.3 Installed Capacity Supplier Maintenance Scheduling Requirements

All Installed Capacity Suppliers, except for Interruptible Load Resources, ~~External Control Area~~ System Resources that are Control Areas, and Special Case Resources, ~~intending~~ that intend to supply Installed Capacity to the NYCA ~~must~~ shall submit a confidential notification to the ISO of their proposed outage schedules ~~for the next three calendar years no later than July 1st of the current calendar year, except for the 2000-2001 Capability Year in which case the deadline for submission of proposed outage schedules will be February 29, 2000~~ in accordance with the ISO Procedures. Transmission Owners will be notified of these and subsequently revised outage schedules. Based upon a reliability assessment, if Operating Reserve deficiencies are projected to occur in certain weeks for the upcoming calendar year, the ISO will request voluntary maintenance ~~re-scheduling~~ rescheduling. In the case of Generators actually supplying Installed Capacity to the NYCA, if voluntary ~~re-scheduling~~ rescheduling is ineffective, the ISO will invoke forced ~~re-scheduling~~ rescheduling of outages to ensure that projected Operating Reserves over the upcoming year are adequate. The ~~re-scheduling~~ rescheduling process ~~will be~~ is described ~~in detail~~ in the ISO Procedures.

A Generator that refuses a forced rescheduling of its outages for any unit shall be prevented from supplying Installed Capacity in the NYCA for that unit during any month where it undertakes such outages.

A Supplier that intends to supply Installed Capacity in a given month that did not qualify as an Installed Capacity Supplier prior to the beginning of the Obligation Procurement Period must notify the ISO no later than the first day of the prior month in accordance with the ISO Procedures so that it may be subject to forced rescheduling of its proposed maintenance outages in order to qualify as an Installed Capacity Supplier. A Supplier that refuses the ISO's forced rescheduling of its proposed outages shall

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not qualify as an Installed Capacity Supplier for that unit for any month during which it schedules or conducts an outage.

Interruptible Load Resources shall notify the ISO ~~at least thirty (30) days prior to the beginning of an Obligation Procurement Period~~ in accordance with the ISO Procedures of scheduled maintenance that would reduce their ability to interrupt. Interruptible Load Resources must also submit to the ISO, and, at the ISO's discretion, also submit to the local Transmission Owner, a written commitment that any scheduled maintenance that would reduce their ability to interrupt without reducing their Load a corresponding amount will only be conducted from November 1 through March 31.

~~In the case of an External System Resource located in an External Control Area, maintenance schedules for interconnections linking such External System Resources to the NYCA shall be coordinated by the External Control Area and the ISO.~~

~~5.12.4 Required Certification That Installed Capacity Has Not Been Resold~~

~~Each Installed Capacity Supplier must submit certification forms to the ISO, no later than the dates specified in the ISO Procedures demonstrating that the Installed Capacity it has sold has not been sold elsewhere. The ISO shall develop appropriate certification forms.~~

~~5.12.5 by a corresponding amount will only be conducted in accordance with the ISO Procedures.~~

~~Maintenance schedules for External System Resources and Control Area System Resources shall be coordinated by the External Control Area and the ISO.~~

~~**5.12.4 Required Certification that Installed Capacity has not been Resold**~~

~~Each Installed Capacity Supplier must submit the appropriate ISO certification forms to the ISO no later than the dates specified in the ISO Procedures, demonstrating that the Installed Capacity it has certified has not been sold for use in an External Control Area.~~

~~**5.12.5 Operating Data Reporting Requirements**~~

~~To qualify as Installed Capacity Suppliers in the NYCA, Resources shall submit to the ISO Operating Data in accordance with this Section 5.12.5 and the ISO Procedures. Resources that do not submit Operating Data in accordance with the following subsections and the ISO Procedures shall be subject to the sanctions provided in Section 5.12.12(a) of this Tariff.~~

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Resources that were not in operation on January 1, 2000 shall submit Operating Data to the ISO no later than one month after such Resources commence commercial operation, and in accordance with the ISO Procedures and the following subsections as applicable.

5.12.5(a) Generators, System Resources, Energy Limited Resources, Interruptible Load Resources, and Special Case Resources - GADS Data or Data Equivalent to GADS Data

To qualify as Installed Capacity Suppliers in the NYCA, Generators, System Resources, Energy Limited Resources, Interruptible Load Resources, and Special Case Resources or the purchasers from those Resources shall submit GADS Data, data equivalent to GADS Data, or other Operating Data to the ISO in accordance with the ISO Procedures. To implement a permanent Installed Capacity market design by the 2001-2002 Winter Capability Period, Generators, System Resources, Energy Limited Resources, Interruptible Load Resources, and Special Case Resources shall submit their GADS Data, data equivalent to GADS Data, or other Operating Data in accordance with the ISO Procedures pertaining to the months of January to March 2001 by April 20, 2001. From the month of April 2001 forward, Generators, System Resources, Energy Limited Resources, Interruptible Load Resources, and Special Case Resources shall submit their GADS Data, data equivalent to GADS data, or other Operating Data each month in accordance with the ISO Procedures.

5.12.5(b) Control Area System Resources - CARL Data and Actual System Failure Occurrences Data

To qualify as Installed Capacity Suppliers in the NYCA, Control Area System Resources shall submit to the ISO CARL Data and actual system failure occurrences data in accordance with the ISO Procedures. To allow the implementation of a permanent Installed Capacity market design by the 2001-2002 Winter Capability Period, Control Area System Resources shall submit their CARL Data and actual system failure occurrences data pertaining to the months of January to March 2001 by April 20, 2001. From the month of April 2001 forward, Control Area System Resources shall submit CARL Data and actual system failure occurrences data each month in accordance with the ISO Procedures.

5.12.5(c) Intermittent Power Resources and Municipally-Owned Generation - Data Equivalent to GADS Data

To qualify as Installed Capacity Suppliers in the NYCA, Intermittent Power Resources, or the purchasers from those Resources, and municipally-owned generation shall submit data equivalent to GADS Data or other Operating Data to the ISO in accordance with the ISO Procedures. To allow the implementation of a permanent Installed Capacity market design by the 2001-2002 Winter Capability

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Period, Intermittent Power Resources and municipally-owned generation shall submit their data equivalent to GADS Data or other Operating Data pertaining to the months of January to March 2001 by April 20, 2001. From the month of April 2001 forward, Intermittent Power Resources and municipally-owned generation shall submit their data equivalent to GADS data or other Operating Data each month in accordance with the ISO Procedures.

5.12.6 Operating Data Default Value and Collection

5.12.6(a) Default Value

In any studies or calculations requiring Operating Data, the ISO shall use zero (0) for the Operating Data for each month for which an Installed Capacity Supplier has not submitted its Operating Data in accordance with Section 5.12.5 of this Tariff and the ISO Procedures. Installed Capacity Suppliers with an Operating Data Value of zero (0) for any month may submit new Operating Data to the ISO at any time. When the ISO undertakes a new study or performs additional calculations, the ISO shall replace the zero (0) value with such new Operating Data submitted in accordance with the ISO Procedures.

Upon a showing of extraordinary circumstances, the ISO retains the discretion to accept at any time Operating Data which have not been submitted in a timely manner, or which do not fully conform with the ISO Procedures.

5.12.6(b) Exception for Certain Equipment Failures

When a Generator, Special Case Resource, Energy Limited Resource, Non-Utility Generator, or System Resource is forced into an outage by an equipment failure that involves equipment located on the high voltage side of the electric network beyond the step-up transformer, and including such step-up transformer, the outage will not be counted for purposes of collecting that Resource's Operating Data.

5.12.7 Availability Requirements

Subsequent to qualifying, each Installed Capacity Supplier shall, except as noted in Section 5.12.11 of this Tariff, on a daily basis (i) schedule a Bilateral Transaction; (ii) Bid Energy in each hour of the Day-Ahead Market in accordance with the applicable provisions of Section 5.12.1 of this Tariff; or (iii) notify the ISO of outages. The total amount of Energy that an Installed Capacity Supplier schedules, bids, or declares to be unavailable on a given day must equal or exceed the Installed Capacity supplied.

5.12.8 Installed Capacity Sales

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~~Each Installed Capacity Suppliers Supplier will be authorized to sell supply an amount of Installed Capacity in during each month of an Obligation Procurement Period equal to the total of the seasonal DMNCs of its resources for the corresponding Capability Period, based on separate seasonal Installed Capacity calculations performed by the ISO for the Summer and Winter Capability Periods. Installed Capacity may be sold in a six-month strip strips, or in monthly, or multi-monthly segments.~~

~~If an Energy Limited Resource's, Generator's, Installed Capacity Marketer's or System Resource's or Control Area System Resource's DMNC rating is determined to have increased during an Obligation Procurement Period, pursuant to testing procedures described in the ISO Procedures, the amount of Installed Capacity that it shall be authorized to sell during supply in that or future Obligation Procurement Periods shall also be increased on a prospective basis. If a Generator's 1999 in accordance with the schedule set forth in the ISO Procedures.~~

~~New Generators and Generators that have increased their Capacity since the previous Summer Capability Period DMNC rating was derated from its 1998 Summer Capability Period DMNC rating, the Generator may sell Installed Capacity up to due to changes in their generating equipment may qualify to supply Installed Capacity on a foregoing basis during the level demonstrated in 1998 for the entire 2000 Summer Capability Period based upon a temperature adjusted DMNC test that is performed and reported to the ISO between March 1 and March 24, 2000 after March 1 and prior to the beginning of the Summer Capability Period DMNC Test Period. The Generator will be required to verify the claimed DMNC rating by performing an additional test during the 2000 Summer DMNC Test Period. Any shortfall between the amount of Installed Capacity sold supplied by the Generator for the 2000 Summer Capability Period and the amount verified during the 2000 Summer DMNC Test Period will be subject to deficiency charges pursuant to section Section 5.14.2 of this Tariff. The deficiency charges will be applied to no more than the difference between the Generator's 1999 summer period previous Summer Capability Period DMNC rating and the amount of Installed Capacity the Generator sold supplied for the 2000 Summer Capability Period.~~

~~If a new Generator enters service during an Obligation Procurement Period, it may qualify as an Installed Capacity Supplier, pursuant to ISO Procedures, and sell Installed Capacity in the NYCA.~~

~~Furthermore, if a Generator's 1999 2000 New Generators and Generators that have increased their Capacity since the previous Winter Capability Period DMNC rating was derated from its 1998 1999 Winter Capability Period DMNC rating, the Generator may sell Installed Capacity up to due to changes in their generating equipment may qualify to supply Installed Capacity on a foregoing basis during the level demonstrated in 1998 1999 for the entire 2000 2001 Winter Capability Period based upon a temperature adjusted DMNC test that is performed and reported to the ISO between September 1 and~~

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~~September 24, 2000~~ after September 1 and prior to the beginning of the Winter Capability Period DMNC Test Period. The Generator will be required to verify the claimed DMNC rating by performing an additional test during the ~~2000-2001~~ Winter Capability Period DMNC Test Period. Any shortfall between the amount of Installed Capacity ~~sold~~ certified by the Generator for the ~~2000-2001~~ Winter Capability Period and the amount verified during the ~~2000-2001~~ Winter Capability Period DMNC Test Period will be subject to deficiency charges pursuant to ~~section~~ Section 5.14.2 of this Tariff. The deficiency charges will be applied to no more than the difference between the Generator's ~~1999-2000~~ previous Winter Capability Period DMNC rating and the amount of Installed Capacity the Generator ~~sold~~ supplied for the ~~2000-2001~~ Winter Capability Period.

~~If a new Generator enters service during an Obligation Procurement Period, it may qualify as an~~ Any Installed Capacity Supplier, pursuant to ISO Procedures, and ~~sell~~ Installed Capacity in the NYCA.

~~Subsequent to the sale of Installed Capacity, each Installed Capacity Supplier must, except as noted in~~ Section 5.12.8 of this Tariff, ~~demonstrate that the amount of Energy which it schedules, bids, or declares to be unavailable on that day is not less than the~~ 5.12.11 of this Tariff, which fails on a daily basis to schedule, bid, or declare to be unavailable in the Day-Ahead Market an amount of Installed Capacity that it ~~sold~~ certified for that day, rounded down to the nearest whole MW, is subject to sanctions pursuant to Section 5.12.12(b) of this Tariff. If an entity other than the owner of an Energy Limited Resource, Generator, Interruptible Load Resource ~~or~~, System Resource, or Control Area System Resource that is providing Installed Capacity is responsible for fulfilling bidding and scheduling it, and notification requirements, the owner and that entity must designate to the ISO which of them will be responsible for complying with the scheduling, bidding and notification requirements ~~of this paragraph~~. The designated bidding and scheduling entity ~~will~~ shall be subject to sanctions pursuant to Section 5.12.9(b) of this Tariff, ~~if the bidding and scheduling requirements are violated.~~ 5.12.12(b) of this Tariff.

~~5.12.6 System Resources Sales~~ 5.12.9 Sales of Installed Capacity by System Resources

~~An Installed Capacity Supplier offering to sell~~ Installed Capacity Suppliers offering to supply Installed Capacity associated with Internal System Resources ~~must submit the DMNC testing data described in Section 5.12.1 for all of its Generators. The~~ shall submit for each of its Resources the Operating Data and DMNC testing data or historical data described in Sections 5.12.1 and 5.12.5 of this Tariff and in accordance with the ISO Procedures. Such an Installed Capacity Supplier will be allowed to supply the amount of Installed Capacity that a ~~System Resources Installed Capacity Supplier~~ may offer will be ~~determined pursuant to~~ the ISO determines pursuant to the ISO Procedures. Installed Capacity Suppliers offering to sell System Resources may only aggregate ~~resources on the basis of ISO defined Localities, the remainder of the NYCA, or on an individual External Control Area basis, as per~~ Resources in accordance with the ISO Procedures.

~~5.12.7 Recall Procedures~~ 5.12.10 Curtailment of External Transactions In-Hour

All Installed Capacity, ~~whether associated with External or Internal Installed Capacity resources, that is not out on maintenance or a forced outage, or scheduled~~ that is not scheduled to serve the Internal NYCA Load in the Day-Ahead Market may be used scheduled to supply Energy for use ~~outside of the NYCA but will be subject to recall at any time by the ISO. Installed Capacity Suppliers that supply Energy outside of the NYCA must submit recall Bids defining the price at which the ISO may recall the Energy associated in~~ External Transactions provided, however, that such External Transactions shall be subject to Curtailment within the hour, consistent with the Installed Capacity they have sold to the NYCA. External Installed Capacity Suppliers that supply Energy for use outside of the NYCA must comply with the notice and information requirements set forth in the ISO Procedures.

~~Until such time as the ISO has automated its evaluation of recall Bids in order to recall transactions on a least cost Bid basis, the ISO will use its best efforts to eliminate shortages in total operating reserves on a least cost basis, consistent with maintaining the reliability of the NY State Transmission System, by exercising its discretion to purchase emergency Energy or recall an Installed Capacity Transaction. When automated evaluation of recall Bids is available, and in the event that the ISO recalls Energy, it will do so on a least cost Bid basis, taking into consideration recall Bids and External Proxy Generator~~

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~~Bus prices consistent with the need to maintain the reliability of the New York State Transmission System. If an Installed Capacity Supplier's Energy is recalled, it shall be paid~~ Exports are Curtailed in-hour to resolve a New York reserves shortage, the Transmission Customer scheduling such Exports shall be paid, for the remainder of the hour, the higher of its recall Bid or the Real-Time LBMP at the relevant Proxy Generator Bus. Recall Bids shall not set Real Time or Day Ahead LBMPs. Installed Capacity Suppliers must submit their recall Bids at the same time that they enter into arrangements to supply Energy for use outside of the NYCA. New York proxy bus associated with the Exports, or the real-time price at the relevant proxy bus used by the External Control Area for Transactions with New York.

5.12.8 5.12.11 Special Case Resources and Other Installed Capacity Suppliers, Municipally-Owned Generation, Energy Limited Resources and Intermittent Power Resources

5.12.8(a) 5.12.11(a) Special Case Resources

Special Case Resources may qualify as Installed Capacity Suppliers, without having to comply with the daily bidding ~~and~~ scheduling, and notification requirements set forth in Section ~~5.12.5~~ 5.12.7 of this Tariff, if (i) they are available to operate for a minimum of four (4) consecutive hours each day, at the direction of the ISO, except for those subject to operating limitations established by environmental permits, which will not be required to operate in excess of two (2) hours and which will be derated by the ISO pursuant to ISO Procedures to account for the Load serving equivalence of the hours actually available, following notice of the potential need to operate twenty-four (24) hours in advance, and a notification to operate two (2) hours ahead; and (ii) they were not operated as a Load modifier coincident with the peak upon which the Installed Capacity requirement of the LSE that serves that customer is based, unless that LSE's Installed Capacity requirement is adjusted upwards to prevent double-counting. The ISO will have discretion, pursuant to ISO Procedures, to exempt distributed ~~generators~~ Generators that are incapable of starting in two (2) hours from the requirement to operate on two (2) hours notification. Distributed ~~generators~~ Generators and Loads capable of being interrupted upon demand, that are not available on certain hours or days will be derated by the ISO, pursuant to ISO Procedures, to reflect the Load serving equivalence of the hours they are actually available. Distributed ~~generators~~ Generators and Loads capable of being interrupted upon demand will be required to comply with verification and validation procedures, ~~developed by the ISO in consultation with interested Market Participants~~ set forth in the ISO Procedures. Such procedures will not require metering other than interval billing meters on customer Load or testing other than DMNC or sustained

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disconnect, as appropriate, unless agreed to by the customer, except that Special Case Resources not called to supply Energy in a Capability Period may be required to run a test once every Capability Period in accordance with ISO Procedures.

Installed Capacity ~~sold to an LSE~~ supplied in a Bilateral Transaction by a Special Case Resource pursuant to this subsection may ~~not be resold by that LSE~~ only be resold if the purchasing entity or the Installed Capacity Marketer has agreed to comply with the ISO notification requirements for Special Case Resources. LSEs and Installed Capacity Marketers may aggregate Special Case Resources and sell the Installed Capacity associated with them in an ISO-administered auction if they comply with ISO notification requirements for Special Case Resources.

Transmission Owners that require assistance from distributed ~~generators~~ Generators larger than ~~100kW~~ 100 kW and Loads capable of being interrupted upon demand for Load relief purposes or as a result of a Local Reliability Rule, shall direct their requests for assistance to the ISO for implementation consistent with the terms of this Section.

~~5.12.8(b)~~ 5.12.11(b) Existing Municipally-Owned Generation

~~_____A During the 2000 Summer Obligation Procurement Period and the 2000-2001 Winter Obligation Procurement Period,~~ a municipal utility that owns existing generation in excess of its Installed Capacity requirement, net of NYPA-provided ~~capacity~~ Capacity, may offer the excess ~~capacity~~ Capacity for sale as Installed Capacity provided that it is willing to operate the generation at the ISO's request, and provided that the Energy produced is deliverable to the New York State Power System. Such a municipal utility shall not be required to comply with the requirement of Section ~~5.12.5~~ 5.12.7 of this Tariff that an Installed Capacity Supplier ~~bid~~ Bid into the Energy market or enter into ~~bilateral transactions~~ Bilateral Transactions. Municipal utilities shall, however, be required to submit their typical physical operating parameters, such as their start-up times, to the ISO. This subsection is only applicable to Generators that were in service or under construction as of December 31, 1999.

5.12.8(e) 5.12.11(c) Energy Limited Resources

An Energy Limited Resource may qualify as an Installed Capacity Supplier if it ~~bids~~ Bids its Installed Capacity into the Day-Ahead Market ~~for twenty four (24) hours each day~~ and if it is able to provide the Energy equivalent of the ~~claimed Installed Capacity~~ Capacity for at least four (4) hours of Energy each day. ~~After an Energy Limited Resource has provided the Energy equivalent of the claimed Installed Capacity for four (4) hours, the ISO will avoid calling on it during those hours in which the ISO knows it will be recharging, or replacing depleted resources. Nevertheless, the ISO may call on Energy Limited Resources at any time during emergencies.~~ shall also Bid an upper operating limit, designating desired operating limits. The ISO shall schedule Energy above the upper operating limit, if at all, only by dispatcher control, pursuant to ISO Procedures, recognizing that the Energy Limited Resource may not be capable of responding.

5.12.9 5.12.11(d) Intermittent Power Resources

Intermittent Power Resources may qualify as Installed Capacity Suppliers, without having to comply with the daily bidding and scheduling requirements set forth in Section 5.12.7 of this Tariff, and may claim up to their Installed Capacity. To qualify as Installed Capacity Suppliers, Intermittent Power Resources shall comply with the notification requirements of Section 5.12.7 of this Tariff.

5.12.12 Sanctions Applicable to Installed Capacity Suppliers

Pursuant to this Section, the ISO may impose financial sanctions on Installed Capacity Suppliers that fail to comply with certain provisions of this Tariff. The ISO shall notify Installed Capacity Suppliers prior to imposing any sanction and shall afford them a reasonable opportunity to demonstrate that they should not be sanctioned and/or to offer mitigating reasons why they should be subject to a lesser sanction. The ISO may impose a sanction lower than the maximum amounts allowed by this Section at its sole discretion. Installed Capacity Suppliers may challenge any sanction imposed by the ISO pursuant to the ISO Dispute Resolution Procedures.

Any sanctions collected by the ISO pursuant to this Section will be applied to reduce the Rate Schedule 1 charge under this Tariff.

5.12.9(a) 5.12.12(a) Sanctions for Failing to Provide Required Information

If an Installed Capacity Supplier fails to provide the information required by Sections Subsections 5.12.1(i)—5.12.1(iv), (ii), (iii), (iv), (v), or (viii) of this Tariff in a timely fashion, or if a

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Supplier of Installed Capacity from External System Resources located in an External Control Area or from a Control Area System Resource that has agreed not to ~~curtail~~ Curtail the Energy associated with such Installed Capacity, or to afford it the same ~~curtailment~~ Curtailment priority that it affords its own Control Area Load, fails to provide the information required for certification as an Installed Capacity Supplier established in the ISO Procedures, the ISO may take the following actions: On the first day that required information is late, the ISO shall notify the Installed Capacity Supplier that required information is past due and that it reserves the right to impose financial sanctions if the information is not provided by the end of the ~~next~~ following day. Starting on the third day that the required information is late, the ISO may impose a daily financial sanction up to the higher of \$500 or \$5 per MW of Installed Capacity that the Generator, Interruptible Load Resource ~~or~~, System Resource, or Control Area System Resource in question is capable of providing. Starting on the tenth day that the required information is late, the ISO may impose a daily financial sanction ~~of~~ up to the higher of \$1000 or \$10 per MW of Installed Capacity that the Generator, Interruptible Load Resource ~~or~~, System Resource, or Control Area System Resource in question is capable of providing.

**5.12.9(b) 5.12.12(b) Sanctions for Failing to Comply with Scheduling ~~and~~,
Bidding, and Notification Requirements**

On any day in which an Installed Capacity Supplier fails to comply with the scheduling ~~and~~, bidding, or notification requirements of ~~Sections Subsections 5.12.1(vi) and (vii), (vii), or (x), or with~~ Section 5.12.7 of this Tariff, or in which a Supplier of Installed Capacity from External System Resources or Control Area System Resources located in an External Control Area that has agreed not to ~~curtail~~ Curtail the Energy associated with such Installed Capacity, or to afford it the same ~~curtailment~~ Curtailment priority that it affords its own Control Area Load, fails to comply with scheduling, ~~and~~ bidding, or notification requirements for certification as an Installed Capacity Supplier established in the ISO Procedures, the ISO may impose a financial sanction up to the product of a deficiency charge, calculated pursuant to the Table in Section 5.14.1 of this Tariff (pro-rated on a daily basis), and the maximum number of MWs that the Installed Capacity Supplier failed to schedule or ~~bid~~ Bid in any hour in that day provided, however, that no financial sanction shall apply to any Installed Capacity Supplier who demonstrates that the Energy it schedules, ~~bids~~ Bids, or declares to be unavailable on any day is not less than the Installed Capacity that it ~~sells~~ supplies for that day rounded down to the nearest whole MW.

In addition, if an Installed Capacity Supplier fails to comply with the scheduling ~~and~~, bidding, or notification requirements of ~~Sections 5.12.1(vi) and (vii), (vii), or (x), or with Section 5.12.7~~ of this Tariff, or if a Supplier of Installed Capacity from External System Resources or from a Control Area System Resource located in an External Control Area that has agreed not to ~~curtail~~ Curtail the Energy

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associated with such Installed Capacity, or to afford it the same ~~curtailment~~ Curtailment priority that it affords its own Control Area Load, fails to comply with the scheduling ~~and, bidding, or notification~~ requirements for certification as an Installed Capacity Supplier established in the ISO Procedures, during an hour in which the ISO ~~recalls Energy~~ curtails Transactions associated with NYCA Installed Capacity Suppliers, the ISO may impose an additional financial sanction equal to the product of the number of MWs the Installed Capacity Supplier failed to schedule during that hour and the corresponding Real-Time LBMP at the applicable Proxy Generator Bus. ~~An Installed Capacity Supplier that is subjected to the aforementioned sanction, and which has supplied Energy for use outside of the NYCA, shall not be paid its recall Bid, and shall receive no other compensation for recalled Energy, if the ISO recalls Energy associated with its Installed Capacity during the hour in which the aforementioned sanction is imposed.~~

5.13 Installed Capacity Auctions

5.13.1 General Auction Requirements

The ISO will administer Installed Capacity auctions to accommodate LSEs' and Installed Capacity Suppliers' efforts to enter into Installed Capacity ~~transactions~~ Transactions and to give LSEs an opportunity to satisfy their Installed Capacity requirements. The ISO shall conduct regular auctions, at the request of an LSE, at the times specified in this Section and the ISO Procedures.

Installed Capacity Suppliers, LSEs and Installed Capacity Marketers that are Customers under this Tariff will be allowed to participate in Installed Capacity auctions, provided that they satisfy the creditworthiness requirements set forth in Section 11.0 of the ISO OATT. Installed Capacity purchased in Installed Capacity auctions may not be sold ~~to~~ for the purposes of meeting Installed Capacity requirements imposed by operators of External Control Areas. Offers to sell and ~~bids~~ Bids to purchase Installed Capacity shall be made in \$/kW for the time period appropriate to the auction. The ISO shall impose no limits on ~~bids~~ Bids or offers in any auction, except to the extent required by any applicable market mitigation measures.

Installed Capacity Suppliers that wish to participate in an ISO-administered auction must submit completed certification forms to the ISO ~~no later than ten days prior to the beginning of an Installed Capacity auction in which they intend to offer Installed Capacity~~ in accordance with the ISO Procedures, demonstrating that their Installed Capacity has not been committed to a Bilateral Transaction.

In-City Generators that are subject to FERC-approved market mitigation measures are required to offer to sell all such Installed Capacity into the ISO-administered Installed Capacity

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auctions. All other Installed Capacity Suppliers may offer to sell into the ISO-administered Installed Capacity auctions at their discretion.

The ISO Procedures shall specify the dates by which the ISO will post the results of Installed Capacity auctions. The ISO Procedures shall ensure that there are at least four business days between the time that auction results are posted and the dates that LSEs are required to demonstrate that they have procured sufficient Installed Capacity to cover their Installed Capacity requirements pursuant to Section 5.11.2 of this Tariff.

5.13.2 The Obligation Procurement Period Auction

An Obligation Procurement Period Auction will be conducted, at the request of an LSE, no later than thirty (30) days prior to the start of each Obligation Procurement Period in which Installed Capacity will be purchased and sold for the entire duration of the Obligation Procurement Period. The exact date of the Obligation Procurement Period Auction shall be established in the ISO Procedures. The Obligation Procurement Period Auction is intended to establish Market-Clearing Prices for each ISO-defined Locality, the remainder of the NYCA and adjacent External Control Areas.

Each Obligation Procurement Period Auction shall consist of two phases which shall be conducted on the same day. Participation in the first phase shall be limited to: (i) LSEs located in the New York City Locality seeking to make locational Installed Capacity purchases in order to satisfy their In-City Locational Installed Capacity ~~requirement~~ Requirement; (ii) any other entity seeking to purchase In-City locational Installed Capacity; (iii) qualified In-City Generators; and (iv) any other Installed Capacity Supplier that owns excess Installed Capacity associated with qualified In-City ~~Generators~~ Installed Capacity Suppliers. In the first phase of the Obligation Procurement Period Auction, LSEs that are awarded Installed Capacity shall pay the Market-Clearing Price of Installed Capacity determined in that phase. Installed Capacity Suppliers that are selected to provide Installed Capacity shall receive the Market-Clearing Price determined in that phase, except in the case of In-City Generators that are subject to mitigation measures, which shall receive the lesser of the Market-Clearing Price or the applicable locational price cap. Any entity that resells Installed Capacity associated with In-City Generators that are subject to market mitigation measures shall receive ~~the lesser of the Market-Clearing Price or the price that it paid~~ no greater than the mitigated price cap for that Installed Capacity. If the Market-Clearing Price exceeds the total amount paid to Installed Capacity Suppliers, the ISO shall rebate the Excess Amount pursuant to Section 5.15 of this Tariff.

All Installed Capacity Suppliers and LSEs may participate in the second phase of the Obligation Procurement Period Auction, except with respect to any Installed Capacity associated with In-City

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Generators that are subject to market mitigation measures, which may sell in the second phase only if it has been established by the ISO that all LSEs located in the New York City Locality have satisfied their In-City Locational Installed Capacity Requirements. LSEs awarded Installed Capacity in the second phase shall pay ~~the applicable Market-Clearing Price determined in that phase~~ no greater than the mitigated price cap for that Installed Capacity. Installed Capacity Suppliers, with the exception noted below, including In-City Generators otherwise subject to market mitigation measures, that are selected to provide Installed Capacity shall receive the applicable Market-Clearing Price determined in that phase. Any entity that resells Installed Capacity associated with In-City Generators subject to market mitigation measures shall receive ~~the lesser of the applicable Market-Clearing Price or the price it paid~~ no greater than the mitigated price cap for that Installed Capacity. The ISO shall rebate any Excess Amount pursuant to Section 5.15 of this Tariff. ~~During the 2000 Summer Obligation Procurement Period and the 2000-2001 Winter Obligation Procurement Period, In-City Generators that are permitted to offer to sell in the second phase shall be permitted to make separate offers in the first and second phases of the Obligation Procurement Period Auction.~~

The results of the Obligation Procurement Period Auction will be made available to Market Participants at the time specified in the ISO Procedures which shall be prior to the start of the Monthly Installed Capacity Auctions held prior to the beginning of each Obligation Procurement Period.

5.13.3 Monthly Auctions

Monthly Auctions will be held, ~~at the request of an LSE, no later than fifteen (15) days~~ prior to the start of each Obligation Procurement Period, and, ~~at the request of an LSE, no later than the fifteenth (15th) day~~ of each month during an Obligation Procurement Period, during which Installed Capacity may be purchased and sold for any one or more remaining months in the Obligation Procurement Period. The exact dates of each Monthly Auction shall be established in the ISO Procedures. Each Monthly Auction is intended to establish Market-Clearing Prices for each ISO-defined Locality, the remainder of the NYCA and all adjacent External Control Areas.

Each Monthly Auction held prior to the beginning of an Obligation Procurement Period shall consist of two phases which shall be conducted on the same day. Participation in the first phase shall be limited to: (i) LSEs located in the New York City Locality seeking to make locational Installed Capacity purchases in order to satisfy their In-City Locational Installed Capacity Requirements Requirement; (ii) any other entity seeking to purchase In-City locational Installed Capacity; (iii) qualified In-City Generators; and (iv) any other Installed Capacity Supplier that owns excess ~~Installed Capacity associated with qualified In-City Generators~~ In-City Installed Capacity. In the first phase of each Monthly Auction, LSEs that are awarded Installed Capacity shall pay the Market-Clearing Price of

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Installed Capacity determined in that phase. Installed Capacity Suppliers that are selected to provide Installed Capacity shall receive the Market-Clearing Price determined in that phase, except in the case of In-City Generators that are subject to mitigation measures, which shall receive the lesser of the Market-Clearing Price or the applicable locational price cap. Any entity that resells Installed Capacity associated with In-City Generators that are subject to market mitigation measures shall receive ~~the lesser of the Market-Clearing Price or the price that it paid~~ no greater than the mitigated price cap for that Installed Capacity. If the Market-Clearing Price exceeds the total amount paid to Installed Capacity Suppliers, the ISO shall rebate the Excess Amount pursuant to Section 5.15 of this Tariff.

All Installed Capacity Suppliers and LSEs may participate in the second phase of each pre-Obligation Procurement Period Monthly Auction, except with respect to any Installed Capacity associated with In-City Generators that are subject to market mitigation measures, which may sell in the second phase only if it has been established by the ISO that all LSEs located in the New York City Locality have satisfied their In-City Locational Installed Capacity Requirements. LSEs awarded Installed Capacity in the second phase shall pay ~~the applicable Market-Clearing Price determined in that phase~~ no greater than the mitigated price cap for that Installed Capacity. Installed Capacity Suppliers, with the exception noted below, including In-City Generators otherwise subject to market mitigation measures, that are selected to provide Installed Capacity shall receive the applicable Market-Clearing Price determined in that phase. Any entity that resells Installed Capacity associated with In-City Generators subject to market mitigation measures shall receive ~~the lesser of the applicable Market-Clearing Price~~ no greater than the mitigated price cap or the price it paid for that Installed Capacity. The ISO shall rebate any Excess Amount pursuant to Section 5.15 of this Tariff. ~~During the 2000 Summer Obligation Procurement Period, and the 2000-2001 Winter Obligation Procurement Period, In-City Generators that are permitted to offer to sell in the second phase shall be permitted to make separate offers in the first and second phases of the auction.~~

Monthly Auctions held during an Obligation Procurement Period shall be phased unless the ISO has established that all LSEs with Locational Installed Capacity Requirements located in the New York City Locality have satisfied their locational requirements. If the ISO establishes that these LSEs have not satisfied their Locational Installed Capacity Requirements, that Monthly Auction will be conducted as if it were being held prior to the beginning of an Obligation Procurement Period (*i.e.*, it shall consist of two phases). If, however, the ISO establishes that LSEs have satisfied their Locational Installed Capacity Requirements, that Monthly Auction will not be phased and will be conducted as if it were the second phase of a pre-Obligation Procurement Period Monthly Auction.

The results of each Monthly Auction will be made available to Market Participants ~~no later than thirteen (13) days prior to the beginning of the next month.~~ in accordance with the ISO Procedures.

5.13.4 Detailed Installed Capacity Auction Description

Additional detail concerning the ISO's Installed Capacity auction procedures are provided in the ISO's detailed "Installed Capacity Auction Description," which is on file with the Commission.

5.14 Installed Capacity Deficiencies and Deficiency Procurement Auctions

5.14.1 LSE Deficiencies

5.14.1(a) Deficiency Procurement Auction

If an LSE violates Sections 5.11.2, or 5.11.3, ~~or 5.11.4~~ of this Tariff by failing to procure sufficient Installed Capacity to cover its Installed Capacity requirement for an Obligation Procurement Period, or, as a result of Load-shifting, for any month within an Obligation Procurement Period, the ISO shall procure sufficient Installed Capacity to cover the remainder of the LSE's Installed Capacity requirement for that Obligation Procurement Period, or month, through Deficiency Procurement Auctions.

The ISO shall conduct the initial Deficiency Procurement Auction ~~no later than the twenty third (23rd) day of the month immediately~~ preceding the start of an Obligation Procurement Period. ~~The~~ the exact date of the initial Deficiency Procurement Auction shall be established in the ISO Procedures. The initial Deficiency Procurement Auction will consist of six (6) separate two-phase monthly auctions. Both phases of each initial Deficiency Procurement Auction shall be conducted on the same day. In each phase of each initial Deficiency Procurement Auction the ISO shall submit deficiency bids on behalf of deficient LSEs at a level per MW determined by dividing the appropriate number specified in the following Table by six (6).

Deficiency Bids and Charges

| LOCATION | INTERIM FIRST THREE YEARS AFTER ISO COMMENCES OPERATIONS | END-STATE AFTER THREE YEARS OF ISO OPERATIONS |
|--|---|---|
| In-City New York City (LBMP Load Zone J) | \$75/kW per Obligation Procurement Period | 3 Times Localized Levelized Embedded Cost of GT |
| <p>Long Island (LBMP Load Zone K) Year 1: \$60/kW per Obligation Procurement Period Year 2: \$65/kW per Obligation Procurement Period Year 3: \$70/kW per Obligation Procurement Period 3 Times Localized Levelized Embedded Cost of GT — All Other LBMP Load Zones in the NYCA Year 1: \$52.5/kW per Obligation Procurement Period Year 2: \$57.5 Year 3: \$62.5 3 Times Localized Levelized Embedded Cost of GT <u>(LBMP Load Zone K)</u></p> | <p><u>Year 1: \$60/kW per Obligation Procurement Period</u> <u>Year 2: \$65/kW per Obligation Procurement Period</u> <u>Year 3: \$70/kW per Obligation Procurement Period</u></p> | <p><u>3 Times Localized Levelized Embedded Cost of GT</u></p> |
| <p><u>All Other LBMP Load Zones in the NYCA</u></p> | <p><u>Year 1: \$52.5/kW per Obligation Procurement Period</u> <u>Year 2: \$57.5/kW per Obligation Procurement Period</u> <u>Year 3: \$62.5/kW per Obligation Procurement Period</u></p> | <p><u>3 Times Localized Levelized Embedded Cost of GT</u></p> |

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During the first phase of an initial Deficiency Procurement Auction the ISO shall submit deficiency bids on behalf of deficient LSEs located in the New York City Locality that are required to make locational Installed Capacity purchases in order to satisfy their In-City Locational Installed Capacity Requirement. The ISO shall solicit ~~bids~~ Bids from qualified In-City Generators, and from any other entity that owns excess In-City locational Installed Capacity. LSEs that are awarded Installed Capacity in the first phase auction shall pay to the ISO the lesser of the Market-Clearing Price of Installed Capacity determined in that phase or the deficiency bid. The ISO shall pay Installed Capacity Suppliers that are selected to provide Installed Capacity the Market-Clearing Price determined in that phase which can be no greater than the deficiency bid, except in the case of Installed Capacity associated with In-City Generators that are subject to mitigation measures, which shall receive ~~the lesser of the Market Clearing Price or the applicable locational~~ no greater than the mitigated price cap. Any entity that resells Installed Capacity associated with In-City Generators that are subject to market mitigation measures shall receive ~~the lesser of the Market Clearing Price or the price that it paid~~ no greater than the mitigated price cap for that Installed Capacity. If the Market-Clearing Price exceeds the total amount paid to Installed Capacity Suppliers, the ISO shall rebate the Excess Amount pursuant to Section 5.15 of this Tariff.

In the second phase of each initial Deficiency Procurement Auction, the ISO shall submit deficiency bids on behalf of all remaining deficient LSEs and shall solicit ~~bids~~ Bids from all qualified Installed Capacity Suppliers, including Installed Capacity associated with In-City Generators otherwise subject to mitigation measures that has not been sold, provided that all LSEs located in the New York City Locality have satisfied their In-City Locational Installed Capacity Requirements. Deficient LSEs that are awarded Installed Capacity shall pay to the ISO the lesser of the applicable Market-Clearing Price of Installed Capacity determined in that phase, or the deficiency bid. The ISO will use these deficiency payments to pay the applicable Market-Clearing Price determined in that phase of Installed Capacity, except as noted below, to Installed Capacity Suppliers that are selected to provide Installed Capacity, including participating In-City Generators otherwise subject to market mitigation measures. Any entity that resells Installed Capacity associated with In-City Generators that are subject to market mitigation measures shall receive ~~the lesser of the Market Clearing Price or the price that it paid~~ no greater than the mitigated price cap for that Installed Capacity. The ISO shall rebate any Excess Amount pursuant to Section 5.15 of this Tariff. ~~During the 2000 Summer Obligation Procurement Period and 2000-2001 Winter Obligation Procurement Period, In-City Generators that are permitted to offer to sell in the second phase shall be permitted to make separate offers in the first and second phases of the initial Deficiency Procurement Auction.~~

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In addition to the initial Deficiency Procurement Auction, the ISO shall conduct a monthly Deficiency Procurement Auction ~~no later than the twenty third (23rd) day of~~ in any month in which a Load -gaining LSE fails to procure Installed Capacity to cover new Load it has gained. The exact date of each monthly Deficiency Procurement Auction shall be established in the ISO Procedures. If In-City LSEs are required to participate in a monthly Deficiency Procurement Auction in order to satisfy their In-City Locational Installed Capacity Requirements, the auction will be conducted as if it were an initial Deficiency Procurement Auction (i.e., it shall consist of two phases). If In-City LSEs are not required to participate in a monthly Deficiency Procurement Auction in order to satisfy their In-City Locational Installed Capacity Requirements, the auction will not be phased but will instead be conducted as if it were the second phase of an initial Deficiency Procurement Auction.

5.14.1(b) Deficiency Charges Imposed

Any LSEs that are still deficient after the completion of a Deficiency Procurement Auction must pay a monthly deficiency charge to the ISO based on the deficiency charges set forth in the Table above, divided by six, and multiplied by the number of MWs by which they are deficient. The ISO will attempt to use these deficiency charges to procure Installed Capacity from ~~Generators~~ Installed Capacity Suppliers that are capable of ~~selling~~ supplying Installed Capacity but that failed to qualify to ~~sell~~ supply it prior to the Deficiency Procurement Auction, ~~e.g., recently upgraded Generators, new Generators and existing Generators that were otherwise not able to qualify.~~ The ISO shall not procure Installed Capacity from previously qualified Installed Capacity Suppliers that withheld their Installed Capacity. The ISO will not pay an Installed Capacity Supplier more than the applicable deficiency charge per MW of Installed Capacity, or the applicable locational price cap per MW of Installed Capacity, whichever is less, pro-rated to reflect the portion of the Obligation Procurement Period for which the Installed Capacity Supplier provides Installed Capacity. Any remaining monies collected by the ISO pursuant to this paragraph will be applied as specified in Section 5.14.3.

The ISO shall not reveal the number of MWs that LSEs are deficient prior to a Deficiency Procurement Auction.

5.14.2 Installed Capacity Supplier Deficiencies

In the event that the amount of Installed Capacity that an Installed Capacity Supplier is ~~authorized to sell~~ certifies in a given month is determined to ~~have been~~ be less than the amount that the Installed Capacity Supplier ~~actually sold~~ is authorized to supply for that month, the ISO shall prospectively purchase Installed Capacity on behalf of that deficient Installed Capacity Supplier in the appropriate Deficiency Procurement Auction.

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The ISO shall submit a deficiency bid, calculated pursuant to Section 5.14.1 of this Tariff in the appropriate Deficiency Procurement Auction on behalf of a deficient Installed Capacity Supplier as if it were a deficient LSE. The deficient Installed Capacity Supplier shall be required to pay to the ISO the Market-Clearing Price of Installed Capacity established in that Deficiency Procurement Auction.

If an Installed Capacity Supplier is found, at any point during an Obligation Procurement Period, to have been deficient for any prior portion of that Obligation Procurement Period, *e.g.*, when the amount of Installed Capacity that it ~~sells~~ supplies is found to be less than the amount it was ~~authorized~~ committed to sell supply, the Installed Capacity Supplier shall be retrospectively liable to pay the ISO the monthly deficiency charge, calculated pursuant to Section 5.14.1 of this Tariff.

Any remaining monies collected by the ISO pursuant to Section 5.14.1 will be applied as specified in Section 5.14.3.

5.14.3 Application of Deficiency Charges

Any remaining monies collected by the ISO through deficiency charges pursuant to Section 5.14.1 but not used to procure Installed Capacity on behalf of deficient LSEs shall be applied as provided in this Section 5.14.3.

5.14.3(a) General Application of Deficiency Charges

Except as provided in Section 5.14.3(b), remaining monies will be applied to reduce the Rate Schedule 1 charge in the following month.

5.14.3(b) ~~Temporary Targeted~~ Locational Installed Capacity Rebate Rebates

~~During~~ For any month in which an Installed Capacity deficiency ~~exists~~ is forecasted at the beginning of a Capability Period in the New York City Locality ~~during the 2000 Summer Capability Period or the Long Island Locality~~, the ISO shall rebate, calculated on a monthly basis and to be paid after October 23, 2000, amounts above \$8.75/kW but not exceeding \$12.50/kW, paid by LSEs either to ~~procure Installed Capacity in a regular Obligation Procurement Period Auction, or paid as a deficiency charge.~~ When determining the amount paid by an LSE to procure Installed Capacity for any month, the ISO shall first consider the amount of any proportional rebate received by the LSE for the month as specified in Section 5.15. Any remaining monies collected by the ISO shall be applied to ~~reduce the Rate Schedule 1 charge in the following month.~~ at the beginning of each month, any remaining unspent deficiency charges collected for that month for the Locality. The rebate calculated for

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the Locality shall be allocated among all LSEs in that Locality in proportion to their share of the applicable Locational Installed Capacity Requirement. Rebates shall include interest accrued between the time they were collected and the time that they are paid. The temporary rebates described in this Section 5.14.3(b) shall terminate when an Installed Capacity surplus is forecasted at the beginning of each of two consecutive Summer Capability Periods.

5.15 Payment and Allocation of Installed Capacity Auction Rebates

The ISO shall rebate to all LSEs with Locational Installed Capacity ~~requirements~~ Requirements in the New York City Locality any Excess Amount that remains after the completion of an auction. Such rebates shall be allocated among all New York City LSEs in proportion to their share of the ~~locational~~ Locational New York City Installed Capacity ~~requirement~~ Requirement, regardless of whether they actually took part in the first phase of the relevant auction. The ISO shall allocate such rebates among In-City LSEs on a monthly basis. Rebates shall include interest accrued between the time they were collected and the time that they are paid.

5.16 Expedited Dispute Resolution Procedures

5.16.1 Five-Day Consultation Period

Parties to a dispute involving a matter that is subject to the procedures of this Section must immediately confer and attempt to resolve the dispute on an informal basis. If the parties are unable to resolve the dispute within five (5) calendar days by mutual agreement, the dispute shall be immediately submitted to the ISO's Dispute Resolution Administrator ("DRA").

5.16.2 Written Submissions

Immediately upon conclusion of the five-day consultation period, the party requesting the dispute resolution shall submit to the DRA and all other parties to the dispute, a concise written statement specifying that expedited dispute resolution under this Section is requested and describing the nature of the dispute, the issues to be resolved and the specific award requested. The party opposing the requested relief shall then have five (5) calendar days to submit to the DRA and the party requesting the dispute resolution, a concise written response which shall include a proposed disposition of the dispute.

5.16.3 Appointment of the Arbitrator

The DRA shall keep at all times a list of ten (10) qualified arbitrators for matters which may be subject to the procedures of this Section. Within five (5) calendar days of receipt of a request for

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dispute resolution under this Section, the DRA shall appoint one arbitrator from that list to preside over the dispute. The arbitrator shall be selected by the DRA by randomly drawing names from the list until an available arbitrator is found. If none of the arbitrators on the list is available, the DRA shall appoint a qualified arbitrator to preside over the dispute. No person shall be eligible to act as an arbitrator who is a past or present officer, employee of, or consultant to any of the disputing parties, or of an entity related to or affiliated with any of the disputing parties, or is otherwise interested in the matter to be arbitrated, except upon the express written consent of the parties. Any individual appointed as an arbitrator shall make known to the disputing parties any such disqualifying relationship or interest and a new arbitrator shall be appointed by the DRA, unless express written consent is provided by each party.

5.16.4 Arbitration Proceeding

There shall be no right to discovery between the parties, including, but not limited to, depositions, interrogatories or other information requests. The arbitrator may request, and the parties shall produce, any information in addition to the written statements that is deemed by the arbitrator to be relevant to the issues presented. The arbitrator shall resolve the arbitration matter solely on the basis of the written statements and evidence submitted by the parties unless, in the sole discretion of the arbitrator, a hearing is deemed necessary. Any such hearing shall be limited to one (1) day and conducted in accordance with procedures determined by the arbitrator. Absent agreement to the contrary by all parties to the dispute, no person or entity shall be permitted to intervene. Except as otherwise set forth in this Section, the arbitrator will follow the Commercial Arbitration Rules of the American Arbitration Association and the expedited procedures contained therein.

5.16.5 Arbitration Award

Within fifteen (15) calendar days of the appointment of the arbitrator, the arbitrator shall select as an arbitration award the award proposed by one of the parties in their written submission (except that, in disputes concerning the development of regional Load growth factors pursuant to Section 5.10 of this Tariff, the arbitration award shall be either the forecast developed by the Transmission Owner or by the ISO) and shall render a concise written decision including findings of fact and the basis for the decision. All costs associated with the time, expenses and other charges of the arbitrator shall be borne by the unsuccessful party. Each party shall bear its own costs, including attorney and expert fees, if any. No award shall be deemed to be precedential in any other arbitration related to a different dispute.

5.16.6 Limited Appeal

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The decision of the arbitrator shall be final and binding upon the parties, except that, within one year of the arbitration decision, a party may request that any federal, state regulatory or judicial authority (in the State of New York) having jurisdiction take such action as may be appropriate with respect to any arbitration decision that is based on fraudulent conduct or demonstrable bias of the arbitrator.

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