

The Transmission Owners individually participated in the NYISO's Price Responsive Load Working Group, and are generally supportive of the process and results of that Working Group. While the majority of the working group supported this proposal, there was agreement that dissenting positions would be presented. Unfortunately, the proposal and final report presented by the Working Group includes some elements that will add cost and confusion, and reduce the benefits of the Emergency Demand Reduction program for the customers served by the Transmission Owners. To prevent this less than favorable outcome, the Transmission Owners presents this alternative proposal, which corrects those less favorable aspects of the program as presented by the Working Group.

The proposal of the Transmission Owners Committee is identical to the proposal of the Working Group with four exceptions:

1. Participation should be limited to fully recognized members of the NYISO. No special categories of membership should be authorized by the NYISO exclusively for this program. The currently recognized categories of NYISO members are primarily LSEs and DRCs.
2. Retail customers that enroll in the program must sign up with their LSE. A retail customer cannot be served by one LSE, and resell its "demand reductions" to another LSE.
3. Payments for demand reduction should equal the applicable LBMP. No price floor should be guaranteed by the NYISO to Curtailment Service Providers (LSEs or DRCs) in the program.
4. Sale of retail generation in the wholesale market.

The justification for these improvements to the Working Group Proposal are provided below.

#### Participation Requirements

Curtailment Service Providers (CSPs) are those organizations recognized by the NYISO to enroll and deliver emergency demand response (EDR) within the NY control area. CSPs will be authorized by the NYISO to represent retail customers at the NYISO, receive payments from the NYISO, and engage in electricity-related consumer activities directly with retail customers in New York State. In doing so, these CSPs will be impacting not only those retail customers but also the LSEs that provide the electrical requirements and the mandatory metering and load tracking services.

Only LSEs and DRCs should be allowed to perform as CSPs because:

1. TOs will be required to provide services to entities that have not met the full and formal licensing requirements of the NYISO. "Membership light" CSPs as proposed by the Working Group report will be providing services that directly

compete with fully-qualified LSEs, and be engaging in financial transactions with the TOs without the full protections and responsibilities that the existing memberships require.

2. Consumer protections will not be maintained for the retail customers. No standards have been developed for certifying the CSPs that are not also LSEs, nor has the working group addressed methods for handling disputes between CSPs and their retail customers.

In an attempt not to discourage any party from participating, the working group proposal has effectively lowered the consumer protection standards. This responsibility would then implicitly fall on the TOs and the PSC, who will be dragged into any disputes that arise. All of these concerns could be eliminated if the alternative proposal is accepted.

### Multiple LSEs

Each LSE is responsible for providing all of the energy requirements of its customers. That principle was established by the NYISO and has been embedded in all of the retail choice programs that have been approved by the NYPSC for retail electric customers in New York. The Working Group proposal to allow a CSP to enroll a retail customer for EDR purposes, without the requirement to serve that customer's retail electric load, will add confusion to the marketplace.

Metering and billing confusion will result when individual retail customers are mapped to one LSE for load-serving purposes and a different LSE for EDR purposes. In the first place, the current systems are not designed to map individual customers to multiple LSEs. Each account has only one LSE.

Disputes will also arise, as a second CSP attempts to sign up a retail customer for the EDR program. Who will determine whether the retail customer already has a contract that limits its ability to shed load during an emergency? Will every TO be responsible for "informing" one LSE that the customer has signed up for a different CSP? The complexity of the rules, and the arbitration of disputes, would be unnecessary if the retail customer can select only one LSE to meet all of its electric energy services. In such an environment, competition would still be maintained and choices provided to retail customers as LSEs compete to provide the best collection of service offerings, including EDR.

### LBMP Price Floor

A guaranteed payment floor has been proposed by the Working Group, which includes a \$500/mWh minimum price for at least two hours during each emergency. The Working Group proposal also includes an additional two hours of guaranteed payments to CSPs for responding to an emergency. The TOs

consider the four hour guarantee to be reasonable, but disagree with the \$500/mWh minimum price. The TOs propose that LBMP should be the payment price for all hours that the NYISO is paying for EDR.

In the final case, retail customers in New York will pay the costs of emergency generation, just as they ultimately pay for all load consumed in the state. The purpose of this program is to generate a balance between the cost of having an emergency and the cost of mitigating that emergency. The minimum payment level sways that balance in favor of the CSPs at the expense of the retail customers. Payments equal to LBMP will serve to attract EDR without creating an artificial price impact on retail customers. Payments above LBMP will create a subsidy to the CSPs, funded entirely by retail customers who otherwise would have been served from cheaper resources. This is unnecessary and counterproductive.

CSPs will desire some level of certainty regarding the operation of their EDR resources. That certainty is provided by the other provisions of the Working Group proposal, especially the four-hour minimum run time. Furthermore, additional certainty can be added by the LSEs, who might want to offer more lucrative programs to retail customers to serve additional needs (such as the need for Special Case Resources). There is nothing to prevent each LSE that wants to participate as a CSP from establishing whatever terms it feels is necessary. The NYISO, however, should not be paying uneconomic incentives to the CSPs when cheaper resources were available to it. The TOS proposal is to leave such "sweetening" to the entities that can enjoy additional benefits from the additional incentives.

#### Sale of Retail Generation

A portion of the language in the proposal could be interpreted to expand the rights of a retail customer to sell generation into the wholesale market. This issue is currently being addressed in several PSC proceedings and could under some circumstances affect the tax exempt financing of the transmission system of some utilities. Rather than bring this potentially contentious issue into the NYISO environment, this program should neither expand nor reduce the rights of a retail customer to sell generation into the wholesale market. As these issues are resolved in other forums, the price responsive load programs should incorporate the resolution of the issues.