~~5.6~~ ~~Periodic Independent Review~~

5.6 ~~Except as provided in the previous Section, a periodic~~ Demand Curve Adjustment Process

An independent periodic review of the ICAP Demand Curves will be performed every three (3) years to determine whether the parameters of the ICAP Demand Curves should be adjusted. ~~Among other criteria, the review will determine the current localized levelized embedded cost of gas turbines in each NYCA Locality and the Rest of State and associated Energy and Ancillary Services revenues.~~ in accordance with the ISO Services tariff. Currently, the NYISO envisions a nearly two year process to conduct this review. The review will include the development of an RFP to select a consultant to perform required analyses, development of a consultant report, issuance of proposed Demand Curves, NYISO Board review of the Demand Curves and a FERC filing of the Demand Curves. The review includes Market Participant and NYISO Market Advisor input, review and comment in many of the steps throughout the process.

~~Each periodic independent review, which will include stakeholder input, will be completed by November 1 for the subsequent Capability Year, except the first periodic independent review, which will be concluded by December 31, 2004. The first periodic review will be initiated immediately following the Summer 2003 Capability Period, and the recommendations will be received not later than December 31, 2004 in time to determine the ICAP Demand Curves to be applied for the 2005-2006 Capability Year.~~

~~Once these recommendations are received, they shall be issued to stakeholders and the New York State Public Service Commission ("PSC"), who shall be given an opportunity to provide input to the NYISO concerning the review. Upon consideration of each review and input thereon from stakeholders and the PSC, but prior to NYISO Board approval, the NYISO shall issue three (3) proposed ICAP Demand Curves.~~

~~Any stakeholder, including the PSC, shall have thirty (30) days within which to request an opportunity to provide the NYISO Board with supplemental information for its consideration when acting on the proposed ICAP Demand Curves. Upon receipt of such a request, a NYISO Board subcommittee shall be convened, upon notice to all parties, to review filed information and to hear oral arguments on the issues that have been raised.~~

~~After considering the proposed ICAP Demand Curves and any comments related thereto, the NYISO Board shall issue three (3) final ICAP Demand Curves and shall file them for approval at FERC.~~ The initial review of the Demand Curve parameters was conducted for the three year period commencing with the 2005/2006 Capability Year.

5.6.1 *Development and Issuance of Schedule*

By mid-May (target May 15th) two years prior to the effective date of the Demand Curves to be filed under this review, the NYISO will issue for Market Participant

review and comment a draft schedule providing the completion dates of the major review activities. By May 30th, a schedule will be finalized for the Demand Curve review.

5.6.2 *Development of a Request for Proposal (RFP)*

In accordance with the schedule developed in Section 5.6.1, the NYISO will issue to Market Participants and the NYISO Market Advisor for their review and comment a draft RFP to engage a consultant to perform the required analyses under the review. Prior to the issuance of the RFP, face to face reviews with NYISO Staff, NYISO Market Advisor and interested stakeholders will be conducted to allow input and discussion of all relevant issues and the development of appropriate methodologies to be followed for the review. To expedite and focus the process, NYISO Staff may provide a strawman for consideration.

These discussions will lead to a set of desired assumptions and acceptable methodologies to be guidance for bidder responses to the RFP.

5.6.3 *Selection of Consultant*

Upon finalization of the RFP, but no later than the date established in the approved schedule for the Demand Curve review, the NYISO will issue the RFP to a selected list of bidders.

The RFP will provide potential bidders an opportunity to seek clarification of items included in the RFP through a Bidder's Conference. Although interested stakeholders are welcome at the conference, this conference will not be used as an opportunity to elicit support from the consultant for any particular issue of importance to any one party.

The NYISO will have sole responsibility for

- The development of a selection criteria to determine the winning bidder,
- The evaluation of the RFPs submitted, and
- The selection of the winning bidder.

The NYISO will award the contract to the winning bidder in accordance with the established schedule.

5.6.4 *Development of Consultant Final Report*

Prior to the winning consultant beginning work, meetings will be conducted to finalize the study assumptions and required sensitivity analysis. These meetings will include NYISO Staff, NYISO Market Advisor, interested stakeholders and the consultant. In the event that agreement cannot be reached on the assumptions or sensitivities, NYISO Staff in consultation with the NYISO Market Advisor, will

make the final determination of the assumptions to be used and the sensitivity analyses to be included in the review.

Upon issuance of a draft report by the consultant, meeting(s) will be convened to allow review and comment of the data and assumptions used in the review and the conclusions drawn by the consultant. These meetings will include NYISO Staff, NYISO Market Advisor, interested stakeholders and the consultant. The NYISO Market Advisor may propose adjustments to certain data or assumptions with input from NYISO staff and stakeholders. Comments made by NYISO Staff, NYISO Market Advisor and interested stakeholders will be included in the consultant's final report. In addition, the consultant will include its rationale for inclusion or exclusion of these comments in the final results of their analysis.

The consultant will issue its final report in accordance with the established schedule.

5.6.5   *Issuance of NYISO Draft Demand Curve Recommendations*

The NYISO will issue its draft Demand Curve recommendations in accordance with the established schedule. The contents of these recommendations will include:

- The localized, levelized embedded cost of a peaking unit in each NYCA Locality and the rest of state for each of the three capability years included in the review.   A peaking unit is defined as the unit with technology that results in the lowest fixed costs and highest variable costs among all other units' technology that are economically viable;

- The associated energy and ancillary services revenues in each NYCA Locality and the rest of state at or slightly in excess of equilibrium conditions;

- The "zero-crossing point" where the Demand Curves cross $0 (the point beyond which Unforced Capacity has no value) for each of the three capability years included in the review;

- The rationale for the selection of each recommendation provided above; and

- The rationale for the inclusion or exclusion of MP comments in determining these recommendations.

5.6.6   *NYISO Board Review*

Any stakeholder shall have thirty (30) days within which to request an opportunity to provide the NYISO Board with supplemental analysis for its consideration when acting on the proposed ICAP Demand Curves. Upon receipt of such a request, a NYISO Board subcommittee shall be convened, upon notice to all parties, to review filed analysis information and to hear oral arguments on the issues that have been raised.

5.6.7   *FERC Filing of ICAP Demand Curves*

A filing to FERC of the NYISO Board approved ICAP Demand Curve parameters will be made by November 30th in the year prior to commencement of the first Capability Period included in the review. Once the ICAP Demand Curves have been approved by FERC, they shall remain binding for the 3-year period until the next review, absent exigent circumstances.