

**UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

**New York Independent System Operator, Inc.    )    Docket Nos. ER01-3001-021  
ER01-3001-022  
ER03-647-012  
ER03-647-013**

**NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.’S  
UPDATED STATUS REPORT ON STAKEHOLDER DISCUSSIONS REGARDING  
ANNUAL INSTALLED CAPACITY DEMAND CURVE REPORTS  
AND PLAN FOR FUTURE REPORTS**

In accordance with a commitment that it made to the Federal Energy Regulatory Commission (the “Commission”) in the above-captioned proceedings,<sup>1</sup> the New York Independent System Operator, Inc. (“NYISO”) respectfully submits this updated status report regarding its annual reports on possible Installed Capacity<sup>2</sup> (“ICAP”) withholding in the Rest of State<sup>3</sup> region, which sets forth planned enhancements to future NYISO Rest of State withholding reports. As is described in greater detail in Section V below, this status report also informs the Commission that a number of disputes previously raised in these proceedings have now been resolved.

---

<sup>1</sup> New York Independent System Operator Inc.’s Status Report on Stakeholder Discussions Regarding Annual Installed Capacity Demand Curve Reports of the New York Transmission Owners, or in the Alternative, Motion for Leave to Reply and Request for Deferred Ruling (“NYISO Initial Status Report”) at 4 (“The NYISO ... respectfully asks that the Commission allow the parties to concentrate on these forward-looking issues by waiting thirty days, i.e., until November 12, 2009, for the NYISO to submit another status report before taking any further action in these proceedings.”)

<sup>2</sup> Words with initial capitalization not otherwise defined herein shall have the meaning ascribed to them in the NYISO’s Market Administration and Control Area Services Tariff.

<sup>3</sup> The “Rest of State” region encompasses all of New York State outside of the New York City and Long Island Load Zones. *See* Section 2.160c NYISO Market Administration and Control Area Services

## I. Background

Beginning with its Order on May 20, 2003,<sup>4</sup> the Commission directed the NYISO to file an annual report on the implementation of, and any withholding behavior under, the ICAP Demand Curves (“Demand Curve report”).<sup>5</sup> In subsequent orders, the Commission provided additional specificity regarding the information to be included in, and the analyses to be conducted for, the annual reports.<sup>6</sup> The annual Demand Curve report reviews the outcomes in the NYISO-administered capacity markets, assesses the effectiveness of the ICAP Demand Curves in attracting investment in new generation, and examines the issue of potential withholding activity in NYISO-administered capacity auctions in all regions of New York State. Those regions are the New York City Locality, the Long Island Locality, and the Rest of State (*i.e.*, outside of the New York City and Long Island Localities). The withholding section of the report reviews capacity that was not offered, and that was offered but not sold. The report includes an analysis of the offering behavior for certain Rest of State capacity and the possible effects of that behavior on the market (“Rest of State report”).

Past Rest of State reports have been controversial. In order to avoid, or at least minimize the likelihood of, future disputes and to provide more useful information to the Commission and

---

Tariff.

<sup>4</sup> *New York Independent System Operator, Inc.*, 103 FERC ¶ 61,201 (2003).

<sup>5</sup> On September 22, 2004, the Commission also required that the annual report include the impact of the Demand Curves on new investment. On November 28, 2006, the Commission granted the NYISO permission to change the date of its submission of its annual report on Demand Side Resources so that it would be filed on the same date as the Demand Curve report. Thus, the NYISO currently submits a single annual report comprised of: (a) a report on demand response programs, (b) a report on new generation projects, and (c) a report on Installed Capacity demand curves, which includes analysis of the Rest of State.

<sup>6</sup> *See, for example, New York Independent System Operator, Inc.*, 121 FERC ¶ 61,090 (2007), 123 FERC ¶ 61,206 (2008).

stakeholders, the NYISO has been exploring whether revisions to its Rest of State report methodology, inputs, and analyses may be appropriate. At the NYISO's August 21, 2009 Installed Capacity Working Group meeting, the NYISO announced that it would continue discussing concerns that the New York Transmission Owners ("Transmission Owners") had raised,<sup>7</sup> and invited stakeholders, individually or as groups, to provide input to the NYISO on revisions to its Rest of State reports and the methodology, inputs, and analyses used in the preparation thereof.

At the NYISO's Installed Capacity Working Group meeting on October 8, 2009, the NYISO presented and discussed with stakeholders a variety of possible refinements to its methodology for preparing future Rest of State reports; to the inputs and content, and regarding the timing of the reports. The NYISO again offered to meet with or receive written comments from stakeholders and committed to reviewing and discussing with, and receiving comments from, stakeholders at another Installed Capacity Working Group meeting.

Based on the NYISO's dialogue with Transmission Owners, and conversations with and comments from other stakeholders, the NYISO developed a proposal to modify its reporting structure and methodology and to include additional criteria in its analyses. The NYISO presented its proposal at its Installed Capacity Working Group meeting on November 3, 2009. The NYISO incorporated comments received during that meeting and revised its planned report. It also offered stakeholders an opportunity to provide comments after that meeting. Based on all

---

<sup>7</sup> These discussions were originally described in the *Answer of the New York Transmission Owners, or in the Alternative, Motion for Leave to Reply and Request for Deferred Ruling ("Transmission Owners' Answer")* at 2-3. ("In light of the procedural history, the New York Transmission Owners and the NYISO recently conferred to attempt to narrow or otherwise resolve issues and concerns. Based on those discussions, the New York Transmission Owners believe that the record in this proceeding would best be served by the Commission deferring its ruling on the May 2009 Report for a period of 60 days following the date of this filing to allow the parties to continue their discussions.")

of its stakeholder input and its own independent judgment, the NYISO is presenting to the Commission its plan for future Rest of State reports.

## **II. Rest-of-State Withholding Reports**

Attachment A to this filing sets forth the NYISO's planned methodology, analysis, and data components for future Rest of State reports, which will be included in the annual Demand Curve report due each January 15.<sup>8</sup> Attachment B is a process flow diagram depicting the steps in the analysis and the components of the steps.

The NYISO believes that these planned enhancements to its Rest of State reports are consistent with the Commission's prior Orders and notices in these dockets, and with the Commission's objectives reflected in those issuances. In addition, the NYISO believes that the changes described herein also will make its Rest of State reports more useful to stakeholders and provide more transparency. Because the methodology would be more focused and the data inputs more clearly defined than was the case in prior reports, the formulation described herein also will limit the time and resources ICAP Suppliers need to expend to provide data to the NYISO to prepare the Report.<sup>9</sup>

---

<sup>8</sup> The Rest of State report due on January 15, 2010 will include all data from auctions through November 2009. Billing data for December 2009 will not be available until January 8, 2010 and, therefore, the NYISO will not be able to assess and analyze it, or evaluate it with other period data, in time for the January 15 filing. The December 2009 data will be included in the next following annual report. As set forth in Section III, the NYISO plans to request permission from the Commission to change the timing of the reports. With the change in timing, the NYISO will be able to provide complete Capability Period data in each report after the January 15, 2010 report.

<sup>9</sup> It is important to note that the annual reports do not, and are not intended to, describe or represent the NYISO's monitoring of the capacity market, market results, bids, offers, market participant behavior, or the adequacy of market rules.

### **III. Separate Filing on Timing of Annual Demand Curve and New Generation Projects Reports**

The NYISO's annual Demand Curve report is due by January 15 of each year and covers the last four months of the previous Winter Capability Period, the prior Summer Capability Period, and two months of the current Winter Capability Period. As discussed with the NYISO's stakeholders, the NYISO intends to make a future filing seeking permission to change the reporting date for the Demand Curve and new generation projects reports to mid-December, so that the reports would each cover the two full immediately preceding Capability Periods. Annual demand response reports would continue to be made on January 15 each year. The requested change would apply to future filings after January 15, 2010. As will be discussed in the future filing, the proposed change to the filing timetable would provide data and analyses more quickly after the conclusion of the Summer Capability Period and would eliminate less informative partial Capability Period analyses.

### **IV. Resolution of Pending Disputes Over Prior Reports**

The NYISO's dialogue with stakeholders in general, and with the Transmission Owners in particular, provided an opportunity for stakeholders to discuss their concerns with prior reports and to gain a better understanding of the NYISO's analysis, inputs, and methodology. Based on the NYISO's planned enhancements to its future reports as set forth in Attachments A and B to this filing, and as described in this filing letter, the Transmission Owners have authorized the NYISO to inform the Commission that they believe that the planned changes are consistent with prior Commission Orders and notices in this docket, and will provide appropriate and sufficient analysis. The Transmission Owners also have authorized the NYISO to state that, based on the foregoing, they will file a notice with the Commission withdrawing their protests, and objections

to the NYISO Reports contained in various pleadings filed in the above-captioned proceedings.<sup>10</sup> Consequently, the NYISO respectfully renews its requests that the Commission accept its previous filings related to Rest of State withholding in these proceedings.<sup>11</sup> With the withdrawal of the Transmission Owners' protests and other objections, these filings will be uncontested.

## **V. Conclusion**

The NYISO plans to submit the Rest of State withholding portion of the annual Demand Curve report due January 15, 2010 pursuant to the formulation described in this filing. As stated above, the NYISO believes that the enhancements to its reporting methodology, inputs, and analyses as described herein will improve the Rest of State reports and make them more useful to the Commission and stakeholders. The NYISO has already begun to prepare the upcoming Rest of State report using this approach and intends to submit it on time. If the Commission has any

---

<sup>10</sup> The Transmission Owners protests and objections are contained in the following filings in these dockets: February 5, 2008 Comments of New York Transmission Owners; August 15, 2008 Protest of the New York Transmission Owners of the New York Independent System Operator, Inc.'s Filing; February 5, 2009 Protest of the New York Transmission Owners; May 26, 2009 Protest of the New York Transmission Owners; and August 10, 2009 Transmission Owners Answer.

<sup>11</sup> Specifically, the Commission should accept the NYISO's annual reports filed (a) January 15, 2008 to the extent it was not accepted in the Commission's order on May 27, 2008, with the NYISO's July 25, 2008 compliance filing, and (b) January 15, 2009, as supplemented by the NYISO's May 4, 2009 compliance filing in response to the Commission's April 2, 2009 Deficiency Letter, and the NYISO's July 24, 2009 Motion for Leave to Respond, and Response.

concerns regarding the NYISO's planned enhancements, the NYISO respectfully requests that the Commission notify it as soon as possible, *e.g.*, in its order addressing past NYISO filings in these proceedings, in order to avoid delay.

Respectfully Submitted,

/s/ Gloria Kavanah  
Gloria Kavanah  
Senior Attorney  
New York Independent System Operator, Inc.  
10 Krey Boulevard  
Rensselaer, NY 12144  
518.356.6103 (phone)  
gkavanah@nyiso.com

November 12, 2009

cc: Michael A. Bardee  
Gregory Berson  
Connie Caldwell  
Anna Cochrane  
Lance Hinrichs  
Jeffrey Honeycutt  
Michael McLaughlin  
Kathleen E. Nieman  
Rachel Spiker  
John Yakobitis

## **CERTIFICATE OF SERVICE**

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding in accordance with the requirements of Rule 2010 of the Rules of Practice and Procedure, 18 C.F.R. § 385.2010 (2009).

Dated at Rensselaer, NY this 12th day of November, 2009

By: /s/ John Cutting

New York Independent System Operator, Inc  
10 Krey Blvd  
Rensselaer, NY 12114  
(518) 356-7521



## ATTACHMENT A

### **I. Analysis of Unoffered Capacity**

The report will continue to include an analysis of the capacity that was not offered (“unoffered” capacity) in the Rest-of-State ICAP market by Capability Period and by market sector. The report also will include a calculation of the maximum price impact of the unoffered capacity, averaged over the six months of the Capability Period. The NYISO will contact each ICAP supplier that has 15 MW or more of unoffered capacity in any one month in a Capability Period for explanations of its behavior, and this information will be reported in the narrative.

### **II. Analysis of Unsold Capacity**

The NYISO will analyze and report on capacity that was offered but not sold (“unsold” capacity) in the ICAP Spot Market Auction. In addition to calculating the maximum price impact of monthly average unsold capacity over the Capability Period, up to four metrics will be calculated in each filing:

1. Class-based going forward costs<sup>2</sup> (“GFCs”) (with and without a risk adjustment);
2. Class-based GFCs with unit specific adjustments;
3. Amount of unsold capacity offered at prices above class-based GFCs (with unit-specific adjustments when performed (as described herein);) and
4. Estimated monthly price impact of unsold capacity associated with offers above class-based GFCs (with unit-specific adjustments when performed.)

#### **A. Monthly Average Price Impact**

The report will include the maximum price impact of average monthly unsold capacity for each Capability Period. The NYISO will analyze GFCs only if the monthly maximum price impact exceeds the price impact thresholds defined below.

The price impact thresholds will be: \$0.20/kW-mo. for the monthly average unsold capacity in a Capability Period or \$0.35/kW-mo. for the unsold capacity in any single month in that capability period. If either of the thresholds is exceeded, the NYISO will calculate the class average Net Going Forward Costs, as described in Section (B). If the thresholds are not exceeded, the total maximum price impact will be reported, and the analysis will be concluded.

Note that the price impacts due to errors by ICAP Suppliers, if documented, will be included in the impact calculation but will not be used as a basis for conducting GFC analyses, or included in the evaluations against the thresholds listed above. Two examples of the types of errors previously set forth in NYISO reports are a data entry error and an unintended failure to save offers in the NYISO system. The exclusion of unoffered and offered but unsold MW due to errors, as described in this paragraph, will be limited to instances in which there are circumstances that make it apparent to the NYISO that a mistake was involved; and that the

---

<sup>2</sup> “Going Forward Costs” for purposes of the annual report are as defined herein.

circumstances do not indicate a reason for a conclusion other than an error (such as repeated conduct); and in which the generator provides the NYISO with a written explanation. The NYISO will state the basis for its conclusion in such cases in the report.

## B. Class based Going Forward Costs

Class based GFCs are defined for purposes of the report as costs (other than production costs) that could be reasonably expected to be avoided or deferred if the plant was mothballed for at least one year. (See table below for definitions.) GFCs may provide insight into why a generator offered its capacity at a non-zero offer. The assumption is that an Installed Capacity Supplier would only want to sell capacity from a generator if the capacity revenues it receives cover the generator's net GFCs. In this analysis, GFCs will be calculated for the entire capacity of the plant. The NYISO does not plan to separately calculate or report GFCs for tail-end capacity because to do so would require unit-specific information about the cost of tail-end capacity that, based on the NYISO's experience, is highly subjective and generally is not readily verifiable.

Table of Definitions

Going Forward Costs (GFCs)	Costs that would be avoided or deferred if a generator was mothballed for a year or more, but not including production costs, based on the calculation of the industry average cost data for the type of generator
Net energy and ancillary services revenues (net revenues)	Estimated energy plus ancillary services revenues minus estimated production costs, with a minimum value of zero
GFCs with full net revenues	GFCs minus net revenues. This value will be used as a proxy for Net GFCs with certainty of net revenues
GFCs with no net revenues	GFCs. This value will be used as a proxy for Net GFCs without certainty of net revenues
GFCs with half net revenues	GFCs minus 0.5 times net revenues. This value will be used as a proxy for Net GFCs with some uncertainty
Unit Specific Net GFCs with Recognized Adjustments	GFCs plus unit-specific adjustments (i.e., the dollar amount identified by the generator for an adjustment that is readily recognizable as an appropriate adjustment (for example, a Payment in Lieu of Taxes agreement)), minus the unit specific revenues.
Unit Specific Net GFCs with all Adjustments	GFCs plus all unit-specific adjustments identified by the generator, minus the unit specific revenues.

If the price impact threshold is exceeded, the NYISO will calculate GFCs for the generator classes that contributed to the price impact, provided that the class had more than 15 MW of unsold capacity. Specifically, if the \$0.20/kW-mo. average threshold is exceeded, GFCs will be

calculated for classes with more than an average of 15 unsold MW over the Capability Period, and all months in that Capability Period will be designated as “Analysis Months”. If the \$0.20/kW-mo. average threshold is not exceeded, but the \$0.35/kW-mo. monthly threshold is exceeded for one or more months, the months in which the \$0.35/kW-mo. monthly threshold is exceeded shall be designated as “Analysis Months,” and GFCs will be calculated only for classes that had more than 15 unsold MW in those Analysis Months. If both thresholds are exceeded, the respective rules of both tests will apply for the selection of classes. In all instances, the NYISO will report the amount of unsold MW in each class.

The NYISO will estimate Net GFCs for generator classes that have met the above-described criteria. GFCs will be calculated from industry data, such as labor rates, expenses for contract services, Administrative and General, and insurance. Energy and Ancillary Services revenues will be estimated from NYISO billing information, and production costs will be estimated from NYISO unit specific reference level data and inputs to the reference calculation(s). The production costs are intended to reflect the costs incurred by a generator to produce Energy or provide Ancillary Services that it would not have incurred if it had not produced that Energy or provided those Ancillary Services.

GFCs will be reported with and without certainty of net revenues, and with some uncertainty (all three categories, “Net GFCs”):

- With certainty of net revenues, “GFCs with full net revenues” will equal GFCs minus the full net revenue amount.
- Without certainty, net revenues will be reduced to zero, and “GFCs with no net revenues” will equal GFCs.
- With some uncertainty, fifty percent (50%) of net revenues will be used to reduce the GFCs (“GFCs with half net revenues”).

Also, net revenues will have a minimum value of zero. If production cost estimates exceed Energy and Ancillary Services revenues, a value of zero will be used as the net revenue figure.

The Net GFCs will be compared to individual generators’ offers. The Net GFC values used for this comparison will include some uncertainty of net revenues; that is, one-half of net revenues. If the generator’s offer for unsold capacity is greater than the Net GFCs with half net revenues, the generator will be contacted for further information about its capacity offer. If all offers for unsold capacity are less than the GFCs with half net revenues, the NYISO will not determine any unit specific adjustments to class-based Net GFCs.

### **C. Class-based Going Forward Costs with Unit Specific Adjustments**

The NYISO will contact a generator owner for unit-specific information if that generator’s offer for unsold capacity exceeds the “GFCs with half net revenues”. The responses will be used to calculate unit-specific Net GFCs. Reported costs (other than production costs) that the generator owner could reasonably expect to avoid by mothballing for a year or more (that are not already included in the class-based GFC estimates) will be used to construct the “Net GFC with

Recognized Adjustments” for that unit. Any other avoided costs reported by the generator will be used in the “Net GFC with all Adjustments”. Unquantifiable responses will be included in a narrative. The NYISO also will include in the report the basis for its determination that any such adjustment was reasonable. If none of the generators with unsold capacity identify adjustments in their respective responses, the NYISO will proceed with its analysis without incorporating GFC adjustments.

For each Analysis Month, and in each of six scenarios corresponding to: (1) GFCs with full Net Revenues and no adjustments, (2) GFCs with full Net Revenues and Recognized Adjustments, (3) GFCs with full Net Revenues and all Adjustments, (4) GFCs with no Net Revenues and no adjustments, (5) GFCs with no Net Revenues and Recognized Adjustments, and (6) GFCs with no Net Revenues and all Adjustments, the report will include (a) the total number of MW of unsold capacity in that Analysis Month that was offered at a price above the Unit Specific Net GFCs in that scenario (i.e., with or without certainty of Net Revenues and without Adjustments, with Recognized Adjustments, or with all Adjustments, as stated for that scenario); and (b) the estimated price impact of all generators offering unsold capacity at prices above their Unit Specific Net GFCs for that scenario, when the Unit Specific Net GFCs are below the Spot Market clearing price for the Analysis Month (i.e., the difference between the actual ROS ICAP price for the Analysis Month and the price that would have been calculated if all unsold capacity offered at a price above Unit Specific Net GFCs had instead been offered at Unit Specific Net GFCs). In each of these analyses for each scenario, if Unit Specific Net GFCs are not calculated for a given unit, the class average Net GFCs for that scenario will be used if available. The NYISO will not analyze the impact on price of unsold capacity offered by units for which class averages were not calculated. To complete the analysis of unsold capacity, the NYISO additionally will report the total number of MW of unsold capacity offered at a price less than unit-specific Net GFCs but greater than the Spot Market clearing price.

It is presumed that unsold capacity offered at a price greater than the Spot Market clearing price would have no effect on the clearing price because those MW would not have cleared in the auction. Therefore, if offer prices for unsold capacity are set equal to the Unit Specific Net GFC used in a given scenario (or the class average net GFCs for that scenario, when that is available and the Unit Specific Net GFC is not available), and this value is greater than the Spot Market clearing price, the offer would have no price impact and would, therefore, not be included in the calculation of estimated price impact.

### **III. Public and Confidential Filing**

As with previous reports, any confidential data and information, and the results of analyses from which Market Participant data can be gleaned, will be submitted to FERC in confidential appendices, and with a request for confidential treatment. The NYISO will endeavor to aggregate data in a manner so that a public version of the sections of the report can be provided, so long as it continues to be meaningful and represents an accurate depiction of the information in the confidential portion of the filing.

**ATTACHMENT B**  
**ICAP ROS Withholding Report Process Flow Chart**

