

**NOTICE OF APPEAL OF ENERGY CURTAILMENT SPECIALISTS, INC. TO
THE NYISO BOARD OF DIRECTORS
FROM THE MANAGEMENT COMMITTEE'S DECISION
AT ITS SEPTEMBER 29, 2006 MEETING**

I. SUMMARY STATEMENT

Energy Curtailment Specialists, Inc. (ECS) hereby appeals the decision of the Management Committee (MC) on September 29, 2006 in connection with Motion #4, Capacity Market Monitoring and Mitigation Measures. The Management Committee did not adequately consider all the facts and issues associated with changes to the NYISO In-City capacity market when it passed Motion #4. ECS requests that the NYISO Board of Directors overturn the Management Committee Motion #4 and remand the issue related to the In-City capacity market to the ICAP working group for a complete and detailed analysis.

**II. ARGUMENT – THE IN-CITY CAPACITY MITIGATION MEASURES
PROPOSED AND PASSED IN MOTION #4 ARE BASED ON:
INCOMPLETE FACTS, WERE HASTILY PREPARED, PROVIDES
NO ADEQUATE ANALYSIS, AND FAILS TO ADDRESS DEMAND
RESPONSE RESOURCES.**

A. INCOMPLETE FACTS

As the largest demand response provider in the State of New York, ECS is extremely concerned with the decision of the Management Committee and believes market participants have rushed without knowledge or consideration

of all the facts. To date there has been no recognition that the actual market results are less than the actual cost of entry, or the cost of demand response resources. Prices below the cost of new entry send a market signal that existing and new resources (including demand response) have limited value. It has been assumed that demand response, or special case resources, do not require capacity payments at or above the current clearing prices, in order for these resources to provide reliability for New York State's Bulk Power System. In sum, all of the facts have not been uncovered and those that have are not being fully considered.

B. HASTILY PREPARED

Motion #4, passed by the Management Committee, was hastily prepared after two meetings with the ICAP Working Group. Moreover, input from NYISO staff at the September 5, 2006 ICAP Working Group meeting indicates that NYISO has concerns regarding the following: reference price proposal, 3% conduct test, and 3% impact test. The NYISO stated, "A change of this type requires a full market impact assessment to ensure that implementation will not interact with other market arrangements in a way that produces unintended outcomes." NYISO staff indicated during the ICAP Working Group meeting that NYISO MMP wants to evaluate the change fully to ensure that it does not distort long-run investment signals, understand short and long run impacts on other markets, and understand how capacity prices impact energy and ancillary services, across the investment cycle. Motion #4

was passed despite these significant and overwhelming concerns of NYISO, and with virtually no change in the context between the time that NYISO stated those concerns and the presentation of the Motion to the Management Committee.

C. INADEQUATE ANALYSIS

At the September 5, 2006 ICAP Working Group NYISO staff asked that market participants wishing to request additional analysis regarding In-City market monitoring mitigation send their request by close of business on September 13, 2006. ECS submitted our request on September 12, 2006 and to date ECS has received no answers regarding our questions and comments. NYISO staff indicate that the current proposal is not ready for implementation because NYISO has concerns about the level of various parameters, as indicated in NYISO presentation at the September 5, 2006 ICAP Working Group. In addition, analysis conducted to date was performed by one market participant and lacks transparency.

D. FAILS TO ADDRESS DEMAND RESPONSE RESOURCES

Application of this rule change would most certainly adversely affect future participation in NYISO's demand response programs, in particular the Special Case Resource program. NYISO has recognized the importance of these programs: in an August 2nd press release, Mark S. Lynch, NYISO President and CEO stated, "We are passing the test. Our markets are working,

our demand reduction programs have helped reliability...”. Likewise, businesses and individuals throughout New York City, especially in Queens, certainly realize the significance of the programs. One can only imagine how much worse things could have been throughout New York City during the recent heat wave had demand response participants not responded. Market participants have apparently put no thought into how demand response participation would change if price signals decline in New York City. As In-City ICAP prices decline, this will send clear signals to New York City businesses that demand response is unnecessary. Allowing market rule changes that would send this message to New York City businesses will without question result in less demand response at a time when the New York Public Service Commission (NYPSC) is requiring 300 MW of additional demand reduction in New York City¹.

It is counter-intuitive to implement a rule change that would precipitate an exodus of valuable, demand response resources from the market, at a time when the NYISO’s Reliability Needs Assessment (RNA) indicates a future need to improve demand response programs; this would have a substantial impact on reliability within New York City. As peak loads each year continue to increase, demand response resources are needed to help maintain grid operations within reliability criteria. As stated in the Findings, Conclusions, and Recommendations section of the Comprehensive Reliability Plan released by the NYISO, “New York must monitor its capacity markets to determine if

¹ As reported in FERC’s Assessment of Demand Response and Advance Metering Staff Report (Docket Number AD-06-2-000)

they are competitive *and can attract enough investment to maintain system reliability*”(emphasis added). ECS submits that the currently proposed market rule changes are in direct opposition to the notion of increased reliability; indeed, they will likely result in a massive loss of curtailable load due to Special Case Resources abandoning the program.

III. CONCLUSION

ECS respectfully requests the NYISO Board of Directors reverse the decision made on Motion #4 by the Management Committee. The Board of Directors should direct the ICAP Working Group to convene additional meetings and conduct further analysis, which is transparent to all market participants. After further analysis, the ICAP Working Group should then present a comprehensive market design proposal that ensure appropriate market signals, reliability for New York State’s Bulk Power System while sending the appropriate market signals for further electric expansion.

Date: October 6, 2006

Respectfully submitted,



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