

**NYISO BOARD OF DIRECTORS DECISION ON
CORRECTION OF LOCATIONAL CAPACITY REQUIREMENTS
APRIL 3, 2006**

Background

The NYISO is responsible for determining the Locational Minimum Installed Capacity Requirements (“LCRs”) for downstate load-serving entities. In the first instance, these LCRs are to be subject to review and approval by the Operating Committee (“OC”).¹ Subsequent to the original approval of the LCRs for the Capability Year commencing on May 1, 2006, the NYISO became aware of an error in the use of the database from which the LCRs are determined. A special meeting of the OC was convened on March 21, 2006 to approve corrected LCRs. As a result of procedural objections, the meeting was re-noticed for March 28th. At the rescheduled meeting, the OC approved the corrected LCRs with an affirmative vote of 71%.

Under §5.08 of the ISO Agreement, the Board has “ultimate responsibility” for, among other things, “the administration of Installed Capacity requirements for LSEs.” Although the OC approved the correction of the LCRs, it is likely that procedural appeals would render it impossible for the corrected LCRs to be finally adopted in time for the auctions for capacity for the summer capability period. There is also a significant potential for confusion and uncertainty affecting the installed capacity auctions if LCR-related appeals are pending under the normal processes and time periods while those auctions are conducted. Finally, the Services Tariff requires the NYISO to establish the minimum LCR levels, and the uncorrected LCRs would exceed the minimum necessary LCRs.

Under §5.07 of the ISO Agreement, the Board is authorized to review any matter or Committee action on its own motion. This provision also empowers the Board to act expeditiously when circumstances require. Accordingly, in light of the foregoing concerns, a notice was circulated after the OC meeting informing the Market Participants of the Board’s intention to take action to ensure a final determination of LCRs prior to the April monthly and spot auctions for installed capacity. The notice invited Market Participants to submit comments on the LCR corrections by 5:00 p.m. on March 31st.

Analysis

Comments opposing use of the corrected LCRs were filed by: (1) Independent Power Producers of New York; and (2) KeySpan-Ravenswood LLC. In addition, National Grid filed a notice of appeal from the OC’s rejection, in connection with adoption of the corrected LCRs, of a motion by National Grid to change the LCRs to be consistent with the Free Flowing Equivalent methodology, the same position urged by National Grid in its recent appeal to the Board from a decision of the Management Committee.

¹ Market Administration and Control Area Services Tariff (“Services Tariff”) §§5.1(i) and 5.11.4.

None of these filings even purport to show that the proposed revisions to the LCRs are not being made correctly, or that the revisions are not necessary to ensure that the LCRs reflect the correct methodology for use of the GE MARS model, the software model used to determine minimum LCRs, and the underlying database. While assertions in these filings that the ISO has not responded quickly enough to alleged problems incorrectly suppressing prices are not relevant to the issue being considered, we note that the NYISO management had already agreed to address the scarcity pricing issues identified by the Market Advisor, Dr. David Patton, in his recent report on SMD2 implementation. We expect that management will keep the Board informed regarding this matter.

The comments opposing correction of the LCRs also assert that action by the Board now to correct the LCRs “violates” the ISO-Agreement and subverts the normal governance and appeals procedures. These objections are misplaced. The Board is not acting under the appeals procedures, but pursuant to its plain authority under §§5.07 and 5.08. As an independent board with the obligation to carry out its “ultimate responsibility” for the determination of minimum LCRs and pursuant to the tariff requirements for the timely conduct of the auctions, the Board feels compelled to proceed. To the extent that the normal appeals procedures conflict with substantive tariff requirements, those substantive requirements must prevail.

Nevertheless, the Board is also mindful of the desirability of obtaining the views of the Market Participants, and has accordingly provided an opportunity for Market Participant comment. Given the time constraints imposed by the proximity of the required auctions, that opportunity for comment has been brief, but also given the absence of substantive objection to the corrections, the brevity of the comment time has not deprived any participant of sufficient time to frame comments. The Board has carefully considered all of the comments it has received.

Comments in support of the OC’s approval of corrected LCRs were filed by: (1) Consolidated Edison Co. of New York, Inc., along with Orange & Rockland Utilities, Inc., LIPA, NYPA, the City of New York, Consumer Power Advocates, and the New York Energy Consumers Council, Inc.; (2) New York Association of Public Power; and (3) Select Energy LLC.

The Board notes that GE informed the NYISO prior to the OC meeting that it had conducted a thorough review of the MARS model and the underlying database and determined that there are no other errors that would affect the LCRs.

Decision

1) To remove uncertainty from and to preserve the integrity of the LCR determination and the installed capacity auctions that rely on that determination, all in conformity with the requirements of the Services Tariff, the Board exercises its authority under §§5.07 and 5.08 of the ISO Agreement, to (i) review the action of the OC on March 28, 2006 correcting the summer 2006 LCRs and (ii) establish with finality the summer

2006 LCRs at the levels determined by the OC on March 28, 2006. The monthly and spot auctions scheduled for later this month will proceed without delay.

2) The NYISO staff is directed to evaluate the facts and circumstances that gave rise to the error in the determination of the LCRs, and to institute measures to prevent such errors from recurring to the maximum extent practicable.

3) National Grid's notice of appeal is denied for the reasons stated by the Board in its decision, dated March 28, 2006, on National Grid's recent appeal on the same issues from a Management Committee decision.

April 3, 2006
NYISO Board of Directors