

ISO to operate in a given Dispatch Day, but which continue to operate due to minimum run time Constraints, shall not receive such a supplemental payment.

Each Generator committed by the ISO in the Real-Time Market whose Real-Time LBMP payments for Energy produced are less than its Minimum Generation and Start-Up Bids to produce that Energy will be compensated by the ISO for the shortfall, in accordance with Attachment C. The ISO shall recover any supplemental payments to Generators through the Rate Schedule 1 charge under the ISO OATT.

ARTICLE 5

CONTROL AREA SERVICES: RIGHTS AND OBLIGATIONS

5.1 Control Area Services

The ISO will provide Control Area Services in accordance with the standards and criteria of NERC and NPCC and the NYSRC Reliability Rules and Good Utility Practice. The Control Area Services provided by the ISO include, but are not limited to, the following:

- (a) Developing and implementing procedures to maintain the reliability of NYS Power System;
- (b) Coordinating operations with other Control Area operators;
- (c) Arranging for reserve sharing agreements with other ISOs and other Control Areas to enhance reliability during abnormal operating conditions;
- (d) Coordinating the outage schedules for generating units within the NYCA to maintain system reliability;
- (e) Committing adequate generation resources to ensure the reliability of the NYS Power System;
- (f) Taking command and control of the NYCA resources during Emergency conditions and coordinating operations with Transmission Owners;

- (g) Maintaining and Operating a central control center and performing the functions of the NERC security control center for the NYCA under Emergency operating conditions;
- (h) Defining the Installed Capacity requirements for LSEs, inclusive of individual customers taking services directly from the ISO, within the NYCA;
- (i) Determining Locational Installed Capacity requirements for LSE's to ensure the reliable operation of the NYCA;
- (j) Administering of an Installed Capacity Market;
- (k) Training the operating personnel of the ISO and Transmission Owner control rooms; and
- (l) Administering the mandatory NERC reliability compliance process.

5.2 Independent System Operator Authority

The ISO will act as the Control Area operator, as defined by NERC, for the NYCA. The ISO will provide all Control Area Services in the NYCA. Control Area Services provided by the ISO will be in accordance with the terms of the ISO Services Tariff, the Reliability Rules, the ISO Related Agreements and Good Utility Practice. The ISO will interact with other Control Area operators as required to effect External Transactions pursuant to this Tariff and to ensure the effective and reliable coordination with the interconnected Control Areas. In acting as the Control Area operator, the ISO will be responsible for maintaining the safety and the short_term reliability of the NYCA and for the implementation of reliability standards promulgated by NERC and NPCC and for the Reliability Rules promulgated by the NYSRC. To be included within NYCA, a Market Participant must meet the requirements of Section 5.6. Each Market

Participant that (1)

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withdraws Energy to supply Load within the NYCA; or (2) provides installed Capacity to an LSE serving Load within the NYCA, benefits from the Control Area Services provided by the ISO and from the reliability achieved as a result of ISO Control Area Services and must take service as a Customer under the Tariff. A Market Participant that is not included within the NYCA may take service as a Customer under the Tariff, provided that it meets the requirements of Section 5.7.

5.3 Control Center Operation

The ISO will maintain and operate a control center in order to monitor the power flows on and across the NYCA, coordinate the flow of electricity within the NYCA, respond to Emergency situations, monitor power flows between the NYCA and neighboring Control Areas and maintain reliability.

5.3.1 Back-up Operation

The ISO shall develop Back-up Operation procedures that will carry out the intent and purposes of the ISO Services Tariff, to the extent practical, in circumstances under which the normal communications and computer systems of the ISO are not fully functional. Such procedures shall include testing requirements and training of the ISO staff, Transmission Owner staff, and Market Participants. If a communication or computer system malfunction results in the ISO's inability to operate the NYCA in accordance with the ISO Procedures or under approved testing procedures, the ISO will direct the Transmission Owners to assume the responsibility to operate their respective systems in accordance with Good Utility Practice to facilitate the operation of the NYCA in a safe and reliable manner ("Back-up

Operation”). The Transmission Owners will continue to operate their respective systems until such time that the ISO is ready to resume control. During Back-up Operation, the Transmission Owner control centers will operate to maintain the Desired Net Interchange (“DNI”) within each Transmission District. Generator Bid curves will be provided by the ISO to the individual Transmission Owners in order to permit dispatch by the Transmission Owners subject to the Transmission Owner Code of Conduct. Normal Day-Ahead Market and Real-Time Market operations may be halted, if required.

5.3.2 Market Participant and Transmission Customer Obligations

During Back-up Operation, Transmission Customers and other Market Participants shall comply with any and all instructions and orders issued by the ISO or the Transmission Owners.

5.3.3 Billing and Settlement

In the event that Back-up Operation is implemented, the billing and Settlement procedures contained in this Tariff shall apply to the extent they can be implemented under the Back-up Operation procedures. The ISO will follow specific billing and Settlement procedures developed by the ISO for use under these circumstances. The ISO shall gather necessary information, manually reconstruct the billing information as soon as practical, and submit invoices to Customers. The ISO shall be under no obligation to comply with the billing procedure time limits specified in Article 7. Neither the ISO nor the Owners shall be liable, under any circumstances, for any economic losses suffered by any Transmission Customer, other Market Participant, or third party, resulting from the implementation by the

ISO of Back-up Operation, or from compliance with orders issued by the ISO or Transmission Owners that were necessary to operate the NYCA in a safe and reliable manner. Such orders may include, without limitation, instructions to Generation facilities to increase or decrease output, and instructions to Load to reduce or interrupt service.

5.4 Operation Under Adverse Conditions

The ISO shall operate the NYS Power System during Adverse Conditions, including, but not limited to, thunder storms, hurricanes, tornadoes, solar magnetic flares and threat of terrorist activities, in accordance with the Reliability Rules, inclusive of Local Reliability Rules and related PSC orders. Consistent with such Reliability Rules, the ISO shall maintain reliability of the NYS Power System by directing the adjustment of the Generator output levels and controllable transmission devices in certain areas of the system to reduce power flows across transmission lines vulnerable to outages due to these Adverse Conditions, thereby reducing the likelihood of major power system disturbances.

The ISO shall have the sole authority to declare that Adverse Conditions are imminent or present and invoke the appropriate operating procedure(s) affecting the NYS Power System in response to those conditions. Activation of a procedure in compliance with a Local Reliability Rule shall involve a two (2) step process. The Transmission Owner directly involved with such Local Reliability Rule, such as Storm Watch, shall advise the ISO that Adverse Conditions are imminent or present and recommend to the ISO the activation of procedures in support of that Local Reliability Rule. Consistent with the Local Reliability Rule, the ISO shall declare the activation of the appropriate procedures.

The Transmission Owner and the ISO shall coordinate the implementation of the applicable procedures to the extent that Transmission Facilities Under ISO Operational Control are impacted. Records pertaining to the activation of such procedures and the response in accordance with those procedures shall be maintained and made available upon request.

The Real-Time LBMPs shall be based on adjusted Generator levels set in response to activation of these procedures. Revenue shortfalls may occur if the redispatch of the system Curtails Energy scheduled Day-Ahead and more expensive Energy is dispatched subsequent to the Day-Ahead Settlement. These revenue shortfalls shall be recovered by the ISO through the Rate Schedule 1 charge under the ISO OATT.

5.5 Major Emergency State

In the event of, or in order to prevent, a Major Emergency State, Customers shall comply with all ISO Procedures and Reliability Rules applicable to a Major Emergency State.

5.6 Requirements For Inclusion Within The New York Control Area

To be included within the NYCA an entity must meet the following requirements:

- (a) Its facilities must be included within the NYCA.
- (b) It must accept and comply with NYCA standards with respect to system design, equipment ratings, operating practices and maintenance practices as set forth in the ISO Procedures so that sufficient electrical equipment control capability, information and communication are available to the ISO for planning and operation of the NYCA.
- (c) Its facilities must be able to respond to command and control instructions from the ISO.

- (d) It must have compatible operational communication mechanisms, maintained at its expense, to interact with the ISO and for Internal requirements.
- (e) It must ensure the continued compatibility of its local Energy management system, system monitoring and telecommunications systems to satisfy the technical requirements of interacting with the ISO as the ISO directs the operation of the NYCA.

5.7 Requirements For Entities Not Located Within The New York Control Area

In order for an entity that is not included within the NYCA to take services under the Tariff, it must be contained, in whole or in part, within a separate Control Area that meets all of the requirements for a Control Area defined by NERC, NPCC and any succeeding organizations. An entity that is contained in a Control Area other than the NYCA may take services under the ISO Services Tariff for the purpose of engaging in Control Area to Control Area Capacity and Energy Transactions with the ISO. In order for an entity not contained in the NYCA to take services under the ISO Services Tariff, an inter-Control Area agreement between the Control Area in which the entity is located and the ISO, that satisfies the reasonable requirements of both Control Area operators, must be in place.

5.8 Communication and Metering Requirements for Control Area Services

The ISO shall arrange for and maintain reliable communications and metering facilities between the ISO and the Transmission Owners in the NYCA and the Control Area operators of all neighboring interconnected Control Areas. Such facilities may consist of data circuits, voice lines, meters and other facilities deemed necessary by the ISO to maintain reliable communication links for the sole purpose of transmitting operations and reliability data and instructions. The ISO shall be responsible for the specification, installation and

maintenance of the required facilities according to ISO Procedures. The costs incurred by the ISO to establish communications facilities between the ISO and a Security Coordinators of a neighboring Control Area shall be borne by the Control Area that requested the establishment of the communications facilities unless a different arrangement is agreed to by both Control Areas. The total cost of the communications facilities between the ISO and the Transmission Owners and the portion of the cost of inter-Control Area communication facilities assigned to the ISO shall be collected from all Customers in accordance with Rate Schedule 1 of the ISO Services Tariff. Transmission Owners with communications requirements which exceed those required by the ISO shall procure and maintain such additional facilities at their own expense.

Generators, Suppliers and Loads are required to exchange certain operating and reliability data with the ISO and the Transmission Owners' Control Centers in accordance with the ISO Agreement and the ISO/TO Agreement, applicable ISO operating and reliability requirements, and in conjunction with any requirements for interconnection with the Transmission Owner.

In addition, Suppliers wishing to participate in real-time dispatch or in the Regulation Service market must make provision to receive command and control information from the ISO. Those Generators or Suppliers currently providing this capability via a Transmission Owner may continue to do so. Those requiring installation of this capability must contract with the ISO or with the interconnected Transmission Owner and must comply with applicable ISO or Transmission Owner data and other technical requirements.

Suppliers with multiple units at a single location must maintain a consistent representation of the plant with the ISO with respect to aggregation of units for purposes of bidding. If an aggregate Bid is to be provided for a group of units and those units are participating in real-time dispatch or providing Regulation Service, then the ISO shall model those units as a group for purposes of dispatch, control and security modeling. The ISO will provide a single aggregate Base Point Signal and unit control error. If, however, the Supplier wishes to dispatch units individually, then it must configure both its bidding and data interfaces accordingly. Each Supplier must initially specify the configuration of the plant for purposes of bidding aggregation and must then maintain bidding and data interfaces consistent with that configuration. Similar modeling, control and bidding Constraints apply to an LSE that bids Load that is Dispatchable by the ISO.

5.9 Installed Capacity — ~~Transitional~~ Transactional Implementation of Revised Installed Capacity Market Provisions

During the 2000 Summer Obligation Procurement Period, the provisions of Sections 5.10 - 5.15 of this Tariff shall govern Installed Capacity requirements in the NYCA. If a permanent Installed Capacity market design cannot be implemented in time for the 2000 - 2001 Winter Capability Period, the ISO Board shall have the unilateral right to continue the provisions of Section 5.10 - 5.15 of this Tariff in effect until such time as a permanent Installed Capacity market design is in place.

5.10 NYCA Installed Capacity Requirement

The Installed Capacity requirement is derived from the NYCA's Installed Reserve Margin, which is established each year by the NYSRC. The NYCA Installed Capacity requirement for the

Capability Year beginning each May 1 will be established by multiplying the NYCA peak Load forecasted by the ISO by one plus the NYCA Installed Reserve Margin, expressed on a percentage basis. The ISO will calculate a NYCA peak Load each year by applying regional Load growth unit factors to the prior calendar year's Adjusted Actual Peak Load. Regional Load growth factors shall be proposed by the Transmission Owners and reviewed by the ISO pursuant to procedures agreed to by all Market Participants which shall be described in the ISO Procedures. Disputes concerning the development of regional Load growth factors shall be resolved through the ISO's Dispute Resolution Procedures.

The ISO shall determine the amount of Installed Capacity that must be sited within the NYCA, and within each Locality, and the amount of Installed Capacity that may be procured from areas External to the NYCA, in a manner consistent with the Reliability Rules.

5.11 Requirements Applicable to LSEs

5.11.1 Allocation of the NYCA Installed Capacity Requirement to LSEs

Each Transmission Owner and each municipal electric utility will submit to the ISO, for its review pursuant to mutually agreed upon procedures which shall be described in the ISO Procedures, a weather-adjusted Capability Year peak Load forecast for its Transmission District. The ISO Procedures shall authorize the ISO to approve each Transmission Owner's forecasting methodology. Each Transmission District's peak Load forecast shall assume, as a starting point, the relevant Transmission District's Adjusted Actual Peak Load during the prior calendar year, and shall incorporate regional Load growth factors developed pursuant to Section 5.10 of this Tariff. Each Transmission Owner must also submit aggregate peak Load data, coincident with

the Transmission

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District peak, for all customers served by each LSE active within its Transmission District. The aggregate peak Load data may be derived from direct meters or Load profiles of the customers served. Each Transmission Owner shall be required to submit such forecasts and aggregate peak Load data, no later than February 15th each year, which shall reflect verified Load-shifting through December 31 of the previous year.

All aggregate peak Load data submitted by a Transmission Owner must be accompanied by documentation indicating that each affected LSE has been provided the data regarding the assignment of customers to the affected LSE. Any disputes between LSEs and Transmission Owners regarding such data or assignments shall be resolved pursuant to the ISO's Dispute Resolution Procedures, or the Transmission Owner's retail access procedures, as applicable.

The ISO shall allocate the NYCA Installed Capacity requirement among all LSEs serving Load in the NYCA prior to the beginning of each Capability Year. Each LSE's Installed Capacity requirement will equal the product of: (i) the NYCA Installed Capacity requirement; and (ii) the peak Load of that LSE's customers in each Transmission District, coincident with the Transmission District peak, adjusted for applicable regional Load growth, divided by the sum of the forecasted peak Loads located in all Transmission Districts.

The ISO shall calculate a preliminary Installed Capacity requirement estimate for each LSE, which will reflect documented Load-shifting adjustments through the end of February, and provide it to each LSE no later than March 22nd each year. Transmission Owners must submit the required Load-shifting information to the ISO and to each LSE affected by the Load-shifting no later than March 7th each year. The ISO shall notify each LSE of its final Installed Capacity requirement on April 10th each year. Each LSE's final Installed Capacity requirement shall reflect documented

Load-shifts as of April 1st that are scheduled to occur before May 1st. Transmission Owners must submit the required Load-shifting information to the ISO and to each LSE affected by the Load-shifting no later than April 1 each year. In the event that there is a pending dispute regarding a Transmission Owner's forecast as of April 10th, the ISO shall nevertheless establish each LSE's final Installed Capacity requirement, subject to possible adjustments consistent with the ISO's Dispute Resolution Procedures.

Each month, as Transmission Owners report Customers gained and lost by LSEs through Load-shifting, the ISO will adjust the requirement for each LSE such that (a) the total Transmission District Installed Capacity requirement remains constant and (b) an individual LSE's requirement reflects the gains and losses. If an LSE loses a customer as a result of that customer leaving New York State, the Load-losing LSE shall be relieved of its obligation to procure Installed Capacity to cover the Load associated with the departing customer as of the date that the customer's departure is accepted by the ISO and shall be free to sell any excess Installed Capacity. In addition, when a customer leaves New York State, the ISO will adjust each LSE's Installed Capacity requirement so that the total Transmission District Installed Capacity requirement remains constant.

5.11.2 LSE Obligations

Each LSE must procure Installed Capacity in an amount equal to its Installed Capacity requirement from any Installed Capacity Supplier through Bilateral Transactions and/or purchases in ISO-administered Installed Capacity auctions. Each LSE must demonstrate that it has obtained a sufficient amount of Installed Capacity prior to the beginning of each Obligation Procurement Period, and again prior to the beginning of each month. To satisfy this requirement, each LSE must

submit completed Installed Capacity certification forms to the ISO by the date specified in the ISO

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Procedures, which shall be no later than ten (10) days prior to the beginning of an Obligation Procurement Period, and again during each month by the date specified in the ISO Procedures, which shall be no later than the twentieth (20th) day of each month within an Obligation Procurement Period. The ISO shall develop appropriate certification forms which shall, at a minimum, require LSEs to: (i) designate the total amount of Installed Capacity they have procured; (ii) specify how much Installed Capacity is associated with resources located in each ISO-defined Locality, the remainder of the NYCA and each External Control Area; and (iii) identify any Installed Capacity Supplier from which they have procured Installed Capacity pursuant to Bilateral Transactions.

LSEs that fail to timely satisfy their Installed Capacity requirement, or that fail to make timely submissions of the required certification forms, shall be required to participate in a Deficiency Procurement Auction pursuant to Section 5.14.1 of this Tariff.

5.11.3 Load-Shifting Adjustments

The ISO shall account for Load-shifting among LSEs each month using the best available information provided to it and the affected LSEs by the individual Transmission Owners. The ISO shall, upon notice of Load-shifting by a Transmission Owner and verification by the relevant Load-losing LSE, increase the Load-gaining LSE's Installed Capacity requirement and decrease the Load-losing LSE's Installed Capacity requirement to reflect the Load-shifting. The Load-gaining LSE shall pay the Load-losing LSE a pro-rated portion of the Market-Clearing Price of Installed Capacity, as established at the most recent previous regular monthly Installed Capacity auction that successfully cleared, for each day that the Load-gaining LSE serves the Load, until the first day of

the month after the next regular monthly Installed Capacity auction. The amount paid by a Load-gaining LSE shall be reduced by the Load-losing LSE's share of any rebate associated with the lost

Load paid

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pursuant to Section 5.15 of this Tariff. By the time specified in the ISO Procedures, the Load-gaining LSE must procure sufficient Installed Capacity to meet its increased Installed Capacity requirement for the remainder of the Obligation Procurement Period, and the Load-losing LSE may sell Installed Capacity that it no longer needs to satisfy its Installed Capacity requirement.

By the seventh (7th) day of each month, each Transmission Owner shall report to the ISO and to each LSE serving Load in its Transmission District the updated, aggregated LSE Loads documented as of the end of the prior month. By the tenth (10th) day of the current month, the ISO shall provide each LSE with a revised Installed Capacity requirement for the following month, which shall reflect all documented Load-shifts as of the end of the current month. Any disputes among Market Participants concerning Load-shifting shall be resolved pursuant to the ISO's Dispute Resolution Procedures or the Transmission Owner's retail access procedures, as applicable. In the event of a pending dispute concerning a Load-shift, the ISO shall make its monthly Installed Capacity adjustments as if the Load-shift reported by the Transmission Owners had occurred, or if the dispute pertains to the timing of a Load-shift, as if the Load-shift occurred on the effective date reported by the Transmission Owner, but will retroactively modify these allocations, as necessary, based on determinations made pursuant to its Dispute Resolution Procedures, or the Transmission Owner's retail access procedures, as applicable.

5.11.4 LSE Locational Capacity Requirements

The ISO will determine the Locational Installed Capacity requirement, stated as a percentage of the Locality's forecasted Capability Year peak Load, that shall be uniformly applicable to each LSE serving Load within a Locality. In establishing Locational Installed Capacity requirements, the ISO will take into account all relevant considerations, including the

total NYCA Installed Capacity

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requirement, the NYS Power System transmission Interface Transfer Capability, the Reliability Rules and any other FERC-approved Locational Installed Capacity requirements.

Any Locational Installed Capacity requirements operative at the commencement of ISO operations adopted by LIPA or under settlement agreements approved by the PSC shall continue in effect in accordance with their terms unless and until the ISO implements new or modified Locational Installed Capacity requirements.

Each LSE will secure the required amount of Installed Capacity for the upcoming Obligation Procurement Period from resources consistent with the locational requirements established by the ISO. Installed Capacity associated with Generators located in the New York City Locality that are subject to market mitigation measures may not be sold at a price greater than the locational price cap, except as explicitly provided in Sections 5.13.2, 5.13.3 and 5.14.1 of this Tariff.

In addition, any Customer that purchases Installed Capacity associated with any Generator that is subject to market mitigation measures in an ISO-administered auction may not resell that Installed Capacity in a subsequent auction for a price higher than the price it paid for it. The ISO shall inform Customers that purchase Installed Capacity in an ISO-administered auction of the number of MWs they have purchased that are subject to market mitigation measures.

The ISO shall have the right to audit all executed Installed Capacity contracts and related documentation of arrangements by an LSE to use its own Generation to meet its Locational

Installed Capacity requirement for an upcoming Obligation Procurement Period.

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5.12 Requirements Applicable to Installed Capacity Suppliers

5.12.1 Installed Capacity Supplier Qualification Requirements

In order to qualify as an Installed Capacity Supplier in the NYCA, Energy Limited Resources, Generators, Installed Capacity Marketers, Interruptible Load Resources or System Resources rated 1 MW or greater, other than entities purchasing Installed Capacity from External System Resources located in External Control Areas that have agreed to certain curtailment conditions (see below), and other than Special Case Resources which are subject to the information requirements of Section 5.12.8 of this Tariff, must: (i) provide information reasonably requested by the ISO including the name and location of Generators and Interruptible Load Resources; (ii) provide documentation to the ISO, of DMNC testing for the previous like Capability Period, or historical production data for the previous like Capability Period, no more than twelve (12) months old, except in the case of new Generators, or, in the case of Interruptible Load Resources, documentation of sustained disconnection for one (1) hour or longer that is no more than one (1) year old, in accordance with ISO Procedures; (iii) abide by the ISO Generator maintenance coordination procedures; (iv) provide the expected return date from any outages (including partial outages) to the ISO; (v) provide documentation demonstrating that it will not utilize the same Installed Capacity for more than one (1) buyer at the same time; (vi) if the resource is an Energy Limited Resource, Generator or System Resource it must commit that it will either schedule it in Day-Ahead Bilateral Transactions to supply Load within the NYCA or bid it into the Day-Ahead Energy Market, unless the Energy Limited Resource, Generator or System Resource is unable to do so due to a maintenance or forced outage or due to temperature related de-ratings; (vii) if the resource is an Interruptible Load Resource, it must commit that it will bid, at the price at which it is willing to be interrupted, in the Day-Ahead Market, for both Energy and Operating Reserves; (viii) abide by ISO Procedures; and (ix) Providers of Installed Capacity to the NYCA located east of the Central-East constraint shall bid in the Day-Ahead and Real-Time Markets all capacity available for providing 10-Minute NSR (unless the Generator is unable to meet its commitment because of a scheduled or forced outage), except for the generators described in subsections (a), (b), (c) and (d) below:

- (a) Generators providing Energy under existing contracts (including PURPA contracts) in which the power purchasers does not control the operation of the supply source but would be responsible for penalties for being off-schedule, with the exception of Generators under existing must-take PURPA contracts who have not provided telemetering to their local TO and historically have not been eligible to participate in the NYPP market, which will continue to be treated as TO load modifiers under the ISO-administered markets;
- (b) Existing topping turbine Generators and extraction turbine Generators producing electric Energy resulting from the supply of steam to the district steam system located in New York City (LBMP Zone J) and/or topping or extraction turbine Generators utilized in replacing or repowering existing steam supplies from such units (in accordance with good engineering and economic design) that cannot follow schedules, up to a maximum total of 365 MW of such units; and
- (c) Existing intermittent (i.e., non-schedulable) renewable resource Generators within the NYCA, plus up to an additional 50 MW of such Generators.
- (d) Units that have demonstrated to the NYISO that they are subject to environmental, contractual or other legal or physical requirements that would otherwise preclude them from providing 10-Minute NSR.

The ISO shall inform each potential Installed Capacity Supplier that is required to submit DMNC data of its approved DMNC ratings for the Summer Capability Period no later than February 15th, and for the Winter Capability Period no later than August 15th.

In the case of entities purchasing Installed Capacity from External System Resources located in External Control Areas that have agreed not to curtail the Installed Capacity or to afford it the same curtailment priority that they afford their own Control Area Load, the information submission requirements for certification as an Installed Capacity Supplier shall be

established in the ISO Procedures.

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5.12.2 Additional Provisions Applicable to External Installed Capacity Suppliers

External Generators and entities purchasing from them may qualify as Installed Capacity Suppliers if they demonstrate that their Installed Capacity is deliverable to the NYCA and will not be recalled or curtailed by an External Control Area to satisfy its own Control Area Loads.

Alternatively, an entity that purchases Installed Capacity from an External System Resource located in an External Control Area may qualify to sell Installed Capacity in the NYCA if it demonstrates that the External Control Area will afford NYCA Load the same curtailment priority that it affords its own Control Area Load. Installed Capacity supplied by such entities will be de-rated by the ISO, pursuant to ISO Procedures, to reflect the possibility of curtailment.

LSEs with External Installed Capacity as of the effective date of the Tariff will be entitled to designate External Installed Capacity at the same NYCA Interface with another Control Area, in the same amounts in effect on the effective date of the Tariff. To the extent such External Installed Capacity corresponds to Existing Transmission Capacity for Native Load as reflected in Table 3 to Attachment L to the ISO OATT, these External Installed Capacity rights will continue without term and shall be allocated to the LSE's retail access customers in accordance with the LSE's retail access program on file with the PSC and subject to any necessary filings with the Commission. External Installed Capacity rights existing as of September 17, 1999 that do not correspond to Table 3 of Attachment L to the ISO OATT shall survive for the term of the relevant External Installed Capacity contract or until the relevant External Generator is retired.

5.12.3 Installed Capacity Supplier Maintenance Scheduling Requirements

All Installed Capacity Suppliers, except for Interruptible Load Resources, External System Resources that are Control Areas and Special Case Resources, intending to supply Installed Capacity to the NYCA must submit a confidential notification to the ISO of their proposed outage schedules for the next three calendar years no later than July 1st of the current calendar year, except for the 2000-2001 Capability Year in which case the deadline for submission of proposed outage schedules will be February 29, 2000. Transmission Owners will be notified of these and subsequently revised outage schedules. Based upon a reliability assessment, if Operating Reserve deficiencies are projected to occur in certain weeks for the upcoming calendar year, the ISO will request voluntary maintenance re-scheduling. In the case of Generators actually supplying Installed Capacity to the NYCA, if voluntary re-scheduling is ineffective, the ISO will invoke forced re-scheduling of their

outages to ensure that projected Operating Reserves over the upcoming year are adequate. The re-scheduling process will be described in detail in the ISO Procedures.

A Supplier that intends to supply Installed Capacity in a given month that did not qualify as an Installed Capacity Supplier prior to the beginning of the Obligation Procurement Period must notify the ISO no later than the first day of the prior month so that it may be subject to forced rescheduling of its proposed maintenance outages in order to qualify as an Installed Capacity Supplier.

Interruptible Load Resources shall notify the ISO at least thirty (30) days prior to the beginning of an Obligation Procurement Period of scheduled maintenance that would reduce their ability to interrupt. Interruptible Load Resources must also submit to the ISO, and, at the ISO's discretion, also submit to the local Transmission Owner, a written commitment that any scheduled maintenance that would reduce their ability to interrupt without reducing their Load a corresponding amount will only be conducted from November 1 through March 31.

In the case of an External System Resource located in an External Control Area, maintenance schedules for interconnections linking such External System Resources to the NYCA shall be coordinated by the External Control Area and the ISO.

5.12.4 Required Certification That Installed Capacity Has Not Been Resold

Each Installed Capacity Supplier must submit certification forms to the ISO, no later than the dates specified in the ISO Procedures demonstrating that the Installed Capacity it has sold has not been sold elsewhere. The ISO shall develop appropriate certification forms.

5.12.5 Installed Capacity Sales

Installed Capacity Suppliers will be authorized to sell an amount of Installed Capacity in each month of an Obligation Procurement Period equal to the total of the seasonal DMNCs of its

resources

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for the corresponding Capability Period. Installed Capacity may be sold in a six-month strip, or in monthly, or multi-monthly segments.

If an Energy Limited Resource's, Generator's, Installed Capacity Marketer's or System Resource's DMNC is determined to have increased during an Obligation Procurement Period, pursuant to testing procedures described in the ISO Procedures, the amount of Installed Capacity that it shall be authorized to sell during that Obligation Procurement Period shall also be increased on a prospective basis. If a Generator's 1999 Summer Capability Period DMNC rating was derated from its 1998 Summer Capability Period DMNC rating, the Generator may sell Installed Capacity up to the level demonstrated in 1998 for the entire 2000 Summer Capability Period based upon a temperature adjusted DMNC test that is performed and reported to the ISO between March 1 and March 24, 2000. The Generator will be required to verify the claimed DMNC rating by performing an additional test during the 2000 Summer DMNC Test Period. Any shortfall between the amount of Installed Capacity sold by the Generator for the 2000 Summer Capability Period and the amount verified during the 2000 Summer DMNC Test Period will be subject to deficiency charges pursuant to section 5.14.2 of this tariff. The deficiency charges will be applied to no more than the difference between the Generator's 1999 summer period DMNC rating and the amount of Installed Capacity the Generator sold for the 2000 Summer Capability Period. If a new Generator enters service during an Obligation Procurement Period it may qualify as an Installed Capacity Supplier, pursuant to ISO Procedures, and sell Installed Capacity in the NYCA.

Subsequent to the sale of Installed Capacity, each Installed Capacity Supplier must, except as noted in Section 5.12.8 of this Tariff, demonstrate that the amount of Energy which it schedules, bids, or declares to be unavailable on that day is not less than the amount of Installed Capacity that it sold for that day, rounded down to the nearest whole MW. If an entity other than the owner of an

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Limited Resource, Generator, Interruptible Load Resource or System Resource that is providing Installed Capacity is responsible for bidding and scheduling it, the owner and that entity must designate which of them will be responsible for complying with the requirements of this paragraph. The designated bidding and scheduling entity will be subject to sanctions pursuant to Section 5.12.9(b) of this Tariff, if the bidding and scheduling requirements are violated.

5.12.6 System Resources Sales

An Installed Capacity Supplier offering to sell Installed Capacity associated with Internal System Resources must submit the DMNC testing data described in Section 5.12.1 for all of its Generators. The amount of Installed Capacity that a System Resources Installed Capacity Supplier may offer will be determined pursuant to ISO Procedures. Installed Capacity Suppliers offering to sell System Resources may only aggregate resources on the basis of ISO-defined Localities, the remainder of the NYCA, or on an individual External Control Area basis, as per the ISO Procedures.

5.12.7 Recall Procedures

All Installed Capacity, whether associated with External or Internal Installed Capacity resources, that is not out on maintenance or a forced outage, or scheduled in the Day-Ahead Market may be used to supply Energy for use outside of the NYCA but will be subject to recall at any time by the ISO. Installed Capacity Suppliers that supply Energy outside of the NYCA must submit recall Bids defining the price at which the ISO may recall the Energy associated with the Installed Capacity they have sold to the NYCA. External Installed Capacity Suppliers that supply Energy for use outside of the NYCA must comply with the notice and information requirements set forth in the ISO Procedures.

The ISO will recall Energy, in accordance with ISO Procedures, after exhausting all other available Energy Bids. In the event that the ISO recalls Energy it will do so on a least-cost bid basis, taking into consideration recall Bids and External Proxy Generator Bus prices consistent with the need to maintain the reliability of the New York State Transmission System.

If an Installed Capacity Supplier's Energy is recalled it will be paid the higher of its recall Bid or the Real-Time LBMP at the relevant Proxy Generator Bus. Recall Bids shall be treated in the

same manner as any other bid for purposes of the ISO's BME and SRE, but shall not be considered by the ISO's SCD and SCUC, and thus shall not set Real-Time or Day-Ahead LBMPs. Installed

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Capacity Suppliers must submit their recall Bids at the same time that they enter into arrangements to supply Energy for use outside of the NYCA.

5.12.8 Special Case Resources and Other Installed Capacity Suppliers

5.12.8(a) Special Case Resources

Special Case Resources may qualify as Installed Capacity, without having to comply with the daily bidding and scheduling requirement set forth in Section 5.12.5 of this Tariff, if: (i) they are available to operate for a minimum of four (4) hours each day, at the direction of the ISO, except for those subject to operating limitations established by environmental permits, which will not be required to operate in excess of two (2) hours and which will be derated by the ISO pursuant to ISO Procedures to account for the Load serving equivalence of the hours actually available, following notice of the potential need to operate twenty four (24) hours in advance, and a notification to operate two (2) hours ahead; and (ii) they were not operated as a Load modifier coincident with the peak upon which the Installed Capacity requirement of the LSE that serves that customer is based, unless that LSE's Installed Capacity requirement is adjusted upwards to prevent double-counting. The ISO will

have discretion, pursuant to ISO Procedures, to exempt distributed generators that are incapable of starting in two (2) hours from the requirement to operate on two (2) hours notification.

Distributed generators and Loads capable of being interrupted upon demand that are not available on certain hours or days will be derated by the ISO, pursuant to ISO Procedures, to reflect the Load serving equivalence of the hours they are actually available. Distributed generators and Loads capable of being interrupted upon demand will be required to comply with verification and validation procedures, to be developed by the ISO, in consultation with interested Market Participants, by March, 2000. Such procedures will not require metering other than interval billing meters on customer Load or testing other than DMNC or sustained disconnect, as appropriate, unless agreed to by the customer.

Installed Capacity sold to an LSE by a Special Case Resource pursuant to this subsection may not be resold by that LSE.

Transmission Owners that require assistance from distributed generators larger than 100kW and Loads capable of being interrupted upon demand for Load relief purposes or as a result of a Local Reliability Rule, shall direct their requests for assistance to the ISO for implementation consistent with the terms of this Section.

5.12.8(b) Existing Municipally-Owned Generation

During the 2000 Summer Obligation Procurement Period, a municipal utility that owns existing generation in excess of its Installed Capacity requirement, net of NYPA-provided capacity, may offer the excess capacity for sale as Installed Capacity provided that it is willing to operate the generation at the ISO's request, and provided that the Energy produced is deliverable to the New York State Power System. Such a municipal utility shall not be required to comply with the requirement of Section 5.12.5 of this Tariff that an Installed Capacity Supplier bid into

the Energy

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market or enter into bilateral transactions. Municipal utilities shall, however, be required to submit their typical physical operating parameters, such as their start-up times, to the ISO. This subsection is only applicable to Generators that were in service or under construction as of December 31, 1999.

5.12.8(c) Energy Limited Resources

An Energy Limited Resource may qualify as an Installed Capacity Supplier if it bids into the Day-Ahead Market for twenty four (24) hours each day and if it is able to provide the Energy equivalent of the claimed Installed Capability for four (4) hours of Energy each day. After an Energy-Limited Resource has provided the Energy equivalent of the claimed Installed Capacity for four (4) hours, the ISO will avoid calling on it during those hours in which the ISO knows it will be recharging, or replacing depleted resources. Nevertheless, the ISO may call on Energy Limited Resources at any time during emergencies.

5.12.9 Sanctions Applicable to Installed Capacity Suppliers

Pursuant to this Section, the ISO may impose financial sanctions on Installed Capacity Suppliers that fail to comply with certain provisions of this Tariff. The ISO shall notify Installed Capacity Suppliers prior to imposing any sanction and shall afford them a reasonable opportunity to demonstrate that they should not be sanctioned and/or to offer mitigating reasons why they should be subject to a lesser sanction. The ISO may impose a sanction lower than the maximum amounts allowed by this Section at its sole discretion. Installed Capacity Suppliers may challenge any sanction imposed by the ISO pursuant to the ISO Dispute Resolution Procedures. Any sanctions collected by the ISO pursuant to this Section will be applied to reduce the Rate

Schedule 1 charge under this Tariff.

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5.12.9(a) Sanctions for Failing to Provide Required Information

If an Installed Capacity Supplier fails to provide the information required by Section 5.12.1(i) - 5.12.1(iv) of this Tariff in a timely fashion, the ISO may take the following actions. On the first day that required information is late, the ISO shall notify the Installed Capacity Supplier that required information is past due and that it reserves the right to impose financial sanctions if the information is not provided by the end of the next day. Starting on the third day that the required information is late, the ISO may impose a daily financial sanction up to the higher of \$500 or \$5 per MW of Installed Capacity that the Generator, Interruptible Load Resource or System Resource in question is capable of providing. Starting on the tenth day that the required information is late, the ISO may impose a daily financial sanction up to the higher of \$1000 or \$10 per MW of Installed Capacity that the Generator, Interruptible Load Resource or System Resource in question is capable of providing.

5.12.9(b) Sanctions for Failing to Comply with Scheduling Requirements

On any day in which an Installed Capacity Supplier fails to comply with the scheduling and bidding requirements of Sections 5.12.1(vi) and (vii) of this Tariff, the ISO may impose a financial sanction up to the product of a deficiency charge, calculated pursuant to the Table in Section 5.14.1 of this Tariff (pro-rated on a daily basis), and the maximum number of MWs that the Installed Capacity Supplier failed to schedule or bid in any hour in that day.

In addition, if an Installed Capacity Supplier fails to comply with the scheduling and bidding requirements of Sections 5.12.1(vi) and (vii) of this Tariff during an hour in which the ISO recalls Energy associated with NYCA Installed Capacity Suppliers, the ISO may impose an additional financial sanction equal to the product of the number of MWs the Installed Capacity

Supplier failed to schedule during that hour and the corresponding Real-Time LBMP at the

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applicable Proxy Generator Bus. An Installed Capacity Supplier that is subjected to the aforementioned sanction, and which has supplied Energy for use outside of the NYCA, shall not be paid its recall Bid, and shall receive no other compensation for recalled Energy, if the ISO recalls Energy associated with its Installed Capacity during the hour in which the aforementioned sanction is imposed.

5.13 Installed Capacity Auctions

5.13.1 General Auction Requirements

The ISO will administer Installed Capacity auctions to accommodate LSEs' and Installed Capacity Suppliers' efforts to enter into Installed Capacity transactions and to give LSEs an opportunity to satisfy their Installed Capacity requirements. The ISO shall conduct regular auctions, at the request of an LSE, at the times specified in this Section and the ISO Procedures.

Installed Capacity Suppliers, LSEs and Installed Capacity Marketers that are Customers under this Tariff will be allowed to participate in Installed Capacity auctions, provided that they satisfy the creditworthiness requirements set forth in Section 11.0 of the ISO OATT. Installed Capacity purchased in Installed Capacity auctions may not be sold to External Control Areas. Offers to sell and bids to purchase Installed Capacity shall be made in \$/kW for the time period appropriate to the auction. The ISO shall impose no limits on bids or offers in any auction, except to the extent required by any applicable market mitigation measures.

Installed Capacity Suppliers that wish to participate in an ISO-administered auction must submit completed certification forms to the ISO no later than ten days prior to the beginning of an Installed Capacity auction in which they intend to offer Installed Capacity,

demonstrating that their Installed Capacity has not been committed to a Bilateral Transaction.

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In-City Generators that are subject to FERC-approved market mitigation measures are required to offer to sell all such Installed Capacity into the ISO-administered Installed Capacity auctions. All other Installed Capacity Suppliers may offer to sell into the ISO-administered Installed Capacity auctions at their discretion.

The ISO Procedures shall specify the dates by which the ISO will post the results of Installed Capacity auctions. The ISO Procedures shall ensure that there are at least four business days between the time that auction results are posted and the dates that LSEs are required to demonstrate that they have procured sufficient Installed Capacity to cover their Installed Capacity requirements pursuant to Section 5.11.2 of this Tariff.

5.13.2 The Obligation Procurement Period Auction

An Obligation Procurement Period Auction will be conducted, at the request of an LSE, no later than thirty (30) days prior to the start of each Obligation Procurement Period in which Installed Capacity will be purchased and sold for the entire duration of the Obligation Procurement Period. The exact date of the Obligation Procurement Period Auction shall be established in the ISO Procedures. The Obligation Procurement Period Auction is intended to establish Market-Clearing Prices for each ISO-defined Locality, the remainder of the NYCA and adjacent External Control Areas.

Each Obligation Procurement Period Auction shall consist of two phases which shall be conducted on the same day. Participation in the first phase shall be limited to: (i) LSEs located in the New York City Locality seeking to make locational Installed Capacity purchases in order to satisfy their In-City Locational Installed Capacity requirement; (ii) any other entity seeking to purchase In-City locational Installed Capacity; (iii) qualified In-City Generators; and (iv) any other Installed Capacity Supplier that owns excess Installed Capacity associated with qualified In-City Generators. In the first phase of the Obligation Procurement Period Auction, LSEs that

are awarded Installed Capacity shall

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pay the Market-Clearing Price of Installed Capacity determined in that phase. Installed Capacity Suppliers that are selected to provide Installed Capacity shall receive the Market-Clearing Price determined in that phase, except in the case of In-City Generators that are subject to mitigation measures, which shall receive the lesser of the Market-Clearing Price or the applicable locational price cap. Any entity that resells Installed Capacity associated with In-City Generators that are subject to market mitigation measures shall receive the lesser of the Market-Clearing Price or the price that it paid for that Installed Capacity. If the Market-Clearing Price exceeds the total amount paid to Installed Capacity Suppliers, the ISO shall rebate the Excess Amount pursuant to Section 5.15 of this Tariff.

All Installed Capacity Suppliers and LSEs may participate in the second phase of the Obligation Procurement Period Auction, except with respect to any Installed Capacity associated with In-City Generators that are subject to market mitigation measures, which may sell in the second phase only if it has been established by the ISO that all LSEs located in the New York City Locality have satisfied their In-City Locational Installed Capacity requirements. LSEs awarded Installed Capacity in the second phase shall pay the applicable Market-Clearing Price determined in that phase. Installed Capacity Suppliers, with the exception noted below, including In-City Generators otherwise subject to market mitigation measures, that are selected to provide Installed Capacity shall receive the applicable Market-Clearing Price determined in that phase. Any entity that resells Installed Capacity associated with In-City Generators subject to market mitigation measures shall receive the lesser of the applicable Market-Clearing Price or the price it paid for that Installed Capacity. The ISO shall rebate any Excess Amount pursuant to Section 5.15 of this Tariff. During the 2000 Summer Obligation Procurement Period, In-City Generators that are permitted to offer to sell in the second phase shall be permitted to make separate offers in the first and second phases of the Obligation Procurement Period Auction.

The results of the Obligation Procurement Period Auction will be made available to Market Participants at the time specified in the ISO Procedures which shall be prior to the start of the Monthly Installed Capacity Auctions held prior to the beginning of each Obligation Procurement Period.

5.13.3 Monthly Auctions

Monthly Auctions will be held, at the request of an LSE, no later than fifteen (15) days prior to the start of each Obligation Procurement Period, and, at the request of an LSE, no later than the fifteenth (15th) day of each month during an Obligation Procurement Period, during which Installed Capacity may be purchased and sold for any one or more remaining months in the Obligation Procurement Period. The exact dates of each Monthly Auction shall be established in the ISO Procedures. Each Monthly Auction is intended to establish Market-Clearing Prices for each ISO-defined Locality, the remainder of the NYCA and all adjacent External Control Areas.

Each Monthly Auction held prior to the beginning of an Obligation Procurement Period shall consist of two phases which shall be conducted on the same day. Participation in the first phase shall be limited to: (i) LSEs located in the New York City Locality seeking to make locational Installed Capacity purchases in order to satisfy their In-City Locational Installed Capacity requirement; (ii) any other entity seeking to purchase In-City locational Installed Capacity; (iii) qualified In-City Generators; and (iv) any other Installed Capacity Supplier that owns excess Installed Capacity associated with qualified In-City Generators. In the first phase of each Monthly Auction, LSEs that are awarded Installed Capacity shall pay the Market-Clearing Price of Installed Capacity determined in that phase. Installed Capacity Suppliers that are selected to provide Installed Capacity shall receive the Market-Clearing Price determined in that phase, except in the case of In-City Generators that are subject to mitigation measures, which shall receive

the lesser of the Market-Clearing Price or

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the applicable locational price cap. Any entity that resells Installed Capacity associated with In-City Generators that are subject to market mitigation measures shall receive the lesser of the Market-Clearing Price or the price that it paid for that Installed Capacity. If the Market-Clearing Price exceeds the total amount paid to Installed Capacity Suppliers, the ISO shall rebate the Excess Amount pursuant to Section 5.15 of this Tariff.

All Installed Capacity Suppliers and LSEs may participate in the second phase of each pre-Obligation Procurement Period Monthly Auction, except with respect to any Installed Capacity associated with In-City Generators that are subject to market mitigation measures, which may sell in the second phase only if it has been established by the ISO that all LSEs located in the New York City Locality have satisfied their In-City Locational Installed Capacity requirements. LSEs awarded Installed Capacity in the second phase shall pay the applicable Market-Clearing Price determined in that phase. Installed Capacity Suppliers, with the exception noted below, including In-City Generators otherwise subject to market mitigation measures, that are selected to provide Installed Capacity shall receive the applicable Market-Clearing Price determined in that phase. Any entity that resells Installed Capacity associated with In-City Generators subject to market mitigation measures shall receive the lesser of the applicable Market-Clearing Price or the price it paid for that Installed Capacity. The ISO shall rebate any Excess Amount pursuant to Section 5.15 of this Tariff. During the 2000 Summer Obligation Procurement Period, In-City Generators that are permitted to offer to sell in the second phase shall be permitted to make separate offers in the first and second phases of the auction.

Monthly Auctions held during an Obligation Procurement Period shall be phased unless the ISO has established that all LSEs with Locational Installed Capacity requirements located in the New York City Locality have satisfied their Locational requirements. If the ISO establishes

that these LSEs have not satisfied their Locational Installed Capacity requirements, that Monthly Auction will be conducted as if it were being held prior to the beginning of an Obligation Procurement Period (*i.e.*, it shall consist of two phases.) If, however, the ISO establishes that LSEs have satisfied their Locational Installed Capacity requirements, that Monthly Auction will not be phased and will be conducted as if it were the second phase of a pre-Obligation Procurement Period Monthly Auction.

The results of each Monthly Auction will be made available to Market Participants no later than thirteen (13) days prior to the beginning of the next month.

5.13.4 Detailed Installed Capacity Auction Description

Additional detail concerning the ISO's Installed Capacity auction procedures are provided in the ISO's detailed "Installed Capacity Auction Description," which is on file with the Commission.

5.14 Installed Capacity Deficiencies and Deficiency Procurement Auctions

5.14.1 LSE Deficiencies

If an LSE violates Sections 5.11.2, ~~or~~ 5.11.3, or 5.11.4 of this Tariff by failing to procure sufficient Installed Capacity to cover its Installed Capacity requirement for an Obligation Procurement Period, or, as a result of Load-shifting, for any month within an Obligation Procurement Period, the ISO shall procure sufficient Installed Capacity to cover the remainder of the LSE's Installed Capacity requirement for that Obligation Procurement Period, or month, through Deficiency Procurement Auctions.

The ISO shall conduct the initial Deficiency Procurement Auction no later than the twenty third (23rd) day of the month immediately preceding the start of an Obligation Procurement Period. The exact date of the initial Deficiency Procurement Auction shall be established in the

ISO Procedures. The initial Deficiency Procurement Auction will consist of six (6) separate two-phase

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monthly auctions. Both phases of each initial Deficiency Procurement Auction shall be conducted on the same day. In each phase of each initial Deficiency Procurement Auction the ISO shall submit deficiency bids on behalf of deficient LSEs at a level per MW determined by dividing the appropriate number specified in the following Table by six.

Deficiency Bids and Charges

LOCATION	INTERIM FIRST THREE YEARS AFTER ISO COMMENCES OPERATIONS	END-STATE AFTER THREE YEARS OF ISO OPERATIONS
In-City New York City (LBMP Load Zone J)	\$75/kW per Obligation Procurement Period	3 Times Localized Levelized Embedded Cost of GT
Long Island (LBMP Load Zone K)	Year 1: \$60/kW per Obligation Procurement Period Year 2: \$65/kW per Obligation Procurement Period Year 3: \$70/kW per Obligation Procurement Period	3 Times Localized Levelized Embedded Cost of GT
All Other LBMP Load Zones in the NYCA	Year 1: \$52.5/Kw per Obligation Procurement Period Year 2: \$57.5 Year 3: \$62.5	3 Times Localized Levelized Embedded Cost of GT

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During the first phase of an initial Deficiency Procurement Auction the ISO shall submit deficiency bids on behalf of deficient LSEs located in the New York City Locality that are required to make locational Installed Capacity purchases in order to satisfy their In-City Locational Installed Capacity requirement. The ISO shall solicit bids from qualified In-City Generators, and from any other entity that owns excess In-City Locational Installed Capacity. LSEs that are awarded Installed Capacity in the first phase auction shall pay to the ISO the lesser of the Market-Clearing Price of Installed Capacity determined in that phase or the deficiency bid. The ISO shall pay Installed Capacity Suppliers that are selected to provide Installed Capacity the Market-Clearing Price determined in that phase which can be no greater than the deficiency bid, except in the case of Installed Capacity associated with In-City Generators that are subject to mitigation measures, which shall receive the lesser of the Market-Clearing Price or the applicable locational price cap. Any entity that resells Installed Capacity associated with In-City Generators that are subject to market mitigation measures shall receive the lesser of the Market-Clearing Price or the price that it paid for that Installed Capacity. If the Market-Clearing Price exceeds the total amount paid to Installed Capacity Suppliers, the ISO shall rebate the Excess Amount pursuant to Section 5.15 of this Tariff.

In the second phase of each initial Deficiency Procurement Auction, the ISO shall submit deficiency bids on behalf of all remaining deficient LSEs and shall solicit bids from all qualified Installed Capacity Suppliers, including Installed Capacity associated with In-City Generators otherwise subject to mitigation measures that has not been sold, provided that all LSEs located in the New York City Locality have satisfied their In-City Locational Installed Capacity requirements. Deficient LSEs that are awarded Installed Capacity shall pay to the ISO the lesser of the applicable Market-Clearing Price of Installed Capacity determined in that phase, or the deficiency bid. The ISO will use these deficiency payments to pay the applicable Market-Clearing Price

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determined in that phase of Installed Capacity, except as noted below, to Installed Capacity Suppliers that are selected to provide Installed Capacity, including participating In-City Generators otherwise subject to market mitigation measures. Any entity that resells Installed Capacity associated with In-City Generators that are subject to market mitigation measures shall receive the lesser of the Market-Clearing Price or the price that it paid for that Installed Capacity. The ISO shall rebate any Excess Amount pursuant to Section 5.15 of this Tariff. During the 2000 Summer Obligation Procurement Period, In-City Generators that are permitted to offer to sell in the second phase shall be permitted to make separate offers in the first and second phases of the initial Deficiency Procurement Auction.

In addition to the initial Deficiency Procurement Auction, the ISO shall conduct a monthly Deficiency Procurement Auction no later than the twenty third (23rd) day of any month in which a Load-gaining LSE fails to procure Installed Capacity to cover new Load it has gained. The exact date of each monthly Deficiency Procurement Auction shall be established in the ISO Procedures. If In-City LSEs are required to participate in a monthly Deficiency Procurement Auction in order to satisfy their In-City Locational Installed Capacity requirement the auction will be conducted as if it were an initial Deficiency Procurement Auction (*i.e.*, it shall consist of two phases.) If In-City LSEs are not required to participate in a monthly Deficiency Procurement Auction in order to satisfy their In-City Locational Installed Capacity requirement the auction will not be phased but will instead be conducted as if it were the second phase of an initial Deficiency Procurement Auction.

Any LSEs that are still deficient after the completion of a Deficiency Procurement Auction must pay a monthly deficiency charge to the ISO based on the deficiency charges set forth in the Table above, divided by six, and multiplied by the number of MWs by which they are deficient. The ISO will attempt to use these deficiency charges to procure Installed Capacity from Generators

that

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are capable of selling Installed Capacity but that failed to qualify to sell it prior to the Deficiency Procurement Auction, *e.g.*, recently upgraded Generators, new Generators and existing Generators that were otherwise not able to qualify. The ISO shall not procure Installed Capacity from previously qualified Installed Capacity Suppliers that withheld their Installed Capacity. The ISO will not pay an Installed Capacity Supplier more than the applicable deficiency charge per MW of Installed Capacity, or the applicable locational price cap per MW of Installed Capacity, whichever is less, pro-rated to reflect the portion of the Obligation Procurement Period for which the Installed Capacity Supplier provides Installed Capacity. Any remaining monies collected by the ISO pursuant to this paragraph will be applied as specified in Section 5.14.3 ~~to reduce the Schedule 1 charge.~~

The ISO shall not reveal the number of MWs that LSEs are deficient prior to a Deficiency Procurement Auction.

5.14.2 Installed Capacity Supplier Deficiencies

In the event that the amount of Installed Capacity that an Installed Capacity Supplier is authorized to sell in a given month is determined to have been less than the amount that the Installed Capacity Supplier actually sold for that month, the ISO shall prospectively purchase Installed Capacity on behalf of that deficient Installed Capacity Supplier in the appropriate Deficiency Procurement Auction.

The ISO shall submit a deficiency bid, calculated pursuant to Section 5.14.1 of this Tariff in the appropriate Deficiency Procurement Auction on behalf of a deficient Installed Capacity Supplier as if it were a deficient LSE. The deficient Installed Capacity Supplier shall be required to pay to the ISO the Market-Clearing Price of Installed Capacity established in that Deficiency Procurement Auction.

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If an Installed Capacity Supplier is found, at any point during an Obligation Procurement Period, to have been deficient for any prior portion of that Obligation Procurement Period, *e.g.*, when

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the amount of Installed Capacity that it sells is found to be less than the amount it was authorized to sell, the Installed Capacity Supplier shall be retrospectively liable to pay the ISO the monthly deficiency charge, calculated pursuant to Section 5.14.1 of this Tariff.

Any ~~remaining monies~~deficiency charges collected by the ISO pursuant to Section 5.14.1~~this Section~~ will be applied as specified in Section 5.14.3~~to reduce the Rate Schedule 1 charge under this Tariff.~~

5.14.3 Application of Deficiency Charges

Any remaining monies collected by the ISO through deficiency charges pursuant to Section 5.14.1 but not used to procure Installed Capacity on behalf of deficient LSEs shall be applied as provided in this Section 5.14.3.

5.14.3(a) General Application of Deficiency Charges

Except as provided in Section 5.14.3(b), remaining monies will be applied to reduce the Rate Schedule 1 charge in the following month.

5.14.3(b) Temporary Targeted Installed Capacity Rebate

During any month in which an Installed Capacity deficiency exists in the New York City Locality during the 2000 Summer Capability Period, the ISO shall rebate, calculated on a monthly basis and to be paid after October 23, 2000, amounts above \$8.75/kW but not exceeding

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\$12.50/kW, paid by LSEs either to procure Installed Capacity in a regular Obligation Procurement Period Auction, or paid as a deficiency charge. When determining the amount paid by an LSE to procure Installed Capacity for any month, the ISO shall first consider the amount of any proportional rebate received by the LSE for the month as specified in Section 5.15. Any remaining monies collected by the ISO shall be applied to reduce the Rate Schedule 1 charge in the following month.

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5.15 Payment and Allocation of Installed Capacity Auction Rebates

The ISO shall rebate to all LSEs with Locational Installed Capacity requirements in the New York City Locality any Excess Amount that remains after the completion of an auction. Such rebates shall be allocated among all New York City LSEs in proportion to their share of the locational New York City Installed Capacity requirement, regardless of whether they actually took part in the first phase of the relevant auction. The ISO shall allocate such rebates among In-City LSEs on a monthly basis. Rebates shall include interest accrued between the time they were collected and the time that they are paid.

ARTICLE 6

CONFIDENTIALITY

6.1 Access to Confidential Information

The ISO may request, and the Customer shall provide, Confidential Information consistent with the disclosure requirements set forth in the ISO Services Tariff (as provided for below). The ISO shall use reasonable procedures to prevent the disclosure of Confidential Information and shall not publish, disclose or otherwise divulge Confidential Information to any person or entity without the prior written consent of the party supplying such Confidential

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