



Revised RMR Clawback Rules: Updated

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Agenda

- **Background**
- **Clawback**
 - *Capital Expense and Above Market Rate clawback revisions*
 - *Repayment Period*
 - *Interest*
- **Interim Service Providers**
 - *Compensation for days 181-365 of the Generator Deactivation Notice Period, following noticed deactivation date*

Background

- **NYISO's initial RMR compliance filing required reimbursement of all depreciated Capital Expenses before a former RMR Generator would be permitted to return to participating in the NYISO's markets**
 - *The NYISO responded to and agreed with comments during the original filing's comment period that interest should be applied to this calculation*
- **Comments on the NYISO's compliance filing suggested the need for clawback rules addressing RMR compensation in excess of market rates**
- **In its April 21, 2016 Order (at PP 122-127), FERC directed the NYISO to incorporate a mechanism which requires NYISO to claw-back the greater of the allowed Capital Expenses* or the Above Market Revenue (AMR)**
 - *Consistent with P 128 of FERC's Order, allowed "Additional Costs" that are Capital Expenses are not subject to clawback.

Background, cont'd

- **NYISO requested rehearing of FERC's claw-back rule for three reasons:**
 - *NYISO's proposed rules already addressed market power concerns*
 - *Gens that provide RMR service may not be able to recover their going-forward costs under the formula FERC instructed NYISO to implement*
 - *Requiring Generators that are providing RMR service to refund the Availability and Performance incentives will remove these Generators' incentive to perform while they are operating under an RMR Agreement if they expect to return to the market*
- **NYISO proposed to work with its stakeholders to develop a more appropriate set of rules, but FERC has not yet ruled on the NYISO's rehearing request**
 - *The rules included in this presentation implement FERC's instructions, they do not reflect any of the alternatives NYISO suggested in its rehearing request*

Feedback: Clawback

- **NYISO received the following feedback from the August 10th ICAPWG Presentation:**
 - ***The proposed interpretation of the clawback should be modified***
 - **As presented on August 10th, the clawback would involve the higher of:**
 - ***Capital Expenditure(s), minus depreciation, plus interest, or;***
 - ***Above Market Revenues excluding CapEx, plus interest***
 - ***Stakeholder feedback suggested and incorporated, will now represent the clawback as the higher of:***
 - **Capital Expenditure(s), minus depreciation, plus interest, or;**
 - **Total APR Payments, inclusive of CapEx, less depreciation (where applicable), plus interest – Market Revenues**
 - **For the purposes of only this presentation, the term “Other Rate Based Revenues(ORBR)” shall interchangeably refer to either an APR + Incentive Payments or an ODR, exclusive of Capital Expenditures**

New Clawback (revised)

- **Example:**

- ***RMR Generator signs and fulfills 3 year RMR Agreement***

- Recovered \$10M in Capital Expenditures (CapEx) during the term of the RMR
 - Assume all Capital Expenditures are installed and reimbursed
 - Assume asset(s) depreciate by 30% while providing RMR service
- Received payments which totaled \$40M (including ORBR (\$30) and reimbursement of Capital Expenditures (\$10M)) over the three year term of the RMR Agreement
- Market Revenues for same period for generator, if they had not performed under an RMR Agreement, would have been \$15M

- ***At conclusion of RMR Agreement, Generator decides to continue to operate in NYISO markets***

- Generator would be required to make monthly payments in order to pay back the higher of the \$7M remaining value of the Capital Expenditure(s) + interest or;
- (Capital Expenditure(s), minus depreciation, plus interest) + (ORBR, plus interest) – Market Revenues
 - The higher of:
 - *Capital Expenditure(s) \$10M x (100% - 30%) = \$7M + Interest; or*
 - *(ORBR (\$30M) + \$7M Cap Ex) – (Market Revenues \$15M) = (\$22M + Interest)*

New Clawback: Repayment Period

- FERC's Order instructed the NYISO to permit former RMR Generators to repay their clawback obligations over time
- CapEx
 - *Upon re-entering the NYISO markets, the current owner of the generator will have the lesser of the following two periods to pay back the residual dollar value plus interest of the Capital Expenditure;*
 - The Generator's average major maintenance cycle, in years; or
 - The dollar weighted average remaining life in years of *all* Capital Expenditures
- Other Rate Based Revenues
 - *Upon re-entering the NYISO markets, the current owner of the generator will have the longer of the following two periods to pay back Above Market Revenues plus interest:*
 - 36 Months, or
 - The term, in months, of the RMR Agreement
- NYISO will determine a levelized monthly payment over the pay-back period, for each, shaped on a Capability Period basis

New Clawback: Proportionate Share of Payback

- **The calculation for the clawback of the Above Market Rates, inclusive of CapEx, may result in a reimbursement obligation that is a combination of both the Capital Expenditures reimbursement and the reimbursement of above-market payments that are related to Other Rate Based Revenues**
- **In such instances, the dollar values used in the calculation of interest and the repayment period will be the dollar weighted proportions of the total payments (Capital Expenditures vs. all Other Rate Based Revenues), minus depreciation where applicable, used in the determination of the net Clawback determination**
- **Examples on following slides**

New Clawback: Proportion Example

- Example using same values from previous slide(s):
 - *At conclusion of RMR Agreement, Generator decides to continue to operate in NYISO markets*
 - Generator would be required to make monthly payments in order to pay back the higher of the \$7M remaining value of the Capital Expenditure(s) + interest or;
 - (Capital Expenditure(s), minus depreciation, plus interest) + (ORBR, plus interest) – Market Revenues
 - The higher of:
 - *Capital Expenditure(s) \$10M x (100% - 30%) = \$7M + Interest; or*
 - *(ORBR (\$30M) + \$7M Cap Ex) – (Market Revenues \$15M) = (\$22M + Interest)*
 - *The proportionate share of the cumulative payback amount, when the higher of the two values is the total Above Market Revenues, would be calculated as follows:*
 - (CapEx or ORBR Payments/ Sum of all Payments- (CapEx Depreciation)) x (Total Repayment Obligation)
 - For CapEx, $(7/37) \times (22) =$ approximately \$4.16M
 - For ORBR, $(30/37) \times (22) =$ approximately \$17.84M

Repayment Period – Combined

- Under new proposal, a generator returning to service, would be held to possibly two overlapping payment schedules:
 - *If there are no ORBR repayment obligations and the Capital Expenditure repayment obligation is greater than zero, the unit would only be subject to the period determined for the Capital Expenditure repayment obligation*
 - *If there ***are*** ORBR repayment obligations and the Capital Expenditure repayment obligation is greater than zero, the unit would be subject to the overlapping periods determined for the proportionate ORBR repayment obligation and the proportionate Capital Expenditure repayment obligation*
 - *The cumulative effect of this would, in most instances, create a larger monthly repayment obligation in the first years a generator returns to service and a reduced payment in subsequent years*
 - Repayment Obligation monthly values would be determined and provided to a generator when it signals its intent to return to the NYISO Markets
 - Example to follow

Repayment Period – Combined: Example

- Under new proposal, a generator returning to service, would be held to possibly two overlapping payment schedules:
 - *Using values from previous example where repayment is combined Above Market Revenues inclusive of Capital Expenditures, assume;*
 - ORBR of \$17.84M are determined to be due over 36 months for approximately \$495,500/month
 - Capital Expenditures of \$4.16 are determined to be due over 60 months for approximately \$69,300/month
 - *Given these values, the generator would be subject to the two following payment schedules;*
 - Months 1-36: Combined value of \$564,800 (\$495.5M+\$69.3M)
 - Months 37-60: Remaining CapEx payments of \$69,300

Feedback: Interest

- **As presented on August 10th, the interest would be calculated as follows:**
 - **CapEx only:**
 - **Accumulated interest will be calculated on the Capital Expenditures from the date of payment through the end of the RMR Agreement**
 - **If Capital Expenditures were reimbursed six months into agreement and the RMR Agreement lasted a total of two years, the \$10M would accumulate interest for 1.5 years**
 - **The interest on the remaining residual dollar value of the Capital Expenditure will be calculated from the conclusion of the RMR Agreement through the applicable repayment period**
 - **If Generator returns when the residual dollar value is \$7M, additional interest will be calculated on the \$7M from the conclusion of the RMR agreement through the applicable payment period**
 - **Other Rate Based Revenue Payments Only:**
 - **Upon the generator noticing an intent to re-enter the NYISO markets, the NYISO will determine the Above Market Revenue and the applicable repayment period;**
 - **The Above Market Revenues will be evenly divided across the billing periods associated with the RMR Agreement**
 - **Each applicable Above Market Revenue value will begin accumulating interest from that respective billing period, until the end of the repayment period**

Feedback: Interest, cont'd

- **As presented on August 10th:**
 - *Interest would be calculated by the governing FERC rate at the time of disbursement of payment during the period of service for a generator operating under an RMR Agreement or an Interim Service Provider (CapEx or ORBR)*
 - There was no feedback on this matter
 - *Stakeholders asked for a numerical example of how interest would be calculated*
 - Example on following slide(s)
- **In scenarios where the Repayment Obligation is the sum of both Capital Expenditures and Other Rate Based Revenue payments, interest will be calculated based on the proportionate share, for each, of the cumulative Repayment Obligation**
 - *Values used would be the \$4.16M for CapEx and the \$17.84M for ORBR, as calculated on Slide 9*

Interest Calculation: Example

- Assume the following values for the Other Rate Based Revenues:
 - *Prevailing FERC rate of approximately 2%*
 - *Other Rate Based Revenue share of Above Market Revenues of \$17.84M are determined to be due over 36 months for approximately \$495,500/month*
 - *Term of RMR Agreement is 24 months*
 - *There is a 6 month lapse between end of RMR Agreement /ISP Term and generator returning to the market*
- Stepwise:
 1. *Generator returns to service*
 2. *Calculate average Above Market Revenues and smooth over number of billing periods during RMR/ISP service*
 3. *Assess monthly interest at approximate rate of 2%/yr, for each average above market payment, per billing period, and carry forward to end of the term of 30 months*
 - *(24 + 6)*
 4. *Determine applicable repayment period (36 months)*
 5. *Amortization schedule is calculated to repay the Other Rate Based Revenue share of Above Market Revenues plus calculated interest over the term of the repayment period, using the original approximate 2%, over the course of 36 months*

Interest Calculation: Example, cont'd

- Assume the following values for the Capital Expenditure:
 - *Prevailing FERC rate of approximately 2%*
 - *Capital Expenditures share of Above Market Revenues of \$4.16M are determined to be due over 60 months for approximately \$69,300/month*
 - *Term of RMR Agreement is 24 months and Capital Expenditures were reimbursed 6 months into the agreement*
 - *There is a 6 month lapse between end of RMR Agreement /ISP Term and generator returning to the market*
- Stepwise:
 1. *Generator returns to service*
 2. *Determine date each Capital Expenditure reimbursement was issued to the generator*
 3. *Assess monthly interest at approximate rate of 2%/yr and carry forward, for each CapEx payment, to end of the term of 24 months*
 - *(18+ 6)*
 4. *Determine applicable repayment period (60 months)*
 5. *Amortization schedule is calculated to repay the Capital Expenditure share of Above Market Revenues plus calculated interest over the term of the repayment period, using the original approximate 2%, over the course of 60 months*

Interest: Additional Information

- **NYISO is currently proposing the following interest calculation to calculate accumulated interest:**
 - *Interest will be calculated based on the average FERC (variable) rate, and assessed quarterly*
- **NYISO is currently proposing the following interest calculation to calculate the amortization schedule for generators who re-enter the NYISO Markets:**
 - *Calculate the average FERC (variable) rate over the period of time between first payment to a generator operating under an RMR agreement and the date upon which the generator intends to return to the NYISO Markets*
 - *Use calculated average as the fixed rate to determine the amortization schedule*
 - **Creates payment stream from generator at fixed amount(s)**
 - **Reduces uncertainty**

Alternative Approach to Payment Streams

- The NYISO has suggested but is open to feedback on an alternative approach to calculating the payment period over which a generator is subject to, dependent on the category type of the Above Market Revenues
- Alternative approach would include a single rule set for the payback period, independent of category of Capital Expenditures or Other Rate Based Revenues
 - *Removes need to proportionately distribute Above Market Revenues by category type*
 - *Creates single interest period calculation when both Above Market Revenues include Capital Expenditures AND RMR Avoidable Costs + Incentives*
 - *Creates a uniform payment stream*
 - CapEx and Non-CapEx payments would not have different payback periods

Interim Service Providers

- In its response to protests of its initial compliance filing, NYISO proposed to compensate Generators that both (a) are required to remain in service beyond their requested deactivation date, and (b) are required to remain in operation past the 180th day of the Generator Deactivation Notice Period
- The NYISO proposes to pay a Noticing Generator a calculated APR beginning at the later of:
 - *Day 181 of the 365 day Generator Deactivation Notice Period; or*
 - *The retirement date requested in the Generator Deactivation Notice (which cannot be earlier than day 91 of the notice period)*
- The Noticing Generator will be compensated a rate for the period listed above, which will include Avoidable, Fixed and Variable Costs

Interim Service Providers, cont'd

- **As presented on August 10th, the rate calculated for an Interim Service Provider **would** not include the following:**
 - ***Availability and Performance Incentives, or***
 - ***Capital Expenditures***
 - **Based on stakeholder feedback, the NYISO has identified circumstances where it agrees that reimbursement of certain limited categories of Capital Expenditures to Interim Service Providers would be appropriate. NYISO will be proposing tariff rules (in Attachment FF to the OATT) that will allow Interim Service Providers to seek recovery of Additional Costs that include Capital Expenditures under a limited set of circumstances, on a case by case basis.**
- **A generator performing as an Interim Service Provider will be subject to the RMR Clawback provisions**
- **Rules of participation for Interim Service Providers in the Capacity and Energy Markets will be similar to those of a generator providing service under an RMR Agreement**

Next Steps

- **The NYISO will consider input received during today's ICAPWG meeting**
- **Stakeholders may provide additional comments in writing to deckels@nyiso.com**

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