



Revised RMR Clawback Rules

Michael Lavillotti
Analyst, ICAP MMA
New York Independent System Operator

ICAPWG
August 10, 2016
Rensselaer, NY

Agenda

- **Background**
- **Clawback**
 - *Capital Expense clawback revisions*
 - *Above Market Rate clawback*
- **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, con't

- **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*

Clawback Changes

- Generator had previously been required to pay back Capital Expenditures, minus depreciation, prior to returning to the NYISO markets
- Going forward, Generators would be required to make monthly payments in order to pay back the higher of the Capital Expenditure(s), minus depreciation, or the Above Market Revenues
 - *Monthly payment structure will be determined based on the following (greater detail in following slides);*
 - Residual value of Capital Expenditures
 - Generator-specific factors
 - The term, in years, of the RMR Agreement
 - *Interest will be applied to both Capital Expenditures and/or Above Market Revenues prior to determining which value is greater*

New Clawback

- Example:

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

- Recovered \$10M in Capital Expenditures 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 an APR which totaled \$30M (excluding reimbursement of Capital Expenditures, but including incentive payments) 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) or the \$15M Above Market Revenues, plus interest, in order to participate in the NYISO Markets
 - The higher of:
 - *Capital Expenditure(s) $\$10M \times (100\% - 30\%) = \$7M + \text{Interest}$; or*
 - *Above Market Revenues (APR \$30M – Market Revenues \$15M) = \$15M + Interest*

Repayment Period – Cap Ex

- FERC's Order instructed the NYISO to permit former RMR Generators to repay their clawback obligations over time
- Example:
 - *If the Capital Expenditure repayment obligation exceeds the Above Market Revenues repayment obligation:*
 - Capital Expenditure from previous example
 - Capital Expenditure(s) $\$10\text{M} \times (100\% - 30\%) = \$7\text{M} + \text{Interest}$
 - *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
 - *NYISO will determine a levelized monthly payment over the pay-back period*

Repayment Period – Above Market Revenue

- **Example:**

- *If the Above Market Revenue repayment obligation exceeds the Capital Expenditure repayment obligation :*
 - **Above Market Revenue from previous example**
 - **Above Market Revenues (APR \$30M – Market Revenues \$15M) = \$15M + Interest**
- *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**

Calculating Interest – CapEx

- Example:

- *If the Capital Expenditure is the higher of the two:*
 - Capital Expenditure from previous example
 - Capital Expenditure(s) $\$10\text{M} \times (100\% - 30\%) = \$7\text{M} + \text{Interest}$
- *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*

Calculating Interest – AMR

- **Example:**

- *If the Above Market Revenue is the higher of the two:*

- **Above Market Revenue from Previous Example**

- **Above Market Revenues (APR \$30M – Market Revenues \$15M) = \$15M + Interest**

- *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**

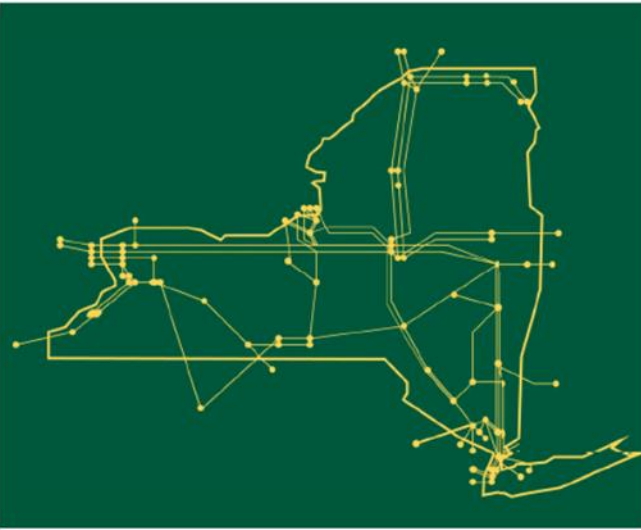
Interim Service Providers

- 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
- The rate calculated for an Interim Service Provider will not include the following:
 - *Availability and Performance Incentives*
 - *Capital Expenditures*

Next Steps

- The NYISO will consider input received during today's ICAPWG meeting
- Stakeholders may also provide additional comments in writing to deckels@nyiso.com or to mlavillotti@nyiso.com by August 12, 2016

The New York Independent System Operator (NYISO) is a not-for-profit corporation responsible for operating the state's bulk electricity grid, administering New York's competitive wholesale electricity markets, conducting comprehensive long-term planning for the state's electric power system, and advancing the technological infrastructure of the electric system serving the Empire State.



www.nyiso.com

Appendix

Original Clawback - Example

- Example:

- *RMR Generator signs and fulfills 3 year agreement*
 - Pre-approved for \$10M in Capital Expenditures
 - Assume all Capital Expenditures are installed and reimbursed
 - Assume asset(s) depreciate by 30% during this period
 - Receives an APR which totals \$30M in the three year period
 - Market Revenues for same period for generator, if they had not performed under an RMR Agreement, are \$15M
- *At conclusion of RMR Agreement, Generator decides to continue to operate in NYISO markets*
 - Generator would be required to pay back the \$7M remaining value of the Capital Expenditure(s) *prior* to participating in the NYISO Markets
 - $\$10M \times (100\% - 30\%) = \$7M$