

December 1, 2004

The Honorable Magalie R. Salas, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, DC 20426

Docket No. ER03-647-00

New York Independent System Operator, Inc.
Second Annual Compliance Report on Implementation of the ICAP Demand Curve
and Withholding Behavior Under the ICAP Demand Curve

Dear Ms. Salas:

Pursuant to Ordering Paragraphs (C) and (D) of the May 20, 2003, Order in Docket No. 03-647-000 (the "Initial Order"),¹ the New York Independent System Operator, Inc. ("NYISO"), by counsel, hereby submits this compliance report.

The report addresses, as of December 1, 2004: (i) the implementation and experience to date of the NYISO's Installed Capacity ("ICAP") Demand Curves; and (ii) the NYISO's evaluation of any withholding behavior by ICAP suppliers that may have occurred in the twelve-month period following the NYISO's prior report to the Commission.²

I. List of Documents Submitted

The NYISO submits the following documents:

1. This filing letter;

¹ *New York Independent System Operator, Inc.*, 103 FERC ¶ 61,201 (2002).

² Capitalized terms not otherwise defined herein shall have the meaning set forth in Article 2 of the NYISO's Market Administration and Control Area Services Tariff.

2. a report on the implementation of and experience with the ICAP Demand Curves (“Attachment I”),
3. a report on the NYISO’s evaluation of any withholding behavior by ICAP suppliers during the twelve-month period ending December 1, 2004 (“Attachment II”); and,
4. A form of *Federal Register* Notice (“Attachment III”).

II. Copies of Correspondence

Copies of correspondence concerning this filing should be served on:

Robert E. Fernandez, General Counsel and Secretary
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III. Service List

The NYISO respectfully requests a waiver of the requirements of Rule 2010 so that it may use electronic service methods. The NYISO will electronically serve a copy of this filing on the official representative of each of its Market Participants, on each participant in its stakeholder governance committees, on the New York Public Service Commission, and on the New Jersey Board of Public Utilities. The NYISO will provide the Pennsylvania Public Utility Commission with a hard copy of this filing, as requested by that agency. The use of this procedure has been convenient for both the NYISO and for the recipients of this form of service, and to date, the procedure has engendered no complaints. Finally, allowing the use of electronic service would be consistent with the spirit of the Commission’s recent Notice of Proposed Rulemaking regarding service and notification procedures.³

³ *Electronic Notification of Commission Issuances, Notice of Proposed rulemaking*, 107 FERC ¶ 61,311 (2004).

IV. Compliance Reports

A. Implementation and Experience To Date of ICAP Demand Curves

Implemented in May 2003 following the Initial Order, the ICAP Demand Curves have now been in place for only eighteen months. In the relatively brief time since implementation of the Demand Curves, however, the NYISO has already observed the beginnings of trends in the ICAP markets that it anticipated and described in its original Demand Curve proposal to this Commission. A complete report is included herewith as Attachment I.

B. Withholding Behavior Under the ICAP Demand Curves

In its initial December 1, 2003 report to the Commission on ICAP withholding behavior, the NYISO indicated that it had not observed any significant economic or physical withholding of resources in the ICAP markets since the May 2003 implementation of the ICAP Demand Curves. Likewise, as of the date of this report, the NYISO continues to see no evidence of significant physical or economic withholding in the New York ICAP markets. A complete report of the NYISO's evaluation is included herewith as Attachment II.

V. Federal Register Notice

A form of *Federal Register* Notice is provided herewith. A diskette of the Notice is also provided in WordPerfect format.

Respectfully submitted,

s/s Gerald R. Deaver

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New York Independent System Operator, Inc.

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The Honorable Magalie R. Salas, Secretary
December 1, 2004
Page 4 of 4

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ATTACHMENT I

New York Independent System Operator, Inc.
December 1, 2004 Report on Implementation of the ICAP Demand Curve

I. Executive Summary

Implemented in May 2003 following the Initial Order, the ICAP Demand Curves have now been in place for eighteen months.

In this relatively brief initial period of experience with the Demand Curves since implementation, the NYISO has already observed trends and behaviors in the ICAP markets that were anticipated as being among the benefits of the Demand Curves. As expected ICAP prices have become more stable. While not entirely attributable to the existence of the ICAP Demand Curves, the MW of capacity committed to the New York markets has trended upwards for the NYCA, as a whole, and for the New York City and Long Island localities, as well. The upward trend results from both new in-state capacity and increased imports from outside the control area.

With the increase of available capacity, ICAP prices have stabilized and are trending downward, which is an expected outcome for a competitive market with a current excess of supply. New York City and Long Island locational prices remain relatively stable, due in large part to the effects of price caps in New York City and the significantly bilateral nature of the Long Island market. The NYISO has observed no discernible increase in new bilateral arrangements; however, it has not observed any decrease in the bilateral segment of the New York markets, which is a further indication of a market evolution away from price volatility and towards price stability.

Finally, given the relatively brief history of the ICAP Demand Curves and the comparatively long lead time required to develop new generation, it is difficult to reach any specific conclusions regarding the effects of the Demand Curves on investment in new generation in New York. The reduced pace of new generation investment in New York reflects the current situation of excess capacity and current market clearing prices are correctly reflecting these market conditions.

II. Study of Implementation

In preparing this report, the NYISO's Market Services Department ("MSD") analyzed ICAP Market auction results from May 2003 through October 2004. This period encompasses the Summer 2003 Capability Period, the 2003-2004 Winter Capability Period, and the Summer 2004 Capability Period.

A. Installed Capacity Auction Results

Market clearing prices in the ICAP auctions have continued to show a trend towards stability since the implementation of the ICAP Demand Curves and the NYISO's December 1, 2003, initial report to the Commission. In addition, the amount of capacity purchased in the auctions has continued to increase, as was anticipated given the Demand Curves function of placing some value on capacity in excess of the Minimum ICAP Requirement. Capacity purchased in excess of the minimum reliability requirements equaled 3,465 MW for the NYCA as a whole, and 215 MW each for the New York City and Long Island load zones as of October 2004. A more detailed discussion of the purchases in the ICAP auctions is included in Section B, below.

Market clearing prices and auction activity levels, from the implementation of the ICAP Demand Curves through October 2004, are shown in Figures 1, 2, and 3, below, for Rest of State, New York City, and Long Island, respectively. Because ICAP purchase obligations and supplier certifications are translated into Unforced Capacity ("UCAP") terms for the auctions, the data presented in tables and graphs throughout this report are expressed in UCAP terms.

Figure 1
May 2003 – October 2004
Installed Capacity Auction Activity
New York Control Area (NYCA) Capacity

<i>Month</i>	Capability Period* (Strip)		Monthly		ICAP Spot Market	
	<i>MW</i>	<i>Price</i>	<i>MW</i>	<i>Price</i>	<i>MW</i>	<i>Price</i>
May-2003	2889.2	\$1.67	1634.8	\$1.30	101.5	\$0.25
June-2003	2889.2	\$1.67	1866.0	\$1.06	2148.7	\$2.34
July-2003	2889.2	\$1.67	1249.2	\$2.01	2824.2	\$2.28
August-2003	2889.2	\$1.67	1344.1	\$2.04	3096.6	\$2.25
September-2003	2889.2	\$1.67	1396.7	\$1.97	3134.1	\$2.08
October-2003	2889.2	\$1.67	1408.4	\$1.93	3253.2	\$2.01
November-2003	2163.2	\$1.17	2128.8	\$1.15	6833.0	\$1.94
December-2003	2163.2	\$1.17	1860.1	\$1.48	7203.1	\$1.79
January-2004	2163.2	\$1.17	2083.6	\$1.50	6972.2	\$1.75
February-2004	2163.2	\$1.17	2475.9	\$1.58	6379.9	\$1.73
March-2004	2163.2	\$1.17	2180.0	\$1.54	6569.8	\$1.00
April-2004	2163.2	\$1.17	2646.7	\$0.99	6987.5	\$0.80
May-2004	2441.0	\$1.68	2489.7	\$1.65	6189.1	\$1.31
June-2004	2441.0	\$1.68	2133.6	\$1.48	6239.9	\$1.27
July-2004	2441.0	\$1.68	1756.7	\$1.29	6410.6	\$1.04
August-2004	2441.0	\$1.68	2046.5	\$1.15	6544.7	\$1.17
September-2004	2441.0	\$1.68	2258.8	\$1.16	6456.2	\$1.07
October-2004	2441.0	\$1.68	2460.8	\$1.18	6633.9	\$1.12

*Capability Period awards are for a six-month periods:
 May through October 2003 November 2003 – April 2004 May through October 2004

Figure 2
May
2003 –

**October 2004
Installed Capacity Auction Activity
New York City Locality**

New York City	Capability Period* (Strip)		Monthly		ICAP Spot Market	
	<i>MW</i>	<i>Price</i>	<i>MW</i>	<i>Price</i>	<i>MW</i>	<i>Price</i>
<i>Month</i>						
May-2003	2501.7	\$11.22	3016.3	\$10.00	110.2	\$12.36
June-2003	2501.7	\$11.22	683.0	\$13.78	2375.5	\$11.46
July-2003	2501.7	\$11.22	527.9	\$11.57	2558.0	\$11.46
August-2003	2501.7	\$11.22	567.9	\$11.56	2497.9	\$11.46
September-2003	2501.7	\$11.22	558.1	\$11.56	2499.5	\$11.46
October-2003	2501.7	\$11.22	638.8	\$11.55	2415.1	\$11.45
November-2003	475.0	\$6.55	579.3	\$6.67	5029.3	\$6.98
December-2003	475.0	\$6.55	909.4	\$6.64	4711.0	\$6.98
January-2004	475.0	\$6.55	968.9	\$6.64	4644.8	\$6.98
February-2004	475.0	\$6.55	2167.5	\$6.77	3422.4	\$6.98
March-2004	475.0	\$6.55	1938.0	\$6.05	3841.5	\$6.98
April-2004	475.0	\$6.55	2047.2	\$6.00	3779.1	\$6.98
May-2004	1245.3	\$11.15	2022.4	\$11.16	2898.3	\$11.42
June-2004	1245.3	\$11.15	2532.8	\$11.29	2391.9	\$11.42
July-2004	1245.3	\$11.15	2705.7	\$11.29	2261.3	\$11.42
August-2004	1245.3	\$11.15	3126.1	\$11.25	1854.4	\$11.42
September-2004	1245.3	\$11.15	3272.4	\$11.25	1798.6	\$11.42
October-2004	1245.3	\$11.15	2771.9	\$11.21	2336.3	\$11.42

*Capability Period awards are for a six-month periods:
 May through October 2003 November 2003 – April 2004 May through October 2004

Figure 3
May 2003 – October 2004
Installed Capacity Auction Activity
Long Island Locality

Long Island	Capability Period* (Strip)		Monthly		ICAP Spot Market	
<i>Month</i>	<i>MW</i>	<i>Price</i>	<i>MW</i>	<i>Price</i>	<i>MW</i>	<i>Price</i>
May-2003	6.6	\$9.41	2.2	\$24.00	0.2	\$23.00
June-2003	6.6	\$9.41	0.0	-----	341.9	\$5.17
July-2003	6.6	\$9.41	1.0	\$5.00	344.7	\$5.14
August-2003	6.6	\$9.41	1.1	\$5.00	441.8	\$4.03
September-2003	6.6	\$9.41	0.0	-----	397.8	\$4.55
October-2003	6.6	\$9.41	0.0	-----	397.8	\$4.55
November-2003	0	\$4.00	0.0	-----	114.3	\$8.14
December-2003	0	\$4.00	0.0	-----	107.5	\$8.22
January-2004	0	\$4.00	0.0	-----	128.2	\$7.99
February-2004	0	\$4.00	0.6	\$7.50	202.6	\$7.08
March-2004	0	\$4.00	0.6	\$7.00	142.6	\$7.72
April-2004	0	\$4.00	0.6	\$6.85	199.0	\$7.04
May-2004	11.2	\$8.00	1.6	\$8.00	97.5	\$9.83
June-2004	11.2	\$8.00	11.2	\$9.29	90.8	\$9.79
July-2004	11.2	\$8.00	15.9	\$8.67	193.4	\$8.42
August-2004	11.2	\$8.00	16.4	\$8.05	213.1	\$8.16
September-2004	11.2	\$8.00	16.2	\$8.06	214.2	\$8.15
October-2004	11.2	\$8.00	16.2	\$8.06	214.2	\$8.15

*Capability Period awards are for a six-month periods:
 May through October 2003 November 2003 – April 2004 May through October 2004

The market clearing prices reflected in the above figures are also depicted in graphic form in Figures 4, 5, and 6 below for the Rest of State, New York City, and Long Island, respectively.

Figure 4

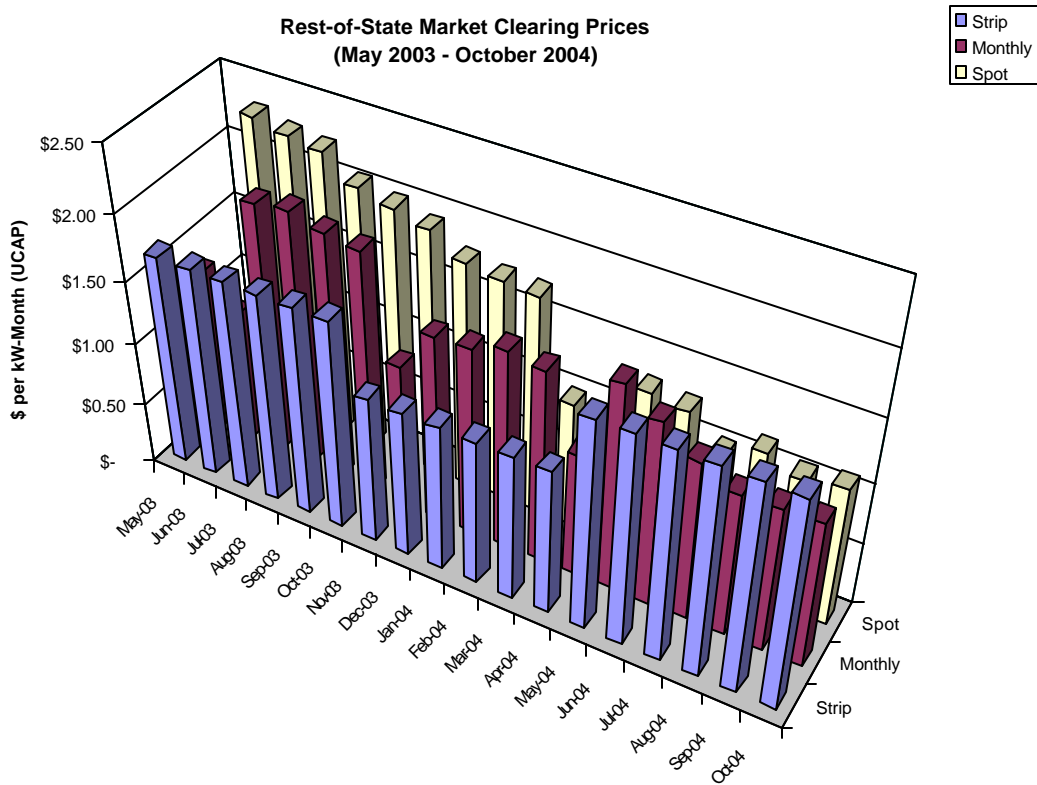


Figure 5

New York City Market Clearing Prices
(May 2003 - October 2004)

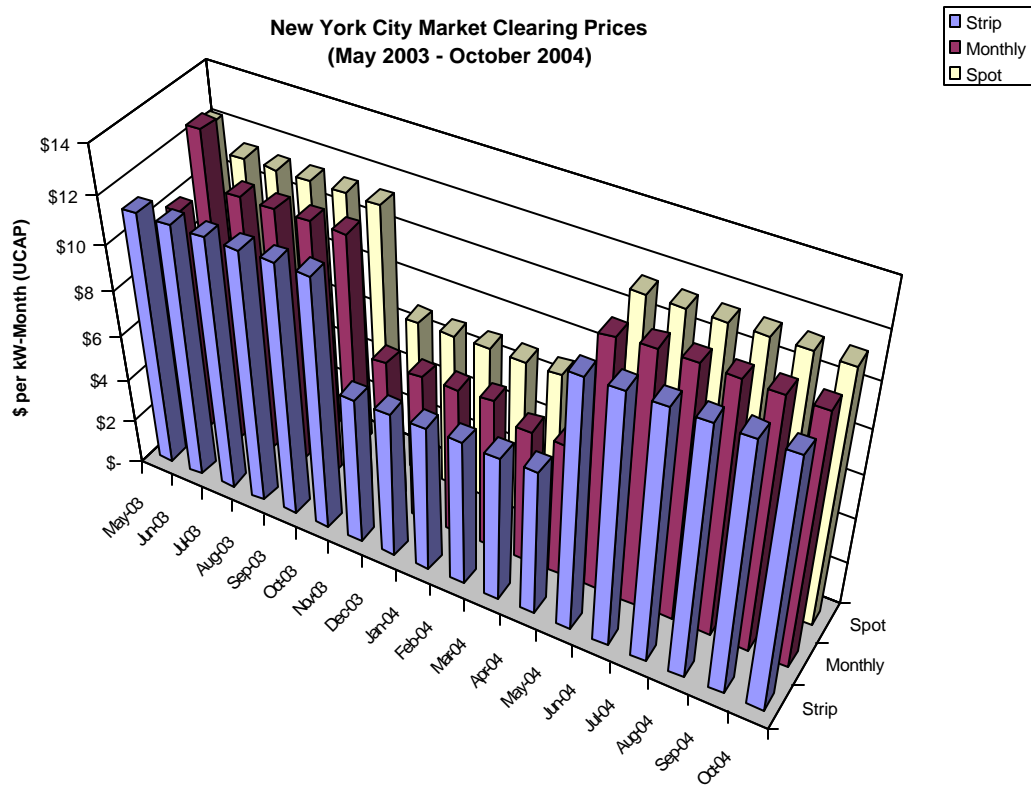
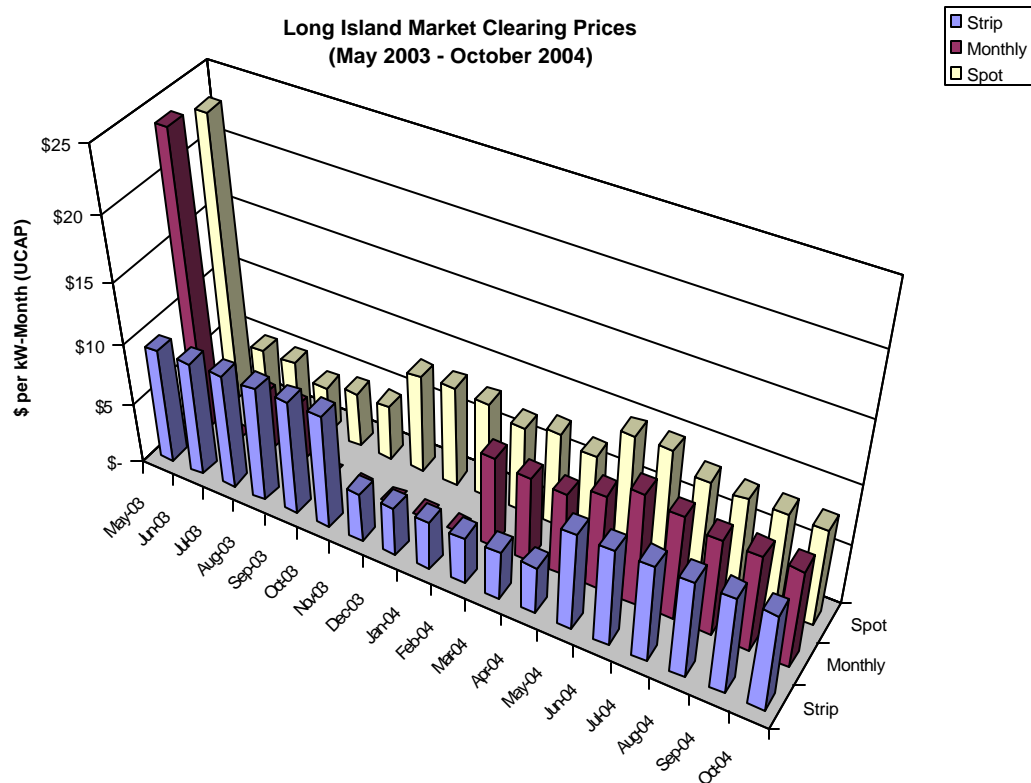


Figure 6



B. Capacity Purchases

As previously reported to the Commission, the amount of capacity committed to the NYCA has continued to increase since the implementation of the ICAP Demand Curves. The NYISO also noted in its prior report that the amount of subscribed imports of external capacity had increased from 1,650 MW for the 2002 Summer Capability Period to 2,755 MW for the 2003 Summer Capability Period. This increased amount of subscribed import capacity continued into the 2004 Summer Capability Period. Subscriptions for the Winter Capability Period increased from 900 MW for the 2002-2003 Winter Capability Period, which preceded the implementation of the Demand Curves, to 2,195 MW for the 2003-2004 Winter Capability Period.

The average amount of capacity committed each month in the ICAP market increased from 33,031 MW for the 2002 Summer Capability Period to 37,325 MW for the 2003 Summer Capability Period, and to 38,959 MW for the 2004 Summer Capability Period. The average capacity commitment increased from 34,293 MW in the 2002-2003 Winter Capability Period to 37,131 MW for the 2003-2004 Winter Capability Period. Further, Figures 7, 8, and 9 graphically demonstrate the minimum capacity obligations for the Rest of State, New York

City, and Long Island, respectively for the period since the Demand Curves were implemented.

Figure 7

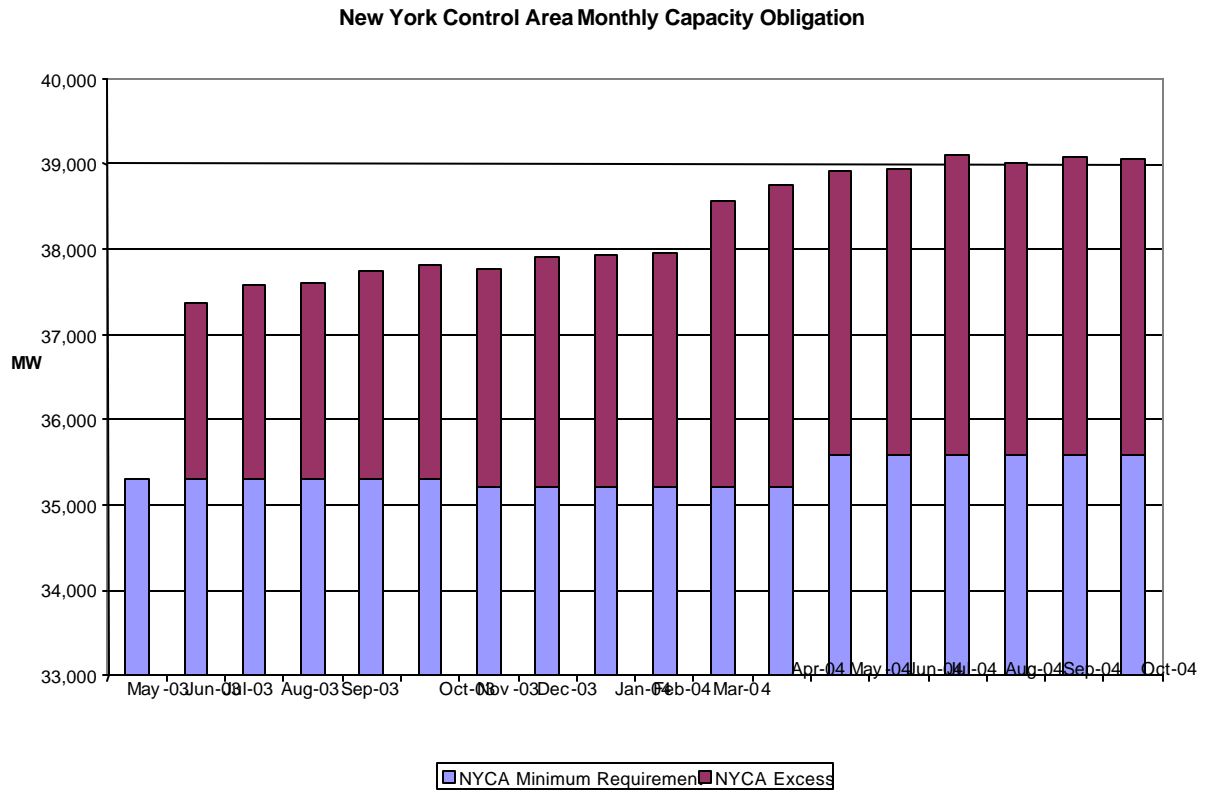


Figure 8

New York City Monthly Capacity Obligation

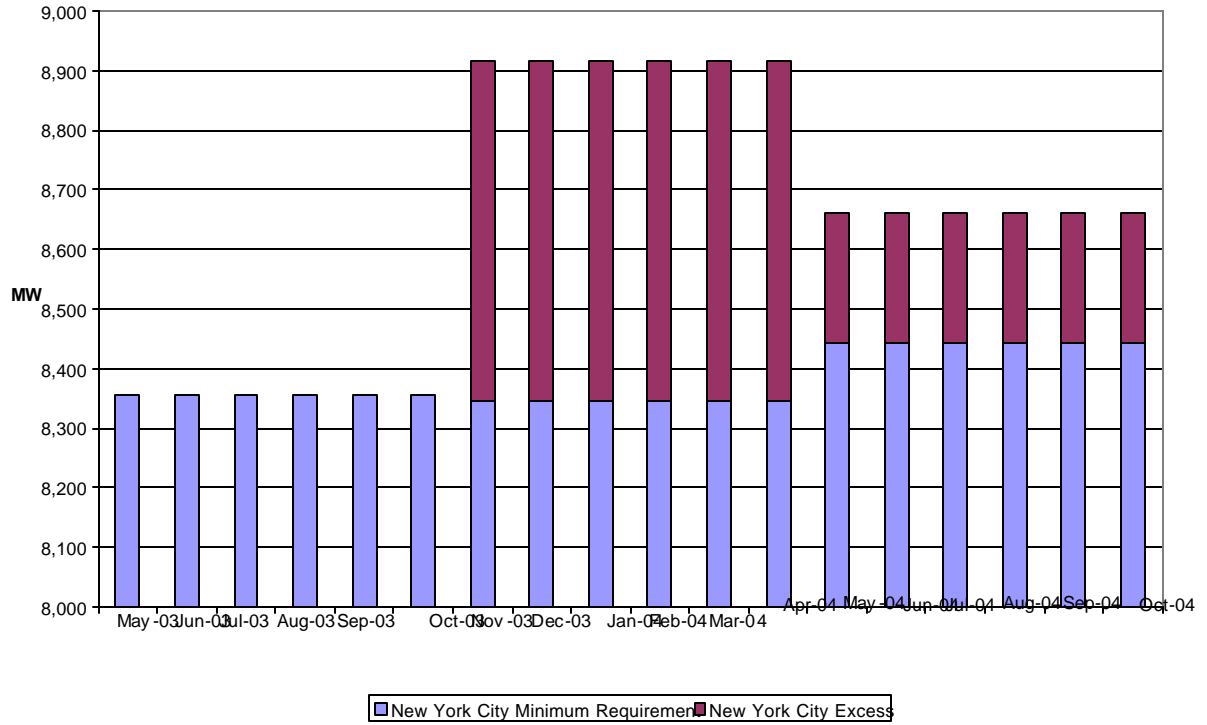
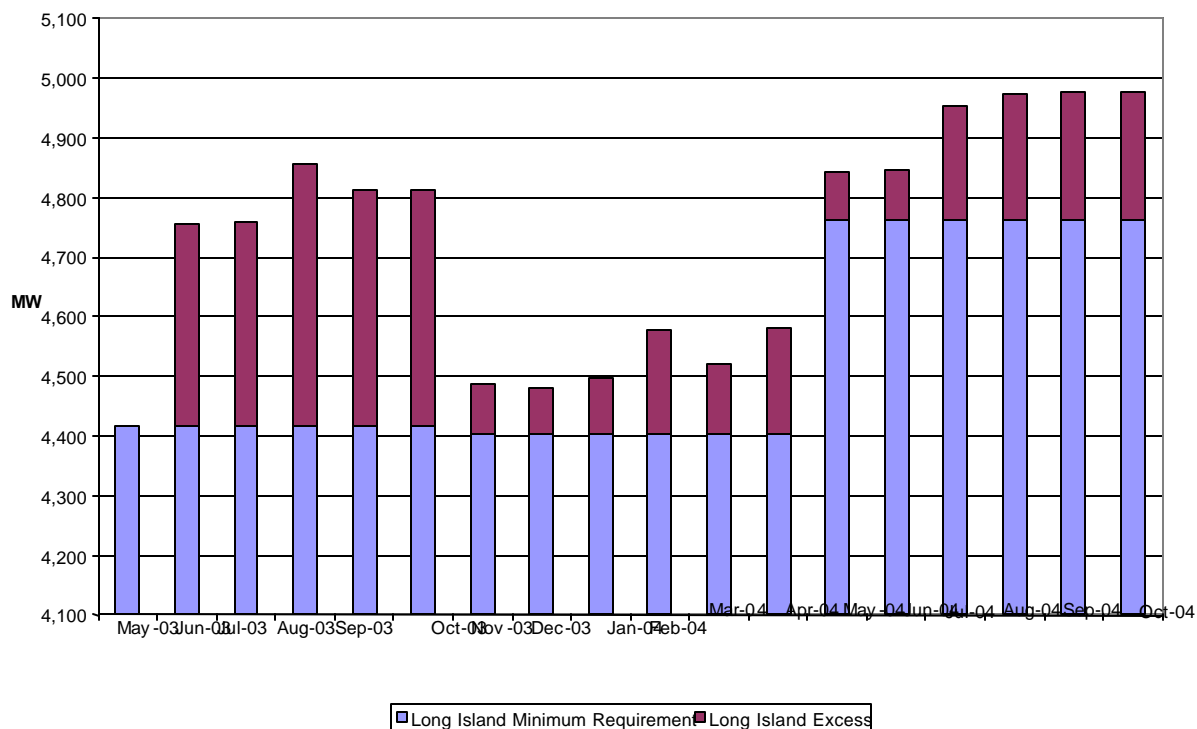


Figure 9

Long Island Monthly Capacity Obligation



C. Unforced Capacity Requirements

In its prior report, the NYISO indicated that the minimum LSE Unforced Capacity requirement had increased by 2,824 MW from the 2002 Summer Capability Period to the 2003 Summer Capability Period. This increase was due primarily to a revised ICAP/ Unforced Capacity (“UCAP”) translation methodology implemented by the NYISO in the Installed Capacity markets in November 2002, with the balance due to load growth. The current 2004 Capability Year Unforced Capacity requirements are 8,444.6 MW in New York City, 4,761.5 MW in Long Island and 35,684.5 MW for the NYCA.

III. Results of Study

A. Auction Behavior

The NYISO generally concludes that, as a result of the ICAP Demand Curves, the amount of capacity purchased in the Installed Capacity auctions has continued to increase since the implementation of Demand Curves, while ICAP market clearing prices have stabilized and are trending downward in response to current market conditions.

Prior to the implementation of the ICAP Demand Curves, Market Participants offered most of their capacity into the Capability Period and Monthly Auctions instead of the then-applicable monthly deficiency auctions. LSEs were required to purchase ICAP up to, but not in excess of, their NYISO-established Minimum ICAP Requirement. With the implementation of the ICAP Demand Curves, LSE UCAP purchase obligations are now determined and satisfied according to the monthly outcomes of the Spot Market Auctions under the Demand Curves. As a result, capacity suppliers have increasingly availed themselves of the ICAP Spot Market Auctions. The NYISO also notes that the ICAP Spot Market Auctions have continued to clear in MW amounts above the minimum UCAP requirements for New York City and Long Island.

B. Market Effects

The NYISO anticipated that the ICAP Demand Curves would result in price stability, an increase in the amount of capacity committed to Bilateral Transactions, and incentives to build new generation. In fact, the NYISO has observed an increase in capacity committed to the NYCA and an improvement in price signals.

Given the comparatively longer lead time required to site, develop, and complete the construction of a new generation project, it is difficult for the NYISO to demonstrate to the Commission any specific conclusions regarding the effects of the ICAP Demand Curves on development of new generation in the eighteen-month period since their implementation. Although the pace of new generation investment in New York has diminished somewhat, this result is more attributable to the current excess position in the ICAP markets and the lower market prices that accompany any supply situation in excess of demand.

It has always been the NYISO's expectation that the relative pace of new generation investment would reflect the degree of excess capacity present in the market at any given time. Because they place a value on, and provide some revenue for, capacity in excess of minimum reliability requirements, the NYISO continues to believe that the ICAP Demand Curves will provide price signals that encourage the addition of new generation in future increments that maintain system reliability. In the meantime, the present condition of excess capacity and the market clearing prices that result from such conditions correctly reflects a competitive ICAP market outcome. While it would be premature to reach specific conclusions after just eighteen months of experience with the ICAP Demand Curves, the NYISO is encouraged by its observation of market behaviors and outcomes that were anticipated for the Demand Curves. With the impending initial periodic adjustment of the

ICAP Demand Curve parameters, which will be submitted to the Commission for its approval in the near future, the NYISO anticipates that it should experience even more significant gains towards the objectives of the Demand Curves in the ICAP markets over the next three years.

The NYISO has consulted with the independent Market Advisor, Dr. David Patton, and he concurs in the conclusions in this report

ATTACHMENT II

New York Independent System Operator, Inc.
December 1, 2004 Report on Withholding Behavior Under ICAP Demand Curves

I. Executive Summary

In its initial December 1, 2003, report to the Commission on ICAP withholding, the NYISO indicated that it had not observed any significant economic or physical withholding of resources in the ICAP markets since the May 2003 implementation of the ICAP Demand Curves.

Likewise, as of the date of this report, the NYISO continues to see no evidence of significant physical or economic withholding in the New York ICAP markets. Bidding behaviors continue to support the conclusion that the clearing prices derived from the Demand Curves in the monthly Spot Market Auctions continue to be attractive to capacity suppliers and provide a venue for them to offer previously unsold capacity resources for the month. Within the NYCA, there is no category of ICAP in which apparent withholding exceeds six percent of available supplies. For most categories, including the locational ICAP markets for New York City and Long Island and the winter and summer Capability periods, apparent withholding percentages are much lower. In the summer capability period, for example, when available capacity supplies are at a minimum, almost every resource in the NYCA is offered into the ICAP auctions and sold. The level of capacity supplies that are not offered into the market amounts to less than one percent of statewide resources.

II. Study of Offering Behavior

A. Data

In developing the information for this report, the NYISO's Market Monitoring and Performance Department ("MMP") examined the same categories of data as were reviewed for the December 1, 2003, report to the Commission. Data from the 2003-2004 winter Capability Period (November 1, 2003 through April 30, 2004) and the 2004 summer Capability Period (May 1, 2004 through October 31, 2004) were reviewed for this report and included the following categories:

1. Certification data, which reflects the certified MW of Dependable Minimum Net Capacity for each generator seeking to supply ICAP. This represents the amount of capacity that a Market Participant has qualified to sell as ICAP each month, divided into MW committed to Bilateral Transactions, and MW offered into the ICAP auctions.

2. Installed Capacity requirements are established by the NYISO as the result of resource adequacy studies and the Installed Reserve Margin requirement determined by the New York State Reliability Council. The particular reference points on the ICAP Demand Curves, as utilized in the monthly Spot Market Auctions, are established in the NYISO tariffs.
3. Data for offers of capacity include the names of the offerors, the amount of capacity offered, the locality into which the capacity is offered, and any prices attached to those offers of capacity.
4. Auction outcome data include the amounts of capacity cleared in each auction, along with the price at which the capacity cleared. These data are arrayed by Market Participant, unit, locality, and specific auction, as necessary for MMP's analysis.

a. Analysis of Data Collected

The MMP analyzes withholding behavior in the New York resource adequacy markets in the context of the NYISO's ICAP market rules. For example, with the exception of the New York City locality, the NYISO tariff does not require capacity suppliers to offer into the ICAP markets. In the New York City load zone, the majority of capacity is subject to Commission-approved ICAP market mitigation measures that specifically require such capacity to be offered into the ICAP auctions to the extent that it has not been sold in a previous auction. A subset of New York City generation, principally capacity resources constructed subsequent to the Commission's approval of current tariff market mitigation provisions, is not subject to measures' mandate to offer into the auctions.

Other capacity inside and outside the NYCA may be sold bilaterally, or may be offered into one or more of the NYISO's ICAP auctions that take place for each six-month capability period. There are three types of auctions: a capability period (six-month strip) auction, six sets of monthly auctions, and six spot market auctions. Previously unsold capacity may be offered into any or all of the auctions.

The NYCA's minimum ICAP requirement is categorized into locational components: New York City, Long Island, and by subtraction, the Rest-of-State ("ROS"). Local reliability rules require LSEs in New York City and on Long Island to procure minimum percentages of capacity from facilities that are electrically located within their respective zones. The NYISO establishes locational ICAP requirements on an annual basis according to ISO Procedures. The following charts and tables in this report are disaggregated by zone to reflect these locational requirements.

Capacity sold by suppliers that are external to the NYCA is restricted to the simultaneous import capability of the transmission lines between the NYCA and neighboring control areas, which is currently approximately 2,755 MW. The MMP notes that capacity internal to the NYCA can also be offered to external control areas, consistent with their rules

and the NYISO's rules governing such sales and transfers. The NYISO does not consider the offering of capacity from New York into another market to be presumptive evidence of withholding, so long as the behavior is economically rational.

The MMP notes further that it does not have a window into all of the options that may be available to external suppliers. For example, although external capacity may be qualified for the NYISO's ICAP markets pursuant to Section 5.12.1 of the Services Tariff, the owner may not have been able to obtain the necessary import rights over transmission ties to offer the capacity into the NYCA, in which case the external capacity does not qualify pursuant to Section 5.13.1 of the Services Tariff. Alternatively, the owner may choose to offer it somewhere else. Consequently, it is difficult to conclude that external suppliers are withholding supplies from New York, since the 2,755 MW limit is exceeded by the pool of otherwise available external capacity and a variety of other factors can influence the business decisions of external capacity owners.

III. Physical Withholding

With the above considerations provided as context, the MMP ascertains potential physical withholding by examining the amount of qualified capacity available, as compared to the amount sold bilaterally or offered into the auctions. Moreover, capacity can only be considered to be truly withheld only after it has not been made available in the last auction in the month(s) under consideration, which would be the monthly Spot Market auctions conducted by the NYISO pursuant to the ICAP Demand Curves.

Since the amounts of capacity available and offered can vary month to month, the MMP examines the capability periods in their entirety using monthly averages where appropriate for the monthly Capability Period and Spot Market auctions. The following Tables 1 and 2 summarize, in unforced capacity ("UCAP") terms, the "capacity available," "offered but not sold," and "not offered" for the winter 2003/2004 and summer 2004 capability periods. For markets such as New York's with no tariff requirement to offer capacity into the auctions, the term "physical withholding" has meaning only in very narrow circumstances. Such physical withholding would have to provide benefits to the remainder of an owner's portfolio through the consequence of higher auction clearing prices. Given the clearing prices shown in Tables 3 and 4 below, and the percentages certified but not offered, it is difficult for the MMP to conclude that a strategy of physical withholding by any capacity owner in the New York markets was even in place, or that such a strategy would be profitable on a small scale.

Table 1
Decomposition of Unsold UCAP: Winter Capability Period 2003 - 2004

	<i>Monthly Average UCAP Available</i>	<i>Monthly Average UCAP Sold in All Auctions or as Bilaterals</i>	<i>Monthly Average UCAP Not Offered</i>	<i>Monthly average UCAP Offered but not Sold</i>	<i>Percent of Available UCAP not Offered</i>	<i>Percent of Available UCAP Offered but not Sold</i>
<i>NYCA Total</i>	45653.6	38378.1	7091.3	184.3	15.5%	0.4%
<i>Statewide</i>	38281.6	36536.9	1586.7	157.9	4.14%	0.4%
<i>ROS</i>	24008.7	22595.9	1398.2	14.6	5.8%	0.1%
<i>NYC</i>	9123.6	8916.1	64.2	143.4	0.7%	1.6%
<i>LI</i>	5149.2	5024.9	124.3	0.0	2.4%	0.0%
<i>PJM</i>	3985.7	766.5	3219.2	0.0	80.8%	0.0%
<i>HQ</i>	800.0	238.6	535.1	26.3	66.9%	3.3%
<i>NE</i>	2586.4	836.1	1750.3	0.0	67.7%	0.0%

Table 2
Decomposition of Unsold UCAP: Summer Capability Period 2004

	<i>Monthly Average UCAP Available</i>	<i>Monthly Average UCAP Sold in All Auctions or as Bilaterals</i>	<i>Monthly Average UCAP Not Offered</i>	<i>Monthly average UCAP Offered but not Sold</i>	<i>Percent of Available UCAP not Offered</i>	<i>Percent of Available UCAP Offered but not Sold</i>
<i>NYCA Total</i>	43914.4	39182.4	4626.9	105.0	10.5%	0.2%
<i>Statewide</i>	37226.5	36719.1	402.4	105.0	1.1%	0.3%
<i>ROS</i>	23378.9	23051.3	324.4	3.1	1.4%	0.01%
<i>NYC</i>	8901.4	8739.5	61.2	100.7	0.7%	1.1%
<i>LI</i>	4946.2	4928.3	16.7	1.2	0.3%	0.02%
<i>PJM</i>	3980.5	852.5	3128.0	0.0	78.6%	0.0%
<i>HQ</i>	1200	735.3	464.7	0.0	38.7%	0.0%
<i>NE</i>	1507.4	875.5	631.9	0.0	41.9%	0.0%

(Numbers in the tables may not add up to the NYCA totals due to rounding.)

Tables 1 and 2 above disaggregate available UCAP into UCAP sales, UCAP Not Offered, and UCAP Offered but Not Sold. The seemingly high percentages of external UCAP not offered into New York result from transfer limits on import capability discussed above. Despite these transfer limits, over five percent of New York's UCAP was supplied from external control areas over the two capability periods. The MMP also notes that the total UCAP market was in a long position in both capability periods, as were the locational components. Excess capacity, however, is smallest in the summer and, in particular, on Long Island. Internal to the NYCA, the percentages of available UCAP not offered to the market are quite small; slightly over only four percent of supply is not offered in the winter, while

approximately one percent is not offered in the summer. In New York City, where requirements to offer into the market are in effect for certain units but not others, physical withholding is less than one percent in both the winter and summer periods; approximately 60 MW were not offered, out of a total of approximately 9,000 MW of capacity actually available. Long Island exhibited seasonal variations, with 2.4% of available capacity not offered in the winter and 0.3% not offered in the summer.

IV. Economic Withholding

Economic withholding results when capacity supplies are purposefully bid into the ICAP markets at offer prices sufficiently above the subsequent clearing prices so as to not be taken in an auction. The MMP has examined the MWs of capacity involved in the New York markets, but not the offering prices of unsold capacity. The Demand Curves were originally intended to and, in fact, have significantly reduced the incentive to withhold generally. The Demand Curves accomplish this by increasing prices only gradually over the curves in response to physical withholding. Economic withholding of capacity into the NYISO's markets, if any, is quite small, estimated at 0.4% or 184 MW offered but not sold, out of 45,654 MW in the winter. The summer capability period exhibits even less economic withholding, 0.2% or 105 MW offered but not sold, out of 43,914 MW available.

Examining the MWs of capacity offered but not sold – as distinct from MWs not offered at all – can provide some insight into the determination of whether economic withholding may have occurred. For the New York City units subject to capacity mitigation and the requirement to bid, and on Long Island, where the 99% locational requirement coupled with the rights to virtually all of the existing capacity on the Island already secured, an implied offering requirement results. Under these circumstances, it is extremely difficult to conclude that a participant is offering in such a way as not to get taken in the locational auctions. Moreover, given the current long position of the ICAP markets in the Rest of State, the MMP cannot conclude that capacity owners are offering in such a way as to set auction clearing prices at anomalous levels or avoid being taken in the auctions altogether.

Long Island is an exception to the general conclusion, above, that there is no offering behavior in New York that leads to higher prices. Only a *de minimis* amount of capacity on Long Island is outside the control of the Long Island Power Authority (“LIPA”), the largest Market Participant in the load zone. LIPA's contractual right to most of the capacity on Long Island is pivotal. The few other Load Serving Entities on Long Island require certain amounts of capacity from LIPA in order to meet their locational ICAP obligations, and LIPA can control the amounts offered into the auctions and the prices at which those amounts are offered. Although there was no offered-but-unsold capacity on Long Island in the winter capability period and only a minuscule 1.2 MW of such capacity in the summer period, the auction clearing prices at which UCAP was transacted approached and sometimes exceeded New York City's capped load zone prices. While LIPA was not offering so as not to get taken in the auctions, it had the ability to control the clearing price.

In the Rest of State, only 0.1%, or 15 MW, was offered but not sold out of 24,009 MW available in the winter. In the summer, 3 MW were economically withheld out of 23,379 MW of capacity available. New York City experienced the highest proportion of capacity offered but not sold, which was still only 1.6% in the winter and 1.1% in the summer. While it may be assumed that price mitigated capacity is offered at the associated caps, unmitigated capacity is not so constrained. The auction data for New York City reveals that a portion of non-mitigated capacity was offered at prices above the caps that apply to some other units in the City.

V. Distribution of ICAP Sales Among the Auctions and Bilateral Arrangements

The MMP has also analyzed ICAP sales as allocated among the various opportunities for such transactions in the New York markets. ICAP is sold in New York in four different manners: as a bilateral transaction (which includes self-supply), and in the NYISO's six-month strip auctions, regular monthly auctions, and monthly Spot Market auctions. While it is premature to reach conclusions about market trends with only two summer capability periods and one winter period having been completed since the implementation of the Demand Curves, Table 3 provides some insight into offering behavior.

Table 3
UCAP Sales and Prices for the Winter 2003/2004 Capability Period

New York City	Capability Period (Strip)*		Monthly		UCAP Spot Market		Bilateral Transactions	UCAP Sold	UCAP Available
	Month	MW	Price**	MW	Price***	MW			
November '03	475.0	\$6.55	579.3	\$6.67	5029.3	\$6.98	2831.8	8,915.4	9100.1
December '03	475.0	\$6.55	909.4	\$6.64	4711.0	\$6.98	2821.5	8,916.9	9114.1
January '04	475.0	\$6.55	968.9	\$6.64	4644.8	\$6.98	2827.5	8,916.2	9124.9
February '04	475.0	\$6.55	2167.5	\$6.77	3422.4	\$6.98	2851.0	8,915.9	9126.1
March '04	475.0	\$6.55	1938.0	\$6.05	3841.5	\$6.98	2661.7	8,916.2	9134.3
April '04	475.0	\$6.55	2047.2	\$6.00	3779.1	\$6.98	2614.5	8,915.8	9142.3
Long Island	Capability Period (Strip)*		Monthly		UCAP Spot Market		Bilateral Transactions	UCAP Sold	UCAP Available
Month	MW	Price**	MW	Price***	MW	Price			
November '03	0.0	\$4.00	0.0	\$4.00	114.3	\$8.14	4896.4	5,010.7	5138.2
December '03	0.0	\$4.00	0.0	-	107.5	\$8.22	4911.4	5,018.9	5138.2
January '04	0.0	\$4.00	0.0	-	128.2	\$7.99	4891.4	5,019.6	5139.1
February '04	0.0	\$4.00	0.6	\$7.50	202.6	\$7.08	4821.0	5,024.2	5143.7
March '04	0.0	\$4.00	0.6	\$7.00	142.6	\$7.72	4881.7	5,024.9	5145.8
April '04	0.0	\$4.00	0.6	\$6.85	199.0	\$7.04	4851.7	5,051.3	5190.2
Rest of State	Capability Period (Strip)*		Monthly		UCAP Spot Market		Bilateral Transactions	UCAP Sold	UCAP Available
Month	MW	Price**	MW	Price***	MW	Price			
November '03	2163.2	\$1.667	2128.8	\$1.15	6178.3	\$1.94	13680.6	24,150.9	31294.1
December '03	2163.2	\$1.667	1860.1	\$1.48	6555.2	\$1.78	13608.9	24,187.4	31318.0
January '04	2163.2	\$1.667	2083.6	\$1.50	6304.2	\$1.75	13667.6	24,218.6	31399.3
February '04	2163.2	\$1.667	2475.9	\$1.58	5632.9	\$1.73	13957.3	24,229.3	31421.4
March '04	2163.2	\$1.667	2780.0	\$1.54	5878.9	\$1.00	14028.1	24,850.2	31421.4
April '04	2163.2	\$1.667	2671.7	\$0.99	6236.8	\$0.80	13914.2	24,985.9	31430.5
NYCA	Capability Period (Strip)*		Monthly		UCAP Spot Market		Bilateral Transactions	UCAP Sold	UCAP Available
Month	MW	Price	MW	Price	MW	Price			
November '03	2638.2		2708.1		11321.9		21408.8	38077.0	45532.4
December '03	2638.2		2769.5		11373.7		21341.8	38123.2	45570.3
January '04	2638.2		3052.5		11077.2		21386.5	38154.4	45663.3
February '04	2638.2		4644.0		9257.9		21629.3	38169.4	45691.2
March '04	2638.2		4718.6		9863.0		21571.5	38791.3	45701.5
April '04	2638.2		4719.5		10214.9		21380.4	38953.0	45763.0

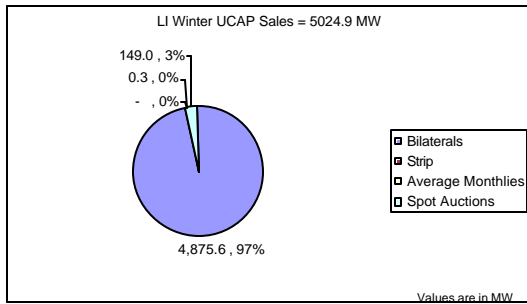
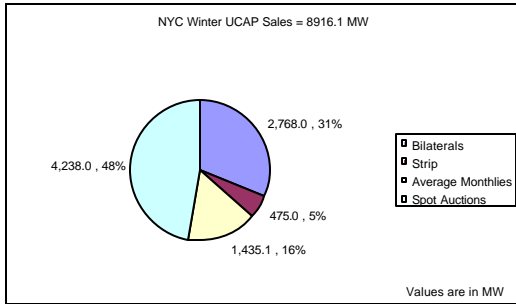
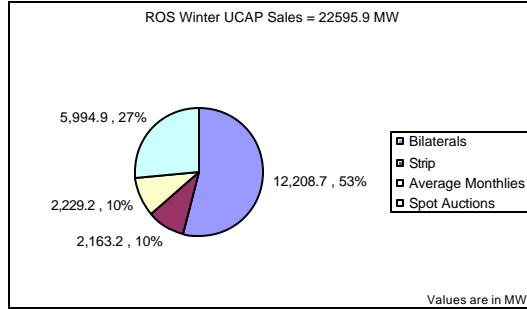
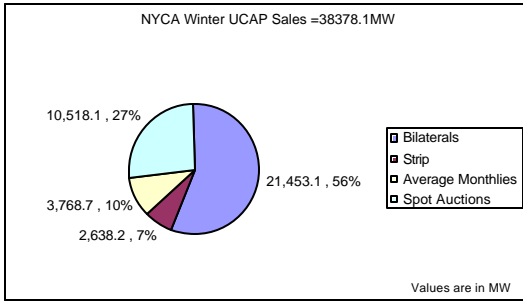
* Capability Period awards are for six-month periods:
November '03 through April '04 NYC = 2850.0 MW, LI = 0.0, ROS = 12,979.2 (In this chart ROS generally includes externals.)

** Capability or strip prices are determined on a kw/capability period basis:
NYC = \$39.30, LI = \$24.00, ROS = \$7.00 the monthly numbers in the table are for convenience.

*** Weighted average price of all of the ICAP sales in the monthly auctions designated for that month.

The winter period MW amounts and prices for the NYCA do not demonstrate an obvious trend across the months. A large jump in monthly sales occurred in the second half of the winter period from approximately 3,000 MW to 4,700 MW was offset by a drop in Spot Market sales. Two-thirds of this increase was attributable to a jump in monthly sales in New York City, with one-third of the increase resulting from Rest of State sales. Bilateral sales showed no trend, while Spot Market Auction sales showed a slight downward shift in New York City.

The following pie charts aggregate the details of monthly MW shown in the Table 3 above.



Approximately 56% of all NYCA UCAP sales take place through bilateral transactions in the winter period, while just over 27% of capacity is sold in the Spot Market Auctions. The remaining 17% is sold in the strip and regular monthly auctions. For the two localities, the allocation among markets is quite different. While the Rest of State results largely track the NYCA, 97% of Long Island UCAP is sold through bilateral transactions, with the remaining 3% sold in the Spot Market Auctions. Bilateral transactions account for 31% of New York City UCAP sales, while the Spot Market Auctions account for 48% of sales. The strip and monthly auctions account for the balance of UCAP transactions; approximately 20% in New York City and the Rest of State, but very nearly zero on Long Island.

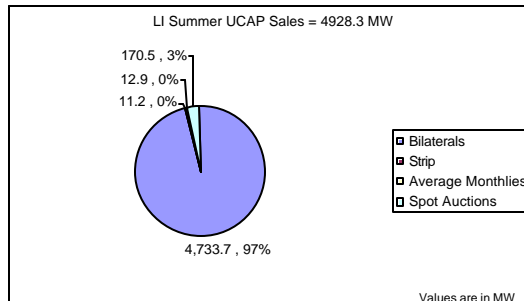
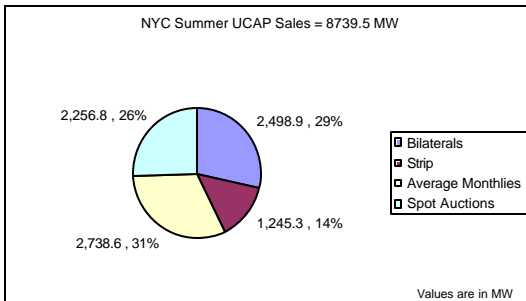
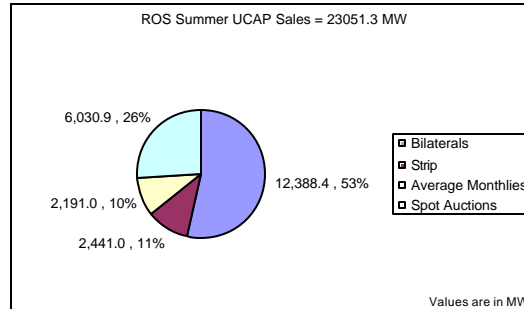
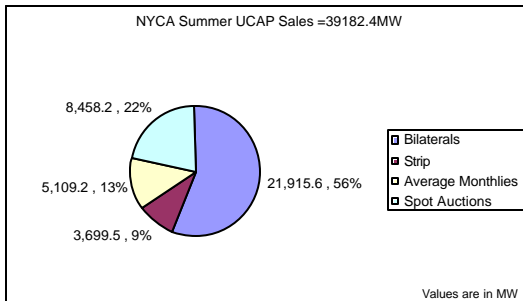
Table 4
UCAP Sales and Prices for the Summer 2004 Capability Period

New York City	Capability Period (Strip)*		Monthly		UCAP Spot Market		Bilateral Transactions		UCAP Sold	UCAP Available
	MW	Price**	MW	Price***	MW	Price	MW	MW	MW	
May '04	1245.3	\$11.15	2022.4	\$11.16	2898.3	\$11.42	2573.1	8,739.1	8,876.3	
June '04	1245.3	\$11.15	2532.8	\$11.29	2391.9	\$11.42	2569.6	8,739.6	8,882.4	
July '04	1245.3	\$11.15	2705.7	\$11.29	2261.3	\$11.42	2527.1	8,739.4	8,897.8	
August '04	1245.3	\$11.15	3126.1	\$11.25	1854.4	\$11.42	2513.4	8,739.2	8,907.4	
September '04	1245.3	\$11.15	3272.4	\$11.25	1798.6	\$11.42	2423.5	8,739.8	8,920.0	
October '04	1245.3	\$11.15	2771.9	\$11.21	2336.3	\$11.42	2386.5	8,740.0	8,924.7	
Long Island	Capability Period (Strip)*		Monthly		UCAP Spot Market		Bilateral Transactions		UCAP Sold	UCAP Available
May '04	11.2	\$8.00	1.6	\$8.00	97.5	\$9.83	4732.6	4,842.9	4,846.1	
June '04	11.2	\$8.00	11.2	\$9.29	90.8	\$9.79	4732.8	4,846.0	4,927.1	
July '04	11.2	\$8.00	15.9	\$8.67	193.4	\$8.42	4734.1	4,954.6	4,965.3	
August '04	11.2	\$8.00	16.4	\$8.05	213.1	\$8.16	4734.0	4,974.7	4,978.9	
September '04	11.2	\$8.00	16.2	\$8.06	214.2	\$8.15	4734.2	4,975.8	4,979.9	
October '04	11.2	\$8.00	16.2	\$8.06	214.2	\$8.15	4734.2	4,975.8	4,979.9	
Rest of State	Capability Period (Strip)*		Monthly		UCAP Spot Market		Bilateral Transactions		UCAP Sold	UCAP Available
May '04	2443.0	\$1,680	2656.4	\$1.65	5893.0	\$1.31	14679.8	25,672.2	30,043.7	
June '04	2443.0	\$1,680	2300.3	\$1.48	5940.7	\$1.27	14802.9	25,486.9	30,046.7	
July '04	2443.0	\$1,680	1923.4	\$1.29	6002.8	\$1.04	15164.8	25,534.0	30,065.6	
August '04	2443.0	\$1,680	2213.2	\$1.15	6116.7	\$1.17	14651.3	25,424.2	30,086.6	
September '04	2443.0	\$1,680	2425.5	\$1.16	6027.1	\$1.07	14614.1	25,509.7	30,089.5	
October '04	2443.0	\$1,680	2627.5	\$1.18	6204.8	\$1.12	14185.5	25,460.8	30,068.4	
NYCA	Capability Period (Strip)*		Monthly		UCAP Spot Market		Bilateral Transactions		UCAP Sold	UCAP Available
May '04	3699.5		4680.4		8888.8		21985.5	39254.2	43766.1	
June '04	3699.5		4844.3		8423.4		22105.3	39072.5	43856.2	
July '04	3699.5		4645.0		8457.5		22426.0	39228.0	43928.7	
August '04	3699.5		5355.7		8184.2		21898.7	39138.1	43972.9	
September '04	3699.5		5714.1		8039.9		21771.8	39225.3	43989.4	
October '04	3699.5		5415.6		8755.3		21306.2	39176.6	43973.0	

* Capability Period awards are for six-month periods:
 May '04 through October '04 NYC = 7471.8 MW, LI = 67.2, ROS = 14658.0 (In this table ROS generally includes externals.)
 ** Capability or strip prices are determined on a kw/capability period basis:
 NYC = \$66.90, LI = \$48.00, ROS = \$10.08, HQ = \$6.00. The monthly numbers in the table are for convenience.
 *** Weighted average price of all of the ICAP sales in the monthly auctions designated for that month.

Summer period NYCA-wide monthly trends are similar to those in the winter. New York City experienced a jump of approximately 400 to 500 MW in monthly sales in the second half of the summer period. The Rest of State saw a similar jump in monthly sales. New York City also experienced a 400 MW decline in Spot Market Auction sales, while the Rest of State Spot Market sales have only slightly increased. Long Island experienced an increase of 120 MW in the second half of the summer period, as compared to the first half, but that change brought Long Island to a Spot Market sales level just above where it had been in the prior winter period.

The following pie charts aggregate the monthly MW detail shown in Table 4 above.



The summer NYCA-wide ratio between Spot Market Auctions and bilateral transactions does not differ significantly from the winter capability period. The Spot Market accounts for 22% of UCAP sales, while bilateral sales comprise almost 56%. Long Island continues the winter pattern, with Spot Market sales at 3% and bilateral sales at 97%. In New York City, UCAP sales are split more evenly among the markets, with bilateral sales making up approximately 29%, Spot Market sales equaling 26%, monthly auction sales accounting for 31%, and six-month strip auction sales equaling approximately 14%.

VI. Conclusions

The ICAP markets provide a variety of opportunities for Load Serving Entities and capacity suppliers to manage their respective and various levels of risk aversion. The lack of evidence of systemic physical or economic withholding should assure Market Participants and the Commission that the outcomes of the ICAP auctions are as fair and competitive as possible in the context of certain locational constraints.

Access to bilateral transactions allows more risk-averse Market Participants, whether Load Serving Entities or capacity suppliers, to manage their risk exposures within tolerable levels. The monthly Spot Market Auctions under the Demand Curves have provided opportunities to sell previously unsold ICAP and fulfill any remaining ICAP obligations at prices that are disciplined by the market. Vigorous strip and monthly auctions in the Rest of State for both capability periods, and for New York City in the summer capability period,

provided opportunities to purchase or sell larger amounts of ICAP at reasonable prices for both purchasers and sellers.

Participation in the strip and monthly capability period auctions and in bilateral arrangements, however, is affected to some extent by the presence of the monthly Spot Market Auction. While future results under the published Demand Curves utilized in the Spot Market Auctions serves to inform buyers of the consequences of not procuring as much of their needs as possible in advance, the Demand Curves also serve to inform sellers of the consequences of waiting until the Spot Market Auction to sell their capacity. The fact that there is very little systemic withholding, and that there is a good mix of UCAP activity at all stages of the process and in all market categories, however, is a good indicator that the signals in the auctions are very clear and are working as intended.

The NYISO has consulted with the independent Market Advisor, Dr. David Patton, and he concurs in the conclusions in this report

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person that has executed a Service Agreement under the NYISO's Open Access Transmission Tariff or Market Administration and Control Area Services Tariff, in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.2010 (20001).

Dated at Washington, D.C. this 1st day of December, 2004.

Gerald R. Deaver
Senior Attorney
New York Independent System Operator, Inc.
290 Washington Avenue Extension
Albany, New York 12203
518-356-7549

BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

New York Independent System Operator, Inc.) Docket No. ER03-647-00_

NOTICE OF FILING

Take notice that on December 1, 2004, the New York Independent System Operator, Inc. (“NYISO”) submitted a second annual report on (i) the implementation of the ICAP Demand Curves, and, (ii) withholding behavior under the ICAP Demand Curves in compliance with the Commission’s previous order in the above-captioned proceeding. The NYISO has served a copy of this filing upon all parties that have executed service agreements under the NYISO’s Open Access Transmission Tariff and Market Administration and Control Area Services Tariff.

Copies of this filing have been served on all parties listed on the official service list in the above-captioned proceeding. The NYISO has also served a copy of this filing to all parties that have executed Service Agreements under the NYISO’s Open-Access Transmission Tariff or Services Tariff, the New York State Public Service Commission, and to the electric utility regulatory agencies in New Jersey and Pennsylvania.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission’s Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the “eFiling” link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the “eLibrary” link and is available for review in the Commission’s Public Reference Room in Washington, D.C. There is an “eSubscription” link on the web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email FERCOnlineSupport@ferc.gov, or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Comment Date: 5:00 pm Eastern Time on (insert date).

Magalie R. Salas
Secretary