



Independent Power Producers of New York, Inc.

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To: Leigh Bullock - NYISO
From: Glenn Haake
Date: May 25, 2001
Re: Balanced Penalty Program; Inclusion of Load

Set forth below is a proposal for including penalties against loads that under-bid in the day-ahead market. The proposal is patterned after the proposed provision that would apply to suppliers:

The NYISO proposes the following financial penalties for loads that are subject to market power mitigation measures. The proposal assumes that the NYISO will be able to implement a FERC approved Automatic Mitigation Procedures ("AMP") by June 15, 2001.

Financial penalties will be imposed when the NYISO mitigates load under its Load Bid Measure. A market participant may seek review of the imposition of a penalty through the NYISO's ADR process. Payment of a penalty amount will not be required until the conclusion of that process, but interest at an appropriate rate will be charged against any unpaid penalty amount beginning on the day of the mitigation.

Financial penalties will increase in severity, with increasing penalties for repeat offenses. Repeat offenses will be determined on the basis of occurrences of substantially similar conduct by a market party or its subsidiaries or affiliates during the current and immediately preceding capability period.

First penalty = (Penalty MW) x (the Penalty LBMP)
Second penalty = (Penalty MW) x (the Penalty LBMP) x 2
Third penalty = (Penalty MW) x (the Penalty LBMP) x 3
Fourth and subsequent penalties = (Penalty MW) x (the Penalty LBMP) x 4

In addition, upon the occurrence of a fourth offense the NYISO will evaluate whether it is appropriate to seek action by the FERC against the penalized entity, and file with FERC seeking an appropriate remedy.

The “Penalty MW” shall be the MW of load withheld from the Day-Ahead market (with an adjustment, if necessary, for the need to purchase from the real-time market due to unexpected system conditions), for which mitigation measures have been determined to be warranted in accordance with the standards specified in the Market Mitigation Measures.

The “Penalty LBMP” shall be the real-time zonal LBMP for the load.