

6. SANCTIONS

The NYISO may impose sanctions on Installed Capacity Suppliers, LSEs, and Transmission Owners for failing to comply with requirements set forth in the *NYISO Services Tariff* and requirements enumerated in this Manual.

Sanctions may be assessed against Installed Capacity Suppliers for actions that fall into the following two categories:

- Failure to provide required information; and
- Failure to comply with bidding, scheduling and notification requirements, and procedures.

An LSE that fails to comply with the ISO's requirement to demonstrate ahead of an Obligation Procurement Period that it has procured sufficient Unforced Capacity to cover its Minimum Unforced Capacity Requirement is penalized through the procedures and financial consequences of the Deficiency Procurement Auction. Please refer to Section 5 of this Manual for details.

A Transmission Owner that fails to provide the information required by Section 5.11.3 of the Service Tariff in a timely fashion is subject to sanctions as described below in section 6.2 of this Manual. The NYISO Services Tariff references are Sections 5.11.3, 5.12.1, 5.12.12, and 5.14.1.

6.1 Supplier Sanctions

6.1.1 Failure to Provide Required Information

Section 4 of this Manual, and the detailed timeline that can be found by selecting the link provided (<http://www.nyiso.com/public/products/icap/index.jsp>), contain detailed descriptions of the types of information that Installed Capacity Suppliers must provide to the NYISO, and the deadlines for receipt of that information.

With the exception of a failure to comply with Subsection 5.12.1(v) of the *NYISO Services Tariff*, the NYISO may take the following actions if an Installed Capacity Supplier fails to provide the required information in a timely fashion:

- On the first day that the required information is late (unless that day falls on a weekend or official New York State holiday, in which case the notification shall be made on the next business day), the NYISO shall notify the Installed Capacity Supplier that the information is past due and that the NYISO 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 NYISO may impose a daily financial sanction up to the higher of \$500 or \$5 per MW of Unforced Capacity that the Installed Capacity Supplier is capable of providing.

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- Starting on the tenth day that the required information is late, the NYISO may impose a daily financial sanction up to the higher of \$1000 or \$10 per MW of Unforced Capacity that the Installed Capacity Supplier is capable of providing.

If an Installed Capacity Supplier fails to provide information required by Subsection 5.12.1(v) of the NYISO Services Tariff in a timely fashion, the NYISO may take the following actions:

- On the first day that the required information is late, the NYISO 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 that first calendar day; and
- Starting on the second calendar day that the required information is late, the NYISO may impose a daily financial sanction up to the higher of \$500 or \$5 per MW of Unforced Capacity that the Installed Capacity Supplier is qualified to supply and/or place the Installed Capacity Supplier in the ICAP Spot Market Auction in order to purchase an amount of Unforced Capacity equal to the amount that Supplier is qualified to sell.

6.1.2 *Failure to Bid, Schedule and Notify the NYISO of Outages*

Section 4.8 of this Manual contains the daily bidding, scheduling, and notification requirements applicable to Installed Capacity Suppliers.

On any day in which the Installed Capacity Supplier, or its designated scheduling entity, fails to comply with these requirements, the NYISO may impose a financial sanction up to the product of a daily deficiency charge and the maximum number of MWs for which the NYISO should have received a bid, schedule, or other notification of operating status.

The deficiency charge may be up to one and one-half times the applicable Market-Clearing Price of Unforced Capacity determined in the ICAP Spot Market Auction for each month in which the Installed Capacity Supplier is determined not to have complied with the foregoing requirements (see also Section 5.12.12(b) of the NYISO Services Tariff).

The NYISO will assess the sanction against the entity that the Installed Capacity Supplier has designated to provide the bids, schedules, and status notification.

6.2 Transmission Owner Sanctions

The *NYISO Load Forecasting Manual*, and the detailed timeline that can be found by selecting the link provided (<http://www.nyiso.com/public/products/icap/index.jsp>), contain detailed descriptions of the types of information that Transmission Owners must provide to the NYISO, and deadlines for receipt of that information.

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If a Transmission Owner fails to provide the required information, the following procedures will be followed:

- On the first day that the required information is late (unless that day falls on a weekend or official New York State holiday, in which case the notification shall be made on the next business day), the NYISO shall notify the Transmission Owner that the information is past due and that the NYISO 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 NYISO may impose a daily financial sanction up to \$5000 per day.
- Starting on the tenth day that the required information is late, the NYISO may impose a daily financial sanction up to \$10,000 per day.

6.3 Procedural Safeguards

If the NYISO staff becomes aware of potentially sanctionable activity by a Market Participant, it shall report the activity to NYISO's Discretionary Acts Committee ("DAC"). The DAC will evaluate the reported activity pursuant to its procedures and, if warranted, shall recommend an appropriate sanction. All DAC decisions shall be made in a reasonable and non-discriminatory manner.

If the DAC recommends a sanction, the NYISO shall send a "Notice of Recommended Sanction" to any Market Participant potentially subject to sanctions pursuant to the DAC procedures. The DAC shall afford Market Participants a reasonable opportunity to demonstrate that its activities are not sanctionable. Market Participants shall also have a reasonable opportunity to bring any mitigating circumstances to the DAC's attention and to explain why the DAC, in the event that it decides to recommend a sanction, should reduce the sanction's severity.

If a Market Participant accepts a sanction recommended by the DAC, the NYISO will automatically impose the sanction. If a Market Participant disagrees with a recommended sanction it may appeal the DAC's decision to the ISO's President and Chief Executive Officer ("CEO"), who must approve all contested sanctions. Market Participants may challenge any sanction approved by the CEO pursuant to the NYISO Dispute Resolution Procedures.