

STATE OF NEW YORK DEPARTMENT OF PUBLIC SERVICE

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June 3, 2005

NYISO Board of Directors
Attention: Ray Stalter

Re: New ICAP Demand Curves – 2005 Gold Book Data Update Issue

Dear NYISO Board of Directors:

On behalf of the Staff of the New York State Department of Public Service (DPS Staff), I would like to thank the NYISO for its hard work and dedication to implementing ICAP Demand Curves for the State. The current dispute as to whether or not to incorporate information from the recently published 2005 Gold Book¹ highlights some of the difficulties in doing so. DPS Staff recommends that the FERC-approved Demand Curves not be adjusted at this time, so that market participants have certainty in the ICAP market and are not subjected to a never-ending process of revisiting the Demand Curve parameters.

The current ICAP Demand Curves for 2005/2006, 2006/2007 and 2007/2008 were approved by FERC on April 21, 2005. FERC's approval was the culmination of a lengthy and contentious stakeholder process that addressed, in detail, the various inputs and underlying factors used to set the Demand Curves. Many parties, the DPS included, considered the NYISO's final Demand Curve proposal to be reasonable, and supported it despite the fact they did not endorse every aspect of Levitan's analysis, Dr. Patton's net revenue analysis, or the NYISO's winter revenue benefit adjustment.

¹ The 2005 Gold Book reports an increased differential between generator capacity available in the winter (due to lower ambient temperatures) as compared to the summer. The differential is just one factor used in developing ICAP Demand Curves for use in the monthly spot auctions.

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We believe it would set a bad precedent to allow market participants to re-visit the stakeholder process for purposes of incorporating the 2005 Gold Book data, which we note was published on April 15, 2005, almost a month after FERC's Technical Conference and only six days before FERC issued its Order approving the Demand Curves.² Not only could market participants be subjected to a never-ending process of revisions as new information becomes available, but they would lack the certainty of there ever being a "final" number. Furthermore, allowing an adjustment that only benefits one sector of market participants would be unfair.

If the Demand Curve decision is re-opened, it would be equitable to allow market participants to challenge all aspects of the curves, at least to the extent new information becomes available. However, it is clear that this approach, while equitable, would cause more harm to the process than good. Most significantly, the rationale for adopting Demand Curves for three-years from the present is so that market participants will have certainty in the ICAP market as it will exist in the future, and can make informed investment decisions accordingly. Revisiting the Demand Curves now will undermine this certainty and lead to just the type of regulatory instability that ICAP critics have often cited. Therefore, we recommend that updates to the Demand Curves await the next stakeholder process, and that suggestions to incorporate 2005 Gold Book data into the already-approved Demand Curves be rejected for the reasons noted herein.

Very truly yours,

/s/

Raj Addepalli,
Manager Staff ISO Team

² Although 2005 Gold Book data was compiled prior to April 15, 2005, it was not widely made known to all market participants, who could have taken negotiation positions in contemplation of the potential changes in data.