

## ARTICLE 5

### CONTROL AREA SERVICES: RIGHTS AND OBLIGATIONS

#### 5.1 Control Area Services

The ISO will provide Control Area Services in accordance with the standards and criteria of NERC and NPCC and the NYSRC Reliability Rules and Good Utility Practice. The Control Area Services provided by the ISO include, but are not limited to, the following:

- (a) Developing and implementing procedures to maintain the reliability of NYS Power System;
- (b) Coordinating operations with other Control Area operators;
- (c) Arranging for reserve sharing agreements with other ISOs and other Control Areas to enhance reliability during abnormal operating conditions;
- (d) Coordinating the outage schedules for generating units within the NYCA to maintain system reliability;
- (e) Committing adequate generation resources to ensure the reliability of the NYS Power System;
- (f) Taking command and control of the NYCA resources during Emergency conditions and coordinating operations with Transmission Owners;
- (g) Maintaining and Operating a central control center and performing the functions of the NERC security control center for the NYCA under Emergency operating conditions;
- (h) Defining the Installed Capacity requirements for LSEs, inclusive of individual customers taking services directly from the ISO, within the NYCA;

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- (i) Determining Locational Installed Capacity requirements for LSEs to ensure the reliable operation of the NYCA;
- (j) Administering of an Installed Capacity Market;
- (k) Training the operating personnel of the ISO and Transmission Owner control rooms; and
- (l) Administering the mandatory NERC reliability compliance process.

### **5.1.1 Interregional Congestion Management Pilot Program**

The following procedures shall govern the redispatch of generation to alleviate transmission congestion on selected pathways on the transmission systems operated by the ISO and PJM Interconnection, L.L.C. (“PJM”) pursuant to an Interregional Congestion Management Pilot Program (“Pilot Program”). The procedures shall be used solely when, in the exercise of Good Utility Practice, the ISO or PJM determines that the redispatch of generation units on the other's transmission system would reduce or eliminate the need to resort to Transmission Loading Relief or other transmission-related emergency procedures.

#### **5.1.1.1 Identification of Transmission Constraints**

- (a) On a periodic basis determined by the ISO and PJM, the ISO and PJM shall identify potential transmission operating constraints that could result in the need to use Transmission Loading Relief or other emergency procedures in order to alleviate the transmission constraints.

- (b) In addition to the identification of such potential transmission operating constraints, the ISO and PJM shall identify generation units on the other's system, the redispatch of which would eliminate the identified transmission constraints.
- (c) From the identified transmission constraints, the ISO and PJM shall agree in writing on the transmission operating constraints and redispatch options that shall be subject to this Section 5.1.1. In reaching such agreement, the ISO shall endeavor reasonably to limit the number of transmission constraints that are subject to this Section 5.1.1 so as to minimize potential cost shifting among Market Participants in the ISO and PJM Control Areas resulting from the redispatch of generation under the Pilot Program. The ISO shall post the transmission operating constraints that are subject to the Pilot Program on its website.

#### **5.1.1.2 Redispatch Procedures**

If (i) a transmission constraint subject to this Section 5.1.1 occurs and continues or reasonably can be expected to continue after the exhaustion of all economic alternatives that are reasonably available to the transmission system on which the constraint occurs and (ii) the ISO or PJM, as applicable, has determined that it must use either Transmission Loading Relief or other emergency procedures, then (iii) the affected entity may request the other to redispatch one

or more of the previously identified generation units to eliminate the transmission constraint.

Upon such request, the ISO or PJM, as applicable, shall redispatch such generation if it is then subject to its dispatch control and such redispatch is consistent with Good Utility Practice.

### **5.1.1.3 Locational Based Based Marginal Price**

In the event that a Generator is redispatched by the ISO in response to a request from PJM under Section 5.1.1 Section, the Generator's bid for the Energy made available by the redispatch shall not be included in the determination of the Locational Based Marginal Price at that Generator's bus.

### **5.1.1.4 Generator Compensation**

Generators that have increased or decreased generation output above or below the level that would otherwise represent the economic dispatch level as a result of a request made pursuant to the Pilot Program (the "MWh Adjustment") shall be compensated, on an interval-by-interval basis, based on the following formulas:

- (a) For a positive MWh Adjustment: Payment to Generator = MWh Adjustment \* (unit offer price - marginal price at the generator bus). In addition the Generator shall be paid any applicable ~~m~~Minimum ~~g~~Generation Bid, ~~s~~Start-up Bid, and Energy Bid price costs not covered by the LBMP revenue for the 24 hour day or not covered by the marginal price, as appropriate.

- (b) For a negative MWh Adjustment: Payment to Generator = MWh Adjustment \*  
(marginal price at the generator bus - unit offer price). In addition the Generator shall be paid any applicable minimum generation, start-up and Energy Bid price costs not covered by the LBMP revenue for the 24 hour day or not covered by the marginal price, as appropriate.
- (c) MWh adjustment payments to Generators pursuant to this subsection shall not be considered LBMP revenue for purposes of calculating minimum generation, start up and Energy bid price guarantees.

**5.1.1.5 Settlements**

- (a) If PJM redispatches generation, the ISO shall include in its monthly accounting and billing a payment to PJM for the costs of such redispatch as determined in accordance with Section 5.1.1.4
- (b) If the ISO redispatches generation under the Pilot Program, then it shall include in its monthly accounting and billing a credit to each redispatched Generator calculated in accordance with Section 5.1.1.4. The ISO shall invoice PJM and PJM shall collect from its market participants and pay to the ISO an amount equal to all such credits to Generators.
- (c) Unless there is a separate Emergency Energy Transaction accompanying a generation adjustment under the Pilot Program there shall be no adjustment in

interchange between the ISO and PJM as a result of redispatch under the Pilot Program. In the event that an Emergency Energy Transaction accompanies a generation adjustment under the Pilot Program, compensation for the Emergency Energy Transaction shall be at the rates for emergency purchases and sales which have been approved by the Commission, as they may be amended from time-to-time.

## **5.2 Independent System Operator Authority**

The ISO will act as the Control Area operator, as defined by NERC, for the NYCA. The ISO will provide all Control Area Services in the NYCA. Control Area Services provided by the ISO will be in accordance with the terms of the ISO Services Tariff, the Reliability Rules, the ISO Related Agreements and Good Utility Practice. The ISO will interact with other Control Area operators as required to effect External Transactions pursuant to this Tariff and to ensure the effective and reliable coordination with the interconnected Control Areas. In acting as the Control Area operator, the ISO will be responsible for maintaining the safety and the short-term reliability of the NYCA and for the implementation of reliability standards promulgated by NERC and NPCC and for the Reliability Rules promulgated by the NYSRC. To be included within NYCA, a Market Participant must meet the requirements of Section 5.6. Each Market Participant that (1) withdraws Energy to supply Load within the NYCA; or (2) provides installed Capacity to an LSE serving Load within the NYCA, benefits from the Control Area Services provided by the ISO and from the reliability achieved as a result of ISO Control Area Services

and therefore must take service as a Customer under the Tariff. To be included within NYCA, a Market Participant must meet the requirements of Section 5.6. A Market Participant that is not included within the NYCA may take service as a Customer under the Tariff, provided that it meets the requirements of Section 5.7.

**B. Suspension of Virtual Transactions**

The ISO may temporarily suspend Virtual Transactions if it determines that:

- 1) The financial exposure of customers engaged in Virtual Transactions cannot be determined with a reasonable degree of accuracy or to factors such as software or system failures;
- 2) a market aberration associated with Virtual Transactions substantially impairs the functioning of the ISO-administered markets; or
- 3) Virtual Transactions substantially impair the ability of the ISO to maintain the reliability of the electric system.

As soon as reasonably practicable, the ISO shall notify the Commission and Market Participants of the reason(s) for any suspension of Virtual Transactions, the action(s) necessary to restore Virtual Transactions, and the estimated time required to restore Virtual Transactions.

### **5.3 Control Center Operation**

The ISO will maintain and operate a control center in order to monitor the power flows on and across the NYCA, coordinate the flow of electricity within the NYCA, respond to Emergency situations, monitor power flows between the NYCA and neighboring Control Areas and maintain reliability.

#### **5.3.1 Back-up Operation**

The ISO shall develop Back-up Operation procedures that will carry out the intent and purposes of the ISO Services Tariff, to the extent practical, in circumstances under which the normal communications and computer systems of the ISO are not fully functional. Such procedures shall include testing requirements and training of the ISO staff, Transmission Owner staff, and Market Participants. If a communication or computer system malfunction results in the ISO's inability to operate the NYCA in accordance with the ISO Procedures or under approved testing procedures, the ISO will direct the Transmission Owners to assume the responsibility to operate their respective systems in accordance with Good Utility Practice to facilitate the operation of the NYCA in a safe and reliable manner ("Back-up Operation"). The Transmission Owners will



continue to operate their respective systems until such time that the ISO is ready to resume control. During Back-up Operation, the Transmission Owner control centers will operate to maintain the Desired Net Interchange (“DNI”) within each Transmission District. Generator Bid curves will be provided by the ISO to the individual Transmission Owners in order to permit dispatch by the Transmission Owners subject to the Transmission Owner Code of Conduct. Normal Day-Ahead Market and Real-Time Market operations may be halted, if required.

### **5.3.2 Market Participant and Transmission Customer Obligations**

During Back-up Operation, Transmission Customers and other Market Participants shall comply with any and all instructions and orders issued by the ISO or the Transmission Owners.

### **5.3.3 Billing and Settlement**

In the event that Back-up Operation is implemented, the billing and Settlement procedures contained in this Tariff shall apply to the extent they can be implemented under the Back-up Operation procedures. The ISO will follow specific billing and Settlement procedures developed by the ISO for use under these circumstances. The ISO shall gather necessary information, manually reconstruct the billing information as soon as practical, and submit invoices to Customers. The ISO shall be under no obligation to

comply with the billing procedure time limits specified in Article 7. Neither the ISO nor the Owners shall be liable, under any circumstances, for any economic losses suffered by any Transmission Customer, other Market Participant, or third party, resulting from the implementation by the ISO of Back-up Operation, or from compliance with orders issued by the ISO or Transmission Owners that were necessary to operate the NYCA in a safe and reliable manner. Such orders may include, without limitation, instructions to Generation facilities to increase or decrease output, and instructions to Load to reduce or interrupt service.

#### **5.4 Operation Under Adverse Conditions**

The ISO shall operate the NYS Power System during Adverse Conditions, including, but not limited to, thunder storms, hurricanes, tornadoes, solar magnetic flares and threat of terrorist activities, in accordance with the Reliability Rules, inclusive of Local Reliability Rules and related PSC orders. Consistent with such Reliability Rules, the ISO shall maintain reliability of the NYS Power System by directing the adjustment of the Generator output levels and controllable transmission devices in certain areas of the system to reduce power flows across transmission lines vulnerable to outages due to these Adverse Conditions, thereby reducing the likelihood of major power system disturbances.

The ISO shall have the sole authority to declare that Adverse Conditions are imminent or present and invoke the appropriate operating procedure(s) affecting the NYS Power System in

response to those conditions. Activation of a procedure in compliance with a Local Reliability Rule shall involve a two (2) step process. The Transmission Owner directly involved with such Local Reliability Rule, such as Storm Watch, shall advise the ISO that Adverse Conditions are imminent or present and recommend to the ISO the activation of procedures in support of that Local Reliability Rule. Consistent with the Local Reliability Rule, the ISO shall declare the activation of the appropriate procedures.

The Transmission Owner and the ISO shall coordinate the implementation of the applicable procedures to the extent that Transmission Facilities Under ISO Operational Control are impacted. Records pertaining to the activation of such procedures and the response in accordance with those procedures shall be maintained and made available upon request.

The Real-Time LBMPs shall be based on adjusted Generator levels set in response to activation of these procedures. Revenue shortfalls may occur if the redispatch of the system Curtails Energy scheduled Day-Ahead and more expensive Energy is dispatched subsequent to the Day-Ahead Settlement. These revenue shortfalls shall be recovered by the ISO through the Rate Schedule 1 charge under the ISO OATT.

## **5.5 Major Emergency State**

In the event of, or in order to prevent, a Major Emergency State, Customers shall comply with all ISO Procedures and Reliability Rules applicable to a Major Emergency State.

## **5.6 Requirements For Inclusion Within The New York Control Area**

To be included within the NYCA a Supplier or a Load must meet the following requirements:

- (a) Its facilities must be included within the NYCA.
- (b) It must accept and comply with NYCA standards with respect to system design, equipment ratings, operating practices and maintenance practices as set forth in the ISO Procedures so that sufficient electrical equipment control capability, information and communication are available to the ISO for planning and operation of the NYCA.
- (c) Its facilities must be able to respond to command and control instructions from the ISO.
- (d) It must have compatible operational communication mechanisms, maintained at its expense, to interact with the ISO and for Internal requirements.
- (e) It must ensure the continued compatibility of its local Energy management system, system monitoring and telecommunications systems to satisfy the technical requirements of interacting with the ISO as the ISO directs the operation of the NYCA.

## **5.7 Requirements For Entities Not Located Within The New York Control Area**

In order for a Supplier or a Load that is not included within the NYCA to take services under the Tariff, it must be contained, in whole or in part, within a separate Control Area that meets all of the requirements for a Control Area defined by NERC, NPCC and any succeeding organizations. An entity that is contained in a Control Area other than the NYCA may take services under the ISO Services Tariff for the purpose of engaging in Control Area to Control Area Capacity and Energy Transactions with the ISO. In order for a Supplier or a Load not contained in the NYCA to take

services under the ISO Services Tariff, an inter-Control Area agreement between the Control Area in which the entity is located and the ISO, that satisfies the reasonable requirements of both Control Area operators, must be in place.

### **5.8 Communication and Metering Requirements for Control Area Services**

The ISO shall arrange for and maintain reliable communications and metering facilities between the ISO and the Transmission Owners in the NYCA and the Control Area operators of all neighboring interconnected Control Areas. Such facilities may consist of data circuits, voice lines, meters and other facilities deemed necessary by the ISO to maintain reliable communication links for the sole purpose of transmitting operations and reliability data and instructions. The ISO shall be responsible for the specification, installation and maintenance of the required facilities according to ISO Procedures. The costs incurred by the ISO to establish communications facilities between the ISO and a Security Coordinators of a neighboring Control Area shall be borne by the Control Area that requested the establishment of the communications facilities unless a different arrangement is agreed to by both Control Areas. The total cost of the communications facilities between the ISO and the Transmission Owners and the portion of the cost of inter-Control Area communication facilities assigned to the ISO shall be collected from all Customers in accordance with Rate Schedule 1 of the ISO Services Tariff. Transmission Owners with communications requirements which exceed those required by the ISO shall

procure and maintain such additional facilities at their own expense.

Generators, Suppliers and Loads are required to exchange certain operating and reliability data with the ISO and the Transmission Owners' Control Centers in accordance with the ISO Agreement and the ISO/TO Agreement, applicable ISO operating and reliability requirements, and in conjunction with any requirements for interconnection with the Transmission Owner.

In addition, Suppliers wishing to ~~participate in real-time dispatch~~ submit Bids in the RTD or in the Regulation Service market must make provision to receive command and control information from the ISO. Those Generators or Suppliers currently providing this capability via a Transmission Owner may continue to do so. Those requiring installation of this capability must contract with the ISO or with the interconnected Transmission Owner and must comply with applicable ISO or Transmission Owner data and other technical requirements.

Suppliers with multiple units at a single location must maintain a consistent representation of the plant with the ISO with respect to aggregation of units for purposes of bidding. If an aggregate Bid is to be provided for a group of units and those units are ~~participating- bidding in real-time dispatch~~ the RTD, or providing Regulation Service, then the ISO shall model those units as a group for purposes of dispatch, control and security modeling. The ISO will provide a single aggregate Base Point Signal and unit control error. If, however, the Supplier wishes to dispatch units individually, then it must configure both its bidding and data interfaces

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accordingly. Each Supplier must initially specify the configuration of the plant for purposes of bidding aggregation and must then maintain bidding and data interfaces consistent with that configuration. Similar modeling, control and bidding Constraints apply to an LSE that bids Load that is ~~D~~dispatchable by the ISO.

### **5.9 Installed Capacity - Implementation of Revised Installed Capacity Market Provisions**

Sections 5.10 through 5.16 of this Tariff, implementing the Installed Capacity market design, shall govern LSE Unforced Capacity Obligations, the qualification of Installed Capacity Suppliers, and the ISO's administration of Installed Capacity auctions.

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### **5.10 NYCA Minimum Installed Capacity Requirement**

The NYCA Minimum Installed Capacity Requirement is derived from the NYCA Installed Reserve Margin, which is established each year by the NYSRC. The NYCA Minimum Installed Capacity Requirement for the Capability Year beginning each May 1 will be established by multiplying the NYCA peak Load forecasted by the ISO by the quantity of one plus the NYCA Installed Reserve Margin. The ISO shall translate the NYCA Installed Reserve Margin, and thus the NYCA Minimum Installed Capacity Requirement, into a NYCA Minimum Unforced Capacity Requirement, in accordance with the ISO Procedures.

The NYCA Minimum Unforced Capacity Requirement represents a minimum level of Unforced Capacity that must be secured by LSEs in the NYCA for each Obligation Procurement Period. Under the provisions of this Services Tariff and the ISO Procedures, each LSE will be obligated to procure its LSE Unforced Capacity Obligation. The LSE Unforced Capacity Obligation will be determined for each Obligation Procurement Period by the ICAP Spot Market Auction, in accordance with ISO Procedures. Qualified Resources will have the opportunity to supply amounts of Unforced Capacity to meet the LSE Unforced Capacity Obligation as established by the ICAP Spot Market Auction.

The ISO will calculate a NYCA peak Load each year by applying regional Load growth factors to the prior calendar year's Adjusted Actual Peak



Load. Regional Load growth factors shall be proposed by the Transmission Owners and reviewed by the ISO pursuant to procedures agreed to by Market Participants and described in the ISO Procedures. Disputes concerning the development of regional Load growth factors shall be resolved through the Expedited Dispute Resolution Procedures set forth in Section 5.16 of this Tariff.

The ISO shall determine the amount of Unforced Capacity that must be sited within the NYCA, and within each Locality, and the amount of Unforced Capacity that may be procured from areas External to the NYCA, in a manner consistent with the Reliability Rules. New Transmission projects to which the NYISO has granted UDRs will not affect the determination by the NYISO of the amount of Unforced Capacity that must be located within the NYCA or within each Locality of the NYCA.

## **5.11 Requirements Applicable to LSEs**

### **5.11.1 Allocation of the NYCA Minimum Unforced Capacity Requirement**

Each Transmission Owner and each municipal electric utility will submit to the ISO, for its review pursuant to mutually agreed upon procedures which shall be described in the ISO Procedures, a weather-adjusted Capability Year peak Load forecast for its Transmission District. The ISO Procedures shall authorize the ISO to approve each Transmission Owner's forecasting methodology. Each Transmission District's peak Load forecast shall assume, as a starting point, the relevant Transmission District's Adjusted Actual Peak Load during the prior calendar year, and shall incorporate regional Load growth factors developed pursuant to Section 5.10 of this Tariff. Each Transmission Owner must also submit aggregate peak Load data, coincident with the

Transmission District peak, for all customers served by each LSE active within its Transmission District. The aggregate peak Load data may be derived from direct meters or Load profiles of the customers served. Each Transmission Owner shall be required to submit such forecasts and aggregate peak Load data in accordance with the ISO Procedures. Each municipal electric utility may choose to submit its peak Load forecast based on the Transmission District's peak Load forecast provided by a Transmission Owner or to provide its own. Any disputes arising out of the submittals required in this paragraph shall be resolved through the Expedited Dispute Resolution Procedures set forth in Section 5.16 of this Tariff.

All aggregate peak Load data submitted by a Transmission Owner must be accompanied by documentation indicating that each affected LSE has been provided the data regarding the assignment of customers to the affected LSE. Any disputes between LSEs and Transmission Owners regarding such data or assignments shall be resolved through the Expedited Dispute Resolution Procedures set forth in Section 5.16 of this Tariff, or the Transmission Owner's retail access procedures, as applicable.

The ISO shall allocate the NYCA Minimum Unforced Capacity Requirement among all LSEs serving Load in the NYCA prior to the beginning of each Capability Year. It shall then adjust the NYCA Minimum Unforced Capacity Requirement and reallocate it among LSEs before each Winter Capability Period as necessary to reflect changes in the factors used to translate ICAP requirements into

Unforced Capacity requirements. Each LSE's share of the NYCA Minimum Unforced Capacity Requirement will equal the product of: (i) the NYCA Minimum Installed Capacity Requirement as translated into a NYCA Minimum Unforced Capacity Requirement; and (ii) the peak Load of that LSE's customers in each Transmission District, coincident with the Transmission District peak, adjusted for applicable regional Load growth, divided by the sum of the forecasted peak Loads located in all

Transmission Districts. Each LSE Unforced Capacity Obligation will equal the product of (i) the ratio of that LSE's share of the NYCA Minimum Unforced Capacity Requirement to the total NYCA Minimum Unforced Capacity Requirement and (ii) the total of all of the LSE Unforced Capacity Obligations for the NYCA established by the ICAP Spot Market Auction. The LSE Unforced Capacity Obligation will be determined in each Obligation Procurement Period by the ICAP Spot Market Auction, in accordance with the ISO Procedures. Each LSE will be responsible for acquiring sufficient Unforced Capacity to satisfy its LSE Unforced Capacity Obligation.

Prior to the beginning of each Capability Period, Transmission Owners shall submit the required Load-shifting information to the ISO and to each LSE affected by the Load-shifting, in accordance with the ISO Procedures. In the event that there is a pending dispute regarding a Transmission Owner's forecast, the ISO shall nevertheless establish each LSE's portion of the NYCA Minimum Unforced Capacity Requirement applicable at the beginning of each Capability Period in accordance with the schedule established in the ISO Procedures, subject to possible adjustments that may be required as a result of resolution of the dispute through the Expedited Dispute Resolution Procedures set forth in Section 5.16 of this Tariff.

Each month, as Transmission Owners report customers gained and lost by LSEs through Load-shifting, the ISO will adjust each LSE's portion of the NYCA Minimum Unforced Capacity Requirement such that (i) the total Transmission District Installed Capacity requirement remains constant and (ii) an individual LSE's allocated portion reflects the gains and losses. If an LSE loses a customer as a result of that customer leaving the Transmission District, the Load-losing LSE shall be relieved

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of its obligation to procure Unforced Capacity to cover the Load associated with the departing customer as of the date that the customer's departure is accepted by the ISO and shall be free to sell any excess Unforced Capacity. In addition, when a customer leaves the Transmission District, the ISO will adjust each LSE's portion of the NYCA Minimum Unforced Capacity Requirement so that the total Transmission District's share of the NYCA Minimum Unforced Capacity -Requirement remains constant.

#### **5.11.2 LSE Obligations**

Each LSE must procure Unforced Capacity in an amount equal to its LSE Unforced Capacity Obligation from any Installed Capacity Supplier through Bilateral Transactions with purchases in ISO-administered Installed Capacity auctions, by self-supply from qualified sources, or by a combination of these methods. Each LSE must certify the amount of Unforced Capacity it has or has obtained prior to the beginning of each Obligation Procurement Period by submitting completed Installed Capacity certification forms to the ISO by the date specified in the ISO Procedures. The Installed Capacity certification forms submitted by the LSEs shall be in the format and include all the information prescribed by the ISO Procedures.

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All LSEs shall participate in the ICAP Spot Market Auction pursuant to Section 5.14.1 of this Tariff.

### **5.11.3 Load-Shifting Adjustments**

The ISO shall account for Load-shifting among LSEs each month using the best available information provided to it and the affected LSEs by the individual Transmission Owners. The ISO shall, upon notice of Load-shifting by a Transmission Owner and verification by the relevant Load-losing LSE, increase the Load-gaining LSE's LSE Unforced Capacity Obligation, as applicable, and decrease the Load-losing LSE's LSE Unforced Capacity Obligation, as applicable, to reflect the Load-shifting.

The Load-gaining LSE shall pay the Load-losing LSE an amount, pro-rated on a daily basis, based on the Market-Clearing Price of Unforced Capacity determined in the most recent previous applicable ICAP Spot Market Auction until the first day of the month after the

nearest following Monthly Installed Capacity Auction is held. The amount paid by a Load-gaining LSE shall reflect any portion of the Load-losing LSE's LSE Unforced Capacity Obligation that is attributable to the shifting Load for the applicable Obligation Procurement Period, in accordance with the ISO Procedures. In addition, the amount paid by a Load-gaining LSE shall be reduced by the Load-losing LSE's share of any rebate associated with the lost Load paid pursuant to Section 5.15 of this Tariff.

Each Transmission Owner shall report to the ISO and to each LSE serving Load in its Transmission District the updated, aggregated LSE Loads with documentation in accordance with and by the date set forth in the ISO Procedures. The ISO shall reallocate a portion of the NYCA Minimum Unforced Capacity Requirement and the Locational Minimum Unforced Capacity Requirement, as applicable, to each LSE for the following Obligation Procurement Period, which shall reflect all documented Load-shifts as of the end of the current Obligation Procurement Period. Any disputes among Market Participants concerning Load-shifting shall be resolved through the Expedited Dispute Resolution Procedures set forth in Section 5.16 of this Tariff, or the Transmission Owner's retail access procedures, as applicable. In the event of a pending dispute concerning a Load-shift, the ISO shall make its Obligation Procurement Period Installed Capacity adjustments as if the Load-shift reported by the Transmission Owners had occurred, or if the dispute pertains to the timing of a Load-shift, as if the Load-shift occurred on the effective date reported by the Transmission Owner, but will retroactively



modify these allocations, as necessary, based on determinations made pursuant to the Expedited Dispute Resolution Procedures set forth in Section 5.16 of this Tariff, or the Transmission Owner's retail access procedures, as applicable.

#### **5.11.4 LSE Locational Minimum Installed Capacity Requirements**

The ISO will determine the Locational Minimum Installed Capacity Requirements, stated as a percentage of the Locality's forecasted Capability Year peak Load and expressed in Unforced Capacity terms, that shall be uniformly applicable to each LSE serving Load within a Locality. In establishing Locational Minimum Installed Capacity Requirements, the ISO will take into account all relevant considerations, including the total NYCA Minimum Installed Capacity Requirement, the NYS Power System transmission Interface Transfer Capability, the Reliability Rules and any other FERC-approved Locational Minimum Installed Capacity Requirements.

The Locational Minimum Unforced Capacity Requirement represents a minimum level Unforced Capacity that must be secured by LSEs in the NYCA Localities for each Obligation Procurement Period. Under the provisions of this Services Tariff and the ISO Procedures, each LSE will be obligated to procure its LSE Unforced Capacity Obligation. The LSE Unforced Capacity Obligation will be determined for each Obligation Procurement Period by the ICAP Spot Market Auction, in accordance with the ISO Procedures.

Qualified Resources will have the opportunity to supply amounts of Unforced Capacity to meet the LSE Unforced Capacity Obligation as established by the ICAP Spot Market Auction.

To be counted towards the locational component of the LSE Unforced eCapacity Obligation, Unforced Capacity owned by the holder of UDRs or contractually combined with UDRs must be deliverable to the NYCA interface with the UDR transmission facility pursuant to NYISO requirements.

Unforced Capacity associated with certain generation

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located in the New York City Locality that is subject to capacity market mitigation measures may not be sold at a price greater than the annual mitigated price cap, except as explicitly provided in Sections 5.13.2, 5.13.3 and 5.14.1 of this Tariff.

In addition, any Customer that purchases Unforced Capacity associated with any generation that is subject to capacity market mitigation measures in an ISO-administered auction may not resell that Unforced Capacity in a subsequent auction at a price greater than the annual mitigated price cap, as applied in accordance with the ISO Procedures in accordance with Sections 5.13.2, 5.13.3, and 5.14.1 of this Tariff. The ISO shall inform Customers that purchase Unforced Capacity in an ISO-administered auction of the amount of Unforced Capacity they have purchased that is subject to capacity market mitigation measures.

The ISO shall have the right to audit all executed Installed Capacity contracts and related documentation of arrangements by an LSE to use its own generation to meet its Locational Minimum Installed Capacity Requirement for an upcoming Obligation Procurement Period.

## **5.12 Requirements Applicable to Installed Capacity Suppliers**

### **5.12.1 Installed Capacity Supplier Qualification Requirements**

In order to qualify as an Installed Capacity Supplier in the NYCA, Energy Limited Resources, Generators, Installed Capacity Marketers, ~~Interruptible Load Resources~~, Intermittent Power Resources, and System Resources rated 1 MW or greater, other than

External System Resources and Control Area System Resources which have agreed to certain Curtailment conditions as set forth in the last paragraph of Section 5.12.1 below, and other than Special Case Resources, existing municipally-owned generation, Energy Limited Resources, and Intermittent Power Resources, to the extent those entities are subject to the requirements of Section 5.12.11 of this Tariff, shall:

- (i) provide information reasonably requested by the ISO including the name and location of Generators, ~~Interruptible Load Resources~~, and System Resources;
- (ii) in accordance with the ISO Procedures, perform DMNC tests and submit the results to the ISO, or provide to the ISO appropriate historical production data;
- (iii) abide by the ISO Generator maintenance coordination procedures;
- (iv) provide the expected return date from any outages (including partial outages) to the ISO;
- (v) in accordance with the ISO Procedures,
  - (a) provide documentation demonstrating that it will not use the same Unforced Capacity for more than one (1) buyer at the same time; and
  - (b) in the event that the Installed Capacity Supplier supplies more Unforced Capacity than it is qualified to supply in any specific month (i.e., is short on Capacity), documentation that it has procured sufficient Unforced Capacity to cover this shortfall.

- (vi) except for Installed Capacity Marketers ~~and Interruptible Load Resources~~, Bid into the Day-Ahead Market, unless the Energy Limited Resource, Generator or System Resource is unable to do so due to an outage as defined in the ISO Procedures or due to temperature related de-ratings. Generators may also enter into the MIS an upper operating limit that would define the operating limit under

normal system conditions. The circumstances under which the ISO will direct a Generator to exceed its upper operating limit are described in the ISO Procedures;

~~(vii) if the resource is an Interruptible Load Resource, it must commit that it will Bid, at the price at which it is willing to be interrupted, in the Day-Ahead Market, for both Energy and Operating Reserves;~~

(viii) provide Operating Data in accordance with Section 5.12.5 of this Tariff;

~~(ixviii)~~ comply with the ISO Procedures;

(ix) when the ISO issues a Supplemental Resource Evaluation request (an SRE), Bid into the in-day market unless the entity has a bid pending in the Hour-Ahead Market when the SRE request is made or is unable to bid in response to the SRE request due to an outage as defined in the ISO Procedures, or due to other operational issues, or due to temperature related deratings; and

(xi) Installed Capacity Suppliers located ~~east of the central-east constraint~~ East of Central-East shall Bid in the Day-Ahead and Real-Time Markets all Capacity available for supplying Spinning Reserves or 10-Minute Non-Synchronizedpinning Reserve (NSR) (unless the Generator is unable to meet its commitment because of an outage as defined in the ISO Procedures), except for the Generators described in subsections (a), (b), (c) and (d) below:

(a) Generators providing Energy under contracts executed and effective on or before November 18, 1999 (including PURPA contracts) in which the power purchasers do not control the operation of the supply source but

would be responsible for penalties for being off-schedule, with the exception of Generators under must-take PURPA contracts executed and effective on or before November 18, 1999, who have not provided telemetering to their local TO and historically have not been eligible to participate in the NYPP market, which will continue to be treated as TO Load modifiers under the ISO-administered markets;

- (b) Existing topping turbine Generators and extraction turbine Generators producing Energy resulting from the supply of steam to the district

steam system located in New York City (LBMP Zone J) in operation on or before November 18, 1999 and/or topping or extraction turbine Generators used in replacing or repowering steam supplies from such units (in accordance with good engineering and economic design) that cannot follow schedules, up to a maximum total of 365 MW of such units;

- (c) Existing Intermittent Power Resources in operation on or before November 18, 1999 within the NYCA, plus up to an additional 500 MW of such Generators; and
- (d) Units that have demonstrated to the ISO that they are subject to environmental, contractual or other legal or physical requirements that would otherwise preclude them from providing 10-Minute NSR.

The ISO shall inform each potential Installed Capacity Supplier that is required to submit DMNC data of its approved DMNC ratings for the Summer Capability Period and the Winter Capability Period in accordance with the ISO Procedures.

Requirements to qualify as Installed Capacity Suppliers for External System Resources and Control Area System Resources located in External Control Areas that have agreed not to Curtail the Energy associated with such Installed Capacity or to afford it the same Curtailment priority that it affords its own Control Area Load shall be established in the ISO Procedures.



### **5.12.2 Additional Provisions Applicable to External Installed Capacity Suppliers**

External Generators, External System Resources, and Control Area System Resources qualify as Installed Capacity Suppliers if they demonstrate to the satisfaction of the NYISO that the Installed Capacity Equivalent of their Unforced Capacity is deliverable to the NYCA or, in the case of an entity using a UDR to meet a Locational Minimum Installed Capacity Requirement, to the NYCA interface associated with that UDR transmission facility and will not be recalled or curtailed by an External Control Area to satisfy its own Control Area Loads, or, in the case of Control Area System Resources, if they demonstrate that the External Control Area will afford the NYCA Load the same curtailment priority that they afford their own Control Area Native Load Customers. The amount of Unforced Capacity that may be supplied by such entities qualifying pursuant to the alternative criteria may be reduced by the ISO, pursuant to ISO Procedures, to reflect the possibility of curtailment. Procedures for qualifying selling, and delivery of External Installed Capacity are detailed in the Installed Capacity Manual. External Installed Capacity associated with Import Rights or UDRs is subject to the same deliverability requirements applied to Internal Installed Capacity Suppliers associated with UDRs.

LSEs with External Installed Capacity as of the effective date of this Tariff will be entitled to designate External Installed Capacity at the same NYCA Interface with another Control Area, in the same amounts in effect on the effective date of this Tariff.

To the extent such External Installed Capacity corresponds to Existing Transmission Capacity for Native Load as reflected in Table 3 of Attachment L to the ISO OATT, these External Installed Capacity rights will continue without term and shall be allocated to the LSE's retail access customers in accordance with the LSE's retail access program on file with the PSC and subject to any necessary filings with the Commission. External

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Installed Capacity rights existing as of September 17, 1999 that do not correspond to Table 3 of Attachment L to the ISO OATT shall survive for the term of the relevant External Installed Capacity contract or until the relevant External Generator is retired.

### **5.12.3 Installed Capacity Supplier Outage Scheduling Requirements**

All Installed Capacity Suppliers, except for ~~Interruptible Load Resources~~, Control Area System Resources, and Special Case Resources, that intend to supply Unforced Capacity to the NYCA shall submit a confidential notification to the ISO of their proposed outage schedules in accordance with the ISO Procedures. Transmission Owners will be notified of these and subsequently revised outage schedules. Based upon a reliability assessment, if Operating Reserve deficiencies are projected to occur in certain weeks for the upcoming calendar year, the ISO will request voluntary re-scheduling of outages. In the case of Generators actually supplying Unforced Capacity to the NYCA, if voluntary re-scheduling is ineffective, the ISO will invoke forced re-scheduling of their outages to ensure that projected Operating Reserves over the upcoming year are adequate.

A Generator that refuses a forced rescheduling of its outages for any unit shall be prevented from supplying Unforced Capacity in the NYCA with that unit during any month where it undertakes such outages. The rescheduling process is described in the ISO Procedures.

A Generator that intends to supply Unforced Capacity in a given month that did not qualify as an Installed Capacity Supplier prior to the beginning of the Capability Period must notify the ISO in accordance with the ISO Procedures so that it may be subject to forced re-scheduling of its proposed outages in order to qualify as an Installed Capacity Supplier. A Supplier that refuses the ISO's forced rescheduling of its proposed outages shall not qualify as an Installed Capacity Supplier for that unit for any month during which it schedules or conducts an outage.

~~Interruptible Load Resources shall notify the ISO in accordance with the ISO Procedures of outages that would reduce their ability to interrupt. Interruptible Load Resources must also submit to the ISO, and, at the ISO's discretion, also submit to the local Transmission Owner, a written commitment that any outages that would reduce their ability to interrupt without reducing their Load by a corresponding amount will only be conducted in accordance with the ISO Procedures.~~

Outage schedules for External System Resources and Control Area System

Resources shall be coordinated by the External Control Area and the ISO in accordance with the ISO Procedures.

**5.12.4 Required Certification That Installed Capacity Has Not Been Resold**

Each Installed Capacity Supplier must submit the appropriate ISO certification forms to the ISO no later than the dates specified in the ISO Procedures demonstrating that the Unforced

Capacity it has certified has not been sold for use in an External Control Area.

### **5.12.5 Operating Data Reporting Requirements**

To qualify as Installed Capacity Suppliers in the NYCA, Resources shall submit to the ISO Operating Data in accordance with this Section 5.12.5 and the ISO Procedures. Resources that do not submit Operating Data in accordance with the following subsections and the ISO Procedures shall be subject to the sanctions provided in Section 5.12.12(a) of this Tariff.

Resources that were not in operation on January 1, 2000 shall submit Operating Data to the ISO no later than one month after such Resources commence commercial operation, and in accordance with the ISO Procedures and the following subsections as applicable.

#### **5.12.5(a) Generators, System Resources, Energy Limited Resources, ~~Interruptible Load Resources~~, and Special Case Resources**

To qualify as Installed Capacity Suppliers in the NYCA, Generators, External Generators, System Resources, External System Resources, Energy Limited Resources, ~~Interruptible Load Resources~~, and Special Case Resources or the purchasers of Unforced Capacity associated with those Resources shall submit GADS Data, data equivalent to GADS Data, or other Operating Data to the ISO each month in accordance with the ISO Procedures. Prior to the successful implementation of a software modification that allows gas turbines to submit multiple bid points, these units shall not be considered to be forced out for any hours that the

unit was available at its base load capability in accordance with the ISO Procedures. This Section shall also apply to any Installed Capacity Supplier, External or Internal, using UDRs to meet Locational Minimum Installed Capacity Requirements.

**5.12.5(b) Control Area System Resources**

To qualify as Installed Capacity Suppliers in the NYCA, Control Area System Resources, or the purchasers of Unforced Capacity associated with those Resources, shall submit CARL Data and actual system failure occurrences data to the ISO each month in accordance with the ISO Procedures.

**5.12.5(c) Intermittent Power Resources and Municipally-Owned Generation**

To qualify as Installed Capacity Suppliers in the NYCA, Intermittent Power Resources, or the purchasers of Unforced Capacity associated with those Resources, and municipally-owned generation shall submit data equivalent to GADS Data or other Operating Data to the ISO each month in accordance with the ISO Procedures.

**5.12.5(d) Transmission Projects Granted Unforced Capacity Deliverability Rights**

An owner of a transmission project that receives UDRs must, among other obligations, submit outage data or other operational information in accordance with the ISO procedures to allow the ISO to determine the number of UDRs associated with the transmission facility.

**5.12.6 Operating Data Default Value and Collection**

**5.12.6(a) Monthly Calculations**

The ISO shall calculate each month for each Resource the amount of Unforced Capacity that each Installed Capacity Supplier is qualified to supply in the NYCA based on a rolling twelve-month calculation, and in accordance with formulae provided in the ISO Procedures.

The amount of Unforced Capacity that each Generator, System Resource, Energy Limited Resource, ~~Interruptible Load Resource~~, Special Case



Resource, and municipally-owned generation is authorized to supply in the NYCA shall be based on the ISO's calculations of individual Equivalent Demand Forced Outage Rates. The amount of Unforced Capacity that each Control Area System Resource is authorized to supply in the NYCA shall be based on the ISO's calculation of each Control Area System Resource's availability. The amount of Unforced Capacity that each Intermittent Power Resource is authorized to supply in the NYCA shall be based on the individual historical Capacity factor adjusted by the ISO to remove the effects of outages.

The ISO shall calculate the Equivalent Demand Forced Outage Rates, Availability rates, and Capacity factors annually and update them monthly using a twelve-month rolling average of Operating Data in accordance with formulae provided in the ISO Procedures. The ISO shall perform separate Summer and Winter Capability Periods Unforced Capacity calculations for each Resource to more accurately reflect seasonal variations in their DMNC ratings.

**5.12.6(b) Default Unforced Capacity**

In its calculation of Unforced Capacity, the ISO shall deem a Resource to be completely forced out for each month for which the Resource has not submitted its Operating Data in accordance with Section 5.12.5 of this Tariff and the ISO Procedures. A Resource that has been deemed completely forced out

for a particular month may submit new Operating Data, for that month, to the ISO at any time. The ISO will use such new Operating Data when calculating, in a timely manner in accordance with the ISO Procedures, a new rolling average for the Resource.

Upon a showing of extraordinary circumstances, the ISO retains the discretion to accept at any time Operating Data which have not been submitted in a timely manner, or which do not fully conform with the ISO Procedures.

**5.12.6(c) Exception for Certain Equipment Failures**

When a Generator, Special Case Resource, Energy Limited Resource, or System Resource is forced into an outage by an equipment failure that involves equipment located on the high voltage side of the electric network beyond the step-up transformer, and including such step-up transformer, the outage will not be counted for purposes of calculating that Resource's Equivalent Demand Forced Outage Rate.

**5.12.7 Availability Requirements**

Subsequent to qualifying, each Installed Capacity Supplier shall, except as noted in Section 5.12.11 of this Tariff, on a daily basis: (i) schedule a Bilateral Transaction; (ii) Bid Energy in each hour of the Day-Ahead Market in accordance with the applicable

provisions of Section 5.12.1 of this Tariff; or (iii) notify the ISO of any outages. The total amount of Energy that an Installed Capacity Supplier schedules, bids, or declares to be unavailable on a given day must equal or exceed the Installed Capacity Equivalent of the Unforced Capacity it supplies.

#### **5.12.8 Unforced Capacity Sales**

Each Installed Capacity Supplier will be authorized to supply an amount of Unforced Capacity during each Obligation Procurement Period, based on separate seasonal Unforced Capacity calculations performed by the ISO for the Summer and Winter Capability Periods. Unforced Capacity may be sold in six-month strips, or in monthly, or multi-monthly segments.

If an Energy Limited Resource's, Generator's, System Resource's or Control Area System Resource's DMNC rating is determined to have increased during an Obligation Procurement Period, pursuant to testing procedures described in the ISO Procedures, the amount of Unforced Capacity that it shall be authorized to supply in that or future Obligation Procurement Periods shall also be increased on a prospective basis in accordance with the schedule set forth in the ISO Procedures.

New Generators and Generators that have increased their Capacity since the previous Summer Capability Period due to changes in their generating equipment may qualify to supply Unforced Capacity on a foregoing basis during the Summer Capability Period based upon a DMNC test that is performed and reported to the ISO after March 1 and prior to the beginning of the Summer Capability Period DMNC Test Period. The Generator will be required to verify the claimed DMNC rating by performing an additional test during the Summer DMNC Test Period. Any shortfall between the

amount of Unforced Capacity supplied by the Generator for the Summer Capability Period and the amount verified during the Summer DMNC Test Period will be subject to deficiency charges pursuant to Section 5.14.2 of this Tariff. The deficiency charges will be applied to no more than the difference between the Generator's previous Summer Capability Period Unforced Capacity and the amount of Unforced Capacity equivalent the Generator supplied for the Summer Capability Period.

New Generators and Generators that have increased their Capacity since the previous Winter Capability Period due to changes in their generating equipment may qualify to supply Unforced Capacity on a foregoing basis during the Winter Capability Period based upon a DMNC test that is performed and reported to the ISO after September 1 and prior to the beginning of the Winter Capability Period DMNC Test Period. The Generator will be required to verify the claimed DMNC rating by performing an additional test during the Winter Capability Period DMNC Test Period. Any shortfall between the amount of Unforced Capacity certified by the Generator for the Winter Capability Period and the amount verified during the Winter Capability Period DMNC Test Period will be subject to deficiency charges pursuant to Section 5.14.2 of this Tariff. The deficiency charges will be applied to no more than the difference between the

Generator's previous Winter Capability Period Unforced Capacity and the amount of Unforced Capacity equivalent the Generator supplied for the Winter Capability Period.

Any Installed Capacity Supplier, except as noted in Section 5.12.11 of this Tariff, which fails on a daily basis to schedule, Bid, or declare to be unavailable in the Day-Ahead Market an amount of Unforced Capacity, expressed in terms of Installed Capacity Equivalent, that it certified for that day, rounded down to the nearest whole MW, is subject to sanctions pursuant to Section 5.12.12(b) of this Tariff. If an entity other than the owner of an Energy Limited Resource, Generator, ~~Interruptible Load Resource~~, System Resource, or Control Area System Resource that is providing Unforced Capacity is responsible for fulfilling bidding, scheduling, and notification requirements, the owner and that entity must designate to the ISO which of them will be responsible for complying with the scheduling, bidding, and notification requirements. The designated bidding and scheduling entity shall be subject to sanctions pursuant to Section 5.12.12(b) of this Tariff.

#### **5.12.9 Sales of Unforced Capacity by System Resources**

Installed Capacity Suppliers offering to supply Unforced Capacity associated with Internal System Resources shall submit for each of their Resources the Operating Data and DMNC testing data or historical data described in Sections 5.12.1 and 5.12.5 of this Tariff in accordance with the ISO Procedures. Such Installed Capacity Suppliers will be allowed to supply the amount of Unforced Capacity that

the ISO determines pursuant to the ISO Procedures to reflect the appropriate Equivalent Demand Forced Outage Rate. Installed Capacity Suppliers offering to sell the Unforced Capacity associated with System Resources may only aggregate Resources in accordance with the ISO Procedures.

**5.12.10 Curtailment of External Transactions In-Hour**

All Unforced Capacity that is not out of service, or scheduled to serve the Internal NYCA Load in the Day-Ahead Market may be scheduled to supply Energy for use in External Transactions provided, however, that such External Transactions shall be subject to Curtailment within the hour, consistent with ISO Procedures. Such Curtailment shall not exceed the Installed Capacity Equivalent committed to the NYCA.

If an Installed Capacity Supplier's Exports are Curtailed in-hour to resolve a New York reserves shortage, the Transmission Customer scheduling such Exports shall be paid, for the remainder of the hour, the higher of the Real-Time LBMP at the New York proxy bus associated with the Exports, or the real-time price at the relevant proxy bus used by the External Control Area for Transactions with New York.

New York Independent System Operator, Inc.  
FERC Electric Tariff  
Original Volume No. 2

First Revised Sheet No. 138A  
Superseding Original Sheet No. 138A

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**5.12.11 Special Case Resources, Municipally-Owned Generation, Energy Limited Resources and Intermittent Power Resources**

**5.12.11 (a) Special Case Resources**

Special Case Resources may qualify as Installed Capacity Suppliers, without having to comply with the daily bidding, scheduling, and notification requirements set forth in Section 5.12.7 of this Tariff, if:

(i) they are available to operate for a minimum of four (4) consecutive hours each day, at the direction of the ISO, except for those subject to operating limitations established by environmental permits, which will not be required to operate in excess of two (2) hours and which will be derated by the ISO pursuant to ISO Procedures to account for the Load serving equivalence of the hours actually available, following notice of the potential need to operate twenty-one (21) hours in advance if notification is provided by 3:00 P.M. ET, or twenty-four (24) hours in advance otherwise, and a notification to operate two (2) hours ahead; and (ii) they were not operated as a Load modifier



coincident with the peak upon which the LSE Unforced Capacity Obligation of the LSE that serves that customer is based, unless that LSE's LSE Unforced Capacity Obligation is adjusted upwards to prevent double-counting.

Special Case Resources supplying Unforced Capacity cannot offer the Demand Reduction associated with such Unforced Capacity in the Emergency Demand Response Program. A Resource with sufficient metering to distinguish MWs of Demand Reduction may participate as a Special Case Resource and in the Emergency Demand Response Program provided that the same MWs are not committed both as Unforced Capacity and to the Emergency Demand Response Program.

The ISO will have discretion, pursuant to ISO Procedures, to exempt distributed Generators that are incapable of starting in two (2) hours from the requirement to operate on two (2) hours notification. Distributed Generators and Loads capable of being interrupted upon demand, that are not available on certain hours or days will be derated by the ISO, pursuant to ISO Procedures, to reflect the Load serving equivalence of the hours they are actually available.

Special Case Resources shall be paid for verified Load reductions in response to an ISO request to perform due to a Forecast Reserve Shortage, in accordance with ISO Procedures. Special Case Resources must submit a Minimum Payment Nomination, in accordance with ISO Procedures. The ISO may request Special Case Resource performance from less than the total number of Special Case Resources within the NYCA or a Load Zone in accordance with ISO Procedures.

Distributed Generators and Loads capable of being interrupted upon demand will be required to comply with verification and validation procedures set forth in the ISO Procedures. Such procedures will not require metering other than interval billing meters on customer Load or testing other than DMNC or sustained disconnect, as appropriate, unless agreed to by the customer, except that Special Case Resources not called to supply Energy in a Capability Period may be required to run a test once every Capability Period in accordance with the ISO Procedures.

Unforced Capacity supplied in a Bilateral Transaction by a Special Case Resource pursuant to this subsection may only be resold if the purchasing

entity or the Installed Capacity Marketer has agreed to comply with the ISO notification requirements for Special Case Resources. LSEs and Installed Capacity Marketers may aggregate Special Case Resources and sell the Unforced Capacity associated with them in an ISO-administered auction if they comply with ISO notification requirements for Special Case Resources.

The ISO shall pay Special Case Resources that cause a verified Load reduction, in response to an ISO request to perform, for such Load reduction. Subject to performance verification, Special Case Resources shall be paid the zonal Real-Time LBMP for the duration of their verified Load reduction or four (4) hours, whichever is greater, in accordance with ISO Procedures. In the event that a Special Case Resource's Minimum Payment Nomination for the number of hours of requested performance or the minimum four (4) hour period, whichever is greater, exceeds the LBMP revenue received, the Special Case Resource will be eligible for a Bid Production Cost Guarantee to make up the difference, in accordance with Section 4.23 of this Services Tariff and ISO Procedures.

Transmission Owners that require assistance from distributed Generators larger than 100 kW and Loads capable of being interrupted upon

demand for Load relief purposes or as a result of a Local Reliability Rule, shall direct their requests for assistance to the ISO for implementation consistent with the terms of this Section.

**5.12.11 (b) Existing Municipally-Owned Generation**

A municipal utility that owns existing generation in excess of its Unforced Capacity requirement, net of NYPA-provided Capacity, may offer the excess Capacity for sale as Installed Capacity provided that it is willing to operate the generation at the ISO's request, and provided that the Energy produced is deliverable to the New York State Power System. Such a municipal utility shall not be required to comply with the requirement of Section 5.12.7 of this Tariff that an Installed Capacity Supplier bid into the Energy market or enter into Bilateral Transactions. Municipal utilities shall, however, be required to submit their typical physical operating parameters, such as their start-up times, to the ISO. This subsection is only applicable to municipally-owned generation in service or under construction as of December 31, 1999.

**5.12.11 (c) Energy Limited Resources**

An Energy Limited Resource may qualify as an Installed Capacity Supplier if it Bids its Installed Capacity Equivalent into the Day-Ahead Market each day and if it is able to provide the Energy equivalent of the Unforced Capacity for at least four (4) hours each day. Energy Limited Resources shall also Bid an Normal Upper Operating Limit or Emergency Upper Operating Limit, as applicable, - upper operating limit, designating their desired operating limits. Energy Limited Resources that are not scheduled in the Day-Ahead Market to operate at a level above their bid-in upper operating limit, may be scheduled Hour Ahead in the RTC, or may be called in Rreal-Time pursuant to a manual intervention by ISO dispatchers (???), who will account for the fact that Energy Limited Resource may not be capable of responding.

**5.12.11(d) Intermittent Power Resources**

Intermittent Power Resources may qualify as Installed Capacity Suppliers, without having to comply with the daily bidding and scheduling requirements set forth in Section 5.12.7 of this Tariff, and may claim up to their Unforced Capacity as Installed Capacity. To qualify as Installed Capacity Suppliers, Intermittent Power Resources shall comply with the notification requirements of Section 5.12.7 of this Tariff. In calculating Unforced Capacity for an Intermittent Power Resource, the historical Capacity factor will be adjusted to remove the effects of outages in accordance with the ISO Procedures.

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**5.12.12 Sanctions Applicable to Installed Capacity Suppliers and Transmission Owners**

Pursuant to this Section, the ISO may impose financial sanctions on Installed Capacity Suppliers and Transmission Owners that fail to comply with certain provisions of this Tariff. The ISO shall notify Installed Capacity Suppliers and Transmission Owners prior to imposing any sanction and shall afford them a reasonable opportunity to demonstrate that they should not be sanctioned and/or to offer mitigating reasons why they should be subject to a lesser sanction. The ISO may impose a sanction lower than the maximum amounts allowed by this Section at its sole discretion. Installed Capacity Suppliers and Transmission Owners may challenge any sanction imposed by the ISO pursuant to the ISO Dispute Resolution Procedures.

Any sanctions collected by the ISO pursuant to this Section will be applied to reduce the Rate Schedule 1 charge under this Tariff.

**5.12.12 (a) Sanctions for Failing to Provide Required Information**

If (i) an Installed Capacity Supplier fails to provide the information required by Subsections 5.12.1(i), (ii), (iii), (iv), or (viii) of this Tariff in a timely fashion, or (ii) a Supplier of Unforced Capacity from External System Resources located in an External Control Area or from a Control Area System Resource that has agreed not to Curtail the Energy associated with such Installed Capacity, or to afford it the same Curtailment priority that it affords its own Control Area Load, fails to provide the information required for certification as an Installed Capacity Supplier established in the ISO Procedures, the ISO may take the following actions: On the first day that required information is late, the ISO 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 the following day. Starting on the third day that the required information is late, the ISO may impose a daily financial sanction of up to the higher of \$500 or \$5 per MW of Installed Capacity that the Generator, ~~Interruptible Load Resource,~~ System Resource, or Control Area System Resource in question is capable of providing. Starting on the tenth day that the required information is late, the ISO may impose a daily financial sanction of up to the higher of \$1000 or \$10 per



MW of Installed Capacity that the Generator, ~~Interruptible Load Resource~~, System Resource, or Control Area System Resource in question is capable of providing.

If an Installed Capacity Supplier fails to provide the information required by Subsection 5.12.1(v) of this Tariff in a timely fashion, the ISO may take the following actions: On the first calendar day that required information is late, the ISO 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. Starting on the second calendar day that the required information is late, the ISO may impose a daily financial sanction up to the higher of \$500 or \$5 per MW of Installed Capacity that the Generator, ~~Interruptible Load Resource~~, System Resource, or Control Area System Resource in question is capable of providing.

If a TO fails to provide the information required by Subsection 5.11.3 of this Tariff in a timely fashion, the ISO may take the following actions: On the first day that required information is late, the ISO shall notify the TO 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 the following day. Starting on the third day that the required information is late, the ISO may impose

a daily financial sanction up to \$5,000 a day. Starting on the tenth day that required information is late, the ISO may impose a daily financial sanction up to \$10,000.

**5.12.12(b) Sanctions for Failing to Comply with Scheduling, Bidding, and Notification Requirements**

On any day in which an Installed Capacity Supplier fails to comply with the scheduling, bidding, or notification requirements of Subsections 5.12.1(vi), (vii), or (x), or with Section 5.12.7 of this Tariff, or in which a Supplier of Installed Capacity from External System Resources or Control Area System Resources located in an External Control Area that has agreed not to Curtail the Energy associated with such Installed Capacity, or to afford it the same Curtailment priority that it affords its own Control Area Load, fails to comply with scheduling, bidding, or notification requirements for certification as an Installed Capacity Supplier established in the ISO Procedures, the ISO may impose a financial sanction up to the product of a deficiency charge, calculated pursuant to the Table in Section 5.14.1 of this Tariff (pro-rated on a daily basis), and the maximum number of MWs that the Installed Capacity Supplier failed to schedule or Bid in any hour in that day provided, however, that no financial sanction shall apply to any Installed Capacity Supplier who demonstrates that the Energy it schedules,

bids, or declares to be unavailable on any day is not less than the Installed Capacity that it supplies for that day rounded down to the nearest whole MW.

In addition, if an Installed Capacity Supplier fails to comply with the scheduling, bidding, or notification requirements of Sections 5.12.1(vi), (vii), or (x), or with Section 5.12.7 of this Tariff, or if an Installed Capacity Supplier of Unforced Capacity from External System Resources or from a Control Area System Resource located in an External Control Area that has agreed not to curtail the Energy associated with such Unforced Capacity, or to afford it the same curtailment priority that it affords its own Control Area Load, fails to comply with the scheduling, bidding, or notification requirements for certification as an Installed Capacity Supplier established in the ISO Procedures during an hour in which the ISO curtails Transactions associated with NYCA Installed Capacity Suppliers, the ISO may impose an additional financial sanction equal to the product of the number of MWs the Installed Capacity Supplier failed to schedule during that hour and the corresponding Real-Time LBMP at the applicable Proxy Generator Bus.

## 5.13 Installed Capacity Auctions

### 5.13.1 General Auction Requirements

The ISO will administer Installed Capacity auctions to accommodate LSEs' and Installed Capacity Suppliers' efforts to enter into Unforced Capacity Transactions and to give LSEs an opportunity to acquire sufficient Unforced Capacity to meet their respective LSE Unforced Capacity Obligations. The ISO shall conduct regular auctions at the times specified in this Section and the ISO Procedures, and may conduct additional auctions as necessary.

Installed Capacity Suppliers, LSEs and Installed Capacity Marketers that are Customers under this Tariff will be allowed to participate in Installed Capacity auctions, provided that they satisfy the creditworthiness requirements set forth in ~~Section 11.0~~ Attachment K of the ISO OATT. Unforced Capacity purchased in Installed Capacity auctions may not be sold for the purposes of meeting Installed Capacity requirements imposed by operators of External Control Areas. Offers to sell and bids to purchase Unforced Capacity shall be made in \$/kW for the time period appropriate to the auction. The ISO shall impose no limits on Bids or offers in any auction, except to the extent required by any applicable capacity market mitigation measures.

Installed Capacity Suppliers that wish to participate in an ISO-administered auction must submit completed certification forms to the ISO in accordance with the ISO procedures,

demonstrating that their Unforced Capacity has not been committed to a Bilateral Transaction.

Unforced Capacity associated with In-City generation that is subject to FERC-approved capacity market mitigation measures is required to be offered for sale in the ICAP Spot Market Auction to the extent that such Unforced Capacity has not sold in prior auctions for the Obligation Procurement Period.

The ISO Procedures shall specify the dates by which the ISO will post the results of Installed Capacity auctions. The ISO Procedures shall ensure that there are at least four business days between the time that auction results from monthly auctions are posted and the dates that LSEs are required to demonstrate the quantity of Unforced Capacity that has been obtained for the upcoming Obligation Procurement Period, pursuant to Section 5.11.2 of this Tariff. LSEs holding Unforced Capacity which they want credited against their LSE Unforced Capacity Obligations must certify such Unforced Capacity when submitting their Installed Capacity certifications.

### **5.13.2 Capability Period Auction**

A Capability Period Auction will be conducted no later than thirty (30) days prior to the start of each Capability Period in which Unforced Capacity will be purchased and sold for the entire duration of the Capability Period. The exact date of the Capability Period Auction shall be established in the ISO Procedures. The Capability Period Auction is intended to facilitate long-term Unforced Capacity transactions between Market Participants.

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The Capability Period Auction will be conducted and solved simultaneously to purchase Unforced Capacity which may be used by an LSE toward all components of its LSE Unforced Capacity Obligation for each Obligation Procurement Period.

Participation shall consist of: (i) LSEs seeking to purchase Unforced Capacity; (ii) any other entity seeking to purchase Unforced Capacity; (iii) qualified Installed Capacity Suppliers; and (iv) any other entity that owns excess Unforced Capacity.

Buyers that are awarded Unforced Capacity shall pay the applicable Market-Clearing Price of Unforced Capacity in the Capability Period Auction. Sellers that are selected to provide Unforced Capacity shall receive the applicable Market-Clearing Price of Unforced Capacity in the Capability Period Auction, except in the case of In-City generation that is subject to capacity market mitigation measures,

which shall receive the lesser of the applicable Market-Clearing Price or the annual mitigated price cap, as applied in accordance with the ISO Procedures. Any entity that resells Unforced Capacity associated with In-City generation that is subject to capacity market mitigation measures shall receive no greater than the annual mitigated price cap, as applied in accordance with the ISO Procedures for that Unforced Capacity. If the Market-Clearing Price exceeds the total amount paid to Installed Capacity Suppliers, the ISO shall rebate the Excess Amount pursuant to Section 5.15 of this Tariff.



In-City generation that is subject to capacity market mitigation measures are restricted from selling Unforced Capacity to entities for use outside the New York City Locality in the Capability Period Auction.

The results of the Capability Period Auction will be made available to Market Participants at the time specified in the ISO Procedures, which shall be prior to the start of the Monthly Auction held prior to the beginning of each Capability Period.

### **5.13.3 Monthly Auctions**

Monthly Auctions will be held during which Unforced Capacity may be purchased and sold for the forthcoming Obligation Procurement Period, and any other month or months remaining in the Capability Period, as specified in the ISO Procedures. The exact dates of each Monthly Auction shall be established in the ISO Procedures. Each Monthly Auction is intended to facilitate Unforced Capacity transactions between Market Participants.

Each Monthly Auction will be conducted and solved simultaneously to purchase Unforced Capacity which may be used by an LSE toward all components of its LSE Unforced Capacity Obligation for each Obligation Period. Participation shall consist of:

- (i) LSEs seeking to purchase Unforced Capacity;
- (ii) any other entity seeking to

purchase Unforced Capacity; (iii) qualified Installed Capacity Suppliers; and (iv) any other entity that owns excess Unforced Capacity.

Buyers that are awarded Unforced Capacity shall pay the applicable Market-Clearing Price of Unforced Capacity in the Monthly Auction. Sellers that are selected to provide Unforced Capacity shall receive the applicable Market-Clearing Price or the annual mitigated price cap, as applied in accordance with the ISO Procedures. Any entity that resells Unforced Capacity associated with In-City generation that is subject to capacity market mitigation measures shall receive no greater than the annual mitigated price cap, as applied in accordance with the ISO Procedures for that Unforced Capacity. If the Market-Clearing Price exceeds the total amount paid to Installed Capacity Suppliers, the ISO shall rebate the Excess Amount pursuant to Section 5.15 of this Tariff. In-City generation that is subject to capacity market mitigation measures are restricted from selling Unforced Capacity to entities for use outside the New York City Locality in the Monthly Auctions.

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The results of each Monthly Auction will be made available to Market Participants in accordance with the ISO Procedures.

#### **5.13.4 Detailed Installed Capacity Auction Description**

Additional detail concerning the ISO's Installed Capacity auction procedures are provided in the ISO Procedures.

### **5.14 Installed Capacity Spot Market Auction, ~~Installed Capacity Supplemental Supply Fees,~~ and Installed Capacity Supplier Deficiencies**

#### **5.14.1 LSE Participation in the ICAP Spot Market Auction**

##### **5.14.1(a) ICAP Spot Market Auction**

When the ISO conducts each ICAP Spot Market Auction it will account for all Unforced Capacity that each NYCA LSE has certified for use in the NYCA to meet their NYCA Minimum Installed Capacity Requirement or Locational Minimum Installed Capacity Requirement, as applicable, whether purchased through Bilateral Transactions or in prior auctions. The ISO shall receive offers of Unforced Capacity that has not previously been purchased through Bilateral Transactions or in prior auctions from qualified Installed Capacity Suppliers for the ICAP Spot Market Auction. The ISO shall also receive offers of Unforced Capacity from any LSE for any amount of Unforced Capacity that LSE has in excess of its NYCA Minimum Unforced Capacity Requirement or Locational Minimum Unforced Capacity Requirement, as applicable.

The ISO shall conduct an ICAP Spot Market Auction to purchase Unforced Capacity which shall be used by an LSE toward all components of its LSE Unforced Capacity Obligation for each Obligation Procurement Period immediately preceding the start of each Obligation Procurement Period. The exact date of the ICAP Spot Market Auction shall be established in the ISO Procedures. All LSEs shall participate in the ICAP Spot Market Auction. In the ICAP Spot Market Auction, the ISO shall submit monthly bids on behalf of all LSEs at a level per MW determined by the ICAP Demand Curves established in accordance with this Tariff and the ISO Procedures. The ICAP Spot Market Auction will set the LSE Unforced Capacity Obligation for each NYCA LSE in accordance with the ISO Procedures.

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The ICAP Spot Market Auction will be conducted and solved simultaneously for Unforced Capacity that may be used by an LSE towards all components of its LSE Unforced Capacity Obligation for that Obligation Procurement Period using the applicable ICAP Demand Curves, as established in accordance with the ISO Procedures. LSEs that are awarded Unforced Capacity in the ICAP Spot Market Auction shall pay to the ISO the Market-Clearing Price of Unforced Capacity determined in the ICAP Spot Market Auction using the applicable ICAP Demand Curve. The ISO shall pay Installed Capacity Suppliers that are selected to provide Unforced Capacity the Market-Clearing Price determined in the ICAP Spot Market Auction using the applicable ICAP Demand Curve, except in the case of Unforced Capacity associated with In-City generation that is subject to capacity market mitigation measures, which shall receive no greater than the annual mitigated price cap. The In-City capacity bid and price caps applicable to certain In-City generation will be applied monthly in accordance with the ISO Procedures to account for differences between the amount of Unforced Capacity provided during the Summer Capability Period and the Winter Capability Period such that owners of In-City generation that is subject to capacity market mitigation measures shall have an opportunity to receive the

annual mitigated price cap. Any entity that resells Unforced Capacity associated with In-City generation that is subject to capacity market mitigation measures shall receive no greater than the annual mitigated price cap, as applied in accordance with the ISO Procedures for that Unforced Capacity. If the Market-Clearing Price exceeds the total amount paid to Installed Capacity Suppliers, the ISO shall rebate the Excess Amount pursuant to Section 5.15 of this Tariff. In-City generation that is subject to capacity market mitigation measures may be sold to meet NYCA LSE Unforced Capacity Obligations in the ICAP Spot Market Auction, provided the New York City Locational Unforced Capacity Requirement has been met.

**5.14.1(b) Demand Curve and Adjustments**

Three ICAP Demand Curves will be established: one to determine the locational component of LSE Unforced Capacity Obligations for each of the two Localities, and one to determine the total LSE Unforced Capacity Obligations for all LSEs. The ICAP Demand Curves will be phase in over three Capability Years, beginning in 2003. In the first two years, the ICAP Demand Curves shall be established at the following points:

	<b>Year 1</b> <b>(Ends April 30, 2004)</b>	<b>Year 2</b> <b>(Begins May 1, 2004)</b>
	<b>\$/kw-year of ICAP</b>	
<b>Total</b>	\$56.24 @ 100%	\$67.49 @ 100%
	\$0.00 @ 112%	\$0.00 @ 112%
<b>LI</b>	\$104.37 @ 100%	\$123.94 @ 100%
	\$0.00 @ 118%	\$0.00 @ 118%
<b>NYC</b>	\$127.89 @ 100%	\$151.14 @ 100%
	\$0.00 @ 118%	\$0.00 @ 118%

NOTE: All percentages are in terms of the applicable NYCA Minimum Installed Capacity Requirement and Locational Minimum Installed Capacity Requirement.

In the third year, the costs assigned to the NYCA Minimum Installed Capacity Requirement and the Locational Minimum Installed Capacity Requirement by the ICAP Demand Curves will be defined by the results of the independent review conducted

pursuant to this Section. These dollar figures will be translated each year to dollars per kilowatt-year of Unforced Capacity in accordance with the ISO Procedures. The respective point at which each Demand Curve crosses zero, expressed in terms of the NYCA Minimum Installed Capacity Requirement or the Locational Minimum Installed Capacity Requirement, as applicable, will be fixed through the third year.

Except as provided in the previous paragraph, a periodic independent review of the ICAP Demand Curves will be performed every three (3) years in accordance with the ISO Procedures to determine whether the parameters of the ICAP Demand Curves should be adjusted. Among other criteria, the review will determine the current localized levelized embedded cost of gas turbines in each NYCA Locality and the Rest of State and associated Energy and Ancillary Services revenues. Each periodic independent review, which will include stakeholder input in accordance with the ISO Procedures, will be completed by November 1 of the applicable Capability Year, except the first periodic independent review, which will be concluded by December 31, 2004. The first periodic review will be initiated immediately following the Summer 2003 Capability Period, and the recommendations will be received not later than December 31, 2004 in time to determine the ICAP Demand Curves to be applied for the Summer 2005 Capability Period in accordance with the ISO Procedures.

Upon FERC approval, the ICAP Demand Curves will be adjusted by the ISO to render them consistent with the results of the review process in accordance with the ISO Procedures; provided that nothing in this Tariff shall be construed to limit the ability of the ISO or its Market Participants to propose and adopt alternative provisions to this Tariff through established governance procedures.

**5.14.1(c) Supplemental Supply Fee Deficiency Charges**

~~If Any~~ LSE ~~that~~ has not met its share of the NYCA Minimum Installed Capacity Requirement or its share of the Locational Minimum Installed Capacity Requirement after the completion of an ICAP Spot Market Auction, ~~shall be assessed a supplemental supply fee based on the localized levelized embedded cost of a gas turbine, as set forth in the Table below, multiplied by one and one half (1.5), divided by twelve (12), and multiplied by the number of MWs the LSE needs to meet its share of the NYCA Minimum Installed Capacity Requirement or its share of the Locational Minimum Installed Capacity Requirement.~~

~~The ISO will attempt to use these supplemental supply fees~~

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to procure Unforced Capacity at the lowest available price from Installed Capacity Suppliers that are capable of supplying Unforced Capacity including: (1) Installed Capacity Suppliers that were not qualified to supply ~~e~~Capacity prior to the ICAP Spot Market Auction; (2) Installed Capacity Suppliers that offered Unforced Capacity at levels above the ICAP Spot Market Auction Market-Clearing Price; and (3) Installed Capacity suppliers that did not offer Unforced Capacity in the ICAP Spot Market Auction. In the event that different Installed Capacity Suppliers offer the same price, the ISO will give preference to Installed Capacity Suppliers that were not qualified to supply capacity prior to the ICAP Spot Market Auction.

Offers from Installed Capacity Suppliers are subject to review pursuant to the NYISO Market Monitoring Plan-Market Mitigation Measures (Attachment H to the Services Tariff). Installed Capacity Suppliers selected by the ISO to provide capacity after the ICAP Spot Market Auction will be paid a negotiated price, subject to the standards, procedures and remedies in the NYISO Market Monitoring Plan-Market Mitigation Measures.

~~The ISO will not pay an Installed Capacity Supplier, more than the applicable supplemental supply fee per MW of Unforced Capacity, or, in the case of In-City generation that is subject to capacity market mitigation measures, the annual mitigated~~

~~price cap per MW of Unforced Capacity, whichever is less, pro-rated to reflect the portion of the Obligation Procurement Period for which the Installed Capacity Supplier provides Unforced Capacity.~~ Any remaining monies collected by the ISO pursuant to this section will be applied to reduce the Schedule 1 charge.

Beginning May 21, 2003, the following localized levelized embedded cost of gas turbines in the New York City Locality, the Long Island Locality, and Rest of State, respectively, times one and one-half (1.5) and adjusted in accordance with the ISO Procedures will be used to set the ~~supplemental supply fees and~~ deficiency charge in the New York City Locality, the Long Island Locality, or elsewhere in the NYCA, respectively:

In-City New York City (LBMP Load Zone J)	\$159/kW of Installed Capacity per Capability Year
Long Island (LBMP Load Zone K)	\$139/kW of Installed Capacity per Capability Year
All Other LBMP Load (All other LBMP Load Zones in the NYCA)	\$85/kW of Installed Capacity per Capability Year

NOTE: These dollar figures will be translated each year to dollars per kilowatt-year of Unforced Capacity in accordance with the ISO Procedures.

#### **5.14.2 Installed Capacity Supplier Shortfalls and Deficiency Payments**

In the event that the amount of Unforced Capacity that an Installed Capacity Supplier certifies in a given month is determined to have been more than the amount that the Installed Capacity Supplier is authorized to supply for that month, the ISO shall prospectively purchase Unforced Capacity on behalf of that Installed Capacity



Supplier in the amount of the shortfall in the appropriate ICAP Spot Market Auction or through post ICAP Spot Market Auction Unforced Capacity purchases.

In the event that an Installed Capacity Supplier sells in the Capability Period or Monthly Auctions more Unforced Capacity than it is qualified to sell in any specific month due to a de-rating or other cause, the Installed Capacity Supplier shall be deemed to have a shortfall for that month. To cover this shortfall, the Installed Capacity Supplier shall purchase sufficient Unforced Capacity in the relevant Monthly Auction or through Bilateral Transactions, and certify to the ISO consistent with the ISO Procedures that it has covered such shortfall. If the Installed Capacity Supplier does not cover such shortfall or if it does not certify to the ISO in a timely manner, the ISO shall prospectively purchase Unforced Capacity on behalf of that Installed Capacity Supplier in the appropriate ICAP Spot Market Auction or through post ICAP Spot Market Auction Unforced Capacity purchases to cover the shortfall.

In the event that an External Installed Capacity Supplier fails to deliver to the NYCA the Energy associated with the Unforced Capacity it committed to the NYCA due to a failure to obtain appropriate transmission service or rights, the External Installed Capacity Supplier shall be deemed to have a shortfall from the last time the External

Installed Capacity Supplier “demonstrated” delivery of its Installed Capacity Equivalent (“ICE”), or any part thereof, until it next delivers its ICE or the end of the term for which it certified the applicable block of Unforced Capacity, whichever occurs first, subject to the limitation that any prior lack of demonstrated delivery will not precede the beginning of the period for which the Unforced Capacity was certified. An External Installed Capacity Supplier deemed to have a shortfall shall be required to pay to the ISO a deficiency charge as set forth in Section 5.14.1(c) of this Services Tariff, prorated for the number of hours in the month that External Installed Capacity Supplier is deemed to have a shortfall (i.e.,  $((\text{deficiency charge} \div 12 \text{ months}) \div \text{total number of hours in month when shortfall occurred}) * \text{number of hours the shortfall lasted}) * \text{numbers of MWs of shortfall}$ ).

The ISO shall submit a Bid, calculated pursuant to Section 5.14.1 of this Tariff, in the appropriate ICAP Spot Market Auction on behalf of an Installed Capacity Supplier deemed to have a shortfall as if it were an LSE. Such Installed Capacity Supplier shall be required to pay to the ISO the applicable Market-Clearing Price of Unforced Capacity established in that

ICAP Spot Market Auction. ~~In the event that the ICAP Spot Market Auction clears below the NYCA Minimum Installed Capacity Requirement or the Locational Minimum Installed Capacity Requirement, whichever is applicable to the Installed Capacity Supplier, the Installed Capacity Supplier shall be assessed the applicable deficiency charge based on the localized levelized embedded cost of a gas turbine, as set forth in the Table above, multiplied by one and one half (1.5), divided by twelve (12), times the amount of its shortfall.~~

If an Installed Capacity Supplier is found, at any point during a Capability Period, to have had a shortfall for that Capability Period, *e.g.*, when the amount of Unforced Capacity that it supplies is found to be less than the amount it was committed to supply,

the Installed Capacity Supplier shall be retrospectively liable to pay the ISO the monthly deficiency charge, calculated pursuant to Section 5.14.1 and 5.14.2 of this Tariff.

Any remaining monies collected by the ISO pursuant to Section 5.14.1 and 5.14.2 will be applied as specified in Section 5.14.3.

**5.14.3 Application of ~~Supplemental Supply Fees and~~ Installed Capacity Supplier Deficiency Charges**

Any remaining monies collected by the ISO through ~~supplemental supply fees or~~ Installed Capacity Supplier deficiency charges pursuant to Section 5.14.1 but not used to procure Unforced Capacity on behalf of LSEs or Installed Capacity suppliers deemed to have a shortfall shall be applied as provided in this Section 5.14.3.

**5.14.3(a) General Application of Deficiency Charges**

Except as provided in Section 5.14.3(b), remaining monies will be applied to reduce the Rate Schedule 1 charge in the following month.

**5.14.3(b) Locational Minimum Installed Capacity Rebates**

(i) New York City

If an Unforced Capacity shortfall exists during the first month of a Capability Period, the ISO shall rebate, calculated on a monthly basis and to be paid at the beginning of the month, any remaining unspent deficiency charges ~~or supplemental supply fees~~ collected for that month for the New York City Locality. The rebate calculated for the Locality shall be allocated among all LSEs in that Locality in proportion to their share of the applicable Locational Minimum Installed Capacity Requirement. Rebates shall include interest accrued between the time payments were collected and the time that rebates are paid.

If during the second through the sixth months of a Capability Period, an Unforced Capacity shortfall exists in the New York City Locality, the ISO shall rebate, calculated on a monthly basis and to be paid at the beginning of each month, any remaining unspent deficiency charges ~~or supplemental supply fees~~ collected for that month for the New York City Locality to Load-gaining LSEs. The rebate shall be such that the price paid for such Unforced Capacity is

no lower than the weighted average aggregate purchase price paid for those months in the Capability Period auction, the first Monthly Auction, the first ICAP Spot Market Auction and any deficiency charges collected. Rebates shall include interest accrued between the time payments were collected and the time that rebates are paid. To the extent there is money left over after such rebates, it shall be allocated among all LSEs in that Locality in proportion to their share of the applicable Locational Minimum Installed Capacity Requirement.

The temporary rebates described in this Section 5.14.3(b)(i) shall terminate when an Unforced Capacity surplus is forecasted at the beginning of each of two consecutive Summer Capability Periods in the New York City Locality. To the extent there is money left over after such rebates, it shall be distributed in accordance with Section 5.15.

(ii) Long Island

If an Unforced Capacity shortfall exists during any month of a Capability Period in the Long Island Locality, the ISO shall rebate, calculated on a monthly basis and to be paid at the beginning of each month, any remaining unspent deficiency charges collected for that month for the Locality. The rebate calculated for the Locality shall be allocated among all LSEs in that Locality in proportion to their share of the applicable Location Installed

Capacity Requirement. Rebates shall include interest accrued between the time payments were collected and the time that rebates are paid. The temporary rebates described in this Section 5.14.3(b)(ii) shall terminate when an Unforced Capacity surplus is forecasted at the beginning of each of two consecutive Summer Capability Periods in the Long Island Locality. To the extent there is money left over after such rebates, it shall be distributed in accordance with Section 5.15.

#### **5.15 Payment and Allocation of Installed Capacity Auction Rebates**

The ISO shall rebate to all LSEs, except NYPA, with Locational Minimum Installed Capacity Requirements in the New York City Locality any Excess Amount that remains after the completion of an auction. Such rebates shall be allocated among all New York City LSEs, except NYPA, in proportion to their share of

the Locational New York City Installed Capacity Requirement, regardless of whether they actually took part in the first phase of the strip or monthly auctions. The ISO shall allocate such rebates among In-City LSEs except NYPA on a monthly basis. NYPA will not share in any rebates under this Section. Rebates shall include interest accrued between the time they were collected and the time that they are paid.

## **5.16 Expedited Dispute Resolution Procedures**

### **5.16.1 Five-Day Consultation Period**

Parties to a dispute involving a matter that is subject to the procedures of this Section must immediately confer and attempt to resolve the dispute on an informal basis. If the parties are unable to resolve the dispute within five (5) calendar days by mutual agreement, the dispute shall be immediately submitted to the ISO's Dispute Resolution Administrator ("DRA").

### **5.16.2 Written Submissions**

Immediately upon conclusion of the five-day consultation period, the party requesting the dispute resolution shall submit to the DRA and all other parties to the dispute, a concise written statement specifying that expedited dispute resolution under this Section is requested and describing the nature of the dispute, the issues to be resolved and the specific award requested. The party opposing the requested relief shall then have five (5) calendar days to submit to the DRA and the party requesting the dispute



resolution, a concise written response which shall include a proposed disposition of the dispute.

### **5.16.3 Appointment of the Arbitrator**

The DRA shall keep at all times a list of ten (10) qualified arbitrators for matters which may be subject to the procedures of this Section. Within five (5) calendar days of receipt of a request for dispute resolution under this Section, the DRA shall appoint one arbitrator from that list to preside over the dispute. The arbitrator shall be selected by the DRA by randomly drawing names from the list until an available arbitrator is found. If none of the arbitrators on the list is available, the DRA shall appoint a qualified arbitrator to preside over the dispute. No person shall be eligible to act as an arbitrator who is a past or present officer, employee of, or consultant to any of the disputing parties, or of an entity related to or affiliated with any of the disputing parties, or is otherwise interested in the matter to be arbitrated except upon the express written consent of the parties. Any individual appointed as an arbitrator shall make known to the disputing parties any such disqualifying relationship or interest and a new arbitrator shall be appointed by the DRA, unless express written consent is provided by each party.

### **5.16.4 Arbitration Proceeding**

There shall be no right to discovery between the parties, including, but not limited to, depositions, interrogatories or other information requests. The arbitrator may request,

and the parties shall produce, any information in addition to the written statements that is deemed by the arbitrator to be relevant to the issues presented. The arbitrator shall resolve the arbitration matter solely on the basis of the written statements and evidence submitted by the parties unless, in the sole discretion of the arbitrator, a hearing is deemed necessary. Any such hearing shall be limited to one (1) day and conducted in accordance with the procedures determined by the arbitrator. Absent agreement to the contrary by all parties to the dispute, no person or entity shall be permitted to intervene. Except as otherwise set forth in this Section, the arbitrator will follow the Commercial Arbitration Rules of the American Arbitration Association and the expedited procedures contained therein.

#### **5.16.5 Arbitration Award**

Within fifteen (15) calendar days of the appointment of the arbitrator, the arbitrator shall select as an arbitration award the award proposed by one of the parties in their written submission (except that, in disputes concerning the development of regional Load growth factors pursuant to Section 5.10 of this Tariff, the arbitration award shall be either the forecast developed by the Transmission Owner or by the ISO) and shall render a concise written decision including findings of fact and the basis for the decision. All costs associated with the time, expenses, and other charges of the arbitrator shall be borne

by the unsuccessful party. Each party shall bear its own costs, including attorney and expert fees, if any. No award shall be deemed to be precedential in any other arbitration related to a different dispute.

**5.16.6 Limited Appeal**

The decision of the arbitrator shall be final and binding upon the parties, except that, within one year of the arbitration decision, a party may request that any federal, state regulatory or judicial authority (in the State of New York) having jurisdiction take such action as may be appropriate with respect to any arbitration decision that is based on fraudulent conduct or demonstrable bias of the arbitrator.

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