

Proposed NYISO Services Tariff
Stage 2 Tariff on an Installed Capacity Market Design

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Changes are not marked.

ARTICLE 2

DEFINITIONS

[. . .]

2.17 Capability Period

Seasonal periods which are established as follows: (i) from June 1 through September 30 of each year (“Summer Capability Period”); and (ii) from October 1 of each year through May 31 of the following year (“Winter Capability Period”). For the 2003-3004 Capability Year the Summer Capability Period will run from May 1 through September 30 and the Winter Capability Period will run from October 1 through May 31.

[. . .]

2.17b Capability Year

A Summer Capability Period, followed by a Winter Capability Period (*i.e.*, June 1 through May 31). The 2003-2004 Capability year will run from May 1, 2003 through May 31, 2004.

[. . .]

2.38a [NOT USED]

2.38a1 Demand Curve

A series of prices, based on the cost of a GT at the Installed Capacity Requirement level for each Locality or Rest of State and the value of additional Unforced Capacity in each Locality or the Rest of State, representing LSE bids for Unforced Capacity submitted by the ISO in the Spot Market Auction immediately preceding each Obligation Procurement Period.

[. . .]

2.160c Rest of State

The set of all non-Locality NYCA LBMP Load Zones. As of the 2002-2003 Capability Year, Rest of State includes all NYCA LBMP Load Zones other than LBMP Load Zones J and K.

[. . .]

2.172b1 Spot Market Auction

An auction conducted pursuant to Section 5.14.1(a) of this Tariff to procure additional Unforced Capacity to cover, at a minimum, each NYCA LSEs Unforced Capacity requirement for an Obligation Procurement Period. The ISO will place all NYCA LSEs into the Spot Market Auction at a bid determined by a Demand Curve.

[. . .]

ARTICLE 5

CONTROL AREA SERVICES: RIGHTS AND OBLIGATIONS

[. . .]

5.9 Installed Capacity - Implementation of Revised Installed Capacity Market Provisions

Beginning with the 2001-2002 Winter Capability Period, Sections 5.10 through 5.16 of this Tariff, implementing a revised Installed Capacity market design, shall govern the Unforced Capacity requirements of LSEs, the qualification of Installed Capacity Suppliers, and the ISO's administration of Installed Capacity auctions. If, however, it is impossible to implement the revised Installed Capacity provisions in time for the 2001-2002 Winter Capability Period because they are not accepted by the Commission in time to implement the provisions, including resolution of the translation of the price cap for In-City mitigated units, or technical problems make timely implementation possible, the then effective Sections 5.9 through 5.16 of this Tariff, which implement the transitional Installed Capacity market design, shall continue in effect until such time as it is possible to implement this revised Installed Capacity market design.

5.10 NYCA Installed Capacity Requirement

The NYCA Installed Capacity Requirement is derived from the NYCA Installed Reserve Margin, which is established each year by the NYSRC. The NYCA Installed Capacity Requirement for the Capability Year beginning May 1 for the 2003-2004 Capability Year, and beginning June 1 for each Capability Year thereafter, will be established by multiplying the NYCA peak Load forecasted by the ISO by the quantity of one plus the NYCA Installed Reserve Margin. Beginning with the 2001-2002 Winter Capability Period, the ISO shall translate the NYCA Installed Reserve Margin, and thus the NYCA Installed Capacity Requirement, into a NYCA Unforced Capacity Requirement, in accordance with the ISO Procedures.

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The NYCA Unforced Capacity Requirement represents a minimum level of Unforced Capacity that must be secured by LSEs in the NYCA. Qualified Resources will have the opportunity to supply amounts of Unforced Capacity above the NYCA Unforced Capacity Requirement. Under the provisions of this Services Tariff and the ISO Procedures, LSEs may be obligated to purchase Unforced Capacity at levels above the NYCA Unforced Capacity Requirement, thereby increasing the reliability of the NYS Power System.

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 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 Installed Capacity Requirement to LSEs

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

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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 Installed Capacity Requirement among all LSEs serving Load in the NYCA prior to the beginning of each Capability Year. Each

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LSE's Unforced Capacity requirement will equal the product of: (i) the NYCA Installed Capacity Requirement as translated into a NYCA 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's Unforced Capacity requirement represents a minimum level of Unforced Capacity that must be secured by that LSE.

Prior to the beginning of each Capability Year, the ISO shall calculate a preliminary Unforced Capacity requirement estimate for each LSE, reflecting documented Load-shifting adjustments; provide it to each LSE; and notify each LSE of its final Unforced Capacity requirement applicable at the beginning of the Capability Year, all in accordance with the ISO Procedures. 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 final Unforced Capacity requirement 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 the requirement for each LSE such that (i) the total Transmission District Installed Capacity requirement remains constant and (ii) an individual LSE's requirement reflects the gains and losses. If an LSE loses a

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customer as a result of that customer leaving the Transmission District, the Load-losing LSE shall be relieved 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 Unforced Capacity requirement so that the total Transmission District's share of the NYCA Unforced Capacity Requirement remains constant.

5.11.2 LSE Obligations

Each LSE must self-supply or procure Unforced Capacity in an amount equal to, or greater than, its Unforced Capacity requirement from any qualified Installed Capacity Supplier through Bilateral Transactions and/or purchases in ISO-administered Installed Capacity auctions. Each LSE must indicate the amount of Unforced Capacity it has obtained prior to the beginning of each Obligation Procurement Period. To satisfy this requirement, each LSE must submit completed Installed Capacity certification forms to the ISO by the date specified in the ISO Procedures listing all Unforced Capacity it holds, including any amount in excess of the minimum amount designated as its Unforced Capacity requirement. The Installed Capacity certification forms submitted by the LSEs shall be in the format and include all the information prescribed by the ISO Procedures.

All LSEs, including those that fail to timely satisfy their Unforced Capacity requirement, or that fail to make timely submissions of the required Installed Capacity certification forms, shall be required to participate in the Spot Market Auction pursuant to Section 5.14.1 of this Tariff.

5.11.3 Load-Shifting Adjustments

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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 Unforced Capacity requirement and decrease the Load-losing LSE's Unforced Capacity requirement to reflect the Load-shifting. The Load-gaining LSE shall pay the Load-losing LSE a portion pro-rated on a daily basis of the Market-Clearing Price of Unforced Capacity, as established at the most recent previous 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 Unforced Capacity for the applicable Obligation Procurement Period above the Load-losing LSE's Unforced Capacity requirement that is attributable to the shifting Load, 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. By the time specified in the ISO Procedures, the Load-gaining LSE must procure sufficient Unforced Capacity to meet its increased Unforced Capacity requirement for the nearest following Obligation Procurement Period, and the Load-losing LSE may sell Unforced Capacity that it no longer needs to satisfy its Unforced Capacity requirement.

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 provide each LSE with a revised Unforced Capacity requirement for the following Obligation

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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 Installed Capacity Requirements

The ISO will determine the Locational 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 Installed Capacity Requirements, the ISO will take into account all relevant considerations, including the total NYCA Installed Capacity Requirement, the NYS Power System transmission Interface Transfer Capability, the Reliability Rules and any other FERC-approved Locational Installed Capacity Requirements.

Locational Unforced Capacity requirements represent a minimum amount of locational Unforced Capacity that must be secured by LSEs located in the NYCA

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Localities. Eligible qualified Resources will have the opportunity to supply amounts of locational Unforced Capacity above the locational Unforced Capacity requirement.

Under the provisions of this Services Tariff and the ISO Procedures, LSEs located in the NYCA Localities may be obligated to purchase locational Unforced Capacity at levels above the locational Unforced Capacity requirement, thereby increasing the reliability of the NYS Power System and the applicable NYCA Locality Zone.

Any Locational Installed Capacity Requirements operative at the commencement of ISO operations adopted by LIPA or under settlement agreements approved by the PSC shall continue in effect in accordance with their terms unless and until the ISO implements new or modified Locational Installed Capacity Requirements. All Locational Installed Capacity Requirements shall be translated into Unforced Capacity terms, in accordance with the ISO Procedures.

Each LSE will secure, at a minimum, the required amount of Unforced Capacity for the upcoming Obligation Procurement Period consistent with the locational requirements established by the ISO. When owned by the holder of the UDRs or contractually combined with UDRs, Unforced Capacity must be deliverable to the NYCA interface with the UDR transmission facility pursuant to NYISO requirements in order for it to be counted toward an LSE's Locational Installed Capacity Requirement.

Unforced Capacity associated with Generators located in the New York City Locality that are subject to market mitigation measures may not be sold at a price greater than the locational price cap, except as explicitly provided in Sections 5.13.2, 5.13.3 and 5.14.1 of this Tariff.

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In addition, any Customer that purchases Unforced Capacity associated with any Generator that is subject to market mitigation measures in an ISO-administered auction may not resell that Unforced Capacity in a subsequent auction for greater than the mitigated price cap 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 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 Installed Capacity Requirement for an upcoming Obligation Procurement Period.

5.12 Requirements Applicable to Installed Capacity Suppliers

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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 satisfy their Unforced Capacity requirements. The ISO shall conduct regular auctions at the times specified in this Section and the ISO Procedures, and may conduct additional auctions at the request of a Market Participant when a clear justification is provided in accordance with ISO Procedures.

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 of

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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 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.

In-City Generators that are subject to FERC-approved market mitigation measures are required to offer to sell all such Unforced Capacity that has not been previously committed through bilateral Unforced Capacity contracts into the ISO-administered Installed Capacity auctions. All other Installed Capacity Suppliers may offer to sell into the ISO-administered Installed Capacity auctions at their discretion.

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 are posted and the dates that LSEs are required to demonstrate that they have procured sufficient Unforced Capacity to cover their Unforced Capacity requirements pursuant to Section 5.11.2 of this Tariff.

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

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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 visible long-term Unforced Capacity transactions between Market Participants.

Each Capability Period Auction shall consist of two phases which shall be conducted on the same day. Participation in the first phase shall be limited to: (i) LSEs located in the New York City Locality seeking to make locational Unforced Capacity purchases in order to satisfy their In-City Locational Installed Capacity Requirement; (ii) any other entity seeking to purchase In-City locational Unforced Capacity; (iii) qualified In-City Installed Capacity Suppliers; and (iv) any other Installed Capacity Supplier that owns excess Unforced Capacity associated with qualified In-City Installed Capacity Suppliers. In the first phase of the Capability Period Auction, LSEs that are awarded Unforced Capacity shall pay the Market-Clearing Price of Unforced Capacity determined in that phase. Installed Capacity Suppliers that are selected to provide Unforced Capacity shall receive the Market-Clearing Price determined in that phase, except in the case of In-City Generators that are subject to mitigation measures, which shall receive the lesser of the Market-Clearing Price or the applicable locational price cap. Any entity that resells Unforced Capacity associated with In-City Generators that are subject to market mitigation measures shall receive no greater than the mitigated price cap 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.

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All Installed Capacity Suppliers and LSEs may participate in the second phase of the Obligation Procurement Period Auction, except with respect to any Unforced Capacity associated with In-City Generators that are subject to market mitigation measures, which may sell in the second phase only if it has been established by the ISO that all LSEs located in the New York City Locality have satisfied their In-City Locational Installed Capacity Requirements. LSEs awarded Unforced Capacity in the second phase shall pay no greater than the mitigated price cap for that Unforced Capacity. Installed Capacity Suppliers, with the exception noted below, including In-City Generators otherwise subject to market mitigation measures, that are selected to provide Unforced Capacity shall receive the applicable Market-Clearing Price determined in that phase. Any entity that resells Unforced Capacity associated with In-City Generators subject to market mitigation measures shall receive no greater than the mitigated price cap for that Unforced Capacity. The ISO shall rebate any Excess Amount pursuant to Section 5.15 of this Tariff.

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 first 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 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

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Auction is intended to facilitate visible Unforced Capacity transactions between Market Participants.

Each Monthly Auction shall consist of two phases which shall be conducted on the same day. Participation in the first phase shall be limited to: (i) LSEs located in the New York City Locality seeking to make locational Unforced Capacity purchases in order to satisfy their In-City Locational Installed Capacity Requirement; (ii) any other entity seeking to purchase In-City locational Unforced Capacity; (iii) qualified In-City Installed Capacity Suppliers; and (iv) any other Installed Capacity Supplier that owns excess In-City Unforced Capacity. In the first phase of each Monthly Auction, LSEs that are awarded Unforced Capacity shall pay the Market-Clearing Price of Unforced Capacity determined in that phase. Installed Capacity Suppliers that are selected to provide Unforced Capacity shall receive the Market-Clearing Price determined in that phase, except in the case of In-City Generators that are subject to mitigation measures, which shall receive the lesser of the Market-Clearing Price or the applicable locational price cap. Any entity that resells Unforced Capacity associated with In-City Generators that are subject to market mitigation measures shall receive no greater than the mitigated price cap 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.

All Installed Capacity Suppliers and LSEs may participate in the second phase of each Monthly Auction, except with respect to any Unforced Capacity associated with In-City Generators that are subject to market mitigation measures, which may sell in the second phase only if it has been established by the ISO that all LSEs located in the New

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York City Locality have satisfied their In-City Locational Installed Capacity Requirements. LSEs awarded Unforced Capacity in the second phase shall pay no greater than the mitigated price cap for that Unforced Capacity. Installed Capacity Suppliers, with the exception noted below, including In-City Generators otherwise subject to market mitigation measures, that are selected to provide Unforced Capacity shall receive the applicable Market-Clearing Price determined in that phase. Any entity that resells Unforced Capacity associated with In-City Generators subject to market mitigation measures shall receive no greater than the mitigated price cap for that Unforced Capacity. The ISO shall rebate any Excess Amount pursuant to Section 5.15 of this Tariff.

Monthly Auctions held during a Capability Period shall be phased unless the ISO has established that all LSEs with Locational Installed Capacity Requirements located in the New York City Locality have satisfied their locational requirements. If the ISO establishes that these LSEs have not satisfied their Locational Installed Capacity Requirements, that Monthly Auction will be conducted as if it were being held prior to the beginning of an Obligation Procurement Period (*i.e.*, it shall consist of two phases). If, however, the ISO establishes that LSEs have satisfied their Locational Installed Capacity Requirements, that Monthly Auction will not be phased and will be conducted as if it were the second phase of a pre-Capability Period Monthly Auction.

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

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Additional detail concerning the ISO's Installed Capacity auction procedures are provided in the ISO's detailed "Installed Capacity Auction Description," which is on file with the Commission.

5.14 Installed Capacity Spot Market Auction and Installed Capacity Deficiencies

5.14.1 LSE Participation in the Spot Market Auction

5.14.1(a) Spot Market Auction

The ISO shall conduct a Spot Market Auction for each Locality and the Rest of State immediately preceding the start of each Obligation Procurement Period: the exact date of the Spot Market Auction shall be established in the ISO Procedures. All LSEs shall participate in the Spot Market Auction to procure additional Unforced Capacity to cover, and potentially exceed, the remainder or the entirety, as applicable, of their Unforced Capacity requirement for the Obligation Procurement Period. In the Spot Market Auction the ISO shall submit monthly bids on behalf of all LSEs at a level per MW determined by a Demand Curve established in accordance with ISO Procedures. The ISO shall solicit bids from qualified In-City Installed Capacity Suppliers, and from any other entity that owns excess Unforced Capacity.

In order to administer the New York City Spot Market Auction the ISO shall submit bids on behalf of all LSEs located in the New York City Locality in accordance with ISO Procedures. The ISO shall solicit bids from qualified in-City Installed Capacity Suppliers, and from any other entity that owns excess in-City locational Unforced Capacity. The ISO shall conduct the New York City Spot Market Auction by using the New York City Demand Curve, as established

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in accordance with ISO Procedures. LSEs that are awarded Unforced Capacity in the New York City Spot Market Auction shall pay to the ISO the Market-Clearing Price of Unforced Capacity determined in that Auction. The ISO shall pay Installed Capacity Suppliers that are selected to provide Unforced Capacity the Market-Clearing Price determined in the Spot Market Auction, except in the case of Unforced Capacity associated with in-City Generators that are subject to mitigation measures, which shall receive no greater than the mitigated price cap, calculated on an annual basis. Any entity that resells Unforced Capacity associated with in-City Generators that are subject to market mitigation measures shall receive no greater than the mitigated price cap 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 order to administer the Long Island Spot Market Auction the ISO shall submit bids on behalf of all LSEs located in the Long Island Locality in accordance with ISO Procedures. The ISO shall solicit bids from qualified Long Island Installed Capacity Suppliers, and from any other entity that owns excess Long Island locational Unforced Capacity. The ISO shall conduct the Long Island Spot Market Auction by using the Long Island Demand Curve, as established in accordance with ISO Procedures. LSEs that are awarded Unforced Capacity in the Long Island Spot Market Auction shall pay to the ISO the Market-Clearing Price of Unforced Capacity determined in that Auction. The ISO shall

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pay Installed Capacity Suppliers that are selected to provide Unforced Capacity the Market-Clearing Price determined in the Spot Market Auction.

In order to administer the Rest of State Spot Market Auction the ISO shall submit bids on behalf of all LSEs and shall solicit bids from all qualified Installed Capacity Suppliers, including Unforced Capacity associated with In-City Generators otherwise subject to mitigation measures that has not been sold, provided that all LSEs located in the New York City Locality have satisfied their In-City Locational Installed Capacity Requirements. LSEs that are awarded Unforced Capacity shall pay to the ISO the Market-Clearing Price of Unforced Capacity determined in the Auction. The ISO will use these payments to pay the applicable Market-Clearing Price, except as noted below, to Installed Capacity Suppliers that are selected to provide Unforced Capacity, including participating In-City Generators otherwise subject to market mitigation measures. Any entity that resells Unforced Capacity associated with In-City Generators that are subject to market mitigation measures shall receive no greater than the mitigated price cap, calculated on an annual basis, for that Unforced Capacity. The ISO shall rebate any Excess Amount pursuant to Section-5.15 of this Tariff.

5.14.1(b) Deficiency Charges Imposed

Any LSEs that are still deficient after the completion of a Spot Market Auction must pay a monthly deficiency charge to the ISO based on the deficiency charges set forth in the Table below, divided by twelve (12), and multiplied by the number of MWs by which they are deficient. The ISO will attempt to use these deficiency charges to procure Unforced Capacity from

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Installed Capacity Suppliers that are capable of supplying Unforced Capacity but that failed to qualify to supply it prior to the Spot Market Auction. The ISO shall not procure Unforced Capacity from previously qualified Installed Capacity Suppliers that withheld their Unforced Capacity. The ISO will not pay an Installed Capacity Supplier, more than the applicable deficiency charge per MW of Unforced Capacity, or the applicable locational 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 paragraph will be applied to reduce the Schedule 1 charge.

The ISO shall not reveal the number of MWs that LSEs are deficient prior to a Spot Market Auction.

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Deficiency Charges

The following deficiency charges shall apply starting May 1, 2003.

In-City New York City (LBMP Load Zone J)	[\$[????]/kW of Unforced Capacity per Capability Period (Equivalent to \$660.00/kW of Installed Capacity per Capability Period)
Long Island (LBMP Load Zone K)	\$\$[????]/kW of Unforced Capacity per Capability Period (Equivalent to \$555.00/kW of Installed Capacity per Capability Period)
All Other LBMP Load Zones in the NYCA	\$\$[????]/kW of Unforced Capacity per Capability Period (Equivalent to \$267.00/kW of Installed Capacity per Capability Period)

Beginning May 1, 2003, these deficiency bids and charges will be based on three times the localized levelized embedded cost of gas turbines in the New York City Locality, the Long Island Locality, or elsewhere in the NYCA, respectively.

5.14.2 Installed Capacity Supplier Deficiencies

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 deficient Installed Capacity Supplier in the amount of the deficiency in the appropriate Spot Market Auction or through post-Spot Market Auction Unforced Capacity purchases.

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In the event that an Installed Capacity Supplier sells in the Capability Period Auction 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 deficient for that month. To cover this deficiency, 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 deficiency. If the Installed Capacity Supplier does not cover such deficiency or if it does not certify to the ISO in a timely manner, the ISO shall prospectively purchase Unforced Capacity on behalf of that deficient Installed Capacity Supplier in the appropriate Spot Market Auction or through post-Spot Market Auction Unforced Capacity purchases to cover the deficiency.

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 been deficient 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. A deficient External Installed Capacity Supplier shall be required to pay to the ISO a deficiency charge as set forth in Section 5.14.1(a) of this Services Tariff, prorated for the number of hours in the month that External Installed Capacity Supplier is deficient (i.e., ((deficiency charge ÷ 6

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months) ÷ total number of hours in month when deficiency occurred) * number of hours deficient).

The ISO shall submit a deficiency bid, calculated pursuant to Section 5.14.1 of this Tariff in the appropriate Spot Market Auction on behalf of a deficient Installed Capacity Supplier as if it were a deficient LSE. The deficient Installed Capacity Supplier shall be required to pay to the ISO the Market-Clearing Price of Unforced Capacity established in that Spot Market Auction.

If an Installed Capacity Supplier is found, at any point during a Capability Period, to have been deficient 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 of this Tariff.

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

5.14.3 Application of Deficiency Charges

Any remaining monies collected by the ISO through deficiency charges pursuant to Section 5.14.1 but not used to procure Unforced Capacity on behalf of deficient LSEs 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 Installed Capacity Rebates

- (i) New York City

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If an Unforced Capacity deficiency 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 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 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 six months of a Capability Period, an Unforced Capacity deficiency 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 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 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 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

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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 deficiency 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 with Locational 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 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 relevant auction. The ISO shall allocate such rebates among In-City LSEs on a monthly basis. Rebates shall include interest accrued between the time they were collected and the time that they are paid.

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