

October 25, 2004

VIA HAND DELIVERY/E-MAIL

Mr. John W. Boston
Chairman of the NYISO Board of
Directors
c/o Robert E. Fernandez
General Counsel
New York Independent System Operator, Inc.
290 Washington Avenue Extension
Albany, New York 12205

Re: ICAP Demand Curves
Response to Supplemental Information

Dear Chairman Boston:

In accordance with the "Procedures for Submitting Supplemental Information For ISO Board Consideration" issued by the New York Independent System Operator, Inc. ("NYISO"), enclosed herein are an original and two copies of the response to supplemental information of Entergy Corporation, the Mirant Companies and Sithe Energies, Inc. ("New York Suppliers"). A copy of this document contemporaneously is being submitted to Mr. Fernandez via e-mail.

Kindly confirm receipt of this document by date-stamping the additional copy of this cover letter enclosed herein.

Very truly yours,

Doreen U. Saia

Doreen U. Saia
Counsel to Entergy Corporation, the Mirant Companies and Sithe Energies, Inc.

cc: Mr. John Charlton (via e-mail)
Robert E. Fernandez, Esq. (via e-mail)
Ms. Kristen Kranz (via e-mail)
Ms. Belinda Thornton (via e-mail)

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In accordance with the “Procedures for Submitting Supplemental Information For ISO Board Consideration” issued by the New York Independent System Operator, Inc. (“NYISO”), Entergy Corporation, the Mirant Companies and Sithe Energies, Inc. (collectively, “New York Suppliers”) hereby submit this limited response. As demonstrated by the New York Suppliers in their supplemental information submitted to the NYISO Board (“New York Supplier Submission”), beginning in 2005, the NYISO Board must take the next step in the development of a properly designed capacity market for New York -- namely, the NYISO Board must set the Demand Curves going forward based upon the full cost of a gas turbine to allow this mechanism to provide adequate incentive for the execution of longer term bilateral contracts and the future investment in new and needed existing facilities.

In the New York Supplier Submission, the New York Suppliers demonstrated that the NYISO Staff’s unilaterally imposed, so-called “winter revenue benefit” adjustment was not justified and would undermine both the design and the intent of the Demand Curve. No party has submitted supplemental information to the contrary. Thus, the winter revenue benefit adjustment must be eliminated.

Moreover, the New York Suppliers appreciate the forthright acknowledgement by the New York Municipal Power Agency (“NYMPA”) that suppliers must be able to make a reasonable return on their investments. (See NYMPA Information at 3.) However, NYMPA has far too narrowly depicted the effects of the Demand Curve mechanism to date in an attempt to sway the NYISO Board to adopt Curves with lower price points for the next three years.

Response to Supplemental Information

A. The Winter Revenue Benefit Adjustment Must Be Eliminated

Focusing on one year of data without examining the underlying circumstances that led to these results, NYISO Staff claimed that the differential between the amount of winter capacity listed in the Gold Book and the amount of capacity sold in New York last winter required NYISO Staff to include a new winter revenue benefit offset when it determined its proposed Curves. (See Clarification at 2-3.) As proposed by NYISO Staff, this winter revenue benefit adjustment would reduce the Rest of State Demand Curve Reference Point by \$5 per kW-year. (Id. at 3.) Reviewing the NYISO Staff Proposal, Dr. David Patton, the NYISO's independent market advisor, found that this adjustment was only appropriate if the conditions that were identified by the NYISO Staff could reasonably be forecasted to continue under equilibrium conditions.¹

Only two filings affirmatively endorsed this new approach, the filing jointly made by a subset of New York transmission owning entities² and the filing made by the City of New York. However, while the New York Suppliers provided evidence in their Submission that there was, in fact, no basis to reasonably forecast that last year's results would continue under equilibrium conditions, neither of these filings provided

¹ Letter from David B. Patton, NYISO independent market adviser, to William J. Museler, dated October 1, 2004.

² This filing was made by Central Hudson Gas & Electric Corporation, LIPA, New York State Electric & Gas Corporation, Niagara Mohawk Power Corporation and Rochester Gas & Electric Corporation and hereinafter will be referred to as the

any additional information to justify NYISO Staff's position. Thus, this adjustment must be eliminated.

Specifically, the Transmission Owners' discussion of this issue is limited to just two paragraphs. After explaining the summer/winter DMNC differential in the first paragraph, the Transmission Owners then summarily state that relying upon the Gold Book figures "is not consistent with actual experience to date in the New York ICAP markets." (See Transmission Owners Filing at 10.) Likewise, in its submission, the City of New York merely regurgitates the information that NYISO Staff had included in the Clarification. (See NYC Filing at 1.)

Thus, while both were characterized as supplemental information filings, neither party demonstrated that these results would continue under equilibrium conditions as required by Dr. Patton. Indeed, neither party submitted any evidence whatsoever on this issue. Accordingly, weighing all of the information that has been provided to the NYISO Board on this issue, the winter revenue benefit adjustment must be eliminated.

B. The ICAP Demand Curve Has Begun To Produce The Designed Results

In its Filing, NYMPA asserts that the Demand Curve mechanism was intended to provide the incentive for suppliers to begin building capacity in New York again and it has failed to do so. (See NYMPA Filing at 1.) NYMPA further alleges that the increased prices yielded by the Demand Curve mechanism "have simply provided added revenues to suppliers for existing resources." (Id.) Based on these facts,

"Transmission Owners Filing." Neither Consolidated Edison Company of New York

NYMPA urges the NYISO Board to reduce the NYISO Staff Proposed Curves. In so doing, NYMPA has too narrowly drawn the benefits to be provided by the Demand Curve mechanism. It also has ignored the findings of the NYISO, as accepted by the Federal Energy Regulatory Commission (“FERC”), that the ICAP Demand Curve mechanism has begun to produce these results as designed. Thus, the NYISO Board must stay the course to allow the full benefits of this mechanism to come to fruition.

Contrary to NYMPA’s characterizations, the purpose of the Demand Curve mechanism is not limited to providing the incentive for new generation to be built in New York. Rather, as explained by the NYISO in its filing to the FERC seeking approval of the Demand Curves,³ the Demand Curve mechanism was designed to provide price stability and transparency. (See NYISO DC Filing at 5.) This, in turn, would play an important role in leading to increased bilateral transactions and investment in not only new facilities but also investment in needed existing facilities. With the Demand Curve mechanism in place, existing resources are able to better predict their revenues and, as a result, the New York market avoids losing economic capacity.

In its order approving the Demand Curve mechanism,⁴ the FERC directed the NYISO to submit status reports on the implementation of this new mechanism in the

nor the New York Power Authority submitted supplemental information.

³ See FERC Docket No. ER03-647-000, New York Independent System Operator, Inc., “New York Independent System Operator, Inc.’s Filing of Revisions to the ISO Market Administration and Control Area Services Tariff: ICAP Demand Curve” (dated March 21, 2003) (hereinafter “NYISO DC Filing”).

⁴ See FERC Docket No. ER03-647-000, supra, “Order Conditionally Accepting For Filing Tariff Revisions,” 103 FERC 61,201 (2003) (hereinafter “FERC DC Order”).

New York markets. (See FERC DC Order at 9.) On December 8, 2003, the NYISO submitted its first report to the FERC. In its Implementation Report, the NYISO confirmed that the ICAP Demand Curves had, in fact, produced the price stability in the capacity markets that had been predicted. (See Implementation Report at 8.) While noting that seven months of experience did not provide enough time to gauge other potential effects of the ICAP Demand Curves, NYISO Staff indicated that it continued to predict that this mechanism would, over time, help to encourage, inter alia, increased commitments to bilateral transactions and increased investment incentives. (Id.)

Thus, to date, the Demand Curves have begun to produce results as designed. However, contrary to the recommendations advanced by NYMPA, the NYISO Board must now take the next step and set these Curves with Reference Points at the full cost of a gas turbine. Only by doing so -- as was the announced expectation when the Curves were filed in 2003 with a one-time phase-in period -- will the market be given the pricing signals that are a critical step to investing in new generation, continuing to invest in needed existing facilities and committing to longer term bilateral arrangements.

CONCLUSION

For the foregoing reasons and the reasons set forth in the New York Suppliers Submission, the New York Suppliers respectfully urge the NYISO Board to set the Demand Curves going forward based on the full, localized, levelized cost of a gas turbine.

Dated: October 25, 2004
 Albany, New York

Respectfully submitted,
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