

#### **4.9.4 Charges Associated with External Unforced Capacity Deficiencies**

In accordance with the *NYISO Services Tariff*, if an entity fails to deliver part or all of the Energy associated with External Unforced Capacity it sold in the NYCA (see section 4.9.3) it will be deemed retroactively deficient for such failure. External Installed Capacity Suppliers unable to deliver such Energy to the NYCA border will be assessed the deficiency charge for Unforced Capacity associated with such failure and will 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 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.

To the extent an External Installed Capacity Supplier fails to fulfill the requirements for responding to a NYISO Supplemental Resource Evaluation ("SRE") set forth in Section 5.12.1.10 of the *NYISO Services Tariff*, the External Installed Capacity Supplier shall be subject to a deficiency charge calculated in accordance with the formula set forth in Section 5.12.12.2 of the *NYISO Services Tariff*. External System Resources and Control Area System Resources are required to comply with Section 5.12.1.10 of the *NYISO Services Tariff*.

An External Installed Capacity Supplier will not be subject to the penalty in Section 5.12.12.2 of the *NYISO Services Tariff* if it does not deliver in response to an SRE for a reason that is outside the External Installed Capacity Supplier's control. Examples of reasons that may lie outside the control of the External Installed Capacity Supplier, and thus exempt the External Installed Capacity Supplier from the penalty, include, but are not limited to:

- i) A Resource's start-up time is not sufficient to bring the Resource online for the entire time the Energy needs to be scheduled pursuant to the SRE notification.
  - (1) However, if the External Resource associated with the transaction is able to operate to partially comply with the SRE request, then the External Installed Capacity Supplier is expected to respond and fulfill the requirements set forth in Section 5.12.1.10 of the *NYISO Services Tariff* consistent with its Resource's capabilities.
- ii) An External Resource's operation may aggravate a transmission limitation in the External Control Area causing the import transaction to be curtailed for that reason.
  - (1) Failure to secure the necessary transmission service in the neighboring Control Area, including failure to agree to pay congestion costs, will not be excused.

The NYISO will evaluate each case of non-delivery during an SRE request to determine whether the reason was beyond the control of the External Installed Capacity Supplier. The NYISO will also evaluate on a case-by-case basis whether an External Installed Capacity Supplier is eligible for cost recovery due to demonstrated losses incurred in responding to the Supplemental Resource Evaluation. Further detail on cost recovery is available in Section 4.1.8 of the *NYISO Services Tariff*.