

5.14 Installed Capacity Spot Market Auction and Installed Capacity Supplier Deficiencies

5.14.1 LSE Participation in the ICAP Spot Market Auction

5.14.1.1 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 its 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 the LSE has in excess of its NYCA Minimum Unforced Capacity Requirement or Locational Minimum Unforced Capacity Requirement, as applicable. Unforced Capacity that will be exported from the New York Control Area during the month for which Unforced capacity is sold in an ICAP Sport Market Auction shall be certified to the NYISO by the certification deadline for that auction.

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.

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.

5.14.1.2 Demand Curve and Adjustments

~~Three~~ ICAP Demand Curves will be established: ~~one~~ to determine (a) the locational component of LSE Unforced Capacity Obligations for each ~~of the two Localities~~ Locality; (b) the locational component of LSE Unforced Capacity Obligations for any New Capacity Zone, and (c) ~~one to determine~~ the total LSE Unforced Capacity Obligations for all LSEs. The ICAP Demand Curves for the 2010/2011, 2011/2012, 2012/2013, and 2013/2014 Capability Years shall be established at the following points:

| Capability Year | 5/1/2010 to 4/30/2011 | 5/1/2011 to 9/30/2011 | 10/1/2011 to 4/30/2012 | 5/1/2012 to 4/30/2013 | 5/1/2013 to 4/30/2014 |
|-----------------|-----------------------------|-----------------------------|------------------------------|-----------------------------|-----------------------------|
| NYCA | Max @ \$13.42 | Max @ \$13.42 | Max @ \$14.96 | Max @ \$15.22 | Max @ \$15.48 |
| | \$9.90 @ 100% | \$9.90 @ 100% | \$8.84 @ 100% | \$8.99 @ 100% | \$9.15 @ 100% |
| | \$0.00 @ 112% | \$0.00 @ 112% | \$0.00 @ 112% | \$0.00 @ 112% | \$0.00 @ 112% |
| NYC | Max @ \$27.32 | Max @ \$27.32 | Max @ \$34.84 | Max @ \$35.43 | Max @ \$36.04 |
| | \$15.99 @ 100% | \$15.99 @ 100% | \$19.19 @ 100% | \$19.52 @ 100% | \$19.85 @ 100% |

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|----|---------------|---------------|---------------|----------------|----------------|
| | \$0.00 @ 118% | \$0.00 @ 118% | \$0.00 @ 118% | \$0.00 @ 118% | \$0.00 @ 118% |
| LI | Max @ \$24.25 | Max @ \$24.25 | Max @ \$31.35 | Max @ \$31.88 | Max @ \$32.42 |
| | \$8.69 @ 100% | \$8.69 @ 100% | \$9.98 @ 100% | \$10.15 @ 100% | \$10.32 @ 100% |
| | \$0.00 @ 118% | \$0.00 @ 118% | \$0.00 @ 118% | \$0.00 @ 118% | \$0.00 @ 118% |

NOTE: All dollar figures are in terms of \$/kW-month of ICAP and all percentages are in terms of the applicable NYCA Minimum Installed Capacity Requirement and Locational Minimum Installed Capacity Requirement. The defined points describe a line segment with a negative slope that will result in higher values for percentages less than 100% of the NYCA Minimum Installed Capacity Requirement or the Locational Installed Capacity Requirement ("reference point") with the maximum value for each ICAP Demand Curve established at 1.5 times the estimated localized levelized cost per kW-month to develop a new peaking unit in each Locality or in Rest of State, as applicable.

In subsequent years, the costs assigned by the ICAP Demand Curves to the NYCA Minimum Installed Capacity Requirement, ~~and~~ the Locational Minimum Installed Capacity Requirement ~~by the ICAP Demand Curves, and any Indicative NCZ Minimum Installed Capacity Requirement~~, will be defined by the results of the independent review conducted pursuant to this section. The ICAP Demand Curves will be translated into Unforced Capacity terms in accordance with the ISO Procedures.

A periodic review of the ICAP Demand Curves shall be performed every three (3) years in accordance with the ISO Procedures to determine the parameters of the ICAP Demand Curves for the next three Capability Years. The periodic review shall assess: (i) the current localized levelized embedded cost of a peaking plant in each NYCA Locality, ~~and~~ the Rest of State, and any New Capacity Zone, to meet minimum capacity requirements, and (ii) the likely projected annual Energy and Ancillary Services revenues of the peaking plant over the period covered by the adjusted ICAP Demand Curves, net of the costs of producing such Energy and Ancillary Services. The cost and revenues of the peaking plant used to set the reference point and maximum value for each Demand Curve shall be determined under conditions in which the available capacity is equal to the sum of (a) the minimum Installed Capacity requirement and (b)

the peaking plant's capacity equal to the number of MW specified in the periodic review and used to determine all costs and revenues. The minimum Installed Capacity requirement for each Locality shall be equal to the Locational Minimum Installed Capacity Requirement in effect for the year in which the independent consultant's final report (referenced below in Section 5.14.1.2.6) is issued; ~~and~~ for the NYCA, equal to the NYCA Minimum Installed Capacity Requirement based on the Installed Reserve Margin accepted by the Commission and applicable to the Capability Year which begins in the Capability Year in which the independent consultant's final report is issued; and for any New Capacity Zone, equal to the Indicative NCZ Locational Minimum Installed Capacity Requirement determined by the NYISO in accordance with Section 5.16.3. The periodic review shall also assess (i) the appropriate shape and slope of the ICAP Demand Curves, and the associated point at which the dollar value of the ICAP Demand Curves should decline to zero; and (ii) the appropriate translation of the annual net revenue requirement of the peaking plant determined from the factors specified above, into monthly values that take into account seasonal differences in the amount of capacity available in the ICAP Spot Market Auctions. For purposes of this periodic review, a peaking unit is defined as the unit with technology that results in the lowest fixed costs and highest variable costs among all other units' technology that are economically viable, and a peaking plant is defined as the number of units (whether one or more) that constitute the scale identified in the periodic review.

The periodic review shall be conducted in accordance with the schedule and procedures specified in the ISO Procedures. A proposed schedule will be reviewed with the stakeholders not later than May 30 of the year prior to the year of the filing specified in (xi) below. The schedule and procedures shall provide for:

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- 5.14.1.2.1 ISO development, with stakeholder review and comment, of a request for proposals to provide independent consulting services to determine recommended values for the factors specified above, and appropriate methodologies for such determination;
- 5.14.1.2.2 Selection of an independent consultant in accordance with the request for proposals;
- 5.14.1.2.3 Submission to the ISO and the stakeholders of a draft report from the independent consultant on the independent consultant's determination of recommended values for the factors specified above;
- 5.14.1.2.4 Stakeholder review of and comment on the data, assumptions and conclusions in the independent consultant's draft report, with participation by the responsible person or persons providing the consulting services;
- 5.14.1.2.5 An opportunity for the Market Monitoring Unit to review and comment on the draft request for proposals, the independent consultant's report, and the ISO's proposed ICAP Demand Curves (the responsibilities of the Market Monitoring Unit that are addressed in this section of the Services Tariff are also addressed in Section 30.4.6.3.1 of Attachment O;
- 5.14.1.2.6 Issuance by the independent consultant of a final report;
- 5.14.1.2.7 Issuance of a draft of the ISO's recommended adjustments to the ICAP Demand Curves for stakeholder review and comment;
- 5.14.1.2.8 Issuance of the ISO's proposed ICAP Demand Curves, taking into account the report of the independent consultant, the recommendations of the Market

Monitoring Unit, and the views of the stakeholders together with the rationale for accepting or rejecting any such inputs;

5.14.1.2.9 Submission of stakeholder requests for the ISO Board of Directors to review and adjust the ISO's proposed ICAP Demand Curves;

5.14.1.2.10 Presentations to the ISO Board of Directors of stakeholder views on the ISO's proposed ICAP Demand Curves; and

5.14.1.2.11 Filing with the Commission of ICAP Demand Curves as approved by the ISO Board of Directors incorporating the results of the periodic review, such filing to be made not later than November 30 of the year prior to the year that includes the beginning of the first Capability Year to which such ICAP Demand Curves would be applied. The filing shall specify ICAP Demand Curves for a period of three Capability Years.

Upon FERC approval, the ICAP Demand Curves will be translated into Unforced Capacity terms 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.

5.14.1.3 Supplemental Supply Fee

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 equal to the applicable Market-Clearing Price of Unforced Capacity determined in the ICAP Spot Market Auction 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 to procure Unforced Capacity at a price less than or equal to the applicable Market-Clearing Price of Unforced Capacity determined in the ICAP Spot Market Auction from Installed Capacity Suppliers that are capable of supplying Unforced Capacity including: (1) Installed Capacity Suppliers that were not qualified to supply 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 Market Monitoring Plan that is set forth in Attachment O to the Services Tariff, and the Market Mitigation Measures that are set forth in 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 Market Mitigation Measures.

The ISO will not pay an Installed Capacity Supplier more than the applicable Market-Clearing Price of Unforced Capacity determined in the ICAP Spot Market Auction 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 in accordance with Section 5.14.3 of the Services Tariff.

5.14.2 Installed Capacity Supplier Shortfalls and Deficiency Payments

In the event that an Installed Capacity Supplier sells in the Capability Period Auctions, in the Monthly Auctions, or through Bilateral Transactions 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.

If the Installed Capacity Supplier is a Responsible Interface Party, the shortfall shall be computed for each Load Zone separately, in increments of 0.1 MW, as the total of the amount of UCAP sold for a month in a Capability Period Auction or a Monthly Auction and certified prior to that month's ICAP Spot Market Auction, the UCAP sold in that month's ICAP Spot Market Auction, and the UCAP sold as a Bilateral Transaction and certified prior to that month's ICAP Spot Market Auction that is greater than the greatest quantity MW reduction achieved during a single hour in a test or event called by the ISO in the Capability Period as confirmed by data by the ISO in accordance with ISO Procedures (or the value of zero if data is not received by the ISO in accordance with such procedures).

If the Installed Capacity Supplier is a Responsible Interface Party, after each Special Case Resource with a Provisional Average Coincident Load has its Average Coincident Load determined for the Capability Period in which it had a Provisional Average Coincident Load (such determination in accordance with ISO Procedures and without regard to whether the resource was registered to the same Responsible Interface Party at the time of the ACL determination), the ISO shall determine if there is a shortfall due to the Provisional Average Coincident Load being higher than the Average Coincident Load. This shortfall will be equal to the value, if positive, of (x) the sum of (i) the amount of UCAP a Responsible Interface Party sold in an Monthly or an ICAP Spot Market Auction or certified Bilateral Transactions for a Special Case Resource and (ii) the Special Case Resource's actual metered demand for the month in accordance with ISO Procedures, minus (y) the Special Case Resource's Average Coincident Load. If the ISO does not receive data to determine the Average Coincident Load in accordance with ISO Procedures, for each Capability Period a Special Case Resource had a Provisional Average Coincident Load, for purposes of determining the shortfall, the Average Coincident Load shall equal zero.

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 equal to one and one-half times the applicable Market-Clearing Price of Unforced Capacity determined in the ICAP Spot Market Auction for the applicable month, prorated for the number of hours in the month that External Installed Capacity Supplier is deemed to have a shortfall (i.e., $((\text{deficiency charge} \div 12 \text{ months}) \div \text{total number of hours in month when shortfall occurred}) * \text{number of hours the shortfall lasted}) * \text{number of MWs of shortfall}$).

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. Immediately following the ICAP Spot Market Auction, the ISO may suspend the Installed Capacity Supplier's privileges to sell or purchase Unforced Capacity in ISO-administered Installed Capacity auctions or to submit Bilateral Transactions to the NYISO. Once the Installed Capacity Supplier pays for or secures the payment obligation that it incurred in the ICAP Spot Market Auction, the ISO shall reinstate the Installed Capacity Supplier's privileges to participate in the ICAP markets.

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 equal to the applicable Market-Clearing Price of Unforced Capacity determined in the ICAP Spot Market Auction, 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 equal to one and one-half times the applicable Market-Clearing Price of Unforced Capacity determined in the ICAP Spot Market Auction for each month the Installed Capacity Supplier is deemed to have a shortfall.

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 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.

5.14.3.1 General Application of Deficiency Charges

Except as provided in Section 5.14.3.2, remaining monies will be applied to reduce the Rate Schedule 1 charge in the following month.

5.14.3.2 Installed Capacity Rebates

(i) New York City

If an Unforced Capacity shortfall exists during any month, the ISO shall rebate any remaining unspent deficiency charges or supplemental supply fees collected for that month for the New York City Locality 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.

(iii) Long Island

If an Unforced Capacity shortfall exists during any month, the ISO shall rebate any remaining unspent deficiency charges or supplemental supply fees collected for that month for the Long Island Locality, 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.

(iii) Rest of State

If an Unforced Capacity shortfall exists during any month, the ISO shall rebate any remaining unspent deficiency charges or supplemental supply fees collected for that month for the Rest of State requirements, allocated among all LSEs in each of the two Localities, New York City and Long Island, and in Rest of State, in proportion to each LSE's share of the NYCA Minimum Installed Capacity Requirement less that LSE's Locational Minimum Installed Capacity Requirement. Rebates shall include interests accrued between the time payments were collected and the time that rebates are paid.