

HUNTON & WILLIAMS LLP
1900 K STREET, N.W.
WASHINGTON, D.C. 20006-1109

TEL 202 • 955 • 1500
FAX 202 • 778 • 2201

TED J. MURPHY
DIRECT DIAL: 202 • 955 • 1588
EMAIL: tmurphy@hunton.com

FILE NO: 55430.000072

January 14, 2010

By Hand Delivery

Hon. Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

Re: *New York Independent System Operator, Inc., Docket No. ER10-____, Proposed Tariff Revisions To Establish a One-Time Capability Year Adjustment Election for Holders of Rights to Unforced Deliverability Rights, Request for Waiver of Prior Notice Requirements, and Request for Expedited Action*

Dear Secretary Bose:

In accordance with Section 205 of the Federal Power Act and Part 35 of the Commission's regulations,¹ the New York Independent System Operator, Inc. ("NYISO") respectfully submits proposed revisions to its Market Administration and Control Area Services Tariff ("Services Tariff") to establish a "Capability Year Adjustment Election" that holders of rights to Unforced Deliverability Rights ("UDRs")² may exercise under certain conditions (which are described below). The proposed revisions are needed to address a quirk in existing arrangements that could cause a temporary, and unwarranted, increase in capacity demand curve prices on Long Island during May 2010. At the same time, the proposed Capability Year Adjustment Election would be available to address any similar issue that might arise in the future.

¹ Because the tariff revisions proposed herein do not involve rates established using traditional cost-of-service principles, the NYISO, to the extent that the Commission deems necessary, respectfully requests a waiver of any provision of Part 35 that might otherwise require traditional cost-of-service support for this filing.

² Capitalized terms that are not otherwise defined herein shall have the same meaning specified in Article 2 of the Services Tariff.

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The proposed revisions were originally sponsored by Long Island Power Authority (“LIPA”), the entity that would bear the brunt of higher prices on Long Island, but are fully supported by the NYISO. They have been discussed at multiple stakeholder meetings and have evolved significantly in response to stakeholder comments. The NYISO believes that the proposed revisions enjoy broad stakeholder support and represent a practical, and readily implementable means, of mitigating the potential for artificial price increases to occur under certain conditions. The NYISO therefore respectfully submits that the proposed revisions are just, reasonable, and not unduly discriminatory and asks that the Commission accept them without modification.

The NYISO also respectfully requests that the Commission waive the usual sixty day notice period and expeditiously issue an order accepting the proposed tariff revisions no later than February 12, 2010. The necessity of, and justification for, this request is set forth below in Section V of this transmittal letter.

I. Documents Submitted

1. This transmittal letter
2. A clean version of the proposed revisions to the NYISO’s Services Tariff (“Attachment I”); and
3. A blacklined version of the proposed revisions to the NYISO’s Services Tariff (“Attachment II”).

II. The Need for a Capability Year Adjustment Election

Under Section 5.11.4 of the Services Tariff, the NYISO determines the Locational Minimum ICAP Requirement that applies to each LSE in a given Locality. There are currently two “Localities,” Long Island and New York City, both of which are subject to transmission constraints that necessitate significant reliance on local Unforced Capacity (“UCAP”). The Locational Minimum ICAP Requirement establishes the minimum quantity of UCAP electrically located within a Locality that each LSE must procure during a given Obligation Procurement Period.

LSEs that hold UDRs associated with incremental controllable transmission projects may treat UCAP located in an External Control Area that they own or have contractual rights to as if it were electrically located within a Locality. UDRs may therefore be used to contribute to an LSE’s Locational Minimum ICAP Requirement.

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Under current rules, UDR rights holders must inform the NYISO no later than August 1 whether they intend to use the rights to treat External UCAP as “intra-Locality” UCAP in the next Capability Year. NYISO Capability Years currently begin on May 1. Alternatively, UDR rightsholders may opt to return all or a portion of their UDRs to the NYCA to be counted as emergency support capability in the NYISO’s Locational Minimum ICAP Requirement studies, which would tend to result in a lower Locational Minimum ICAP Requirement.

The issue created by the current tariff provisions, that would be obviated by the tariff revisions proposed herein, was first identified by LIPA. LIPA holds UDRs associated with the Neptune Regional Transmission System (“Neptune”), a 65-mile, 660 MW undersea HVDC cable between Sayreville, New Jersey, which is located within the PJM Interconnection (“PJM”), and Nassau County on Long Island, which is within the NYISO’s system. LIPA intends to use the UDRs to treat a PJM capacity contract as UCAP electrically located on Long Island during the 2010 Capability Year. LIPA has not used its Neptune UDRs for capacity and the Locational Minimum ICAP Requirement for Long Island reflects Neptune’s traditional status as a source of emergency support capability, *i.e.*, it is currently lower than it would be if the UDRs were associated with locational capacity.

LIPA has informed the NYISO that it intends to use the Neptune UDRs as capacity for the 2010 Capability Year. LIPA’s choice would result in the Locational Minimum ICAP requirement for Long Island increasing at the beginning of the next NYISO Capability Year, *i.e.*, May 1, 2010. LIPA has indicated that the capacity contract associated with the Neptune cable cannot be de-listed from PJM’s forward capacity market, and therefore cannot be used as Long Island UCAP, until June 1, 2010.³

The likely consequence of the discrepancy between the start dates for the NYISO and PJM capacity years would be an increase in the Long Island ICAP requirement on May 1 without an accompanying increase in the supply of local UCAP until June 1, when the capacity contract is de-listed at the start of the PJM capacity year. It can reasonably be anticipated that this mismatch would cause a material increase in Long Island capacity demand curve prices during May. Such an increase would be unwarranted because Neptune would still, in fact, be available to provide emergency support capability during May 2010. The increase would therefore be an “artificial” byproduct of a timing difference between NYISO and PJM capacity market rules.

³ Kevin B. Jones, Ph. D., Long Island Power Authority, *NYISO Business Issues Committee - Capability Year Adjustment Solutions* at (December 16, 2009) available at http://www.nyiso.com/public/webdocs/committees/mc/meeting_materials/2009-12-16/Agenda_05_Capability_Year_Adjustment_Solutions.pdf.

The NYISO has concluded that this outcome should be avoided. It appears that the most readily implementable solution in a reasonable time period would be to give holders of UDR rights from an External Control Area with a capability year start date that differs from the NYISO's (a "dissimilar capability year") an opportunity to have the NYISO exclude those UDRs from the relevant Locational Minimum ICAP Requirement calculation for the first month of a given NYISO Capability Year. In LIPA's case, if it were to exercise such a "Capability Year Adjustment Election" it would effectively result in the Locational Minimum ICAP Requirement for Long Island in May 2010 being calculated recognizing that Neptune would still be fully available to provide emergency assistance. Existing provisions governing the calculation of Locational Minimum ICAP Requirements would go back into effect starting on June 1.

The proposed Capability Year Adjustment Election would also be available to other entities that hold rights to External UDRs. Because PJM and ISO New England, Inc. ("ISO-NE") both have capability years that begin on June 1, and because they are the only entities adjacent to the NYISO that administer capacity markets that include a "capacity year" concept, the proposed revisions would afford the same treatment to all similarly situated entities.

III. Description and Explanation of Proposed Tariff Revisions

The NYISO proposes to revise Section 5.11.4 of the Services Tariff to establish a Capability Year Adjustment Election. The core of the proposed revisions is the new text that would be added starting at Fifth Revised Sheet No. 127:

The Installed Capacity Supplier holding rights to UDRs from an External Control Area with a dissimilar capability year shall have one opportunity for a Capability Year in which the Scheduled Line will first be used to offer Capacity associated with the UDRs, to elect that the ISO determine Locational Minimum Installed Capacity Requirements without a quantity of MW from the UDRs for the first month in the Capability Year, and with the same quantity of MW as Unforced Capacity for the remaining months, in each case (a) consistent with and as demonstrated by a contractual arrangement to utilize the UDRs to import the quantity of MW of Capacity into a Locality, and (b) in accordance with ISO Procedures (a "capability year adjustment election").

As was described in Section II above, this new language is the solution to the problem currently confronting LIPA, and any analogous issue that may face other UDR rights holders in the future. Excluding a "quantity of MW from the UDRs for the first month in the Capability Year" would enable the NYISO to calculate a Locational Minimum ICAP Requirement for Long Island that accurately reflected Neptune's continued availability to provide emergency support. On June 1, coincident with the commencement of the PJM and ISO-NE capacity years, the

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Locational Capacity Requirement would reflect the quantity of MW as capacity for the remainder of its Capability Year. An entity's right to make the election would be contingent on its demonstrating a commitment to utilize the UDRs in question to import Capacity into a Locality. The entity would also have to comply with more detailed technical and timing requirements established in the "ISO Procedures," chiefly including the NYISO's *Installed Capacity Manual*.⁴

During the stakeholder process, the proposed revisions were modified to clarify that the Capability Year Adjustment Election would be a one time option with respect to each block of UDRs held by a rightsholder. Once an election was made with respect to a given block of UDRs any subsequent holder of the rights to them would not be entitled to a new election. These rules are articulated in the following proposed language which would appear starting on Original Sheet No. 127(i):

If there is more than one Installed Capacity Supplier holding rights to UDRs concurrently, an Installed Capacity Supplier's election pursuant to the preceding sentence (x) shall be binding on the entity to which the NYISO granted the UDRs up to the quantity of MW to which the Installed Capacity Supplier holds rights, and a subsequent assignment of these UDRs to another rights holder will not create the option for another one-time election by the new UDR rights holder, and (y) shall not affect the right another Installed Capacity Supplier may have to make an election. The right to make an election shall remain unless and until an election has been made by one or more holders of rights to the total quantity of MW corresponding to the UDRs. Absent this one-time election, the UDRs shall be modeled consistently for all months in each Capability Year as elected by the UDR rights holder in its notification to the ISO in accordance with ISO Procedures. Upon such an election, the ISO shall determine the Locational Minimum Unforced Capacity Requirement (i) for the first month of the Capability Year without the quantity of MW of Capacity associated with the UDRs, and (ii) for the remaining eleven months as Unforced Capacity. After the Installed Capacity Supplier has made its one-time election for a quantity of MW, the quantity of MW associated with the UDRs held by the Installed Capacity Supplier shall be modeled consistently for all months in any future Capability Period.

⁴ New York Independent System Operator, *Manual 4 - Installed Capacity Manual* (December 2009) available at <http://www.nyiso.com/public/webdocs/documents/manuals/operations/icap_mnl.pdf>. Concurrent with this filing, the NYISO is working through its normal stakeholder processes to make necessary conforming updates and modifications to the ICAP Manual.

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The NYISO supports these proposed restrictions because it believes that they impose reasonable limits on what is intended to be an infrequently needed remedy to an issue that will rarely arise. Absent specific, and exceptional, circumstances, such as those that prompted this filing, changes to the normal procedures for calculating Locational Minimum ICAP Requirements should not be made. The NYISO also has committed to bring to stakeholders in 2010 a proposal to address possible actions for long-term alignment of capability years.

In addition, the NYISO is proposing a number of other conforming adjustments to Section 5.11.4. Generally speaking, these changes adjust existing tariff language to reflect (or accommodate) the introduction of the Capability Year Adjustment Election provisions quoted above. For example, language would be added to Sheet 126 of the Services Tariff to reflect the fact that the exercise of the election is one of the factors that the NYISO will consider when establishing Locational Minimum ICAP Requirements.

Finally, the NYISO is proposing a conforming revision to Section 5.12.4 of the Services Tariff to clarify that ICAP Suppliers holding rights to External UDRs must certify that they will not attempt to self-supply, offer, or re-sell, ICAP associated with the quantity of MW for which it has not made its Capability Year Adjustment. This change parallels the existing language of 5.12.4 which requires ICAP Suppliers to certify that they are not attempting to re-sell UCAP in New York that has also been sold for use in an External Control Area.

IV. Stakeholder Review and Approval

The proposed tariff revisions have been through an extensive stakeholder process and enjoy broad support. As was noted above, the issue addressed by the proposed revisions was originally identified by LIPA, which also originally sponsored the proposed tariff revisions. The issue, and the proposed tariff revisions, were discussed before the NYISO's ICAP Working Group on November 19, 2009 and December 8, 2009, its Business Issues Committee on December 9, and its Management Committee on December 16. Over the course of the process a number of significant adjustments were made in response to stakeholder input. Ultimately, the proposed revisions were approved without any dissenting votes by the NYISO Management Committee and were approved by the NYISO's independent Board of Directors on January 12, 2010.

V. Requests for Waiver of the Prior Notice Requirements and for Expedited Action

The NYISO requests waiver of the prior notice requirements⁵ and expedited Commission action so that its proposed tariff revisions may become effective no later than February 12, 2010. There is good cause⁶ for both requests. The NYISO must know whether a UDR holder is making an election in order to prepare the UCAP Requirements and Locational Minimum Installed Capacity Requirements by the March 19 deadline. The UCAP and Locational Minimum ICAP Requirements calculations must be performed manually and if a UDR holder makes the election, two separate calculations must be made, *i.e.*, one for the first month of the Capability Period and another for the balance of the Capability Year. Granting an effective date no later than February 12, 2010 will allow UDR rightsholders to make their elections with sufficient time for the NYISO to meet its March 19 deadline.

The NYISO has acted promptly to make this filing within the framework of its “shared governance” structure, which requires super-majority stakeholder approval in advance of Section 205 filings. This filing is being submitted as early as practicable after the completion of the stakeholder process, *i.e.*, immediately after its approval by both the NYISO’s stakeholders and by its independent Board of Directors.

Potentially affected stakeholders have been on notice that the NYISO intended to make this filing since at least the November 19 ICAP Working Group meeting. They have had access to near final versions of the proposed tariff language, which reflects stakeholder input, since at least mid-December. They have therefore already had a significant time to review the proposed revisions and to formulate their views. Consequently, the NYISO respectfully submits that no stakeholder would be prejudiced if the Commission were to shorten the usual notice period to approximately thirty days (or even less).

Similarly, no stakeholder would be disadvantaged if the Commission were to shorten its standard comment period in order to allow for expedited action. To the extent that the Commission deems necessary, the NYISO respectfully requests that the comment period be shortened in order to permit the Commission to issue an order no later than February 12, 2010.

⁵ 18 C.F.R. §§ 35.3 and 35.11 (2009).

⁶ See *Central Hudson Gas and Electric Corp.*, 60 FERC ¶61,106 at 61,338-339 (1992) *reh'g denied*, 61 FERC ¶61,089 (1992).

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VI. Communications and Correspondence

All communications and services in this proceeding should be directed to:

Robert E. Fernandez, General Counsel
Elaine D. Robinson, Director of Regulatory Affairs
*Gloria Kavanah, Senior Attorney
New York Independent System Operator, Inc.
10 Krey Boulevard
Rensselaer, NY 12144
Tel: (518) 356-8875
Fax: (518) 356-7678
rfernandez@nyiso.com
erobinson@nyiso.com
gkavanah@nyiso.com

*Ted J. Murphy
Vanessa A. Colón
Hunton & Williams LLP
1900 K Street, NW
Washington, DC 20006
Tel: (202) 955-1500
Fax: (202) 778-2201
tmurphy@hunton.com

* Persons designated for receipt of service.

VII. Service

This filing will be posted on the NYISO's website at www.nyiso.com. In addition, the NYISO will email an electronic link to this filing to the official representative of each of its customers, to each participant on its stakeholder committees, to the New York Public Service Commission, and to the electric utility regulatory agencies of New Jersey and Pennsylvania. The NYISO will also make a paper copy available to any interested party that requests one.

VIII. Conclusion

Wherefore, for the foregoing reasons, the New York Independent System Operator, Inc. respectfully requests that the Commission waive the prior notice requirements and expeditiously issue an order accepting the tariff revisions proposed herein with an effective date no later than February 12, 2010.

Respectfully Submitted,

Ted J. Murphy
Counsel to the
New York System Independent System Operator, Inc.

Attachment I

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 election by the holder of rights to UDRs that can provide Capacity from an External Control Area with a capability year start date that is different than the corresponding ISO Capability Year start date ("dissimilar capability year"), the Reliability Rules and any other FERC-approved Locational Minimum Installed Capacity Requirements.

The Installed Capacity Supplier holding rights to UDRs from an External Control Area with a dissimilar capability year shall have one opportunity for a Capability Year in which the Scheduled Line will first be used to offer Capacity associated with the UDRs, to elect that the ISO determine Locational Minimum Installed Capacity Requirements

without a quantity of MW from the UDRs for the first month in the Capability Year, and with the same quantity of MW as Unforced Capacity for the remaining months, in each case (a) consistent with and as demonstrated by a contractual arrangement to utilize the UDRs to import the quantity of MW of Capacity into a Locality, and (b) in accordance with ISO Procedures (a “capability year adjustment election”). If there is more than one Installed Capacity Supplier holding rights to UDRs concurrently, an Installed Capacity Supplier’s election pursuant to the preceding sentence (x) shall be binding on the entity to which the NYISO granted the UDRs up to the quantity of MW to which the Installed Capacity Supplier holds rights, and a subsequent assignment of these UDRs to another rights holder will not create the option for another one-time election by the new UDR rights holder, and (y) shall not affect the right another Installed Capacity Supplier may have to make an election. The right to make an election shall remain unless and until an election has been made by one or more holders of rights to the total quantity of MW corresponding to the UDRs. Absent this one-time election, the UDRs shall be modeled consistently for all months in each Capability Year as elected by the UDR rights holder in its notification to the ISO in accordance with ISO Procedures. Upon such an election, the ISO shall determine the Locational Minimum Unforced Capacity Requirement (i) for the first month of the Capability Year without the quantity of MW of Capacity associated with the UDRs, and (ii) for the remaining eleven months as Unforced Capacity. After the Installed Capacity Supplier has made its one-time election for a quantity of MW, the

quantity of MW associated with the UDRs held by the Installed Capacity Supplier shall be modeled consistently for all months in any future Capability Period.

The Locational Minimum Unforced Capacity Requirement represents a minimum level of Unforced Capacity that must be secured by LSEs in the NYCA Localities for each Obligation Procurement Period. The Locational Minimum Unforced Capacity Requirement for each Locality shall equal the product of the Locational Minimum Installed Capacity Requirement for a given Locality (with or without the UDRs if there is a capability year adjustment election by a rightsholder) and the ratio of (1) the total amount of Unforced Capacity that the specified Resources are qualified to provide (with or without the UDRs associated with dissimilar capability periods, as so elected by the rightsholder) during each month in the Capability Period, as of the time the Locational Minimum Unforced Capacity Requirement is determined as specified in ISO Procedures,

to (2) the sum of the DMNCs used to determine the Unforced Capacities of such Resources for such Capability Period (with or without the DMNCs associated with the UDRs, as so elected by the rightsholder). The foregoing calculation shall be determined using the Resources in the given Locality in the most recent final version of the ISO's annual Load and Capacity Data Report, with the addition of Resources commencing commercial operation since completion of that report and the deletion of Resources with scheduled or planned retirement dates before or during such Capability 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 Capacity 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 and consistent with the election of the holder of the rights to the UDRs set forth in this Section.

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 for Installed Capacity

(a) Each Installed Capacity Supplier must confirm to the ISO, in accordance with ISO Procedures that the Unforced

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

(b) Each Installed Capacity Supplier holding rights to UDRs from an External Control Area must confirm to the ISO, in accordance with ISO Procedures, that it will not use as self-supply or offer, and has not sold, Installed Capacity associated with the quantity of MW for which it has not made its one time capability adjustment year election pursuant to Section 5.11.4.

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, and Special Case Resources, Intermittent Power Resources, Limited Control Run-of-River Hydro Resources and Municipally Owned Generation

To qualify as Installed Capacity Suppliers in the NYCA, Generators, External Generators, System Resources, External System Resources, Energy Limited Resources, Special Case Resources, Intermittent Power Resources, Limited Control Run-of-River Hydro Resources and municipally

owned generation 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 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.

Attachment II

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 election by the holder of rights to UDRs that can provide Capacity from an External Control Area with a capability year start date that is different than the corresponding ISO Capability Year start date \("dissimilar capability year"\)](#), the Reliability Rules and any other FERC-approved Locational Minimum Installed Capacity Requirements.

[The Installed Capacity Supplier holding rights to UDRs from an External Control Area with a dissimilar capability year shall have one opportunity for a Capability Year in which the Scheduled Line will first be used to offer Capacity associated with the UDRs, to elect that the ISO determine Locational Minimum Installed Capacity Requirements](#)

without a quantity of MW from the UDRs for the first month in the Capability Year, and
with the same quantity of MW as Unforced Capacity for the remaining months, in each
case (a) consistent with and as demonstrated by a contractual arrangement to utilize the
UDRs to import the quantity of MW of Capacity into a Locality, and (b) in accordance
with ISO Procedures (a “capability year adjustment election”). If there is more than one
Installed Capacity Supplier holding rights to UDRs concurrently, an Installed Capacity
Supplier’s election pursuant to the preceding sentence (x) shall be binding on the entity to
which the NYISO granted the UDRs up to the quantity of MW to which the Installed
Capacity Supplier holds rights, and a subsequent assignment of these UDRs to another
rights holder will not create the option for another one-time election by the new UDR
rights holder, and (y) shall not affect the right another Installed Capacity Supplier may
have to make an election. The right to make an election shall remain unless and until an
election has been made by one or more holders of rights to the total quantity of MW
corresponding to the UDRs. Absent this one-time election, the UDRs shall be modeled
consistently for all months in each Capability Year as elected by the UDR rights holder in
its notification to the ISO in accordance with ISO Procedures. Upon such an election, the
ISO shall determine the Locational Minimum Unforced Capacity Requirement (i) for the
first month of the Capability Year without the quantity of MW of Capacity associated
with the UDRs, and (ii) for the remaining eleven months as Unforced Capacity. After the
Installed Capacity Supplier has made its one-time election for a quantity of MW, the

quantity of MW associated with the UDRs held by the Installed Capacity Supplier shall be modeled consistently for all months in any future Capability Period.

The Locational Minimum Unforced Capacity Requirement represents a minimum level of Unforced Capacity that must be secured by LSEs in the NYCA Localities for each Obligation Procurement Period. ~~For each Capability Period, t~~The Locational Minimum Unforced Capacity Requirement for each Locality shall equal the product of the Locational Minimum Installed Capacity Requirement for a given Locality (with or without the UDRs if there is a capability year adjustment election by a rightsholder) and the ratio of (1) the total amount of Unforced Capacity that the specified Resources are qualified to provide ~~during such~~ (with or without the UDRs associated with dissimilar capability periods, as so elected by the rightsholder) during each month in the Capability Period, as of the time the Locational Minimum Unforced Capacity Requirement is determined as specified in ISO Procedures,

to (2) the sum of the DMNCs used to determine the Unforced Capacities of such Resources for such Capability Period (with or without the DMNCs associated with the UDRs, as so elected by the rightsholder). The foregoing calculation shall be determined using the Resources in the given Locality in the most recent final version of the ISO's annual Load and Capacity Data Report, with the addition of Resources commencing commercial operation since completion of that report and the deletion of Resources with scheduled or planned retirement dates before or during such Capability 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 Capacity 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 and consistent with the election of the holder of the rights to the UDRs set forth in this Section.

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~~ for Installed Capacity ~~Has Not Been Resold~~

(a) Each Installed Capacity Supplier must ~~submit the appropriate ISO certification forms to the ISO no later than the dates specified in the~~ confirm to the ISO, in accordance with ISO Procedures ~~demonstrating~~ that the Unforced

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

(b) Each Installed Capacity Supplier holding rights to UDRs from an External Control Area must confirm to the ISO, in accordance with ISO Procedures, that it will not use as self-supply or offer, and has not sold, Installed Capacity associated with the quantity of MW for which it has not made its one time capability adjustment year election pursuant to Section 5.11.4.

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, and Special Case Resources, Intermittent Power Resources, Limited Control Run-of-River Hydro Resources and Municipally Owned Generation

To qualify as Installed Capacity Suppliers in the NYCA, Generators, External Generators, System Resources, External System Resources, Energy Limited Resources, Special Case Resources, Intermittent Power Resources, Limited Control Run-of-River Hydro Resources and municipally

owned generation 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 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.