

**Date:** 26 March 2001

**From:** William J. Museler, President and Chief Executive Officer

**To:** Steven J. Balsler, Manager of Market Monitoring and Performance  
James H. Savitt, Market Monitor

**Re:** **Extraordinary Corrective Action to Address a Market Design Flaw and Transitional Abnormality:  
Waiver of Installed Capacity Deficiency Charges During Summer 2001 Capability Period (ECA 20010326)**

Thank you for the presentation of the Market Monitoring and Performance Unit and the Market Advisor regarding the market implementation flaw that has appeared in the preparation of the Installed Capacity (ICAP) auctions for the Summer 2001 Capability period.

I agree with your conclusion that the market implementation flaw is a "Market Design Flaw" as defined in Attachment Q to the ISO OATT, Temporary Extraordinary Procedures for Correcting Market Design Flaws and Addressing Transitional Abnormalities (the "TEPs"). This Market Design Flaw must be corrected because application of the ICAP auction rules for the Summer 2001 Capability Period will result in application of ISO Procedures that result in inefficient markets.

I have further determined, based on consultations with ISO Staff, that (i) the Market Design Flaw identified by the Market Monitoring and Performance Unit cannot be corrected by revised ISO operations not requiring changes in ISO Procedures, and (ii) corrective measures are required immediately and must take effect before the ISO can begin or complete consultation and cooperation with the Market Participants and jurisdictional agencies, as necessary, to develop any appropriate rule or rule change in accordance with the ISO Agreement.

Please develop the text of the Extraordinary Corrective Action ("ECA") and post it on the OASIS, for implementation effective for operating hours beginning at midnight (HB00) on 30 March, 2001. The ECA shall be the least restrictive of such measures that will reasonably address on an interim basis the Market Design Flaw.

William J. Museler, President and CEO  
New York Independent System Operator

Cc: Market Participants via OASIS

## **New York Independent System Operator**

### **Extraordinary Corrective Action 20010326:**

#### **Limited Waiver of Installed Capacity Deficiency Charges during 2001 Summer Capability Period**

##### **Applicability**

This Extraordinary Corrective Action (ECA) shall apply to all Load Serving Entities (LSEs):

- that are subject to Locational Installed Capacity Requirements; and
- that comply with the implementation rules set forth below during the 2001 Summer Capability Period.

Application of this ECA is limited to the 2001 Summer Capability Period. This ECA shall not affect in any way any LSE's obligation to meet the statewide Installed Capacity requirement.

##### **Rationale**

The Installed Capacity market anticipates there will be a sufficient amount of locational Installed Capacity for purchase by each LSE subject to a Locational Installed Capacity Requirement. Deficiency charges are provided in Section 5.14 of the ISO Market Administration and Control Area Services Tariff (the "ISO Services Tariff") to provide a market incentive to encourage developers to build new plants, by assuring developers that there is a market for that new generation. The deficiency charge also provides an incentive for LSEs to procure Installed Capacity in amounts sufficient to meet their locational requirements.

In practice, however, the amount of qualified locational Installed Capacity available has been insufficient to meet the Locational Installed Capacity Requirements. If there is no locational Installed Capacity to purchase, the deficiency charges do not provide incentives; they become merely punitive for those unable to procure sufficient locational Installed Capacity due to a lack of available locational Installed Capacity. This result is inconsistent with the intended market design. It is both a transitional abnormality and an implementation flaw giving rise to situations in which market conditions or the application of ISO Procedures result in inefficient markets. This is a Market Design Flaw as defined in the Temporary Extraordinary Procedures for Correcting Market Design Flaws and Addressing Transitional Abnormalities set forth in Attachment Q to the ISO Open Access Transmission Tariff (the "OATT").

To avoid having deficiency charges become penalties with no incentive value, the ISO will waive the deficiency charges on Locational Installed Capacity Requirements during the 2001 Summer Capability Period for LSEs who comply with the implementation rules set forth below.

### **Implementation Rules**

1. In situations where there is insufficient installed generation within an area to satisfy the applicable Locational Installed Capacity Requirement, each LSE wishing to apply for a waiver of locational Installed Capacity deficiency charges based on good faith bids in the Installed Capacity markets in the 2001 Summer Capability Period must file with the ISO, no later than the third day after the ISO posts the results of the applicable Deficiency Procurement Auction held pursuant to Section 5.14.1(a) of the ISO Services Tariff, a certification stating that it used all diligent efforts to procure sufficient locational Installed Capacity by submitting good faith bids in the Installed Capacity markets, including in:
  - (a) the six-month Obligation Procurement Period (“strip”) Auction scheduled for March 30, 2001;
  - (b) the pre-Capability Period monthly auction scheduled for April 12, 2001;
  - (c) if applicable, the monthly auction for the month in question; and
  - (d) the Deficiency Procurement Auction.
  
2. In situations where there is insufficient installed generation within an area to satisfy the applicable Locational Installed Capacity Requirement, each LSE wishing to apply for a waiver of locational Installed Capacity deficiency charges based on construction of new generation must file with the ISO, no later than April 5, 2001, a certification stating that:
  - (a) it used all diligent efforts to procure sufficient locational Installed Capacity through the construction of new generation, which the ISO must determine is reasonably likely to be in service during the 2001 Summer Capability Period; and
  - (b) prior to the new generation being certified and coming into service, the LSE seeking the waiver will submit good faith bids in the pre-Capability Period monthly auction scheduled for April 12, 2001, to cover the Locational Installed Capacity Requirement for the relevant month(s).

3. Any waiver granted by the ISO for deficiency charges based on good faith participation in the Installed Capacity markets under paragraph one above, will waive charges for the difference between the deficiency charge applicable to the LSE who is granted the waiver and any amount the ISO has paid to procure Installed Capacity pursuant to Section 5.14.1(b) of the ISO Services Tariff.

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Effective: 30 March 2001, Operating Hour Beginning 0000