

2.6 Definitions - F

Facility Flow-Based Methodology: The methodology, as described in Section 17.5.3.7 of Attachment B, used to allocate Net Auction Revenue among Transmission Owners.

Federal Power Act (“FPA”): The Federal Power Act, as may be amended from time-to-time (See 16 U.S.C. § 796 et seq.).

Firm Point-To-Point Transmission Service: Transmission Service under this Tariff that is scheduled between specified Points of Receipt and Delivery pursuant to the ISO OATT. Firm Point-To-Point Transmission Service is service for which the Transmission Customer has agreed to pay the Congestion associated with its service. A Transmission Customer may fix the price of Congestion associated with its Firm Point-To-Point Transmission Service by acquiring sufficient TCCs with the same Points of Receipt and Delivery as its Transmission Service.

Firm Transmission Service: Transmission service requested by a Transmission Customer willing to pay Congestion Rent.

First Settlement: The process of establishing binding financial commitments on the part of Customers participating in the Day-Ahead Market based on Day-Ahead LBMP.

Fixed Block Unit: A unit that, due to operational characteristics, can only be dispatched in one of two states: either turned completely off, or turned on and run at a fixed capacity level.

Fixed Price TCC: TCCs obtained pursuant to Sections 19.2.1 or 19.2.2 of Attachment M of the ISO OATT. If a TCC is obtained pursuant to Section 19.2.1 of Attachment M of the OATT, it is an Historic Fixed Price TCC. If a TCC is awarded to an LSE pursuant to the provisions of Section 19.2.2 of Attachment M of the OATT, it is a Non-Historic Fixed Price TCC.

Forced Outage: An unscheduled inability of a Market Participant’s Generator to produce Energy that does not meet the notification criteria to be classified as a scheduled outage or de-rate as established in ISO Procedures. If the Forced Outage of a Generator starts on or after May 1, 2015, the Forced Outage will expire at the end of the month which contains the 180th day of its Forced Outage but may be extended if the Market Participant has Commenced Repair of its Generator.

2.9 Definitions - I

ICAP Demand Curve: A series of prices which decline until reaching zero as the amount of Installed Capacity increases.

ICAP Demand Curve Reset Filing Year: A calendar year in which the ISO files ICAP Demand Curves, in accordance with Section 5.14.1.2.11.

ICAP Ineligible Forced Outage: The outage state of a Market Participant's Generator after: i) the expiration or termination of its Forced Outage pursuant to the provisions in Section 5.18.1.6 of this Services Tariff, which Forced Outage started on or after May 1, 2015; ii) the Market Participant voluntarily reclassified its Forced Outage pursuant to the provisions in Section 5.18.2.1 of this Services Tariff, which Forced Outage started on or after May 1, 2015; or iii) substantial actions have been taken, such as dismantling or disabling essential equipment, which actions are inconsistent with an intention to return the Generator to operation and the Energy market. A Generator in an ICAP Ineligible Forced Outage is subject to the return-to-service provisions in Section 5.18.4 of this Services Tariff and is ineligible to participate in the Installed Capacity market.

ICAP Spot Market Auction: An auction conducted pursuant to Section 5.14.1.1 of this Tariff to procure and set LSE Unforced Capacity Obligations for the subsequent Obligation Procurement Period, pursuant to the Demand Curves applicable to each respective LSE and the supply that is offered.

Import Credit Requirement: A component of the External Transaction Component of the Operating Requirement, calculated in accordance with Section 26.4.2 of Attachment K to this Services Tariff.

Import Curtailment Guarantee Payment: A payment made in accordance with Section 4.5.3.2 and Attachment J of this ISO Services Tariff to compensate a Supplier whose Import is Curtailed by the ISO.

Imports: A Bilateral Transaction or sale to the LBMP Market where Energy is delivered to a NYCA Interconnection from another Control Area.

Imputed LBMP Revenue: Revenue developed for calculating a Generator or Import Bid Production Cost guarantee, for any interval, which equals the product of (i) the Bilateral Transaction scheduled MW in the Day-Ahead Market or real-time market, as appropriate, from the Generator bus or Proxy Generator Bus, as appropriate, for the interval, (ii) the LBMP, in units of \$/MWh, either Day-Ahead or real-time as appropriate, at the Generator or Proxy Generator Bus for that interval and (iii) the length of the interval, in units of hours.

Inactive Reserves: The outage state in which a Market Participant's Generator is unavailable to produce Energy for a limited period of time not to exceed six months, for reasons that are not equipment related, which state does not meet the criteria to be classified as any other outage pursuant to the provisions of this Services Tariff or of ISO Procedures. A Generator in Inactive Reserves is ineligible to participate in the Installed Capacity market.

Inadvertent Energy Accounting: The accounting performed to track and reconcile the difference between net actual Energy interchange and scheduled Energy interchange of a Control Area with adjacent Control Areas.

In-City: Located electrically within the New York City Locality (LBMP Load Zone J).

Incremental Average Coincident Load (“Incremental ACL”): Beginning with the Summer 2014 Capability Period, the amount of qualifying Load that may be added to the Average Coincident Load of a Special Case Resource. In order to qualify to use Incremental ACL the SCR must enroll with an ACL and report an increase in the Load of the facility that is supplied by the NYS Transmission System and/or distribution system that meets or exceeds the SCR Load Change Reporting Threshold in accordance with this Services Tariff. The Incremental ACL reported in a Capability Period cannot exceed one-hundred percent (100%) of the ACL that has been calculated for the SCR when it first enrolls in the Capability Period. For resources reporting an Incremental ACL, the Net Average Coincident Load shall equal the enrolled ACL plus the reported Incremental ACL less any applicable SCR Change of Status. Each resource for which a RIP reports an Incremental ACL is subject to verification subsequent to the Capability Period pursuant to reporting requirements and calculations using the SCR’s metered Load values provided in Section 5.12.11.1.5 of this Services Tariff and ISO Procedures.

Incremental Energy Bid: A series of monotonically increasing constant cost incremental Energy steps that indicate the quantities of Energy for a given price that an entity is willing to supply to the ISO Administered Markets.

Incremental TCC: A set of point-to-point Transmission Congestion Contract(s) that is awarded pursuant to Section 19.2.2 of Attachment M to the ISO OATT.

Independent System Operator (“ISO”): The New York Independent System Operator, Inc., a not-for-profit corporation established pursuant to the ISO Agreement.

Independent System Operator Agreement (“ISO Agreement”): The agreement that establishes the New York ISO.

Independent System Operator/New York State Reliability Council (“ISO/NYSRC Agreement”): The agreement between the ISO and the New York State Reliability Council governing the relationship between the two organizations.

Independent System Operator-Transmission Owner Agreement (“ISO/TO Agreement”): The agreement that establishes the terms and conditions under which the Transmission Owners transferred to the ISO Operational Control over designated transmission facilities.

Indicative NCZ Locational Minimum Installed Capacity Requirement: The amount of capacity that must be electrically located within a New Capacity Zone, or possess an approved Unforced Capacity Deliverability Right, in order to ensure that sufficient Energy and Capacity are available in that NCZ and that appropriate reliability criteria are met.

Installed Capacity (“ICAP”): External or Internal Capacity, in increments of 100 kW, that is made-available pursuant to Tariff requirements and ISO Procedures.

Installed Capacity Equivalent: The Resource capability that corresponds to its Unforced Capacity, calculated in accordance with ISO Procedures.

Installed Capacity Marketer: An entity which has signed this Tariff and which purchases Unforced Capacity from qualified Installed Capacity Suppliers, or from LSEs with excess Unforced Capacity, either bilaterally or through an ISO-administered auction. Installed Capacity Marketers that purchase Unforced Capacity through an ISO-administered auction may only resell Unforced Capacity purchased in such auctions in the NYCA.

Installed Capacity Supplier: An Energy Limited Resource, Generator, Installed Capacity Marketer, Responsible Interface Party, Intermittent Power Resource, Limited Control Run of River Hydro Resource, municipally-owned generation, System Resource or Control Area System Resource that satisfies the ISO's qualification requirements for supplying Unforced Capacity to the NYCA.

Interconnection or Interconnection Points ("IP"): The point(s) at which the NYCA connects with a distribution system or adjacent Control Area. The IP may be a single tie line or several tie lines that are operated in parallel.

Interface: A defined set of transmission facilities that separate Load Zones and that separate the NYCA from adjacent Control Areas.

Interface MW - Mile Methodology: The procedure used to allocate Original Residual TCCs determined prior to the first Centralized TCC Auction to Transmission Owners.

Intermittent Power Resource: A device for the production of electricity that is characterized by an energy source that: (1) is renewable; (2) cannot be stored by the facility owner or operator; and (3) has variability that is beyond the control of the facility owner or operator. In New York, resources that depend upon wind, solar energy or landfill gas for their fuel have been classified as Intermittent Power Resources. Each Intermittent Power Resource that depends on wind as its fuel shall include all turbines metered at a single scheduling point identifier (PTID).

Internal: An entity (e.g., Supplier, Transmission Customer) or facility (e.g., Generator, Interface) located within the Control Area being referenced. Where a specific Control Area is not referenced, internal means the NYCA.

Internal Transactions: Purchases, sales or exchanges of Energy, Capacity or Ancillary Services where the Generator and Load are located within the NYCA.

Investment Grade Customer: A Customer that meets the criteria set forth in Section 26.3 of Attachment K to this Services Tariff.

Investor-Owned Transmission Owners: At the present time these include: Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., New York State Electric & Gas Corporation, Niagara Mohawk Power Corporation, Orange and Rockland Utilities, Inc., and Rochester Gas and Electric Corporation.

ISO Administered Markets : The Day-Ahead Market and the Real-Time Market (collectively the "LBMP Markets") and any other market or auction administered by the ISO.

ISO-Committed Fixed: In the Day-Ahead Market, a bidding mode in which a Generator requests that the ISO commit and schedule it. In the Real-Time Market, a bidding mode in which a Generator, with ISO approval, requests that the ISO schedule it no more frequently than every 15 minutes. A Generator scheduled in the Day-Ahead Market as ISO-Committed Fixed will participate as a Self-Committed Fixed Generator in the Real-Time Market unless it changes bidding mode, with ISO approval, to participate as an ISO-Committed Fixed Generator.

ISO-Committed Flexible: A bidding mode in which a Dispatchable Generator or Demand Side Resource follows Base Point Signals and is committed by the ISO.

ISO Market Power Monitoring Program: The monitoring program approved by the Commission and administered by the ISO and the Market Monitoring Unit that is designed to monitor the possible exercise of market power in ISO Administered Markets.

ISO OATT: The ISO Open Access Transmission Tariff.

ISO Procedures: The procedures adopted by the ISO in order to fulfill its responsibilities under the ISO OATT, the ISO Services Tariff and the ISO Related Agreements.

ISO Related Agreements: Collectively, the ISO Agreement, the ISO/TO Agreement, the NYSRC Agreement, and the ISO/NYSRC Agreement.

ISO Services Tariff (the "Tariff"): The ISO Market Administration and Control Area Services Tariff.

ISO Tariffs: The ISO OATT and the ISO Services Tariff, collectively.

2.13 Definitions - M

Major Emergency State: An Emergency accompanied by abnormal frequency, abnormal voltage and/or equipment overloads that create a serious risk that the reliability of the NYS Power System could be adversely affected.

Marginal Losses: The NYS Transmission System Real Power Losses associated with each additional MWh of consumption by Load, or each additional MWh transmitted under a Bilateral Transaction as measured at the Points of Withdrawal.

Marginal Losses Component: The component of LBMP at a bus that accounts for the Marginal Losses, as measured between that bus and the Reference Bus.

Market-Clearing Price: The price determined in an Installed Capacity auction for each ISO-defined Locality, the remainder of the NYCA and each adjacent External Control Area for which all offers to sell and bids to purchase Unforced Capacity are in equilibrium.

Market Mitigation and Analysis Department: A department, internal to the ISO, that is responsible for participating in the ISO's administration of its Tariffs. The Market Mitigation and Analysis Department's duties are described in Section 30.3 of the Market Monitoring Plan that is set forth in Attachment O to this Services Tariff.

Market Monitoring Unit: "Market Monitoring Unit" shall have the same meaning in this ISO Services Tariff as it has in the Market Monitoring Plan that is set forth in Attachment O to this Services Tariff.

Market Participant: An entity, excluding the ISO, that produces, transmits, sells, and/or purchase for resale Unforced Capacity, Energy or Ancillary Services in the Wholesale Market. Market Participants include: Transmission Customers under the ISO OATT, Customers under the ISO Services Tariff, Power Exchanges, Transmission Owners, Primary Holders, LSEs, Suppliers and their designated agents. Market Participants also include entities buying or selling TCCs.

Market Problem: An issue which requires notification to Market Participants, the Commission and the Market Monitoring Unit pursuant to Section 3.5.1 of this Services Tariff. It includes market design flaws, software implementation and modeling anomalies or errors, market data anomalies or errors, and economic inefficiencies that have a material effect on the ISO-administered markets or transmission service. The term does not include erroneous Energy or Ancillary Services prices (which are managed through procedures outlined in Attachment E to the Services Tariff) or erroneous customer settlements.

Market Services: Services provided by the ISO under the ISO Services Tariff related to the ISO Administered Markets for Energy, Capacity and Ancillary Services.

Member Systems: The eight Transmission Owners that comprise the membership of the New York Power Pool.

Minimum Generation Bid: A two-parameter Bid that identifies the minimum operating level a Supplier requires to operate a Generator, and the payment a Supplier requires to operate its Generator at that level, or the minimum quantity of Demand Reduction a Demand Side Resource requires to provide Demand Reduction and the payment the Supplier requires to provide that level of Demand Reduction.

Minimum Generation Level: For purposes of describing the eligibility of ten minute Resources to be committed by the Real Time Dispatch for pricing purposes pursuant to the Services Tariff, Section 4.4.3.3, an upper bound, established by the ISO, on the physical minimum generation limits specified by ten minute Resources. Ten minute Resources with physical minimum generation limits that exceed this upper bound will not be committed by the Real Time Dispatch for pricing purposes. The ISO shall establish a Minimum Generation Level based on its evaluation of the extent to which it is meeting its reliability criteria including Control Performance. The Minimum Generation Level, in megawatts, and the ISO's rationale for that level, shall be made available through the ISO's website or comparable means.

Minimum Payment Nomination: An offer, submitted by a Responsible Interface Party, in dollars per Megawatt-hour and not to exceed \$500 per Megawatt-hour, to reduce Load equal to the Installed Capacity Equivalent of the amount of Unforced Capacity a Special Case Resource is supplying to the NYCA.

Mitigated Capacity Zone: New York City and any Locality added to the definition of "Locality" accepted by the Commission on or after March 31, 2013.

Modified Wheeling Agreement ("MWA"): A Transmission Wheeling Agreement between Transmission Owners that was in existence at the time of ISO start-up, as amended and modified as described in Attachment K. Modified Wheeling Agreements are associated with Generators or power supply contracts existing at ISO start-up. All Modified Wheeling Agreements are listed in Attachment L, Table 1A, and are designated in the "Treatment" column of Table 1A, as "MWA".

Monthly Auction: An auction administered by the ISO pursuant to Section 5.13.3 of the ISO Services Tariff.

Monthly Average Coincident Load ("Monthly ACL"): Beginning with the Summer 2014 Capability Period, the Load value calculated for each month during a Capability Period applicable to a Special Case Resource with a reported Incremental Average Coincident Load. The Monthly ACL is an average of the SCR's metered hourly Load that is supplied by the NYS Transmission System and/or the distribution system and reported for the Monthly SCR Load Zone Peak Hours applicable to such SCR. The calculation and verification data reporting requirements are provided in Section 5.12.11.1.5 of this Services Tariff and ISO Procedures. Any Load supported by generation produced from a Local Generator, other behind-the-meter generator, or other supply source located behind the meter operating during the Monthly SCR Zone Load Peak Hours may not be included in the metered Load values reported for the Monthly ACL.

Monthly Net Benefit Offer Floor: The price, in \$/MWh, determined by the ISO pursuant to Section 4.2.1.9 of the ISO Services Tariff and ISO Procedures, below which offers submitted by Demand Reduction Providers shall not be evaluated in the ISO's Security Constrained Unit Commitment.

Monthly SCR Load Zone Peak Hours: Beginning with the Summer 2014 Capability Period, the top forty (40) coincident peak hours for each month within a Capability Period that include hour beginning eleven through hour beginning nineteen as identified by the ISO for each Load Zone; provided, however, that such hours shall not include (i) hours in which Special Case Resources located in the specific Load Zone were called by the ISO to respond to a reliability event or test, (ii) hours for which the Emergency Demand Response Program resources were deployed by the ISO in each specific Load Zone and (iii) in descending rank order of NYCA Load up to a maximum of eight hours per month, a) the hour before the start time of a reliability event or performance test, in which SCRs located in the specific Load Zone were called by the ISO to respond to a reliability event or performance test, or b) the hour immediately following the end time of such reliability event or performance test.

Mothball Outage: The outage state in which a Market Participant's Generator is voluntarily removed from service on or after May 1, 2015, with applicable prior notice, for reasons not related to equipment failure. A Generator in Mothball Outage is subject to the return-to-service provisions in Section 5.18.4 of this Services Tariff and is ineligible to participate in the Installed Capacity market.

2.18 Definitions - R

Ramp Capacity: The amount of change in the Desired Net Interchange that generation located in the NYCA can support at any given time. Ramp capacity may be calculated for all Interfaces between the NYCA and neighboring Control Areas as a whole or for any individual Interface between the NYCA and an adjoining Control Area.

RCRR TCC:: A zone-to-zone TCC created when a Transmission Owner with a RCRR exercises its right to convert the RCRR into a TCC pursuant to Section 19.5.4 of Attachment M of the ISO OATT.

Reactive Power (MVar): The product of voltage and the out-of-phase component of alternating current. Reactive Power, usually measured in MVar, is produced by capacitors (synchronous condensers), Qualified Non-Generator Voltage Support Resources, and over-excited Generators and absorbed by reactors or under-excited Generators and other inductive devices including the inductive portion of Loads.

Real Power Losses: The loss of Energy, resulting from transporting power over the NYS Transmission System, between the Point of Injection and Point of Withdrawal of that Energy.

Real-Time Bid: A Bid submitted into the Real-Time Commitment before the close of the Real-Time Scheduling Window. A Real-Time Bid shall also include a CTS Interface Bid.

Real-Time Commitment (“RTC”): A multi-period security constrained unit commitment and dispatch model that co-optimizes to solve simultaneously for Load, Operating Reserves and Regulation Service on a least as-bid production cost basis over a two hour and fifteen minute optimization period. The optimization evaluates the next ten points in time separated by fifteen minute intervals. Each RTC run within an hour shall have a designation indicating the time at which its results are posted; “RTC₀₀,” “RTC₁₅,” “RTC₃₀,” and “RTC₄₅” post on the hour, and at fifteen, thirty, and forty-five minutes after the hour, respectively. Each RTC run will produce binding commitment instructions for the periods beginning fifteen and thirty minutes after its scheduled posting time and will produce advisory commitment guidance for the remainder of the optimization period. RTC₁₅ will also establish hourly External Transaction schedules, while all RTC runs may establish 15 minute External Transaction schedules at Variably Scheduled Proxy Generator Buses. Additional information about RTC’s functions is provided in Section 4.4.2 of this ISO Services Tariff.

Real-Time Dispatch (“RTD”): A multi-period security constrained dispatch model that co-optimizes to solve simultaneously for Load, Operating Reserves, and Regulation Service on a least-as-bid production cost basis over a fifty, fifty-five or sixty-minute period (depending on when each RTD run occurs within an hour). The Real-Time Dispatch dispatches, but does not commit, Resources, except that RTD may commit, for pricing purposes, Resources meeting Minimum Generation Levels and capable of starting in ten minutes. RTD may also establish 5 minute External Transaction schedules at Dynamically Scheduled Proxy Generator Buses. Real-Time Dispatch runs will normally occur every five minutes. Additional information about RTD’s functions is provided in Section 4.4.3 of this ISO Services Tariff. Throughout this ISO

Services Tariff the term “RTD” will normally be used to refer to both the Real-Time Dispatch and to the specialized Real-Time Dispatch Corrective Action Mode software.

Real-Time Dispatch–Corrective Action Mode (“RTD-CAM”): A specialized version of the Real-Time Dispatch software that will be activated when it is needed to address unanticipated system conditions. RTD-CAM is described in Section 4.4.4 of this ISO Services Tariff.

Real-Time LBMP: The LBMPs established through the ISO Administered Real-Time Market.

Real-Time Market: The ISO Administered Markets for Energy and Ancillary Services resulting from the operation of the RTC and RTD.

Real-Time Minimum Run Qualified Gas Turbine: One or more gas turbines, offered in the Real-Time Market, which, because of their physical operating characteristics, may qualify for a minimum run time of two hours in the Real-Time Market. Characteristics that qualify gas turbines for this treatment are established by ISO Procedures and include using waste heat from the gas turbine-generated electricity to make steam for the generation of additional electricity via a steam turbine.

Real-Time Scheduled Energy: The quantity of Energy that a Supplier is directed to inject or withdraw in real-time by the ISO. Injections are indicated by positive Base Point Signals and withdrawals are indicated by negative Base Point Signals. Unless otherwise directed by the ISO, Dispatchable Supplier’s Real-Time Scheduled Energy is equal to its RTD Base Point Signal, or, if it is providing Regulation Service, to its AGC Base Point Signal, and an ISO Committed Fixed or Self-Committed Fixed Supplier’s Real-Time Scheduled Energy is equal to its bid output level in real-time.

Real-Time Scheduling Window: The period of time within which the ISO accepts offers and bids to sell and purchase Energy and Ancillary Services in the Real-Time Market for a given hour which period closes seventy-five (75) minutes before the start of that hour, or eighty-five (85) minutes before the start of that hour for Bids to schedule External Transactions at the Proxy Generator Buses associated with the Cross-Sound Scheduled Line, the Neptune Scheduled Line, the Linden VFT Scheduled Line, or the HTP Scheduled Line.

Reconfiguration Auction: The monthly auction administered by the ISO in which Market Participants may purchase and sell one-month TCCs.

Reference Bus: The location on the NYS Transmission System relative to which all mathematical quantities, including Shift Factors and penalty factors relating to physical operation, will be calculated. The NYPA Marcy 345 kV transmission substation is designated as the Reference Bus.

Reference Month: For purposes of the Net Benefits Test, the calendar month that is twelve months prior to the Study Month.

Regulation Capacity: The Energy or Demand Reduction capability, measured in MW, that a Regulation Service provider offers and/or which it is scheduled to provide for Regulation Service.

Regulation Capacity Market Price: The price for Regulation Capacity determined by the ISO pursuant to section 15.3 of this Services Tariff.

Regulation Capacity Response Rate: The Regulation Capacity a Resource is capable of providing over five minutes, measured in MW/minute which shall not exceed the lowest normal energy response rate provided for the Resource and which must be sufficient to permit that Resource to provide the Regulation Capacity (in MW) offered within a five-minute RTD interval. Reference to a Regulation response rate shall be a reference to the Regulation Capacity Response Rate.

Regulation Movement: The absolute value of the change in Energy or Demand Reduction over a six second interval, measured in MW, that a Regulation Service provider is instructed to deliver for the purpose of providing Regulation Service.

Regulation Movement Market Price: The price for Regulation Movement as determined by the ISO pursuant to section 15.3 of this Services Tariff.

Regulation Movement Multiplier: A factor with the value of thirteen (13), used with the Regulation Movement Bids, to schedule Regulation Service providers in both the Day-Ahead and Real-Time Energy markets. The ISO calculates the Regulation Movement Multiplier based on the historical relationship between the number of MW of Regulation Capacity that the ISO seeks to maintain in each hour and the number of Regulation Movement MW instructed by AGC in each hour.

Regulation Movement Response Rate: The amount of Regulation Movement a Regulation Service provider is capable of delivering in six seconds which shall not be less than, but can be equal to or greater than, the Regulation Capacity Response Rate equivalent.

Regulation Service: The Ancillary Service defined by the Commission as “frequency regulation” and that is instructed as Regulation Capacity in the Day-Ahead Market and as Regulation Capacity and Regulation Movement in the Real-Time Market as is further described in Section 15.3 of the Services Tariff. Day-Ahead and Real-Time Bids to provide Regulation Service shall include a Bid for Regulation Capacity and a Bid for Regulation Movement. The Regulation Service requirement or target level shall be for MW of Regulation Capacity.

Regulation Service Demand Curve: A series of quantity/price points that defines the maximum Shadow Price for Regulation Service corresponding to each possible quantity of Resources that the ISO’s software may schedule to satisfy the ISO’s Regulation Service constraint. A single Regulation Service Demand Curve will apply to both the Day-Ahead Market and the Real-Time Market for Regulation Service. The Shadow Price for Regulation Service shall be used to calculate Regulation Service payments under Rate Schedule 3 of this ISO Services Tariff.

Regulation Revenue Adjustment Charge (“RRAC”): A charge that will be assessed against certain Generators that are providing Regulation Service under Section 15.3.6 of Rate Schedule 3 to this ISO Services Tariff.

Regulation Revenue Adjustment Payment (“RRAP”): A payment that will be made to certain Generators that are providing Regulation Service under Section 15.3.6 of Rate Schedule 3 to this ISO Services Tariff.

Reliability Rules: Those rules, standards, procedures and protocols developed and promulgated by the NYSRC, including Local Reliability Rules, in accordance with NERC, NPCC, FERC, PSC and NRC standards, rules and regulations and other criteria and pursuant to the NYSRC Agreement.

Repair Plan: A work plan, set of actions, and time frame for such actions, that is necessary to repair a Generator and return it to service as described in Section 5.18.1 of this Services Tariff.

Required System Capability: Generation capability required to meet an LSE’s peak Load plus Installed Capacity Reserve obligation as defined in the Reliability Rules.

Reserve Performance Index: An index created by the ISO for the purpose of calculating the Day Ahead Margin Assurance Payment pursuant to Attachment J of this Services Tariff made to Demand Side Resources scheduled to provide Operating Reserves in the Day-Ahead Market.

Residual Adjustment: The adjustment made to ISO costs that are recovered through Schedule 1 of the OATT. The Residual Adjustment is calculated pursuant to Schedule 1 of the OATT.

Residual Capacity Reservation Right (“RCRR”): A megawatt of transmission Capacity from one Load Zone to an electrically contiguous Load Zone, each of which is internal to the NYCA, that may be converted into an RCRR TCC by a Transmission Owner allocated the RCRR pursuant to Section 19.5 of Attachment M of the ISO OATT.

Residual Transmission Capacity: The transmission capacity determined by the ISO before, during and after the Centralized TCC Auction which is conceptually equal to the following:

$$\text{Residual Transmission Capacity} = \text{TTC} - \text{TRM} - \text{CBM} - \text{GTR} - \text{GTCC} - \text{ETCNL}$$

The TCCs associated with Residual Transmission Capacity cannot be accurately determined until the Centralized TCC Auction is conducted.

TTC is the Total Transfer Capability that can only be determined after the Residual Transmission Capacity is known.

GTR is the transmission capacity associated with Grandfathered Rights.

GTCC is the transmission capacity associated with Grandfathered TCCs.

ETCNL is the transmission capacity associated with Existing Transmission Capacity for Native Load.

TRM is the Transmission Reliability Margin.

CBM is the Capacity Benefit Margin.

Resource: An Energy Limited Resource, Generator, Installed Capacity Marketer, Special Case Resource, Intermittent Power Resource, Limited Control Run of River Hydro Resource,

municipally-owned generation, System Resource, Demand Side Resource or Control Area System Resource.

Responsible Interface Party (“RIP”): A Customer that is authorized by the ISO to be the Installed Capacity Supplier for one or more Special Case Resources and that agrees to certain notification and other requirements as set forth in this Services Tariff and in the ISO Procedures.

Rest of State: The set of all non-Locality NYCA LBMP Load Zones. As of the 2014/2015 Capability Year, Rest of State includes all NYCA LBMP Load Zones other than LBMP Load Zones G, H, I, J and K.

Retired: A Generator that has permanently ceased operating on or after May 1, 2015 either: i) pursuant to applicable notice; or ii) as a result of the expiration of its Mothball Outage or of its ICAP Ineligible Forced Outage.

Rolling RTC: The RTC run that is used to schedule a given 15-minute External Transaction. The Rolling RTC may be an RTC00, RTC15, RTC30 or RTC45 run.

5.12 Requirements Applicable to Installed Capacity Suppliers

5.12.1 Installed Capacity Supplier Qualification Requirements

In order to qualify as an Installed Capacity Supplier in the NYCA, each generator and merchant transmission facility interconnected to the New York State Transmission System must, commencing with the 2009 Summer Capability Period, have elected Capacity Resource Interconnection Service and been found deliverable, or must have been grandfathered as deliverable, pursuant to the applicable provisions of Attachment X, Attachment Z and Attachment S to the ISO OATT. Even if a Generator has otherwise satisfied the requirements to participate in the ISO's Installed Capacity market, a Generator in Inactive Reserves, an ICAP Ineligible Forced Outage, a Mothball Outage, or that is Retired is ineligible to participate in the ISO's Installed Capacity market. In addition, to qualify as an Installed Capacity Supplier in the NYCA, Energy Limited Resources, Generators, Installed Capacity Marketers, Intermittent Power Resources, Limited Control Run-of-River Hydro Resources and System Resources rated 1 MW or greater, other than External System Resources and Control Area System Resources which have agreed to certain Curtailment conditions as set forth in the last paragraph of Section 5.12.1 below, Responsible Interface Parties, existing municipally-owned generation, Energy Limited Resources, and Intermittent Power Resources, to the extent those entities are subject to the requirements of Section 5.12.11 of this Tariff, shall:

5.12.1.1 provide information reasonably requested by the ISO including the name and location of Generators, and System Resources;

5.12.1.2 in accordance with the ISO Procedures, perform DMNC tests and submit the results to the ISO, or provide to the ISO appropriate historical production data;

5.12.1.3 abide by the ISO Generator maintenance coordination procedures;

- 5.12.1.4 provide the expected return date from any outages (including partial outages) to the ISO;
- 5.12.1.5 in accordance with the ISO Procedures,
 - 5.12.1.5.1 provide documentation demonstrating that it will not use the same Unforced Capacity for more than one (1) buyer at the same time, and
 - 5.12.1.5.2 in the event that the Installed Capacity Supplier supplies more Unforced Capacity than it is qualified to supply in any specific month (*i.e.*, is short on Capacity), documentation that it has procured sufficient Unforced Capacity to cover this shortfall.
- 5.12.1.6 except for Installed Capacity Marketers and Intermittent Power Resources that depend upon wind or solar as their fuel, Bid into the Day-Ahead Market, unless the Energy Limited Resource, Generator, Limited Control Run-of-River Hydro Resource or System Resource is unable to do so due to an outage as defined in the ISO Procedures or due to temperature related de-ratings. Generators may also enter into the MIS an upper operating limit that would define the operating limit under normal system conditions. The circumstances under which the ISO will direct a Generator to exceed its upper operating limit are described in the ISO Procedures;
- 5.12.1.7 provide Operating Data in accordance with Section 5.12.5 of this Tariff;
- 5.12.1.8 provide notice to the ISO, prior to the commencement of the Annual Transmission Reliability Assessment on March 1, of any transfers of deliverability rights to be carried out pursuant to Sections 25.9.4 - 25.9.6 of Attachment S to the ISO OATT;

- 5.12.1.9 comply with the ISO Procedures;
- 5.12.1.10 when the ISO issues a Supplemental Resource Evaluation request (an SRE), Bid into the in-day market unless the entity has a bid pending in the Real-Time Market when the SRE request is made or is unable to bid in response to the SRE request due to an outage as defined in the ISO Procedures, or due to other operational issues, or due to temperature related deratings; and
- 5.12.1.11 Installed Capacity Suppliers located East of Central-East shall Bid in the Day-Ahead and Real-Time Markets all Capacity available for supplying 10-Minute Non-Synchronized Reserve (unless the Generator is unable to meet its commitment because of an outage as defined in the ISO Procedures), except for the Generators described in Subsections 5.12.1.11.1, 5.12.1.11.2 and 5.12.1.11.3 below:
- 5.12.1.11.1 Generators providing Energy under contracts executed and effective on or before November 18, 1999 (including PURPA contracts) in which the power purchasers do not control the operation of the supply source but would be responsible for penalties for being off-schedule, with the exception of Generators under must-take PURPA contracts executed and effective on or before November 18, 1999, who have not provided telemetering to their local TO and historically have not been eligible to participate in the NYPP market, which will continue to be treated as TO Load modifiers under the ISO-administered markets;
- 5.12.1.11.2 Existing topping turbine Generators and extraction turbine Generators producing Energy resulting from the supply of steam to the district steam system located in New York City (LBMP Zone J) in operation on or before November

18, 1999 and/or topping or extraction turbine Generators used in replacing or repowering steam supplies from such units (in accordance with good engineering and economic design) that cannot follow schedules, up to a maximum total of 499 MW of such units; and

5.12.1.11.3 Units that have demonstrated to the ISO that they are subject to environmental, contractual or other legal or physical requirements that would otherwise preclude them from providing 10-Minute NSR.

The ISO shall inform each potential Installed Capacity Supplier that is required to submit DMNC data of its approved DMNC ratings for the Summer Capability Period and the Winter Capability Period in accordance with the ISO Procedures.

Requirements to qualify as Installed Capacity Suppliers for External System Resources and Control Area System Resources located in External Control Areas that have agreed not to Curtail the Energy associated with such Installed Capacity or to afford it the same Curtailment priority that it affords its own Control Area Load shall be established in the ISO Procedures.

External Installed Capacity not associated with UDRs, including capacity associated with External CRIS Rights, Grandfathered External Installed Capacity Agreements listed in Attachment E of the ISO Installed Capacity Manual, the Existing Transmission Capacity for Native Load listed for New York State Electric & Gas Corporation in Table 3 of Attachment L to the ISO OATT, Import Rights, and External System Resources, is only qualified to satisfy a NYCA Minimum Unforced Capacity Requirement and is not eligible to satisfy a Locational Minimum Installed Capacity Requirement.

Not later than 30 days prior to each ICAP Spot Market Auction, each Market Participant that may make offers to sell Unforced Capacity in such auction shall submit information to the

ISO, in accordance with ISO Procedures and in the format specified by the ISO that identifies each Affiliated Entity, as that term is defined in Section 23.2.1 of Attachment H of the Services Tariff, of the Market Party or with which the Market Party is an Affiliated Entity. The names of entities that are Affiliated Entities shall not be treated as Confidential Information, but such treatment may be requested for the existence of an Affiliated Entity relationship. The information submitted to the ISO shall identify the nature of the Affiliated Entity relationship by the applicable category specified in the definition of “Affiliated Entity” in Section 23.2.1 of Attachment H of the Services Tariff.

5.12.2 Additional Provisions Applicable to External Installed Capacity Suppliers

Terms in this Section 5.12.2 not defined in the Services Tariff have the meaning set forth in the OATT.

5.12.2.1 Provisions Addressing the Applicable External Control Area

External Generators, External System Resources, and Control Area System Resources qualify as Installed Capacity Suppliers if they demonstrate to the satisfaction of the NYISO that the Installed Capacity Equivalent of their Unforced Capacity is deliverable to the NYCA or, in the case of an entity using a UDR to meet a Locational Minimum Installed Capacity Requirement, to the NYCA interface associated with that UDR transmission facility and will not be recalled or curtailed by an External Control Area to satisfy its own Control Area Loads, or, in the case of Control Area System Resources, if they demonstrate that the External Control Area will afford the NYCA Load the same curtailment priority that they afford their own Control Area Native Load Customers. The amount of Unforced Capacity that may be supplied by such entities qualifying pursuant to the alternative criteria may be reduced by the ISO, pursuant to ISO Procedures, to reflect the possibility of curtailment. External Installed Capacity associated with

Import Rights or UDRs is subject to the same deliverability requirements applied to Internal Installed Capacity Suppliers associated with UDRs.

5.12.2.2 Additional Provisions Addressing Internal Deliverability and Import Rights

In addition to the provisions contained in Section 5.12.2.1 above, External Installed Capacity not associated with UDRs or External CRIS Rights will be subject to the deliverability test in Section 25.7.8 and 25.7.9 of Attachment S to the ISO OATT. The deliverability of External Installed Capacity not associated with UDRs or External CRIS Rights will be evaluated annually as a part of the process that sets import rights for the upcoming Capability Year, to determine the amount of External Installed Capacity that can be imported to the New York Control Area across any individual External Interface and across all of those External Interfaces, taken together. The External Installed Capacity deliverability test will be performed using the ISO's forecast, for the upcoming Capability Year, of New York Control Area CRIS resources, transmission facilities, and load. Under this process (i) Grandfathered External Installed Capacity Agreements listed in Attachment E of the ISO Installed Capacity Manual, and (ii) the Existing Transmission Capacity for Native Load listed for New York State Electric & Gas Corporation in Table 3 of Attachment L to the ISO OATT, will be considered deliverable within the Rest of State. Additionally, 1090 MW of imports made over the Quebec (via Chateauguay) Interface will be considered to be deliverable until the end of the 2010 Summer Capability Period.

The import limit set for External Installed Capacity not associated with UDRs or External CRIS Rights will be set no higher than the amount of imports deliverable into Rest of State that (i) would not increase the LOLE as determined in the upcoming Capability Year IRM consistent with Section 2.7 of the NYISO Installed Capacity Manual, "Limitations on Unforced Capacity

Flow in External Control Areas,” (ii) are deliverable within the Rest of State Capacity Region when evaluated with the New York Control Area CRIS resources and External CRIS Rights forecast for the upcoming Capability Year, and (iii) would not degrade the transfer capability of any Other Interface by more than the threshold identified in Section 25.7.9 of Attachment S to the ISO OATT. Import limits set for External Installed Capacity will reflect the modeling of awarded External CRIS rights, but the awarded External CRIS rights will not be adjusted as part of import limit-setting process. Procedures for qualifying selling, and delivery of External Installed Capacity are detailed in the Installed Capacity Manual.

Until the grandfathered import rights over the Quebec (via Chateauguay) Interface expire at the end of the 2010 Summer Capability Period, the 1090 MW of grandfathered import rights will be made available on a first-come, first-served basis pursuant to ISO Procedures. Any of the grandfathered import rights over the Quebec (via Chateauguay) Interface not utilized for a Capability Period will be made available to other external resources for that Capability Period, pursuant to ISO Procedures, to the extent the unutilized amount is determined to be deliverable.

Additionally, any of the Existing Transmission Capacity for Native Load listed for New York State Electric & Gas Corporation not utilized by New York State Electric & Gas Corporation for a Capability Period will be made available to other external resources for that Capability Period, pursuant to ISO procedures, to the extent the unutilized amount is determined to be deliverable within the Rest of State Capacity Region.

LSEs with External Installed Capacity as of the effective date of this Tariff will be entitled to designate External Installed Capacity at the same NYCA Interface with another Control Area, in the same amounts in effect on the effective date of this Tariff. To the extent such External Installed Capacity corresponds to Existing Transmission Capacity for Native Load

as reflected in Table 3 of Attachment L to the ISO OATT, these External Installed Capacity rights will continue without term and shall be allocated to the LSE's retail access customers in accordance with the LSE's retail access program on file with the PSC and subject to any necessary filings with the Commission. External Installed Capacity rights existing as of September 17, 1999 that do not correspond to Table 3 of Attachment L to the ISO OATT shall survive for the term of the relevant External Installed Capacity contract or until the relevant External Generator is retired.

5.12.2.3 One-Time Conversion of Grandfathered Quebec (via Chateauguay) Interface Rights.

An entity can request to convert a specified number of MW, up to 1090 MW over the Quebec External Interface (via Chateauguay), into External CRIS Rights by making either a Contract Commitment or Non-Contract Commitment that satisfies the requirements of Section 25.7.11.1 of Attachment S to the ISO OATT. The converted number of MW will not be subject to further evaluation for deliverability within a Class Year Deliverability Study under Attachment S to the ISO OATT, as long as the External CRIS Rights are in effect.

5.12.2.3.1 The External CRIS Rights awarded under this conversion process will first become effective for the 2010-2011 Winter Capability Period.

5.12.2.3.2 Requests to convert these grandfathered rights must be received by the NYISO on or before 5:00 pm Eastern Time on February 1, 2010, with the following information: (a) a statement that the entity is electing to convert by satisfying the requirements of a Contract Commitment or a Non-Contract Commitment in accordance with Section 25.7.11.1 of Attachment S to the ISO OATT; (b) the length of the commitment in years; (c) for the Summer Capability Period, the requested number of MW; (d) for the Winter Capability Period, the

Specified Winter Months, if any, and the requested number of MW; and (e) a minimum number of MW the entity will accept if granted (“Specified Minimum”) for the Summer Capability Period and for all Specified Winter Months, if any.

5.12.2.3.3 An entity cannot submit one or more requests to convert in the aggregate more than 1090 MW in any single month.

5.12.2.3.4 If requests to convert that satisfy all other requirements stated herein are equal to or less than the 1090 MW limit, all requesting entities will be awarded the requested number of MW of External CRIS Rights. If conversion requests exceed the 1090 MW limit, the NYISO will prorate the allocation based on the weighted average of the requested MW times the length of the contract/commitment (*i.e.*, number of Summer Capability Periods) in accordance with the following formula:

$$\text{Rights allocated to entity } i = 1090 * \frac{(\text{MW}_i * \text{contract/commitment length}_i)}{\sum_j (\text{MW}_j * \text{contract/commitment length}_j)}$$

$j = 1, \dots, \# \text{ entities requesting import rights}$

In the formula, contract/commitment length means the lesser of the requested contract/commitment length and twenty (20) years. The NYISO will perform separate calculations for the Summer and Winter Capability Periods. The NYISO will determine whether the prorated allocated number of MW for any requesting entity is less than the entity’s Specified Minimum. If any allocation is less, the NYISO will remove such request(s) and recalculate the prorated allocations among the remaining requesting entities using the above formula. This process will continue until the prorated allocation meets or exceeds the specified

minimum for all remaining requests.

5.12.2.3.5 Any portion of the previously grandfathered 1090 MW not converted through this process will no longer be grandfathered from deliverability.

Previously grandfathered rights converted to External CRIS Rights but then terminated will no longer be grandfathered from deliverability.

5.12.2.4 Offer Cap Applicable to Certain External CRIS Rights

Notwithstanding any other capacity mitigation measures or obligations that may apply, the offers of External Installed Capacity submitted pursuant to a Non-Contract Commitment, as described in Section 25.7.11.1.2 of Attachment S of the ISO OATT, will be subject to an offer cap in each month of the Summer Capability Period and for all Specified Winter Months. This offer cap will be determined as the higher of:

5.12.2.4.1 1.1 times the price corresponding to all available Unforced Capacity determined from the NYCA ICAP Demand Curve for that Period; and

5.12.2.4.2 The most recent auction clearing price (a) in the External market supplying the External Installed Capacity, if any, and if none, then the most recent auction clearing price in an External market to which the capacity may be wheeled, less (b) any transmission reservation costs in the External market associated with providing the Installed Capacity, in accordance with ISO Procedures.

5.12.3 Installed Capacity Supplier Outage Scheduling Requirements

All Installed Capacity Suppliers, except for Control Area System Resources and Responsible Interface Parties, that intend to supply Unforced Capacity to the NYCA shall submit a confidential notification to the ISO of their proposed outage schedules in accordance with the

ISO Procedures. Transmission Owners will be notified of these and subsequently revised outage schedules. Based upon a reliability assessment, if Operating Reserve deficiencies are projected to occur in certain weeks for the upcoming calendar year, the ISO will request voluntary rescheduling of outages. In the case of Generators actually supplying Unforced Capacity to the NYCA, if voluntary rescheduling is ineffective, the ISO will invoke forced rescheduling of their outages to ensure that projected Operating Reserves over the upcoming year are adequate.

A Generator that refuses a forced rescheduling of its outages for any unit shall be prevented from supplying Unforced Capacity in the NYCA with that unit during any month where it undertakes such outages. The rescheduling process is described in the ISO Procedures.

A Generator that intends to supply Unforced Capacity in a given month that did not qualify as an Installed Capacity Supplier prior to the beginning of the Capability Period must notify the ISO in accordance with the ISO Procedures so that it may be subject to forced rescheduling of its proposed outages in order to qualify as an Installed Capacity Supplier. A Supplier that refuses the ISO's forced rescheduling of its proposed outages shall not qualify as an Installed Capacity Supplier for that unit for any month during which it schedules or conducts an outage.

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 may be subject to the sanctions provided in Section 5.12.12.1 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.

5.12.5.1 Generators, System Resources, Energy Limited Resources, Responsible Interface Parties, 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, Responsible Interface Parties, 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.

5.12.5.2 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.

5.12.5.3 Transmission Projects Granted Unforced Capacity Deliverability Rights

An owner of a transmission project that receives UDRs must, among other obligations, submit outage data or other operational information in accordance with the ISO procedures to allow the ISO to determine the number of UDRs associated with the transmission facility.

5.12.6 Operating Data Default Value and Collection

5.12.6.1 UCAP Calculations

The ISO shall calculate for each Resource the amount of Unforced Capacity that each Installed Capacity Supplier is qualified to supply in the NYCA in accordance with formulae provided in the ISO Procedures.

The amount of Unforced Capacity that each Generator, System Resource, Energy Limited Resource, Special Case Resource, and municipally-owned generation is authorized to supply in the NYCA shall be based on the ISO's calculations of individual Equivalent Demand Forced Outage Rates. The amount of Unforced Capacity that each Control Area System Resource is authorized to supply in the NYCA shall be based on the ISO's calculation of each

Control Area System Resource's availability. The amount of Unforced Capacity that each Intermittent Power Resource is authorized to supply in the NYCA shall be based on the NYISO's calculation of the amount of capacity that the Intermittent Power Resource can reliably provide during system peak Load hours in accordance with ISO Procedures. Except as provided in Section 5.12.6.1.1 of this Services Tariff, this calculation shall not include hours in any month that the Intermittent Power Resource was in an outage state that started on or after May 1, 2015 and that precluded its eligibility to participate in the Installed Capacity market. The amount of Unforced Capacity that each Limited Control Run-of-River Hydro Resource is authorized to provide in the NYCA shall be determined separately for Summer and Winter Capability Periods as the rolling average of the hourly net Energy provided by each such Resource during the 20 highest NYCA integrated real-time load hours in each of the five previous Summer or Winter Capability Periods, as appropriate, stated in megawatts. Except as provided in Section 5.12.6.1.1 of this Services Tariff, for a Limited Control Run-of-River Hydro Resource in an outage state that started on or after May 1, 2015 and that precluded its eligibility to participate in the Installed Capacity market during one of the 20 highest NYCA integrated real-time load hours in any one of the five previous Summer or Winter Capability Periods, the ISO shall replace that Winter or Summer Capability Period, as appropriate, with the next most recent Winter or Summer Capability Period such that the rolling average of the hourly net Energy provided by each such Resource shall be calculated from the 20 highest NYCA integrated real-time load hours in the five most recent prior Summer or Winter Capability Periods in which the Resource was not in an outage state that precluded its eligibility to participate in the Installed Capacity market on one of the 20 highest NYCA integrated real-time load hours in that Capability Period.

The ISO shall calculate separate Summer and Winter Capability Period Unforced

Capacity values for each Generator, System Resource, Special Case Resource, Energy Limited Resource, and municipally owned generation and update them periodically using a twelve-month calculation in accordance with formulae provided in the ISO Procedures; provided, however, except as provided in Section 5.12.6.1.1 of this Services Tariff, for a Generator in an outage state that started on or after May 1, 2015 and that precluded its eligibility to participate in the Installed Capacity market at any time during any month from which GADS or other operating data would otherwise be used to calculate an individual Equivalent Demand Forced Outage Rate, the ISO shall replace such month's GADS or other operating data with GADS or other operating data from the most recent prior month in which the Generator was not in an outage state that precluded its eligibility to participate in the Installed Capacity market.

The ISO shall calculate separate Summer and Winter Capability Period Unforced Capacity values for Intermittent Power Resources and update them seasonally as described in ISO Procedures.

5.12.6.1.1 Exceptions

A Generator returning to the Energy market after taking an outage that precluded its participation in the Installed Capacity market and which returns with modifications to its operating characteristics determined by the ISO to be material and which, therefore, requires the submission of a new Interconnection Request will receive, as the initial derating factor for calculation of the Generator's Unforced Capacity upon its return to service, the derating factor it would have received as a newly connecting unit in lieu of a derating factor developed from unit-specific data. A Generator returning to the Energy market after taking an outage that precluded its participation in the Installed Capacity market and which, upon its return, uses as its primary fuel a fuel not previously used at the facility for any purpose other than for ignition purposes will

receive, as the initial derating factor for calculation of the Generator's Unforced Capacity upon its return to service, the NERC class average derating factor in lieu of a derating factor developed from unit-specific data even if the modifications to allow use of a new primary fuel are not material and do not require the submission of a new Interconnection Request.

This Section 5.12.6.1.1 shall apply to a Generator returning to the Energy market after taking an outage that started on or after May 1, 2015 and that precluded its participation in the Installed Capacity market.

5.12.6.2 Default Unforced Capacity

In its calculation of Unforced Capacity, the ISO shall deem a Resource to be completely forced out for each month for which the Resource has not submitted its Operating Data in accordance with Section 5.12.5 of this Tariff and the ISO Procedures. A Resource that has been deemed completely forced out for a particular month may submit new Operating Data, for that month, to the ISO at any time. The ISO will use such new Operating Data when calculating, in a timely manner in accordance with the ISO Procedures, a Unforced Capacity value for the Resource.

Upon a showing of extraordinary circumstances, the ISO retains the discretion to accept at any time Operating Data which have not been submitted in a timely manner, or which do not fully conform with the ISO Procedures.

5.12.6.3 Exception for Certain Equipment Failures

When a Generator, Special Case Resource, Energy Limited Resource, or System Resource is forced into an outage by an equipment failure that involves equipment located on the high voltage side of the electric network beyond the step-up transformer, and including such step-up transformer, the outage will not be counted for purposes of calculating that Resource's

Equivalent Demand Forced Outage Rate.

5.12.7 Availability Requirements

Subsequent to qualifying, each Installed Capacity Supplier shall, except as noted in Section 5.12.11 of this Tariff, on a daily basis: (i) schedule a Bilateral Transaction; (ii) Bid Energy in each hour of the Day-Ahead Market in accordance with the applicable provisions of Section 5.12.1 of this Tariff; or (iii) notify the ISO of any outages. The total amount of Energy that an Installed Capacity Supplier schedules, bids, or declares to be unavailable on a given day must equal or exceed the Installed Capacity Equivalent of the Unforced Capacity it supplies.

5.12.8 Unforced Capacity Sales

Each Installed Capacity Supplier will, after satisfying the deliverability requirements set forth in the applicable provisions of Attachment X, Attachment Z and Attachment S to the ISO OATT, be authorized to supply an amount of Unforced Capacity during each Obligation Procurement Period, based on separate seasonal Unforced Capacity calculations performed by the ISO for the Summer and Winter Capability Periods. Unforced Capacity may be sold in six-month strips, or in monthly, or multi-monthly segments.

External Unforced Capacity (except External Installed Capacity associated with UDRs) may only be offered into Capability Period Auctions or Monthly Auctions for the Rest of State, and ICAP Spot Market Auctions for the NYCA, and may not be offered into a Locality for an ICAP Auction. Bilateral Transactions which certify External Unforced Capacity using Import Rights may not be used to satisfy a Locational Minimum Unforced Capacity Requirement.

If an Energy Limited Resource's, Generator's, System Resource's or Control Area System Resource's DMNC rating is determined to have increased during an Obligation Procurement Period, pursuant to testing procedures described in the ISO Procedures, the amount

of Unforced Capacity that it shall be authorized to supply in that or future Obligation Procurement Periods shall also be increased on a prospective basis in accordance with the schedule set forth in the ISO Procedures provided that it first has satisfied the deliverability requirements set forth in the applicable provisions of Attachment X, Attachment Z and Attachment S to the ISO OATT.

New Generators and Generators that have increased their Capacity since the previous Summer Capability Period due to changes in their generating equipment may, after satisfying the deliverability requirements set forth in the applicable provisions of Attachment X, Attachment Z and Attachment S to the ISO OATT, qualify to supply Unforced Capacity on a foregoing basis during the Summer Capability Period based upon a DMNC test that is performed and reported to the ISO after March 1 and prior to the beginning of the Summer Capability Period DMNC Test Period. The Generator will be required to verify the claimed DMNC rating by performing an additional test during the Summer DMNC Test Period. Any shortfall between the amount of Unforced Capacity supplied by the Generator for the Summer Capability Period and the amount verified during the Summer DMNC Test Period will be subject to deficiency charges pursuant to Section 5.14.2 of this Tariff. The deficiency charges will be applied to no more than the difference between the Generator's previous Summer Capability Period Unforced Capacity and the amount of Unforced Capacity equivalent the Generator supplied for the Summer Capability Period.

New Generators and Generators that have increased their Capacity since the previous Winter Capability Period due to changes in their generating equipment may, after satisfying the deliverability requirements set forth in the applicable provisions of Attachment X, Attachment Z and Attachment S to the ISO OATT, qualify to supply Unforced Capacity on a foregoing basis

during the Winter Capability Period based upon a DMNC test that is performed and reported to the ISO after September 1 and prior to the beginning of the Winter Capability Period DMNC Test Period. The Generator will be required to verify the claimed DMNC rating by performing an additional test during the Winter Capability Period DMNC Test Period. Any shortfall between the amount of Unforced Capacity certified by the Generator for the Winter Capability Period and the amount verified during the Winter Capability Period DMNC Test Period will be subject to deficiency charges pursuant to Section 5.14.2 of this Tariff. The deficiency charges will be applied to no more than the difference between the Generator's previous Winter Capability Period Unforced Capacity and the amount of Unforced Capacity equivalent the Generator supplied for the Winter Capability Period.

Any Installed Capacity Supplier, except as noted in Section 5.12.11 of this ISO Services Tariff, which fails on a daily basis to schedule, Bid, or declare to be unavailable in the Day-Ahead Market an amount of Unforced Capacity, expressed in terms of Installed Capacity Equivalent, that it certified for that day, rounded down to the nearest whole MW, is subject to sanctions pursuant to Section 5.12.12.2 of this Tariff. If an entity other than the owner of an Energy Limited Resource, Generator, System Resource, or Control Area System Resource that is providing Unforced Capacity is responsible for fulfilling bidding, scheduling, and notification requirements, the owner and that entity must designate to the ISO which of them will be responsible for complying with the scheduling, bidding, and notification requirements. The designated bidding and scheduling entity shall be subject to sanctions pursuant to Section 5.12.12.2 of this ISO Services Tariff.

5.12.9 Sales of Unforced Capacity by System Resources

Installed Capacity Suppliers offering to supply Unforced Capacity associated with

Internal System Resources shall submit for each of their Resources the Operating Data and DMNC testing data or historical data described in Sections 5.12.1 and 5.12.5 of this ISO Services Tariff in accordance with the ISO Procedures. Such Installed Capacity Suppliers will be allowed to supply the amount of Unforced Capacity that the ISO determines pursuant to the ISO Procedures to reflect the appropriate Equivalent Demand Forced Outage Rate. Installed Capacity Suppliers offering to sell the Unforced Capacity associated with System Resources may only aggregate Resources in accordance with the ISO Procedures.

5.12.10 Curtailment of External Transactions In-Hour

All Unforced Capacity that is not out of service, or scheduled to serve the Internal NYCA Load in the Day-Ahead Market may be scheduled to supply Energy for use in External Transactions provided, however, that such External Transactions shall be subject to Curtailment within the hour, consistent with ISO Procedures. Such Curtailment shall not exceed the Installed Capacity Equivalent committed to the NYCA.

5.12.11 Responsible Interface Parties, Municipally-Owned Generation, Energy Limited Resources and Intermittent Power Resources

5.12.11.1 Responsible Interface Parties

Responsible Interface Parties may qualify as Installed Capacity Suppliers, without having to comply with the daily bidding, scheduling, and notification requirements set forth in Section 5.12.7 of this Tariff, if their Special Case Resources are available to operate at the direction of the ISO in order to reduce Load from the NYS Transmission System and/or the distribution system for a minimum of four (4) consecutive hours each day, except for those subject to operating limitations established by environmental permits, which will not be required to operate in excess of two (2) hours and which will be derated by the ISO pursuant to ISO

Procedures to account for the Load serving equivalence of the hours actually available, following notice of the potential need to operate twenty-one (21) hours in advance if notification is provided by 3:00 P.M. ET, or twenty-four (24) hours in advance otherwise, and a notification to operate two (2) hours ahead. In order for a Responsible Interface Party to enroll an SCR that uses an eligible Local Generator, any amount of generation that can reduce Load from the NYS Transmission System and/or distribution system at the direction of the ISO that was produced by the Local Generator during the hour coincident with the NYCA or Locality peaks, upon which the LSE Unforced Capacity Obligation of the LSE that serves that SCR is based, must be accounted for when the LSE's Unforced Capacity Obligation for the upcoming Capability Year is established. Responsible Interface Parties must provide this generator data in accordance with ISO Procedures so that the ISO can adjust upwards the LSE Unforced Capacity Obligation to prevent double-counting.

Responsible Interface Parties supplying Unforced Capacity cannot offer the Demand Reduction associated with such Unforced Capacity in the Emergency Demand Response Program. A Resource with sufficient metering to distinguish MWs of Demand Reduction may participate as a Special Case Resource and in the Emergency Demand Response Program provided that the same MWs are not committed both as Unforced Capacity and to the Emergency Demand Response Program.

The ISO will have discretion, pursuant to ISO Procedures, to exempt Local Generators that are incapable of starting in two (2) hours from the requirement to operate on two (2) hours notification. Local Generators that can be operated to reduce Load from the NYS Transmission System and/or distribution system at the direction of the ISO and Loads capable of being interrupted upon demand, that are not available on certain hours or days will be derated by the

ISO, pursuant to ISO Procedures, to reflect the Load serving equivalence of the hours they are actually available.

Responsible Interface Parties must submit a Minimum Payment Nomination, in accordance with ISO Procedures. The ISO may request Special Case Resource performance from less than the total number of Special Case Resources within the NYCA or a Load Zone in accordance with ISO Procedures.

Local Generators that can be operated to reduce Load from the NYS Transmission System and/or distribution system at the direction of the ISO and Loads capable of being interrupted upon demand will be required to comply with verification and validation procedures set forth in the ISO Procedures. Such procedures will not require metering other than interval billing meters on customer Load or testing other than DMNC or sustained disconnect, as appropriate, unless agreed to by the customer, except that Special Case Resources not called to supply Energy in a Capability Period will be required to run a test once every Capability Period in accordance with the ISO Procedures.

Unforced Capacity supplied in a Bilateral Transaction by a Special Case Resource pursuant to this subsection may only be resold if the purchasing entity or the Installed Capacity Marketer has agreed to become a Responsible Interface Party and comply with the ISO notification requirements for Special Case Resources. LSEs and Installed Capacity Marketers may become Responsible Interface Parties and aggregate Special Case Resources and sell the Unforced Capacity associated with them in an ISO-administered auction if they comply with ISO notification requirements for Special Case Resources.

Responsible Interface Parties that were requested to reduce Load in any month shall submit performance data to the NYISO, within 75 days of each called event or test, in

accordance with ISO Procedures. Failure by a Responsible Interface Party to submit performance data for any Special Case Resources required to respond to the event or test within the 75-day limit will result in zero performance attributed to those Special Case Resources for purposes of satisfying the Special Case Resource's capacity obligation as well as for determining energy payments. All performance data are subject to audit by the NYISO and its market monitoring unit. If the ISO determines that it has made an erroneous payment to a Responsible Interface Party, the ISO shall have the right to recover it either by reducing other payments to that Responsible Interface Parties or by resolving the issue pursuant to other provisions of this Services Tariff or other lawful means.

Provided the Responsible Interface Party supplies evidence of such reductions in 75 days, the ISO shall pay the Responsible Interface Party that, through their Special Case Resources, caused a verified Load reduction in response to (i) an ISO request to perform due to a forecast reserve shortage (ii) an ISO declared Major Emergency State, (iii) an ISO request to perform made in response to a request for assistance for Load relief purposes or as a result of a Local Reliability Rule, or (iv) a test called by the ISO, for such Load reduction, in accordance with ISO Procedures. Subject to performance evidence and verification, in the case of a response pursuant to clauses (i), (ii), of (iii) of this subsection, Suppliers that schedule Responsible Interface Parties shall be paid the zonal Real-Time LBMP for the period of requested performance or four (4) hours, whichever is greater, in accordance with ISO Procedures; provided, however, Special Case Resource Capacity shall settle Demand Reductions, in the interval and for the capacity for which Special Case Resource Capacity has been scheduled Day-Ahead to provide Operating Reserves, Regulation Service or Energy, as being provided by a Supplier of Operating Reserves, Regulation Service or Energy.

In the event that a Responsible Interface Party's Minimum Payment Nomination for a Special Case Resource, for the number of hours of requested performance or the minimum four (4) hour period, whichever is greater, exceeds the LBMP revenue received, the Special Case Resource will be eligible for a Bid Production Cost Guarantee to make up the difference, in accordance with Section 4.23 of this Services Tariff and ISO Procedures; provided, however, the ISO shall set to zero the Minimum Payment Nomination for Special Case Resource Capacity in each interval in which such Capacity was scheduled Day-Ahead to provide Operating Reserves, Regulation Service or Energy. Subject to performance evidence and verification, in the case of a response pursuant to clause (iv) of this subsection, payment for participation in tests called by the ISO shall be equal to the zonal Real Time LBMP for the MWh of Energy reduced within the test period.

Transmission Owners that require assistance from enrolled Local Generators larger than 100 kW and Loads capable of being interrupted upon demand for Load relief purposes or as a result of a Local Reliability Rule, shall direct their requests for assistance to the ISO for implementation consistent with the terms of this section. Within Load Zone J, participation in response to an ISO request to perform made as a result of a request for assistance from a Transmission Owner for less than the total number of Special Case Resources, for Load relief purposes or as a result of a Local Reliability Rule, in accordance with ISO Procedures, shall be voluntary and the responsiveness of the Special Case Resource shall not be taken into account for performance measurement.

5.12.11.1.1 Special Case Resource Average Coincident Load

The ISO must receive from the Responsible Interface Party that enrolls a Special Case Resource, the applicable metered Load data required to calculate an ACL for that SCR as

provided below and in accordance with ISO Procedures. The ACL shall be computed using the metered Load for the applicable Capability Period SCR Load Zone Peak Hours that indicates the Load consumed by each SCR that is supplied by the NYS Transmission System and/or distribution system and is exclusive of any generation produced by a Local Generator, other behind-the-meter generator, or other supply source located behind the SCR's meter, that served some of the SCR's Load.

Beginning with the Winter 2011-2012 Capability Period and thereafter, the ISO shall use the average of the highest twenty (20) one-hour peak Loads of the SCR taken from the Load data reported for the Capability Period SCR Load Zone Peak Hours during the Prior Equivalent Capability Period, and taking into account the resource's reported verified Load reduction in a Transmission Owner's demand response program in hours coincident with any of these hours, to create a SCR ACL baseline. In addition, beginning with the Summer 2014 Capability Period, the resource's verified Load reduction in either of the ISO's economic demand response programs (the Day Ahead Demand Response Program and the Demand Side Ancillary Services Program) in hours coincident with any of the applicable Capability Period SCR Load Zone Peak Hours will be taken into account when creating the SCR ACL. For the Day Ahead Demand Response Program, the verified Load reduction that occurred in response to a DADRP schedule shall be added to the Capability Period SCR Load Zone Peak Hour for which the reduction in response to a DADRP schedule occurred. For the Demand Side Ancillary Services Program, the Load value to be used in calculating the ACL for each hour during the Capability Period SCR Load Zone Peak Hours in which a non-zero Base Point Signal the ISO provides to the resource, shall be the greater of (a) the DSASP Baseline MW value in the interval immediately preceding the first non-zero Base Point Signal in the Capability Period SCR Load Zone Peak Hour and (b) the metered

Load of the resource as reported by the RIP for the Capability Period SCR Load Zone Peak Hour. When the non-zero Base Point Signal dispatch of a DSASP resource begins in one hour and continues into consecutive hours, and the consecutive hour is identified as being a Capability Period SCR Load Zone Peak Hour, the DSASP Baseline MW value in effect at the beginning of the dispatch of the non-zero Base Point Signal shall be the MW value used for purposes of determining the applicable Load value for that Capability Period SCR Load Zone Peak Hour, in accordance with the preceding sentence. The ISO will post to its website the Capability Period SCR Load Zone Peak Hours for each zone ninety (90) days prior to the beginning of the Capability Period for which the ACL will be in effect.

In the SCR enrollment file uploaded by the RIP each month within the Capability Period, among other required information, the RIP shall provide the SCR's metered Load values for the applicable Capability Period SCR Load Zone Peak Hours necessary to compute the ACL for each SCR.

The exception to this requirement to report the required metered Load data for the ACL, when enrolling a SCR prior to the Summer 2014 Capability Period, is if (i) the SCR has not previously been enrolled with the ISO and (ii) never had interval metering Load data for each month in the Prior Equivalent Capability Period needed to compute the SCR's ACL. Beginning with the Summer 2014 Capability Period, the exception to this requirement to report the required metered Load data for the ACL, is dependent upon one or more of the eligibility conditions for SCR enrollment with a Provisional ACL provided in Section 5.12.11.1.2 of this Services Tariff and ISO Procedures. For SCRs that meet the criteria to enroll with a Provisional ACL, the ISO must receive from the RIP a Provisional ACL as provided in Section 5.12.11.1.2 of this Services Tariff and in accordance with ISO Procedures.

Beginning with the Summer 2014 Capability Period, in addition to the requirement for RIPs to report each SCR's metered Load values that occurred during the Capability Period SCR Load Zone Peak Hours, in accordance with this Services Tariff and ISO Procedures during the enrollment process, any qualifying increase in a SCR's Load that will be supplied by the NYS Transmission System and/or distribution system may be reported as an Incremental ACL, subject to the limitations and verification reporting requirements provided in Section 5.12.11.1.5 of this Services Tariff and in accordance with ISO Procedures. Incremental ACL values must be reported using the required enrollment file that may be uploaded by the RIP during each month's enrollment period. RIPs may not report Incremental ACL values for any SCRs that are enrolled in the Capability Period with a Provisional ACL.

A reduction in a SCR's Load that is supplied by the NYS Transmission System and/or distribution system and meets the criteria for a SCR Change of Status must be reported as a SCR Change of Status as provided by Section 5.12.11.1.3 of this Services Tariff and in accordance with ISO Procedures.

The ACL is the basis for the upper limit of ICAP, except in circumstances when the SCR has reported a SCR Change of Status or reported an Incremental ACL pursuant to Sections 5.12.11.1.3 and 5.12.11.1.5 of this Services Tariff. The basis for the upper limit of ICAP for a SCR that has experienced a SCR Change of Status or reported an Incremental ACL shall be the Net ACL.

5.12.11.1.2 Use of a Provisional Average Coincident Load

Prior to the Summer 2014 Capability Period, as provided in Section 5.12.11.1.1 of this Services Tariff, if a new Special Case Resource has not previously been enrolled with the ISO and never had interval billing meter data from the Prior Equivalent Capability Period, its

Installed Capacity value shall be its Provisional Average Coincident Load for the Capability Period for which the new SCR is enrolled. The Provisional ACL may be applicable to a new SCR for a maximum of three (3) consecutive Capability Periods, beginning with the Capability Period in which the SCR is first enrolled.

Beginning with the Summer 2014 Capability Period, a SCR may be enrolled using a Provisional ACL in lieu of an ACL when one of the following conditions has been determined by the ISO to apply: (i) the SCR has not previously been enrolled with the ISO for the seasonal Capability Period for which the SCR enrollment with a Provisional ACL is intended, (ii) the SCR was enrolled with a Provisional ACL in the Prior Equivalent Capability Period and was required to report fewer than twenty (20) hours of metered Load verification data that correspond with the Capability Period SCR Load Zone Peak Hours based on the meter installation date of the SCR, (iii) the RIP attempting to enroll the SCR with a Provisional ACL is not the same RIP that enrolled the SCR in the Prior Equivalent Capability Period and interval billing meter data for the SCR from the Prior Equivalent Capability Period is not obtainable by the enrolling RIP and not available to be provided to the enrolling RIP by the ISO. The Provisional ACL may be applicable to a SCR for a maximum of three (3) consecutive Capability Periods when enrolled with the same RIP, beginning with the Capability Period in which the SCR is first enrolled by the RIP.

A SCR enrolled in the Capability Period with a Provisional ACL may not be enrolled by another RIP for the remainder of the Capability Period and the Provisional ACL value shall apply to the resource for the entire Capability Period for which the value is established.

The Provisional ACL is the RIP's forecast of the SCR's ACL and shall be the basis for the upper limit of ICAP for which the RIP may enroll the SCR during the Capability Period.

Any SCR enrolled with a Provisional ACL shall be subject to actual in-period verification. A Verified ACL shall be calculated by the ISO using the top twenty (20) one-hour peak Loads reported for the SCR from the Capability Period SCR Load Zone Peak Hours that are applicable to verify the Provisional ACL in accordance with ISO Procedures and taking into account the resource's reported verified Load reductions in a Transmission Owner's demand response program that are coincident with any of the applicable Capability Period SCR Load Zone Peak Hours. In addition, beginning with the Summer 2014 Capability Period, the resource's verified Load reduction in either of the ISO's economic demand response programs (the Day Ahead Demand Response Program and the Demand Side Ancillary Services Program) in hours coincident with any of the applicable Capability Period SCR Load Zone Peak Hours will be taken into account when creating the SCR Verified ACL. For the Day Ahead Demand Response Program, the verified Load reduction that occurred in response to a DADRP schedule shall be added to the Capability Period SCR Load Zone Peak Hour for which the reduction in response to a DADRP schedule occurred. For the Demand Side Ancillary Services Program, the Load value to be used in calculating the Verified ACL for each hour during the Capability Period SCR Load Zone Peak Hours in which a non-zero Base Point Signal the ISO provides to the resource, shall be the greater of (a) the DSASP Baseline MW value in the interval immediately preceding the first non-zero Base Point Signal in the Capability Period SCR Load Zone Peak Hour and (b) the metered Load of the resource as reported by the RIP for the Capability Period SCR Load Zone Peak Hour. When the non-zero Base Point Signal dispatch of a DSASP resource begins in one hour and continues into consecutive hours, and the consecutive hour is identified as being a Capability Period SCR Load Zone Peak Hour, the DSASP Baseline MW value in effect at the beginning of the dispatch of the non-zero Base Point Signal shall be the

MW value used for purposes of determining the applicable Load value for that Capability Period SCR Load Zone Peak Hour, in accordance with the preceding sentence.

Following the Capability Period for which a resource with a Provisional ACL was enrolled, the RIP shall provide to the ISO the metered Load data required to compute the Verified ACL of the resource. The ISO shall compare the Provisional ACL to the Verified ACL to determine, after applying the applicable performance factor, whether the UCAP of the SCR had been oversold and whether a shortfall has occurred as provided under Section 5.14.2 of this Services Tariff. If the RIP fails to provide verification data required to compute the Verified ACL of the resource enrolled with a Provisional ACL by the deadline: (a) the Verified ACL of the resource shall be set to zero for each Capability Period in which the resource with a Provisional ACL was enrolled and verification data was not reported, and (b) the RIP may be subject to penalties in accordance with this Services Tariff.

5.12.11.1.3 Reporting a SCR Change of Load or SCR Change of Status

5.12.11.1.3.1 SCR Change of Load

The Responsible Interface Party shall report any SCR Change of Load in accordance with ISO Procedures. The RIP is required to document the SCR Change of Load and when the total Load reduction for SCRs that have a SCR Change of Load within the same Load Zone is greater than or equal to 5 MWs, the RIP shall report the SCR Change of Load for each SCR in accordance with ISO Procedures.

5.12.11.1.3.2 SCR Change of Status

The Responsible Interface Party shall report any SCR Change of Status in accordance with ISO Procedures. The ISO shall adjust the reported ACL of the SCR for a reported SCR

Change of Status to the Net ACL, for all prospective months to which the SCR Change of Status is applicable. When a SCR Change of Status is reported under clause (i), (ii) or (iii) within the definition of a Qualified Change of Status Condition and the SCR has sold capacity, the SCR shall be evaluated for a potential shortfall under Section 5.14.2 of this Services Tariff. Failure by the RIP to report a SCR Change of Status shall be evaluated as a potential shortfall under Section 5.14.2 of this Service Tariff and evaluated for failure to report under Section 5.12.12.2 of this Services Tariff.

Beginning with the Summer 2014 Capability Period, SCRs that were required to perform in the first performance test in the Capability Period in accordance with ISO Procedures and that subsequently report or change a reported SCR Change of Status value after the first performance test in the Capability Period shall be required to demonstrate the performance of the resource against the Net ACL value in the second performance test in the Capability Period. The exceptions to this provision occur when a SCR's eligible Installed Capacity is set to zero throughout the period of the SCR Change of Status, when a SCR's eligible Installed Capacity is decreased by at least the same kW value as the reported SCR Change of Status, or if a SCR Change of Status is reported, and prior to the second performance test, the SCR returns to the full applicable ACL enrolled prior to the SCR Change of Status. Performance in both performance tests shall be used in calculation of the resource's performance factors and all associated performance factors, deficiencies and penalties. If the RIP fails to report the performance for a resource that was required to perform in the second performance test in the Capability Period: (a) the resource will be assigned a performance of zero (0) for the test hour, and (b) the RIP shall be evaluated for failure to report under Section 5.12.12.2 of this Services Tariff.

5.12.11.1.4 Average Coincident Load of an SCR Aggregation

The ISO shall compute the Average Coincident Load of an SCR Aggregation each month in accordance with ISO Procedures.

5.12.11.1.5 Use of an Incremental Average Coincident Load

Beginning with the Summer 2014 Capability Period, a Responsible Interface Party may report any qualifying increase to a Special Case Resource's Average Coincident Load as Incremental Average Coincident Load in the RIP enrollment file upload and in accordance with this Services Tariff and ISO Procedures.

For SCRs with a total Load increase equal to or greater than twenty (20) percent and less than thirty (30) percent of the applicable ACL, the RIP may enroll the SCR with an Incremental ACL provided that the eligible Installed Capacity does not increase from the prior enrollment months within the same Capability Period and prior to enrollment with an Incremental ACL. If the SCR is enrolled with an Incremental ACL and it is the first month of the SCR's enrollment in the applicable Capability Period, the enrolled eligible Installed Capacity value shall not exceed the maximum eligible Installed Capacity of the SCR from the Prior Equivalent Capability Period. When no enrollment exists for the SCR in the Prior Equivalent Capability Period and it is the first month of the SCR's enrollment in the applicable Capability Period, the enrolled eligible Installed Capacity of the SCR shall not exceed the ACL calculated from the Capability Period SCR Load Zone Peak Hours. For SCRs with a total Load increase equal to or greater than thirty (30) percent of the applicable ACL, the RIP may enroll the SCR with an Incremental ACL and an increase to the SCR's eligible Installed Capacity and is required to test as described in this section of the Service Tariff.

The ISO shall adjust the ACL of the SCR for an Incremental ACL for all months for

which the Incremental ACL is reported by the RIP. For resources reporting an Incremental ACL, the Net ACL shall equal the enrolled ACL plus the reported Incremental ACL less any applicable SCR Change of Status and shall be the basis for the upper limit of ICAP for which the RIP may enroll the SCR during the Capability Period.

An Incremental ACL is a discrete change to the SCR operations that is expected to result in an increase to the Load that the SCR will consume from the NYS Transmission System and/or distribution system. It is not available to account for random fluctuations in Load, such as those caused by weather or other seasonal Load variations. Therefore, the ACL of a SCR may only be increased once per Capability Period and the amount of the increase enrolled must remain the same for all months for which the Incremental ACL is reported. A SCR enrolled in the Capability Period with an Incremental ACL may not be enrolled by another RIP for the remainder of the Capability Period. A SCR enrolled in the Capability Period with a Provisional ACL is not eligible to enroll with an Incremental ACL.

Following the Capability Period for which a SCR has been enrolled with an Incremental ACL, the RIP shall provide the hourly metered Load verification data that corresponds to the Monthly SCR Load Zone Peak Hours identified by the ISO for all months in which an Incremental ACL value was reported for the SCR. For each month for which verification data was required to be reported, the ISO shall calculate a Monthly ACL that will be used in the calculation of a Verified ACL. The Monthly ACL shall equal the average of the SCR's top twenty (20) one-hour metered Load values that correspond with the applicable Monthly SCR Load Zone Peak Hours, and taking into account (i) the resource's reported verified Load reduction in a Transmission Owner's demand response program in hours coincident with any of these hours and (ii) the resource's verified Load reduction in either of the ISO's economic

demand response programs (the Day Ahead Demand Response Program and the Demand Side Ancillary Services Program) in hours coincident with any of these hours. For the Day Ahead Demand Response Program, the verified Load reduction that occurred in response to a DADRP schedule shall be added to the Monthly SCR Load Zone Peak Hour for which the reduction in response to a DADRP schedule occurred. For the Demand Side Ancillary Services Program, the Load value to be used in calculating the Monthly ACL for each hour during the Monthly SCR Load Zone Peak Hours in which a non-zero Base Point Signal the ISO provides to the resource, shall be the greater of (a) the DSASP Baseline MW value in the interval immediately preceding the first non-zero Base Point Signal in the Monthly SCR Load Zone Peak Hour and (b) the metered Load of the resource as reported by the RIP for the Monthly SCR Load Zone Peak Hour. When the non-zero Base Point Signal dispatch of a DSASP resource begins in one hour and continues into consecutive hours, and the consecutive hour is identified as being a Monthly SCR Load Zone Peak Hour, the DSASP Baseline MW value in effect at the beginning of the dispatch of the non-zero Base Point Signal shall be the MW value used for purposes of determining the applicable Load value for that Monthly SCR Load Zone Peak Hour, in accordance with the preceding sentence. The Verified ACL shall be the average of the two (2) highest Monthly ACLs during the Capability Period in which the SCR was enrolled with an Incremental ACL within the same Capability Period.

For any month in which verification data for the Incremental ACL is required but not timely submitted to the ISO in accordance with ISO procedures, the ISO shall set the metered Load values to zero. When a Monthly ACL is set to zero, the Verified ACL will be calculated as the average of: a) the two (2) highest Monthly ACLs during the Capability Period in which the SCR was enrolled with an Incremental ACL within the same Capability Period; plus b) the

Monthly ACLs for all months in which the SCR was enrolled within the same Capability Period with an Incremental ACL in the Capability Period in which the RIP failed to provide the minimum verification data required. In addition, a RIP may be subject to a penalty for each month for which verification data was required and not reported in accordance with this Services Tariff.

For each SCR that is enrolled with an Incremental ACL, the ISO shall compare the Net ACL calculated from the resource enrollment (ACL plus Incremental ACL less any applicable SCR Change of Status) to the Verified ACL calculated for the SCR to determine if the RIP's use of an Incremental ACL may have resulted in a shortfall pursuant to Section 5.14.2.

A Special Case Resource that was required to perform in the first performance test in the Capability Period in accordance with ISO Procedures and was subsequently enrolled using an Incremental ACL and an increase in the amount of Installed Capacity that the SCR is eligible to sell, shall be required to demonstrate performance against the maximum amount of eligible Installed Capacity reported for the SCR in the second performance test in the Capability Period. Performance in this test shall be measured from the Net ACL. Performance in both performance tests shall be used in calculation of the resource's performance factor and all associated performance factors, deficiencies and penalties. If the RIP fails to report the performance for a resource that was required to perform in the second performance test in the Capability Period: (a) the resource will be assigned a performance of zero (0) for the test hour, and (b) the RIP shall be evaluated for failure to report under Section 5.12.12.2 of this Services Tariff.

5.12.11.2 Existing Municipally-Owned Generation

A municipal utility that owns existing generation in excess of its Unforced Capacity requirement, net of NYPA-provided Capacity may, consistent with the deliverability

requirements set forth in Attachment X and Attachment S to the ISO OATT, offer the excess Capacity for sale as Installed Capacity provided that it is willing to operate the generation at the ISO's request, and provided that the Energy produced is deliverable to the New York State Power System. Such a municipal utility shall not be required to comply with the requirement of Section 5.12.7 of this Tariff that an Installed Capacity Supplier bid into the Energy market or enter into Bilateral Transactions. Municipal utilities shall, however, be required to submit their typical physical operating parameters, such as their start-up times, to the ISO. This subsection is only applicable to municipally-owned generation in service or under construction as of December 31, 1999.

5.12.11.3 Energy Limited Resources

An Energy Limited Resource may, consistent with the deliverability requirements set forth in Attachment X and Attachment S to the ISO OATT, qualify as an Installed Capacity Supplier if it Bids its Installed Capacity Equivalent into the Day-Ahead Market each day and if it is able to provide the Energy equivalent of the Unforced Capacity for at least four (4) consecutive hours each day. Energy Limited Resources shall also Bid a Normal Upper Operating Limit or Emergency Upper Operating Limit, as applicable, designating their desired operating limits. Energy Limited Resources that are not scheduled in the Day-Ahead Market to operate at a level above their bid-in upper operating limit, may be scheduled in the RTC, or may be called in real-time pursuant to a manual intervention by ISO dispatchers, who will account for the fact that Energy Limited Resource may not be capable of responding.

5.12.11.4 Intermittent Power Resources

Intermittent Power Resources that depend upon wind or solar as their fuel may qualify as Installed Capacity Suppliers, without having to comply with the daily bidding and scheduling

requirements set forth in Section 5.12.7 of this Tariff, and may, consistent with the deliverability requirements set forth in Attachment X and Attachment S to the ISO OATT, claim up to their nameplate Capacity as Installed Capacity. To qualify as Installed Capacity Suppliers, such Intermittent Power Resources shall comply with the requirements of Section 5.12.1 and the outage notification requirements of 5.12.7 of this Tariff.

5.12.12 Sanctions Applicable to Installed Capacity Suppliers and Transmission Owners

Pursuant to this section, the ISO may impose financial sanctions on Installed Capacity Suppliers and Transmission Owners that fail to comply with certain provisions of this Tariff. The ISO shall notify Installed Capacity Suppliers and Transmission Owners prior to imposing any sanction and shall afford them a reasonable opportunity to demonstrate that they should not be sanctioned and/or to offer mitigating reasons why they should be subject to a lesser sanction. The ISO may impose a sanction lower than the maximum amounts allowed by this section at its sole discretion. Installed Capacity Suppliers and Transmission Owners may challenge any sanction imposed by the ISO pursuant to the ISO Dispute Resolution Procedures.

Any sanctions collected by the ISO pursuant to this section will be applied to reduce the Rate Schedule 1 charge under this Tariff.

5.12.12.1 Sanctions for Failing to Provide Required Information

If (i) an Installed Capacity Supplier fails to provide the information required by Sections 5.12.1.1, 5.12.1.2, 5.12.1.3, 5.12.1.4, 5.12.1.7 or 5.12.1.8 of this Tariff in a timely fashion, or (ii) a Supplier of Unforced Capacity from External System Resources located in an External Control Area or from a Control Area System Resource that has agreed not to Curtail the Energy associated with such Installed Capacity, or to afford it the same Curtailment priority that it

affords its own Control Area Load, fails to provide the information required for certification as an Installed Capacity Supplier established in the ISO Procedures, the ISO may take the following actions: On the first day that required information is late, the ISO shall notify the Installed Capacity Supplier that required information is past due and that it reserves the right to impose financial sanctions if the information is not provided by the end of the following day. Starting on the third day that the required information is late, the ISO may impose a daily financial sanction of up to the higher of \$500 or \$5 per MW of Installed Capacity that the Generator, System Resource, or Control Area System Resource in question is capable of providing. Starting on the tenth day that the required information is late, the ISO may impose a daily financial sanction of up to the higher of \$1000 or \$10 per MW of Installed Capacity that the Generator, System Resource, or Control Area System Resource in question is capable of providing.

If an Installed Capacity Supplier fails to provide the information required by Subsection 5.12.1.5 of this Tariff in a timely fashion, the ISO may take the following actions: On the first calendar day that required information is late, the ISO shall notify the Installed Capacity Supplier that required information is past due and that it reserves the right to impose financial sanctions if the information is not provided by the end of that first calendar day. Starting on the second calendar day that the required information is late, the ISO may impose a daily financial sanction up to the higher of \$500 or \$5 per MW of Installed Capacity that the Generator, System Resource, or Control Area System Resource in question is capable of providing.

If a TO fails to provide the information required by Subsection 5.11.3 of this Tariff in a timely fashion, the ISO may take the following actions: On the first day that required information is late, the ISO shall notify the TO that required information is past due and that it reserves the right to impose financial sanctions if the information is not provided by the end of

the following day. Starting on the third day that the required information is late, the ISO may impose a daily financial sanction up to \$5,000 a day. Starting on the tenth day that required information is late, the ISO may impose a daily financial sanction up to \$10,000.

5.12.12.2 Sanctions for Failing to Comply with Scheduling, Bidding, and Notification Requirements

On any day in which an Installed Capacity Supplier fails to comply with the scheduling, bidding, or notification requirements of Sections 5.12.1.6 or 5.12.1.10, or with Section 5.12.7 of this Tariff, or in which a Supplier of Installed Capacity from External System Resources or Control Area System Resources located in an External Control Area that has agreed not to Curtail the Energy associated with such Installed Capacity, or to afford it the same Curtailment priority that it affords its own Control Area Load, fails to comply with scheduling, bidding, or notification requirements for certification as an Installed Capacity Supplier established in the ISO Procedures, the ISO may impose a financial sanction up to the product of a deficiency charge (pro-rated on a daily basis) and the maximum number of MWs that the Installed Capacity Supplier failed to schedule or Bid in any hour in that day provided, however, that no financial sanction shall apply to any Installed Capacity Supplier who demonstrates that the Energy it schedules, bids, or declares to be unavailable on any day is not less than the Installed Capacity that it supplies for that day rounded down to the nearest whole MW. The deficiency charge may be up to one and one-half times the applicable Market-Clearing Price of Unforced Capacity determined in the ICAP Spot Market Auction corresponding to where the Installed Capacity Supplier's capacity cleared, and for each month in which the Installed Capacity Supplier is determined not to have complied with the foregoing requirements.

In addition, if an Installed Capacity Supplier fails to comply with the scheduling, bidding, or notification requirements of Sections 5.12.1.6 or 5.12.1.10, or with Section 5.12.7 of this

Tariff, or if an Installed Capacity Supplier of Unforced Capacity from External System Resources or from a Control Area System Resource located in an External Control Area that has agreed not to curtail the Energy associated with such Unforced Capacity, or to afford it the same curtailment priority that it affords its own Control Area Load, fails to comply with the scheduling, bidding, or notification requirements for certification as an Installed Capacity Supplier established in the ISO Procedures during an hour in which the ISO curtails Transactions associated with NYCA Installed Capacity Suppliers, the ISO may impose an additional financial sanction equal to the product of the number of MWs the Installed Capacity Supplier failed to schedule during that hour and the corresponding Real-Time LBMP at the applicable Proxy Generator Bus.

If the Installed Capacity Supplier is a Responsible Interface Party that enrolled a SCR with an Incremental ACL in accordance with this Services Tariff, and also reported an increase to the Installed Capacity the SCR has eligible to sell after the first performance test in the Capability Period, the ISO may impose an additional financial sanction due to the failure of the RIP to report the required performance of the SCR against the Net ACL value in the second performance test in the Capability Period. This sanction shall be the value of the reported increase in the eligible Installed Capacity associated with the SCR that was sold by the RIP in each month of the Capability Period, during which the reported increase was in effect, multiplied by up to one and one-half times the applicable Market-Clearing Price of Unforced Capacity determined in the ICAP Spot Market Auction for each such month.

If the Installed Capacity Supplier is a Responsible Interface Party, and the Average Coincident Load of the Special Case Resource has been decreased after the first performance test in the Capability Period, due to a SCR Change of Status in accordance with this Services Tariff

and ISO Procedures, the ISO may impose an additional financial sanction resulting from the failure of the RIP to report the required performance of the SCR against the Net ACL value of the SCR when the SCR was required to perform in the second performance test in the Capability Period in accordance with Section 5.12.11.1.3.2 of this Services Tariff. This sanction shall be the value of the Unforced Capacity equivalent of the SCR Change of Status MW reported for the SCR during the months for which the SCR was enrolled with a SCR Change of Status and was required to demonstrate in the second performance test as specified in Section 5.12.11.1.3.2 of this Services Tariff, multiplied by up to one and one-half times the applicable Market-Clearing Price of Unforced Capacity determined in the ICAP Spot Market Auction for each such month.

If a RIP fails to provide the information required by Section 5.12.11.1.3 of this Services Tariff in accordance with the ISO Procedures for reporting a Qualified Change of Status Condition, and the ISO determines that a SCR Change of Status occurred within a Capability Period, the ISO may impose a financial sanction equal to the difference, if positive, between the enrolled ACL and the maximum one hour metered Load for the month multiplied by up to 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 in addition to the corresponding shortfall penalty as provided in Section 5.14.2.

For each month in which a RIP fails to report required verification data and the applicable ACL value is set to zero in accordance with Section 5.12.11 of this Services Tariff, the ISO shall have the right to recover any energy payments made to the RIP for performance of the SCR by reducing other payments or other lawful means.

5.18 Generator Outages and Generator Obligations While in These Outages

This Section 5.18 shall apply to a Generator in any outage state that started on or after May 1, 2015.

A Market Participant with a Generator in the NYCA that is in any outage state shall report this status to the ISO pursuant to ISO Procedures.

5.18.1 Forced Outages and Commenced Repair Determinations

5.18.1.1 A Market Participant with a Generator in a Forced Outage shall keep the ISO informed as to progress of its Generator's repairs pursuant to ISO Procedures. A Market Participant may keep its Generator in a Forced Outage beyond the last day of the month which contains the 180th day of its Forced Outage only if it has Commenced Repair of its Generator. A Market Participant that anticipates its Generator will not be able to return to the Energy market before the last day of the month which contains the 180th day of its Forced Outage and which desires to remain eligible to be in the Installed Capacity market beyond the 180th day shall provide a Repair Plan to the ISO by the 120th day of the Forced Outage.

5.18.1.2 A Repair Plan shall include a work plan, with milestones, or set of necessary actions, and shall provide the time it is expected to take to complete each task and describe the repair of the Generator's equipment related to electric production, fuel or station power supply or transmission interconnection, as appropriate, that was either affected by the Forced Outage or otherwise makes the unit available for the Energy market. The Repair Plan's milestones shall include, in appropriate circumstances: damage assessments, engineering assessments,

initial cost estimates, purchase orders, inspection reports, initial safety assessments, hazardous material abatement plans, and labor mobilization plans.

The Repair Plan shall include the date the Market Participant expects the Generator to be repaired and available for the Energy market (return date) which return date: i) shall be reasonable, ii) may be provided as a good faith estimate, and iii) shall be updated to the extent new information becomes available. The return date or good faith estimate of a return date that a Market Participant provides for its Generator shall be reasonable if it is comparable to the return date that would be included in a Credible Repair Plan pursuant to Section 5.18.1.4 of this Services Tariff.

5.18.1.3 Market Participants requesting that the NYISO determine, pursuant to Services Tariff Section 23.4.5.6.2, that their Generator has experienced a Catastrophic Failure, or that Exceptional Circumstances will delay the submission of data necessary for the ISO to perform an audit and review pursuant to Section 23.4.5.6.2, shall submit their requests, with necessary supporting data, to the NYISO by the 120th day of the Forced Outage if they desire the determination to be issued by the 160th day of the Forced Outage of their Generator.

5.18.1.4 A Market Participant has Commenced Repair of its Generator if it: i) has decided to pursue the repair of its Generator, and based on the ISO's technical/engineering evaluation, ii) has a Repair Plan for the Generator that is consistent with a Credible Repair Plan, and iii) has made appropriate progress in pursuing the repair of its Generator when measured against the milestones of a Credible Repair Plan.

5.18.1.5 For purposes of the determinations required by Section 5.18.1.3(ii) and (iii), and 5.18.1.6 of this Services Tariff, a Credible Repair Plan is the Repair Plan that would be expected from a supplier: i) with a generating facility that is reasonably the same as or similar to the type and vintage of the Generator; ii) intending to return its generating facility to service. A Credible Repair Plan for a Generator that suffered a Forced Outage is a Repair Plan that would also be expected from a supplier with a generating facility that suffered a forced outage that was reasonably the same as or comparable to the Forced Outage suffered by the Generator and which forced outage occurred under the same, or reasonably similar, circumstances as the Generator's. A Credible Repair Plan for a Generator in a Mothball Outage is a Repair Plan that would also be expected from a supplier pursuing a repair to its generating facility which repair is reasonably the same as or comparable to the repair being pursued by the Generator.

5.18.1.6 The determination that a Market Participant has Commenced Repair of its Generator in a Forced Outage shall be made by the ISO by the 160th day of the Forced Outage. If the Market Participant provides updated information after the 120th day of the Forced Outage and before the 180th day of its Generator's Forced Outage, the ISO will, as applicable, take such information into consideration to make its determination or it will update its previously issued determination to the extent practicable.

The determination that a Market Participant has Commenced Repair of its Generator in an ICAP Ineligible Forced Outage, which Market Participant has been determined by the ISO to have one or more Exceptional Circumstances that

delay the acquisition of necessary data for an audit and review for economic justification pursuant to Section 23.4.5.6.2 of this Services Tariff, shall be made by the ISO as soon as practicable following receipt of necessary data.

The determination that a Market Participant has Commenced Repair of its Generator in an ICAP Ineligible Forced Outage or Mothball Outage, which Market Participant is seeking to toll expiration of its outage and CRIS rights pursuant to Sections 5.18.2.3.2 or 5.18.3.3.2 of this Services Tariff, will be made by the ISO as soon as practicable following receipt of the necessary data.

5.18.1.7 If a Market Participant has not Commenced Repair of its Generator by the last day of the month which contains the 180th day of the Forced Outage, the Generator's Forced Outage shall expire on the last day of the month which contains the 180th day of the Forced Outage. The Forced Outage of a Generator that Commenced Repair but ceased or unreasonably delayed the Generator's repair shall terminate on the last day of the month containing the date that the Market Participant ceased or unreasonably delayed the repair. The ISO will determine a Market Participant has unreasonably delayed the repair of its Generator if such delay would not have been included in a Credible Repair Plan from a supplier experiencing the situation which caused the Market Participant to delay the repair of its Generator.

5.18.1.8 Upon the expiration or termination of a Generator's Forced Outage, the Generator shall be in an ICAP Ineligible Forced Outage unless the Generator has been Retired by the Market Participant.

5.18.2 ICAP Ineligible Forced Outage

5.18.2.1 A Market Participant may voluntarily reclassify its Generator from a Forced Outage to an ICAP Ineligible Forced Outage only if the Generator has been in a Forced Outage for at least sixty (60) days. A Generator that has been voluntarily reclassified from a Forced Outage to an ICAP Ineligible Forced Outage shall begin its ICAP Ineligible Forced Outage on the first day of the month following the month in which it was voluntarily reclassified to an ICAP Ineligible Forced Outage.

A Generator in an ICAP Ineligible Forced Outage as a result of the expiration or termination of its Forced Outage pursuant to Section 5.18.1.6 of this Services Tariff, shall begin its ICAP Ineligible Forced Outage on the day following the day the Generator's Forced Outage expired or terminated.

A Generator in an ICAP Ineligible Forced Outage as a result of substantial actions that have been taken, such as dismantling or disabling essential equipment, which actions are inconsistent with an intention to operate the Generator in the Energy market shall begin its ICAP Ineligible Forced Outage on the day following the day such actions began.

5.18.2.2 A Generator in an ICAP Ineligible Forced Outage is not eligible to participate in the Installed Capacity market and shall automatically cease to qualify to participate in the Installed Capacity market beginning with the first day of its ICAP Ineligible Forced Outage. The Generator shall no longer be ineligible to participate in the Installed Capacity market, by virtue of its ICAP Ineligible Forced Outage, as of the first day the Generator returns to operation and offers its Energy into the Day-Ahead Market without declaring an outage. The month for

which the Generator will first be eligible to participate in the Installed Capacity market will be based on the date the Generator returns to operation and offers its Energy into the Day-Ahead Market without declaring an outage and ISO Procedures.

5.18.2.3 ICAP Ineligible Force Outage Expiration

5.18.2.3.1 Except as provided in Section 5.18.2.3.2, a Generator's ICAP Ineligible Forced Outage shall expire if: i) its CRIS rights have expired; or ii) it did not have CRIS rights and has been in the ICAP Ineligible Forced Outage for 36 consecutive months. A Generator shall be Retired if its ICAP Ineligible Forced Outage expires.

5.18.2.3.2 If a Market Participant with a Generator in an ICAP Ineligible Forced Outage has Commenced Repair prior to when the ICAP Ineligible Forced Outage would expire pursuant to Section 5.18.2.3.1 and has provided a reasonable return date as that term is described in Section 5.18.1.2 of this Services Tariff that occurs after such expiration date, then the outage and the Generator's CRIS rights will be tolled until, and the ICAP Ineligible Forced Outage will expire on, the earlier of:

- i) 120 days from when the outage would have expired under Section 5.18.2.3.1; or
- ii) an ISO determination that the Market Participant has ceased or unreasonably delayed the repair of its Generator. The ISO will determine if a Market Participant has unreasonably delayed the repair of its Generator if such delay would not have been included in a Credible Repair Plan from a supplier experiencing the situation which caused the Market Participant to delay the repair of its Generator. The tolling of CRIS rights occurs under this Section 5.18.2.3.2 notwithstanding the

three year period in which deactivated facilities may maintain CRIS rights pursuant to Section 25.9.3.1 of Attachment S to the OATT; provided, however, the expiration period for transfers of CRIS rights provided in Section 25.9.3.1 of Attachment S to the OATT shall not be tolled. A Market Participant seeking to toll its outage and CRIS rights pursuant to this Section 5.18.2.3.2 must submit a Repair Plan no later than 60 days prior to when the ICAP Ineligible Forced Outage would expire under Section 5.18.2.3.1.

5.18.2.4 A Market Participant with a Generator in an ICAP Ineligible Forced Outage that is notified by a Transmission Owner or the ISO that the return to service of its Generator could address a reliability issue shall provide an updated good faith estimate of the Generator's return date. A Market Participant with a Generator in an ICAP Ineligible Forced Outage shall make a timely return to service to resolve a reliability issue, in accordance with Section 5.18.4, as the term "timely return" is described in Section 5.18.4.2 of this Services Tariff. A Market Participant with a Generator in an ICAP Ineligible Forced Outage shall provide temporary use of its Generator's interconnection point in accordance with Section 5.18.5 of this Services Tariff when a transmission solution using the Generator's interconnection point has been selected as either the Gap Solution or to resolve a reliability issue arising on a non-New York State Bulk Power Transmission Facility during its outage. The Transmission Owner shall provide that power to the station remains available notwithstanding its temporary use of the Generator's interconnection point.

5.18.3 Mothball Outage

5.18.3.1 A Generator in a Mothball Outage is not eligible to participate in the Installed Capacity market and shall automatically cease to qualify to participate in the Installed Capacity market beginning with the date the Generator begins its Mothball Outage. The Generator shall no longer be ineligible to participate in the Installed Capacity market, by virtue of its Mothball Outage, as of the first day the Generator returns to operation and offers its Energy into the Day-Ahead Market without declaring an outage. The month for which the Generator will first be eligible to participate in the Installed Capacity market will be based on the date the Generator returns to operation and offers its Energy into the Day-Ahead Market without declaring an outage and ISO Procedures.

5.18.3.2 No later than 60 days before starting the Mothball Outage of its Generator, a Market Participant shall notify the ISO whether its Generator will be physically able to return within 180 days to resolve a reliability issue or it has good cause for an alternate period of time, stated in days, to return its Generator to service to resolve a reliability issue. The Market Participant shall establish good cause, to the satisfaction of the ISO, by providing empirical evidence demonstrating the need for the alternate period of time to return its Generator to service to resolve a reliability issue. The number of days within which a Generator in a Mothball Outage can be returned to service to resolve a reliability issue will be shared with the applicable Transmission Owner(s).

5.18.3.3 Mothball Outage Expiration

5.18.3.3.1 Except as provided in Section 5.18.3.3.2, a Generator's Mothball Outage

shall expire if: i) its CRIS rights have expired; or ii) it did not have CRIS rights and has been in the Mothball Outage for 36 consecutive months. A Generator shall be Retired if its Mothball Outage expires.

5.18.3.3.2 If a Market Participant with a Generator in a Mothball Outage has Commenced Repair prior to when the Mothball Outage would expire pursuant to Section 5.18.3.3.1 and has provided a reasonable return date as that term is described in Section 5.18.1.2 of this Services Tariff that occurs after such expiration date, then the outage and the Generator's CRIS rights will be tolled until, and the Mothball Outage will expire on, the earlier of: i) 120 days from when the outage would have expired under Section 5.18.3.3.1; or ii) an ISO determination that the Market Participant has ceased or unreasonably delayed the repair of its Generator. The ISO will determine if a Market Participant has unreasonably delayed the repair of its Generator if such delay would not have been included in a Credible Repair Plan from a supplier experiencing the situation which caused the Market Participant to delay the repair of its Generator. The tolling of CRIS rights occurs under this Section 5.18.3.3.2 notwithstanding the three year period in which deactivated facilities may maintain CRIS rights pursuant to Section 25.9.3.1 of Attachment S to the OATT; provided, however, the expiration period for transfers of CRIS rights provided in Section 25.9.3.1 of Attachment S to the OATT shall not be tolled. A Market Participant seeking to toll its outage and CRIS rights pursuant to this Section 5.18.3.3.2 must submit a Repair Plan no later than 60 days prior to when the Mothball Outage would expire under Section 5.18.3.3.1.

5.18.3.4 A Market Participant with a Generator in a Mothball Outage shall timely return the Generator to service to resolve a reliability issue, in accordance with Section 5.18.4, as the term ‘timely return’ is described in Section 5.18.4.2 of this Services Tariff. A Market Participant with a Generator in a Mothball Outage shall provide temporary use of its Generator’s interconnection point, in accordance with Section 5.18.5 of this Services Tariff, when a transmission solution using the Generator’s interconnection point has been selected as either the Gap Solution or to resolve a reliability issue on a non-New York State Bulk Power Transmission Facility arising during the Generator’s outage. The Transmission Owner shall provide that power to the station remains available notwithstanding its temporary use of the Generator’s interconnection point.

5.18.4 Return to Service of Generators in a Mothball Outage or an ICAP Ineligible Forced Outage to Resolve a Reliability Issue

5.18.4.1 Following: i) notification to a Market Participant that the return to service of its Generator in a Mothball Outage or an ICAP Ineligible Forced Outage for a specified minimum time period has been selected as either a Gap Solution or to resolve a reliability issue on a non-New York State Bulk Power Transmission Facility arising during the Generator’s outage; ii) negotiations with the applicable Transmission Owner to effectuate such return; and iii) an order establishing compensation for such return from the Federal Energy Regulatory Commission (“Compensation Order”), the Market Participant shall timely return the Generator to service, as the term “timely return” is defined in Section 5.18.4.2 of this Services Tariff.

5.18.4.1.1 Within 30 days of a determination by the ISO and the Market Participant that

negotiations on compensation for the return to service of the Market Participant's Generator are at an impasse, the Market Participant may submit a filing to the Federal Energy Regulatory Commission under Section 205 of the Federal Power Act for compensation. No later than ten days after such filing is made, the ISO shall file with the Federal Energy Regulatory Commission an unexecuted compensation agreement that includes the non-rate terms and conditions for the return to service of the Market Participant's Generator.

5.18.4.2 A Market Participant's return to service of its Generator in a Mothball Outage to resolve a reliability issue shall be deemed to be a timely return if such return to service was i) within 180 days from the date of the Compensation Order, ii) within the alternate period of time following the date of the Compensation Order pursuant to Section 5.18.3.2, or iii) by such other date agreed to by the parties.

A Market Participant's return to service of its Generator in an ICAP Ineligible Forced Outage to resolve a reliability issue shall be deemed to be a timely return if it is returned to service following the date of the Compensation Order; provided, however, the Market Participant will not be required to return the Generator to service before its estimated return date unless otherwise agreed.

5.18.4.2.1 A Generator's return to service shall not be untimely if the Generator provided the Transmission Owner with access to its interconnection point and is available for a timely return, and the Transmission Owner is unable to reconnect the Generator within the timeframes provided for a timely return to service, pursuant to Section 5.18.4.2 of this Services Tariff.

5.18.5 Temporary Use of Interconnection Point to Resolve a Reliability Issue

5.18.5.1 A Market Participant shall provide a Transmission Owner with temporary use of the interconnection point of its Generator in a Mothball Outage or ICAP Ineligible Forced Outage when a transmission solution using the Generator's interconnection point has been selected as either the Gap Solution or to resolve a reliability issue arising on a non-New York State Bulk Power Transmission Facility during its outage.

5.18.5.2 A Market Participant that provided temporary use of the interconnection point of its Generator in a Mothball Outage or ICAP Ineligible Forced Outage pursuant to Section 5.18.5.1 of this Services Tariff shall be permitted to reconnect its Generator to the transmission system by submitting to the ISO a Notice of Intent to Return that provides the date it intends to return to service which submission shall be provided no later than six months before the expiration of its outage, unless otherwise agreed. A Market Participant that submitted a Notice of Intent to Return and that was not requested to return its Generator to service to resolve a reliability issue pursuant to Section 5.18.4.1 of this Services Tariff during its immediately previous Mothball Outage or ICAP Ineligible Forced Outage, shall be permitted to reconnect at no cost.

The Transmission Owner shall reconnect the Generator on or before the indicated return date using efforts that are timely, consistent with Good Utility Practice and that are otherwise substantially equivalent to those the Transmission Owner would use for its own purposes. The Transmission Owner shall report

periodically to the ISO and the Generator on the progress of reconnecting such Generator and shall advise the ISO and the Generator promptly if it expects it will not be able to complete the reconnection of the Generator before its indicated return date.

If the Generator returning to service pursuant to this Section 5.18.5.2 of the Services Tariff is available to return but the Transmission Owner is unable to reconnect the Generator before its outage expires, the outage expiration, and expiration of its CRIS rights, where applicable, will be tolled until the date the Transmission Owner reconnects the Generator notwithstanding the three year period in which deactivated facilities may maintain CRIS rights pursuant to Section 25.9.3.1 of Attachment S to the OATT; provided, however, the expiration period for transfers of CRIS rights provided in Section 25.9.3.1 of Attachment S to the OATT shall not be tolled.

5.18.6 Retired and Termination of Existing Interconnection Agreements

The classification of a Generator with an interconnection agreement other than an Small Generator Interconnection Agreement (SGIA) or Standard Large Generator Interconnection Agreement (LGIA) as Retired may be grounds for the termination of the interconnection agreement depending on the terms and conditions of the applicable agreement. Any termination of such an interconnection agreement will be effective on the filing with the Federal Energy Regulatory Commission of a notice of termination, which notice and proposed effective date have been accepted by the Federal Energy Regulatory Commission. Either party to the interconnection agreement may file the notice of termination,

as appropriate. If and when termination of the interconnection agreement is effective, access to the Point of Interconnection of the Generator will be available on a non-discriminatory basis pursuant to the NYISO's applicable interconnection and transmission expansion processes and procedures. If the existing interconnection agreement is not terminated, the Retired Generator would retain its right to the specific point of interconnection as provided for in the interconnection agreement and access to this point would not be available for new projects.

The impact on a Generator with a LGIA or SGIA that has been classified as Retired is described in OATT Sections 30 and 32 respectively.

23.4 Mitigation Measures

23.4.1 Purpose and Terms

If conduct is detected that meets the criteria specified in Section 23.3, the appropriate mitigation measure described in this Section shall be applied by the ISO. The conduct specified in Sections 23.3.1.1 to 23.3.1.3 shall be remedied by (1) the prospective application of a default bid measure, or (2) the application of a default bid to correct guarantee payments, as further described in Section 23.4.2.2.4, below. If a Market Party or its Affiliates engage in physical withholding by providing the ISO false information regarding the derating or outage of an Electric Facility or does not operate a Generator in conformance with ISO dispatch instructions such that the prospective application of a default bid is not feasible, or if otherwise appropriate to deter either physical or economic withholding, the ISO shall apply the sanction described in Section 23.4.3.

Terms with initial capitalization not defined in Section 23.4 shall have the meaning set forth in the Open Access Transmission Tariff.

23.4.2 Default Bid

23.4.2.1 Purpose

A default bid shall be designed to cause a Market Party to Bid as if it faced workable competition during a period when (i) the Market Party does not face workable competition, and (b) has responded to such condition by engaging in the physical or economic withholding of an Electric Facility. In designing and implementing default bids, the ISO shall seek to avoid causing an Electric Facility to Bid below its marginal cost.

23.4.2.2 Implementation

23.4.2.2.1 If the criteria contained in Section 23.3 are met, the ISO may substitute a default bid or bid parameter for a Bid or bid parameter submitted for an Electric Facility. The default bid or bid parameter shall establish a maximum or minimum value for one or more components of the submitted Bid or Bid parameters, equal to a reference level for that component determined as specified in Section 23.3.1.4.

23.4.2.2.2 An Electric Facility subject to a default bid shall be paid the LBMP or other market clearing price applicable to the output from the facility. Accordingly, a default bid shall not limit the price that a facility may receive unless the default bid determines the LBMP or other market clearing price applicable to that facility.

23.4.2.2.3 If an Electric Facility is mitigated using the automated mitigation procedures described in Section 23.3.2.2.3 of these mitigation measures to a default bid for an Incremental Energy Bid other than a default bid determined as specified in Section 23.3.1.4, the Electric Facility shall receive an additional payment for each interval in which such mitigation occurs equal to the product of: (i) the amount of Energy in that interval scheduled or dispatched to which the incorrect default bid was applied; (ii) the difference between (a) the lesser of the applicable unmitigated bid and a default bid determined in accordance with Section 23.3.1.4, and (b) the applicable LBMP or other relevant market price in each such interval, if (a) greater than (b), or zero otherwise; and (iii) the length of that interval.

If an Electric Facility is mitigated to a default bid for a Start-Up Bid or a Minimum Generation Bid other than a default bid determined as specified in Section 23.3.1.4 of these Mitigation Measures, or if an Electric Facility is mitigated to a default bid for an Incremental Energy Bid other than a default bid determined as specified in Section 23.3.1.4 of these Mitigation Measures based on mitigation procedures other than the automated mitigation procedures described in Section 23.3.2.2.3 of these Mitigation Measures, then the ISO shall determine if the Bids would have failed the relevant conduct test(s) if correctly determined default bids had been used. The ISO shall then restore any original (as-submitted) Bid(s) that would not have failed the relevant conduct test(s) if correctly determined default bids had been used, and use the restored Bid(s) to determine a settlement. Otherwise, the ISO shall use the Generator's correct or corrected default bid(s) to determine a settlement.

23.4.2.2.4 Except as may be specifically authorized by the Commission:

23.4.2.2.4.1 The ISO shall not use a default bid to determine revised market clearing prices for periods prior to the imposition of the default bid.

23.4.2.2.4.2 The ISO shall only be permitted to apply default bids to determine revised real-time guarantee payments to a Market Party in accordance with the provisions of Section 23.3.3.3 of these Mitigation Measures.

23.4.2.2.5 Automated implementation of default bid mitigation measures shall be subject to the following requirements.

- 23.4.2.2.5.1 Automated mitigation measures shall not be applied if the price effects of the measures would cause the average day-ahead energy price in the mitigated locations or zones to rise over the entire day.
- 23.4.2.2.5.2 Automated mitigation measures as specified in Section 23.3.2.2.3 shall be applied to Minimum Generation Bids and start-up costs Bids meeting the applicable conduct and impact tests. When mitigation of Minimum Generation Bids is warranted, mitigation shall be imposed from the first hour in which the impact test is met to the last hour in which the impact test is met, or for the duration of the mitigated Generator's minimum run time, whichever is longer.
- 23.4.2.2.5.3 The posting of the Day-Ahead schedule may be delayed if necessary for the completion of automated mitigation procedures.
- 23.4.2.2.5.4 Bids not mitigated under automated procedures shall remain subject to mitigation by other procedures specified herein as may be appropriate.
- 23.4.2.2.5.5 The role of automated mitigation measures in the determination of Day-Ahead market clearing prices is described in Section 17.1.3 of Attachment B of the ISO Services Tariff.
- 23.4.2.2.6 A Real-Time automated mitigation measure shall remain in effect for the duration of any hour in which there is an RTC interval for which such mitigation is deemed warranted.
- 23.4.2.2.7 A default bid shall not be imposed on a Generator that is not in the New York Control Area and that is electrically interconnected with another Control Area.

23.4.3 Sanctions

23.4.3.1 Types of Sanctions

The ISO may impose financial penalties on a Market Party in amounts determined as specified below.

23.4.3.2 Imposition

The ISO shall impose financial penalties as provided in this Section 23.4.3, if the ISO determines in accordance with the thresholds and other standards specified in this Attachment H that: (i) a Market Party has engaged in physical withholding, including providing the ISO false information regarding the derating or outage of an Electric Facility; or (ii) a Market Party or its Affiliates have failed to follow the ISOs dispatch instructions in real-time, resulting in a different output level than would have been expected had the Market Party's or the Affiliate's generation followed the ISO's dispatch instructions, and such conduct has caused a material increase in one or more prices or guarantee payments in an ISO Administered Market; or (iii) a Market Party has made unjustifiable changes to one or more operating parameters of a Generator that reduce its ability to provide Energy or Ancillary Services; or (iv) a Load Serving Entity has been subjected to a Penalty Level payment in accordance with Section 23.4.4 below; or (v) a Market Party has submitted inaccurate fuel type or fuel price information that is used by the ISO in the development of a Generator's reference level, where the inaccurate reference level that is developed, in turn, directly or indirectly impacts guarantee payments or market clearing prices paid to the Market Party; or (vi) the opportunity to submit Incremental Energy Bids into the real-time market that exceed Incremental Energy Bids made in the Day-Ahead Market or mitigated Day-Ahead Incremental Energy Bids where appropriate, has been revoked for a Market Party's Generator pursuant to Sections 23.4.7.2 and 23.4.7.3 of these Mitigation Measures.

23.4.3.3 Base Penalty Amount

23.4.3.3.1 Except for financial penalties determined pursuant to Sections 23.4.3.3.2, 23.4.3.3.3, and 23.4.3.3.4 below, financial penalties shall be determined by the product of the Base Penalty Amount, as specified below, times the appropriate multiplier specified in Section 23.4.3.4:

MW meeting the standards for mitigation during Mitigated Hours * Penalty market-clearing price.

23.4.3.3.1.1 For purposes of determining a Base Penalty Amount, the term “Mitigated Hours” shall mean: (i) for a Day-Ahead Market, the hours in which MW were withheld; (ii) for a Real-Time Market, the hours in the calendar day in which MW were withheld; and (iii) for load Bids, the hours giving rise to Penalty Level payments.

23.4.3.3.1.2 For purposes of determining a Base Penalty Amount, the term “Penalty market-clearing price” shall mean: (i) for a withholding seller, the LBMP or other market-clearing price at the generator bus of the withheld resource (or in the relevant Load Zone, if a clearing price is not calculated at the generator bus); and (ii) for a Load Serving Entity, its zonal LBMP.

23.4.3.3.2 The financial penalty for failure to follow ISOs dispatch instructions in real-time, resulting in real-time operation at a different output level than would have been expected had the Market Party’s or the Affiliate’s generation followed the ISO’s dispatch instructions, if the conduct violates the thresholds set forth in Sections 23.3.1.1.1.2, or 23.3.1.3.1.2 of these Mitigation Measures, and if a Market Party or its Affiliates, or at least one Generator, is determined to have had

impact in accordance with Section 23.3.2.1 of these Mitigation Measures, shall be:

One and a half times the estimated additional real time LBMP and Ancillary Services revenues earned by the Generator, or Market Party and its Affiliates, meeting the standards for impact during intervals in which MW were not provided or were overproduced.

23.4.3.3.3 If inaccurate fuel type and/or fuel price information was submitted by or for a Market Party, and the reference level that the ISO developed based on that inaccurate information impacted guarantee payments or market clearing prices paid to the Market Party in a manner that violates the thresholds specified in this Section 23.4.3.3.3, then, following consultation with the Market Party regarding the appropriate fuel type and/or fuel price, the ISO shall apply the penalty set forth below, unless: (i) the Market Party shows that the information was submitted in compliance with the requirements of Section 4.1.9 of the ISO Services Tariff (Incremental Cost Recovery for Units Responding to Local Reliability Rule I-R3 or I-R5), or (ii) the total penalty calculated for a particular Day-Ahead or Real-Time Market day is less than \$5,000, in which case the ISO will not apply a penalty.

23.4.3.3.3.1 Day-Ahead Conduct and Market Impact Tests

23.4.3.3.3.1.1 Day-Ahead Conduct Test

Using the higher of (a) a revised reference level calculated using the Generator's actual fuel costs, or (b) the reference level that would have been in place for the Generator but for the submission of inaccurate fuel type and/or fuel

price information, test the Bids to determine if they violate the relevant conduct threshold in accordance with the appropriate provision(s) of Section 23.3.1.2 of these Mitigation Measures.

23.4.3.3.3.1.2 Day-Ahead Impact Test

Using the higher of (a) a revised reference level calculated using the Generator's actual fuel costs, or (b) the reference level that would have been in place for the Generator but for the submission of inaccurate fuel type and/or fuel price information, test the Bids for both LBMP and guarantee payment impact in accordance with the appropriate provisions of Section 23.3.2.1 of these Mitigation measures.

23.4.3.3.3.1.3 Day-Ahead Reliability Commitments in a Constrained Area Consistent with Section 23.5.2 of these Mitigation Measures, the conduct and impact thresholds for In-City Generators committed in the Day-Ahead Market for local reliability shall each be zero.

23.4.3.3.3.2 Real-Time Conduct and Market Impact Tests

23.4.3.3.3.2.1 Real-Time Conduct Test

Using the higher of (a) a revised reference level calculated using the Generator's actual fuel costs, or (b) the reference level that would have been in place for the Generator but for the submission of inaccurate fuel type and/or fuel price information, test the Bids to determine if they violate the relevant conduct threshold in accordance with the appropriate provision(s) of Section 23.3.1.2 of these Mitigation Measures

23.4.3.3.3.2.2 Real-Time LBMP Impact Test

The Market Party's Bids for a Generator will be treated as having a Real-Time Market LBMP impact if the higher of (a) a revised reference level calculated using the Generator's actual fuel costs, or (b) the reference level that would have been in place for the Generator but for a Market Party's submission of inaccurate fuel type and/or fuel price information, is less than or equal to the real-time LBMP at the PTID that represents the Generator's location, and the Generator's reference level that was actually used to test the Bid for LBMP impact in the Real-Time Market for that hour was greater than or equal to the LBMP at the Generator's location.

23.4.3.3.3.2.3 Real-Time Guarantee Payment Impact Test

Using the greater of (a) a revised reference level calculated using the Generator's actual fuel costs, or (b) the reference level that would have been in place for the Generator but for the submission of inaccurate fuel type and/or fuel price information, test the Bids for guarantee payment impact in accordance with the appropriate provisions of Section 23.3.2.1 of these Mitigation Measures.

23.4.3.3.3.3 Day-Ahead Market Penalty Calculation

If the results of the Day-Ahead Market impact test indicate that the Market Party's Bid had either LBMP or guarantee payment impact then the ISO shall charge the Market Party a penalty, calculated for each penalized day, for each of its Generators, for each hour of the day, as follows:

$$\text{Daily Penalty} = \max \left[(\text{Multiplier} * [\sum_g \blacktriangle \text{Day-Ahead BPCG payment}_g] + (\text{Multiplier}) \sum_h \sum_g ([\text{Market Party MWh}_{gh}] \times [\blacktriangle \text{Day Ahead LBMP@PTID}_{gh}]) + \max [\sum_h \text{TCC Revenue Calc for Market Party}_h, 0]), 0 \right]$$

Where:

g = an index running across all the Market Party's Generators

h = for purposes of this Section 23.4.3.3.3, h is an index running across all hours of the day

Multiplier = a factor of 1.0 or 1.5. The ISO shall use a 1.0 Multiplier if the Market Party has not been penalized for inaccurately reporting fuel type or fuel price information in the Day-Ahead Market over the 6 months prior to the market-day for which the penalty is being calculated. In all other cases the ISO shall use a 1.5 Multiplier.

▲ Day-Ahead BPCG payment $_g$ = the change in the Day-Ahead Market guarantee payment that the Market Party receives for Generator g determined when the ISO performs the Day Ahead Market guarantee payment impact test in accordance with Section 23.3.2.1.2 of these Mitigation Measures

Market Party MWh $_{gh}$ = the MWh of Energy scheduled in the Day-Ahead Market for Generator g in hour h

▲ Day Ahead LBMP@PTID $_{gh}$ = the change in the Day-Ahead Market LBMP for hour h at the location of Generator g , as determined when the ISO performs the relevant Day Ahead Market LBMP impact test in accordance with Section 23.3.2.1.1 or 23.3.2.1.3 of these Mitigation Measures

TCC Revenue Calc for Market Party $_h$ = the change in TCC Revenues that the Market Party receives for hour h , determined when the ISO performs the relevant Day Ahead Market LBMP impact test

23.4.3.3.3.4 Real-Time Market Penalty Calculation

If the results of either of the Real-Time Market impact tests indicate that the Incremental Energy Bid submitted for a Market Party's Generator had either LBMP or guarantee payment impact then the ISO shall charge the Market Party a penalty, calculated for each penalized day, for each of its Generators, for each hour of the day, as follows:

$$\text{Daily Penalty} = \text{Max} [(\text{Multiplier} * \sum_g [\text{▲ simplified guarantee payment}_g]) + \sum_h \sum_g (\text{Multiplier} * [\text{original reference level}_{gh} - \text{updated reference level}_{gh}]) * \text{max} [\text{MWh DAM}_{gh}, \text{MWh RT}_{gh}, \text{Market Party MWh}_{gh}, 0], 0]$$

Where

g = an index running across all the Market Party's Generators

h = an index running across all hours of the day in which inaccurate fuel type or fuel price information was supplied for any of the Market Party's Generators; provided that one of the Bids in that hour " h " for at least one of the Market Party's Generators must have had a Real Time Market LBMP or guarantee payment impact in accordance with Sections 23.4.3.3.3.2.2 or 23.4.3.3.3.2.3 of these Mitigation Measures

Multiplier = a factor of 1.0 or 1.5. The ISO shall use a 1.0 Multiplier if the Market Party has not been penalized for inaccurately reporting fuel type or fuel price information in the Real-Time Market over the 6 months prior to the market-day for which the penalty is being calculated. In all other cases the ISO shall use a 1.5 Multiplier.

Updated reference level_{gh} = greater of a revised reference level calculated using the actual fuel costs of Generator g in hour h , or the reference level that would

have been in place for the Generator in hour h, but for the Market Party's submission of inaccurate fuel type and/or fuel price information

Original reference level_{gh} = the reference level for Generator g in hour h actually used in the Real-Time Market to perform conduct and impact testing of the Market Party's Bids

MWh DAM_{gh} = the MWh that Generator g was scheduled to produce in the Day-Ahead Market in hour h

MWh RT_{gh} = the MWh that Generator g was scheduled to produce in the Real-Time Market in hour h

Market Party MWh_{gh} = MWh produced by Market Party's Generator g that was scheduled to produce energy in hour h in the Real-Time Market

▲ simplified guarantee payment_g = the change in the Real-Time Market guarantee payment that the Market Party receives for Generator g, determined when the ISO performs a simplified Bid Production Cost guarantee payment impact test using the threshold specified in Section 23.3.2.1.2 of these Mitigation Measures. The simplified guarantee payment shall be based upon actual Real-Time Bids, actual Real-Time Generator LBMPs, and reference levels that are the greater of (a) a revised reference level calculated using the Generator's actual fuel costs, or (b) the reference level that would have been in place for the Generator but for the submission of inaccurate fuel type and/or fuel price information

23.4.3.3.4 If the opportunity to submit Incremental Energy Bids into the real-time market that exceed Incremental Energy Bids made in the Day-Ahead Market or mitigated Day-Ahead Incremental Energy Bids where appropriate, has been

revoked on a Market Party's Generator pursuant to Sections 23.4.7.2 and 23.4.7.3 of these Mitigation Measures, then the following virtual market penalty may be imposed on the Market Party:

Virtual market penalty = (Virtual Load MWs) * (Amount by which the hourly integrated real-time LBMP exceeds the day-ahead LBMP applicable to the Virtual Load MWs)

WHERE:

Virtual Load MWs are the scheduled MWs of Virtual Load Bid by the Market Party in the hour for which an increased real-time Bid for the Market Party's Generator failed the test specified in Section 23.4.7.2 of these Mitigation Measures; and

LBMP is the LBMP at which the Virtual Load MWs settled in the Day-Ahead and real-time Markets.

23.4.3.3.5 Real-Time LBMPs shall not be revised as a result of the imposition of a financial obligation as specified in this Section 23.4.3.3, except as may be specifically authorized by the Commission.

23.4.3.4 Multipliers

The Base Penalty Amount specified in Section 23.4.3.3.1 shall be subject to the following multipliers:

23.4.3.4.1 For the first instance of a type of conduct by a Market Party meeting the standards for mitigation, the multiplier shall be one (1).

- 23.4.3.4.2 For the second instance within the current or the two immediately previous capability periods of substantially similar conduct in the same market by a Market Party or its Affiliates, the multiplier shall be one (1),
- 23.4.3.4.3 For the third instance within the current or the two immediately previous capability periods of substantially similar conduct in the same market by a Market Party or its Affiliates, the multiplier shall be two (2),
- 23.4.3.4.4 For the fourth or any additional instance within the current or immediately previous capability period of substantially similar conduct in the same market by a Market Party or its Affiliates, the multiplier shall be three (3).

23.4.3.5 Dispute Resolution

- 23.4.3.5.1 Parties with of disputes arising from or relating to the imposition of a sanction under this Section 23.4.3 may utilize the dispute resolution provisions of the ISO Services Tariff. The scope of any such proceeding shall include resolution of any dispute as to legitimate justifications, under applicable legal, regulatory or policy standards, for any conduct that is asserted to warrant a penalty. Any or all of the issues in any such proceeding may be resolved by agreement of the parties.
- 23.4.3.5.2 Payment of a financial penalty may be withheld pending conclusion of any arbitration or other alternate dispute resolution proceeding instituted pursuant to the preceding paragraph and any petition to FERC for review under the Federal Power Act of the determination in such dispute resolution proceeding; provided, however, that interest at the ISO's average cost of borrowing shall be payable on any part of the penalty that is withheld, and that is determined to be payable at the

conclusion of the dispute resolution/FERC review process from the date of the infraction giving rise to the penalty to the date of payment. The exclusive remedy for the inappropriate imposition of a financial penalty, to the exclusion of any claim for damages or any other form of relief, shall be a determination that a penalty should not have been imposed, and a refund with interest of paid amounts of a penalty determined to have been improperly imposed, as may be determined in the applicable dispute resolution proceedings.

23.4.3.5.3 This Section 23.4.3 shall not be deemed to provide any right to damages or any other form of relief that would otherwise be barred by Section 30.11 of Attachment O or Section 23.6 of this Attachment H.

23.4.3.5.4 This Section 23.4.3 shall not restrict the right of any party to make such filing with the Commission as may otherwise be appropriate under the Federal Power Act.

23.4.3.6 Disposition of Penalty Funds

Except as specified in Section 23.4.4.3.2, amounts collected as a result of the imposition of financial penalties shall be credited against costs collectable under Rate Schedule 1 of the ISO Services Tariff.

23.4.4 Load Bid Measure

23.4.4.1 Purpose

As initially implemented, the ISO market rules allow loads to choose to purchase power in either the Day-Ahead Market or in the Real-Time Market, but provide other Market Parties less flexibility in opting to sell their output in the Real-Time Market. As a result of this and

other design features, certain bidding practices may cause Day-Ahead LBMPs not to achieve the degree of convergence with Real-Time LBMPs that would be expected in a workably competitive market. A temporary mitigation measure is specified below as an interim remedy if conditions warrant action by the ISO until such time as the ISO develops and implements an effective long-term remedy, if needed. These measures shall only be imposed if persistent unscheduled load causes operational problems, including but not limited to an inability to meet unscheduled load with available resources. The ISO shall post a description of any such operational problem on its web site.

23.4.4.2 Implementation

23.4.4.2.1 Day-Ahead LBMPs and Real-Time LBMPs in each load zone shall be monitored to determine whether there is a persistent hourly deviation between them in any zone that would not be expected in a workably competitive market. Monitoring of Day-Ahead and real-time LBMPs shall include examination of the following two metrics (along with any additional monitoring tools and procedures that the ISO determines to be appropriate to achieve the purpose of this Section 23.4.4):

(1) The ISO shall compute a rolling average of the hourly deviation of real-time zonal LBMPs from Day-Ahead zonal LBMPs. The hourly deviation shall be measured as: $(\text{zonal LBMP}_{\text{real time}} - \text{zonal LBMP}_{\text{day ahead}})$. Each observation of the rolling-average time series shall be a simple average of all the hourly deviations over the previous four weeks, or such other averaging period determined by the ISO to be appropriate to achieve the purpose of this Section 23.4.4.

(2) The ISO shall also compute the rolling average *percentage* deviation of real-time zonal LBMPs from Day-Ahead zonal LBMPs. This percentage deviation shall be calculated by dividing the rolling-average hourly deviation (defined in Section 23.4.4.2.1 (1) above) by the rolling-average level of Day-Ahead zonal LBMP over the same time period, using the averaging period(s) described in Section 23.4.4.2.1 (1), above.

23.4.4.2.2 The ISO shall also estimate and monitor the average percentage of each Load Serving Entity's load scheduled in the Day-Ahead Market, using a methodology intended to identify a sustained pattern of under-bidding as accurately as the ISO deems practicable. The average percentage will be computed over a specified time period determined by the ISO to be appropriate to achieve the purpose of this mitigation measure.

23.4.4.2.3 If the ISO determines that (i) the relationship between zonal LBMPs in a zone in the Day-Ahead Market and the Real-Time Market is not what would be expected under conditions of workable competition, (ii) one or more Load Serving Entities have been meeting a substantial portion of their loads with purchases in the Real-Time Market, and (iii) that this practice has contributed to an unwarranted divergence of LBMP between the two markets, then the following mitigation measure may be imposed. Any such measure shall be rescinded upon a determination by the ISO that any one or more of the foregoing conditions is not met.

23.4.4.3 Description of the Measure

23.4.4.3.1 The ISO may require a Load Serving Entity engaging in the purchasing practice described above to purchase or schedule all of its expected power requirements in the Day-Ahead Market. A Load Serving Entity subject to this requirement may purchase up to a specified portion of its actual load requirements (the “Allowance Level”) in the Real-Time Market without penalty, as determined by the ISO to be appropriate in recognition of the uncertainty of load forecasting.

23.4.4.3.2 Effective with the imposition of the foregoing requirement, all purchases in the Real-Time Market in excess of this Allowance Level (the “Penalty Level”) shall be settled at a specified premium over the applicable zone LBMP. Revenues from such premiums, if any, shall be rebated on a *pro rata* basis to the Market Parties that scheduled energy for delivery to load within New York in the Day-Ahead Market for the day in which the revenues were collected.

23.4.4.3.3 The Allowance Level and the Penalty Level shall be established by the ISO at levels deemed effective and appropriate to mitigate the market effects described in this Section 23.4.4. In addition, the Penalty Level payments shall be waived in any hour in which the Allowance Level is exceeded because of unexpected system conditions.

23.4.5 Installed Capacity Market Mitigation Measures

23.4.5.1 If and to the extent that sufficient installed capacity is not under a contractual obligation to be available to serve load in New York and if physical or economic withholding of installed capacity would be likely to result in a material change in the price for installed capacity in all or some portion of New York, the

ISO, in consideration of the comments of the Market Parties and other interested parties, shall amend this Attachment H, in accordance with the procedures and requirements for amending the Plan, to implement appropriate mitigation measures for installed capacity markets.

23.4.5.2 Offers to sell Mitigated UCAP in an ICAP Spot Market Auction shall not be higher than the higher of (a) the UCAP Offer Reference Level for the applicable ICAP Spot Market Auction, or (b) the Going-Forward Costs of the Installed Capacity Supplier supplying the Mitigated UCAP. Where an Installed Capacity Supplier is a Pivotal Supplier in some, but not all, Mitigated Capacity Zones in which it has Resources, such Installed Capacity Supplier's offer to sell Mitigated UCAP in any ICAP Spot Market Auction for any Resource for which it is a Pivotal Supplier shall not be higher than the higher of (a) the lowest of the UCAP Offer Reference Levels for each Mitigated Capacity Zone in which such Installed Capacity Supplier has Resources; or (b) if an Offer for a Resource has an applicable Going-Forward Cost, such Going-Forward Cost.

23.4.5.3 An Installed Capacity Supplier's Going-Forward Costs for an ICAP Spot Market Auction shall be determined upon the request of the Responsible Market Party for that Installed Capacity Supplier. The Going-Forward Costs shall be determined by the ISO after consultation with the Responsible Market Party, provided such consultation is requested by the Responsible Market Party not later than 50 business days prior to the deadline for offers to sell Unforced Capacity in such auction, and provided such request is supported by a submission showing the Installed Capacity Supplier's relevant costs in accordance with specifications

provided by the ISO. Such submission shall show (1) the nature, amount and determination of any claimed Going-Forward Cost, and (2) that the cost would be avoided if the Installed Capacity Supplier is taken out of service or retired, as applicable. If the foregoing requirements are met, the ISO shall determine the level of the Installed Capacity Supplier's Going-Forward Costs and shall seasonally adjust such costs not later than 7 days prior to the deadline for submitting offers to sell Unforced Capacity in such auction. A Responsible Market Party shall request an updated determination of an Installed Capacity Supplier's Going-Forward Costs not less often than annually, in the absence of which request the Installed Capacity Supplier's offer cap shall revert to the UCAP Offer Reference Level. An updated determination of Going-Forward Costs may be undertaken by the ISO at any time on its own initiative after consulting with the Responsible Market Party. Any redetermination of an Installed Capacity Supplier's Going-Forward Costs shall conform to the consultation and determination schedule specified in this paragraph. The costs that an Installed Capacity Supplier would avoid as a result of retiring should only be included in its Going-Forward Costs if the owner or operator of that Installed Capacity Supplier actually plans to mothball or retire it if the Installed Capacity revenues it receives are not sufficient to cover those costs.

23.4.5.4 Mitigated UCAP shall be offered in each ICAP Spot Market Auction in accordance with Section 5.14.1.1 of the ISO Services Tariff and applicable ISO procedures, unless it has been exported to an External Control Area or sold to meet Installed Capacity requirements outside the Mitigated Capacity Zone in

which the ICAP Supplier is located in a transaction that does not constitute physical withholding under the standards specified below.

23.4.5.4.1 An export to an External Control Area or sale to meet an Installed Capacity requirement outside the Mitigated Capacity Zone in which the ICAP Supplier is a Pivotal Supplier is located of Mitigated UCAP (either of the foregoing being referred to as “External Sale UCAP”) may be subject to audit and review by the ISO to assess whether such action constituted physical withholding of UCAP from a Mitigated Capacity Zone. External Sale UCAP shall be deemed to have been physically withheld on the basis of a comparison of the net revenues from UCAP sales that would have been earned by the sale in a Mitigated Capacity Zone of External Sale UCAP. The comparison shall be made for the period for which Installed Capacity is committed (the “Comparison Period”) in each of the shortest term organized capacity markets (the “External Reconfiguration Markets”) for the area and during the period in which the Mitigated UCAP was exported or sold. External Sale ICAP shall be deemed to have been withheld from a Mitigated Capacity Zone if: (1) the Responsible Market Party for the External Sale UCAP could have made all or a portion of the External Sale UCAP available to be offered in the Mitigated Capacity Zone by buying out of its external capacity obligation through participation in an External Reconfiguration Market; and (2) the net revenues over the Comparison Period from sale in the Mitigated Capacity Zone of the External Sale UCAP that could have been made available for sale in that Locality would have been greater by 15% or more, provided that the net revenues were at least \$2.00/kilowatt-month more than the

net UCAP revenues from that portion of the External Sale UCAP over the Comparison Period.

23.4.5.4.2 If Mitigated UCAP is not offered or sold as specified above, the Responsible Market Party for such Installed Capacity Supplier shall pay the ISO an amount equal to the product of (A) 1.5 times the difference between the Market-Clearing Price for the Mitigated Capacity Zone in the ICAP Spot Market Auction with and without the inclusion of the Mitigated UCAP and (B) the total of (1) the amount of Mitigated UCAP not offered or sold as specified above, and (2) all other megawatts of Unforced Capacity in the Mitigated Capacity Zone under common Control with such Mitigated UCAP. If the failure to offer was associated with the same period as the sale of External Sale UCAP, and the failure caused or contributed to an increase in UCAP prices in the Mitigated Capacity Zone of 15 percent or more, provided such increase is at least \$2.00/kilowatt-month, the Responsible Market Party for such Installed Capacity Supplier shall be required to pay to the ISO an amount equal to 1.5 times the lesser of (A) the difference between the average Market-Clearing Price for the Mitigated Capacity Zone in the ICAP Spot Market Auctions for the relevant Comparison Period with and without the inclusion of the External Sale UCAP in those auctions, or (B) the difference between such average price and the clearing price in the External Reconfiguration Market for the relevant Comparison Period, times the total of (1) the amount of Mitigated UCAP not offered or sold as specified above, and (2) all other megawatts of Unforced Capacity in the Mitigated Capacity Zone under common Control with such Mitigated UCAP. The ISO will distribute any

amounts recovered in accordance with the foregoing provisions among the LSEs serving Loads in regions affected by the withholding in accordance with ISO Procedures.

23.4.5.4.3 Reasonably in advance of the deadline for submitting offers in an External Reconfiguration Market the Responsible Market Party for External Sale UCAP may request the ISO to provide a projection of ICAP Spot Auction clearing prices for the Mitigated Capacity Zone over the Comparison Period for the External Reconfiguration Market. Such requests, and the ISO's response, shall be made in accordance with the deadlines specified in ISO Procedures. Prior to completing its projection of ICAP Spot Auction clearing prices for the Mitigated Capacity Zone over the Comparison Period for the External Reconfiguration Market, the ISO shall consult with the Market Monitoring Unit regarding such price projection. The Responsible Market Party shall be exempt from a physical withholding penalty as specified in Section 23.4.5.4.2, below, if at the time of the deadline for submitting offers in an External Reconfiguration Market its offers, if accepted, would reasonably be expected to produce net revenues from External UCAP Sales that would exceed the net revenues that would have been realized from sale of the External UCAP Sales capacity in the Mitigated Capacity Zone at the ICAP Spot Auction prices projected by the ISO. The responsibilities of the Market Monitoring Unit that are addressed in this section of the Mitigation Measures are also addressed in Section 30.4.6.2.8 of Attachment O.

23.4.5.5 Control of Unforced Capacity shall be rebuttably presumed from (i) ownership of an Installed Capacity Supplier, or (ii) status as the Responsible

Market Party for an Installed Capacity Supplier, but may also be determined on the basis of other evidence. For purposes of determining if a Responsible Market Party is a Pivotal Supplier in a Mitigated Capacity Zone except the G-J Locality, the presumption of Control of Unforced Capacity can be rebutted by: (1) the sale of Unforced Capacity in a Capability Period Auction or a Monthly Auction, or (2) demonstrating to the reasonable satisfaction of the ISO that the ability to determine the price and quantity of offers to supply Unforced Capacity has been conveyed to a person or entity that is not an Affiliated Entity without limitation or condition. For purposes of determining if a Responsible Market Party is a Pivotal Supplier in the G-J Locality, the presumption of Control of Unforced Capacity can be rebutted by demonstrating to the reasonable satisfaction of the ISO that the ability to determine the price and quantity of offers to supply Unforced Capacity has been conveyed to a person or entity that is not an Affiliated Entity without limitation or condition, but cannot be rebutted by the sale of Unforced Capacity in a Capability Period or Monthly Auction. For any Mitigated Capacity Zone, if the presumption has not been rebutted, and if two or more Market Parties each have rights or obligations with respect to Unforced Capacity from an Installed Capacity Supplier that could reasonably be anticipated to affect the quantity or price of Unforced Capacity transactions in an ICAP Spot Market Auction, the ISO may attribute Control of the affected MW of Unforced Capacity from the Installed Capacity Supplier to each such Market Party. Prior to reaching its decision regarding whether the presumption of control of Unforced Capacity has been rebutted, the ISO shall provide its preliminary determination to the Market

Monitoring Unit for review and comment. The responsibilities of the Market Monitoring Unit that are addressed in this section of the Mitigation Measures are also addressed in Section 30.4.6.2.9 of Attachment O.

23.4.5.6 Audit, Review, and Penalties for Physical Withholding to Increase Market-Clearing Prices

23.4.5.6.1 Audit and Review of Proposals or Decisions to Remove or Derate Installed Capacity from a Mitigated Capacity Zone

Any proposal or decision by a Market Participant to retire or otherwise remove an Installed Capacity Supplier from a Mitigated Capacity Zone Unforced Capacity market, or to derate the amount of Installed Capacity available from such supplier, may be subject to audit and review by the ISO if the ISO determines that such action could reasonably be expected to affect Market-Clearing Prices in one or more ICAP Spot Market Auctions for a Mitigated Capacity Zone in which the Resource(s) that is the subject of the proposal or decision is located, subsequent to such action; provided, however, no audit and review shall be necessary if the Installed Capacity Supplier is a Generator that is being retired or removed from a Mitigated Capacity Zone as the result of a Forced Outage that began on or after May 1, 2015 that was determined by the ISO to be a Catastrophic Failure. Such an audit or review shall assess whether the proposal or decision has a legitimate economic justification or is based on an effort to withhold Installed Capacity physically in order to affect prices. The ISO shall provide the preliminary results of its audit or review to the Market Monitoring Unit for its review and comment. The responsibilities of the Market Monitoring Unit that are addressed in this section of the Mitigation Measures are also addressed in Section 30.4.6.2.10 of Attachment O.

23.4.5.6.2 Audit and Review of the Reclassification of a Generator in a Mitigated Capacity Zone From a Forced Outage to an ICAP Ineligible Forced Outage

This Section 23.4.5.6.2 shall apply to a Market Party whose Installed Capacity Supplier is a Generator that began a Forced Outage on or after May 1, 2015.

23.4.5.6.2.1 Any reclassification of an Installed Capacity Supplier that is a Generator in a Mitigated Capacity Zone from a Forced Outage to an ICAP Ineligible Forced Outage by a Market Party or otherwise, pursuant to the terms of Section 5.18.2.1 of this Services Tariff, may be subject to audit and review by the ISO if the ISO determines that such reclassification could reasonably be expected to affect the Market-Clearing Price in one or more ICAP Spot Market Auctions for a Mitigated Capacity Zone in which the Generator(s) that is the subject of the reclassification is located, subsequent to such action; provided, however, if the Market Party's Generator experienced the Forced Outage as a result of a Catastrophic Failure, the reclassification of a Generator in a Mitigated Capacity Zone from a Forced Outage to an ICAP Ineligible Forced Outage shall not be subject to audit and review pursuant to this Section 23.4.5.6.2.

The audit and review pursuant to the above paragraph shall assess whether the reclassification of the Generator in a Mitigated Capacity Zone from a Forced Outage to an ICAP Ineligible Forced Outage had a legitimate economic justification or is based on an effort to withhold Installed Capacity physically in order to affect prices.

The ISO shall provide the preliminary results of its audit or review to the Market Monitoring Unit for its review and comment. The responsibilities of the

Market Monitoring Unit that are addressed in this section of the Mitigation Measures are also addressed in Section 30.4.6.2.10 of Attachment O.

23.4.5.6.2.2 The audit and review pursuant to Section 23.4.5.6.2.1 shall be deferred by the ISO beyond the time period established in ISO Procedures for the audit and review of a reclassification of a Generator from a Forced Outage to an ICAP Ineligible Forced Outage if the Generator was in a Forced Outage for at least 180 days before the reclassification and one or more Exceptional Circumstances delayed the acquisition of data necessary for the ISO's audit and review.

The ISO shall conduct the audit and review after its receipt of data that it determines is necessary for the audit and review; provided, however, if, at the time the ISO acquires the necessary data, the Market Party has Commenced Repair of the Generator, or the Generator is determined by the ISO to have had a Catastrophic Failure, the Market Party shall not be subject to an audit and review pursuant to Section 23.4.5.6.2.1 of this Services Tariff. A Generator that Commenced Repair while in an ICAP Ineligible Forced Outage but that ceased or unreasonably delayed that repair shall be subject to audit and review by the ISO pursuant to Section 23.4.5.6.2.1 of this Services Tariff.

The ISO shall provide the preliminary results of its audit or review to the Market Monitoring Unit for its review and comment. The responsibilities of the Market Monitoring Unit that are addressed in this section of the Mitigation Measures are also addressed in Section 30.4.6.2.10 of Attachment O.

23.4.5.6.2.3 The audit and review of the removal of a Generator from a Forced Outage to an ICAP Ineligible Forced Outage, and the determinations of Catastrophic

Failure and Exceptional Circumstances, will be pursuant to specific timelines established in ISO Procedures.

23.4.5.6.2.4 The audit and review pursuant to Sections 23.4.5.6.2.1, and 23.4.5.6.2.2 shall be conducted to determine whether the decision not to repair a Generator had a legitimate economic justification, consistent with competitive behavior; that is, whether the cost of repair, including the risk-adjusted cost of capital, could not reasonably be expected to be recouped over the reasonably anticipated remaining life of the generator. The elements of such audit and review may include, as appropriate, the historical revenue and maintenance cost data for the purpose of the baseline, the duration of the repair, the costs including, but not limited to, capital expenditures necessary to comply with federal or state environmental, safety or reliability requirements that must be met in order to operate the Generator, the anticipated capacity, energy and ancillary services revenues following the repair, the projected costs of operating the Generator following the repair, any benefits that would be foregone from using the site for a purpose other than as the existing Generator (e.g., repowering), and other relevant data.

The criteria for the audit and review provided in this Services Tariff Section 23.4.5.6.2.4 may be incorporated, as appropriate, in an audit and review required to be conducted pursuant to other provisions in this Services Tariff Section 23.4.

23.4.5.6.2.5 For a requesting Market Party, a determination that the Market Party has experienced Exceptional Circumstances shall be made by the ISO by the 160th day of the Generator's Forced Outage. The ISO shall use reasonable efforts to

issue a determination that a Market Party has experienced Exceptional Circumstances after it has Commenced Repair and requests reclassification to an ICAP Ineligible Force Outage by the 40th day after the ISO's receipt of data necessary to conduct the analysis.

For a requesting Market Party, a determination that a Generator has experienced a Catastrophic Failure shall be made by the ISO by the 160th day of the Forced Outage. If the ISO has determined that Exceptional Circumstances will delay the submission of data necessary for the ISO to perform an audit and review pursuant to Section 23.4.5.6.2.1 or 23.4.5.6.2, the ISO shall use reasonable efforts to issue a determination that the Generator has experienced a Catastrophic Failure by the 40th day after receipt of data necessary to conduct the analysis.

23.4.5.6.3 Penalties for Withholding Installed Capacity Physically In Order To Affect Prices

If the ISO determines that either: i) pursuant to Section 23.4.5.6.1, the proposal or decision by a Market Party to retire or otherwise remove an Installed Capacity Supplier from a Mitigated Capacity Zone, or to de-rate the amount of Installed Capacity available from such supplier, or ii) pursuant to Section 23.4.5.6.2, the ISO determines that the reclassification of an Installed Capacity Supplier that is a Generator from a Forced Outage to an ICAP Ineligible Forced Outage constitutes physical withholding, and would increase the Market-Clearing Price in one or more ICAP Spot Market Auctions for a Mitigated Capacity Zone by five percent or more, provided such increase is at least \$.50/kilowatt-month, for each such violation of the above requirements the Market Party shall be assessed an amount equal to the product of (A) 1.5 times the difference between the Market Clearing Price for the Mitigated Capacity Zone in the ICAP Spot Market Auctions with and without the inclusion of the withheld UCAP in those auctions,

and (B) the total of (1) the number of megawatts withheld in the month and (2) all other megawatts of Installed Capacity in the Mitigated Capacity Zone under common Control with such withheld megawatts in the month. The requirement to pay such amounts shall continue until the Market Party demonstrates that the removal from service, retirement, or de-rate, as described in Section 23.4.5.6.1, or reclassification as described in Section 23.4.5.6.2 is justified by economic considerations other than the effect of such action on Market-Clearing Prices in the ICAP Spot Market Auctions for the Mitigated Capacity Zone. The ISO will distribute any amount recovered in accordance with the foregoing provisions among the LSEs serving Loads in the Mitigated Capacity Zone(s) wherein the Market-Clearing Price was affected for the month corresponding to the penalty accordance with ISO Procedures.

23.4.5.7 Unless exempt as specified below, offers to supply Unforced Capacity from a Mitigated Capacity Zone Installed Capacity Supplier: (i) shall equal or exceed the applicable Offer Floor; and (ii) can only be offered in the ICAP Spot Market Auctions. Except for Offer Floors applied pursuant to Section 23.4.5.7.9.5.2 (*i.e.*, after the revocation of a Competitive Entry Exemption), the Offer Floor shall apply to offers for Unforced Capacity from the Installed Capacity Supplier, if it is not a Special Case Resource, starting with the Capability Period for which the Installed Capacity Supplier first offers to supply UCAP; provided, however, that portion of a resource's UCAP (rounded down to the nearest tenth of a MW) that has cleared for any twelve, not-necessarily-consecutive, months shall cease to be subject to the Offer Floor requirement. Offer Floors applied pursuant to Section 23.4.5.7.9.5.2 shall apply to offers for Unforced Capacity from an Installed Capacity Supplier starting with all ICAP

auction activity subsequent to the date of the revocation. Offer Floors shall be adjusted annually using the inflation rate component of the escalation factor of the relevant effective ICAP Demand Curves that have been accepted by the Commission.

23.4.5.7.1 Unforced Capacity from an Installed Capacity Supplier that is subject to an Offer Floor may not be used to satisfy any LSE Unforced Capacity Obligation for Mitigated Capacity Zone Load unless such Unforced Capacity is obtained through participation in an ICAP Spot Market Auction.

23.4.5.7.2 An Installed Capacity Supplier, in a Mitigated Capacity Zone for which the Commission has accepted an ICAP Demand Curve, shall be exempt from an Offer Floor if: (a) the price that is equal to the (x) average of the ICAP Spot Market Auction price for each month in the two Capability Periods, beginning with the Summer Capability Period commencing three years from the start of the year of the Class Year (the “Starting Capability Period”) is projected by the ISO to be higher, with the inclusion of the Installed Capacity Supplier, than (y) the numerical value equal to 75 percent of the Mitigation Net CONE that would be applicable to such supplier in the same two (2) Capability Periods (utilized to compute (x)), (b) the price that is equal to the average of the ICAP Spot Market Auction prices in the six Capability Periods beginning with the Starting Capability Period is projected by the ISO to be higher, with the inclusion of the Installed Capacity Supplier, than the reasonably anticipated Unit Net CONE of the Installed Capacity Supplier, or (c) it has been determined to be exempt pursuant to Section 23.4.5.7.9 (the “Competitive Entry Exemption”). For

purposes of the determinations pursuant to (a) and (b) of this section, the ISO shall identify Unit Net CONE and the price on the ICAP Demand Curve projected for a future Mitigation Study Period consistent with Section 23.4.5.7.4.

23.4.5.7.2.1 Promptly after Commission acceptance of the first ICAP Demand Curve to apply to a Mitigated Capacity Zone, the ISO shall make an exemption and Offer Floor determination for any NCZ Examined Project that is in a completed Class Year and has received CRIS, unless exempt pursuant to section 23.4.5.7.6 or 23.4.5.7.7.

23.4.5.7.2.2 The ISO shall make an “Indicative Buyer-Side Mitigation Exemption Determination” for any NCZ Examined Project if (i) the Commission has accepted an ICAP Demand Curve for the Mitigated Capacity Zone that will become effective when the Mitigated Capacity Zone is first effective, or (ii) if the Commission has not accepted the first ICAP Demand Curve to apply specifically to the Mitigated Capacity Zone in which the NCZ Examined Project is located, provided the ISO has filed an ICAP Demand Curve pursuant to Services Tariff Section 5.14.1.2.11. The Indicative Buyer-Side Mitigation Exemption Determination shall be computed using such ICAP Demand Curve for the Mitigated Capacity Zone concurrent with the determinations the ISO makes for Examined Facilities pursuant to Sections 23.4.5.7.3.2 and 23.4.5.7.3.3. The ISO shall recompute the Indicative Buyer-Side Mitigation Exemption Determination promptly after Commission acceptance of the first ICAP Demand Curve for the applicable Locality provided that such NCZ Examined Project (i) received CRIS if the Class Year completed at the time the Commission accepts the Demand

Curve, or (ii) has not been removed from the Class Year Deliverability Study if the Class Year is not completed. The Indicative Buyer-Side Mitigation Exemption Determination is for informational purposes only. The exemption or Offer Floor for an NCZ Examined Project to which this Section applies shall be determined for such projects receiving CRIS using the Commission-accepted Locality Demand Curve.

23.4.5.7.2.3 Any NCZ Examined Project not exempt pursuant to 23.4.5.7.7 shall provide data and information requested by the ISO by the date specified by the ISO, in accordance with the ISO Procedures.

The ISO shall compute the reasonably anticipated ICAP Spot Market Auction forecast price based on Expected Retirements (as defined in subsection 23.4.5.7.2.3.1), plus each NCZ Examined Project.

23.4.5.7.2.3.1 Expected Retirements shall be determined based on any Generator that provided written notice to the New York State Public Service Commission that it intends to retire, plus any UDR facilities, or any Generator 2 MW or less that provided written notice to the ISO that it intends to retire.

23.4.5.7.2.3.2 The Load forecast shall be based on data used to develop the Indicative Locational Minimum Installed Capacity Requirement, and Special Case Resources based on data for the Mitigated Capacity Zone that is part of the Special Case Resource data set forth in the most-recently published Load and Capacity Data (Gold Book).

23.4.5.7.2.4 The ISO shall post on its website the inputs of the reasonably anticipated ICAP Spot Market Auction forecast prices determined in accordance with

23.4.5.7.2.3 (except for the posting of an input which would disclose Confidential Information), the Expected Retirements, and the NCZ Examined Projects, before the exemption or Offer Floor determination under this Section.

When the ISO is evaluating more than one NCZ Examined Project concurrently, the ISO shall recognize in its computation of the anticipated ICAP Spot Market Auction forecast price that Generators or UDR facilities will clear from lowest to highest, using for each NCZ Examined Project the lower of (i) the first year value of its Unit Net CONE, or (ii) the numerical value equal to 75 percent of the Mitigation Net Cone, then escalated in accordance with 23.4.5.7 for each of the year two and year three of the Mitigation Study Period.

23.4.5.7.2.5 When evaluating NCZ Examined Projects pursuant to Sections 23.4.5.7.2.1 or 23.4.5.7.2.2, the ISO shall seek comment from the Market Monitoring Unit on matters relating to the determination of price projections and cost calculations. The ISO shall inform the NCZ Examined Project of the Offer Floor or Offer Floor exemption determination or Indicative Buyer-Side Mitigation Exemption Determination promptly. The responsibilities of the Market Monitoring Unit that are addressed in this Section 23.4.5.7.2.5 are also addressed in Section 30.4.6.2.11 of Attachment O.

23.4.5.7.2.6 If an NCZ Examined Project under the criteria in 23.4.5.7.2.1 or 23.4.5.7.2.2 does not provide all of the requested data by the date specified by the ISO, the MW of CRIS received at that time by the project shall be subject to the Mitigation Net CONE Offer Floor for the period determined by the ISO in accordance with Section 23.4.5.7.

23.4.5.7.2.7 An NCZ Examined Project or Examined Facility located in more than one Mitigated Capacity Zone shall be evaluated pursuant to the tests in Section 23.4.5.7.2 or 23.4.5.7.3 (as applicable), calculating Mitigation Net CONE for the smallest Mitigated Capacity Zone that contains the Load Zone in which such NCZ Examined Project or Examined Facility is electrically located.

23.4.5.7.3 The ISO shall make such exemption and Unit Net CONE determination for each “Examined Facility” (collectively “Examined Facilities”) which term shall mean (I) each proposed new Generator and proposed new UDR project, and each existing Generator that has ERIS only and no CRIS, that is a member of the Class Year that requested CRIS, or that requested an evaluation of the transfer of CRIS rights from another location, in the Class Year Facilities Study commencing in the calendar year in which the Class Year Facility Study determination is being made (the Capability Periods of expected entry as further described below in this Section, the “Mitigation Study Period”), (II) each (i) existing Generator that did not have CRIS rights, and (ii) proposed new Generator and proposed new UDR project, that is an expected recipient of transferred CRIS rights at the same location regarding which the ISO has been notified by the transferor or the transferee of a transfer pursuant to OATT Attachment S Section 23.9.4 that will be effective on a date within the Mitigation Study Period, (III) each proposed new Generator that (a) is either (i) in the ISO Interconnection Queue, in a Class Year prior to 2009/10, and has not commenced commercial operation or been canceled, and for which the ISO has not made an exemption or Unit Net CONE determination, or (ii) not subject to a deliverability requirement (and therefore, is

not in a Class Year) and (b) provides specific written notification to the ISO no later than the date identified by the ISO, that it plans to commence commercial operation and offer UCAP in a month that coincides with a Capability Period of the Mitigation Study Period. The term “Examined Facilities” does not include any facility exempt from an Offer Floor pursuant to the provisions of Section 23.4.5.7.7.

23.4.5.7.3.1 The commercial operation date to be used by the ISO solely for purposes of identifying the Examined Facilities will be determined by the ISO at the time of the Class Year Study as the date most-recently (A) identified by the project to the ISO in the Interconnection Facilities Study process or (B) reflected in the Interconnection Queue, or if neither of the foregoing is applicable, then the date identified by the project to the Transmission Owner to which it has proposed interconnecting.

23.4.5.7.3.2 The ISO shall compute the reasonably anticipated ICAP Spot Market Auction forecast price for any Mitigated Capacity Zone based on Expected Retirements (as defined in this subsection 23.4.5.7.3.2), plus each Examined Facility in 23.4.5.7.3 (I), (II), and (III).

Expected Retirements shall be determined based on any Generator that provided written notice to the New York State Public Service Commission that it intends to retire, plus any UDR facility or Generator 2 MW or less that provided written notice to the ISO that it intends to retire.

The load forecast and Special Case Resources shall be as set forth in the most-recently published Load and Capacity Data (Gold Book).

Before the commencement of the Initial Decision Period for the Class Year, the ISO shall post on its website the inputs of the reasonably anticipated ICAP Spot Market Auction forecast prices determined in accordance with 23.4.5.7.3.2, the Expected Retirements, and the Examined Facilities, before the Initial Project Cost Allocation.

When the ISO is evaluating more than one Examined Facility concurrently, the ISO shall recognize in its computation of the anticipated ICAP Spot Market Auction forecast price that Generators or UDR facilities will clear from lowest to highest, using for each Examined Facility the lower of (i) the first year value of its Unit Net CONE, or (ii) the numerical value equal to 75 percent of the Mitigation Net Cone, then escalated in accordance with 23.4.5.7 for each of the year two and year three of the Mitigation Study Period.

23.4.5.7.3.3 All developers, Interconnection Customers, and Installed Capacity

Suppliers for any Examined Facility that do not request CRIS shall provide data and information requested by the ISO by the date specified by the ISO, in accordance with the ISO Procedures. For any such Examined Facility that is in a Class Year but that only has ERIS rights after the Project Cost Allocation process is complete, the ISO shall utilize the data first provided in its analysis of the Unit Net CONE in its review of the project in any future Class Year in which the Generator or UDR facility requests CRIS. The ISO shall determine the reasonably anticipated Unit Net CONE less the costs to be determined in the Project Cost Allocation or Revised Project Cost Allocation, as applicable, prior to the commencement of the Initial Decision Period Class Year, and shall provide to

the Examined Facility the ISO's determination of an exemption or the Offer Floor. On or before the three (3) days prior to the ISO's issuance of the Revised Project Cost Allocation, the ISO will revise its forecast of ICAP Spot Market Auction prices for the Capability Periods in the Mitigation Study Period based on the Examined Facilities that remain in the Class Year for CRIS and the Examined Facilities that meet 23.4.5.7.3 (II) or (III). When evaluating Examined Capacity pursuant to this Section 23.4.5.7, the ISO shall seek comment from the Market Monitoring Unit on matters relating to the determination of price projections and cost calculations. The ISO shall provide to each project its revised price forecast for a Subsequent Decision Period no later than the ISO's issuance of a Revised Project Cost Allocation. The ISO shall inform the project whether the Offer Floor exemption specified above in this Section is applicable as soon as practicable after completion of the relevant Project Cost Allocation or Revised Project Cost Allocation, in accordance with methods and procedures specified in ISO Procedures. The responsibilities of the Market Monitoring Unit that are addressed in this section of the Mitigation Measures are also addressed in Section 30.4.6.2.12 of Attachment O.

23.4.5.7.3.4 If an Examined Facility under the criteria in 23.4.5.7.3 (II) or (III) has not provided written notice to the ISO on or before the date specified by the ISO, or any Examined Facility required to be reviewed does not provide all of the requested data by the date specified by the ISO, the proposed Capacity shall be subject to the Net CONE Offer Floor for the period determined by the ISO in accordance with Section 23.4.5.7.

23.4.5.7.3.5 An Examined Facility for which an exemption or Offer Floor

determination has been rendered may only be reevaluated for an exemption or Offer Floor determination if it meets the criteria in Section 23.4.5.7.3 (I) and either (a) enters a new Class Year for CRIS or (b) intends to receive transferred CRIS rights at the same location. An Examined Facility under the criteria in 23.4.5.7.3 (II) that did receive CRIS rights will be bound by the determination rendered and will not be reevaluated, and an Examined Facility under the criteria in 23.4.5.7.3 (III) will not be reevaluated.

23.4.5.7.3.6 If an Installed Capacity Supplier demonstrates to the reasonable

satisfaction of the ISO that the value equal to the first of the three year values that comprise its Unit Net CONE is less than any Offer Floor that would otherwise be applicable to the Installed Capacity Supplier, then its Offer Floor shall be reduced to a numerical value equal to the first year of its Unit Net CONE.

23.4.5.7.3.7 If the Installed Capacity Supplier first offers UCAP prior to the first

Capability Year of the Mitigation Study Period for which it was evaluated, its Offer Floor shall be reduced using the inflation rate component identified in Section 23.4.5.7. If the Installed Capacity Supplier first offers UCAP after the first Capability Year of the Mitigation Study Period for which it was evaluated, its Offer Floor shall be increased using the inflation rate component identified in 23.4.5.7.

23.4.5.7.4 For purposes of Section 23.4.5.7.2(b), the ISO shall identify the Unit Net

CONE and price on the ICAP Demand Curve projected for a Mitigation Study Period using: (i) the escalation factor of the relevant ICAP Demand Curves for

any year for which there are accepted ICAP Demand Curves; or (ii) the inflation rate component of the escalation factor of the relevant ICAP Demand Curve for any year for which the accepted ICAP Demand Curves do not apply. For purposes of Section 23.4.5.7.2(a), the ISO shall use the escalation factor of the relevant ICAP Demand Curves.

23.4.5.7.5 A Mitigated Capacity Zone Installed Capacity Supplier that is a Special Case Resource shall be subject to an Offer Floor beginning with the month of its initial offer to supply Installed Capacity, and until its offers of Installed Capacity have been accepted in the ICAP Spot Market Auction at a price at or above its Offer Floor for a total of twelve, not necessarily consecutive, months. A Special Case Resource shall be exempt from the Offer Floor if (a) it is located in a Mitigated Capacity Zone except New York City and is enrolled as a Special Case Resource with the ISO for any month within the Capability Year that includes March 31 in an ICAP Demand Curve Reset Filing Year in which the ISO proposes a New Capacity Zone that includes the location of the Special Case Resource, or (b) the ISO projects that the ICAP Spot Market Auction price will exceed the Special Case Resource's Offer Floor for the first twelve months that the Special Case Resource reasonably anticipated to offer to supply UCAP. If a Responsible Interface Party fails to provide Special Case Resource data that the ISO needs to conduct the calculations described in the two preceding sentences by the deadline established in ISO Procedures, the Special Case Resource will cease to be eligible to offer or sell Installed Capacity. The Offer Floor for a Special Case Resource shall be equal to the minimum monthly payment for providing

Installed Capacity payable by its Responsible Interface Party, plus the monthly value of any payments or other benefits the Special Case Resource receives from a third party for providing Installed Capacity, or that is received by the Responsible Interface Party for the provision of Installed Capacity by the Special Case Resource. The Offer Floor calculation for a Special Case Resource located in New York City shall include any payment or the value of other benefits that are awarded for offering or supplying Mitigated Capacity Zone Capacity unless such payment or the value of other benefits is ruled exempt by Commission order in response to a request for exemption filed under section 206 of the Federal Power Act by New York State or a government instrumentality of New York State. The Offer Floor calculation for a Special Case Resource located in a Mitigated Capacity Zone except New York City shall include any payment or the value of other benefits that are awarded for offering or supplying Mitigated Capacity Zone Capacity, except for payments or the value of other benefits provided under programs administered or approved by New York State or a government instrumentality of New York State. Offers by a Responsible Interface Party at a PTID shall be not lower than the highest Offer Floor applicable to a Special Case Resource providing Installed Capacity at that PTID. Such offers may comprise a set of points for which prices may vary with the quantity offered. If this set includes megawatts from a Special Case Resource(s) with an Offer Floor, then at least the quantity of megawatts in the offer associated with each Special Case Resource must be offered at or above the Special Case Resource's Offer Floor. Offers by a Responsible Interface Party shall be subject to audit to determine

whether they conformed to the foregoing Offer Floor requirements. If a Responsible Interface Party together with its Affiliated Entities submits one or more offers below the applicable Offer Floor, and such offer or offers cause or contribute to a decrease in UCAP prices in the Mitigated Capacity Zone of 5 percent or more, provided such decrease is at least \$.50/kilowatt-month, the Responsible Interface Party shall be required to pay to the ISO an amount equal to 1.5 times the difference between the Market-Clearing Price for the Mitigated Capacity Zone in the ICAP Spot Auction for which the offers below the Offer Floor were submitted with and without such offers being set to the Offer Floor, times the total amount of UCAP sold by the Responsible Interface Party and its Affiliated Entities in such ICAP Spot Auction. If an offer is submitted below the applicable Offer Floor, the ISO will notify the Responsible Market Party and the notification will identify the offer, the Special Case Resource, the price impact, and the penalty amount. The ISO will provide the notice reasonably in advance of imposing such penalty. The ISO shall distribute any amounts recovered in accordance with the foregoing provisions among the entities, other than the entity subject to the foregoing payment requirement, supplying Installed Capacity in regions affected by one or more offers below an applicable Offer Floor in accordance with ISO Procedures.

- 23.4.5.7.6 (a) An In-City Installed Capacity Supplier that is not a Special Case Resource shall be exempt from an Offer Floor if it was an existing facility on or before March 7, 2008. (b) A Generator or UDR project that was an existing facility on or before June 29, 2012, which: (i) is in a Mitigated Capacity Zone

except New York City, and (ii) was grandfathered from the deliverability requirement at a certain quantity of MW of CRIS pursuant to Section 25.9.3.1 of OATT Attachment S (“Deliverability Grandfathering Process”) shall be exempt from an Offer Floor for the MW quantity of CRIS that was provided through the Deliverability Grandfathering Process plus an additional 2 MW obtained through Section 30.3.2.6 of Attachment X to the OATT. If the Generator or UDR project subsequently received CRIS above the quantity established through the Deliverability Grandfathering Process, this exemption shall not apply to any such increase above the 2 MW allowed in Section 30.3.2.6 of Attachment X to the OATT.

23.4.5.7.7 For any Mitigated Capacity Zone except New York City:

(I) Any existing or proposed Generator or UDR project that has the characteristics specified in this Section 23.4.5.7.7(I) shall be exempt from an Offer Floor with respect to the MW of CRIS that it received at the time, or for which it satisfied the specific CRIS transfer requirements stated in this Section. To be eligible for an exemption under this Section: (a) the existing or proposed Generator or UDR project’s location must be included in the ISO’s March 31 Filing in the ICAP Demand Curve Reset Filing Year in which a Mitigated Capacity Zone is first applied to such location; (b) prior to that March 31 Filing the existing or proposed Generator or UDR project must have both: (i) Commenced Construction and (ii) either (1) received the MW of CRIS in a Class Year that was completed or (2) submitted to the ISO an Interconnection Request that specifically states that the Generator or UDR project will be requesting or has

requested a transfer of a specific MW quantity of CRIS at the same location in accordance with Section 25.9.4 of OATT Attachment S (provided that the transfer is ultimately approved by the ISO and consummated); and (c) the existing or proposed Generator or UDR project must demonstrate to the ISO no later than the deadline established by the ISO that it satisfies the requirements of (b) (i) and (ii) above; and

(II) An existing or proposed Generator or UDR project that is not subject to a deliverability requirement (and therefore, is not in a Class Year and does not receive CRIS MW) shall be exempt from an Offer Floor if it meets the following requirements prior to the ISO's March 31 Filing in an ICAP Demand Curve Reset Filing Year in which a Mitigated Capacity Zone is first applied to such location:

(a) has Commenced Construction, (b) has an effective interconnection agreement, and (c) provides specific written notification to the ISO that it meets requirements (a) and (b) of this subsection 23.4.5.7.7(II) no later than the deadline established by the ISO.

The ISO shall consult with the Market Monitoring Unit prior to determining whether an existing or proposed Generator or UDR project has Commenced Construction. Prior to the ISO making its determination, the Market Monitoring Unit shall provide the ISO a written opinion and recommendation regarding whether an existing or proposed Generator or UDR project Commenced Construction. The responsibilities of the Market Monitoring Unit that are addressed in this section of the Mitigation Measures are also addressed in Section 30.4.6.2.12 of Attachment O. The ISO shall only make a determination pursuant

to this Section for an existing or proposed Generator or UDR project for the Mitigated Capacity Zone's first application to the location of the project. The Market Monitoring Unit shall also provide a public report on its assessment of an ISO determination that an existing or proposed Generator or UDR project is exempt from an Offer Floor pursuant to this Section 23.4.5.7.7.

23.4.5.7.9 Competitive Entry Exemption

23.4.5.7.9.1 Eligibility

23.4.5.7.9.1.1 A proposed new Generator or UDR project that becomes a member of a Class Year after Class Year 2012 may request to be evaluated for a "Competitive Entry Exemption" for its CRIS MW and shall qualify for such exemption if the ISO determines that the proposed Generator or UDR project meets each of the following requirements: (a) does not have, and at no time before the Generator first produces or the UDR project first transmits energy (for purposes of this Section 23.4.5.7.9, the "Entry Date") shall have, (i) a direct or indirect "non-qualifying contractual relationship," as defined in Section 23.4.5.7.9.1.2, with a Transmission Owner, a Public Power Entity, or any other entity with a Transmission District in the NYCA or an agency or instrumentality of New York State or a political subdivision thereof, (collectively "Non-Qualifying Entry Sponsors"); or (ii) an unexecuted agreement, written or unwritten, with a Non-Qualifying Entry Sponsor that would support the development of the project, except those agreements that would not constitute a "non-qualifying contractual relationship," as set forth in Section 23.4.5.7.9.1.3(i) – (viii), (b) is not itself, and is not an Affiliate of, a Non-Qualifying Entry Sponsor.

23.4.5.7.9.1.2 For purposes of Section 23.4.5.7.9, a direct “non-qualifying contractual relationship” shall include but not be limited to any contract, agreement, arrangement, or relationship (for the purposes of this Section 23.4.5.7.9, a “contract”) that: (a) directly relates to the planning, siting, interconnection, operation, or construction of the Generator or UDR project that is the subject of the request for the Competitive Entry Exemption; (b) is for the energy or capacity produced by or delivered from or by the Generator or UDR project, including an agreement for rights to schedule or use a UDR; or (c) provides services, financial support, or tangible goods to a Generator or UDR project. For purposes of Section 23.4.5.7.9, an indirect “non-qualifying contractual relationship” is any contract between the Generator or UDR project and an entity (for purposes of this Section 23.4.5.7.9, a “third party”) if the third party has a non-qualifying contractual relationship with a Non-Qualifying Entry Sponsor, the recital, purpose, or subject of which includes, or has the effect of including, this Generator or UDR project.

23.4.5.7.9.1.3 A contract with a Non-Qualifying Entry Sponsor shall not constitute a “non-qualifying contractual relationship” if it is (i) an Interconnection Agreement; (ii) an agreement for the construction or use of interconnection facilities or transmission or distribution facilities, or directly connected joint use transmission or distribution facilities (including contracts required for compliance with Articles VII or X of the New York State Public Service Law or orders issued pursuant to Articles VII or X); (iii) a grant of permission by any department, agency, instrumentality, or political subdivision of New York State to bury, lay, erect or

construct wires, cables or other conductors, with the necessary poles, pipes or other fixtures in, on, over or under public property; (iv) a contract for the sale or lease of real property to or from a Non-Qualifying Entry Sponsor at or above fair market value as of the date of the agreement was executed, such value demonstrated by an independent appraisal at the time of execution prepared by an accountant or appraiser with specific experience in such valuations; (v) an easement or license to use real property; (vi) a contract, with any department, agency, instrumentality, or political subdivision of New York State providing for a payment-in-lieu of taxes (*i.e.*, a “PILOT” agreement) or industrial or commercial siting incentives, such as tax abatements or financing incentives, provided the PILOT agreement or incentives are generally available to industrial or commercial entities; (vii) a service agreement for natural gas entered into under a tariff accepted by a regulatory body with jurisdiction over that service; or (viii) a service agreement entered into under a tariff accepted by a regulatory body with jurisdiction over that service at a regulated rate for electric Station Power, or steam service, excluding an agreement for a rate that is a negotiated rate pursuant to any such regulated electric, or steam tariff. Notwithstanding the foregoing, a contract with a Non-Qualifying Entry Sponsor that includes a provision that is a non-qualifying contractual relationship will render the entire contract described in (i) through (viii) of this Section a non-qualifying contractual relationship.

23.4.5.7.9.1.4 The ISO shall determine whether a Generator or UDR project is eligible for a Competitive Entry Exemption based on its review of the certifications required by Section 23.4.5.7.9.2, below, and any other supporting data requested

by the ISO. When evaluating eligibility for a Competitive Entry Exemption, the ISO shall consult with the Market Monitoring Unit. The responsibilities of the Market Monitoring Unit that are addressed in this section of the Mitigation Measures are also addressed in Section 30.4.6.2.12 of Attachment O.

23.4.5.7.9.2 Certifications and Acknowledgements

23.4.5.7.9.2.1 A Generator or UDR project requesting a Competitive Entry Exemption shall submit to the ISO in accordance with ISO Procedures, and shall be legally bound by, the following Certification and Acknowledgement form executed by a duly authorized officer:

CERTIFICATION AND ACKNOWLEDGMENT

I [NAME & TITLE] hereby certify on behalf of myself, [NAME OF PROJECT], and [NAME OF DEVELOPER] that each of the following statements is true and correct:

1. I am an officer whose responsibilities include the development of the [EXAMINED FACILITY], New York Independent System Operator, Inc.'s ("NYISO") Interconnection queue position Number [INSERT NUMBER] (the "Project").
2. I am duly authorized to make representations concerning the Project, including each of the certifications and acknowledgements that I have made in this document.
3. I hereby [REQUEST ON BEHALF OF/ACKNOWLEDGE THE PRIOR SUBMISSION IN THIS CLASS YEAR BY] the Developer a Competitive Entry Exemption for the Project.
4. I have reviewed and I understand the requirements established under the NYISO Market Administration and Control Area Services Tariff ("Services Tariff") related to a "Competitive Entry Exemption" pursuant to Section 23.4.5.7.9.
5. I have personal knowledge of the facts and circumstances supporting the Project's request and eligibility for a Competitive Entry Exemption as of the date of this

Certification and Acknowledgment, including all data and other information submitted by the Project to the NYISO.

6. To the best of my knowledge and having conducted due diligence that is current as of the date of this Certification there [ARE/ARE NOT ANY] direct or indirect contractual relationships for the Project with a “Non-Qualifying Entry Sponsor,” as those terms are defined in Section 23.4.5.7.9 of the Services Tariff. I have listed all contracts with Non-Qualifying Entry Sponsors on Schedule 1 to this Certification.
7. If the Answer to (6) is that there are one or more direct or indirect contractual relationships for the Project with a Non-Qualifying Entry Sponsor, then I certify that to the best of my knowledge and having conducted due diligence that they are “allowable contracts” as set forth in Section 23.4.5.7.9.1.3(i) – (viii) of the Services Tariff.
8. To the best of my knowledge and having conducted due diligence that is current as of the date of this Certification, (a) no unexecuted agreements, written or unwritten, with a Non-Qualifying Entry Sponsor exist that would support the development of the Project except those agreements that would not constitute a non-qualifying contractual relationship, as set forth in Section 23.4.5.7.9.1.3(i) – (viii) of the Services Tariff, and (b) all agreements that would not constitute a non-qualifying contractual relationship are on Schedule 1 to this certification.
9. To the best of my knowledge and having conducted due diligence, the Project is not a Non-Qualifying Entry Sponsor, and it is not an “Affiliate” (as Affiliate is defined in Section 2.1 of the Services Tariff) of, a Non-Qualifying Entry Sponsor.
10. The Project shall provide any information or cooperation requested by the NYISO in connection with the Project’s request for a Competitive Entry Exemption.
11. All parents or Affiliates of the Project shall provide any information or cooperation requested by the ISO.

I hereby acknowledge on behalf of myself, [INSERT NAME OF PROJECT], and [NAME OF DEVELOPER] that:

- a. The submission of false, misleading, or inaccurate information, or the failure to submit information requested by the NYISO related to the Project’s request for a Competitive Entry Exemption, including but not limited to information contained or submitted in this Certification and Acknowledgement on behalf of the Project, shall constitute a violation of Section 4.1.7 of the Services Tariff, and subject to

the Commission’s review, a violation of the Commission’s regulations and Section 316A of the Federal Power Act.

- b. If the Project submits false, misleading, or inaccurate information, or fails to submit requested information to the NYISO, including but not limited to information contained or submitted in this Certification and Acknowledgement on behalf of the Project, it shall cease to be eligible for a Competitive Entry Exemption and, if the Project has already received a Competitive Entry Exemption, that exemption shall be subject to revocation by the NYISO or the Commission after which the Project shall be subject to an Offer Floor set at the Mitigation Net CONE Offer Floor (such value calculated based on the date it first Offers UCAP, in accordance with Section 23.4.5.7.3.7, and adjusted annually in accordance with Section 23.4.5.7 of the Services Tariff,) starting with the date of the revocation pursuant to Section 23.4.5.7.9.5.3 of the Services Tariff.

- c. If the Project submits false, misleading, or inaccurate information, or fails to submit requested information to the NYISO, including but not limited to information contained or submitted in the Certification and Acknowledgement on behalf of the Project, it may be subject to civil penalties that may be imposed by the Commission for violations of Section 4.1.7 of Services Tariff, the Commission’s rules, and/or Section 316A of the Federal Power Act.

[PRINT NAME]
[DATE]

Subscribed and sworn to before me
this [] day of [MONTH] [YEAR].

Notary Public

My commission expires: _____

PROJECT NAME] SCHEDULE 1 CERTIFICATION AND ACKNOWLEDGEMENT
[DATE]

Parties to agreement Date Executed Effective Date Date Performance Commences

- 23.4.5.7.9.2.2 A duly authorized officer of the Generator or UDR project shall also submit a certification acknowledging that parents or Affiliates shall provide any information or cooperation requested by the ISO.
- 23.4.5.7.9.2.3 The certifying officers must have knowledge of the facts and circumstances supporting the request and qualification for a Generator's or UDR project's Competitive Entry Exemption.
- 23.4.5.7.9.2.4 Such certifications shall be submitted concurrent with the request for a Competitive Entry Exemption and each time the ISO requests a resubmittal of a certification, until the Generator's or UDR project's Entry Date.
- 23.4.5.7.9.2.5 The Generator or UDR project must notify the ISO if information in a certification ceases to be true, promptly upon such occurrence or learning information previously provided was not true.
- 23.4.5.7.9.2.6 Failure to provide, without prior notification, information or cooperation consistent with any certification shall be considered a false, misleading, or inaccurate submission for purposes of Section 23.4.5.7.9.5.
- 23.4.5.7.9.2.7 Where a notification is provided to the ISO, within 2 business days of receipt of a request from the ISO for information or cooperation, that the information or cooperation requested will not be provided, such refusal will not be considered a false, misleading, or inaccurate submission for purposes of Section 23.4.5.7.9.5 as long as the information is provided by the earlier of a mutually agreed upon deadline or thirty (30) calendar days. A refusal to provide

information or any other failure to provide information by that deadline will make the Generator or UDR project requesting a Competitive Entry Exemption ineligible for such exemption, and such Generator or UDR project shall be subject to the Mitigation Net CONE Offer Floor (such value based on the date it first offers UCAP, in accordance with Section 23.4.5.7.3.7, and adjusted annually in accordance with Section 23.4.5.7 of the Services Tariff.)

23.4.5.7.9.3 Timing for Requests, Required Submittals, and Withdrawals

23.4.5.7.9.3.1 The executed Certification and Acknowledgement form required by Section 23.4.5.7.9.2 shall be submitted concurrent with a request for a Competitive Entry Exemption. The ISO may request additional information and updated certifications at any time prior to a Generator's or UDR project's Entry Date. A Generator or UDR project that is granted an exemption pursuant to this Section 23.4.5.7.9, shall be required to submit an executed Certification and Acknowledgement form set forth in Section 23.4.5.7.9.2 of the Services Tariff, updated as appropriate, upon its Entry Date.

23.4.5.7.9.3.2 Requests for Competitive Entry Exemptions for Generators or UDR projects in Class Years subsequent to Class Year 2012 must be received by the ISO no later than the deadline by which a facility must notify the ISO of its election to enter the Class Year, such date as set forth in Section 25.5.9 OATT Attachment S. Generators or UDR projects in, and that remain a member of, Class Year 2012 or prior Class Years shall not be eligible to request or receive a Competitive Entry Exemption. The ISO shall determine whether a Generator or UDR project is exempt, subject to any required further submissions of

information, or not exempt under the Competitive Entry Exemption, prior to the Initial Decision Period within which a Developer must provide an Acceptance Notice or Non-Acceptance Notice to the ISO in response to the first Project Cost Allocation issued by the ISO to the Developer.

23.4.5.7.9.3.3 A Generator or UDR project that submits a request for a Competitive Entry Exemption, including the required Certification and Acknowledgement, responses to information requests, and resubmittal, but (a) enters into a “non-qualifying contractual relationship” or (b) enters into an unexecuted agreement, written or unwritten, with a Non-Qualifying Entry Sponsor that would support the development of the Project, except those agreements identified in 23.4.5.7. 9.1.3 that would not constitute a “non-qualifying contractual relationship, may withdraw such request, provided that it notifies the ISO that it has entered into such “non-qualifying contractual relationship” within 2 business days of doing so. A Generator or UDR project seeking to withdraw its request pursuant to this section 23.4.5.7.9.3.3 shall be subject to the Mitigation Net CONE Offer Floor (such value calculated based on its the date it first offers UCAP, in accordance with Section 23.4.5.7.3.7, and adjusted annually in accordance with Section 23.4.5.7 of the Services Tariff,) but will not be subject to the provisions of Section 23.4.5.7.9.5.

23.4.5.7.9.4 Notifications

23.4.5.7.9.4.1 The ISO shall post on its website a list of each Generator or UDR project that requests a Competitive Entry Exemption that becomes a member of the Class Year, promptly after the deadline set forth in Section 30.8.1 of the OATT

(Attachment X) (by which the ISO must receive the Developer's executed Class Year Interconnection Facilities Study Agreement and deposit.) The ISO shall update the list as necessary. The ISO shall also post on its website whether a request for a Competitive Entry Exemption was denied, or granted, as soon as its determination is final.

23.4.5.7.9.4.2 Concurrent with the ISO posting of its final determination, the Market Monitoring Unit shall publish a report on the ISO's determination in accordance with Sections 30.4.6.2.12 and 30.10.4 of Attachment O to the Services Tariff.

23.4.5.7.9.5 Revocation

23.4.5.7.9.5.1 The submission of false, misleading, or inaccurate information, or the failure to submit requested information in connection with a request for a Competitive Entry Exemption shall constitute a violation of the Services Tariff. Such violation shall be reported, by the ISO, to the Market Monitoring Unit and to the Commission's Office of Enforcement (or any successor to its responsibilities).

23.4.5.7.9.5.2 Where the ISO reasonably believes that a request for a Competitive Entry Exemption was granted based on false, misleading, or inaccurate information, the ISO shall notify the Generator or UDR project that its Competitive Entry Exemption may be revoked, and provided 30 days written notice has been given to the Generator or UDR project (such notice to the extent practicable,) the ISO may revoke the Competitive Entry Exemption and apply the Mitigation Net CONE Offer Floor (such value calculated based on the date it first offers UCAP, in accordance with Section 23.4.5.7.3.7, and adjusted annually in accordance with Section 23.4.5.7 of the Services Tariff.) Prior to the revocation of a Competitive

Entry Exemption and the submission of a report to the Commission's Office of Enforcement (or any successor to its responsibilities,) the ISO shall provide the Generator or UDR project an opportunity to explain any statement, information, or action. The ISO cannot revoke the Competitive Entry Exemption until after the 30 days written notice period has expired, unless ordered to do so by the Commission.

23.4.5.7.10 The ISO shall post on its website the identity of the project in a Mitigated Capacity Zone and the determination of either exempt or non-exempt as soon as the determination is final. Concurrent with the ISO's posting, the Market Monitoring Unit shall publish a report on the ISO's determinations, as further specified in Sections 30.4.6.2.12 and 30.10.4 of Attachment O to this Services Tariff.

23.4.5.7.11 Mitigated UCAP that is subject to an Offer Floor shall remain subject to the requirements of Section 23.4.5.4, and if the Offer Floor is higher than the applicable offer cap shall submit offers not lower than the applicable Offer Floor.

23.4.6 Virtual Bidding Measures

23.4.6.1 Purpose

The provisions of this Section 23.4.6 specify the market monitoring and mitigation measures applicable to "Virtual Bids." "Virtual Bids" are bids to purchase or supply energy that are not backed by physical load or generation that are submitted in the ISO Day-Ahead Market in accordance with the procedures and requirements specified in the ISO Services Tariff.

To implement the mitigation measures set forth in this Section 23.4.6, the ISO shall monitor and assess the impact of Virtual Bidding on the ISO Administered Markets.

23.4.6.2 Implementation

23.4.6.2.1 Day-Ahead LBMPs and Real-Time LBMPs in each load zone shall be monitored to determine whether there is a persistent hourly deviation between them in any zone that would not be expected in a workably competitive market. Monitoring of Day-Ahead and real-time LBMPs shall include examination of the following two metrics (along with any additional monitoring tools and procedures that the ISO determines to be appropriate to achieve the purpose of this Section 23.4.6):

(1) The ISO shall compute a rolling average of the hourly deviation of real-time zonal LBMPs from Day-Ahead zonal LBMPs. The hourly deviation shall be measured as: $(\text{zonal LBMP}_{\text{real time}} - \text{zonal LBMP}_{\text{day ahead}})$. Each observation of the rolling-average time series shall be a simple average of all the hourly deviations over the previous four weeks, or such other averaging period determined by the ISO to be appropriate to achieve the purpose of this Section 23.4.6.

(2) The ISO shall also compute the rolling average *percentage* deviation of real-time zonal LBMPs from Day-Ahead zonal LBMPs. This percentage deviation shall be calculated by dividing the rolling-average hourly deviation (defined in Section 23.4.6.2.1 (1) above) by the rolling-average level of Day-Ahead zonal LBMP over the same time period, using the averaging period(s) described in Section 23.4.6.2.1 (1), above.

23.4.6.2.2 If the ISO determines that (i) the relationship between zonal LBMPs in a zone in the Day-Ahead Market and the Real-Time Market is not what would be expected under conditions of workable competition, and that (ii) the Virtual Bidding practices of one or more Market Participants has contributed to an

unwarranted divergence of LBMPs between the two markets, then the following mitigation measure may be imposed. Any such measure shall be rescinded upon a determination by the ISO that the foregoing conditions are not met.

23.4.6.3 Description of the Measure

23.4.6.3.1 If the ISO determines that the conditions specified in Section 23.4.6.2 exist, the ISO may limit the hourly quantities of Virtual Bids for supply or load that may be offered in a zone by a Market Participant whose Virtual Bidding practices have been determined to contribute to an unwarranted divergence of LBMPs between the Day-Ahead and Real-Time Markets. Any such limitation shall be set at such level that, and shall remain in place for such period as, in the best judgment of the ISO, would be sufficient to prevent any unwarranted divergence between Day-Ahead and Real-Time LBMPs.

23.4.6.3.2 As part of the foregoing determination, the ISO shall request explanations of the relevant Virtual Bidding practices from any Market Participant submitting such Bids. Prior to imposing a Virtual Bidding quantity limitation as specified above, the ISO shall notify the affected Market Participant of the limitation.

23.4.6.4 Limitation of Virtual Bidding

If the ISO determines that such action is necessary to avoid substantial deviations of LBMPs between the Day-Ahead and Real-Time Markets, the ISO may impose limits on the quantities of Virtual Bids that may be offered by all Market Participants. Any such restriction shall limit the quantity of Virtual Bids for supply or load that may be offered by each Market Participant by hour and by zone. Any such limit shall remain in place for the minimum period

necessary to avoid substantial deviations of LBMPs between the Day-Ahead and Real-Time Markets, or to maintain the reliability of the New York Control Area.

23.4.7 Increasing Bids in Real-Time for Day-Ahead Scheduled Incremental Energy

23.4.7.1 Purpose

This Section 23.4.7 specifies the monitoring applicable and the mitigation measures that may be applicable to a Market Party with submitted Incremental Energy Bids in the real-time market that exceed the Incremental Energy Bids made in the Day-Ahead Market or mitigated Day-Ahead Incremental Energy Bids where appropriated, for a portion of the Capacity of one or more of its Generators that has been scheduled in the Day-Ahead Market.

The purpose of the Services Tariff rules authorizing the submission of Incremental Energy Bids in the real-time market that exceed the Incremental Energy Bids made in the Day-Ahead Market or mitigated Day-Ahead Incremental Energy Bids where appropriate, of the portion of the Capacity of a Market Party's Generator that was scheduled in the Day-Ahead Market is to permit the inclusion of additional costs of providing incremental Energy in real-time Incremental Energy Bids for Generators scheduled in the Day-Ahead Market, where the additional costs of providing incremental Energy were not known prior to the close of the Day-Ahead Market.

23.4.7.2 Monitoring and Implementation

The ISO will monitor Market Parties for unjustified interactions between a Market Party's virtual bidding and the submission of real-time Incremental Energy Bids that exceed the Incremental Energy Bids submitted in the Day-Ahead Market or mitigated Day-Ahead

Incremental Energy Bids where appropriate, for the portion of a Generator's Capacity that was scheduled in the Day-Ahead Market.

If the Market Party has a scheduled Virtual Load Bid for the same hour of the Dispatch Day as the hour for which submitted real-time Incremental Energy Bids exceeded the Incremental Energy Bids submitted in the Day-Ahead Market or mitigated Day-Ahead Incremental Energy Bids where appropriate, for a portion of its Generator's Capacity that was scheduled in the Day-Ahead Market, and any such real-time Incremental Energy Bids exceed the reference level for those Bids that can be justified after-the-fact by more than:

- (i) the lower of \$100/MWh or 300%
- (ii) If the Market Party's Generator is located in a Constrained Area for intervals in which an interface or facility into the area in which the Generator or generation is located has a Shadow Price greater than zero, then a threshold calculated in accordance with Sections 23.3.1.2.2.1 and 23.3.1.2.2.2 of these Mitigation Measures;

and a calculation of a virtual market penalty pursuant to the formula set forth in Section 23.4.3.3.4 of these Mitigation Measures for the Market Party would produce a penalty in excess of \$1000, then the mitigation measure specified below in Section 23.4.7.3.1 shall be imposed for the Market Party's Generator, along with a penalty calculated in accordance with Section 23.4.3.3.4 of these Mitigation Measures. The application of a penalty under Section 23.4.3.3.4 of these Mitigation Measures shall not preclude the simultaneous application of a penalty pursuant to Section 23.4.3.3.3 of these Mitigation Measures.

23.4.7.3 Mitigation Measure

23.4.7.3.1 If the ISO determines that the conditions specified in Section 23.4.7.2

exist the ISO shall revoke the opportunity for any bidder of that Generator to submit Incremental Energy Bids in the real-time market that exceed the Incremental Energy Bids submitted in the Day-Ahead Market or mitigated Day-Ahead Incremental Energy Bids where appropriate, for portions of that Generator's Capacity that were scheduled Day-Ahead.

23.4.7.3.1.1 The first time the ISO revokes the opportunity for bidders of a Generator

to submit Incremental Energy Bids in the Real-Time Market that exceed the Incremental Energy Bids submitted in the Day-Ahead Market or mitigated Day-Ahead Incremental Energy Bids where appropriate, for portions of that Generator's Capacity that were scheduled Day-Ahead, mitigation shall be imposed for 90 days. The 90 day period shall start two business days after the date that the ISO provides written notice of its determination that the application of mitigation is required.

23.4.7.3.1.2 Any subsequent time the ISO revoked the opportunity for bidders of a

Generator to submit Incremental Energy Bids in the Real-Time Market that exceed the Incremental Energy Bids submitted in the Day-Ahead Market or mitigated Day-Ahead Incremental Energy Bids where appropriate, for portions of that Generator's Capacity that were scheduled Day-Ahead, mitigation shall be imposed for 180 days. The 180 day period shall start two business days after the date that the ISO provides written notice of its determination that the application of mitigation is required.

23.4.7.3.1.3 If bidders of a Generator that has previously been mitigated under this Section 23.4.7.3 become and remain continuously eligible to submit Incremental Energy Bids in the Real-Time Market that exceed the Incremental Energy Bids submitted in the Day-Ahead Market or mitigated Day-Ahead Incremental Energy Bids where appropriate, for portions of that Generator's Capacity that were scheduled Day-Ahead, for a period of one year or more, then the ISO shall apply the mitigation measure set forth in Section 23.4.7.3 of the Mitigation Measures as if the Generator had not previously been subject to this mitigation measure.

23.4.7.3.1.4 Market Parties that transfer, sell, assign, or grant to another Market Party the right or ability to Bid a Generator that is subject to the mitigation measure in this Section 23.4.7.3 are required to inform the new Market Party that the Generator is subject to mitigation under this measure, and to inform the new Market Party of the expected duration of such mitigation.

23.4.8 Duration of Mitigation Measures

Except as specified in Section 23.4.5 of this Attachment H, any mitigation measure imposed as specified above shall expire not later than six months after the occurrence of the conduct giving rise to the measure, or at such earlier time as may be specified by the ISO.