

## **31.2.8 Determination of Necessity**

### **31.2.8.1 Determination of Necessity of a Regulated Solution**

31.2.8.1.1 The ISO shall review proposals for market-based solutions pursuant to Sections 31.2.5, 31.2.8.3, and 31.2.13.1 of this Attachment Y. The ISO will not trigger a regulated solution if, based on this review, it determines prior to or at the Trigger Date for a regulated solution that sufficient market-based solutions are timely progressing to meet the Reliability Need by the need date. If the ISO decides not to trigger a regulated backstop solution or selected alternative regulated transmission solution, the Responsible Transmission Owner, Other Developer, or Transmission Owner will be eligible to recover its costs incurred up to that point in the same manner it may recover the costs of a halted project in accordance with Section 31.2.8.2.1 for the Responsible Transmission Owner and Section 31.2.8.2.2 for the Other Developer or Transmission Owner.

31.2.8.1.2 If: (i) the ISO determines that there are not sufficient market-based solutions to meet the identified Reliability Need by the need date, (ii) the regulated backstop solution proposed by the Responsible Transmission Owner is the only proposed viable and sufficient regulated solution or is selected by the ISO as the more efficient or cost effective transmission solution to meet the identified Reliability Need, and (iii) the Trigger Date for the regulated backstop solution has or will occur within thirty-six months of the date of the ISO's presentation of the Viability and Sufficiency Assessment to the ESPWG, the ISO will trigger the regulated backstop solution at its Trigger Date. The ISO will inform the Responsible Transmission Owner that it should submit the regulated

backstop solution to the appropriate governmental agency(ies) and/or authority(ies) to begin the necessary approval process to site, construct, and operate the solution. In response to the ISO's request, the Responsible Transmission Owner shall make such a submission to the appropriate governmental agency(ies) and/or authority(ies).

31.2.8.1.3 If: (i) the ISO determines that there are not sufficient market-based solutions to meet the identified Reliability Need by the need date; (ii) the ISO selects an alternative regulated transmission solution as the more efficient or cost-effective transmission solution to meet the identified Reliability Need; (iii) the Trigger Date for the regulated backstop solution is later than the Trigger Date for the selected alternative regulated transmission solution; and (iv) the Trigger Date for the selected alternative regulated transmission solution has or will occur within thirty-six months of the date of the ISO's presentation of the Viability and Sufficiency Assessment to the ESPWG, the ISO shall trigger the selected alternative regulated transmission solution at its Trigger Date. The ISO will inform the Other Developer or Transmission Owner that it should submit the selected alternative regulated transmission solution to the appropriate governmental agency(ies) and/or authority(ies) to begin the necessary approval process to site, construct, and operate the solution. In response to the ISO's request, the Other Developer or Transmission Owner shall make such a submission to the appropriate governmental agency(ies) and/or authority(ies). Prior to the Trigger Date for the regulated backstop solution, the ISO will review the status of the development by the Other Developer or Transmission Owner of

the selected alternative regulated transmission solution, including, but not limited to, reviewing: (i) whether the Developer has executed a Development Agreement or requested that it be filed unexecuted with the Commission pursuant to Section 31.2.8.1.6; (ii) whether the Developer is timely progressing against the milestones set forth in the Development Agreement; and (iii) the status of the Developer's obtaining required permits or authorizations, including whether the Developer has received its Article VII certification or other applicable siting permits or authorizations under New York State law. If, based on its review, the ISO determines prior to or at the Trigger Date for the regulated backstop solution that it is necessary for the Responsible Transmission Owner to proceed with a regulated backstop solution in parallel with the selected alternative regulated transmission solution to ensure the identified Reliability Need is satisfied by the need date, the ISO will trigger the regulated backstop solution and report to stakeholders the reasons for its determination. The Responsible Transmission Owner shall proceed with due diligence to develop its regulated backstop solution in accordance with Good Utility Practice and to submit its proposed solution to the appropriate governmental agency(ies) and/or authority(ies), unless or until notified by the ISO that it has determined that the regulated backstop solution is no longer needed as described in Section 31.2.8.2.1 below. If, based on its review, the ISO decides not to trigger the regulated backstop solution, the ISO will notify the Responsible Transmission Owner that its regulated backstop solution is no longer needed and will not be triggered. In such case, the Responsible Transmission Owner shall be eligible to recover its costs incurred up

to that point in the same manner as it may recover the costs of a halted project in accordance with Section 31.2.8.2.1.

31.2.8.1.4 If: (i) the ISO determines that there are not sufficient market-based solutions to meet the identified Reliability Need by the need date; (ii) the ISO selects an alternative regulated transmission solution as the more efficient or cost-effective transmission solution to meet the identified Reliability Need; (iii) the Trigger Date for the regulated backstop solution is earlier than the Trigger Date for the selected alternative regulated transmission solution; and (iv) the Trigger Date for the regulated backstop solution has or will occur within thirty-six months of the date of the ISO's presentation of the Viability and Sufficiency Assessment to the ESPWG, the ISO shall trigger both the selected alternative regulated transmission solution and the regulated backstop solution at the Trigger Date for the regulated backstop solution. The ISO will inform the Responsible Transmission Owner that proposed the regulated backstop solution and the Other Developer or Transmission Owner that proposed the selected alternative regulated transmission solution that they should submit the proposed solutions to the appropriate governmental agency(ies) and/or authority(ies) to begin the necessary approval process to site, construct, and operate the solution. In response to the ISO's request, the Responsible Transmission Owner, Other Developer or Transmission Owner shall make such a submission to the appropriate governmental agency(ies) and/or authority(ies).

31.2.8.1.5 The ISO may make its determination regarding the triggering of a regulated solution pursuant to Sections 31.2.8.1.1 through 31.2.8.1.4 in the CRP or at any time before the approval of the next CRP.

31.2.8.1.6 A Responsible Transmission Owner, Other Developer, or Transmission Owner must enter into a Development Agreement with the ISO if: (i) the ISO has selected the regulated transmission solution proposed by the Developer as the more efficient or cost-effective transmission solution to the Reliability Need, (ii) the ISO has triggered the regulated backstop transmission solution pursuant to Sections 31.2.8.1.2, 31.2.8.1.3, or 31.2.8.1.4, or (iii) the Responsible Transmission Owner has agreed to complete a selected alternative regulated transmission solution pursuant to Section 31.2.10.1.3. The ISO shall tender the Responsible Transmission Owner, Other Developer, or Transmission Owner a draft Development Agreement with draft appendices as soon as reasonably practicable considering the project's Trigger Date following, as applicable: (i) the ISO's selection of the proposed solution, (ii) the ISO's triggering of a regulated backstop transmission solution pursuant to Sections 31.2.8.1.2, 31.2.8.1.3, or 31.2.8.1.4, or (iii) the Responsible Transmission Owner's agreement to complete an alternative regulated transmission solution pursuant to Section 31.2.10.1.3. The draft will be completed by the ISO to the extent practicable for review and completion by the Developer. The draft Development Agreement shall be in the form of the ISO's Commission-approved Development Agreement, which is in Appendix C in Section 31.7 of this Attachment Y. The ISO and the Developer shall finalize the Development Agreement and appendices and negotiate

concerning any disputed provisions. For purposes of finalizing the Development Agreement, -the ISO and Developer shall develop the description and dates for the milestones necessary to develop and construct the selected project by the required in-service date identified in the CRP report or updated CRP report, as applicable, including the milestones for obtaining all necessary authorizations. Any milestone that requires action by a Connecting Transmission Owner or Affected System Operator identified pursuant to Attachment P of the ISO OATT to complete must be included as an Advisory Milestone, as that term is defined in the Development Agreement. Unless otherwise agreed by the ISO and the Developer, the Developer must execute the Development Agreement within three (3) months of the ISO's tendering of the draft Development Agreement; *provided, however*, if, during the negotiation period, the ISO or the Developer determines that negotiations are at an impasse, the ISO may file the Development Agreement in unexecuted form with the Commission on its own or following the Developer's request in writing that the agreement be filed unexecuted. If the Development Agreement resulting from the negotiation between the ISO and the Developer does not conform with the Commission-approved standard form in Appendix C in Section 31.7 of this Attachment Y, the ISO shall file the agreement with the Commission for its acceptance within thirty (30) Business Days after the execution of the Development Agreement by both parties. If the Developer requests that the Development Agreement be filed unexecuted, the ISO shall file the agreement at the Commission within thirty (30) Business Days of receipt of the request from the Developer. The ISO will draft to the extent practicable the

portions of the Development Agreement and appendices that are in dispute and will provide an explanation to the Commission of any matters as to which the parties disagree. The Developer will provide in a separate filing any comments that it has on the unexecuted agreement, including any alternative positions it may have with respect to the disputed provisions.

31.2.8.1.7 Upon the ISO's and Developer's execution of the Development Agreement or the ISO's filing of an unexecuted Development Agreement with the Commission pursuant to Section 31.2.8.1.6, the ISO and Developer shall perform their respective obligations in accordance with the terms of the Development Agreement that are not in dispute, subject to modifications by the Commission. The Connecting Transmission Owner(s) and Affected System Operator(s) that are identified in Attachment P of the ISO OATT in connection with the selected alternative regulated transmission solution shall act in good faith in timely performing their obligations that are required for the Developer to satisfy its obligations under the Development Agreement.

31.2.8.1.8 Other Developers and Transmission Owners proposing alternative regulated solutions that the ISO has determined will resolve the identified Reliability Need may submit these proposals to the appropriate governmental agency(ies) and/or authority(ies) for review. The ISO does not determine the solution that will be permitted by the appropriate governmental agency(ies) and/or authority(ies) with jurisdiction over siting or whether the regulated backstop solution or an alternative regulated solution will be constructed to address the identified Reliability Need. If the appropriate governmental agency(ies) and/or

authority(ies) makes a final determination that an alternative regulated solution should be permitted and constructed to satisfy a Reliability Need and that the regulated backstop solution should not proceed, implementation of the alternative regulated solution will be the responsibility of the Transmission Owner or Other Developer that proposed the alternative regulated solution, and the Responsible Transmission Owner will not be responsible for addressing the Reliability Need through the implementation of its regulated backstop solution. Should a regulated solution not be implemented, the ISO may request a Gap Solution pursuant to Section 31.2.11 of this Attachment Y.

### **31.2.8.2     —Halting and Related Cost Recovery Requirements**

31.2.8.2.1 If the ISO has triggered a regulated backstop solution under Sections 31.2.8.1.2, 31.2.8.1.3, 31.2.8.1.4, or 31.2.8.1.5, the ISO will immediately notify the Responsible Transmission Owner, post such notice on its website, and will state in the next CRP if it determines that the regulated backstop solution is no longer needed and should be halted because either: (i) the ISO has determined that there are sufficient market-based solutions to ensure that the identified Reliability Need is met by the need date, or (ii) the ISO: (A) has triggered an alternative regulated transmission solution that the ISO selected in the CRP as the more efficient or cost effective transmission solution and (B) has determined that it is no longer necessary for the Responsible Transmission Owner to proceed with a regulated backstop solution in parallel with the selected alternative regulated transmission solution to ensure the identified Reliability Need is satisfied by the need date. In making its determination under Section 31.2.8.2.1(ii), the ISO will

review the status of the development by the Other Developer or Transmission Owner of the selected alternative regulated transmission solution, including, but not limited to, reviewing: (i) whether the Developer has executed a Development Agreement or requested that it be filed unexecuted with the Commission pursuant to Section 31.2.8.1.6; (ii) whether the Developer is timely progressing against the milestones set forth in the Development Agreement; and (iii) the status of the Developer's obtaining required permits or authorizations, including whether the Developer has received its Article VII certification or other applicable siting permits or authorizations under New York State law.

If a regulated backstop solution is halted by the ISO, all of the costs incurred and commitments made by the Responsible Transmission Owner up to that point, including reasonable and necessary expenses incurred to implement an orderly termination of the project, will be recoverable by the Responsible Transmission Owner under the cost recovery mechanism in Rate Schedule 10 of this tariff regardless of the nature of the solution.

31.2.8.2.2 If the ISO has triggered an alternative regulated transmission project under Sections 31.2.8.1.3 or 31.2.8.1.4 that the ISO has selected as the more efficient or cost effective solution, the ISO will immediately notify the Other Developer or Transmission Owner, post such notice on its website, and will state in the next CRP if it determines that the regulated transmission solution is no longer needed and should be halted because the ISO has determined that there are sufficient market-based solutions to ensure that the identified Reliability Need is met by the need date.

If a selected alternative regulated transmission solution is halted by the ISO, all of the costs incurred and commitments made by the Other Developer or Transmission Owner up to that point, including reasonable and necessary expenses incurred to implement an orderly termination of the project, will be recoverable by the Other Developer or Transmission Owner under the cost recovery mechanism in Rate Schedule 10 of this tariff.

31.2.8.2.3 Once the Responsible Transmission Owner receives state regulatory approval of the regulated backstop solution, or, if state regulatory approval is not required, once the Responsible Transmission Owner receives necessary regulatory approval, the entry of a market-based solution or an alternative regulated transmission solution will not result in the halting by the ISO of the regulated backstop solution pursuant to Section 31.2.8.2.1. Similarly, once the Other Developer or Transmission Owner receives its state regulatory approval or any other necessary regulatory approval of its triggered alternative regulated transmission solution, the entry of a market-based solution will not result in the halting by the ISO of the regulated transmission solution pursuant to Section 31.2.8.2.2.

31.2.8.2.4 The ISO is not required to review market-based solutions to determine whether they will meet the identified Reliability Need by the need date after the triggered alternative regulated transmission solution or regulated backstop solution has received federal and state regulatory approval, unless a federal or state regulatory agency requests the ISO to conduct such a review. The ISO will report the results of its review to the federal or state regulatory agency, with

copies to the Responsible Transmission Owner, Other Developer, or Transmission Owner.

31.2.8.2.5 If the appropriate federal, state or local agency(ies) does not approve a necessary authorization for the triggered regulated backstop solution or alternative regulated transmission solution, all of the necessary and reasonable costs incurred and commitments made up to the final federal, state or local regulatory decision, including reasonable and necessary expenses incurred to implement an orderly termination of the project, will be recoverable by the Responsible Transmission Owner, Other Developer, or Transmission Owner under the ISO cost recovery mechanism in Rate Schedule 10 of the ISO OATT regardless of the nature of the solution.

31.2.8.2.6 If a necessary federal, state or local authorization for a triggered alternative regulated transmission solution or regulated backstop solution is withdrawn, all expenditures and commitments made up to that point including reasonable and necessary expenses incurred to implement an orderly termination of the project, will be recoverable under the ISO cost recovery mechanism in Rate Schedule 10 of the ISO OATT by the Responsible Transmission Owner, Other Developer, or Transmission Owner regardless of the nature of the solution.

31.2.8.2.7 If a material modification to the regulated backstop solution or the alternative regulated transmission solution is proposed by any federal, state or local agency, the Responsible Transmission Owner, Other Developer, or Transmission Owner will request the ISO to conduct a supplemental reliability review. If the ISO identifies any reliability deficiency in the modified solution,

the ISO will so advise the Responsible Transmission Owner, Other Developer, or Transmission Owner and the appropriate federal, state or local regulatory agency(ies).

### **31.2.8.3 Criteria for Cutoff Date of Market-Based Solution**

31.2.8.3.1 The ISO will apply the criteria in this Section 31.2.8.3 for determining the cutoff date for a determination that a market-based solution will not be available to meet a Reliability Need by the need date.

31.2.8.3.2 In the first instance, the ISO shall employ its procedures for monitoring the viability of a market-based solution to determine when it may no longer be viable. Under the conditions where a market-based solution is proceeding after the Trigger Date for the relevant regulated solution, it becomes even more critical for the ISO to conduct a continued analysis of the viability of such market-based solutions.

31.2.8.3.3 The Developer of such a market-based solution shall submit updated information to the ISO twice during each reliability planning process cycle, first during the input phase of the RNA, and again during the solutions phase during the period allowed for the solicitation for market-based and regulated solutions. If no solutions are requested in a particular year, then the second update will be provided during the ISO's analysis of whether existing solutions continue to meet identified Reliability Needs. The updated information of the project status shall include: status of final permits, status of major equipment, current status of construction schedule, estimated in-service date, any potential impediments to completion by the Target Year, and any other information requested by the ISO.

- 31.2.8.3.4 The Developer shall immediately report to the ISO when it has any indication of a material change in the project status or that the project in-service date may slip beyond the Target Year. A material change shall include, but not be limited to, a change in the financial viability of the Developer, a change in siting status, or a change in a major element of the project development.
- 31.2.8.3.5 Based upon the above information, the ISO will perform an independent review of the development status of the market-based solution to determine whether it remains viable to meet the identified Reliability Need by the need date. If the ISO, at any time, learns of a material change in the project status of a market-based solution, it may, at that time, make a determination as to the continued viability of such project.
- 31.2.8.3.6 The ISO, prior to making a determination about the viability of a specific proposed solution, will communicate its intended determination to the project Developer along with the basis for its intended determination. The ISO shall provide the Developer a reasonable period (not more than 2 weeks) to respond to the ISO's intended determination, including an opportunity to provide additional information to the ISO to support the continued viability of the proposed solution.
- 31.2.8.3.7 If the ISO determines that a market-based solution that is needed to meet an identified Reliability Need is no longer viable, it will request that a regulated solution proceed or seek other measures including, but not limited to, a Gap Solution, to ensure the reliability of the system.
- 31.2.8.3.8 If the ISO determines that the market-based solution is still viable, but that its in-service date is likely to slip beyond the Target Year, the ISO may, if needed,

request the Responsible Transmission Owner to prepare a Gap Solution in accordance with the provisions of Section 31.2.11 of this Attachment Y.

### **31.2.9 Process for Consideration of Regulated Backstop Solution and Alternative Regulated Solutions**

Upon a determination by the ISO under Section 31.2.8 that a regulated solution should proceed, the Responsible Transmission Owner, Other Developer, or Transmission Owner will make a presentation to the ESPWG that will provide a description of the regulated solution. The presentation will include a non-binding preliminary cost estimate of that regulated solution; provided, however, that the Responsible Transmission Owner, Other Developer or Transmission Owner shall be entitled to full recovery of all reasonably incurred costs as described in Rate Schedule 10 of the ISO OATT. The ISO and stakeholders through this process will have the opportunity to review and discuss the scope of the projects and their associated non-binding preliminary cost estimates prior to implementation.

### **31.2.10 Process for Addressing Inability of Responsible Transmission Owner, Other Developer, or Transmission Owner to Complete Triggered Regulated Solution**

31.2.10.1 The ISO may take the actions described in Sections 31.2.10.1.1 through 31.2.10.1.4 as soon as practicable if: (i) a Responsible Transmission Owner, Other Developer or Transmission Owner of a regulated transmission solution is required to enter into a Development Agreement pursuant to Section 31.2.8.1.6, and (ii) one of the following events occur: (A) the Responsible Transmission Owner, Other Developer or Transmission Owner responsible for the regulated transmission solution does not execute the Development Agreement, or does not request that it be filed unexecuted with the Commission, within the timeframes set

forth in Section 31.2.8.1.6, or (B) the ISO determines that an effective Development Agreement may be terminated or terminates the Development Agreement under the terms of the agreement prior to the completion of the term of the agreement.

31.2.10.1.1 If the Development Agreement has been filed with and accepted by the Commission and is terminated under the terms of the agreement, the ISO shall, upon terminating the Development Agreement, file a notice of termination with the Commission.

31.2.10.1.2 The ISO may revoke its selection of the regulated transmission solution and the eligibility of the Developer to recover its costs pursuant to the ISO's regional cost allocation mechanism; *provided, however*, the Developer may recover its costs to the extent provided in Sections 31.2.8.1.1, 31.2.8.2.1, 31.2.8.2.2, 31.2.8.2.5, and 31.2.8.2.6 or as otherwise determined by the Commission; ~~*provided, further, that if the Developer is the Responsible Transmission Owner, it may also recover costs to the extent permitted under the ISO/TO Reliability Agreement.*~~

31.2.10.1.3 The ISO may take one or more of the following actions to address the Reliability Need based on the particular circumstances: (i) address the Reliability Need in the CRP for the next planning cycle; (ii) direct the Developer to continue with the development of its regulated transmission solution for completion beyond the in-service date required to address the Reliability Need; (iii) direct the Responsible Transmission Owner to proceed with its regulated backstop solution if it has not yet been halted by the ISO pursuant to Section 31.2.8.2.1; (iv) request

that the Responsible Transmission Owner complete the selected alternative regulated transmission solution; (v) commence the Gap Solution process under Section 31.2.11; and/or (vi) adopt new ISO or Transmission Owner operating procedures; ~~and/or (vii) take any other action the ISO reasonably considers is appropriate to address the Reliability Need.~~ If a Responsible Transmission Owner agrees to complete the selected alternative regulated transmission solution, it shall enter into a Development Agreement with the ISO in accordance with Sections 31.2.8.1.6 and 31.2.8.1.7.

31.2.10.1.4 If the Responsible Transmission Owner agrees to complete the selected alternative regulated transmission solution, the Responsible Transmission Owner and the Other Developer or Transmission Owner that proposed the selected alternative regulated transmission solution shall work cooperatively with each other to implement the transition, including negotiating in good faith with each other to transfer the project; *provided, however*, that the transfer is subject to: (i) any required approvals by the appropriate governmental agency(ies) and/or authority(ies), (ii) any requirements or restrictions on the transfer of Developer's rights-of-way under federal or state law, regulation, or contract (including mortgage trust indentures or debt instruments), and (iii), if the Developer is a New York public authority, any requirements or restrictions on the transfer under the New York Public Authorities Law; *provided, further*, that the Responsible Transmission Owner and the Developer will address any disputes regarding the transfer of the project in accordance with the dispute resolution provisions in Article 11 of the ISO Services Tariff.

31.2.10.2 If: (i) the Responsible Transmission Owner's non-transmission or partial transmission regulated backstop solution has been triggered by the ISO under Sections 31.2.8.1.2, 31.2.8.1.3, or 31.2.8.1.4, and the regulated backstop solution has not been halted by the ISO under Section 31.2.8.2.1, and (ii) the ISO determines that the Responsible Transmission Owner: (A) has not submitted its proposed regulated backstop solution for necessary regulatory action within a reasonable period of time, (B) is unable to or fails to obtain the approvals or property rights necessary to construct the project, or (C) is otherwise not taking the actions necessary to construct the project to satisfy the Reliability Need by the need date, the ISO shall: (i) submit a report to the Commission for its consideration and determination of whether action is appropriate under federal law, and (ii) take such action as it reasonably considers is appropriate to ensure that the Reliability Need is satisfied by the need date.

### **31.2.11 Gap Solutions**

31.2.11.1 The ISO will commence the Gap Solution process under this Section 31.2.11 if: (i) the ISO determines within the biennial reliability planning process that neither market-based solutions nor regulated solutions can satisfy one or more identified Reliability Need(s) by the need date and sets forth its determination in the CRP that a Gap Solution is necessary; (ii) the ISO Board, after consultation with the NYDPS, determines that there is an imminent threat to the reliability of the New York State Transmission System that cannot be timely addressed within the biennial reliability planning process; or (iii) a Generator Deactivation Assessment performed by the ISO in accordance with Section

31.2.11.2.4 identifies a Reliability Need arising on the New York State Transmission System that cannot be timely addressed within the biennial reliability planning process. Reliability Needs that the ISO determines can be addressed within the biennial reliability planning process shall be addressed in the current or next planning cycle and will not be addressed through the Gap Solution process set forth in this Section 31.2.11.

### **31.2.11.2 Generator Deactivation Requirements**

31.2.11.2.1 A Market Participant must provide the ISO with a minimum of 365 days prior notice (such period beginning after its Generator Deactivation Notice has been determined to be complete) before its Generator may be Retired or enter into a Mothball Outage, except for Generators reclassified as Retired pursuant to Sections 5.18.2.3.1 or 5.18.3.3.1 of the ISO Services Tariff or as provided for an RMR Generator under an RMR Agreement. The Market Participant shall provide this notice to the ISO by submitting a Generator Deactivation Notice in the form set forth in Appendix E to this Attachment Y, along with all information required by that form, the supporting certification from a duly authorized officer, and the information required for an Initiating Generator in accordance with Sections 31.9.2, and 31.9.5 through 31.9.7 of Appendix F of this Attachment Y. The Market Participant must indicate in the Generator Deactivation Notice whether it proposes for its Generator to be Retired or to enter into a Mothball Outage greater than 365 days after the Generator Deactivation Assessment Start Date. If so, the Market Participant must specify in the Generator Deactivation Notice its proposed date for its Generator to be Retired or to enter into a Mothball Outage. The

Market Participant may also indicate in the Generator Deactivation Notice whether it has an interest in deactivating its Generator earlier than 365 days after the Generator Deactivation Assessment Start Date if the ISO determines that a Reliability Need is not created by the deactivation of the Generator.

31.2.11.2.2 The 365-day notice period applicable to a Generator proposing to be Retired or enter into a Mothball Outage will begin to run once the ISO has issued a written notice to the Market Participant indicating that the Generator Deactivation Notice, including the supporting information and certification, is complete. For purposes of this Section 31.2.11, “complete” shall mean sufficiently complete for the ISO to begin its review of the reliability impacts that would result from a Generator being Retired or entering into a Mothball Outage under this Attachment Y and to review as required by Sections 31.2.11.7 and 31.2.11.8 the information provided in accordance with Appendix F of this Attachment Y. Within ten (10) business days of receiving a Generator Deactivation Notice, the ISO shall review the notice form, along with the supporting information and affidavit submitted with it, and will inform the Market Participant whether its submission is complete or whether additional information is required. The Market Participant shall provide the ISO with any requested additional information, and the ISO will promptly review the information to determine whether the Market Participant’s notice is complete. Within ten (10) business days of the ISO receiving all additional information it requested, the ISO will inform the Market Participant whether its submission is complete, or whether further information is needed. Upon its determination that a submitted Generator

Deactivation Notice is complete, the ISO will concurrently notify the Generator and post a notice on its website that the Generator Deactivation Notice has been determined to be complete. The Market Participant has a continuing obligation to promptly submit any additional information requested by the ISO in connection with the ISO's evaluation under this Attachment Y, as required by Section 31.9.4 of Appendix F of Attachment Y, and assessment of market impacts under Section 23 of Attachment H of the ISO Services Tariff.

31.2.11.2.3 Within 20 days of a Market Participant's Generator entering into an ICAP Ineligible Forced Outage, the Market Participant shall submit the information required for an Initiating Generator in accordance with Sections 31.9.2 and 31.9.5 through 31.9.7 of Appendix F of this Attachment Y. The Market Participant has a continuing obligation to promptly submit any additional information requested by the ISO in connection with the ISO's evaluation under this Attachment Y, required by Section 31.9.4 of Appendix F of this Attachment Y, and assessment of market impacts under Section 23 of Attachment H of the ISO Services Tariff.

31.2.11.2.4 Following the Generator Deactivation Assessment Start Date, the ISO will perform, in coordination with the Responsible Transmission Owner(s) identified by the ISO, a Generator Deactivation Assessment concerning the Generator identified in the Generator Deactivation Notice or a Generator that has entered into an ICAP Ineligible Forced Outage in accordance with Section 5.18.2.1 of the ISO Services Tariff. The ISO will conduct the necessary reliability studies to review the impact on the reliability of the BPTFs that would result from the Generator being Retired, entering into a Mothball Outage, or being unavailable

due to an ICAP Ineligible Forced Outage. The Responsible Transmission Owner(s) will conduct the necessary reliability studies to review the impact on the reliability of the non-BPTFs that are part of the New York State Transmission System, which studies the ISO will review and verify. For the Generator Deactivation Assessment, the ISO will use the most recent base case from the reliability planning process and updates in accordance with ISO Procedures. As part of the assessment, the ISO shall review whether any potential Reliability Need resulting from the Generator being Retired, entering into a Mothball Outage, or being unavailable due to an ICAP Ineligible Forced Outage can be addressed through the adoption of alternative ISO or Transmission Owner operating procedures or by updates to Local Transmission Owner Plans, other than an agreement with the Generator addressed in the Generator Deactivation Notice or a Generator already in a Mothball Outage, an ICAP Ineligible Forced Outage, or that has been mothballed since before May 1, 2015. Within ninety (90) days of the Generator Deactivation Assessment Start Date, the ISO shall concurrently notify the Generator and post on its website the results of the Generator Deactivation Assessment, including whether a Reliability Need would arise from the Generator being Retired, entering into a Mothball Outage, or being unavailable due to an ICAP Ineligible Forced Outage.

31.2.11.2.5 If: (i) the ISO determines in the Generator Deactivation Assessment that a Reliability Need would not arise from a Market Participant's Generator being Retired or entering into a Mothball Outage, and (ii) the Market Participant indicated in the Generator Deactivation Notice an interest in deactivating its

Generator earlier than the completion of the 365-day notice period, the ISO will notify the Market Participant when its Generator may be Retired or enter into a Mothball Outage, as designated in the Generator Deactivation Notice, which deactivation date shall be no earlier than 120 days after the Generator Deactivation Assessment Start Date.

### **31.2.11.3 Solicitation of Gap Solutions**

Upon the determination of a Reliability Need pursuant to Section 31.2.11.1 above, the ISO shall solicit proposed Gap Solutions and market-based solutions to address the identified Reliability Need. In response to the ISO's request, the Responsible Transmission Owner must submit: (i) a proposed Gap Solution, which solution must satisfy the project information requirements in Section 31.2.4.4.1 and should to the extent practicable satisfy completely the identified Reliability Need, and (ii) a conceptual permanent solution to the identified Reliability Need. Any Developer may also propose a Gap Solution to the identified Reliability Need, which solution must satisfy the project information requirements: (i) in Section 31.2.4.6 for a market-based solution, or (ii) in Section 31.2.4.8.1 for alternative regulated solutions. A Gap Solution may include generation, transmission, or demand response solutions. Only Developers that have been determined by the ISO to be qualified under Section 31.2.4.1.1.2 may propose a transmission Gap Solution. As part of the Developer's submission of its proposed Gap Solution, the Developer shall provide the information required for a proposed Gap Solution in accordance with Sections 31.9.3, and 31.9.5 through 31.9.7 of Appendix F of this Attachment Y. It shall also provide the information required by Section 31.9.4 of Appendix F of this Attachment Y. A Developer shall submit its proposed Gap Solution within the timeframe specified by the ISO; *provided, however*, that if the Reliability Need is identified under Section 31.2.11.1(iii) as a

result of a Generator Deactivation Assessment, the Developer must submit its proposed Gap Solution within thirty (30) days of the ISO's request.

#### **31.2.11.4 Review and Notification of Generator(s) Currently in an Outage State**

If the ISO determines that a Market Participant's Generator, other than an Initiating Generator, that is in a Mothball Outage, an ICAP Ineligible Forced Outage, or has been mothballed since before May 1, 2015, may be capable of satisfying in whole or in part the Reliability Need, the ISO will notify the Market Participant that its Generator is subject to review to determine whether it can satisfy the Reliability Need as a possible Gap Solution. The Market Participant shall provide the ISO within twenty (20) days of the ISO's issuance of the notification the information required for a Generator identified under this Section 31.2.11.4 in accordance with Sections 31.9.3.1, 31.9.3.2, and 31.9.5 through 31.9.7 of Appendix F of this Attachment Y (a) if it has not previously provided such information, or (b) if it has previously provided such information, it shall update all such information, not limited to the updates required by Section 31.9.4 of Appendix F of this Attachment Y. When the return to service of a Generator in a Mothball Outage or an ICAP Ineligible Forced Outage is the Gap Solution, the return to service procedures set forth in Section 5.18.4 of the Services Tariff shall apply.

#### **31.2.11.5 ISO Submission of Information to the NYPSC**

Upon the NYDPS's request, the ISO will submit to the NYPSC the information requested that the ISO receives from Developers for their proposed Gap Solution(s), and information it receives pursuant to Sections 31.2.11.2.1 through 31.2.11.2.4, 31.2.11.3, and 31.2.11.4 from Initiating Generators, and generators that are in a Mothball Outage, an ICAP Ineligible Forced Outage, or have been mothballed since before May 1, 2015. For each such submission, the ISO

will request in accordance with the NYPSC's rules and regulations that any information that the ISO must maintain as confidential pursuant to Section 31.2.12.6 or pursuant to Attachment F of the OATT, be treated as confidential and non-public by the NYPSC.

#### **31.2.11.6 Evaluation of Gap Solutions**

The ISO shall evaluate all proposed Gap Solution proposals, all Generators identified pursuant to Section 31.2.11.4, and the conceptual permanent solution provided by the Responsible Transmission Owner pursuant to Section 31.2.11.3 to determine whether each is viable and sufficient to satisfy individually or in conjunction with other solutions the identified Reliability Need. If the Reliability Need is identified under Section 31.2.11.1(iii) as a result of a Generator Deactivation Assessment, the ISO will perform this evaluation within one hundred twenty (120) days of the due date for receiving proposed Gap Solutions established in Section 31.2.11.3. The ISO shall perform this viability and sufficiency evaluation consistent with the requirements set forth in Sections 31.2.5.3 and 31.2.5.4 of this Attachment Y. The ISO shall coordinate with the Responsible Transmission Owner(s), as necessary, in performing its evaluation. If the ISO determines that there are adequate viable and sufficient market-based solutions to satisfy completely the identified Reliability Need, the ISO will conclude the Gap Solution process under this Section 31.2.11, and the ISO will monitor the development of the market-based solutions in accordance with ISO Procedures. The ISO shall present the results of its viability and sufficiency assessment to interested parties, including its findings regarding whether the Gap Solution process has been concluded because there are adequate market-based solutions to satisfy completely the identified Reliability Need. If the ISO identifies any non-generation Viable and Sufficient Gap Solution(s) that would satisfy in whole or in part an identified Reliability Need, the ISO shall provide to the NYPSC: (i) a list of the proposed Viable

and Sufficient Gap Solution(s), and (ii) the results of the ISO's viability and sufficiency assessment performed in accordance with Section 31.2.11.6.

### **31.2.11.7 ISO Review of Information Pursuant to Appendix F**

The ISO shall review, verify and/or validate to the extent necessary the information provided in accordance with Sections 31.2.11.2, 31.2.11.3, and 31.2.11.4 and Appendix F of this Attachment Y. The ISO's review, verification and/or validation, as applicable, of the financing cost of each capital expense that the ISO determines is necessary in accordance with Good Utility Practice shall consider the market interest rate available to the Market Party.

31.2.11.7.1 The ISO may reject, and may require a Market Party to re-submit, or substantiate information (including estimates) that the ISO determines is not adequately supported or otherwise verifiable. The Market Party shall promptly provide any additional information that the ISO may request, and update and revise information previously provided, and provide new information as set forth in Section 31.9.4 of Appendix F of this Attachment Y. Upon the ISO's prior notice, the Market Party shall make qualified representatives available to answer the ISO's question(s) and otherwise facilitate the ISO's review of the information.

### **31.2.11.8 Reliability Net Cost Determinations**

31.2.11.8.1 Determinations pursuant to this section are solely for purposes of determining (a) the RMR Offer Price in accordance with Section 23.4.5.8.2 of the ISO Services Tariff, and (b) the RMR Avoidable Cost of Initiating Generators and Generators that are determined to be a Viable and Sufficient Gap Solution for a Reliability Need. The ISO shall determine the cost (net of estimated revenues, as applicable) of each Initiating Generator and Viable and Sufficient Gap Solution

for a Reliability Need. This determination for a Generator shall be its “RMR Avoidable Costs.” The ISO shall use the costs, revenues, and other information submitted in accordance with Sections 31.2.11.2, 31.2.11.3 and 31.2.11.4, or Appendix F, or Sections 31.2.11.7 and 31.2.11.8 of this Attachment Y that it verifies and/or validates, as applicable. If the ISO cannot verify and/or validate, as applicable, a cost or revenue submitted by a Market Party, the ISO shall substitute an estimated value. The ISO’s cost determinations pursuant to this Section shall be for the shorter of (i) the duration of the Reliability Need identified by the ISO in its request for Gap Solutions, and (ii) the period identified by the ISO that an Initiating Generator or Viable and Sufficient Gap Solution can satisfy the Reliability Need.

31.2.11.8.1.1 Cost savings due to an Initiating Generator’s continuation of service.

Costs submitted in accordance with Sections 31.2.11.2, 31.2.11.3 and 31.2.11.4, or Appendix F, or Sections 31.2.11.7 and 31.2.11.8 of this Attachment Y that arise out of an agreement that contains a cost, premium, or fee to terminate the agreement in whole or in part prior to the anticipated RMR Start Date, or commencement of service as a Gap Solution, shall be reduced by the cost, premium or fee that would have been incurred had the Generator ceased operations on a date identified in the Generator Deactivation Notice, or such other date associated with performing service as a Gap Solution.

31.2.11.8.1.2 For each proposed demand response solution and transmission project, the ISO shall calculate the net costs that would be incurred to provide the service identified in the Developer’s response to the ISO’s request for Gap Solutions,

considering any costs the Developer otherwise had a contractual or regulatory obligation to incur.

31.2.11.8.1.3 The ISO shall identify as “Capital Expenditures” the purchase or non-operational lease of, or modification to real property or assets (including, but not limited to, land, buildings, and equipment) that (a) are necessary to permit an Initiating Generator or Viable and Sufficient Gap Solution to provide service to satisfy, in whole or in part, the Reliability Need identified in the ISO’s request for Gap Solutions, (b) have a useful life greater than one year, and (c) are not otherwise included in the ISO’s calculation of RMR Avoidable Costs. The ISO shall also identify the reasonably anticipated date the Capital Expenditure will be placed into service, or otherwise integrated into the Generator.

31.2.11.8.1.4 Revenue Calculation. As a component to the ISO’s calculation of the total net cost of each Initiating Generator and Viable and Sufficient Gap Solution, the ISO shall calculate the estimated revenues thereof.

31.2.11.8.1.4.1       —If an Initiating Generator or other Generator that has been determined to be a Viable and Sufficient Gap Solution has a contract pursuant to which it provides energy, capacity, or ancillary services, the ISO shall also, for the period of such contract, calculate the estimated revenues for the provision of energy, capacity or ancillary services thereunder.

31.2.11.8.2 Identification of the Lowest Net Cost Non-Generation Solution. The ISO shall determine if there is a non-generator Viable and Sufficient Gap Solution that has an estimated net present value that is distinctly higher than the net present value of any Initiating Generator or Generator that is a Viable and Sufficient Gap

Solution for a Reliability Need (*i.e.*, the non-generator Viable and Sufficient Gap Solution has a lower net cost). The ISO shall inform the NYSPC and post on its website the identification of the non-generation Viable and Sufficient Gap Solution that has the highest estimated net present value, provided it is distinctly higher than the net present value of any Initiating Generator or Generator that is a Viable and Sufficient Gap Solution. That posting shall not disclose the estimated costs or revenues of any solution, nor identify which generator solution has the lowest estimated net cost.

31.2.11.8.3 The ISO shall seek comment from the Market Monitoring Unit on matters relating to the inputs and the calculations performed pursuant to Sections 31.2.11.8, and the identification of the non-generation Viable and Sufficient Gap Solution if there is one that has an estimated net present value that is distinctly higher than the net present value of any Initiating Generator or Generator that is a Viable and Sufficient Gap Solution (*i.e.*, the non-generation Viable and Sufficient Gap Solution has a lower net cost), pursuant to Section 31.2.11.8.2. The responsibilities of the Market Monitoring Unit that are addressed in this Section are also addressed in Section 31.2.11.18.1 of this Attachment Y and in Section 30.4.6.8.6 of Attachment O to the ISO Services Tariff.

### **31.2.11.9 Consideration of Non-Generation Gap Solutions**

The NYPSC or other appropriate governmental agency(ies) and/or authority(ies) with jurisdiction over the implementation or siting of Gap Solutions will determine which, if any, of the non-generation Viable and Sufficient Gap Solutions -submitted by the ISO will be implemented to address the identified Reliability Need. The ISO will monitor the development

of any Gap Solution(s) identified by the NYPSC in accordance with ISO Procedures. The requirements concerning the NYPSC within Section 31.2.11 will apply equally with regard to any agency or authority with jurisdiction over the implementation or siting of Gap Solutions pursuant to this Section 31.2.11.9.

#### **31.2.11.10 RMR Service Offers and RMR Agreements**

31.2.11.10.1 If the ISO determines that a Gap Solution is needed, the ISO may enter into an RMR Agreement if the ISO determines it is necessary to pursuant to this section. In determining whether to enter into an RMR Agreement, the ISO will consider, among other things: (i) whether the ISO identified any non-generation Viable and Sufficient Gap Solution(s) that would satisfy in whole or in part the identified Reliability Need; and (ii) whether the NYPSC (or other agency or authority with jurisdiction over the implementation or siting of Gap Solutions) has timely identified, or has elected not to identify, sufficient non-generation Gap Solutions to satisfy completely the identified Reliability Need. If, subsequent to the ISO's execution of an RMR Agreement to satisfy in whole or in part the Reliability Need, the NYPSC (or other agency or authority with jurisdiction over the implementation or siting of Gap Solutions) identifies non-generation Gap Solution(s) that would satisfy in whole or in part the Reliability Need, the ISO may withdraw its filing of, or terminate, the RMR Agreement.

31.2.11.10.2 If there is a non-generation Viable and Sufficient Gap Solution but the NYPSC (or other agency or authority with jurisdiction over the implementation or siting of Gap Solutions) has not identified it pursuant to Section 31.2.11.9 on or before the ISO determines it should proceed with an RMR Agreement to timely

address the Reliability Need, then (a) if there is only one Initiating Generator or Generator that is a Viable and Sufficient Gap Solution for a Reliability Need, the ISO shall provide to that Generator its RMR Avoidable Cost and an opportunity for it to enter into the *Form of Reliability Must Run Agreement* set forth in Appendix G of Attachment Y of the ISO OATT, and (b) if there is more than one Initiating Generator or Generator that is a Viable and Sufficient Gap Solution for a Reliability Need, the ISO shall notify each such Generator that has been determined to be a Viable and Sufficient Gap Solution that the ISO is requesting offers to provide service pursuant to an RMR Agreement.

31.2.11.10.3 The ISO shall concurrently post on its website that it has issued a request for RMR service offers.

31.2.11.10.4 The ISO's notice to each Generator of a request for RMR service offers shall include (a) the Generator's RMR Avoidable Costs determined pursuant to Section 31.2.11.8, and separately identify the Capital Expenditure amount that is included in the RMR Avoidable Costs and the reasonably anticipated date the Capital Expenditure will be placed into service, or otherwise integrated into the Generator, (b) the duration of the period for which the ISO determined the Generator was viable and sufficient to meet (in whole or in part) the Reliability Need, (c) the deadline by which offers must be received by the ISO, and (d) any other information that must be provided in the Generator's response in accordance with ISO Procedures.

31.2.11.10.5 Offers in response to a request for RMR service offers shall (a) state the price at which the Generator is willing to enter into an RMR Agreement with (i)

an Availability and Performance Rate or (ii) and Owner Developed Rate for which the Generator would be seeking approval from the Commission, and (b) separately state the anticipated timing and cost of each Capital Expenditure that is included in the offer, (c) if the *Form of Reliability Must Run Agreement* set forth in Appendix G of Attachment Y of the ISO OATT is incompatible with the Generator's ability to provide service absent a modification to a term or condition, provide a blackline marking any and all changes that are necessary to permit the Generator to provide RMR service, and explain why, absent such changes, the Generator would be unable to provide RMR service, (d) state the duration for which the Generator is being made available to provide the RMR service (which shall be no longer than the duration the ISO determined the Generator is a viable and sufficient solution,) and specify whether the offer would be the same for any shorter period of time, and (e) state whether the offer is for less than or equal to the generator's full cost of service. The offer must be executed by a duly authorized officer with authority to bind the Market Party to an RMR Agreement. The ISO will not consider offers that indicate they are for an amount greater than the Generator's full cost of service. The ISO shall exclude from consideration offers that are received after the deadline.

31.2.11.10.6 The ISO shall rank the Generators from which it received offers in accordance with Section 31.2.11.10.5 primarily based on which offer, or set of offers from more than one Generator, results in the highest net present value solution to the Reliability Need. The ISO shall also consider any blacklined modifications to the *Form of Reliability Must Run Agreement* set forth in

Appendix G of Attachment Y of the ISO OATT that were submitted that the ISO reasonably projects would affect the cost. In the event that cost alone does not provide for a clear delineation between two or more offers, the ISO shall also consider in its ranking the operational impacts and the size of the Generators in an effort to minimize impacts to markets. The ISO shall seek comment from the Market Monitoring Unit on its review and ranking of the offers. The responsibilities of the Market Monitoring Unit that are addressed in this Section are also addressed in Section 31.2.11.18.2 of this Attachment Y and in Section 30.4.6.8.6 of Attachment O of the ISO Services Tariff.

#### **31.2.11.11 Entry into RMR Agreements**

31.2.11.11.1 The ISO may enter into an RMR Agreement for service from one or more of the Generators from which it received offers in accordance with Sections 31.2.11.10.4 and 31.2.11.10.5 that can individually, or in conjunction with other Viable and Sufficient Gap Solutions, satisfy the identified Reliability Need. If multiple Generators are capable of satisfying in whole or in part the identified Reliability Need, the ISO may execute an RMR Agreement with the Generator, or more than one Generator that the ISO determines submitted the best offer(s) in ranking pursuant to Section 31.2.11.9.5, provided that the offer accepts the Availability and Performance Rate, does not exceed the RMR Avoidable Costs determined by the ISO, and that the amount of Capital Expenditures in any given year included in the offer do not exceed 10,000,000 U.S. Dollars if a non-nuclear Generator, and 25,000,000 U.S. Dollars if a nuclear Generator. If the offer satisfies the stated requirements, but the amount of Capital Expenditures in any

given year included in the offer exceeds the applicable limit in the preceding sentence, then the ISO may accept the offer conditioned upon the Commission approving the Capital Expenditure amount. If the offer exceeds the RMR Avoidable Costs determined by the ISO, and if there are no modifications, or only modifications which the ISO has determined are reasonable, to the *Form of Reliability Must Run Agreement* set forth in Appendix G of Attachment Y of the ISO OATT, then the ISO will identify the Generator, and the ISO and the Owner will submit filings to the Commission in accordance with Section 31.2.11.11.5. If a Generator's offer is lower than the other offers but the Generator's proposed revisions to the *Form of Reliability Must Run Agreement* are not acceptable to the ISO, then the ISO may proceed to enter into an RMR Agreement, in accordance with this section, with one or more Generator(s) that submitted the next ranked offer or offers.

31.2.11.11.2 The ISO will tender to the Owner of the selected Generator(s) the *Form of Reliability Must Run Agreement* set forth in Appendix G of Attachment Y of the ISO OATT. The term of the RMR Agreement will be determined by the ISO based on: (i) the in-service date of the conceptual permanent solution to the identified Reliability Need submitted by the Responsible Transmission Owner(s) pursuant to Section 31.2.11.3, and (ii) any modifications to the scope and timing of the identified Reliability Need resulting from circumstances as the identification by the NYPSC (or other agency or authority with jurisdiction over the implementation or siting of non-generation Gap Solutions), the ISO's identification of market-based solutions, and RMR Agreements entered into

between the ISO and other Generators. If the Reliability Need is identified pursuant to a Generator Deactivation Assessment, the effective date of the RMR Agreement shall be no earlier than the completion of the 365-day notice period.

31.2.11.11.3 Filing of Executed RMR Agreement. The ISO will submit an RMR Agreement, including a proposed Availability and Performance Rate, to the Commission pursuant to Section 205 of the Federal Power Act if the ISO and Owner agree on the terms and conditions of the RMR Agreement, Owner accepts the Availability and Performance Rate calculated by the ISO for its Generator, and the ISO and Owner execute the RMR Agreement. The ISO's filing shall specifically identify and explain any changes to the *Form of Reliability Must Run Agreement* terms and conditions that ISO and Owner have mutually agreed to.

31.2.11.11.4 Filing of Unexecuted RMR Agreement by ISO and Capital Expenditures in excess of annual limit by owner. The ISO will submit an RMR Agreement, including a proposed Availability and Performance Rate, to the Commission pursuant to Section 205 of the Federal Power Act if the ISO and Owner agree on the terms and conditions of the RMR Agreement and Owner accepts the Availability and Performance Rate calculated by the ISO for its Generator. The ISO's filing shall specifically identify and explain any changes to the *Form of Reliability Must Run Agreement* terms and conditions that ISO and Owner have mutually agreed to. Owner shall submit a filing pursuant to Section 205 of the Federal Power Act in addition to the ISO's filing of the RMR Agreement that proposes the inclusion of the costs of certain Capital Expenditures in the Availability and Performance Rate that exceed the U.S. Dollar limits specified in

Section 31.2.11.11.1, which filing shall be consistent with the terms and conditions of service proposed in the RMR Agreement that the ISO submits, and shall track the format of the RMR Agreement that the ISO submits.

31.2.11.11.5     —Filing of Unexecuted RMR Agreement and Owner Developed Rate. If the ISO and Owner agree on the terms and conditions of the RMR Agreement, but Owner rejects the Availability and Performance Rate calculated by the ISO for its Generator and proposes an Owner Developed Rate, the ISO will submit an unexecuted RMR Agreement to the Commission pursuant to Section 205 of the Federal Power Act that sets forth the agreed upon terms and conditions of the RMR Agreement. The ISO’s filing shall specifically identify and explain any changes to the *Form of Reliability Must Run Agreement* terms and conditions that ISO and Owner have mutually agreed to. Owner shall submit a separate filing to the Commission pursuant to Section 205 of the Federal Power Act that proposes an “Owner Developed Rate,” which filing shall be consistent with the terms and conditions of service proposed in the RMR Agreement the ISO submitted and shall track the format of the RMR Agreement the ISO submitted.

31.2.11.11.16 As part of its submission of an executed RMR Agreement pursuant to Section 31.2.11.11.3 or an unexecuted RMR Agreement pursuant to Sections 31.2.11.11.4 or 31.2.11.11.5, the ISO will include: (i) a description of the methodology and results of the reliability studies that identified a Reliability Need requiring a Gap Solution, which description will specify identified violations of Reliability Criteria and local criteria and describe the impacted criteria, and (ii) a

description of the alternative solutions evaluated by the ISO and why the term of the RMR Agreement is appropriate in light of these alternative solutions.

31.2.11.12 Gap Solutions proposed under Section 31.2.11.3 shall strive to be compatible with permanent market-based and regulated solutions, as applicable.

31.2.11.13 A permanent regulated solution, if appropriate, may proceed in parallel with a Gap Solution.

31.2.11.14 A Market Participant's Generator that satisfies the requirements to be Retired or enter into a Mothball Outage may be Retired or enter into a Mothball Outage, as applicable, within 365 days of: (i) the conclusion of the 365-day notice period, or (ii) the date specified in the Generator Deactivation Notice for the Generator to be Retired or enter into a Mothball Outage if the Market Participant provided greater than 365 days prior notice. If the Generator is not Retired or does not enter into a Mothball Outage within this time period, the Market Participant must submit a new Generator Deactivation Notice and satisfy anew the requirements of this Section 31.2.11.2.1 and 31.2.11.2.2 before the Generator may be Retired or enter into a Mothball Outage.

31.2.11.15 If: (i) a Market Participant rescinds its Generator Deactivation Notice, or (ii) a Market Participant's Generator has not Retired or entered into a Mothball Outage within the timeframes described in Section 31.2.11.14 and is not operating under an RMR Agreement, the Market Participant must reimburse the ISO and the Responsible Transmission Owner(s) the actual costs that each incurred in performing their responsibilities under this Section 31.2.11 in response to the Market Participant's submission of a Generator Deactivation Notice, including

any costs associated with using contractors. In the event that a Market Participant rescinds its Generator Deactivation Notice before the ISO posts the results of the Generator Deactivation Assessment conducted under Section 31.2.11.2.4, the ISO will not thereafter post the results of said assessment.

### **31.2.11.16 RMR Generator Additional Costs**

#### **31.2.11.16.1 Proposed Additional Costs. During the performance of an RMR**

Agreement, the Owner of one or more RMR Generators shall promptly notify the ISO of an event that (a) could not reasonably have been foreseen at the time the rate in the RMR Agreement was executed, and that (b) it reasonably expects may require it to incur costs that in the aggregate exceed the lesser of (x) \$250,000, and (y) five (5) percent of the annual RMR Avoidable Costs excluding the cost of Capital Expenditures, that (i) it can reasonably demonstrate was not among the costs (A) submitted to the ISO prior to the execution of an RMR Agreement with an Availability and Performance Rate, or (B) within the categories of costs submitted to the Commission in a petition for an Owner Developed Rate, and (ii) are necessary to incur in order to for the RMR Generator to be able to continue to perform its obligations under the RMR Agreement after the event (a “Notice of Event of Proposed Additional Cost”). Following its submission of the required Notice of Event of Proposed Additional Cost, the Owner shall promptly notify the ISO of, and provide updates addressing the following: (i) the reason(s) why the expense was or must be incurred, (ii) viable alternatives to incurring the expense, (iii) actions examined or taken to avoid the need to incur the expense, and to minimize the expense, (iv) the potential impact on the RMR Generator’s

ability to perform its obligations under an RMR Agreement if the expense is not incurred, (v) the estimated and actual costs of the proposed expense, (vi) the plan specifying the schedule and timing of any planned action or expenditure, (vii) an explanation and supporting documentation of how that plan compares with the Owner's past similar actions and protocols, (viii) whether each cost is associated solely with the RMR Generator or are for services or functions shared with other units or businesses; and if a shared cost, the Owner shall identify the other entities with which the cost is shared, the entity that allocates the cost to it, and accounting protocols and methodology used to allocate the units and businesses across which the cost is allocated.

31.2.11.16.1.1 If the cost of returning an RMR Generator to service does not exceed the lesser of (x) \$250,000, and (y) five (5) percent of the annual RMR Avoidable Costs excluding the cost of Capital Expenditures, then the Owner shall promptly return the RMR Generator to service without additional recompense.

31.2.11.16.1.2 ISO Identification of Proposed Additional Costs. If the ISO determines that the Notice of Event of Proposed Additional Cost was timely provided and each of the requirements in Subsections (a) and (b) of Section 31.2.11.16.1 have been met, and the information required by Subsections (i) through (viii) has been provided, it shall be a "Proposed Additional Cost."

31.2.11.16.2 Proposed Additional Cost Eligibility for Recovery

31.2.11.16.2.1 The ISO shall review, verify, and/or validate the information provided by the Owner for a Proposed Additional Cost. The ISO may require the Owner to re-submit or to submit additional information to support statements and costs that the

ISO determines are not adequately supported or otherwise verifiable. A

“Substantiated Additional Cost” shall mean a Proposed Additional Cost that the ISO has either verified is the actual cost, or verified and validated the estimated cost information received from the Owner, provided that (a) the Owner demonstrates it took measures to minimize the expense, or if the ISO determines that the Owner did not demonstrate it took such steps, such amount estimated by the ISO that would be the expense had the RMR Generator taken measures to reduce it, and (b) it is or was necessary for the Owner to incur these costs for the RMR Generator to perform its obligations under the RMR Agreement; provided the ISO has not issued a notice of shut-down (or similar notice) to Owner for the RMR Generator pursuant to the RMR Agreement. If the cost information provided by the Owner cannot be verified and validated by the ISO, the ISO shall substitute the amount it reasonably determines. The ISO shall also identify if the Substantiated Additional Costs, or a component thereof, is a Capital Expenditure by using the applicable criteria set forth in Section 31.2.11.8.1.3. The ISO shall notify the Owner of its determination regarding whether Proposed Additional Costs are Substantiated Additional Costs.

31.2.11.16.2.2 –The ISO shall seek comment from the Market Monitoring Unit on its review of Proposed Additional Costs and determinations of Substantiated Additional Costs. The responsibilities of the Market Monitoring Unit that are addressed in this Section are also addressed in Section 31.2.11.18.1 of this Attachment Y and in Section 30.4.6.8.6 of Attachment O of the ISO Services Tariff.

31.2.11.16.3 ISO's authority to recover and pay Substantiated Additional Costs that are Capital Expenditures. This Section shall apply only to RMR Agreements with an Availability and Performance Rate. If a Substantiated Additional Cost is determined by the ISO to be a Capital Expenditure and it does not exceed 10,000,000 U.S. Dollars if a non-nuclear Generator, or 25,000,000 U.S. Dollars if a nuclear Generator, on the basis of the total expenditure needed to address the event that resulted in the Notice of Event of Proposed Additional Cost, then the ISO may recover the Substantiated Additional Cost that is a Capital Expenditure pursuant to OATT Rate Schedule 14 and pay that amount to Owner in accordance with (a) the rules in Section 31.2.11.17 of Attachment Y that address the ISO's payment of Capital Expenditures, and (b) Rate Schedule 8 to the Services Tariff. The ISO shall submit an informational filing to the Commission identifying any Capital Expenditures it is paying pursuant to the authority granted in this section.

31.2.11.16.4 Owner may request Commission approval for recovery of additional costs. If the Owner makes such a filing, it shall also submit the ISO's determinations pursuant to Sections 31.2.11.16.1.2 and 31.2.11.16.2.1 with its filing, or promptly after receipt of either determination. The ISO shall only be obligated to pay the Owner under this section if (a) the Commission determines that the cost filed for the RMR Generator is eligible for recovery as a Proposed or Substantiated Additional Cost, and (b) the Commission approves the specific amount and authorizes its recovery. If the Proposed or Substantiated Additional Cost that the Commission authorizes payment of is for a Capital Expenditure, the ISO will pay in accordance with (a) the rules in Section 31.2.11.17 of Attachment Y that

address the ISO's payment of Capital Expenditures, and (b) Rate Schedule 8 to the Services Tariff. If the Proposed or Substantiated Additional Cost that the Commission authorizes payment of is an Avoidable Cost that is not a Capital Expenditure then payment directed by a Commission order shall be made in accordance with Rate Schedule 8 to the ISO Services Tariff.

#### 31.2.11.17 Payment of Capital Expenditures to RMR Generators

31.2.11.17.1 Capital Expenditures that are specifically identified (including an estimated cost and estimated in-service date) in a Commission-accepted Availability and Performance Rate or in a Commission-accepted Owner Developed Rate are eligible for recovery in accordance with the rules set forth in Section 31.2.11.17 of Attachment Y, Section 23.6.5 of the ISO Services Tariff, Rate Schedule 8 of the ISO Services Tariff, Schedule 14 of the ISO OATT, and any relevant Commission order.

31.2.11.17.2 Capital Expenditures that are Proposed Additional Costs or Substantiated Additional Costs are eligible for recovery in accordance with the rules set forth in Sections 31.2.11.16 and 31.2.11.17 of Attachment Y, Section 23.6.5 of the ISO Services Tariff, Rate Schedule 8 of the ISO Services Tariff, Schedule 14 of the ISO OATT, and any relevant Commission order.

31.2.11.17.3 ISO authority to authorize Capital Expenditures. If the ISO determines that (a) Capital Expenditures are necessary for a Generator to provide service under an RMR Agreement, and (b) work on one or more of the Capital Expenditures must commence in advance of Commission action in order to timely, or more timely, address a Reliability Need, then the ISO may authorize the

Owner to spend up to 10,000,000 U.S. Dollars if a non-nuclear Generator, or 25,000,000 U.S. Dollars if a nuclear Generator, in total, to develop the Capital Expenditure(s) in advance of receiving an order from the Commission. The ISO shall submit an informational filing to the Commission identifying any Capital Expenditures it is authorizing pursuant to the authority granted in this Section. The ISO may recover the cost of such a Capital Expenditure pursuant to Schedule 14 of the ISO OATT and pay the Owner in accordance with (a) the rules in this Section 31.2.11.17, and (b) Rate Schedule 8 to the ISO Services Tariff. If the Commission issues an order rejecting the proposed Capital Expenditure, then the Owner shall cease work on the Capital Expenditure and take reasonable efforts to minimize the costs it incurs. Reimbursement of a rejected Capital Expenditure shall be limited to actual costs incurred, including reasonable wind-down costs, shall be subject to the dollar limits set forth in this section, and shall be reviewed in accordance with Section 31.2.11.17.5 below. Allowed wind-down costs shall be reimbursed as additional Avoidable Costs that are not Capital Expenditures. ISO review pursuant to Section 31.2.11.17.5 shall include consideration of whether the Owner timely ceased developing a Capital Expenditure and made reasonable efforts to minimize its wind-down costs.

31.2.11.17.4 Early termination of RMR Agreement. If the Owner is working to complete a Capital Expenditure consistent with an accepted RMR Agreement or consistent with an approved or accepted Proposed Additional Cost or Substantiated Additional Cost and the RMR Agreement is terminated early because (x) the Reliability Need is resolved sooner than expected, or (y) the RMR

Generator suffers a forced outage that would require significant costs to repair, or (z) for any other reason that does not involve an uncured Owner default under the RMR Agreement or the RMR Generator failing to satisfy one or more of the operating standards described in Sections 31.2.11.19.4(A) and (B) below, and if Owner ceased work on the Capital Expenditure and made reasonable efforts to minimize the costs it incurred, then, following review, the ISO shall recover the actual costs the Owner incurred to construct the Capital Expenditure and to wind-down its work on the Capital Expenditure pursuant to Schedule 14 of the ISO OATT and pay Owner in accordance with (a) the rules in this Section 31.2.11.17, and (b) Rate Schedule 8 to the ISO Services Tariff. Allowed wind-down costs shall be reimbursed as additional Avoidable Costs that are not Capital Expenditures. ISO review pursuant to Section 31.2.11.17.5 below shall include consideration of whether the Owner timely ceased developing a Capital Expenditure and made reasonable efforts to minimize its wind-down costs.

#### 31.2.11.17.5 ISO Review of Actual Costs Incurred Prior to Commencing Payment.

After the Owner expends money for an allowed or accepted Capital Expenditure, including expenditures that may be eligible for recovery under Sections 31.2.11.17.3 and 31.2.11.17.4 above, it shall submit to the ISO copies of original documentation of the expenditure (including the financing costs) and an explanation of any difference between the estimated amount and the actual expenditure. If Owner submits an actual total amount for a Capital Expenditure that is five (5) percent or more above (a) the estimate that was used by the ISO to develop an Availability and Performance Rate or to authorize recovery of a

Substantiated Additional Cost; or (b) the estimate that was presented to the Commission to recover Capital Expenditure costs that exceed the dollar thresholds specified in Section 31.2.11.11.1, in an Owner Developed Rate, or in a request by the Owner to recover a Proposed or Substantiated Additional Cost; or (c) an appropriate portion of the estimate provided pursuant to (a) or (b) if the Capital Expenditure was not completed plus wind-down costs (if any), then the Owner shall demonstrate to the ISO that reasonable efforts were made to expend the least amount necessary. The ISO shall review, verify and/or validate the actual expenditure provided by the Owner. The ISO may require the Owner to re-submit, information that the ISO determines is not adequately supported or otherwise verifiable. The amount due for Capital Expenditure shall be equal to the amount verified and validated by the ISO as the actual expenditure. If the ISO cannot verify and/or validate, as applicable, the information the Owner provides, or if the ISO determines that reasonable efforts were not made to expend the least amount necessary, then compensation for the Capital Expenditure shall only be due after the Owner submits its Capital Expenditure to the Commission and the Commission determines the amount to be paid.

31.2.11.17.5.1- If the Commission specified the amount that it authorized to be recovered for a particular Capital Expenditure in an order, then the ISO shall permit the Owner to recover the actual amount verified and validated by the ISO, up to the limit(s) specified in the Commission order.

31.2.11.17.6 ISO payment and recovery of authorized or accepted Capital Expenditures.

31.2.11.17.6.1 The ISO shall commence paying for Capital Expenditures as soon as practicable after (i) the capital asset that is a Capital Expenditure (a) has been placed into service, or otherwise integrated into the Generator, or (b) was not placed into service solely due to the ISO instructing the RMR Generator to halt implementation of the Capital Expenditure, or issuing a Notice of Shut-down or terminating the RMR Agreement after costs had already been incurred; and (ii) the amount paid by the Owner is verified and /or validated, as applicable, by the ISO as described in Section 31.2.11.17.5, or is determined by the Commission.

31.2.11.17.6.2 The ISO shall implement a repayment schedule in accordance with the formula specified in Section 31.2.11.17.6.2.1 below for each Capital Expenditure that will permit the Capital Expenditure to be completely repaid by the end date specified in Section 2.2.5 of the *Form of Reliability Must Run Agreement* set forth in Appendix G of Attachment Y of the ISO OATT or by the equivalent date specified in an RMR Agreement that is not a *Form of Reliability Must Run Agreement*. If an RMR Agreement terminates prior to the end date that is specified in the RMR Agreement, then the ISO may continue repaying any Capital Expenditures the Owner remains eligible to receive until that end date.

31.2.11.17.6.2.1 Repayment schedule for Capital Expenditures.

For each Capital Expenditure *CapExMonthly Payment* is the amount that Owner is permitted to recover each month:

$$CapEx\ Monthly\ Payment = \frac{Verified\ CapEx_{g,k}}{M_{E-k}}$$

Where:

*Verified CapEx*<sub>g,k</sub> = the amount due for a Capital Expenditure, verified and validated by the ISO as an actual expenditure for Generator *g*.

Month *k* is the month in which Repayment of a Capital Expenditure commences.

Month *E* is the month that includes the end date specified in Section 2.2.5 in the *Form of Reliability Must Run Agreement* or by the equivalent date specified in an RMR Agreement that is not a *Form of Reliability Must Run Agreement* for Generator *g*.

$M_{E-k}$  = the number of months from month *k* to month *E*, including month *k* and month *E*.

31.2.11.17.6.3 The ISO shall pay the Owner amounts due for Capital Expenditures as a component of RMR Avoidable Costs (for an Availability and Performance Rate) or RMR Cost (for an Owner Developed Rate) under Rate Schedule 8 to the ISO Services Tariff. The ISO shall recover the cost of Capital Expenditures from RMR LSEs in accordance with Schedule 14 to the OATT.

31.2.11.17.6.4 Unless the Commission issues an order instructing it to pay, the ISO shall not pay the cost of Capital Expenditures that Section 23.6.5.2 of the Services Tariff prohibits it from paying, even if the Capital Expenditures might otherwise be payable under the rules specified in this Attachment Y.

31.2.11.17.6.5 An Owner that recovers the cost of Capital Expenditures may be required to repay to the ISO the depreciated value of the Capital Expenditure costs it recovered before the RMR Generator at or for which the Capital Expenditure was incurred is permitted to be offered into or scheduled in the ISO Administered Markets. See Section 15.8.6 of Rate Schedule 8 to the Services Tariff.

### **31.2.11.18 Market Monitoring Unit Review of Determinations**

31.2.11.18.1 The ISO shall seek comment from the Market Monitoring Unit when (i) making cost determinations required by Section 31.2.11.8 of this Attachment Y,

(ii) identifying the non-generation Viable and Sufficient Gap Solution with the highest estimated net present value provided there is one distinctly above that of the Initiating Generator and Generators that are Viable and Sufficient Gap Solutions, (iii) reviewing and ranking of offers to provide RMR service, (iv) reviewing Proposed Additional Costs, and (v) determining Substantiated Additional Costs.

31.2.11.18.2 If the ISO identifies a non-generation Viable and Sufficient Gap Solution with a distinctly higher net present value than a Generator in accordance with Section 31.2.11.8.2, the Market Monitoring Unit shall publish a report concurrent with the ISO's posting on its website. The report shall review the ISO's RMR Avoidable Cost Determinations for non-generation Viable and Sufficient Gap Solutions, and for Initiating Generators and Generators that are Viable and Sufficient Gap Solutions for a Reliability Need to the extent necessary to report on whether the ISO's identification of the distinctly higher net present value non-generation Viable and Sufficient Gap Solution was based on cost determinations conducted in accordance with Section 31.2.11.8.2.

31.2.11.18.3 Concurrent with the ISO filing with the Commission of an RMR Agreement pursuant to Sections 31.2.11.11.3, 31.2.11.11.4, or 31.2.11.11.5, the Market Monitoring Unit shall publish a report. The report shall review the ISO's determination of the highest net value present offer (or more than one offer if in conjunction with another generator or non-generation Viable and Sufficient Gap Solution) to provide RMR service in accordance with Section 31.2.11.10.6. In the event that cost alone did not provide for a clear delineation between two or more

offers, the report shall also review the ISO's consideration the size of the Generators in an effort to minimize impacts to markets. If the agreement contains RMR Avoidable Costs and an Availability and Performance Rate, the MMU report shall also review the inputs to and ISO's calculation of the RMR Avoidable Costs; and the Availability and Performance Rate.

31.2.11.18.4 The responsibilities of the Market Monitoring Unit that are addressed in this Section 31.2.11.18 are also addressed in Section 30.4.6.8.6 of Attachment O of the ISO Services Tariff.

### **31.2.11.19 Terminating RMR Agreements**

31.2.11.19.1 Each RMR Agreement shall include an end date. RMR Agreements may incorporate a different end date for each RMR Generator that operates pursuant to the RMR Agreement.

31.2.11.19.2 RMR Agreements that include more than one RMR Generator shall permit the ISO to terminate the RMR Agreement for an RMR Generator without requiring the ISO to terminate the RMR Agreement for any or all of the other RMR Generator(s) that are operating pursuant to the same RMR Agreement.

31.2.11.19.3 The ISO shall timely terminate an RMR Agreement for an RMR Generator when that RMR Generator is no longer needed to address identified Reliability Need(s).

31.2.11.19.4 The ISO may terminate an RMR Agreement for an RMR Generator under any of the following circumstances: (A) if the RMR Generator fails to satisfy any of the minimum operating standards specified in the RMR Agreement; (B) if the RMR Generator repeatedly fails to operate as requested when it is called upon by

the ISO or by a Transmission Owner to address one or more of the identified Reliability Need(s) the RMR Generator is being retained to address; (C) when the RMR Generator suffers a forced outage that will prevent it from being available for 180 or more days to address the identified Reliability Need(s) that the RMR Generator is being retained to address; or (D) if significant Additional Costs arise (*see* Section 31.2.11.16) that make the RMR Generator more expensive than other solutions to the identified Reliability Need(s).

### **31.2.12 Confidentiality of Solutions**

31.2.12.1 The term “Confidential Information” shall include all types of solutions to Reliability Needs that are submitted to the ISO as a response to Reliability Needs identified in any RNA issued by the ISO as part of the reliability planning process if the Developer of that solution designates such reliability solutions as “Confidential Information.” Notwithstanding the requirements in this Section 31.2.12 or the Developer’s designation of project information as “Confidential Information,” the ISO may publicly disclose information regarding the proposed facility that the ISO is required to disclose under its interconnection or transmission expansion processes pursuant to Sections 3.7 or 4.5 of the ISO OATT or Attachments X or P of the ISO OATT.

31.2.12.2 For regulated backstop solutions and plans submitted by the Responsible Transmission Owner in response to the findings of the RNA, the ISO shall maintain the confidentiality of same until the ISO and the Responsible Transmission Owner have agreed that the Responsible Transmission Owner has submitted viable and sufficient regulated backstop solutions and plans to meet the

Reliability Needs identified in an RNA and the Responsible Transmission Owner consents to the ISO's inclusion of the proposed solution in the CRP. Thereafter, the ISO shall disclose the regulated backstop solutions and plans to the Market Participants; however, any preliminary cost estimates that may have been provided to the ISO shall not be disclosed.

31.2.12.3 For an alternative regulated response, the ISO shall determine, after consulting with the Developer thereof, whether the response would meet a Reliability Need identified in an RNA, whether the response is viable and sufficient to meet all or part of the Reliability Need, and the Developer consents to the ISO's inclusion of the proposed solution in the CRP. Thereafter, the ISO shall disclose the alternative regulated response to the Market Participants and other interested parties; however, any preliminary cost estimates that may have been provided to the ISO shall not be disclosed.

31.2.12.4 For a market-based response, the ISO shall maintain the confidentiality of same during the reliability planning process and in the CRP, except for the following information which may be disclosed by the ISO: (i) the type of resource proposed (e.g., generation, transmission, demand side); (ii) the size of the resource expressed in megawatts of equivalent load that would be served by that resource; (iii) the subzone in which the resource would interconnect or otherwise be located; and (iv) the proposed in-service date of the resource.

31.2.12.5 In the event that the Developer of a market-based response has made a public announcement of its project or has submitted a proposal for interconnection with the ISO, the ISO shall disclose the identity of the market-

based Developer and the specific project during the reliability planning process and in the CRP.

31.2.12.6 The ISO may disclose to Market Participants and other interested parties the Gap Solution and plans proposed pursuant to Section 31.2.11.3; *provided, however*, that the ISO will maintain as confidential the following information if designated as “Confidential Information”: (i) a Responsible Transmission Owner’s conceptual permanent solution, except for its proposed project type and in-service date; (ii) the information required to be maintained as confidential for a market-based solution pursuant to Sections 31.2.12.4 and 31.2.12.5; and (iii) any non-public financial qualification information submitted under Section 31.2.4.1.1.1.3.

### **31.2.13 Monitoring of Reliability Project Status**

31.2.13.1 The ISO will monitor and report on the status of market-based solutions to ensure their continued viability to meet Reliability Needs by the need date in the CRP. The ISO shall assess the continued viability of such projects using the following criteria:

31.2.13.1.1 Between three and five years before the Trigger Date for a regulated solution, the ISO will use a screening analysis to verify the feasibility of the proposed market-based solution (this analysis will not require final permit approvals or final contract documents).

31.2.13.1.2 Between one and two years before the Trigger Date for a regulated solution, the ISO will perform a more extensive review of the proposed market-

based solution, including such elements as: status of the required interconnection studies, contract negotiations, permit applications, financing, and Site Control.

31.2.13.1.3 Less than one year before the Trigger Date of a regulated solution, the ISO will perform a detailed review of the market-based solution's status and schedule, including the status of: (1) final permits; (2) required interconnection studies; (3) the status of an interconnection agreement; (4) financing; (5) equipment; and (6) the implementation of construction schedules.

31.2.13.1.4 If the ISO, following its analysis, determines that a proposed market-based solution is no longer viable to meet the Reliability Need, the proposed market-based solution will be removed from the list of potential market-based solutions.

31.2.13.2 The ISO will monitor and report on the status of regulated solutions to ensure their continued viability to meet Reliability Needs by the need date in the CRP. The ISO will undertake this monitoring and reporting in accordance with this Attachment Y, ISO Procedures, and the terms of the Development Agreement (if applicable) until the project has been completed and is in-service or has been halted in accordance with this Attachment Y or the terms of the Development Agreement (if applicable). Prior to the Trigger Date for the regulated solution, the ISO shall assess the continued viability of regulated solutions using the following criteria:

31.2.13.2.1 Between three and five years before the Trigger Date for the regulated solution, the ISO will use a screening analysis to verify the feasibility of the regulated solution.

- 31.2.13.2.2 Between one and two years before the Trigger Date for the regulated solution, the ISO will perform a more extensive review of the proposed regulated solution, including such elements as: the status of the required interconnection studies, contract negotiations, permit applications, financing, and Site Control.
- 31.2.13.2.3 Less than one year before the Trigger Date for the regulated solution, the ISO will perform a detailed review of the regulated solution's status, including the status of: (1) final permits; (2) required interconnection studies; (3) the status of an interconnection agreement; (4) financing; (5) equipment; and (6) the implementation of construction schedules.
- 31.2.13.2.4 Prior to making a determination about the viability of a regulated solution, the ISO will communicate its intended determination to the project sponsor along with the basis for its intended determination, and will provide the sponsor a reasonable period (not more than two weeks) to respond to the ISO's intended determination, including an opportunity to provide additional information to the ISO to support the continued viability of the proposed regulated solution. If the ISO, following its analysis, determines that a proposed regulated solution is no longer viable to meet the Reliability Need, the proposed regulated solution will be removed from the list of potential regulated solutions.