

Attachment I

1.18 Definitions - R

RCRR TCC: A Load Zone-to-Load Zone TCC created when a Member System with a RCRR exercises its right to convert the RCRR into a TCC pursuant to Section 19.5.4 of Attachment M of this ISO OATT.

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

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

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

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

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

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

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

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

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

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

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

Reconfiguration Auction: The monthly auction administered by the ISO which will either be: (i) a Balance-of-Period Auction; or (ii) an auction in which Transmission Customers may purchase and sell one-month TCCs; provided, however, that the ISO shall only conduct one Reconfiguration Auction type in a month.

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

Regional Transmission Group (RTG): A voluntary organization of transmission owners, transmission users and other entities approved by the Commission to efficiently coordinate transmission planning (and expansion), operation and use on a regional (and interregional) basis.

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

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

Repair Plan: As defined in the ISO Services Tariff.

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

Reserved Capacity: The maximum amount of Capacity and Energy that the ISO agrees to transmit for the Transmission Customer over the NYS Transmission System between the Point(s) of Receipt and the Point(s) of Delivery under Part 3 of this Tariff. Reserved Capacity shall be expressed in terms of whole megawatts on a sixty (60) minute interval (commencing on the clock hour) basis.

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

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

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

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

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

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

GTR is the transmission capacity associated with Grandfathered Rights.

GTCC is the transmission capacity associated with Grandfathered TCCs.

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

TRM is the Transmission Reliability Margin.

CBM is the Capacity Benefit Margin.

Retired: As defined in the ISO Services Tariff.

RMR Agreement: An agreement of limited duration that provides for the continued operation of one or more RMR Generator(s) to satisfy one or more Generator Deactivation Reliability Need(s) entered into between the ISO and an entity or entities that own or have operational control over the RMR Generator(s).

RMR Avoidable Costs: The (a) fixed costs of an Initiating Generator that would be avoided if it were to exit the ISO-Administered Markets in the manner specified in its Generator Deactivation Notice, (b) the fixed costs of a Generator already in a Mothball Outage, an ICAP Ineligible Forced Outage, or that has been mothballed since before May 1, 2015 that would be incurred if it were to re-enter the ISO-Administered Markets pursuant to an RMR Agreement that would be avoided if it remained in such state, or (c) the costs necessary for a new Generator

proposed as a Short-Term Reliability Process Solution to enter service. RMR Avoidable Costs include mandatory capital expenditures, fixed operating and maintenance costs, and forgone opportunity costs, determined by the ISO in accordance with Section 38.8 of Attachment FF, as modified by the Commission. RMR Avoidable Costs do not include variable costs or any other type of cost that are included in the Generator's Energy or Ancillary Services reference levels, or that are ordinarily included in Energy or Ancillary Services reference levels.

RMR Generator: The Generator or Generators operating under an RMR Agreement.

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

3.12 The Comprehensive System Planning Process

The ISO shall conduct the Comprehensive System Planning Process in accordance with Attachment Y to this Tariff and ISO Procedures. To the extent practicable, the ISO shall coordinate the performance of the studies required under Attachment Y with any transmission and interconnection studies that may be requested under sections 3.7, 3.8, 3.9, 4.5, 4.5.7, and 4.5.8 of this Tariff.

6.10 Schedule 10 - Rate Mechanism for the Recovery of the Regulated Transmission Facilities Charge (“RTFC”)

6.10.1 Applicability

6.10.1.1 Eligible Projects

This Schedule establishes the Regulated Transmission Facilities Charge (“RTFC”) for the recovery of the costs of a regulated transmission project that is eligible for cost recovery in accordance with the Comprehensive System Planning Process requirements set forth in Attachment Y of the ISO OATT.¹ A Transmission Owner, Unregulated Transmitting Utility,² or Other Developer may recover through the RTFC the costs that it is eligible to recover pursuant to Attachment Y of the ISO OATT related to: (i) a regulated backstop transmission solution proposed by a Responsible Transmission Owner pursuant to Section 31.2.4.3.1 of Attachment Y of the ISO OATT and the ISO/TO Reliability Agreement or an Operating Agreement; (ii) an alternative regulated transmission solution that the ISO has selected pursuant to Section 31.2.6.5.2 of Attachment Y of the ISO OATT as the more efficient or cost-effective solution to a Reliability Need; or (iii) a regulated transmission Gap Solution proposed by a Responsible Transmission Owner pursuant to Section 31.2.11.4 of Attachment Y of the ISO OATT; (iv) an alternative regulated Transmission Gap Solution that has been determined by the appropriate state regulatory agency(ies) as the preferred solution to a Reliability Need pursuant to Section 31.2.11.5 of Attachment Y of the ISO OATT; (v) a regulated economic transmission project that has been approved pursuant to Section 31.5.4.6 of Attachment Y of the ISO OATT; (vi) a Public Policy Transmission Project that the ISO has selected pursuant to Section 31.4.8.2 of Attachment Y of the ISO OATT as the more efficient or cost-effective solution to a Public Policy Transmission Need; (vii) a Public Policy Transmission Project proposed by a Developer in response to a request by the NYPSC or Long Island Power Authority in accordance with Section

31.4.3.2 of Attachment Y of the ISO OATT; or (viii) the portion of an Interregional Transmission Project selected by the ISO in the CSPP that is allocated to the NYISO region pursuant to Section 31.5.7 of Attachment Y of the ISO OATT. For purposes of this Schedule, such a transmission project is referred to as an “Eligible Project.” The costs incurred for an Eligible Project by LIPA or NYPA will be billed and collected under a separate LIPA RTFC or NYPA RTFC, as applicable, as described in Section 6.10.5.

¹Capitalized terms used in this Schedule that are not defined in this Schedule shall have the meaning set forth in Section 31.1.1 of Attachment Y of the ISO OATT and, if not therein, in Section 1 of the OATT.

²An “Unregulated Transmitting Utility” is a Transmission Owner, such as LIPA and NYPA, that, pursuant to Section 201(f) of the Federal Power Act, is not subject to the Commission’s jurisdiction under Sections 205 and 206(a) of the Federal Power Act.

6.10.1.2 Projects Not Eligible for Cost Recovery Through the RTFC

This Schedule does not apply to projects that are not eligible pursuant to Attachment Y of the ISO OATT for cost allocation and recovery under the ISO OATT, including, but not limited to: (i) projects undertaken by Transmission Owners through the Local Transmission Owner Planning Processes pursuant to Section 31.1.3 and Section 31.2.1 of Attachment Y of the ISO OATT; (ii) market-based solutions to transmission needs identified in the CSPP; (iii) any non-transmission components of an Eligible Project (e.g., generation, energy efficiency, or demand response resources); (iv) transmission Short-Term Reliability Process Solutions selected in the Short-Term Reliability Process pursuant to Attachment FF of the ISO OATT and eligible for cost recovery through Schedule 16 (Section 6.16) of the ISO OATT; (v) transmission facilities eligible for cost recovery through another rate schedule of the ISO OATT; and (vi) facilities for which costs are recovered through the Transmission Service Charge (“TSC”) or the NYPA Transmission Adjustment Charge (“NTAC”) determined in accordance with Attachment H of the ISO OATT.

6.10.2 Revenue Requirement for RTFC

The RTFC (including a LIPA RTFC or NYPA RTFC, as applicable) shall be calculated in accordance with the formula set forth in Section 6.10.3 using the revenue requirement of the Transmission Owner, Unregulated Transmitting Utility, or Other Developer, as applicable, necessary to recover the costs of an Eligible Project. The revenue requirement to be used in the calculation and recovery of the RTFC for a Transmission Owner or Other Developer, other than an Unregulated Transmitting Utility, is described in Section 6.10.4. The development of a revenue requirement and recovery of costs for an Eligible Project by an Unregulated Transmitting Utility through a NYPA RTFC or a LIPA RTFC, as applicable, is described in Section 6.10.5.

If an Eligible Project involves the construction of a facility identified as a Highway System Deliverability Upgrade in a completed Class Year Interconnection Facilities Study, the Project Cost Allocation for which has been accepted and Security posted by at least one Class Year Developer, the project cost and resulting revenue requirement will be reduced to the extent permitted by Section 25.7.12.3.3 of Attachment S of the ISO OATT.

6.10.3 Calculation and Recovery of RTFC and Payment of Recovered Revenue

6.10.3.1 The ISO will calculate and bill an RTFC (or a LIPA RTFC or NYPA RTFC, as applicable) separately for each Eligible Project in accordance with this Section 6.10.3. The ISO shall collect the RTFC from LSEs. The LSEs, including Transmission Owners, competitive LSEs, municipal systems, and any other LSEs, serving Load in the Load Zones and/or Subzones to which the costs of the Eligible Project have been allocated (each a “Responsible LSE”) shall pay the RTFC. The cost of each Eligible Project shall be allocated as follows: (i) the

costs of an Eligible Project that is eligible for cost allocation and recovery through the Reliability Planning Process shall be allocated in accordance with Section 31.5.3 of Attachment Y of the ISO OATT; (ii) the costs of an Eligible Project that is eligible for cost allocation and recovery through the CARIS process shall be allocated in accordance with Section 31.5.4 of Attachment Y of the ISO OATT; (iii) the costs of an Eligible Project that is eligible for cost allocation and recovery through the Public Policy Transmission Planning Process shall be allocated in accordance with Section 31.5.5 of Attachment Y of the ISO OATT; and (iv) the costs of an Eligible Project that is eligible for cost allocation and recovery as an Interregional Transmission Project shall be allocated in accordance with Section 31.5.7 of Attachment Y of the ISO OATT.

6.10.3.2 The revenue requirement established by the Transmission Owner or Other Developer pursuant to Section 6.10.4 and an Unregulated Transmitting Utility pursuant to Section 6.10.5 will be the basis for the applicable RTFC Rate (\$/MWh) that shall be charged by the ISO to each Responsible LSE based on its Actual Energy Withdrawals as set forth in Section 6.10.3.5.

6.10.3.3 The Developer shall request Incremental TCCs with respect to the Eligible Project in accordance with the requirements of Section 19.2.4 of Attachment M of the ISO OATT and receive any Incremental TCCs to the extent awarded by the ISO pursuant to such request. As it relates solely to the Eligible Project, the Developer shall not be a “Transmission Owner” for purposes of Section 20.2.5 or Section 20.3.7 of Attachment N of the ISO OATT and accordingly shall not receive an allocation of Net Congestion Rents under Section 20.2.5 of Attachment

N of the ISO OATT or Net Auction Revenues under Section 20.3.7 of Attachment N of the ISO OATT.

The Developer shall in relation to any Eligible Project exercise its right to obtain and maintain in effect all Incremental TCCs, including temporary Incremental TCCs, to which it has rights under Section 19.2.4 of Attachment M of the ISO OATT and shall take the actions required to do so in accordance with the procedures specified therein. Notwithstanding Sections 19.2.4.7 and 19.2.4.8 of Attachment M of the ISO OATT, Incremental TCCs created and awarded to the Developer as a result of implementation of an Eligible Project shall not be eligible for sale in Secondary Markets. Incremental TCCs that may be created and awarded to the Developer as a result of the implementation of an Eligible Project, shall be offered by the Developer in all rounds of the six month Sub-Auction of each Centralized TCC Auction conducted by the ISO. The ISO shall disburse the associated auction revenues to the Developer. The total amount of the auction revenues disbursed to the Developer pursuant to this Section 6.10.3.3 shall be used in the calculation of the RTFC Rate, as set forth in Section 6.10.3.5. Incremental TCCs associated with an Eligible Project shall continue to be offered for the duration of the Incremental TCCs, established pursuant to the terms of Attachment M of the ISO OATT.

The revenue offset discussed in this Section 6.10.3.3 shall commence upon the first payment of revenues related to Incremental TCCs associated with the implementation of an Eligible Project on or after the date the RTFC is implemented. The RTFC and the revenue offset related to Incremental TCCs

associated with the implementation of an Eligible Project shall not require and shall not be dependent upon a reopening or review of: (i) the Developer's revenue requirements for the RTFC of another Eligible Project pursuant to this Section 6.10 of the ISO OATT, (ii) the Developer's revenue requirement for charges set forth in another rate schedule of the ISO OATT, or (iii) the Transmission Owners' revenue requirements for the TSCs or NTAC set forth in Attachment H of the ISO OATT.

6.10.3.3.1 With respect to the Eligible Project only, the Developer shall receive the outage charges described herein and shall not be charged O/R-t-S Congestion Rent Shortfall Charges, U/D Congestion Rent Shortfall Charges, O/R-t-S Auction Revenue Shortfall Charges or U/D Auction Revenue Shortfall Charges or be paid O/R-t-S Congestion Rent Surplus Payments, U/D Congestion Rent Surplus Payments, O/R-t-S Auction Revenue Surplus Payments or U/D Auction Revenue Surplus Payments under Section 20.2.4 and Section 20.3.6 of Attachment N of the ISO OATT. Outage charges related to any Incremental TCCs awarded by the ISO for an Eligible Project shall be assessed to the Developer, and payable by the Developer to the ISO, pursuant to Section 19.2.4 of Attachment M of the ISO OATT for an Expander not subject to Section 20.2.5 of Attachment N of the ISO OATT for any hour in the Day-Ahead Market during which an Expansion, associated with an Eligible Project, is modeled to be wholly or partially out of service.

6.10.3.4 The billing units for the RTFC Rate for the Billing Period shall be based on the Actual Energy Withdrawals available for the current Billing Period for those Load Zones and/or Subzones allocated the costs of the project in the manner described in Section 6.10.3.1.

6.10.3.5 Cost Recovery Methodology

The ISO shall calculate the RTFC for each Eligible Project for each Responsible LSE as follows:

Step 1: Calculate the \$ assigned to each Load Zone or Subzone (as applicable)

$$RTFC_{p,z,B} = \left(\text{AnnualRR}_{p,B} - \text{IncrementalTransmissionRightsRevenue}_{p,B} + \text{OutageCostAdjustment}_{p,B} \right) \times \left(\text{ZonalCostAllocation}_{z,p} \right)$$

Step 2: Calculate a per-MWh Rate for each Load Zone or Subzone (as applicable)

$$RTFCRate_{p,z,B} = RTFC_{p,z,B} / MWh_{z,B}$$

Step 3: Calculate charge for each Billing Period for each Responsible LSE in each Load Zone or Subzone (as applicable)

$$\text{Charge}_{B,l,z,p} = RTFCRate_{p,z,B} * MWh_{l,z,B}$$

Step 4: Calculate charge for each Billing Period for each Responsible LSE across all Load Zones or Subzones (as applicable)

$$\text{Charge}_{B,l,p} = \sum_{z \in Z} (\text{Charge}_{B,l,z,p})$$

Where,

l = the relevant Responsible LSE;

p = an individual Eligible Project;

z = an individual Load Zone or Subzone, as applicable;

Z = set of ISO Load Zones or Subzones as applicable;

B = the relevant Billing Period;

$MWh_{z,B}$ = Actual Energy Withdrawals in Load Zone or Subzone, as applicable, z aggregated across all hours in Billing Period B;

$MWh_{l,z,B}$ = Actual Energy Withdrawals for Responsible LSE l in Load Zone or Subzone, as applicable, z aggregated across all hours in Billing Period B;

$AnnualRR_{p,B}$ = the pro rata share of the annual revenue requirement for each Eligible Project p as discussed in Section 6.10.2 above, allocated for Billing Period B;

$IncrementalTransmissionRightsRevenue_{p,B}$ = the auction revenue derived from the sale of Incremental TCCs plus Incremental TCC payments received by the Developer pursuant to Section 20.2.3 of Attachment N of the ISO OATT for each Eligible Project p, as discussed in Section 6.10.3.3 above, allocated for Billing Period B. The revenues from the sale of Incremental TCCs in the ISO's six month Sub-Auctions of each Centralized TCC Auction shall be allocated uniformly across all hours of the Billing Period;

$OutageCostAdjustment_{p,B}$ = the Outage charges determined pursuant to Section 6.10.3.3.1 above for any hour in the Day-Ahead Market during which the Eligible Project p is modeled to be wholly or partially out of service aggregated across all hours in Billing Period B; and

$ZonalCostAllocation_{z,p}$ = the proportion of the cost of Eligible Project p allocated to Load Zone or Subzone, as applicable, z, in the manner described in Section 6.10.3.1 above;

6.10.3.6 The NYISO will collect the appropriate RTFC revenues each Billing Period and remit those revenues to the appropriate Transmission Owner, Unregulated Transmitting Utility, or Other Developer in accordance with the NYISO's billing and settlement procedures; *provided, however*, that LIPA will be responsible for billing and collecting the costs of an Eligible Project undertaken by LIPA that are allocated to customers within the Long Island Transmission District in accordance with Section 6.10.5.2.1.

6.10.4 Recovery of Costs Incurred by Transmission Owner or Other Developer

6.10.4.1 The RTFC shall be used as the cost recovery mechanism for the recovery of the costs of an Eligible Project undertaken by a Transmission Owner or Other Developer, other than an Unregulated Transmitting Utility, which project is authorized by the Commission to recover costs under this rate mechanism;

provided, however, nothing in this cost recovery mechanism shall be deemed to create any additional rights for a Transmission Owner or Other Developer to proceed with a regulated transmission project that it does not otherwise have at law. Subject to the requirements in Section 6.10.6, the costs that may be included in the revenue requirement for calculating the RTFC pursuant to Section 6.10.3 include all reasonably incurred costs, as determined by the Commission, related to the preparation of proposals for, and the development, financing, construction, operation, and maintenance of, an Eligible Project, including those costs explicitly permitted for recovery pursuant to Attachment Y of the ISO OATT. These costs include, but are not limited to, a reasonable return on investment and any incentives for the construction of transmission projects approved under Section 205 or Section 219 of the Federal Power Act and the Commission's regulations implementing those sections.

6.10.4.2 The period for cost recovery will be determined by the Commission and will begin if and when the Eligible Project enters into service, is halted, or as otherwise determined by the Commission, including for the recovery of CWIP or other permissible cost recovery. The Transmission Owner/Other Developer, or, at its request, the ISO, shall either make a Section 205 filing with the Commission or make an informational filing under a formula rate to provide for the Commission's review and approval or acceptance of the project cost and resulting revenue requirement to be recovered through the RTFC. The filing may include all reasonably incurred costs specified in Section 6.10.4.1 of this Schedule that are related to the Transmission Owner's or the Other Developer's undertaking an

Eligible Project. The filing must be consistent with the Transmission Owner's or the Other Developer's project proposal made to and evaluated by the ISO pursuant to Attachment Y. If the Eligible Project is a Public Policy Transmission Project for which the Developer proposed a Cost Cap, the Developer must also satisfy the requirements in Section 6.10.6 in its filing. The Transmission Owner or Other Developer shall bear the burden of resolving all concerns about the contents of the filing that might be raised in such proceeding. The ISO will begin to calculate and bill the RTFC in accordance with the period for cost recovery determined by the Commission after the Commission has accepted or approved the filing or otherwise allowed the filing to go into effect pursuant to a formula rate.

6.10.5 Recovery of Costs by an Unregulated Transmitting Utility

6.10.5.1 Subject to the requirements in Section 6.10.6, the costs that may be included in the revenue requirement for an Eligible Project undertaken by an Unregulated Transmitting Utility include all reasonably incurred costs related to the preparation of proposals for, and the development, financing, construction, operation, and maintenance of, an Eligible Project, including those costs explicitly permitted for recovery pursuant to Attachment Y of the ISO OATT, as well as a reasonable return on investment. Except as otherwise provided in Section 6.10.5.2.1, for any recovery of a revenue requirement by an Unregulated Transmitting Utility under the RTFC, the period of cost recovery will be determined by the Commission and will begin if and when the Eligible Project enters into service, is halted, or as otherwise determined by the Commission,

including for the recovery of CWIP or other permissible cost recovery. Except as otherwise provided in Section 6.10.5.2.1, the ISO will begin to calculate and bill the RTFC for an Unregulated Transmitting Utility pursuant to Section 6.10.3 in accordance with the period for cost recovery determined by the Commission after the Commission has accepted or approved the filing of its revenue requirement or otherwise allowed the filing to go into effect pursuant to a formula rate.

6.10.5.2 Cost Recovery for LIPA

Any costs incurred for an Eligible Project undertaken by LIPA, as an Unregulated Transmitting Utility, that are eligible for recovery under Section 6.10.5.1 under a LIPA RTFC shall be recovered over the period established by Long Island Power Authority's Board of Trustees as follows:

6.10.5.2.1 For costs to LIPA customers: Cost will be recovered pursuant to a rate recovery mechanism approved by the Long Island Power Authority's Board of Trustees pursuant to Article 5, Title 1-A of the New York Public Authorities Law, Sections 1020-f(u) and 1020-s. Upon approval of the rate recovery mechanism, LIPA shall provide to the ISO, for purposes of inclusion within the ISO OATT and filing with the Commission on an informational basis only, a description of the rate recovery mechanism, the costs of the Eligible Project, and the rate that LIPA will charge and collect from responsible entities within the Long Island Transmission District in accordance with the ISO cost allocation methodology pursuant to Section 31.5 of Attachment Y of the ISO OATT.

6.10.5.2.2 For Costs to Other Transmission Districts, As Applicable: Where the ISO determines that there are Responsible LSEs serving Load outside of the Long

Island Transmission District that should be allocated a portion of the costs of the Eligible Project undertaken by LIPA, LIPA shall coordinate with and inform the ISO of the amount of such costs. Such costs will be an allocable amount of the cost base recovered through the recovery mechanism described in Section 6.10.5.2.1 in accordance with the formula set forth in Section 6.10.3.5. Such costs of the Eligible Project allocable to Responsible LSEs serving Load outside of the Long Island Transmission District shall constitute the “revenue requirement.” The ISO shall file the revenue requirement with the Commission if requested to do so by LIPA, for Commission review under the same “comparability” standard as is applied to review of changes in LIPA’s TSC under Attachment H of the ISO OATT. The filing must be consistent with LIPA’s project proposal made to and evaluated by the ISO pursuant to Attachment Y. If the Eligible Project is a Public Policy Transmission Project for which LIPA proposed a Cost Cap, LIPA must also satisfy the requirements in Section 6.10.6 in its filing. LIPA shall intervene in support of such filing at the Commission and shall bear the burden of resolving all concerns about the contents of the filing that might be raised in such proceeding. Upon the Commission’s acceptance for filing of LIPA’s revenue requirement and using the procedures described in Sections 6.10.3.1 through 6.10.3.5 of this Schedule, the ISO shall calculate a separate LIPA RTFC based on the revenue requirement and shall bill for LIPA the LIPA RTFC as a separate line item to the Responsible LSEs serving Load in Transmission Districts located outside of the Long Island Transmission District.

The ISO shall remit the revenues collected to LIPA in accordance with the ISO's billing and settlement procedures.

6.10.5.3 Cost Recovery for NYPA

Any costs incurred for an Eligible Project undertaken by NYPA, as an Unregulated Transmitting Utility, that are eligible for recovery under Section 6.10.5.1 shall be recovered under a NYPA RTFC as described herein. A reasonable return on investment for an Eligible Project undertaken by NYPA may include any incentives for construction of transmission projects available under Section 205 or Section 219 of the Federal Power Act and the Commission's regulations implementing those sections, as determined by the Commission.

6.10.5.3.1 NYPA shall coordinate with and inform the ISO of the amount of the costs it incurred in undertaking an Eligible Project. Such costs shall constitute the revenue requirement. Either the ISO shall make a Section 205 filing with the Commission on behalf of NYPA or NYPA shall make an informational filing under a formula rate with the Commission, of the revenue requirement. The filing must be consistent with NYPA's project proposal made to and evaluated by the ISO pursuant to Attachment Y. If the Eligible Project is a Public Policy Transmission Project for which NYPA proposed a Cost Cap, NYPA must also satisfy the requirements in Section 6.10.6 in its filing. NYPA shall intervene in support of such filing at the Commission and shall bear the burden of resolving all concerns about the contents of the filing that might be raised in such proceeding, including being solely responsible for making any arguments or reservations regarding its status as a non-Commission-jurisdictional utility and the appropriate standard for Commission review of its revenue requirement. After the

Commission has accepted or approved the filing or otherwise allowed the filing to go into effect pursuant to a formula rate, the ISO shall calculate in accordance with Sections 6.10.3.1 through 6.10.3.5 of this Schedule a separate NYPA RTFC based on the revenue requirement and bill for NYPA the NYPA RTFC to the Responsible LSEs. The ISO shall remit the revenues collected to NYPA in accordance with the ISO's billing and settlement procedures.

6.10.5.4 Savings Clause. The inclusion in the ISO OATT or in a filing with the Commission pursuant to Section 6.10.5 of the revenue requirement for recovery of costs incurred by an Unregulated Transmitting Utility, including LIPA or NYPA, related to an Eligible Project undertaken pursuant to Attachment Y of the ISO OATT, as provided for in this Section 6.10.5, or the inclusion of such revenue requirement in the LIPA RTFC or NYPA RTFC, shall not be deemed to modify the treatment of such rates as non-jurisdictional pursuant to Section 201(f) of the FPA.

6.10.6 Developer's Responsibility to Include Cost Cap in Rate Filing for Public Policy Transmission Project.

6.10.6.1 The Developer of an Eligible Project that is a Public Policy Transmission Project selected by the ISO pursuant to Sections 31.4.8.2 and 31.4.11 of Attachment Y to the ISO OATT shall file with the Commission as part of its required rate filing for cost recovery under Sections 6.10.4 or 6.10.5, as applicable, any Cost Cap that it proposed for its Public Policy Transmission Project, including any excusing conditions described in Section 6.10.6.2. The Developer shall not seek to recover through its transmission rates or through any

other means costs for the Included Capital Costs above its agreed-upon Cost Cap, except as permitted for excusing conditions in Section 6.10.6.2.

6.10.6.2 The Cost Cap that the Developer files at the Commission may provide for the following excusing conditions, which shall be included in the Development Agreement for the Developer's Public Policy Transmission Project and which shall excuse the Developer from the Cost Cap on recovering the Included Capital Costs of its Public Policy Transmission Project only to the extent the costs arise from one of the following excusing conditions:

- A. Transmission Project changes, delays, or additional costs that are due to the actions or omissions of the ISO, Connecting Transmission Owner(s), Interconnecting Transmission Owner(s), or Affected Transmission Owner(s);
- B. A Force Majeure event as defined in the Development Agreement and subject to the Force Majeure requirements in Section 15.5 of the Development Agreement;
- C. Changes in laws or regulations, including but not limited to applicable taxes;
- D. Material modifications to scope or routing arising from siting processes under Public Service Law Article VII or applicable local laws as determined by the New York State Public Service Commission or local governments respectively; and
- E. Actions or inactions of regulatory or governmental entities, and court orders.

6.10.6.3 If the Developer proposed a soft Cost Cap, the Developer must achieve the percentage cost sharing that it submits to the ISO in its proposal either: (i) through foregoing rate recovery of that percentage of capital costs in excess of the soft Cost Cap or (ii) through an alternative rate mechanism that may adjust rate recovery through only a reduction in the return on equity and any applicable

incentives solely on the amount in excess of the soft Cost Cap. The alternative rate mechanism must achieve a rate recovery reduction for the percentage of Included Capital Costs in excess of the soft Cost Cap that is equal to or better for ratepayers in the total long run revenue requirement on a present value basis for the Public Policy Transmission Project compared to that which would be achieved under option (i) based on the percentage cost sharing that the Developer proposed to the ISO.

6.10.6.4 The Developer's Cost Cap and the excusing conditions shall be included in the Development Agreement with the Developer and will be implemented and enforced through rate proceedings at the Commission or the appropriate legal action initiated by the ISO.

6.10.6.5 Except as set forth in this Section 6.10.6, all matters concerning a Developer's recovery of the costs of its Public Policy Transmission Project shall be submitted to and decided at the Commission in accordance with the procedures set forth in Sections 6.10.4 and 6.10.5, as applicable.

6.14 Schedule 14 – Rate Mechanism for Recovery of RMR Generator and Interim Service Provider Related Charges from and Payment of RMR Generator and Interim Service Provider Related Credits to RMR LSEs

6.14.1 Applicability

The ISO will apply this Schedule separately for each RMR Generator operating under an RMR Agreement and to each Generator operating or maintaining in-service its step-up transformer(s) and/or other system protection facilities as an Interim Service Provider. For purposes of this Schedule, “RMR LSEs” are all the LSEs, including Transmission Owners, competitive LSEs and municipal systems, serving Load in the Load Zone or Subzone (as applicable) to which the charges and credits associated with an RMR Generator operating under an RMR Agreement or a Generator operating or maintaining in-service its step-up transformer(s) and/or other system protection facilities as an Interim Service Provider are allocated.

Section 6.14.2 establishes how credits and charges to RMR LSEs will be allocated and recovered. Section 6.14.3 establishes how the ISO will calculate and recover the RMR Charge applicable to each RMR Generator operating under an RMR Agreement or as an Interim Service Provider. The RMR Charge for a Billing Period may result in either a charge or a credit to the RMR LSEs. Sections 6.14.4 and 6.14.5 establish how the ISO will charge RMR LSEs any Performance Incentive payment or Availability Incentive payment owed to an RMR Generator with an RMR Agreement that contains an Availability and Performance Rate. Finally, Section 6.14.7 establishes how the ISO will allocate and credit to RMR LSEs any Monthly Repayment Obligation recovered from a former RMR Generator and/or former Interim Service Provider by the ISO pursuant to Sections 15.8.7, 15.8.7.1 and 15.8.7.2 of Rate Schedule 8 to the Services Tariff.

6.14.2 Allocation of RMR Charges

Charges and credits to RMR LSEs under this Schedule will be allocated in accordance with Section 31.5.3 of Attachment Y to the ISO OATT. The ISO will charge or credit each RMR LSE based on its share of Actual Energy Withdrawals in the Load Zone or Subzone (as applicable) for the relevant Billing Period.

6.14.3 Calculation and Recovery of RMR Charge

6.14.3.1 Applicability

The ISO will calculate the RMR Charge in accordance with Section 6.14.3.3 for each RMR Generator operating under an RMR Agreement that includes an Availability and Performance Rate. The ISO will calculate the RMR Charge in accordance with Section 6.14.3.4 for each RMR Generator operating under a rate that is not an Availability and Performance Rate. The ISO will calculate the RMR Charge in accordance with Section 6.14.3.5 for each Interim Service Provider.

6.14.3.2 Assessing or Crediting the RMR Charge

If the RMR Charge calculated pursuant to Section 6.14.3.3, 6.14.3.4 or 6.14.3.5, as applicable, is positive for a Billing Period, then the ISO will assess the RMR Charge to the RMR LSEs. If the RMR Charge calculated pursuant to Section 6.14.3.3, 6.14.3.4 or 6.14.3.5, as applicable, is negative for a Billing Period, then the ISO will credit the absolute value of the RMR Charge to the RMR LSEs. Credits to the RMR LSEs are drawn from the revenue recovered from Transmission Customers as a result of the RMR Generator's participation in the ISO-Administered Markets during that Billing Period.

6.14.3.3 Calculation of RMR Charge for an RMR Generator Providing Service Under an Availability and Performance Rate

$$RMRCharge_{l,g,P} = \sum_{d \in P} \left((RMRAvoidCost_{g,d} + VarCost_{g,d} - MarketRev_{g,d}) \right. \\ \left. * \sum_{z \in Z} (ZonalCostAllocation_{g,z} * (MWh_{l,z,d} / MWh_{z,d})) \right)$$

Where:

g = the relevant RMR Generator that is providing service under an Availability and Performance Rate;

P = the relevant Billing Period;

d = the relevant market day;

l = the relevant RMR LSE;

z = an individual NYCA Load Zone or Subzone (as applicable);

Z = the set of all Load Zones (or Subzones as applicable) that have nonzero allocations for the relevant RMR Generator;

$RMRCharge_{l,g,P}$ = the RMR Charge associated with RMR Generator g for Billing Period P for RMR LSE l ;

$RMRAvoidCost_{g,d}$ = the RMR Avoidable Cost amount for RMR Generator g for day d , that has been accepted for filing by the Commission, or as calculated by the ISO in accordance with Sections 31.2.11.8 and 31.2.11.17 of the OATT pending Commission action, shaped on a Capability Period basis, and Additional Costs in accordance with Section 38.16 of the OATT;

$VarCost_{g,d}$ = the Variable Cost amount for RMR Generator g for day d , calculated pursuant to Section 15.8.1 of Rate Schedule 8 to the ISO Services Tariff;

$MarketRev_{g,d}$ = the revenue recovered from Transmission Customers under the ISO Tariffs for day d in connection with the participation of the RMR Generator g in the ISO Administered Markets, including LBMP revenues, Ancillary Services revenues, guarantee or supplemental payments, Day-Ahead to real-time balancing settlements as described in Section 4 of the ISO Services Tariff, and monthly Capacity revenues divided by the number of days in the month;

$ZonalCostAllocation_{g,z}$ = the proportion of the cost of RMR Generator g allocated to Load Zone or Subzone (as applicable) z ;

$MWh_{z,d}$ = Actual Energy Withdrawals in Load Zone or Subzone (as applicable) z aggregated across all hours on day d ;

$MWh_{l,z,d}$ = Actual Energy Withdrawals for RMR LSE l in Load Zone or Subzone (as applicable) z aggregated across all hours on day d .

6.14.3.4 Calculation of RMR Charge for an RMR Generator Providing Service Under a Rate Other Than an Availability and Performance Rate

$$RMRCharge_{l,g,P} = \sum_{d \in P} \left((RMRCost_{g,d} + VarCost_{g,d} - MarketRev_{g,d}) \right. \\ \left. * \sum_{z \in Z} (ZonalCostAllocation_{g,z} * (MWh_{l,z,d} / MWh_{z,d})) \right)$$

Where:

g = the relevant RMR Generator that is providing service under a rate other than an ISO-developed Availability and Performance Rate;

$RMRCost_{g,d}$ = the costs RMR Generator g is authorized to recover for day d pursuant to a rate approved for RMR Generator g by the Commission, or is recovering subject to refund pending Commission action, shaped on a Capability Period basis, and Additional Costs in accordance with Section 38.16 of the OATT.

The definitions of the remaining variables in this equation are identical to the definitions for such variables set forth in Section 6.14.3.3 above.

6.14.3.5 Calculation of RMR Charge for an Interim Service Provider

$$RMRCharge_{l,g,P} = \sum_{d \in P} \left((RMRAvoidCost_{g,d} + VarCost_{g,d} - MarketRev_{g,d}) \right. \\ \left. * \sum_{z \in Z} (ZonalCostAllocation_{g,z} * (MWh_{l,z,d} / MWh_{z,d})) \right)$$

Where:

g = the relevant Interim Service Provider Generator. In some cases, the “Interim Service Provider Generator” may not include the operation of the generating unit(s), but may instead be limited to the step-up transformer(s) and/or other system protection facilities designated by the ISO that are required to be maintained in-service;

Z = the set of all Load Zones (or Subzones as applicable) that have nonzero allocations for the relevant Interim Service Provider Generator;

$RMRCharge_{l,g,P}$ = the RMR Charge associated with Interim Service Provider Generator g for Billing Period P for RMR LSE l ;

$RMRAvoidCost_{g,d}$ = the Avoidable Cost amount for Interim Service Provider Generator g for day d calculated by the ISO in accordance with Sections 38.8, 38.16 and 38.17 of the OATT, shaped on a Capability Period basis;

$VarCost_{g,d}$ = the Variable Cost amount for Interim Service Provider Generator g for day d , calculated pursuant to Section 15.8.6 of Rate Schedule 8 to the ISO Services Tariff;

$MarketRev_{g,d}$ = the revenue recovered from Transmission Customers under the ISO Tariffs for day d in connection with the participation of the Interim Service Provider Generator g in the ISO Administered Markets, including LBMP revenues, Ancillary Services revenues, guarantee or supplemental payments, Day-Ahead to real-time balancing settlements as described in Section 4 of the ISO Services Tariff, and monthly Capacity revenues divided by the number of days in the month; and

$ZonalCostAllocation_{g,z}$ = the proportion of the cost of Interim Service Provider Generator g allocated to Load Zone or Subzone (as applicable) z .

The definitions of the remaining variables in this equation are identical to the definitions for such variables set forth in Section 6.14.3.3 above.

6.14.4 Performance Incentive Payment

The ISO will charge the RMR LSEs on a monthly basis for any Performance Incentive payment owed to an RMR Generator pursuant to Section 15.8.2 of the ISO Services Tariff for its performance in that month in accordance with the formula in Section 6.14.4.1.

6.14.4.1 Calculation of RMR Performance Incentive Charge

$$RMRPerformIncentCharge_{l,g,m} = RMRPerformIncentPayment_{g,m} * \sum_{z \in Z} (ZonalCostAllocation_{g,z} * (MWh_{l,z,m} / MWh_{z,m}))$$

Where:

m = the billing month for which the performance was calculated;

$RMRPerformIncentCharge_{l,g,m}$ = the Performance Incentive Charge associated with RMR Generator g for billing month m for RMR LSE l ;

$RMRPerformIncenPayment_{g,m}$ = the Performance Incentive amount for RMR Generator g for month m , calculated pursuant to Section 15.8.2 of Rate Schedule 8 to the ISO Services Tariff;

$MWh_{z,m}$ = Actual Energy Withdrawals in Load Zone or Subzone (as applicable) z aggregated across all hours in month m ;

$MWh_{l,z,m}$ = Actual Energy Withdrawals for RMR LSE l in Load Zone or Subzone (as applicable) z aggregated across all hours in month m .

The definitions of the remaining variables in this equation are identical to the definitions for such variables set forth in Section 6.14.3.3 above.

6.14.5 Availability Incentive Payment

The ISO will charge the RMR LSEs on a Capability Period basis for any Availability Incentive payment owed to an RMR Generator pursuant to Section 15.8.3 of the ISO Services Tariff. The ISO will recover the Availability Incentive payment from RMR LSEs in the Billing Period following the first month of the Capability Period for any payment earned for the previous Capability Period in accordance with the formula in Section 6.14.5.1.

6.14.5.1 Calculation of RMR Availability Incentive Charge

$$RMRAvailIncenCharge_{l,g,m} = RMRAvailIncenPayment_{g,m} * \sum_{z \in Z} (ZonalCostAllocation_{g,z} * (MWh_{l,z,m} / MWh_{z,m}))$$

Where:

m = the first billing month after the Incentive from the previous Capability period was calculated;

$RMRAvailIncenCharge_{l,g,m}$ = the Availability Incentive Charge associated with RMR Generator g for billing month m for RMR LSE l ;

$RMRAvailIncenPayment_{g,m}$ = the Availability Incentive amount for RMR Generator g for month m , calculated pursuant to Section 15.8.3 of Rate Schedule 8 to the ISO Services Tariff;

$MWh_{z,m}$ = Actual Energy Withdrawals in Load Zone or Subzone (as applicable) z aggregated across all hours in month m ;

$MWh_{l,z,m}$ = Actual Energy Withdrawals for RMR LSE l in Load Zone or Subzone (as applicable) z aggregated across all hours in month m .

The definitions of the remaining variables in this equation are identical to the definitions for such variables set forth in Section 6.14.3.3 above.

6.14.6 Distribution of Monthly Repayment Credit to RMR Loads

If, at any time, the ISO recovers from a former RMR Generator or from a former Interim Service Provider any Capital Expenditure or Above Market Revenues in accordance with Sections 15.8.7, 15.8.7.1 or 15.8.7.2 of Rate Schedule 8 to the ISO Services Tariff, then the ISO will credit the recovered costs to the RMR LSEs on the same monthly invoice as the recovery from the RMR Generator or Interim Service Provider, in accordance with the formula in Section 6.14.6.1 below.

6.14.6.1 Calculation of Monthly Repayment Credit

$$\begin{aligned} \text{MonthlyRepaymentCredit}_{l,g,m} &= \text{MonthlyRepaymentObligationRecovery}_{g,m} \\ &\quad * \sum_{z \in Z} \left(\text{ZonalCostAllocation}_{g,z} * (MWh_{l,z,m} / MWh_{z,m}) \right) \end{aligned}$$

Where:

m = the billing month for which the Monthly Repayment Obligation is recovered;

$\text{MonthlyRepaymentCredit}_{l,g,m}$ = the Monthly Repayment Credit associated with former RMR Generator g or former Interim Service Provider Generator g for billing month m for RMR LSE l ;

$\text{MonthlyRepaymentObligationRecovery}_{g,m}$ = the Monthly Repayment Obligation recovery from former RMR Generator g or former Interim Service Provider Generator g for month m , calculated pursuant to Section 15.8.7 of Rate Schedule 8 to the ISO Services Tariff;

$MWh_{z,m}$ = Actual Energy Withdrawals in Load Zone or Subzone (as applicable) z aggregated across all hours in month m ;

$MWh_{l,z,m}$ = Actual Energy Withdrawals for RMR LSE l in Load Zone or Subzone (as applicable) z aggregated across all hours in month m .

The definitions of the remaining variables in this equation are identical to the definitions for such variables set forth in Section 6.14.3.3 above, except for the Monthly Repayment Obligation which is defined in Section 15.8.7 of the Services Tariff.

6.16 Schedule 16 - Rate Mechanism for the Recovery of the Short-Term Reliability Process Facilities Charge for a Regulated Transmission Solution in the Short-Term Reliability Process (“STRPFC”).

6.16.1 Applicability.

This Schedule establishes the facilities charge for the recovery of the costs of a regulated transmission Short-Term Reliability Process Solution in connection with a Short-Term Reliability Process Need arising in the Short-Term Reliability Process set forth in Attachment FF of the ISO OATT (“STRPFC”).¹ A Transmission Owner, an Unregulated Transmitting Utility,² or another Developer, may recover through the STRPFC the costs that it is eligible to recover pursuant to Attachment FF of the ISO OATT related to: (i) the transmission Short-Term Reliability Process Solution proposed by a Responsible Transmission Owner to address the Short-Term Reliability Process Need in accordance with Section 38.4.2.1, (ii) the conceptual permanent transmission Short-Term Reliability Process Solution, if applicable, submitted by a Responsible Transmission Owner in accordance with Section 38.4.2.1, or (iii) a regulated transmission Short-Term Reliability Process Solution proposed by a Developer that is selected by the ISO to address the Short-Term Reliability Process Need in accordance with Section 38.10, including the portion of an Interregional Transmission Project proposed pursuant to Section 38.4.2.5 of the ISO OATT and selected by the ISO pursuant to Section 38.10 of the ISO OATT. Such a project is referred to in this Schedule as an “Eligible Project.” Any costs incurred for an Eligible Project by LIPA or NYPA will be collected under a separate LIPA STRPFC or NYPA STRPFC, as applicable, as described in Section 6.16.5.

¹ Capitalized terms used in this Schedule that are not defined in this Schedule shall have the same meaning set forth in Section 38.1 of Attachment FF of the ISO OATT.

² An “Unregulated Transmitting Utility” is a Transmission Owner, such as LIPA and NYPA, that, pursuant to Section 201(f) of the Federal Power Act, is not subject to the Commission’s jurisdiction under Sections 205 and 206(a) of the Federal Power Act.

This Schedule does not provide for cost recovery related to: (i) projects undertaken by Transmission Owners through their Local Transmission Owner Planning Processes pursuant to Section 31.1.3 and 31.2.1 of Attachment Y of the ISO OATT, (ii) projects eligible for cost recovery through Schedule 10 of the ISO OATT in connection with the NYISO's Reliability Planning Process, (iii) a Generator operating under an RMR Agreement, or (iv) a market-based Short-Term Reliability Process Solution identified in accordance with Section 38.6 of the ISO OATT.

The STRPFC shall be separate from the Transmission Service Charge ("TSC") and the NYPA Transmission Adjustment Charge ("NTAC") determined in accordance with Attachment H of the ISO OATT.

In addition, with respect to the Eligible Project only, the Developer shall receive the outage charges described herein and shall not be charged O/R-t-S Congestion Rent Shortfall Charges, U/D Congestion Rent Shortfall Charges, O/R-t-S Auction Revenue Shortfall Charges or U/D Auction Revenue Shortfall Charges or be paid O/R-t-S Congestion Rent Surplus Payments, U/D Congestion Rent Surplus Payments, O/R-t-S Auction Revenue Surplus Payments or U/D Auction Revenue Surplus Payments under Section 20.2.4 and Section 20.3.6 of Attachment N of the ISO OATT. The Developer shall request Incremental TCCs with respect to the Eligible Project in accordance with the requirements of Section 19.2.4 of Attachment M of the ISO OATT and receive any Incremental TCCs to the extent awarded by the ISO pursuant to such request. As it relates solely to the Eligible Project, the Developer shall not be a "Transmission Owner" for purposes of Section 20.2.5 or Section 20.3.7 of Attachment N of the ISO OATT and accordingly shall not receive an allocation of Net Congestion Rents under Section 20.2.5 of Attachment N of the ISO OATT or Net Auction Revenues under Section 20.3.7 of Attachment N of the ISO OATT.

6.16.2 Revenue Requirement for STRPFC

The STRPFC shall be calculated in accordance with the formula set forth in Section 6.16.3 using the revenue requirement of the Transmission Owner, Unregulated Transmitting Utility, or other Developer, as applicable, necessary to recover the costs of an Eligible Project. The revenue requirement to be used in the calculation and recovery of the STRPFC for a Transmission Owner or other Developer, other than an Unregulated Transmitting Utility, is described in Section 6.16.4. The development of a revenue requirement and recovery of costs for an Eligible Project by an Unregulated Transmitting Utility through the NYPA STRPFC or the LIPA STRPFC, as applicable, is described in Section 6.16.5.

If an Eligible Project involves construction of a facility identified as a Highway System Deliverability Upgrade in a completed Class Year Interconnection Facilities Study, the Project Cost Allocation for which has been accepted and Security posted by at least one Class Year Developer, the final project cost and resulting revenue requirement will be reduced to the extent permitted by Section 25.7.12.3.3 of Attachment S to the ISO OATT.

6.16.3 Calculation and Recovery of STRPFC and Payment of Recovered Revenue

The ISO will calculate and bill the STRPFC for each Eligible Project in accordance with this Section 6.16.3. The ISO shall collect the STRPFC from LSEs. The LSEs, including Transmission Owners, competitive LSEs, municipal systems, and any other LSE, serving Load in the Load Zones and/or Subzones to which the costs of the Eligible Project have been allocated (each a “Responsible LSE”) shall pay the STRPFC. The costs of each Eligible Project shall be allocated as set forth in Section 38.22 of Attachment FF of the ISO OATT.

6.16.3.1 The revenue requirement filed pursuant to this Schedule by the Transmission Owner, Unregulated Transmitting Utility, or another Developer, as

applicable, and approved or accepted by the Commission will be the basis for the STRPFC Rate (\$/MWh) that shall be charged by the ISO to each Responsible LSE based on its Actual Energy Withdrawals as set forth in Section 6.16.3.4.

6.16.3.2 The Developer shall in relation to any Eligible Project reasonably exercise its right to obtain and maintain in effect all Incremental TCCs, including temporary Incremental TCCs, to which it has rights under Section 19.2.4 of Attachment M of the ISO OATT and shall take the actions required to do so in accordance with the procedures specified therein. Notwithstanding Sections 19.2.4.7 and 19.2.4.8 of Attachment M of the ISO OATT, Incremental TCCs created and awarded to the Developer as a result of implementation of an Eligible Project shall not be eligible for sale in Secondary Markets. Incremental TCCs that may be created and awarded to the Developer as a result of the implementation of an Eligible Project, shall be offered by the Developer in all rounds of the six month Sub-Auction of each Centralized TCC Auction conducted by the ISO. The ISO shall disburse the associated auction revenues to the Developer. The total amount of the auction revenues disbursed to the Developer pursuant to this Section 6.16.3.2 shall be used in the calculation of the STRPFC Rate, as set forth in Section 6.16.3.4. Incremental TCCs associated with an Eligible Project shall continue to be offered for the duration of the Incremental TCCs, established pursuant to the terms of Attachment M of the ISO OATT. The revenue offset discussed in this Section 6.16.3.2 shall commence upon the first payment of revenues related to Incremental TCCs associated with the implementation of an Eligible Project on or after the date the STRPFC is

implemented. The STRPFC and the revenue offset related to Incremental TCCs associated with the implementation of an Eligible Project shall not require and shall not be dependent upon a reopening or review of the Developer's revenue requirements for an RFC pursuant to Section 6.10 of the ISO OATT or the Transmission Owners' revenue requirements for the TSCs and NTAC set forth in Attachment H of the NYISO OATT.

6.16.3.2.1 Outage charges related to any Incremental TCCs awarded by the ISO for an Eligible Project shall be assessed to the Developer, and payable by the Developer to the ISO, pursuant to Section 19.2.4 of Attachment M of the ISO OATT for an Expander not subject to Section 20.2.5 of Attachment N of the ISO OATT for any hour in the Day-Ahead Market during which an Expansion, associated with an Eligible Project, is modeled to be wholly or partially out of service.

6.16.3.3 The billing units for the STRPFC Rate for the Billing Period shall be based on the Actual Energy Withdrawals available for the current Billing Period for those Load Zones and/or Subzones allocated the costs of the project in accordance with Section 38.22 of Attachment FF of the ISO OATT.

6.16.3.4 Cost Recovery Methodology

The ISO shall calculate the STRPFC for each Responsible LSE as follows:

Step 1: Calculate the \$ assigned to each Load Zone or Subzone (as applicable)

$$\text{STRPFC}_{z,B} = \sum_{p \in P} \left((\text{AnnualRR}_{p,B} - \text{IncrementalTransmissionRightsRevenue}_{p,B} + \text{OutageCostAdjustment}_{p,B}) \times (\text{ZonalCostAllocation}_{z,p}) \right)$$

Step 2: Calculate a per-MWh Rate for each Load Zone or Subzone (as applicable)

$$\text{STRPFCRate}_{z,B} = \text{STRPFC}_{z,B} / \text{MWh}_{z,B}$$

Step 3: Calculate charge for each Billing Period for each Responsible LSE in each Load Zone or Subzone (as applicable)

$$\text{Charge}_{B,l,z} = \text{STRPFCRate}_{z,B} * \text{MWh}_{l,z,B}$$

Step 4: Calculate charge for each Billing Period for each Responsible LSE across all Load Zones or Subzones (as applicable)

$$\text{Charge}_{B,l} = \sum_{z \in Z} (\text{Charge}_{B,l,z})$$

Where,

l = the relevant Responsible LSE;

p = an individual Eligible Project;

P = set of Eligible Projects;

z = an individual Load Zone or Subzone, as applicable;

Z = set of ISO Load Zones or Subzones, as applicable;

B = the relevant Billing Period;

$\text{MWh}_{z,B}$ = Actual Energy Withdrawals in Load Zone or Subzone, as applicable, z aggregated across all hours in Billing Period B ;

$\text{MWh}_{l,z,B}$ = Actual Energy Withdrawals for Responsible LSE l in Load Zone or Subzone, as applicable, z aggregated across all hours in Billing Period B ;

$\text{AnnualRR}_{p,B}$ = the pro rata share of the annual revenue requirement for each Eligible Project p , as discussed in Section 6.16.2 above, allocated for Billing Period B ;

$\text{IncrementalTransmissionRightsRevenue}_{p,B}$ = the auction revenue derived from the sale of Incremental TCCs plus Incremental TCC payments received by the Developer pursuant to Section 20.2.3 of Attachment N of the ISO OATT for each Eligible Project p , as discussed in Section 6.16.3.2 above, allocated for Billing Period B . The revenues from the sale of Incremental TCCs in the ISO's six month Sub-Auctions of each Centralized TCC Auction shall be allocated uniformly across all hours of the Billing Period;

$\text{OutageCostAdjustment}_{p,B}$ = the Outage charges determined pursuant to Section 6.16.3.2.1 above for any hour in the Day-Ahead Market during which the Eligible Project p is modeled to be wholly or partially out of service aggregated across all hours in Billing Period B ;

$\text{ZonalCostAllocation}_{z,p}$ = the proportion of the cost of Eligible Project p allocated to Load Zone or Subzone, as applicable, z , as set forth in Section 38.22 of Attachment FF of the ISO OATT.

6.16.3.5 The ISO will collect the appropriate STRPFC revenues each Billing Period and remit those revenues to the appropriate Transmission Owner, Unregulated Transmitting Utility, or other Developer in accordance with the ISO's billing and settlement procedures.

6.16.4 Recovery of Costs Incurred by Transmission Owner or Developer

6.16.4.1 The STRPFC shall be used as the cost recovery mechanism for the recovery of the costs of an Eligible Project undertaken by a Transmission Owner or Developer, other than an Unregulated Transmitting Utility, which project is authorized by the Commission to recover costs under this rate mechanism; *provided, however*, nothing in this cost recovery mechanism shall be deemed to create any additional rights for a Transmission Owner or Developer to proceed with a regulated transmission project that it does not otherwise have at law. The cost that may be included in the revenue requirement for calculating the STRPFC pursuant to Section 6.16.3 include all reasonably incurred costs, as determined by the Commission, related to the preparation of proposals for, and the development, financing, construction, operation, and maintenance of, an Eligible Project. This cost includes, but is not limited to, a reasonable return on investment and any incentives for the construction of transmission projects approved under Section

205 or Section 219 of the Federal Power Act and the Commission's regulations implementing those sections.

6.16.4.2 The period for cost recovery will be determined by the Commission and will begin if and when the Eligible Project is completed or halted, or as otherwise determined by the Commission. The Transmission Owner/Developer and/or the ISO, as applicable, will make a filing with the Commission to provide for its review and approval or acceptance, as appropriate, of the final project cost and resulting revenue requirement to be recovered through the STRPFC. The filing may include all reasonably incurred costs specified in Section 6.16.4.1 of this Schedule that are related to the Transmission Owner's or the Developer's undertaking an Eligible Project. The Transmission Owner or Developer shall bear the burden of resolving all concerns about the contents of the filing that might be raised in such proceeding. The ISO will begin to calculate and bill the STRPFC after the Commission has accepted or approved the filing.

6.16.5 Recovery of Costs Incurred By Unregulated Transmitting Utility

6.16.5.1 The costs that may be included in the revenue requirement for an Eligible Project undertaken by an Unregulated Transmitting Utility include all reasonably incurred costs related to the preparation of proposals for, and the development, financing, construction, operation, and maintenance of, an Eligible Project as well as a reasonable return on investment. For any recovery of a revenue requirement by an Unregulated Transmitting Utility under the STRPFC, the period of cost recovery will be determined by the Commission and will begin if and when the Eligible Project is completed or halted, or as otherwise determined by the

Commission. The ISO will begin to calculate and bill the STRPFC for an Unregulated Transmitting Utility pursuant to Section 6.16.3 after the Commission has accepted or approved the filing of its revenue requirement.

6.16.5.2 Cost Recovery for LIPA

Any costs incurred for an Eligible Project undertaken by LIPA, as an Unregulated Transmitting Utility, that are eligible for recovery under Section 6.16.5.1 under the LIPA STRPFC shall be recovered over the period established by Long Island Power Authority's Board of Trustees as follows:

6.16.5.2.1 For Costs to LIPA Customers: Cost will be recovered pursuant to a rate recovery mechanism approved by the Long Island Power Authority's Board of Trustees pursuant to Article 5, Title 1-A of the New York Public Authorities Law, Sections 1020-f(u) and 1020-s. Upon approval of the rate recovery mechanism, LIPA shall provide to the ISO, for purposes of inclusion within the ISO OATT and filing with the Commission on an informational basis only, a description of the rate recovery mechanism, the costs of the Eligible Project, and the rate that LIPA will charge and collect from responsible entities within the Long Island Transmission District in accordance with the ISO cost allocation methodology pursuant to Section 38.22 of Attachment FF of the ISO OATT.

6.16.5.2.2 For Costs to Other Transmission Districts, As Applicable: Where the ISO determines that there are Responsible LSEs serving Load outside of the Long Island Transmission District that should be allocated a portion of the costs of the Eligible Project undertaken by LIPA, LIPA shall coordinate with and inform the ISO of the amount of such costs. Such costs will be an allocable amount of the

cost base recovered through the recovery mechanism described in Section 6.16.5.2.1 in accordance with the formula set forth in Section 6.16.3.4. Such costs of the Eligible Project allocable to Responsible LSEs serving Load outside of the Long Island Transmission District shall constitute the “revenue requirement.” The ISO shall file the revenue requirement with the Commission, to the extent requested to so by LIPA, for Commission review under the same “comparability” standard as is applied to review of changes in LIPA’s TSC under Attachment H of the ISO OATT. LIPA shall intervene in support of such filing at the Commission and shall bear the burden of resolving all concerns about the contents of the filing that might be raised in such proceeding. Using the procedures described in Sections 6.16.3 through 6.16.3.4 of this Schedule, the ISO shall calculate a separate LIPA STRPFC based on the revenue requirement and shall bill for LIPA the LIPA STRPFC as a separate line item to the Responsible LSEs serving Load in Transmission Districts located outside of the Long Island Transmission District. The ISO shall remit the revenues collected to LIPA in accordance with the ISO’s billing and settlement procedures.

6.16.5.2.3 Developers, other than LIPA, that undertake an Eligible Project on Long Island may recover any costs pursuant to Section 6.16.4 of this Schedule.

6.16.5.3 Cost Recovery for NYPA

Any costs incurred for an Eligible Project undertaken by NYPA, as an Unregulated Transmitting Utility, that are eligible for recovery under Section 6.16.5.1 shall be recovered under a NYPA STRPFC as described herein. A reasonable return on investment for an Eligible Project undertaken by NYPA may include any incentives for construction of transmission

projects available under Section 205 or Section 219 of the Federal Power Act and the Commission's regulations implementing those sections, as determined by the Commission.

6.16.5.3.1 NYPA shall coordinate with and inform the ISO of the amount of the costs it incurred in undertaking an Eligible Project. Such costs shall constitute the revenue requirement. The ISO shall file the revenue requirement with the Commission to the extent requested to do so by NYPA. NYPA shall intervene in support of such filing at the Commission and shall bear the burden of resolving all concerns about the contents of the filing that might be raised in such proceeding, including being solely responsible for making any arguments or reservations regarding its status as a non-Commission-jurisdictional utility and the appropriate standard for Commission review of its revenue requirement. In accordance with Sections 6.16.3 through 6.16.3.4 of this Schedule, the ISO shall calculate a separate NYPA STRPFC based on the revenue requirement and bill for NYPA the NYPA STRPFC to the Responsible LSEs. The ISO shall remit the revenues collected to NYPA in accordance with the ISO's billing and settlement procedures.

6.16.5.3.2 Developers, other than NYPA, that undertake an Eligible Project in the NYPA North Subzone may recover any costs pursuant to Section 6.16.4 of this Schedule.

6.16.5.4 Savings Clause

The inclusion in the ISO OATT or in a Commission filing of the revenue requirement for recovery of costs incurred by an Unregulated Transmitting Utility, including LIPA or NYPA, related to an Eligible Project undertaken pursuant to Attachment FF to the ISO OATT, as

provided for in this Section 6.16.5, or the inclusion of such revenue requirement in the LIPA STRPFC or the NYPA STRPFC, shall not be deemed to modify the treatment of such rates as non-jurisdictional pursuant to Section 201(f) of the FPA.

6.17 Schedule 17 – Rate Mechanism for the Recovery of the Western New York Facilities Charge for Non-Bulk Transmission Facilities (“WNY-FC”)

6.17.1 Applicability

6.17.1.1 Eligible Projects

This Schedule establishes the Western New York Facilities Charge (“WNY-FC”) for the recovery of the costs of certain upgrades to non-bulk transmission facilities related to any Public Policy Transmission Project that are eligible for cost recovery in accordance with the Comprehensive System Planning Process requirements set forth in Attachment Y of the ISO OATT.¹ Niagara Mohawk Power Corporation (“NMPC”) may recover through the WNY-FC the costs that it is eligible to recover pursuant to Attachment Y of the ISO OATT related to certain upgrades to NMPC non-bulk transmission facilities in connection with a Public Policy Transmission Project that the ISO has selected pursuant to Section 31.4.8.2 of Attachment Y of the ISO OATT as the more efficient or cost-effective solution to Western New York Public Policy Transmission Need. The “Western New York Public Policy Transmission Need” relates to congestion relief in Western New York identified by the NYPSC on July 20, 2015 and October 13, 2016, in NYPSC Case No. 14-E-0454.

The specific upgrades to NMPC non-bulk transmission facilities to address the Western New York Public Policy Transmission Need (the “WNY Ancillary Upgrades.”) shall be identified by the ISO in the Public Policy Transmission Planning Report for those needs.

¹ Capitalized terms used in this Schedule that are not defined in this Schedule shall have the meaning set forth in Section 31.1.1 of Attachment Y of the ISO OATT and, if not therein, in Section 1 of the OATT.

6.17.1.2 Projects Not Eligible for Cost Recovery Through the WNY-FC

This Schedule does not apply to projects that are not eligible pursuant to Attachment Y of the ISO OATT for cost allocation and recovery under the ISO OATT, including, but not limited to: (i) projects undertaken by Transmission Owners through the Local Transmission Owner Planning Processes pursuant to Section 31.1.3 and Section 31.2.1 of Attachment Y of the ISO OATT; (ii) market-based solutions to transmission needs identified in the CSPP; (iii) any non-transmission components of an Eligible Project (*e.g.*, generation, energy efficiency, or demand response resources); (iv) transmission Short-Term Reliability Process Solutions selected in the Short-Term Reliability Process pursuant to Attachment FF of the ISO OATT and eligible for cost recovery through Schedule 16 (Section 6.16) of the ISO OATT; (v) transmission facilities eligible for cost recovery through another rate schedule of the ISO OATT; and (vi) facilities for which costs are recovered through the Transmission Service Charge (“TSC”) or the NYPA Transmission Adjustment Charge (“NTAC”) determined in accordance with Attachment H of the ISO OATT.

6.17.2 Revenue Requirement for WNY-FC

The WNY-FC shall be calculated in accordance with the formula set forth in Section 6.17.3. The costs that may be included in the WNY-FC revenue requirement include all reasonably incurred costs related to the preparation of proposals for, and the development, financing, construction, operation, and maintenance of, the WNY Ancillary Upgrades, including, but not limited to, a reasonable return on investment and any incentives for the construction of transmission projects approved under Section 205 or Section 219 of the Federal Power Act and the Commission’s regulations implementing those sections, as determined by the Commission.

6.17.3 Calculation and Recovery of WNY-FC and Payment of Recovered Revenue

6.17.3.1 The ISO will calculate and bill the WNY-FC separately for the WNY Ancillary Upgrades in accordance with this Section 6.17.3. The ISO shall collect the WNY-FC from LSEs. The LSEs, including Transmission Owners, competitive LSEs, municipal systems, and any other LSEs, serving Load in the Load Zones and/or Subzones to which the costs of the WNY Ancillary Upgrades have been allocated (each a “Responsible LSE”) shall pay the WNY-FC. The costs of the WNY Ancillary Upgrades shall be allocated in accordance with the Commission-approved cost allocation methodology for the Public Policy Transmission Project selected to address Western New York Public Policy Transmission Need in accordance with Section 31.5.5 of Attachment Y of the ISO OATT.

6.17.3.2 The WNY-FC revenue requirement shall be calculated as follows: The annual WNY-FC revenue requirement shall equal the annual Historical Transmission Revenue Requirement (“HTRR”) for NMPC’s TSC divided by NMPC’s gross transmission plant in service multiplied by the gross transmission plant in service for the WNY Ancillary Upgrades. For purposes of this calculation:

- (a) NMPC’s HTRR is equal to Attachment 1 to Attachment H, Schedule 1, line 17.
- (b) NMPC’s gross transmission plant is equal to Attachment 1 to Attachment H, Schedule 6, page 2 of 2, line 3.

In addition, to the extent that the revenues received for the WNY Ancillary Upgrades in the prior year were greater (or less) than the annual WNY-

FC revenue requirement for the year, the current year's WNY-FC revenue requirement will be decreased (or increased) by that difference. The annual WNY-FC revenue requirement will be the basis for the applicable WNY-FC Rate (\$/MWh) for the Billing Period that shall be charged by the ISO to each Responsible LSE based on its Actual Energy Withdrawals as set forth in Section 6.17.3.5.

6.17.3.3 NMPC shall request Incremental TCCs with respect to the WNY Ancillary Upgrades in accordance with the requirements of Section 19.2.4 of Attachment M of the ISO OATT and receive any Incremental TCCs to the extent awarded by the ISO pursuant to such request. As it relates solely to the WNY Ancillary Upgrades, NMPC shall not be a "Transmission Owner" for purposes of Section 20.2.5 or Section 20.3.7 of Attachment N of the ISO OATT and accordingly shall not receive an allocation of Net Congestion Rents under Section 20.2.5 of Attachment N of the ISO OATT or Net Auction Revenues under Section 20.3.7 of Attachment N of the ISO OATT.

NMPC shall in relation to the WNY Ancillary Upgrades exercise its right to obtain and maintain in effect all Incremental TCCs, including temporary Incremental TCCs, to which it has rights under Section 19.2.4 of Attachment M of the ISO OATT and shall take the actions required to do so in accordance with the procedures specified therein. Notwithstanding Sections 19.2.4.7 and 19.2.4.8 of Attachment M of the ISO OATT, Incremental TCCs created and awarded to NMPC as a result of implementation of the WNY Ancillary Upgrades shall not be eligible for sale in Secondary Markets. Incremental TCCs that may be created and awarded to NMPC as a result of the implementation of the WNY Ancillary

Upgrades, shall be offered by NMPC in all rounds of the six month Sub-Auction of each Centralized TCC Auction conducted by the ISO. The ISO shall disburse the associated auction revenues to NMPC. The total amount of the auction revenues disbursed to NMPC pursuant to this Section 6.17.3.3 shall be used in the calculation of the WNY-FC Rate, as set forth in Section 6.17.3.5. Incremental TCCs associated with the WNY Ancillary Upgrades shall continue to be offered for the duration of the Incremental TCCs, established pursuant to the terms of Attachment M of the ISO OATT.

The revenue offset discussed in this Section 6.17.3.3 shall commence upon the first payment of revenues related to Incremental TCCs associated with the implementation of the WNY Ancillary Upgrades on or after the date the WNY-FC is implemented. The WNY-FC and the revenue offset related to Incremental TCCs associated with the implementation of the WNY Ancillary Upgrades shall not require and shall not be dependent upon a reopening or review of: (i) NMPC's revenue requirements for charges set forth in another rate schedule of the ISO OATT, or (ii) NMPC's revenue requirements for its TSC set forth in Attachment H of the ISO OATT.

6.17.3.3.1 With respect to the WNY Ancillary Upgrades only, NMPC shall receive the outage charges specific to Incremental TCCs as described herein and shall not be charged O/R-t-S Congestion Rent Shortfall Charges, U/D Congestion Rent Shortfall Charges, O/R-t-S Auction Revenue Shortfall Charges or U/D Auction Revenue Shortfall Charges or be paid O/R-t-S Congestion Rent Surplus Payments, U/D Congestion Rent Surplus Payments, O/R-t-S Auction Revenue

Surplus Payments or U/D Auction Revenue Surplus Payments under Section 20.2.4 and Section 20.3.6 of Attachment N of the ISO OATT. Outage charges related to any Incremental TCCs awarded by the ISO for the WNY Ancillary Upgrades shall be separately assessed to NMPC as an Expander not subject to Section 20.2.5 of Attachment N of the ISO OATT, and payable by NMPC to the ISO, pursuant to Section 19.2.4 of Attachment M of the ISO OATT for any hour in the Day-Ahead Market during which the WNY Ancillary Upgrades are modeled to be wholly or partially out of service.

6.17.3.4 The billing units for the WNY-FC Rate for the Billing Period shall be based on the Actual Energy Withdrawals available for the current Billing Period for those Load Zones and/or Subzones allocated the costs of the project in the manner described in Section 6.17.3.1.

6.17.3.5 Cost Recovery Methodology

The ISO shall calculate the WNY-FC for each Responsible LSE as follows:

Step 1: Calculate the \$ assigned to each Load Zone or Subzone (as applicable)

$$\text{WNYFC}_{p,z,B} = (\text{AnnualRR}_{p,B} - \text{IncrementalTransmissionRightsRevenue}_{p,B} + \text{OutageCostAdjustment}_{p,B}) \times (\text{ZonalCostAllocation}_{z,p})$$

Step 2: Calculate a per-MWh Rate for each Load Zone or Subzone (as applicable)

$$\text{WNYFCRate}_{p,z,B} = \text{WNYFC}_{p,z,B} / \text{MWh}_{z,B}$$

Step 3: Calculate charge for each Billing Period for each Responsible LSE in each Load Zone or Subzone (as applicable)

$$\text{Charge}_{B,l,z,p} = \text{WNYFCRate}_{p,z,B} * \text{MWh}_{l,z,B}$$

Step 4: Calculate charge for each Billing Period for each Responsible LSE across all Load Zones or Subzones (as applicable)

$$\text{Charge}_{B,l,p} = \sum_{z \in Z} (\text{Charge}_{B,l,z,p})$$

Where,

l = the relevant Responsible LSE;

p = the WNY Ancillary Upgrades;

z = an individual Load Zone or Subzone, as applicable;

Z = set of ISO Load Zones or Subzones, as applicable;

B = the relevant Billing Period;

$MWh_{z,B}$ = Actual Energy Withdrawals in Load Zone or Subzone, as applicable, z aggregated across all hours in Billing Period B ;

$MWh_{l,z,B}$ = Actual Energy Withdrawals for Responsible LSE l in Load Zone or Subzone, as applicable, z aggregated across all hours in Billing Period B ;

$\text{AnnualRR}_{p,B}$ = the pro rata share of the annual revenue requirement for the WNY Ancillary Upgrades as set forth in 6.17.3.2 above, allocated for Billing Period B ;

$\text{IncrementalTransmissionRightsRevenue}_{p,B}$ = the auction revenue derived from the sale of Incremental TCCs plus Incremental TCC payments received by NMPC pursuant to Section 20.2.3 of Attachment N of the ISO OATT for the WNY Ancillary Upgrades, as discussed in Section 6.17.3.3 above, allocated for Billing Period B . The revenues from the sale of Incremental TCCs in the ISO's six month Sub-Auctions of each Centralized TCC Auction shall be allocated uniformly across all hours of the Billing Period;

$\text{OutageCostAdjustment}_{p,B}$ = the Outage charges determined pursuant to Section 6.17.3.3.1 above for any hour in the Day-Ahead Market during which the WNY Ancillary Upgrades are modeled to be wholly or partially out of service aggregated across all hours in Billing Period B ; and

$\text{ZonalCostAllocation}_{z,p}$ = the proportion of the cost of the WNY Ancillary Upgrades allocated to Load Zone or Subzone, as applicable, z , in the manner described in Section 6.17.3.1 above.

6.17.3.6 The ISO will collect the appropriate WNY-FC revenues each Billing Period and remit those revenues to NMPC in accordance with the ISO's billing and settlement procedures.

6.17.3.7 Payments received by NMPC for the WNY-FC will be treated as a revenue credit in the revenue requirement for NMPC's TSC. After considering the revenue credit from the WNY-FC, the net cost for the WNY Ancillary Upgrades recovered through the TSC will be deemed to be zero.

6.17.3.8 NMPC shall recalculate the WNY-FC revenue requirement each year as part of the Annual Update process set forth in Section 14.1.9.4 of Attachment H of the ISO OATT. The WNY-FC revenue requirement shall be separately stated in that Annual Update, and the Annual Update shall provide supporting documentation for the calculation of the WNY-FC revenue requirement for the Update Year. Each Responsible LSE paying the WNY-FC shall be an "Interested Party" with respect to any portion of the Annual Update related to the WNY-FC. The WNY-FC revenue requirement for the first year after the WNY Ancillary Upgrades are placed in service will be calculated retroactively to the in-service date. The ISO shall commence charging the WNY-FC beginning with the first billing period for the next effective Update Year, as such term is defined in Section 14.1.9.1.66 of Attachment H of the ISO OATT, after the WNY Ancillary Upgrades are placed into service.

22.1 Definitions

Whenever used in these Transmission Interconnection Procedures with initial capitalization, the following terms shall have the meanings specified in this Section 22.1. Terms used in these procedures with initial capitalization that are not defined in this Section 22.1 shall have the meanings specified in Sections 30.1 of Attachment X, Section 25.1.2 of Attachment S, Section 31.1.1 of Attachment Y, or Section 38.1 of Attachment FF of the ISO OATT, or, if not defined therein, in Section 1 of the ISO OATT or Section 2 of the ISO Services Tariff.

Applicable Reliability Standards shall mean the requirements and guidelines of the Applicable Reliability Councils, and the Transmission District, to which the Developer's Transmission Project is directly interconnected, as those requirements and guidelines are amended and modified and in effect from time to time; provided that no Party shall waive its right to challenge the applicability or validity of any requirement or guideline as applied to it in the context of the Transmission Interconnection Procedures.

Base Case shall mean the base case power flow, short circuit, and stability data bases used for the Transmission Interconnection Studies by the ISO, Connecting Transmission Owner, or the Transmission Developer, as described in Section 22.6.1 of the Transmission Interconnection Procedures.

Connecting Transmission Owner shall mean the New York public utility or authority (or its designated agent) that (i) owns facilities used for the transmission of Energy in interstate commerce and provides Transmission Service under the Tariff, or (ii) owns, leases or otherwise possesses an interest in the portion of the New York State Transmission System at the Point of Interconnection. If a Transmission Project interconnects to more than one Connecting Transmission Owner, the term Connecting Transmission Owner as it appears in this Attachment P shall be read to include all of the Transmission Project's Connecting Transmission Owners.

Facilities Study shall mean the study conducted pursuant to Section 22.9 of this Attachment P to determine a list of facilities required to reliably interconnect the Transmission Project (including Network Upgrade Facilities) as identified in the System Impact Study, the cost of those facilities, and the time required to interconnect the Transmission Project with the New York State Transmission System.

Facilities Study Agreement shall mean the agreement described in Section 22.9.1 of this Attachment P.

In-Service Date shall mean the date upon which the Transmission Project is energized consistent with the provisions of the Transmission Project Interconnection Agreement and available to provide Transmission Service under the NYISO Tariffs.

Network Upgrade Facilities shall mean the least costly configuration of commercially available components of electrical equipment that can be used, consistent with good utility practice and Applicable Reliability Requirements, to make the modifications or additions to the New York State Transmission System that are required for the proposed Transmission Project to connect reliably to the system in a manner that meets the NYISO Transmission Interconnection Standard.

NYISO Transmission Interconnection Standard shall mean the reliability standard that must be met by any Transmission Project proposing to connect to the New York State Transmission System. The standard is designed to ensure reliable access by the proposed project to the New York State Transmission System.

Optional Feasibility Study shall mean the preliminary evaluation of the system impact and cost of interconnecting a Transmission Project to the New York State Transmission System conducted at the option of the Transmission Developer pursuant to Section 22.7 of this Attachment P.

Optional Feasibility Study Agreement shall mean the agreement described in Section 22.7.1 of this Attachment P.

Party or Parties shall mean any entity or entities subject to the requirements of these Transmission Interconnection Procedures.

Point of Interconnection shall mean the point(s) where the Transmission Project connects to the New York State Transmission System.

Queue Position shall mean the order of a valid Interconnection Request, Study Request, or Transmission Interconnection Application relative to all other such pending requests, that is established based upon the date and time of receipt of the valid request by NYISO, unless specifically provided otherwise in an applicable transition rule set forth in Attachment P, Attachment X or Attachment Z to the ISO OATT.

Reasonable Efforts shall mean, with respect to an action required to be attempted or taken by a Party under the Transmission Interconnection Procedures, efforts that are timely and consistent with Good Utility Practice and are otherwise substantially equivalent to those a Party would use to protect its own interests.

Scoping Meeting shall mean the meeting described in Section 22.4.2.4.

Security shall mean a bond, irrevocable letter of credit, parent company guarantee or other form of security from an entity with an investment grade rating, executed for the benefit of the Connecting Transmission Owner, and/or Affected System Operator, meeting the commercially reasonable requirements of the Connecting Transmission Owner, or Affected System Operator with which it is required to be posted pursuant to Section 22.9.3 of this Attachment P.

System Impact Study shall mean the study conducted pursuant to Section 22.8 of this Attachment P that evaluates the impact of the proposed Transmission Project on the safety and reliability of the New York State Transmission System and, if applicable, an Affected System, to determine what Network Upgrade Facilities are needed for the proposed Transmission Project to

connect reliably to the New York State Transmission System in a manner that meets the NYISO Transmission Interconnection Standard described in Section 22.6.4 of this Attachment P.

System Impact Study Agreement shall mean the agreement described in Section 22.8.1 of this Attachment P.

Transmission Interconnection Application shall mean the Transmission Developer's request, in the form of Appendix 1 to the Transmission Interconnection Procedures, to interconnect a Transmission Project to the New York State Transmission System.

Transmission Developer shall mean any entity, including the Connecting Transmission Owner or any of its Affiliates or subsidiaries that proposes to interconnect its Transmission Project with the New York State Transmission System.

Transmission Interconnection Studies shall mean any of the following studies: the Optional Feasibility Study, the System Impact Study, and the Facilities Study described in the Transmission Interconnection Procedures.

Transmission Project shall be a Transmission Developer's proposed transmission facility or facilities that collectively satisfy the definition of Transmission Project in Section 22.3.1.

Transmission Project Interconnection Agreement shall mean the interconnection agreement applicable to a Transmission Interconnection Application pertaining to a Transmission Project that is entered into in accordance with Section 22.11.

22.2 Scope and Application

22.2.1 Application of Transmission Interconnection Procedures

The Transmission Interconnection Procedures (“TIP”) in Sections 22.2.1 through 22.13 apply to the processing of a Transmission Interconnection Application pertaining to a Transmission Project proposing to interconnect to the New York State Transmission System.

22.2.2 Comparability

The ISO shall receive, process and analyze all Transmission Interconnection Applications in a timely manner as set forth in the Transmission Interconnection Procedures. As described herein, the ISO will process and analyze all Transmission Interconnection Applications with independence and impartiality, in cooperation with and with input from the Transmission Developers, Connecting Transmission Owners and other Market Participants. The ISO will perform, oversee or review the Transmission Interconnection Studies to ensure compliance with the Transmission Interconnection Procedures. The ISO will use the same Reasonable Efforts in processing and analyzing Transmission Interconnection Applications from all Transmission Developers, whether or not the Transmission Projects are owned by a Transmission Owner, its subsidiaries or Affiliates, or others.

22.2.3 No Applicability to Transmission Service or Other Services

Nothing in these Transmission Interconnection Procedures shall constitute a request for Transmission Service or confer upon a Transmission Developer any right to receive Transmission Service. Nothing in these Transmission Interconnection Procedures shall constitute a request for, nor agreement to provide, any energy, Ancillary Services or Installed Capacity under the ISO Services Tariff.

22.3 Transmission Projects Subject to Transmission Interconnection Procedures

22.3.1 Definition of a Transmission Project

22.3.1.1 A Transmission Project, as defined in this Section 22.3.1, shall be subject to the Transmission Interconnection Procedures in this Attachment P.

22.3.1.2 Except as otherwise provided in Section 22.3.1.3, a Transmission Project shall include a Transmission Developer's proposed new transmission facility that will interconnect to the New York State Transmission System or a Transmission Developer's proposed upgrade – an improvement to, addition to, or replacement of a part of an existing transmission facility – to the New York State Transmission System.

22.3.1.3 Notwithstanding the definition of Transmission Project in Section 22.3.1.2, the following transmission facilities will not be a Transmission Project that is subject to these Transmission Interconnection Procedures: (i) a Class Year Transmission Project as defined in Attachment X to the ISO OATT, or (ii) a new transmission facility or upgrade proposed by a Transmission Owner in its Local Transmission Owner Plan or NYPA transmission plan that is not subject to the ISO's competitive selection process in the ISO's Comprehensive System Planning Process in Attachment Y of the ISO OATT or the ISO's Short-Term Reliability Process in Attachment FF of the ISO OATT and for which the Transmission Owner is not seeking cost allocation under the ISO OATT. A proposed controllable line for which the proposing entity is seeking CRIS to receive UDRs shall be subject to the interconnection requirements in Attachments S and X of the ISO OATT. A Transmission Owner's proposed new transmission facility or upgrade that is not a Transmission Project shall be subject to the transmission

expansion requirements in Section 3.7 of the ISO OATT.

22.3.2 Entering Service Early to Maintain System Reliability

If a Transmission Developer requests to enter into service prior to the completion of all Transmission Interconnection Studies and the completion of any required Network Upgrade Facilities, the Connecting Transmission Owner and the ISO will permit to the Transmission Project's early entry into service if: (i) there is a Transmission Project Interconnection Agreement for the Transmission Project, and (ii) the ISO and Connecting Transmission Owner(s) have determined that the Transmission Project can enter into service without violating Applicable Laws and Regulations, Applicable Reliability Standards, Good Utility Practice, and the Transmission Project Interconnection Agreement.

22.3.3 Procedures for Interconnection Requests and Study Requests Submitted Prior to the Effective Date of the Transmission Interconnection Procedures

22.3.3.1 Queue Position for Pending Requests

22.3.3.1.1 Any Transmission Developer assigned one or more Queue Position(s) for its Transmission Project prior to the effective date of these Transmission Interconnection Procedures as a Developer for an Interconnection Request submitted pursuant to Attachment X of the ISO OATT or for a Study Request submitted pursuant to Sections 3.7 or 4.5 of the OATT shall retain that Queue Position and may, as applicable, consolidate multiple Queue Positions that collectively address the Transmission Project into one Queue Position.

22.3.3.1.2 If an agreement for one of the Interconnection Studies under Attachment X of the ISO OATT or the System Impact Study or Facilities Study under Sections 3.7 or 4.5 of the OATT for a Transmission Project has not been executed

as of the effective date of these Transmission Interconnection Procedures, then such study, and any subsequent studies, shall be processed in accordance with these Transmission Interconnection Procedures.

22.3.3.1.3 If an agreement for one of the Interconnection Studies under Attachment X of the ISO OATT or the System Impact Study or Facilities Study under Sections 3.7 or 4.5 of the OATT for a Transmission Project has been executed prior to the effective date of these Transmission Interconnection Procedures, the Transmission Developer (previously referred to as the Developer or Eligible Customer) that executed the agreement may elect to either complete such study in accordance with the terms of such agreement or to execute the agreement for the comparable study, and to proceed, under these Transmission Interconnection Procedures. If the Transmission Developer elects to complete the study under Attachment X of the OATT or Sections 3.7 or 4.5 of the OATT, the Transmission Developer will proceed with any subsequent studies for the Transmission Project in accordance with the Transmission Interconnection Procedures.

22.3.3.1.4 If an interconnection agreement for a facility that satisfies the definition of Transmission Project in Section 22.3.1 has been submitted to the Commission for approval before the effective date of these Transmission Interconnection Procedures, then the interconnection agreement would be grandfathered.

22.3.3.2 Transition Period

To the extent necessary, the ISO and Transmission Developers with an outstanding request under Attachment X of the ISO OATT or Sections 3.7 or 4.5 of the OATT (*i.e.*, an Interconnection Request or a Study Request) for which an interconnection agreement has not

been submitted to the Commission for approval as of the effective date of these Transmission Interconnection Procedures) shall transition to these procedures within a reasonable period of time not to exceed sixty (60) Calendar Days. The use of the term “outstanding request” herein shall mean any Interconnection Request or Study Request, on the effective date of these Transmission Interconnection Procedures: (i) that has been submitted but not yet accepted by the ISO; (ii) where the related interconnection agreement has not yet been submitted to the Commission for approval in executed or unexecuted form, (iii) where the relevant agreements for Interconnection Studies under Attachment X of the ISO OATT or the System Impact Study or Facilities Study under Sections 3.7 or 4.5 of the OATT have not yet been executed, or (iv) where any of the relevant Interconnection Studies under Attachment X of the ISO OATT or the System Impact Study or Facilities Study under Sections 3.7 or 4.5 of the OATT are in process but not yet completed. Any Transmission Developer with an outstanding request as of the effective date of these Transmission Interconnection Procedures may request a reasonable extension of any deadline, otherwise applicable, if necessary to avoid undue hardship or prejudice to its Transmission Interconnection Application. A reasonable extension shall be granted by the ISO to the extent consistent with the intent and process provided for under these Transmission Interconnection Procedures.

22.3.4 New Transmission Provider

If the ISO transfers its control of the New York State Transmission System to a successor transmission provider during the period when a Transmission Interconnection Application is pending, the ISO shall transfer to the successor transmission provider any amount of the deposit or payment with interest thereon that exceeds the cost that it incurred to evaluate the request for interconnection. Any difference between such net amount and the deposit or payment required

by these Transmission Interconnection Procedures shall be paid by or refunded to the Transmission Developer, as appropriate. The ISO shall coordinate with the successor transmission provider to complete any Transmission Interconnection Applications (including Transmission Interconnection Studies), as appropriate, that the ISO has begun but has not completed. If the ISO has tendered a draft Transmission Project Interconnection Agreement to the Transmission Developer but the Transmission Developer has not either executed that interconnection agreement or requested the filing of an unexecuted Transmission Project Interconnection Agreement with FERC, unless otherwise provided, the Transmission Developer must complete negotiations with the successor transmission provider.

22.4 Transmission Interconnection Application

22.4.1 General

A Transmission Developer proposing to interconnect a Transmission Project to the New York State Transmission System shall submit to the ISO a Transmission Interconnection Application in the form of Appendix 1 to these Transmission Interconnection Procedures. The Transmission Interconnection Application must be accompanied by a non-refundable application fee of \$10,000. The application fee shall be divided equally between the ISO and Connecting Transmission Owner(s).

22.4.2 Valid Transmission Interconnection Application

22.4.2.1 Initiating a Transmission Interconnection Application

To initiate a Transmission Interconnection Application, a Transmission Developer must submit a \$10,000 non-refundable application fee and a completed application in the form of Appendix 1. The expected In-Service Date of the Transmission Project provided at the time of the submission of the Transmission Interconnection Application, and updates to the In-Service Date submitted after submission of the Transmission Interconnection Application, shall be no more than ten (10) years from the date the Transmission Interconnection Application is received by the ISO, subject to demonstration of reasonable progress of development of the Transmission Project.

22.4.2.2 Acknowledgment and Notification of Transmission Interconnection Application

The ISO shall acknowledge receipt of the Transmission Interconnection Application within five (5) Business Days of receipt of the request and attach a copy of the received Transmission Interconnection Application to the acknowledgement it returns to the Transmission

Developer. At the same time, the ISO shall forward a copy of the Transmission Interconnection Application and its acknowledgement to the Connecting Transmission Owner(s) with whom the Transmission Developer is proposing to connect; *provided, however*, that any Transmission Interconnection Application that is submitted for a proposed project subject to the ISO's competitive selection process in the ISO's Comprehensive System Planning Process in Attachment Y to the ISO OATT or the ISO's Short-Term Reliability Process in Attachment FF of the ISO OATT shall not be forwarded to the Connecting Transmission Owner(s) until the close of the applicable solicitation window.

22.4.2.3 Deficiencies in Transmission Interconnection Application

A Transmission Interconnection Application will not be considered to be a valid application until all items in Section 22.4.2.1 have been received by the ISO and the applicable solicitation window has closed for any Transmission Interconnection Application that is submitted for a proposed project subject to the ISO's competitive selection process in the ISO's Comprehensive System Planning Process in Attachment Y to the ISO OATT or the ISO's Short-Term Reliability Process in Attachment FF of the ISO OATT. If a Transmission Interconnection Application fails to meet the requirements set forth in Section 22.4.2.1, the ISO shall notify the Transmission Developer and the Connecting Transmission Owner(s) within five (5) Business Days of receipt of the initial Transmission Interconnection Application of the reasons for such failure and that the Transmission Interconnection Application does not constitute a valid application. However, for any Transmission Interconnection Application that is submitted for a proposed project subject to the ISO's competitive selection process in the ISO's Comprehensive System Planning Process in Attachment Y to the ISO OATT or the ISO's Short-Term Reliability Process in Attachment FF of the ISO OATT and that fails to meet the requirements set forth in

Section 22.4.2.1, the ISO shall notify the Transmission Developer and the Connecting Transmission Owner(s) no later than five (5) Business Days following the close of the applicable solicitation window. The Transmission Developer shall provide the ISO the additional requested information needed to constitute a valid application within ten (10) Business Days after receipt of such notice. The ISO shall promptly forward such information to the Connecting Transmission Owner(s); *provided, however*, for any Transmission Interconnection Application that is submitted for a proposed project subject to the ISO's competitive selection process in the ISO's Comprehensive System Planning Process in Attachment Y of the ISO OATT or the ISO's Short-Term Reliability Process in Attachment FF of the ISO OATT, such information will not be forwarded to the Connecting Transmission Owner(s) until the close of the applicable solicitation window. Failure by the Transmission Developer to comply with this Section 22.4.2.3 shall be treated in accordance with Section 22.4.5.

22.4.2.4 Scoping Meeting

Within ten (10) Business Days after receipt of a valid Transmission Interconnection Application, the ISO shall establish a date agreeable to the Transmission Developer and the Connecting Transmission Owner(s) for the Scoping Meeting. The date shall be no later than thirty (30) Calendar Days from receipt of the valid Transmission Interconnection Application, unless otherwise mutually agreed upon by the Parties.

The purposes of the Scoping Meeting shall be to discuss whether the Transmission Developer elects to pursue an Optional Feasibility Study or proceed to a System Impact Study for its Transmission Project, to discuss alternative interconnection options, to exchange information including any transmission data that would reasonably be expected to impact such interconnection options, to analyze such information and to determine the potential feasible

Points of Interconnection. The ISO, Connecting Transmission Owner(s), and the Transmission Developer will bring to the meeting such technical data, including, but not limited to: (i) general facility loadings, (ii) general stability issues, (iii) general short circuit issues, (iv) general voltage issues, (v) general reliability issues, and (vi) general system protection issues, as may be reasonably required to accomplish the purpose of the meeting. The ISO, Connecting Transmission Owner(s) and the Transmission Developer will also bring to the meeting personnel and other resources as may be reasonably required to accomplish the purpose of the meeting in the time allocated for the meeting. The Transmission Developer shall in writing within five (5) Business Days of this meeting: (i) make its election as to whether it will pursue an Optional Feasibility Study or proceed to a System Impact Study for its Transmission Project, and (ii) designate the Point(s) of Interconnection for the Transmission Project. The duration of the meeting shall be sufficient to accomplish its purpose.

22.4.3 OASIS Posting

The ISO will maintain on its OASIS a list of all valid Transmission Interconnection Applications. The list will identify, for each Transmission Interconnection Application: (i) the maximum summer and winter megawatt electrical output, if applicable; (ii) the location by county and state; (iii) the station or transmission line or lines where the interconnection will be made; (iv) the projected In-Service Date; (v) the status of the Transmission Interconnection Application, including Queue Position; (vi) the identity of the Transmission Developer; (vii) the availability of any studies related to the Transmission Interconnection Application; (viii) the date of the Transmission Interconnection Application; (ix) the type of the Transmission Project to be constructed; and (x) for Transmission Interconnection Applications that have not resulted in a completed interconnection, an explanation as to why it was not completed. Before holding a

Scoping Meeting with an Affiliate of a Connecting Transmission Owner and that Connecting Transmission Owner, the ISO shall post on its OASIS an advance notice of its intent to do so. The ISO shall post to its OASIS site any deviations from the study timelines set forth herein. Transmission Interconnection Study reports shall be posted to the ISO password-protected website subsequent to the meeting between the Transmission Developer, the ISO and the Connecting Transmission Owner(s) to discuss the applicable study results. The ISO shall also post any known deviations in date proposed by the Transmission Project in Section 22.4.3(iv), above.

22.4.4 Coordination with Affected Systems

The ISO will coordinate the conduct of any studies required to determine the impact of the Transmission Interconnection Application on Affected Systems with Affected System Operators. The ISO will include those results on Affected Systems in its applicable Transmission Interconnection Study within the time frame specified in these Transmission Interconnection Procedures. The ISO will also include results, if available, on other Affected Systems. The ISO will invite such Affected System Operators to all meetings held with the Transmission Developer as required by these Transmission Interconnection Procedures. The Transmission Developer will cooperate with the ISO in all matters related to the conduct of studies and the determination of modifications to Affected Systems. An Affected System Operator shall cooperate with the ISO and Connecting Transmission Owner(s) with whom interconnection has been requested in all matters related to the conduct of studies and the determination of modifications to Affected Systems.

22.4.5 Withdrawal

The Transmission Developer may withdraw its Transmission Interconnection Application

at any time by written notice of such withdrawal to the ISO. In addition, if the Transmission Developer fails to adhere to all requirements of these Transmission Interconnection Procedures, except as provided in Section 22.13.5 (Disputes), the ISO shall deem the Transmission Interconnection Application to be withdrawn and shall provide written notice to the Transmission Developer of the deemed withdrawal and an explanation of the reasons for such deemed withdrawal. Upon receipt of such written notice, the Transmission Developer shall have a cure period of fifteen (15) Business Days in which to either respond with information or actions that cures the deficiency or to notify the ISO of its intent to pursue Dispute Resolution.

Withdrawal following the end of the cure period shall result in the loss of the Transmission Developer's Queue Position. If a Transmission Developer disputes the withdrawal and loss of its Queue Position, then during Dispute Resolution, the Transmission Developer's Transmission Interconnection Application is eliminated from the queue until such time that the outcome of Dispute Resolution would restore its Queue Position. A Transmission Developer that withdraws or is deemed to have withdrawn its Transmission Interconnection Application shall pay to the ISO and Connecting Transmission Owner(s) all costs that the ISO and Connecting Transmission Owner(s) prudently incur with respect to that Transmission Interconnection Application prior to the receipt of notice described above. The Transmission Developer must pay all monies due to the ISO and Connecting Transmission Owner(s) before it is allowed to obtain any Transmission Interconnection Study data or results.

The ISO shall (i) update the OASIS Queue Position posting and (ii) refund to the Transmission Developer any portion of the Transmission Developer's deposit or study payments that exceeds the costs that the ISO has incurred, including interest calculated in accordance with section 35.19a(a)(2) of FERC's regulations. In the event of such withdrawal, the ISO and

Connecting Transmission Owner(s), subject to the confidentiality provisions of Section 22.13.1, shall provide, at the Transmission Developer's request, all information that the ISO and Connecting Transmission Owner(s) developed for any completed study conducted up to the date of withdrawal of the Transmission Interconnection Application.

22.5 Queue Position

22.5.1 General

The ISO shall assign a Queue Position based upon the date and time of receipt of the valid Transmission Interconnection Application; provided that, if the sole reason a Transmission Interconnection Application is not valid is the lack of required information on the application form, and the Transmission Developer provides such information in accordance with Section 22.4.2.3, then the ISO shall assign the Transmission Developer a Queue Position based on the date the application form was originally filed. The Queue Position of each Transmission Interconnection Application will be used to determine the order of performing the Transmission Interconnection Studies. A higher queued Transmission Interconnection Application is one that has been placed “earlier” in the queue in relation to another Transmission Interconnection Application that is lower queued.

22.5.2 Clustering

At the ISO’s option, Transmission Interconnection Applications may be studied serially or in clusters for the purpose of the System Impact Study or Facilities Study.

22.5.3 Transferability of Queue Position

A Transmission Developer may transfer its Queue Position to another entity only if such entity acquires the specific Transmission Project identified in the Transmission Interconnection Application and the Point(s) of Interconnection do not change. As a result of such a transfer, the acquiring entity shall become the Transmission Developer of the specific Transmission Project identified in the Transmission Interconnection Application.

22.5.4 Modifications

The Transmission Developer shall submit to the ISO, in writing, modifications to any

information provided in the Transmission Interconnection Application. The Transmission Developer shall retain its Queue Position if the modifications are permitted in accordance with Section 22.5.4.1, or are determined not to be material modifications pursuant to Section 22.5.4.3.

22.5.4.1 Prior to the parties' execution of the System Impact Study Agreement, the Transmission Developer may make any modification to the information provided in the Transmission Interconnection Application.

22.5.4.2 Following the parties' execution of the System Impact Study Agreement, a Transmission Developer may not make any modification to the proposed Transmission Project, except for changes to the project's electrical characteristics that the ISO determines do not constitute a material modification.

22.5.4.3 The ISO shall evaluate a modification to the Transmission Project's electrical characteristics and will inform the Transmission Developer in writing of whether the modifications constitute a material modification. The ISO shall commence and perform any necessary additional studies as soon as practicable, but in no event shall the ISO commence such studies later than thirty (30) Calendar Days after receiving notice of Transmission Developer's request. Any additional studies resulting from such modification shall be done at Transmission Developer's cost.

22.5.4.4 If the ISO determines that a Transmission Developer's modification to its Transmission Project constitute a material modification, the Transmission Developer must perform a new System Impact Study for its modified Transmission Project, subject to the execution of a new System Impact Study Agreement and the provision of the required study deposit.

22.5.4.5 Modifications to a Transmission Project that are permitted under this Section 22.5.4 for the purposes of the Transmission Interconnection Procedures may not be permitted under the separate requirements of the Comprehensive System Planning Process in accordance with Attachment Y of the ISO OATT or the Short-Term Reliability Process in accordance with Attachment FF of the ISO OATT.

22.6 Base Case for Transmission Interconnection Procedures and NYISO Transmission Interconnection Standard

22.6.1 Base Case Data

The power flow, short circuit, and stability data bases, hereinafter referred to as Base Cases, shall include the following that will be based upon either the ISO's fifth year or tenth year case included in the most recent FERC Form No. 715: (i) all existing generation and transmission facilities identified in the ISO's most recent NYISO Load and Capacity Data Report, excluding those facilities that are subject to Class Year cost allocation but for which Class Year cost allocations have not been accepted; (ii) all planned projects subject to Attachment S of the ISO OATT that have accepted their cost allocation in a prior Class Year cost allocation process and System Upgrade Facilities and System Deliverability Upgrades associated with those projects except that System Deliverability Upgrades where construction has been deferred pursuant to Section 25.7.12.2 and 25.7.12.3 of Attachment S of the ISO OATT will only be included if construction of the System Deliverability Upgrades has been triggered under Section 25.7.12.3 of Attachment S of the ISO OATT; (iii) all generation and transmission retirements and derates identified in the NYISO Load and Capacity Data Report as scheduled to occur during the study period for the Transmission Interconnection Study; (iv) Transmission Projects that have met the following milestones: (1) have been triggered (if subject to the Reliability Planning Process), selected (if subject to the Short-Term Reliability Process), selected (if subject to the Public Policy Transmission Planning Process), or approved by beneficiaries (if subject to the CARIS process); (2) have a completed System Impact Study (if applicable); (3) have a determination pursuant to Article VII that the Article VII application filed for the facility is in compliance with Public Service Law §122 (*i.e.*, "deemed complete") (if applicable); and (4) are making reasonable progress under the applicable Attachments Y or FF planning process (if

applicable); (v) transmission projects identified as “firm” by the Connecting Transmission Owner and either (1) have commenced a Facilities Study (if applicable) and have an Article VII application deemed complete (if applicable); or (2) are under construction and scheduled to be in-service within 12 months and (vi) all other changes to existing facilities, other than changes that are subject to Class Year cost allocation but that have not accepted their Class Year cost allocation, that are identified in the NYISO Load and Capacity Data Report or reported by Market Participants to the NYISO as scheduled to occur during the study period for the Transmission Interconnection Study. If the ISO has triggered multiple Transmission Projects under its Reliability Planning Process, the ISO will include in the base case the selected Transmission Project until or unless that project is halted or its Development Agreement is terminated, in which case the ISO will include in the base case the regulated backstop solution. If the proposed Transmission Project is related to or in response to a system condition not reflected in the above requirements, the ISO may, as appropriate, amend the Base Cases to take that system condition into account in evaluating the proposed Transmission Project.

22.6.2 Release of Base Case Data

The ISO or Connecting Transmission Owner, depending upon which of those Parties possesses the data requested, shall provide base power flow, short circuit and stability databases, including all underlying assumptions and contingency lists, to the Transmission Developer upon request. All Parties shall treat Confidential Information in accordance with Section 22.13.1 of these Transmission Interconnection Procedures. The ISO and Connecting Transmission Owner are permitted to require that the Transmission Developer sign a non-disclosure agreement before the release of Confidential Information or Critical Energy Infrastructure Information in the Base Case data.

22.6.3 The Transmission Interconnection Studies

All Transmission Projects must interconnect in compliance with the NYISO Transmission Interconnection Standard. The ISO evaluates a Transmission Interconnection Application for compliance with the NYISO Transmission Interconnection Standard throughout the Transmission Interconnection Study process. The Transmission Interconnection Studies conducted under the Transmission Interconnection Procedures consist of short circuit/fault duty, steady state (thermal and voltage) and stability analyses designed to identify the Network Upgrade Facilities required for the reliable interconnection of Transmission Projects to the New York State Transmission System in compliance with the NYISO Transmission Interconnection Standard.

22.6.4 NYISO Transmission Interconnection Standard

The NYISO Transmission Interconnection Standard is designed to ensure that a proposed Transmission Project, as it proposes to interconnect to the New York State Transmission System, is consistent with Applicable Reliability Standards and will not degrade interface transfer capability by more than 25 MW.

22.7 Optional Feasibility Study

22.7.1 Optional Feasibility Study Agreement

As soon as practicable after receiving the Transmission Developer's election in the Scoping Meeting in accordance with Section 22.4.2.4 to pursue an Optional Feasibility Study for its Transmission Project, the ISO shall tender to the Transmission Developer and the Connecting Transmission Owner an Optional Feasibility Study Agreement. At the Scoping Meeting, the Transmission Developer shall specify for inclusion in the attachment to the Optional Feasibility Study Agreement the Point(s) of Interconnection and any reasonable alternative configurations, not to exceed two alternative configurations. The Transmission Developer must provide a \$60,000 study deposit to the ISO for the Optional Feasibility Study. The tendered Optional Feasibility Study Agreement will include a good faith estimate of the cost for completing the Optional Feasibility Study. The Optional Feasibility Study Agreement shall specify that the Transmission Developer is responsible for the actual costs incurred by the ISO and the Connecting Transmission Owner for the Optional Feasibility Study. The Optional Feasibility Study Agreement shall provide that if actual study costs exceed the study deposit, the Transmission Developer shall pay the ISO the amount in excess of the study deposit, and if the actual study costs are less than the study deposit, the ISO shall refund the remaining deposit amount to the Transmission Developer. The Optional Feasibility Study Agreement shall also set forth the study schedule based on the study scope. The Transmission Developer, the ISO and the Connecting Transmission Owner shall execute and deliver to the ISO the Optional Feasibility Study Agreement no later than thirty (30) Calendar Days after the ISO tenders the Optional Feasibility Study Agreement. The Transmission Developer shall, on or before the return of the executed Optional Feasibility Study Agreement to the ISO, provide the required \$60,000 deposit.

On or before the return of the executed Optional Feasibility Study Agreement to the ISO,

the Transmission Developer shall provide the technical data required by the agreement. If the Transmission Developer does not provide all required technical data when it delivers the Optional Feasibility Study Agreement, the ISO shall notify the Transmission Developer of the deficiency within five (5) Business Days of the receipt of the executed Optional Feasibility Study Agreement and the Transmission Developer shall cure the deficiency within ten (10) Business Days of receipt of the notice, *provided, however*, such deficiency does not include failure to deliver the executed Optional Feasibility Study Agreement or deposit. If the Transmission Developer fails to provide the required technical data within this timeframe, the Transmission Interconnection Application shall be withdrawn in accordance with Section 22.4.5. The Transmission Developer, the ISO and the Connecting Transmission Owner shall execute the Optional Feasibility Study Agreement within thirty (30) Calendar Days after the ISO tenders the Optional Feasibility Study Agreement.

22.7.2 Optional Feasibility Study Scope and Procedures

The Optional Feasibility Study shall preliminarily evaluate the feasibility of the proposed interconnection to the New York State Transmission System. The Optional Feasibility Study shall be conducted in accordance with Applicable Reliability Standards and will evaluate the Transmission Project using the Base Case described in Section 22.6.1. The Optional Feasibility Study may consist of any of the following technical analyses as described in the Optional Feasibility Study scope:

- a. Conceptual breaker-level one-line diagram of existing system where project proposes to interconnect;
- b. Review of feasibility/constructability of conceptual breaker-level one-line diagram of the proposed interconnection (e.g., space for additional breaker bay in existing

substation; identification of cable routing concerns inside existing substation; environmental concerns inside the substation);

- c. Preliminary review of local protection, communication, grounding issues associated with the proposed interconnection;
- d. Power flow, short circuit and/or bus flow analyses; and/or
- e. Identification of Network Upgrade Facilities.

The schedule for completing the Optional Feasibility Study will be documented in the Optional Feasibility Study Agreement. The ISO shall utilize existing studies to the extent practicable when it performs the study. Upon request, the ISO shall provide the Transmission Developer supporting documentation, workpapers and relevant power flow, short circuit and stability databases for the Optional Feasibility Study, subject to confidentiality arrangements consistent with Section 22.13.1.

22.7.3 Optional Feasibility Study Report Meeting

As soon as practicable after completing the initial draft of the Optional Feasibility Study report, the ISO will provide the Optional Feasibility Study report to the Transmission Developer, the Connecting Transmission Owner, and any Affected Systems for review and comment. Upon completion of this review process, the ISO and the Connecting Transmission Owner shall meet with Transmission Developer and any Affected Systems to discuss the results of the Optional Feasibility Study.

22.8 System Impact Study

22.8.1 System Impact Study Agreement

As soon as practicable after receiving the Transmission Developer's election in the Scoping Meeting in accordance with Section 22.4.2.4 to proceed to a System Impact Study ("SIS") or simultaneously with the delivery of an Optional Feasibility Study to the Transmission Developer, the ISO shall tender the Transmission Developer and Connecting Transmission Owner a System Impact Study Agreement. Upon tendering the System Impact Study Agreement, the ISO shall provide to the Transmission Developer a non-binding good faith estimate of the cost and timeframe for completing the SIS.

The Transmission Developer must provide a \$120,000 study deposit to the ISO for the SIS if the ISO is responsible for performing the entire study; *provided, however*, that if the Transmission Developer is hiring a third-party consultant to perform the analytical portion of the study, pursuant to the requirements set forth in Section 22.13.4 of this Attachment P, the required deposit is \$40,000. The System Impact Study Agreement shall specify that the Transmission Developer is responsible for the actual costs incurred by the ISO and the Connecting Transmission Owner for the SIS. The System Impact Study Agreement shall provide that if actual study costs exceed the study deposit, the Transmission Developer shall pay the ISO the amount in excess of the study deposit, and if the actual study costs are less than the study deposit, the ISO shall refund the remaining deposit amount to the Transmission Developer. The System Impact Study Agreement shall also set forth the study schedule based on the study scope.

22.8.2 Execution of System Impact Study Agreement

The Transmission Developer shall execute and deliver to the ISO the System Impact Study Agreement and the applicable study deposit set forth in Section 22.8.1 no later than thirty

(30) Calendar Days after its receipt. On or before the return of the executed System Impact Study Agreement to the ISO, the Transmission Developer shall provide the technical data required by the agreement. If the Transmission Developer does not provide all required technical data when it delivers the System Impact Study Agreement, the ISO shall notify the Transmission Developer of the deficiency within five (5) Business Days of the receipt of the executed System Impact Study Agreement and the Transmission Developer shall cure the deficiency within ten (10) Business Days of receipt of the notice, *provided, however*, such deficiency does not include failure to deliver the executed System Impact Study Agreement or deposit. If the Transmission Developer fails to provide the required technical data within this timeframe, the Transmission Interconnection Application shall be withdrawn in accordance with Section 22.4.5. The Transmission Developer, the ISO and the Connecting Transmission Owner shall execute the System Impact Study Agreement within thirty (30) Calendar Days after the ISO tenders the System Impact Study Agreement. The Transmission Developer shall, on or before the return of the executed System Impact Study Agreement to the ISO, provide the required study deposit.

22.8.3 Scope of System Impact Study

The SIS shall evaluate the impact of the proposed interconnection on the reliability of the New York State Transmission System. The SIS shall be conducted in accordance with Applicable Reliability Standards. The ISO Operating Committee shall approve the specific study scope proposed for each SIS. If an Optional Feasibility Study is not performed for the project, the SIS will also evaluate the feasibility of the proposed interconnection.

Evaluation under the NYISO Transmission Interconnection Standard involves a transmission security analysis using thermal, voltage, stability and short circuit analyses, as well

as a transfer limit analysis to ensure that a Transmission Project does not degrade interface transfer capability. A Transmission Project will trigger a Network Upgrade Facility if upgrades are necessary to mitigate impacts to the controlling limit (*i.e.*, voltage, stability, thermal) as well as any impact to the thermal limit. A Transmission Project will also trigger a Network Upgrade Facility if it degrades by more than 25 MW the pre-project transfer limits of any NYISO transmission planning interface recognized in the ISO's transmission planning studies pursuant to ISO procedures. A Transmission Project that triggers an upgrade would have to fully restore the impacted transfer limits to the pre-project limits.

22.8.4 System Impact Study Procedures

The ISO shall coordinate the SIS with any Affected System that is affected by the Transmission Interconnection Application pursuant to Section 22.4.4 above. The ISO shall utilize existing studies to the extent practicable when it performs the study.

The SIS will state the assumptions upon which it is based; state the results of the analyses; and provide the requirements or potential impediments to the proposed interconnection, including a preliminary indication of the cost and length of time that would be necessary to correct any problems identified in those analyses and implement the interconnection. The SIS will provide a list of Network Upgrade Facilities that are required as a result of the Transmission Project and a nonbinding good faith estimate of cost responsibility and a non-binding good faith estimated time to construct.

The ISO may evaluate Transmission Projects moving forward in the same time frame that both contribute to Network Upgrade Facilities to determine their *pro rata* cost responsibility for such Network Upgrade Facilities.

Upon request, the ISO shall provide the Transmission Developer all supporting

documentation, workpapers and relevant pre-Transmission Interconnection Application and post-Transmission Interconnection Application power flow, short circuit and stability databases for the SIS, subject to confidentiality arrangements consistent with Section 22.13.1.

22.8.5 Study Report Meeting

As soon as practicable after completing the initial draft of the System Impact Study report, the ISO will provide the System Impact Study report to the Transmission Developer, the Connecting Transmission Owner, and any Affected Systems for review and comment. Upon completion of this review process, the ISO and the Connecting Transmission Owner shall meet with Transmission Developer and any Affected Systems to discuss the results of the SIS.

The ISO Operating Committee shall approve each final SIS.

22.9 Facilities Study

22.9.1 Facilities Study Agreement

A Transmission Developer may request that the ISO tender a Facilities Study Agreement for its Transmission Project at any time following the ISO Operating Committee's approval of the SIS for the Transmission Project pursuant to Section 22.8.5. As soon as practicable after the ISO's receipt of the Transmission Developer's request, the ISO shall tender the Transmission Developer and Connecting Transmission Owner a Facilities Study Agreement. When the ISO tenders the Facilities Study Agreement, it shall provide to the Transmission Developer a non-binding good faith estimate of the cost and timeframe for completing the Facilities Study.

The Transmission Developer must provide a \$100,000 study deposit to the ISO for the Facilities Study. The Facilities Study Agreement shall specify that the Transmission Developer is responsible for the actual costs incurred by the ISO and the Connecting Transmission Owner for the Facilities Study Agreement. NYISO shall invoice the Transmission Developer on a monthly basis for the work to be conducted on the Facilities Study. The Transmission Developer shall pay invoiced amounts within thirty (30) Calendar Days of receipt of invoice. The ISO shall continue to hold the amounts on deposit until settlement of the final invoice. The Facilities Study Agreement shall provide that if actual study costs exceed the study deposit, the Transmission Developer shall pay the ISO the amount in excess of the study deposit, and if the actual study costs are less than the study deposit, the ISO shall refund the remaining deposit amount to the Transmission Developer. The Facilities Study Agreement shall also set forth the study schedule based on the study scope.

22.9.2 Execution of Facilities Study Agreement

The Transmission Developer, the ISO and the Connecting Transmission Owner shall

execute and deliver to the ISO the Facilities Study Agreement no later than thirty (30) Calendar Days after the ISO tenders the Facilities Study Agreement. The Transmission Developer shall, on or before the return of the executed Facilities Study Agreement to the ISO, provide the deposit and technical data required by the agreement. If the Transmission Developer does not provide all required technical data when it delivers the Facilities Study Agreement, the ISO shall notify the Transmission Developer of the deficiency within five (5) Business Days of the receipt of the executed Facilities Study Agreement, and the Transmission Developer shall cure the deficiency within ten (10) Business Days of receipt of the notice, *provided, however*, such deficiency does not include failure to deliver the executed Facilities Study Agreement or deposit. If the Transmission Developer fails to provide the required technical data within this timeframe, the Transmission Interconnection Application shall be withdrawn in accordance with Section 22.4.5. The Transmission Developer, the ISO and the Connecting Transmission Owner shall execute and deliver to the ISO the Facilities Study Agreement no later than thirty (30) Calendar Days after the ISO tenders the Facilities Study Agreement. The Transmission Developer shall, on or before the return of the executed Facilities Study Agreement to the ISO, provide the required \$100,000 deposit.

22.9.3 Scope of Facilities Study

The Facilities Study shall update and refine the description of Network Upgrade Facilities identified in the System Impact Study, including the equipment, work and related cost and time estimates necessary to construct the required Network Upgrade Facilities. Transmission Developer will be responsible for posting Security in the amount of the cost estimates for the Network Upgrade Facilities documented in the final Facilities Study report pursuant to Section 22.11.1 of this Attachment P. The Facilities Study shall also contain a non-binding estimate as to

the feasible TCCs resulting from the construction of the new facilities, as applicable.

22.9.4 Facilities Study Procedures

The ISO shall coordinate the Facilities Study with the Connecting Transmission Owner and Affected System Operators, and with any other Affected System pursuant to Section 22.4.4. The ISO shall utilize existing studies to the extent practicable in performing the Facilities Study.

22.9.5 Study Report Meeting

As soon as practicable after completing the initial draft of the Facilities Study report, the ISO will provide the Facilities Study report to the Transmission Developer, the Connecting Transmission Owner, and any Affected Systems for review and comment. Upon completion of this review process, the ISO and the Connecting Transmission Owner shall meet with Transmission Developer and any Affected Systems to discuss the results of the Facilities Study.

22.10 Engineering & Procurement (“E&P”) Agreement

Prior to executing a Transmission Project Interconnection Agreement, a Transmission Developer may, in order to advance the implementation of its interconnection, request and Connecting Transmission Owner shall offer the Transmission Developer, an E&P Agreement that authorizes the Connecting Transmission Owner to begin engineering and procurement of long lead-time items necessary for the establishment of the interconnection. However, the Connecting Transmission Owner shall not be obligated to offer an E&P Agreement if the Transmission Developer is in Dispute Resolution as a result of an allegation that the Transmission Developer has failed to meet any milestones or comply with any prerequisites specified in other parts of these Transmission Interconnection Procedures. The E&P Agreement is an optional procedure and it will not alter the Transmission Developer’s Queue Position or In-Service Date. The E&P Agreement shall provide for the Transmission Developer to pay the cost of all activities authorized by the Transmission Developer and to make advance payments or provide other satisfactory security for such costs. The Transmission Developer shall pay the cost of such authorized activities and any cancellation costs for equipment that is already ordered for its interconnection, which cannot be mitigated as hereafter described, whether or not such items or equipment later become unnecessary. If the Transmission Developer withdraws its Transmission Interconnection Application or either Party terminates the E&P Agreement, to the extent the equipment ordered can be canceled under reasonable terms, the Transmission Developer shall be obligated to pay the associated cancellation costs. To the extent that the equipment cannot be reasonably canceled, Connecting Transmission Owner may elect: (i) to take title to the equipment, in which event Connecting Transmission Owner shall refund the Transmission Developer any amounts paid by the Transmission Developer for such equipment and shall pay the cost of delivery of such equipment, or (ii) to transfer title to and deliver such

equipment to the Transmission Developer, in which event the Transmission Developer shall pay any unpaid balance and cost of delivery of such equipment.

22.11 Transmission Project Interconnection Agreement

22.11.1 Tender

After completion of the Facilities Study, the Transmission Developer may request the ISO tender a draft Transmission Project Interconnection Agreement together with draft appendices completed to the extent practicable; *provided, however*, that if a Transmission Developer's proposed Transmission Project is only interconnecting to its own, existing facilities, a Transmission Project Interconnection Agreement is not required. The draft Transmission Project Interconnection Agreement shall be consistent with the NYISO's Commission-approved Standard Large Generator Interconnection Agreement located in Appendix 6 to Attachment X of the OATT, modified to address a Transmission Project. The Transmission Project Interconnection Agreement shall provide the mechanism through which a Transmission Developer shall post Security for required Network Upgrade Facilities. A Transmission Developer will be required to post Security with the applicable Connecting Transmission Owner for Network Upgrade Facilities identified in the Facilities Study; however, if the Transmission Developer and Connecting Transmission Owner are the same entity, the Transmission Developer need not post Security for Network Upgrade Facilities required on its own facilities.

22.11.2 Negotiation

Notwithstanding Section 22.11.1, at the request of the Transmission Developer, the ISO and Connecting Transmission Owner shall begin negotiations with the Transmission Developer concerning the Transmission Project Interconnection Agreement and its appendices at any time after the Transmission Developer completes the Facilities Study Agreement. The ISO, Connecting Transmission Owner and Transmission Developer shall finalize the appendices and negotiate concerning any disputed provisions of the draft Transmission Project Interconnection

Agreement and its appendices subject to the six (6) month time limitation specified below in this Section 22.11.2. If the Transmission Developer determines that negotiations are at an impasse, it may request termination of the negotiations at any time after tender of the draft Transmission Project Interconnection Agreement pursuant to Section 22.11.1 and request submission of the unexecuted Transmission Project Interconnection Agreement to FERC or initiate Dispute Resolution procedures pursuant to Section 22.13.5. If the Transmission Developer requests termination of the negotiations, but within sixty (60) Calendar Days thereafter fails to request either the filing of the unexecuted Transmission Project Interconnection Agreement or initiate Dispute Resolution, it shall be deemed to have withdrawn its Transmission Interconnection Application. Unless otherwise agreed by the Parties, if the Transmission Developer has not executed the Transmission Project Interconnection Agreement, requested filing of an unexecuted Transmission Project Interconnection Agreement, or initiated Dispute Resolution procedures pursuant to Section 22.13.5 within six (6) months of tender of draft Transmission Project Interconnection Agreement, it shall be deemed to have withdrawn its Transmission Interconnection Application.

22.11.3 Execution and Filing

The Transmission Developer shall either: (i) execute three (3) originals of the tendered Transmission Project Interconnection Agreement and return them to the ISO and Connecting Transmission Owner and request in writing that the ISO and Connecting Transmission Owner file with FERC for its acceptance the agreed-upon Transmission Project Interconnection Agreement; or (ii) request in writing that the ISO and Connecting Transmission Owner file with FERC a Transmission Project Interconnection Agreement in unexecuted form. As soon as practicable, but not later than ten (10) Business Days after receiving either submission by the

Transmission Developer, the ISO and Connecting Transmission Owner shall file the Transmission Project Interconnection Agreement with FERC. If the Transmission Developer has requested that the ISO file the Transmission Project Interconnection Agreement in unexecuted form, the ISO will draft the portions of the Transmission Project Interconnection Agreement and appendices that are in dispute. The ISO will provide its explanation of any matters as to which the Parties disagree and support for the costs that the Connecting Transmission Owner proposes to charge to the Transmission Developer under the Transmission Project Interconnection Agreement. An unexecuted Transmission Project Interconnection Agreement should contain terms and conditions deemed appropriate by the ISO for the Transmission Interconnection Application. The Connecting Transmission Owner will provide in a separate filing any comments it has on the unexecuted agreement, including any alternative positions, it may have with respect to the disputed provisions. If the Parties agree to proceed with design, procurement, and construction of Network Upgrade Facilities under the agreed-upon terms of the unexecuted Transmission Project Interconnection Agreement, they may proceed pending Commission action.

22.11.4 Commencement of Interconnection Activities

Upon submission of an executed or unexecuted Transmission Project Interconnection Agreement in accordance with Section 22.11.3, the ISO, Connecting Transmission Owner and the Transmission Developer shall perform their respective obligations that are not in dispute in accordance with the terms of the Transmission Project Interconnection Agreement, subject to modification by FERC.

22.11.5 Termination of the Transmission Project Interconnection Agreement

The termination of a Transmission Project Interconnection Agreement will be effective

only upon acceptance by FERC of the notice of termination and proposed effective date. Upon the effective date of the termination of the Transmission Project Interconnection Agreement, access to the Point of Interconnection of the Transmission Project will be available on a non-discriminatory basis pursuant to the ISO's applicable interconnection processes and procedures.

22.12 Construction of Connecting Transmission Owner's Network Upgrade Facilities

22.12.1 Schedule

The Connecting Transmission Owner, Affected System Operators and the Transmission Developer shall negotiate in good faith concerning a schedule for the construction of the Network Upgrade Facilities. In general, the In-Service Dates set forth in applicable interconnection agreements will determine the sequence of construction of required upgrade facilities.

22.12.2.2 Advance Construction of Network Upgrade Facilities, System Upgrade Facilities and System Deliverability Upgrades that are an Obligation of an Entity other than the Transmission Developer

A Transmission Developer with a Transmission Project Interconnection Agreement, in order to maintain its In-Service Date, may request that the Connecting Transmission Owner advance to the extent necessary the completion of Network Upgrade Facilities, System Upgrade Facilities, and System Deliverability Upgrades that: (i) were assumed in the Transmission Interconnection Studies for such Transmission Developer, (ii) are necessary to support such In-Service Date, and (iii) would otherwise not be completed, pursuant to a contractual obligation of an entity other than the Transmission Developer that is seeking interconnection to the New York State Transmission System, in time to support such In-Service Date. Upon such request, Connecting Transmission Owner will use Reasonable Efforts to advance the construction of such Network Upgrade Facilities, System Upgrade Facilities and System Deliverability Upgrades to accommodate such request; provided that the Transmission Developer commits in writing to pay Connecting Transmission Owner any associated expediting costs.

22.12.2.3 Advancing Construction of Network Upgrade Facilities, System Upgrade

**Facilities or System Deliverability Upgrades that are Part of an
Expansion Plan of the ISO or Connecting Transmission Owner**

A Transmission Developer with a Transmission Project Interconnection Agreement, in order to maintain its In-Service Date, may request that the Connecting Transmission Owner advance to the extent necessary the completion of Network Upgrade Facilities, System Upgrade Facilities and System Deliverability Upgrades that: (i) are necessary to support such In-Service Date and (ii) would otherwise not be completed, pursuant to an expansion plan of the ISO or Connecting Transmission Owner, in time to support such In-Service Date. Upon such request, Connecting Transmission Owner will use Reasonable Efforts to advance the construction of such Network Upgrade Facilities, System Upgrade Facilities and System Deliverability Upgrades to accommodate such request; provided that the Transmission Developer commits in writing to pay Connecting Transmission Owner any associated expediting costs.

22.13 Miscellaneous

22.13.1 Confidentiality

Information exchanged by Parties in accordance with these Transmission Interconnection Procedures are subject to the Confidentiality provisions set forth in Section 30.13.1 of Attachment X of this ISO OATT, which requirements are incorporated into this Attachment P by reference. The terms “Standard Large Generator Interconnection Agreement,” “Developer,” and “Large Facility Interconnection Procedures” as used in Section 30.13.1 of Attachment X shall include “Transmission Project Interconnection Agreement,” “Transmission Developer,” and “Transmission Interconnection Procedures,” respectively, as those terms are defined in this Attachment P.

22.13.2 Delegation of Responsibility

The ISO may use the services of subcontractors as it deems appropriate to perform its obligations under these Transmission Interconnection Procedures. The ISO shall remain primarily liable to the Transmission Developer for the performance of such subcontractors and compliance with its obligations under these Transmission Interconnection Procedures. The subcontractor shall keep all information provided confidential and shall use such information solely for the performance of such obligation for which it was provided and no other purpose.

22.13.3 Obligation for Study Costs and Study Deposits

The ISO shall charge and the Transmission Developer shall pay the actual costs of the Transmission Interconnection Studies incurred by the ISO and Connecting Transmission Owner. If a number of Transmission Interconnection Studies are conducted concurrently as a combined study, each Transmission Developer shall pay an equal share of the actual cost of the combined study. Any invoices for Transmission Interconnection Studies shall include a detailed and

itemized accounting of the cost of each Transmission Interconnection Study. Transmission Developers shall pay any such undisputed costs within thirty (30) Calendar Days of receipt of an invoice therefore. Neither the ISO nor Connecting Transmission Owner shall be obligated to perform or continue to perform any studies unless the Transmission Developer has paid all undisputed amounts in compliance herewith.

22.13.4 Third Parties Conducting Studies

If at the time of the signing of a Transmission Interconnection Study agreement there is disagreement as to the estimated time to complete a Transmission Interconnection Study, then the Transmission Developer may request the ISO to utilize a consultant or other third party reasonably acceptable to the Transmission Developer and the ISO to perform such Transmission Interconnection Study under the direction of the ISO. At other times, the ISO may also utilize a Connecting Transmission Owner or other third party to perform such Transmission Interconnection Study, either in response to a general request of the Transmission Developer, or on its own volition. In all cases, use of a third party shall be in accord with Article 26 (Subcontractors) of the Standard Large Generator Interconnection Agreement located in Attachment X of the ISO OATT and limited to situations where the ISO determines that doing so will help maintain or accelerate the study process for the Transmission Developer's pending Transmission Interconnection Application and not interfere with the ISO's progress on Transmission Interconnection Studies or Interconnection Studies for other pending Transmission Interconnection Applications or Interconnection Requests. In cases where the Transmission Developer requests to use a third party to perform such Transmission Interconnection Study, the Transmission Developer, ISO and Connecting Transmission Owner shall negotiate all of the pertinent terms and conditions, including reimbursement arrangements and the estimated study

completion date and study review deadline. The ISO shall convey all workpapers, data bases, study results and all other supporting documentation prepared to date with respect to the Transmission Interconnection Application as soon as practicable upon the Transmission Developer's request subject to the confidentiality provision in Section 22.13.1. In any case, such third party contract may be entered into with either the Transmission Developer or the ISO at the ISO's discretion. If a Transmission Developer enters into a third party study contract, the Transmission Developer shall provide the study to ISO and the Connecting Transmission Owner for review, and such third party study contract shall provide for reimbursement by the Transmission Developer of ISO's and Connecting Transmission Owner's actual cost of participating in and reviewing the study. In the case of (iii) above in this Section 22.13.4, the Transmission Developer maintains its right to submit a claim to Dispute Resolution to recover the costs of such third party study. Such third party shall be required to comply with these Transmission Interconnection Procedures, Article 26 (Subcontractors) of the Standard Large Generator Interconnection Agreement located in Attachment X of the ISO OATT, and the relevant ISO OATT procedures and protocols as would apply if the ISO were to conduct the Transmission Interconnection Study and shall use the information provided to it solely for purposes of performing such services and for no other purposes. The ISO and Connecting Transmission Owner shall cooperate with such third party and Transmission Developer to complete and issue the Transmission Interconnection Study in the shortest reasonable time.

22.13.5 Disputes

In the event any Party has a dispute, or asserts a claim, that arises out of or in connection with a Transmission Project Interconnection Agreement, these Transmission Interconnection Procedures, or their performance (a "Dispute"), such Party shall address the Dispute in

accordance with the Dispute provisions in Section 30.13.5 of Attachment X of this ISO OATT, which requirements are incorporated into this Attachment P by reference. The terms “Standard Large Generator Interconnection Agreement” (or “LGIA”), “Standard Large Facility Interconnection Procedures” (or “LFIP”), and “Attachment Facilities, Distribution Upgrades or System Upgrades” as used in Section 30.13.5 shall include “Transmission Project Interconnection Agreement,” “Transmission Interconnection Procedures,” and “Network Upgrade Facilities” respectively, as those terms are defined in this Attachment P.

22.13.6 Local Furnishing Bonds and Other Tax-Exempt Financing

22.13.6.1 Connecting Transmission Owners and Affected System Operator(s) that Own Facilities Financed by Local Furnishing Bonds or Other Tax-Exempt Bonds

This provision is applicable only to a Connecting Transmission Owner or Affected System Operator(s) that has financed facilities with tax-exempt bonds including, but not limited to, Local Furnishing Bonds (“Tax-Exempt Bonds”). Notwithstanding any other provision of the Transmission Interconnection Procedures and a Transmission Project Interconnection Agreement, neither the Connecting Transmission Owner nor Affected System Operator shall be required to construct Network Upgrade Facilities, pursuant to the Transmission Interconnection Procedures and a Transmission Project Interconnection Agreement, if such construction would jeopardize the tax-exempt status of any Tax-Exempt Bonds or impair the ability of Connecting Transmission Owner or Affected System Operator(s) to issue future tax-exempt obligations. For purposes of this provision, Tax-Exempt Bonds shall include the obligations of the Long Island Power Authority, NYPA and Consolidated Edison Company of New York, Inc., the interest on which is not included in gross income under the Internal Revenue Code.

25.5 Class Year Study and Expedited Deliverability Study Processes

25.5.1 Side Agreements

These cost allocation rules will not preclude or supersede any binding cost allocation agreements that are executed between or among Developers, Connecting Transmission Owners and/or Affected Transmission Owners; provided, however, that no such agreements will increase the cost responsibility or cause a material adverse change in the circumstances as determined by these rules of any Developer or Transmission Owner who is not a party to such agreement.

25.5.2 Costs Covered By Attachment S

The interconnection facility cost allocated by these rules is comprised of all costs and overheads associated with the design, procurement and installation of the new interconnection facilities. These rules do not address in any way the allocation of responsibility for the cost of operating and maintaining the new interconnection facilities once they are installed. Nor do these rules address in any way the ownership of the new interconnection facilities.

25.5.3 Dispatch Costs

Developers, Connecting Transmission Owners and Affected Transmission Owners will not be charged directly for any redispatch cost that may be caused by the temporary removal of transmission facilities from service to install new interconnection facilities, as such cost is reflected in Locational Based Marginal Prices. Nor will existing generators be paid for any lost opportunity cost that may be incurred when their units are dispatched down or off in connection with the installation of new interconnection facilities.

25.5.4 Transmission Owners' Cost Recovery

Any Connecting or Affected Transmission Owner implementation and construction of (i) System Upgrade Facilities as identified in the Annual Transmission Baseline Assessment or Annual Transmission Reliability Assessment, or (ii) System Deliverability Upgrades as identified in the Class Year Deliverability Study, shall be in accordance with the ISO OATT, Commission-approved ISO Related Agreements, the Federal Power Act and Commission precedent, and therefore shall be subject to the Connecting or Affected Transmission Owner's right to recover, pursuant to appropriate financial arrangements contained in agreements or Commission-approved tariffs, all reasonably incurred costs, plus a reasonable return on investment.

25.5.5 Existing System Representation

The ISO shall include in the Existing System Representation for purposes of the ATBA and ATRA for a given Class Year Study or Expedited Deliverability Study:

- 25.5.5.1 For Class Years subsequent to Class Year 2017: (i) the following facilities included in the ISO's most recent NYISO Load and Capacity Data Report: all generation identified as existing and all transmission facilities identified as existing and/or firm, excluding those facilities that are subject to Class Year cost allocation but for which Class Year cost allocations have not been accepted; (ii) all proposed generation projects and Class Year Transmission Projects, together with their associated System Upgrade Facilities and System Deliverability Upgrades, that have accepted their cost allocation in a prior Class Year cost allocation process; provided however, that System Deliverability Upgrades where construction has been deferred pursuant to Sections 25.7.12.2

and 25.7.12.3 of this Attachment S will only be included if construction of the System Deliverability Upgrades has been triggered under Section 25.7.12.3 of this Attachment S; (iii) all generation and transmission retirements and derates identified in the Load and Capacity Data Report as scheduled to occur during the five-year cost allocation study planning period; and (iv) Transmission Projects that are proposed under Attachments Y or FF of the ISO OATT and have met the following milestones prior to the Class Year Start Date: (1) have been triggered under the Reliability Planning Process, selected under the Short-Term Reliability Process, selected under the Public Policy Transmission Planning Process, or approved by beneficiaries under the CARIS process); and (2) have a completed System Impact Study; (3) have a determination pursuant to Article VII that the Article VII application filed for the facility is in compliance with Public Service Law §122 (*i.e.*, “deemed complete”) (if applicable); and (4) are making reasonable progress under the applicable OATT Attachments Y or FF planning process; (v) Transmission Projects that are not proposed under Attachments Y or FF to the ISO OATT that have completed a Facilities Study and posted Security for Network Upgrade Facilities as required in Section 22.11.1 of Attachment P to the ISO OATT and have a determination pursuant to Article VII that the Article VII application filed for the facility is in compliance with Public Service Law §122 (*i.e.*, “deemed complete”) (if applicable); (vi) transmission projects not subject to the Transmission Interconnection Procedures or the Attachment X and S interconnection procedures (*i.e.*, new transmission facilities or upgrades proposed by a Transmission Owner in its Local Transmission Owner Plan or

NYPA transmission plan) identified as “firm” by the Connecting Transmission Owner and either (1) have commenced a Facilities Study (if applicable) and have an Article VII application deemed complete (if applicable); or (2) are under construction and scheduled to be in-service within 12 months after the Class Year Start Date and (vii) all other changes to existing facilities, other than changes that are subject to Class Year cost allocation but that have not accepted their Class Year cost allocation, that are identified in the Load and Capacity Data Report or reported by Market Participants to the ISO as scheduled to occur during the five year cost allocation study planning period. Facilities in a Mothball Outage, an ICAP Ineligible Forced Outage, or Inactive Reserves will be modeled as in, and not removed from, the Existing System Representation. If the ISO has triggered multiple Transmission Projects under its Reliability Planning Process, the ISO will include in the base case the selected Transmission Project until or unless that project is halted or its Development Agreement is terminated, in which case the ISO will include in the base case the regulated backstop solution. The point of interconnection of a Retired generator with a terminated interconnection agreement is available to proposed facilities on a non-discriminatory basis pursuant to the ISO’s applicable interconnection and transmission expansion processes and procedures. A Retired generator with an interconnection agreement that remains in effect after it is Retired will retain its right to the specific point of interconnection as provided for in the interconnection agreement and access to this point will not be available for new facilities.

25.5.5.2 The System Upgrade Facilities listed on Exhibit A to the Financial

Settlement shall be included in the Existing System Representation. Such System Upgrade Facilities shall be shown as in service in the first year of the five-year cost allocation study planning period and in each subsequent year, unless such System Upgrade Facilities are cancelled or otherwise not in service by January 1, 2010; provided that if such facilities are expected to be in service after January 1, 2010, starting with the Class Year 2010, the ISO shall independently determine such later date when the System Upgrade Facilities are expected to be in service and represent them according to the ISO's determination.

25.5.5.3 System Upgrade Facilities not listed on Exhibit A to the Financial

Settlement, but for which cost allocations have been accepted in a prior Class Year cost allocation process, shall be represented in the Existing System Representation for subsequent cost allocation studies in the year of their anticipated in-service date.

25.5.6 Attachment Facilities

Each Developer is responsible for 100% of the cost of the Attachment Facilities required for the reliable interconnection of its generation project or Class Year Transmission Project in compliance with the NYISO Minimum Interconnection Standard, as that responsibility is determined by these rules.

25.5.7 Distribution Upgrades

Each Developer is responsible for 100% of the cost of the Distribution Upgrades required for the reliable interconnection of its generation project or Class Year Transmission Project in

compliance with the NYISO Minimum Interconnection Standard, as that responsibility is determined by these rules.

25.5.8 No Prioritization of Class Year Projects or Projects in an Expedited Deliverability Study

There will be no prioritization of (1) the projects grouped and studied together in a Class Year; or (2) the projects grouped and studied together in an Expedited Deliverability Study. Each project in a Class Year Study will, with other projects in the same Class Year, share in the then currently available functional or electrical capability of the transmission system, and share in the cost of the System Upgrade Facilities required to interconnect its respective project and, for Developers seeking CRIS, System Deliverability Upgrades required under the NYISO Deliverability Interconnection Standard, in accordance with the rules set forth herein. Each project in an Expedited Deliverability Study will, with other projects in the same Expedited Deliverability Study, share in the then currently available functional or electrical capability of the transmission system in accordance with the rules set forth herein. For purposes of this Section 25.5.8, the “then currently available functional or electrical capability of the transmission system” is the functional or electrical capability of the transmission system currently available in the applicable base case.

25.5.9 Class Year and Expedited Deliverability Study Start Date, Entry Requirements and Schedule

25.5.9.1 Class Year Start Date, Entry Requirements and Schedule

The Class Year Study will begin on the Class Year Start Date, which will be the first Business Day after thirty (30) Calendar Days following the completion of the prior Class Year Study.

The ISO will provide notice of the Class Year Study Start Date by (1) sending notice of the start date to those registered through the ISO to be on the distribution lists for the NYISO Operating Committee and its subcommittees; and (2) posting notice of the Class Year Study Start Date.

In order to become an Eligible Class Year Project, a Developer must:

- (1) elect to enter the applicable Class Year by providing notice to the ISO, together with (i) a demonstration that the project satisfies the applicable regulatory milestones described in Section 25.6.2.3.1.1 of Attachment S or (ii) notice that it will submit a qualifying contract pursuant to Section 25.6.2.3.1 of this Attachment S or a two-part deposit consisting of \$100,000 plus \$3,000/MW deposit as required by Section 25.6.2.3.1, no later than five (5) Business Days following the ISO's posting of the Class Year Start Date; and
- (2) satisfy the criteria for inclusion in the next Class Year, on or before the Class Year Start Date, as those criteria are specified in Section 25.6.2.3.1 of this Attachment S, Section 32.1.1.7 of Attachment Z to the OATT or Section 32.3.5.3.2 of Attachment Z to the OATT, as applicable; and
- (3) if requesting only CRIS, have completed one of the following on or before the Class Year Start Date, as applicable: a Class Year Study for ERIS, a System Impact Study under the Small Generator Interconnection Procedures, or a utility interconnection study if the facility is not subject to the ISO interconnection procedures under Attachments X and Z.

Upon a Developer's satisfaction of the Class Year Study eligibility criteria specified in this 25.5.9.1, the ISO will tender a Class Year Study Agreement to the Developer pursuant to

Section 30.8.1 of Attachment X to the OATT. An Eligible Class Year Project that satisfies the requirements of Section 30.8.1 of Attachment X to the OATT as it relates to completion of a Class Year Study Agreement, submission of required technical data and updated In-Service Date, Initial Synchronization Data and Commercial Operation Date, and submission of required deposits, all within 10 Business Days of the tender of the Class Year Study Agreement, will become a Class Year Project.

An Eligible Class Year Project that elects to enter a Class Year Study pursuant to this Section 25.5.9.1 but retracts its election prior to the ISO's tender of the Class Year Study Agreement will not become a member of the Class Year Study. An Eligible Class Year Project that elects to enter a Class Year Study pursuant to this Section 25.5.9.1 but retracts its election after the ISO's tender of the Class Year Study Agreement prior to or after the deadline for execution of the Class Year Study Agreement will not become a member of the Class Year Study; however, such retraction will count as one of the two Class Year Studies that a project may enter pursuant to Section 25.6.2.3.4 of this Attachment S.

All parties engaged in performing study work as part of the Annual Transmission Reliability Assessment and Class Year Deliverability Study (collectively, the Class Year Study) are required to use Reasonable Efforts to complete the basic required evaluations and cost estimates for Connecting Transmission Owner's Attachment Facilities, Distribution Upgrades, System Upgrade Facilities, and System Deliverability Upgrades in order that the Class Year Study can be presented to the Operating Committee for approval within twelve (12) months from the Class Year Start Date.

Through the Interconnection Projects Facilities Study Working Group and/or the Transmission Planning Advisory Subcommittee distribution lists, the ISO will provide the

anticipated Class Year Schedule, including the status of and anticipated completion date of the Annual Transmission Baseline Assessment study cases.

25.5.9.2 Expedited Deliverability Study Process

25.5.9.2.1 Study Start Date, Entry Requirements and Schedule

The start date for the first Expedited Deliverability Study will be the first Business Day after thirty (30) Calendar Days following [effective date]. After the completion of the initial Expedited Deliverability Study, each Expedited Deliverability Study will begin the first Business Day after thirty (30) Calendar Days following the completion of the prior Expedited Deliverability Study; provided however, an Expedited Deliverability Study may not commence during the period between the posting of the draft Class Year Study report for Operating Committee approval and commencement of the next Class Year Study. If the first Business Day after thirty (30) Calendar Days following the completion of the prior Expedited Deliverability Study falls on a date within the above-described Class Year decision and settlement period, the Expedited Deliverability Study will begin on the first Business Day after ten (10) Calendar Days following the Class Year Study Start Date immediately following the above-described Class Year decision and settlement period.

The ISO will provide notice of the Expedited Deliverability Study start date by (1) sending notice of the start date to those registered through the ISO to be on the distribution lists for the NYISO Operating Committee and its subcommittees; and (2) posting notice of the Expedited Deliverability Study start date.

In order to become eligible to enter an Expedited Deliverability Study, a Developer must (1) elect to enter the Expedited Deliverability Study by providing notice to the ISO by the Expedited Deliverability Study start date; (2) must have satisfied the data submission

requirements set forth in Section 23.4.5.7.3.6 of the ISO Services Tariff required for Class Year Projects requesting CRIS in a Mitigated Capacity Zone and have such data submission deemed complete by the ISO by the Expedited Deliverability Study start date; and (3) must be in service or have completed one of the following, as applicable: a Class Year Study for ERIS, a System Impact Study under the Small Generator Interconnection Procedures, or a utility interconnection study if the facility is not subject to the ISO interconnection procedures under Attachments X and Z. A project that satisfies the eligibility requirements for an Expedited Deliverability Study will become a member of the Expedited Deliverability Study if it satisfies the requirements of Section 25.5.9.2.2 of this Attachment S as it relates to completion of an Expedited Deliverability Study Agreement, submission of the required deposit, and submission of required technical data.

All parties engaged in performing study work as part of the Expedited Deliverability Study are required to use Reasonable Efforts to complete the basic required evaluations in order for the Expedited Deliverability Study to be presented to the NYISO Operating Committee for approval within four (4) months from the date that the ISO confirms receipt of all of the following: (1) the executed Expedited Deliverability Study Agreement; (2) the \$30,000 Expedited Deliverability Study deposit required by Section 25.5.9.2.2 of this Attachment S; and (3) the technical data required by Section 25.5.9.2.2 of this Attachment S.

25.5.9.2.2 Expedited Deliverability Study Agreement

As soon as practicable after a Developer has notified the ISO of its request to enter the next Expedited Deliverability Study, the ISO shall tender an Expedited Deliverability Study Agreement in the form of Appendix 2 to this Attachment S. When the ISO tenders an Expedited Deliverability Study Agreement to a Developer, the ISO shall, at the same time, also provide one to the applicable Connecting Transmission Owner. The Expedited Deliverability Study

Agreement shall provide that the Developer shall compensate the ISO for the actual cost of the Expedited Deliverability Study. When the ISO tenders the Expedited Deliverability Study Agreement to the requesting Developer, the ISO shall provide to the Developer a non-binding good faith estimate of the cost and timeframe for completing the Expedited Deliverability Study. Within ten (10) Business Days after the ISO tenders the Expedited Deliverability Study Agreement, the Developer shall complete the Expedited Deliverability Study Agreement and deliver the completed agreement to the ISO. Developer shall, with the completed Expedited Deliverability Study Agreement, deliver to the ISO (1) the required technical data and (2) a study deposit of \$30,000. The Developer, ISO and Connecting Transmission Owner shall execute the Expedited Deliverability Study Agreement no later than ten (10) Calendar Days after the ISO confirms receipt of the executed Expedited Deliverability Study Agreement, the required technical data and required deposit from the Developer. The ISO shall provide a copy of the fully executed Expedited Deliverability Study Agreement to the Developer and Connecting Transmission Owner. The ISO shall invoice the Expedited Deliverability Study Developer on a monthly basis for the work conducted on the Expedited Deliverability Study. Each Developer shall pay an equal share of the actual cost of the combined Expedited Deliverability Study. The Developer shall pay invoiced amounts within thirty (30) Calendar Days of receipt of invoice. The ISO shall continue to hold the amounts on deposit in an interest bearing account associated with the Developer until settlement of the final invoice.

25.5.9.2.3 Expedited Deliverability Study Procedures

The ISO shall coordinate the Expedited Deliverability Study and shall utilize existing studies to the extent practicable in performing the Expedited Deliverability Study. The ISO may request additional information from the Developer and Connecting Transmission Owner as may

reasonably become necessary consistent with Good Utility Practice during the course of the Expedited Deliverability Study. Upon request from the ISO for additional information required for or related to the Expedited Deliverability Study, the Developer and Connecting Transmission Owner shall provide such additional information in a prompt manner.

Within ten (10) Business Days of providing a draft Expedited Deliverability Study report to an Expedited Deliverability Study Developer, the ISO, Connecting Transmission Owner, and Affected System Operator(s) shall meet with the Developer to discuss the results of the Expedited Deliverability Study.

The ISO shall use Reasonable Efforts to complete the study and present the Expedited Deliverability Study report to the Operating Committee within the timeframe set forth in Section 25.5.9.2.1 of this Attachment S; provided, however, an Expedited Deliverability Study report shall not proceed to the Operating Committee between Operating Committee approval of a Class Year Study and commencement of the next Class Year Study. An Expedited Deliverability Study may not proceed to the Operating Committee until after ten (10) Calendar Days following the completion of the Class Year Study. After Operating Committee approval of the Expedited Deliverability Study report, the Expedited Deliverability Study Developers will be subject to the decision process set forth in Section 25.5.9.2.4.

Before Operating Committee approval of the Expedited Deliverability Study, if the pending Class Year Study proceeds to decision and settlement pursuant to Section 25.8 of this Attachment S and a Class Year Project accepts or rejects a Project Cost Allocation that the ISO determines may impact the deliverability of a project in the Expedited Deliverability Study, the assumptions used in the Expedited Deliverability Study will be updated before the commencement of the next Class Year Study.

At the request of any Expedited Deliverability Study Developer, or at any time the ISO determines that it will not meet the required timeframe for completing the Expedited Deliverability Study, the ISO shall notify the Expedited Deliverability Study Developer as to the schedule status of the Expedited Deliverability Study. If the ISO is unable to complete the Expedited Deliverability Study within the initial schedule, it shall notify the Expedited Deliverability Study Developer and provide an estimated completion date and an explanation of the reasons why additional time is required.

Upon request, the ISO shall provide the Expedited Deliverability Study Developer supporting documentation, workpapers, and databases or data developed in the preparation of the Expedited Deliverability Study, subject to non-disclosure arrangements consistent with Section 30.13.1.

25.5.9.2.4 Expedited Deliverability Study Decision Process

Within 5 Business Days following approval of the Expedited Deliverability Study by the Operating Committee (such 5 Business Day period to be referred to as the “Expedited Deliverability Study Initial Decision Period”), each Developer in the Expedited Deliverability Study shall provide notice to the ISO, in writing and via electronic mail, stating whether it shall accept (an “Expedited Deliverability Study Acceptance Notice”) or not accept (an “Expedited Deliverability Study Non-Acceptance Notice”) the Deliverable MW, if any, reported to it by the ISO in the Expedited Deliverability Study report. Failure to notify the ISO by the prescribed deadline as to whether a Developer accepts or rejects its Deliverable MW, if any, will be deemed an Expedited Deliverability Study Non-Acceptance Notice. As soon as practicable following the end of the Expedited Deliverability Study Initial Decision Period, the ISO shall report to all

Class Year Developers, in writing and via electronic mail, all of the decisions submitted by Developers in the Expedited Deliverability Study.

At the end of the Expedited Deliverability Study Initial Decision Period, if one or more of the Developers provides an Expedited Deliverability Study Non-Acceptance Notice (such event an “Expedited Deliverability Study Non-Acceptance Event”), the Developer that provided the Expedited Deliverability Study Non-Acceptance Notice will be removed from the then current Expedited Deliverability Study and the ISO shall update the Expedited Deliverability Study results for those remaining Developers in the Expedited Deliverability Study to reflect the impact of the projects withdrawn from the Expedited Deliverability Study. The revised Expedited Deliverability Study report shall include updated Deliverable MW, if any, and shall be issued within 10 Business Days following the occurrence of an Expedited Deliverability Study Non-Acceptance Event. Each remaining Developer shall be deemed to have accepted its respective Deliverable MW identified in the revised Expedited Deliverability Study report.

25.5.10 Additional SDU Studies

25.5.10.1 Notice of SDUs Requiring Additional Studies

If a new System Deliverability Upgrade is identified (*i.e.*, a System Deliverability Upgrade not previously identified and cost allocated in a Class Year Study and not substantially similar to a System Deliverability Upgrade previously identified and cost allocated in a Class Year Study), the ISO will notify all members of the ISO’s Interconnection Projects Facilities Study Working Group that the ISO has made such a determination, such notice to be provided as soon as practicable after the ISO presents the preliminary Class Year Deliverability Study results to stakeholders and the ISO Operating Committee approves such results. This notice will be referred to as the “Notice of SDUs Requiring Additional Study.” At the same time the ISO issues

the Notice of SDUs Requiring Additional Study, the ISO will issue a notice to only those Class Year Project Developers for which the ISO has identified System Deliverability Upgrades requiring additional SDU studies. Each Developer to which such notice is issued shall respond to the ISO within 10 Calendar Days to indicate whether it elects to (1) proceed or not proceed with an Additional SDU Study for the identified System Deliverability Upgrades; or (2) pursue one of multiple System Deliverability Upgrade alternatives identified by the ISO, which option Developer elects to be evaluated in the Additional SDU Study. If the Developer does not elect to pursue an Additional SDU Study for required System Deliverability Upgrades, it may only accept or reject its Deliverable MW, if any, in the Class Year Study. If the ISO does not receive the Developer's election by the deadline, the Developer will be deemed to have (1) notified the ISO that it elects to not proceed with an Additional SDU Study for the identified System Deliverability Upgrades; and (2) will only be permitted to accept or reject its Deliverable MW, if any, in the Class Year Study.

25.5.10.2 Additional SDU Studies

If no Class Year Project Developer to which the Notice of SDUs Requiring Additional Study is issued elects to proceed with such additional studies, the Class Year Study will proceed to the decision and settlement phase set forth in Section 25.8.2 of this Attachment S.

Alternatively, if any Class Year Project Developer to which the Notice of SDUs Requiring Additional Study is issued elects to proceed with such additional studies, the Class Year Study will proceed to the decision and settlement phase set forth in Section 25.8.2 of this Attachment S; however, the Additional SDU Study will be performed separate and apart from the Class Year Study; provided however, pursuant to Section 25.8.2 of this Attachment S, a Developer that elects to proceed with an Additional SDU Study has the option to proceed with the decision and

settlement phase with the rest of the Class Year for its SUF Project Cost Allocation and deliverable MW, if any.

If an Additional SDU Study is completed after the Class Year Study is approved by the NYISO Operating Committee but prior to the time that the ISO completes the Annual Transmission Baseline Assessment study cases for the subsequent Class Year Study, a Developer that elected to proceed with an Additional SDU Study may proceed to decision and settlement pursuant to Section 25.8.2(2) of this Attachment S.

If a Developer is part of an Additional SDU Study that does not complete in time for the Developer to proceed to decision and settlement pursuant to Section 25.8.2 of this Attachment S, the following provisions apply:

- (1) The Developer will be required to enter a subsequent Class Year Study (*i.e.*, a Class Year Study subsequent to the one in which the Additional SDU Study was triggered) if it wishes to obtain an SDU Project Cost Allocation for its requested CRIS.
- (2) The Developer's election to enter a subsequent Class Year Study is subject to the applicable entry requirements of Section 25.5.9 and Section 30.8.1 of Attachment X; provided, however, a Developer that elects to enter the first such subsequent Class Year Study (*i.e.*, the first Class Year Study that commences after the Additional SDU Study commences) may provide notice of its election to enter such subsequent Class Year Study on or before completion of the Annual Transmission Baseline Assessment study cases for the subsequent Class Year Study.

- (3) Election to enter into a subsequent Class Year Study will not constitute one of the two Class Years a project may enter under Section 25.6.2.3.4 of Attachment S; provided, however, if the Developer enters a subsequent Class Year Study but rejects its SDU Project Cost Allocation for its requested CRIS, such action will constitute one of the two Class Years;
- (4) In a subsequent Class Year Study to evaluate the Developer's requested CRIS, the Additional SDU Studies will continue; provided, however, the base case used in the Additional SDU Studies will be updated based on the base case inclusion rules for that Class Year Study determined in accordance with Section 25.5.5.1 of this Attachment S.

If a Developer in Additional SDU Study accepted its SUF Project Cost Allocation pursuant to Section 25.8.2 of this Attachment S prior to the completion of the Annual Transmission Baseline Assessment study cases for the subsequent Class Year Study, the project and its SUF will be included in the Existing System Representation for the subsequent Class Year Study.

For purposes of determining the Class Year Start Date for the next Class Year Study, a Class Year Study is complete on the date upon which the Final Decision Round completes for the Class Year Study decision period commenced in accordance with Section 25.8 of this Attachment S; the date an Additional SDU Study is completed does not impact the Class Year Start Date for the next Class Year Study. The next Class Year Study may commence prior to completion of an Additional SDU Study if the Additional SDU Study has not completed before the Initial Decision Period commences for the Class Year Study in accordance with Section 25.8.2(1) of this Attachment S.

25.7 Deliverability Studies and Cost Allocation Methodology for CRIS

25.7.1 Class Year Deliverability Study and Non-Class Year Expedited Deliverability Study

A Developer requesting CRIS for a project larger than 2 MW may elect to enter either a Class Year Study or an Expedited Deliverability Study; provided however, a Developer may not be evaluated in both studies simultaneously (*i.e.*, a Developer with CRIS being evaluated in a Class Year Study may not enter an Expedited Deliverability Study for evaluation of the same CRIS request until the Class Year Study has completed. A Developer with CRIS being evaluated in an Expedited Deliverability Study may not enter a Class Year Study for evaluation of the same CRIS request until the Expedited Deliverability Study has completed). A Class Year Study deliverability evaluation first evaluates whether a facility satisfies the NYISO Deliverability Interconnection Standard at its full amount of requested CRIS. If a facility is not deliverable for its full amount of requested CRIS, the Class Year Study proceeds to identify and cost allocate System Deliverability Upgrades required to make the facility fully deliverable for the full amount of requested CRIS. An Expedited Deliverability Study only evaluates whether a facility satisfies the NYISO Deliverability Interconnection Standard at its full amount of requested CRIS; it does not identify or cost allocate System Deliverability Upgrades. A Developer evaluated in an Expedited Deliverability Study and deemed undeliverable at its full amount of requested CRIS may (1) enter the next Open Class Year Study to obtain a Project Cost Allocation for required System Deliverability Upgrades; or (2) enter into a subsequent Expedited Deliverability Study or Class Year Study with the same or different CRIS request.

25.7.1.1 Cost Allocation Among Developers in a Class Year

Each project in a Class Year Deliverability Study (“Class Year CRIS Project”) will share in the then currently available deliverability capability of the New York State Transmission System, and will also share in the cost of any System Deliverability Upgrades required for its project to qualify for CRIS at the requested level. The total cost of the System Deliverability Upgrades required for all the projects in the Class Year will be allocated among the projects in the Class Year based on the pro rata impact of each Class Year CRIS Project on the deliverability of the New York State Transmission System, that is, the pro rata contribution of each project in the Class Year Deliverability Study to the total cost of each of the System Deliverability Upgrades identified in the Class Year Deliverability Study. In addition to this allocation of cost responsibility for System Deliverability Upgrades among the projects in a Class Year, the cost of certain Highway System Deliverability Upgrades will be shared with Load Serving Entities and subsequent Developers, as described below in Section 25.7.12 of these rules.

25.7.1.2 Expedited Deliverability Study

The Expedited Deliverability Study shall be performed concurrently for all projects that meet the entry requirements set forth in Section 25.5.9.2.1 of this Attachment S as a combined Expedited Deliverability Study.

25.7.2 Categories of transmission facilities

For purposes of applying the NYISO Deliverability Interconnection Standard, transmission facilities comprising the New York State Transmission System will be categorized as either Byways or Highways or Other Interfaces.

25.7.2.1 Byways

The Developer of a Class Year CRIS Project will pay its pro rata share of one hundred percent (100%) of the cost of the System Deliverability Upgrades to any Byway needed to make the Class Year CRIS Project deliverable in accordance with these rules. The System Deliverability Upgrades on the Byway or Byways will be identified by the ISO, with input from the Connecting Transmission Owner and from the Affected Transmission Owner(s), in the Class Year Deliverability Study.

The Transmission Owner(s) responsible for constructing a System Deliverability Upgrade on a Byway shall request Incremental TCCs with respect to the System Deliverability Upgrade in accordance with the requirements of Section 19.2.4 of Attachment M of the ISO OATT. A Developer paying to upgrade a Byway will receive the right to accept any Incremental TCCs awarded by the ISO in proportion to its contribution to the total cost of the System Deliverability Upgrade. The ISO shall round any non-whole MW quantities to a whole number of Incremental TCCs in a manner that ensures that the sum of all individual allocations to eligible entities is equal to the total number of Incremental TCCs awarded to the System Deliverability Upgrade; provided, however, that a Developer will not be entitled to receive any Incremental TCCs if the whole number value determined by the ISO for the Developer's proportionate share is zero. If a Developer elects to accept its proportionate share of any Incremental TCCs resulting from the System Deliverability Upgrade, the Developer shall be the Primary Holder of such Incremental TCCs. If a Developer declines an award of its proportionate share of any Incremental TCCs resulting from the System Deliverability Upgrade, or subsequently terminates the Incremental TCCs it elected to receive in accordance with Section 19.2.4.9 of Attachment M of the ISO OATT, the declined or terminated Incremental TCCs will be deemed reserved to the extent necessary to facilitate the potential for transfers to subsequent

Developers that pay for the use of Headroom pursuant to this Attachment S on a System Deliverability Upgrade that has been awarded Incremental TCCs. Incremental TCCs that are declined or terminated by a Developer and not otherwise deemed reserved will be deemed permanently terminated. Incremental TCCs related to a System Deliverability Upgrade that were previously deemed reserved as a result of prior declination or termination will be deemed permanently terminated when the Headroom on the System Deliverability Upgrade ceases to exist or is otherwise reduced to zero in accordance with Section 25.8.7.4 of this Attachment S.

A Developer paying to upgrade a Byway will be eligible to receive Headroom payments in accordance with these rules. A subsequent Developer paying for use of Headroom on a System Deliverability Upgrade on a Byway will be entitled to receive Incremental TCCs, to the extent Incremental TCCs have been awarded by the ISO for the System Deliverability Upgrade, in proportion to its contribution to the total cost of the System Deliverability Upgrade, as determined based on its required Headroom payments. The ISO shall round any non-whole MW quantities to a whole number of Incremental TCCs in a manner that ensures that the sum of all individual allocations to eligible entities is equal to the total number of Incremental TCCs awarded to the System Deliverability Upgrade; provided, however, that a subsequent Developer will not be entitled to receive any Incremental TCCs if the whole number value determined by the ISO for the subsequent Developer's proportionate share is zero. If a Developer that initially paid for a System Deliverability Upgrade on a Byway elected to receive its proportionate share of any Incremental TCCs related to the System Deliverability Upgrade and continues to hold such Incremental TCCs, any Incremental TCCs that a subsequent Developer is eligible to receive will be made available by reducing the Incremental TCCs related to the System Deliverability Upgrade held by the Developer that initially paid for the System Deliverability Upgrade in

proportion to the Headroom payments received by such Developer from the subsequent Developer making such Headroom payments. If a Developer that initially paid for a System Deliverability Upgrade on a Byway declined to receive its proportionate share of any Incremental TCCs related to the System Deliverability Upgrade or subsequently terminated the Incremental TCCs it elected to receive, any Incremental TCCs that a subsequent Developer is eligible to receive will be made available from the Incremental TCCs related to the System Deliverability Upgrade that were previously deemed reserved as a result of prior declination or termination in proportion to the Headroom payments received by the Developer that initially paid for the System Deliverability Upgrade from the subsequent Developer making such Headroom payments. If a subsequent Developer elects to accept its proportionate share of any Incremental TCCs, the subsequent Developer shall be the Primary Holder of such Incremental TCCs; provided, however, that Incremental TCCs that were previously deemed reserved and are transferred to a subsequent Developer will become effective on the first day of the Capability Period that commences following the next Centralized TCC Auction conducted after the subsequent Developer makes the necessary Headroom payment and elects to receive its proportionate share of Incremental TCCs. If a subsequent Developer declines an award of its proportionate share of any Incremental TCCs resulting from its Headroom payments, or subsequently terminates the Incremental TCCs it elected to receive in accordance with Section 19.2.4.9 of Attachment M of the ISO OATT, the declined or terminated Incremental TCCs will be deemed permanently terminated.

Any Incremental TCCs resulting from a System Deliverability Upgrade on a Byway, regardless of the Primary Holder thereof, may not be sold or transferred through a Centralized TCC Auction, Reconfiguration Auction or the Secondary Market.

25.7.2.2 Highways

The Developer of a Class Year CRIS Project will pay an allocated share of the cost of the System Deliverability Upgrades to any Highway needed to make the Class Year Project deliverable in accordance with these rules. The System Deliverability Upgrades on the Highway or Highways, and the Developer's allocated share of the cost of those System Deliverability Upgrades, will be identified by the ISO, with input from the Connecting Transmission Owner and from the Affected Transmission Owner(s), in the Class Year Deliverability Study.

The Transmission Owner(s) responsible for constructing a Highway System Deliverability Upgrade shall request Incremental TCCs with respect to the Highway System Deliverability Upgrade in accordance with the requirements of Section 19.2.4 of Attachment M of the ISO OATT. A Developer paying for Highway System Deliverability Upgrades will receive the right to accept any Incremental TCCs awarded by the ISO, in proportion to its contribution to the total cost of the Highway System Deliverability Upgrade. The ISO shall round any non-whole MW quantities to a whole number of Incremental TCCs in a manner that ensures that the sum of all individual allocations to eligible entities is equal to the total number of Incremental TCCs awarded to the Highway System Deliverability Upgrade; provided, however, that a Developer will not be entitled to receive any Incremental TCCs if the whole number value determined by the ISO for the subsequent Developer's proportionate share is zero. If a Developer elects to accept its proportionate share of any Incremental TCCs resulting from the Highway System Deliverability Upgrade, the Developer shall be the Primary Holder of such Incremental TCCs. If a Developer declines an award of its proportionate share of any Incremental TCCs resulting from the Highway System Deliverability Upgrade, or subsequently terminates the Incremental TCCs it elected to receive in accordance with Section 19.2.4.9 of Attachment M of the ISO OATT, the declined or terminated Incremental TCCs will be deemed

reserved to the extent necessary to facilitate the potential for transfers to subsequent Developers that pay for the use of Headroom pursuant to this Attachment S on a Highway System Deliverability Upgrade that has been awarded Incremental TCCs. Incremental TCCs that are declined or terminated by a Developer and not otherwise deemed reserved will be deemed permanently terminated. Incremental TCCs related to a Highway System Deliverability Upgrade that were previously deemed reserved as a result of prior declination or termination will be deemed permanently terminated when the Headroom on the Highway System Deliverability Upgrade ceases to exist or is otherwise reduced to zero in accordance with Section 25.8.7.4 of this Attachment S.

The Transmission Owner(s) responsible for constructing a Highway System Deliverability Upgrade shall also be awarded, and be the Primary Holder of, any Incremental TCCs related to the portion of a Highway System Deliverability Upgrade funded by Load Serving Entities pursuant to Section 25.7.12 of this Attachment S, in proportion to the contribution of the Load Serving Entities to the total cost of the Highway System Deliverability Upgrade. The ISO shall round any non-whole MW quantities to a whole number of Incremental TCCs in a manner that ensures that the sum of all individual allocations to eligible entities is equal to the total number of Incremental TCCs awarded to the Highway System Deliverability Upgrade; provided, however, that no Incremental TCCs will be awarded to the Transmission Owner(s) responsible for constructing a Highway System Deliverability Upgrade for the portion of a Highway System Deliverability Upgrade funded by Load Serving Entities if the whole number value determined by the ISO for the Load Serving Entities' proportionate share is zero.

A Developer paying for a Highway System Deliverability Upgrade will be eligible to receive Headroom payments in accordance with these rules to the extent that it pays for System Deliverability Upgrade capacity in excess of that required to provide the requested level of CRIS and Load Serving Entities have not funded a portion of the costs of the Highway System Deliverability Upgrade pursuant to Section 25.7.12 of this Attachment S. If Load Serving Entities have funded a portion of a Highway System Deliverability Upgrade pursuant to Section 25.7.12 of this Attachment S, the Transmission Owner(s) responsible for constructing the Highway System Deliverability Upgrade will be eligible to receive any and all Headroom payments related to the System Deliverability Upgrade in accordance with these rules on behalf, and for the benefit, of the Load Serving Entities that funded a portion of the System Deliverability Upgrade.

A subsequent Developer paying for use of Headroom on System Deliverability Upgrades will be entitled to receive Incremental TCCs, to the extent Incremental TCCs have been awarded by the ISO for the System Deliverability Upgrade, in proportion to its contribution to the total cost of the Highway System Deliverability Upgrade, as determined based on its required Headroom payments. The ISO shall round any non-whole MW quantities to a whole number of Incremental TCCs in a manner that ensures that the sum of all individual allocations to eligible entities is equal to the total number of Incremental TCCs awarded to the Highway System Deliverability Upgrade; provided, however, that a subsequent Developer will not be entitled to receive any Incremental TCCs if the whole number value determined by the ISO for the Developer's proportionate share is zero. If: (i) a Developer that initially paid for a Highway System Deliverability Upgrade paid for capacity in excess of that required to provide its requested level of CRIS; (ii) Load Serving Entities have not funded a portion of the costs of the

Highway System Deliverability Upgrade pursuant to Section 25.7.12 of this Attachment S; and (iii) the Developer elected to receive its proportionate share of any Incremental TCCs related to the System Deliverability Upgrade and continues to hold such Incremental TCCs, any Incremental TCCs that a subsequent Developer is eligible to receive will be made available by reducing the Incremental TCCs related to the System Deliverability Upgrade held by the Developer that initially funded the System Deliverability Upgrade in proportion to the Headroom payments received by such Developer from the subsequent Developer making such Headroom payments. If: (i) a Developer that initially paid for a Highway System Deliverability Upgrade paid for capacity in excess of that required to provide its requested level of CRIS; (ii) Load Serving Entities have not funded a portion of the costs of the Highway System Deliverability Upgrade pursuant to Section 25.7.12 of this Attachment S; and (iii) the Developer declined to receive its proportionate share of any Incremental TCCs related to the System Deliverability Upgrade or subsequently terminated the Incremental TCCs it elected to receive, any Incremental TCCs that a subsequent Developer is eligible to receive will be made available from the Incremental TCCs related to the System Deliverability Upgrade that were previously deemed reserved as a result of prior declination or termination in proportion to the Headroom payments received by the Developer that initially paid for the System Deliverability Upgrade from the subsequent Developer making such Headroom payments. If Load Serving Entities have funded a portion of a Highway System Deliverability Upgrade pursuant to Section 25.7.12 of this Attachment S, any Incremental TCCs that a subsequent Developer is eligible to receive will be made available by reducing the Incremental TCCs related to the System Deliverability Upgrade held by the Transmission Owner(s) responsible for constructing the System Deliverability Upgrade. If a subsequent Developer elects to accept its proportionate share of any Incremental

TCCs, the subsequent Developer shall be the Primary Holder of such Incremental TCCs; provided, however, that Incremental TCCs that were previously deemed reserved and are transferred to a subsequent Developer will become effective on the first day of the Capability Period that commences following the next Centralized TCC Auction conducted after the subsequent Developer makes the necessary Headroom payment and elects to receive its proportionate share of Incremental TCCs. If a subsequent Developer declines an award of its proportionate share of any Incremental TCCs resulting from its Headroom payments, or subsequently terminates the Incremental TCCs it elected to receive in accordance with Section 19.2.4.9 of Attachment M of the ISO OATT, the declined or terminated Incremental TCCs will be deemed permanently terminated.

Any Incremental TCCs resulting from a Highway System Deliverability Upgrade, regardless of the Primary Holder thereof, may not be sold or transferred through a Centralized TCC Auction, Reconfiguration Auction or the Secondary Market.

25.7.2.3 Other Interfaces

If the Class Year CRIS Project degrades the transfer capability of any one of the Other Interfaces below the transfer capability identified in the current ATBA, then the Developer will pay its pro rata share of one hundred percent (100%) of the cost of the System Deliverability Upgrades needed to restore the transfer capability of the Other Interfaces degraded by its proposed project to what the transfer capability of those Other Interfaces would have been without its project, as that transfer capability was measured in the current ATBA. Where two or more projects would cause degradation of an Other Interface's transfer capability, the cost of the necessary System Deliverability Upgrades to restore the original transfer capability of the

interface shall be shared on a pro rata basis, based on the MW of degradation that each project would cause.

25.7.3 Capacity Regions

The deliverability test will be applied within each of the four (4) Capacity Regions: (1) Rest of State (*i.e.*, Load Zones A through F); (2) Lower Hudson Valley (*i.e.*, Load Zones G, H and I); (3) New York City (*i.e.*, Load Zone J); and (4) Long Island (*i.e.*, Load Zone K). To be declared deliverable a generator or Class Year Transmission Project must only be deliverable, at its requested CRIS MW, throughout the Capacity Region in which the project is interconnected or is interconnecting, or, if requesting External-to-ROS Deliverability Rights, throughout the Rest of State Capacity Region. For example, starting with Class Year 2012, a proposed generator or Class Year Transmission Project interconnecting in the Rest of State Capacity Region (*i.e.*, Load Zones A-F) will be required to demonstrate deliverability throughout the Rest of State Capacity Region (*i.e.*, Load Zones A-F), but will not be required to demonstrate deliverability to or within any of the following Capacity Regions: Lower Hudson Valley (*i.e.*, Load Zones G, H and I); New York City (*i.e.*, Load Zone J); or Long Island (*i.e.*, Load Zone K).

25.7.4 Participation in Capacity Markets

A Developer, in order to be eligible to become an Installed Capacity Supplier or receive Unforced Capacity Deliverability Rights or External-to-ROS Deliverability Rights, must obtain CRIS pursuant to the procedures set forth in this Attachment S. A Developer must enter a Class Year Deliverability Study or Expedited Deliverability Study in order to obtain CRIS, unless otherwise provided for in this Attachment S. The MW amount of CRIS requested by a Developer, stated in MW of Installed Capacity (“ICAP”), cannot exceed the MW levels specified in Sections 25.8.1 of this Attachment S. All requests for CRIS must be in tenths of a MW. The

ISO will perform the Class Year Deliverability Study and Expedited Deliverability Study in accordance with these rules and with input of Market Participants, to determine the deliverability of the projects requesting CRIS in each study. The Expedited Deliverability Study will only determine the extent to which the project is deliverable at the full amount of requested CRIS. The Class Year Deliverability Study will determine deliverability at the full amount of requested CRIS and, if not deliverable, will identify and allocate the cost of the System Deliverability Upgrades needed to make deliverable each Class Year CRIS Project. In order to be eligible to become an Installed Capacity Supplier or receive Unforced Capacity Deliverability Rights or External-to-ROS Deliverability Rights, a Developer must be found fully deliverable at the requested CRIS level in an Expedited Deliverability Study or, in a Class Year Study, either (1) accept its deliverable MW in a Class Year Study or Expedited Deliverability Study; or (2) fund or commit to fund, in accordance with these rules, the System Deliverability Upgrades needed for its project to be deliverable at the requested level of CRIS.

25.7.5 The Pre-Existing System

Where the Existing System Representation demonstrates deliverability issues, a Developer electing CRIS need only address the incremental deliverability of its CRIS request, not the deliverability of the pre-existing system depicted in the Existing System Representation. Likewise, Transmission Owners will not be responsible for curing any pre-existing issues related to the deliverability of generators.

25.7.6 CRIS Values

Through a Class Year Study, a Developer may elect no CRIS, partial CRIS, or full CRIS for its facility by satisfying the applicable sections of this Attachment S. Through an Expedited

Deliverability Study, a Developer may elect CRIS or partial CRIS to the extent its requested CRIS is deliverable pursuant to the NYISO Deliverability Interconnection Standard.

All facilities qualifying for CRIS will have two CRIS values: one for the Summer Capability Period and one for the Winter Capability Period. The CRIS value for the Summer Capability Period will be set using the deliverability test methodology and procedures described below. Through the Winter Capability Period 2017/2018, the CRIS value for the Winter Capability Period will be set at a value that will maintain the same proportion of CRIS to ERIS as the facility has for the Summer Capability Period. For Winter Capability Periods beyond 2017/2018, the CRIS value for the Winter Capability Period will be determined by the applicable process below:

25.7.6.1 Winter CRIS will be calculated as follows:

Winter CRIS MW = (Summer CRIS MW x Maximum Net Output at 10 degrees Fahrenheit)/Maximum Net Output at 90 degrees Fahrenheit

Where:

Maximum Net Output at 10 degrees Fahrenheit = the facility's maximum net output at 10 degrees Fahrenheit determined pursuant to the facility's ISO-approved temperature curve; and

Maximum Net Output at 90 degrees Fahrenheit = the facility's maximum net output at 90 degrees Fahrenheit determined pursuant to the facility's ISO-approved temperature curve.

25.7.6.1.1 For facilities with Summer CRIS as of December 16, 2017, the following additional provision applies: For such facilities for which there is an ISO-accepted temperature curve used for determining the facility's DMNC, Winter CRIS will be calculated using such temperature curve, provided the capability represented by the curve does not exceed the facility's ERIS. For facilities for which there is not an ISO-accepted temperature curve used for determining the

facility's DMNC, Winter CRIS will be set equal to the facility's Summer CRIS unless the facility provides a temperature curve to the ISO by December 16, 2017, that the ISO subsequently determines is acceptable.

25.7.6.1.2 For facilities first obtaining Summer CRIS on or after December 16, 2017, the Winter CRIS will be determined using the most recent temperature curve provided to and accepted by the ISO, either during the interconnection process or at the time the Summer CRIS is first obtained.

25.7.6.2 Upon an increase to a facility's Summer CRIS pursuant to a permissible increase in Summer CRIS under Section 25.9.4 of this Attachment S, Attachment X, Section 30.3.2.6 or Attachment Z, Section 32.4.11.1 (increases in CRIS not requiring a Class Year Study) or pursuant to an increase in Summer CRIS evaluated in a Class Year Study for which a facility owner accepts its Project Cost Allocation for System Deliverability Upgrades and posts Security therefore (if applicable) or accepts its Deliverable MWs, the Winter CRIS will be determined using the formula set forth in Section 25.7.6 (i), wherein the Summer CRIS MW will be the increased Summer CRIS MW.

25.7.7 Deliverability Study Procedures

25.7.7.1 Class Year Deliverability Study Procedures

The ISO staff will conduct the Class Year Deliverability Study, as described in these rules, in cooperation with Market Participants. No Market Participant will have decisional control over any determinative aspect of the Class Year Deliverability Study. The ISO and its staff will have decisional control over the entire Class Year Deliverability Study. If, at any time, the ISO staff decides that it needs specific expert services from entities such as Market

Participants, consultants or engineering firms for it to conduct the Class Year Deliverability Study, then the ISO will enter into appropriate contracts with such entities for such input. The ISO shall utilize existing studies to the extent practicable when it performs the study, including but not limited to SRIS deliverability analyses performed pursuant to Section 30.7.3.2 and 30.7.4.2 of Attachment X to the OATT. As it conducts each Class Year Deliverability Study, the ISO staff will provide regularly scheduled status reports and working drafts, with supporting data, to the Operating Committee or an Operating Committee subcommittee to ensure that all affected Market Participants have an opportunity to contribute whatever information and input they believe might be helpful to the process. Each completed Class Year Deliverability Study will be reviewed and approved by the Operating Committee, when the Operating Committee approves the ATRA for the same Class Year. Each Class Year Deliverability Study is reviewable by the ISO Board of Directors in accordance with the provisions of the Commission-approved ISO Agreement.

Starting with Class Year 2019, if the ISO determines that an Additional SDU Study is required pursuant to Section 25.5.10 of this Attachment S, ISO will notify all Class Year Projects that such Additional SDU Study will be conducted, such notice to be provided as soon as practicable after the ISO receives notice from Developers in response to the Notice of SDU Requiring Additional Study.

25.7.7.2 Expedited Deliverability Study Procedures

The ISO staff will conduct the Expedited Deliverability Study, as described in these rules in cooperation with Market Participants. No Market Participant will have decisional control over any determinative aspect of the Expedited Deliverability Study. The ISO and its staff will have decisional control over the entire Expedited Deliverability Study. If, at any time, the ISO staff

decides that it needs specific expert services from entities such as Market Participants, consultants or engineering firms for it to conduct the Expedited Deliverability Study, then the ISO will enter into appropriate contracts with such entities for such input. The ISO shall utilize existing studies to the extent practicable when it performs the study, including but not limited to SRIS deliverability analyses performed pursuant to Section 30.7.3.2 and 30.7.4.2 of Attachment X to the OATT. As it conducts each Expedited Deliverability Study, the ISO staff will provide regularly scheduled status reports and working drafts, with supporting data, to the Operating Committee or an Operating Committee subcommittee to ensure that all affected Market Participants have an opportunity to contribute whatever information and input they believe might be helpful to the process. Each completed Expedited Deliverability Study will be reviewed and approved by the Operating Committee. Each Expedited Deliverability Study is reviewable by the ISO Board of Directors in accordance with the provisions of the Commission-approved ISO Agreement.

25.7.8 Deliverability Test Methodology for Highways and Byways

25.7.8.1 Definition of NYCA Deliverability

The NYCA transmission system shall be able to deliver the aggregate of NYCA capacity resources to the aggregate of the NYCA load under summer peak load conditions. This is accomplished, in the Class Year Study, through ensuring the deliverability of each Class Year CRIS Project, in the Capacity Region where the facility interconnects. This is accomplished, in the Expedited Deliverability Study, through ensuring the deliverability of each Class Year CRIS Request, in the Capacity Region where the facility interconnects.

25.7.8.2 NYCA Deliverability Testing Methodology

25.7.8.2.1 Class Year Study

25.7.8.2.1.1 The current Class Year ATBA, developed in accordance with ISO Procedures, will serve as the starting point for the deliverability baseline for testing under summer peak system conditions, subject to ISO Procedures and the following:

All Class Year CRIS Projects will be evaluated on an aggregate Class Year basis. Deliverability will be determined through a shift from generation to generation within the Capacity Regions in New York State. Each Capacity Region will be tested on an individual basis.

25.7.8.2.1.2 Each entity requesting External CRIS Rights will request a certain number of MW to be evaluated for deliverability pursuant to Section 25.7.11 of this Attachment S. The MW of an entity requesting External CRIS Rights will not be derated for the deliverability analysis.

25.7.8.2.1.3 Each Developer requesting CRIS will request that a certain number of MW be evaluated for deliverability, such MW not to exceed the maximum levels set forth in Section 25.8.1 of this Attachment S. The MW requested by a Developer will represent Installed Capacity, and will be derated for the deliverability analysis. The MW requested by a Resource with an Energy Duration Limitation will represent Installed Capacity based on the Developer-selected duration (*i.e.*, its expected maximum injection capability in MW hours for the Developer-selected duration) and will also be derated for the deliverability analysis. At the conclusion of the analysis, the ISO will reconvert only the deliverable MW and report them in terms of MW of Installed Capacity

using the same derating factor utilized at the beginning of the deliverability analysis.

A derated generator capacity incorporating availability is used. This derated generator capacity is based on the unforced capacity or “UCAP” or Net UCAP, as applicable, of each resource and can be referred to as the UCAP Deration Factor (“UCDF”). The UCDF used is the average from historic ICAP to UCAP translations on a Capacity Region basis, as determined in accordance with ISO Procedures. This is the average EFORD, which will be used for all non intermittent ICAP providers. The UCDF for intermittent resources will be calculated based on their resource type in accordance with ISO Procedures.

Resources with an Energy Duration Limitations evaluated for CRIS will be derated to reflect the Developers’ selected duration. Facilities comprised of units of different technologies will be derated using a blended UCDF that combines the UCDF of the individual units within the facility; provided however, that if the facility includes load reduction, the load reduction would not impact the UCDF of the facility.

The UCDF factor for proposed projects will be applied to the requested CRIS level. For facilities modeled in the ATBA, the UCDF will be applied to their CRIS level.

Existing CRIS that will be modeled in the Class Year Study shall include: existing CRIS for facilities not being evaluated in the Class Year Study regardless of outage state, unless that CRIS will expire prior to the scheduled completion of the applicable Class Year study or the CRIS is associated with a Retired facility

that cannot transfer such rights prior to CRIS expiration. For purposes of this Section 25.7.8.2.1.3, “existing CRIS” is CRIS that has been obtained through Attachment S and that has not expired. For projects that have undergone a prior Class Year Study deliverability evaluation, “existing CRIS” is CRIS obtained upon completion of a Class Year Study through which the Developer accepted its deliverable MW or accepted its Project Cost Allocation and posted Security for System Deliverability Upgrades, as applicable. For projects that undergo an Expedited Deliverability Study deliverability evaluation, “existing CRIS” is considered to be CRIS that is obtained upon completion of an Expedited Deliverability Study through which the Developer was deemed to have accepted its deliverable MW in an Expedited Deliverability Study completed prior to the Class Year Study Start Date.

25.7.8.2.1.4 Load uncertainties will be addressed in accordance with ISO Procedures by taking the impact of Load Forecast Uncertainty (“LFU”) from the most recent base case IRM and applying it to load.

25.7.8.2.1.5 Deliverability base case conditioning steps will be consistent with those used for the Reliability Planning Process and Area Transmission Review transfer limit calculation methodology.

25.7.8.2.1.6 In deliverability testing, Emergency transfer criteria and contingency testing will be in conformance with NYSRC rules and correspond to that used in the Reliability Planning Process studies.

25.7.8.2.1.7 The NYISO will monitor all transmission facilities that are part of the New York State Transmission System.

25.7.8.2.1.8 When either the voltage or stability transfer limit of an interface calculated in the ATBA is more binding than the calculated thermal transfer limit, then the lower of the ATBA voltage or stability transfer limit will be included in the deliverability testing as a proxy limit.

25.7.8.2.1.9 External system imports will be adjusted as necessary to eliminate or minimize overloads, other than the following external system imports: (i) the grandfathered import contract rights listed in Attachment E to the Installed Capacity Manual, (ii) the operating protocols set forth in Schedule C of Attachment CC to the OATT, (iii) the appropriate rules for reflecting PJM service to RECo load, (iv) beginning with Class Year 2008 and in subsequent Class Years, the Existing Transmission Capacity for Native Load listed for the New York State Electric & Gas Corporation in Table 3 of Attachment L to the OATT, (v) in Class Year 2008 and 2009, 1090 MW of imports made over the Quebec (via Chateauguay) interface, and (vi) beginning with Class Year 2010 and in subsequent Class Years, any External CRIS Rights awarded pursuant to Section 25.7.11 of this Attachment S, either as a result of the conversion of grandfathered rights over the Quebec (via Chateauguay) Interface or as a result of a Class Year Deliverability Study, until, as of the Class Year Start Date, the time available to renew the External CRIS Rights has expired, as described in Section 25.9.3.2.2 of this Attachment S.

25.7.8.2.1.10 Flows associated with generators physically located in the NYCA but selling capacity out of the market will be modeled as such in the deliverability base cases.

25.7.8.2.1.11 Resources and demand are brought into balance in the baseline. If resources are greater than demand in the Capacity Region, existing generators within the Capacity Region are prorated down. If resources are lower than demand in the Capacity Region, additional external resources are included in the model.

25.7.8.2.1.12 PARs within the applicable Capacity Region will be adjusted as necessary, in either direction and within their angle capability, to eliminate or minimize overloads without creating new ones. PARs controlling external ties and ties between the Capacity Regions will be modeled, within their angle capability, to hold the individual tie flows to their respective deliverability baseline schedules, which shall be set recognizing firm commitments and operating protocol set forth in Schedule C of Attachment CC to the OATT.

25.7.8.2.1.13 Deliverability testing will proceed as follows - The generation/load mix is split into two groups of generation and load, one upstream and one downstream for each zone or sub-zone tested within the Capacity Region. All elements that are part of the New York State Transmission System within the Capacity Region will be monitored. If there is excess generation upstream (that is, more upstream generation than is necessary to serve the upstream load plus LFU) then the generation excess, taking into account generator derate factors described in Section 25.7.8.2.2 above, is assumed to displace downstream generation. If the dispatch of the upstream excess generation causes an overload, this overload is flagged as a potential deliverability problem and will be used to determine the amount of capacity that is assigned CRIS status and the overload mitigation.

25.7.8.2.1.14 For Highway interfaces, the generators or Class Year Transmission

Projects in a Class Year, whether or not they are otherwise deliverable, will not be considered deliverable if their aggregate impact degrades the transfer capability of the interface more than the lesser of 25 MW or 2 percent of the transfer capability identified in the ATBA and results in an increase to the NYCA LOLE determined for the ATBA of .01 or more. The Class Year CRIS Projects causing the degradation will be responsible, on a pro rata basis, for restoring transfer capability only to the extent their aggregate degradation of transfer capability, compared to that in the ATBA, would not occur but for the Class Year CRIS Projects.

25.7.8.2.2 Expedited Deliverability Study

25.7.8.2.2.1 The current Class Year ATRA, developed in accordance with ISO

Procedures, will serve as the starting point for the deliverability baseline for testing under summer peak system conditions, subject to ISO Procedures and the following: All Expedited Deliverability Study projects will be evaluated on an aggregate Expedited Deliverability Study basis. Deliverability will be determined through a shift from generation to generation within the Capacity Regions in New York State. Each Capacity Region will be tested on an individual basis.

25.7.8.2.2.2 Each Developer requesting CRIS will request that a certain number of

MW be evaluated for deliverability, such MW not to exceed the maximum levels set forth in Section 25.8.1 of this Attachment S. The MW requested by a Developer will represent Installed Capacity, and will be derated for the deliverability analysis. The MW requested by a Resource with an Energy

Duration Limitation will represent Installed Capacity based on the Developer-selected duration (*i.e.*, its expected maximum injection capability in MW hours for the Developer-selected duration) and will also be derated for the deliverability analysis. At the conclusion of the analysis, the ISO will reconvert only the deliverable MW and report them in terms of MW of Installed Capacity using the same derating factor utilized at the beginning of the deliverability analysis.

A derated generator capacity incorporating availability is used. This derated generator capacity is based on the unforced capacity or “UCAP” or Net UCAP, as applicable, of each resource and can be referred to as the UCAP Deration Factor (“UCDF”). The UCDF used is the average from historic ICAP to UCAP translations on a Capacity Region basis, as determined in accordance with ISO Procedures. The UCDF used is the average EFORD, which will be used for all ICAP providers that are not Intermittent Power Resources (resources that are not Intermittent Power Resources include Energy Storage Resources). The UCDF for Intermittent Power Resources will be calculated based on their resource type in accordance with ISO Procedures. Resources with Energy Duration Limitations evaluated for CRIS will be derated to reflect the Developers’ selected duration. Facilities comprised of units of different technologies will be derated using a blended UCDF that combines the UCDF of the individual units within the facility; provided however, that if the facility includes load reduction, the load reduction would not impact the UCDF of the facility.

The UCDF factor for proposed projects will be applied to the requested CRIS level. For facilities modeled in the ATRA, the UCDF will be applied to their CRIS level.

25.7.8.2.2.3 CRIS that will be modeled in the Expedited Deliverability Study shall include: (1) existing CRIS, including CRIS obtained in a previous Expedited Deliverability Study, for facilities not being evaluated in the instant Expedited Deliverability Study, regardless of outage state, unless that CRIS will expire prior to the scheduled completion of the applicable Expedited Deliverability Study or the CRIS is associated with a Retired facility that cannot transfer such rights prior to CRIS expiration; and (2) CRIS requested by projects in the Class Year Study(ies) pending during the Expedited Deliverability Study. For purposes of this section 25.7.8.2.2.3, “existing CRIS” is CRIS that has not expired and CRIS that has been obtained by projects through Attachment S. For projects that undergo a Class Year Study deliverability evaluation, “existing CRIS,” is CRIS obtained, upon completion of a Class Year Study through which the facility Developer accepted deliverable MW or accepted its Project Cost Allocation and posted Security for System Deliverability Upgrades, as applicable. For projects that undergo an Expedited Deliverability Study deliverability evaluation, “existing CRIS,” is CRIS obtained, upon completion of an Expedited Deliverability Study through which the facility Developer was deemed to have accepted its deliverable MW.

25.7.8.2.2.4 Load uncertainties will be addressed in accordance with ISO Procedures by taking the impact of Load Forecast Uncertainty (“LFU”) from the most recent base case IRM and applying it to load.

25.7.8.2.2.5 Deliverability base case conditioning steps will be consistent with those used for the Comprehensive Reliability Planning Process and Area Transmission Review transfer limit calculation methodology.

25.7.8.2.2.6 In deliverability testing, Emergency transfer criteria and contingency testing will be in conformance with NYSRC rules and correspond to that used in the NYISO Comprehensive Reliability Planning Process studies.

25.7.8.2.2.7 The ISO will monitor all transmission facilities that are part of the New York State Transmission System.

25.7.8.2.2.8 When either the voltage or stability transfer limit of an interface calculated in the ATRA is more binding than the calculated thermal transfer limit, then the lower of the ATRA voltage or stability transfer limit will be included in the deliverability testing as a proxy limit.

25.7.8.2.2.9 External system imports will be adjusted as necessary to eliminate or minimize overloads, other than the following external system imports: (i) the grandfathered import contract rights listed in Attachment E to the Installed Capacity Manual, (ii) the operating protocols set forth in Schedule C of Attachment CC to the OATT, (iii) the appropriate rules for reflecting PJM service to RECo load, (iv) the Existing Transmission Capacity for Native Load listed for the New York State Electric & Gas Corporation in Table 3 of Attachment L to the OATT, (v) any External CRIS Rights awarded pursuant to Section 25.7.11 of this

Attachment S, either as a result of the conversion of grandfathered rights over the Quebec (via Chateauguay) Interface or as a result of a Class Year Deliverability Study, until, as of the Expedited Deliverability Study start date, the time available to renew the External CRIS Rights has expired, as described in Section 25.9.3.2.2 of this Attachment S.

25.7.8.2.2.10 Flows associated with generators physically located in the NYCA but selling capacity out of the market will be modeled as such in the deliverability base cases.

25.7.8.2.2.11 Resources and demand are brought into balance in the baseline. If resources are greater than demand in the Capacity Region, existing generators within the Capacity Region are prorated down. If resources are lower than demand in the Capacity Region, additional external resources are included in the model.

25.7.8.2.2.12 PARs within the applicable Capacity Region will be adjusted as necessary, in either direction and within their angle capability, to eliminate or minimize overloads without creating new ones. PARs controlling external ties and ties between the Capacity Regions will be modeled, within their angle capability, to hold the individual tie flows to their respective deliverability baseline schedules, which shall be set recognizing firm commitments and operating protocol set forth in Schedule C of Attachment CC to the OATT.

25.7.8.2.2.13 Deliverability testing will proceed as follows - The generation/load mix is split into two groups of generation and load, one upstream and one downstream for each zone or sub-zone tested within the Capacity Region. All elements that

are part of the New York State Transmission System within the Capacity Region will be monitored. If there is excess generation upstream (that is, more upstream generation than is necessary to serve the upstream load plus LFU) then the generation excess, taking into account generator derate factors described in Section 25.7.8.2.2 above, is assumed to displace downstream generation. If the dispatch of the upstream excess generation causes an overload, this overload is flagged as a potential deliverability problem and will be used to determine the amount of partial CRIS, if any, for the applicable projects in the Expedited Deliverability Study.

25.7.8.2.2.14 For Highway interfaces, the projects in an Expedited Deliverability Study, whether or not they are otherwise deliverable, will not be considered deliverable if their aggregate impact degrades the transfer capability of the interface more than the lesser of 25 MW or 2 percent of the transfer capability identified in the ATRA. To the extent possible, the ISO will determine partial CRIS, if any, for any applicable project in the Expedited Deliverability Study.

25.7.9 Deliverability Test Methodology for Other Interfaces

25.7.9.1 Class Year Deliverability Test Methodology for Other Interfaces

The generators or Class Year Transmission Projects in a Class Year, whether or not they are otherwise deliverable across Highways and Byways, will not be considered deliverable if their aggregate impact degrades the transfer capability of any Other Interface more than the lesser of 25 MW or 2 percent of the transfer capability of the Other Interface identified in the ATBA. Each Developer will be responsible for its pro rata Class Year share of one hundred percent (100%) of the cost of System Deliverability Upgrades needed to restore transfer

capability on the Other Interfaces impacted by the Class Year CRIS Projects but only to the extent that the degradation of transfer capability on the Other Interfaces, compared to that measured in the current Class Year ATBA, would not occur but for the aggregate impact of the Class Year Projects. Where two or more projects contribute to the degradation of the transfer capability of an Other Interface, each project Developer shall pay for a share of the required System Deliverability Upgrades based on its contribution to the degradation of the transfer capability. To the extent possible, the ISO will determine partial CRIS, if any, for any applicable project in the Class Year Study.

25.7.9.2 Expedited Deliverability Study Test Methodology for Other Interfaces

The generators projects in an Expedited Deliverability Study, whether or not they are otherwise deliverable across Highways and Byways, will not be considered deliverable if their aggregate impact degrades the transfer capability of any Other Interface more than the lesser of 25 MW or 2 percent of the transfer capability of the Other Interface identified in the ATBA. To the extent possible, the ISO will determine partial CRIS, if any, for any applicable project in the Expedited Deliverability Study.

25.7.10 Deliverability of External Installed Capacity

External Installed Capacity not associated with Unforced Capacity Deliverability Rights, External-to-ROS Deliverability Rights or External CRIS Rights will be subject to the deliverability test in Section 25.7.8 and 25.7.9 of this Attachment S, but not as a part of the Class Year Deliverability Study. As described in detail in Section 5.12.2 of the Services Tariff, the deliverability of External Installed Capacity not associated with Unforced Capacity Deliverability Rights, External-to ROS Deliverability Rights or External CRIS Rights will be evaluated separately as a part of the annual process under the Services Tariff that sets import

rights for the upcoming Capability Year, to determine the amount of External Installed Capacity that can be imported to the New York Control Area.

25.7.11 CRIS Rights For External Installed Capacity

An entity, by following the procedures and satisfying the requirements described in this Section 25.7.11, may obtain External CRIS Rights. While the External CRIS Rights are in effect, External Installed Capacity associated with External CRIS Rights is not subject to (1) the deliverability determination described above in Section 25.7.10 of this Attachment S, (2) the annual deliverability determination applied in the import limit setting process described in Section 5.12.2.2 of the Services Tariff, or (3) to the allocation of import rights described in ISO Procedures.

25.7.11.1 Required Commitment of External Installed Capacity

An entity requesting External CRIS Rights for a specified number of MW of External Installed Capacity must commit to supply that number of MW of External Installed Capacity for a period of at least five (5) years (“Award Period”). The entity’s commitment to supply the specified number of MW for the Award Period may be based upon either an executed bilateral contract to supply (“Contract Commitment”), or based upon another kind of long-term commitment (“Non-Contract Commitment”), both as described herein.

25.7.11.1.1 Contract Commitment

An entity making a Contract Commitment of External Installed Capacity must have one or more executed bilateral contract(s) to supply a specified number of MW of External Installed Capacity (“Contract CRIS MW”) to a Load Serving Entity or Installed Capacity Supplier for an Award Period of at least five (5) years. The entity must have ownership or contract control of

External Installed Capacity to fulfill its bilateral supply contract throughout the Award Period, and that otherwise satisfies ISO requirements.

25.7.11.1.1.1 The bilateral supply contract(s) individually or in the aggregate, must be for all months of the Summer Capability Periods over the term of the bilateral supply contract(s), but need not include any of the months of the Winter Capability Periods over that term. The entity seeking External CRIS Rights must specify which, if any, months of the Winter Capability Period it will supply External Installed Capacity under the bilateral supply contract(s) (“Specified Winter Months”).

25.7.11.1.1.2 The bilateral supply contract(s) must be for the same number of MW for all months of the Summer Capability Periods (“Summer Contract CRIS MW”) and the same number of MW for all Specified Winter Months (“Winter Contract CRIS MW”). The Winter Contract CRIS MW level must be less than or equal to the Summer Contract CRIS MW level.

25.7.11.1.1.3 An entity holding External CRIS Rights under a Contract Commitment must certify the bilateral supply contract for every month of the Summer Capability Periods and all Specified Winter Months for the applicable Contract CRIS MW. The Summer Contract CRIS MW must be certified for every month of the Summer Capability Period, and the Winter Contract CRIS MW must be certified for every Specified Winter Month (if any).

25.7.11.1.2 Non-Contract Commitment

An entity holding External CRIS Rights under a Non-Contract Commitment must offer the committed number of MW of External Installed Capacity for every month of the

commitment, as described below, in the ISO Installed Capacity auctions for an Award Period of at least five (5) years. The entity must have ownership or contract control of External Installed Capacity to fulfill its Non-Contract Commitment throughout the Award Period.

25.7.11.1.2.1 The Non-Contract Commitment must be made for all months of the Summer Capability Periods over the term of the Award Period, but need not include any months in the Winter Capability Periods. The entity must identify the Specified Winter Months, if any, of the Winter Capability Periods for which it will make the commitment.

25.7.11.1.2.2 The commitment must be for the same number of MW for each month of the Summer Capability Period (“Summer Non-Contract CRIS MW”), and the same number of MW for all Specified Winter Months (“Winter Non-Contract CRIS MW”). The Winter Non-Contract CRIS MW level must be less than or equal to the Summer Contract CRIS MW level.

25.7.11.1.2.3 An entity holding External CRIS Rights under a Non-Contract Commitment must offer the committed capacity (a) in at least one of the following NYCA auctions: the Capability Period Auction, the Monthly Auction or the ICAP Spot Market Auction, or (b) through a certified and scheduled Bilateral Transaction (as such terms not defined in this Attachment S are defined in the Services Tariff). The Summer Non-Contract CRIS MW must be offered for every month of the Summer Capability Period, and the Winter Non-Contract CRIS MW must be offered for every Specified Winter Month (if any).

25.7.11.1.2.4 Notwithstanding other capacity mitigation measures that may apply, the offers to sell Installed Capacity into an auction submitted pursuant to this Non-

Contract Commitment will be subject to an offer cap for each month of the Summer Capability Periods and each Specified Winter Month. This offer cap will be determined in accordance with the provisions contained in Section 5.12.2.4 of the Services Tariff.

25.7.11.1.3 Failure to Meet Commitment

If an entity fails to certify or offer the full number of Contract CRIS MW or Non-Contract CRIS MW in accordance with the terms stated above, in Sections 25.7.11.1.1 and 25.7.11.1.2, the entity shall pay the ISO an amount equal to 1.5 times the Installed Capacity Spot Auction Market Clearing Price for the month in which either the capacity under Non-Contract Commitment was not offered or the Contract Commitment to supply ICAP was not certified (“Supply Failure”), times the number of MW committed under the Non-Contract or Contract Commitment but not offered.

25.7.11.1.3.1 Within a given Award Period and each subsequent renewal of an Award Period pursuant to Section 25.9.3.2.2 herein, for the first three instances of a Supply Failure, no additional actions will be taken. Upon the fourth instance within the Award Period or the fourth instance within a subsequent renewal period of a Supply Failure, the associated External CRIS Rights will be terminated in their entirety with no ability to renew. Entities that had External CRIS Rights terminated may reapply for External CRIS in accordance with Section 25.7.11.1.4.2 below. Nothing in this Section 25.7.11.1.3 shall be construed to limit or diminish any provision in the Market Power Mitigation Measures or the Market Monitoring Plan.

25.7.11.1.4 Obtaining External CRIS Rights

An entity making a Contract Commitment or Non-Contract Commitment of External Installed Capacity may obtain External CRIS Rights for a specified number of MW of External Installed Capacity in one of two different ways, either (i) by converting MW of grandfathered deliverability rights over the External Interface with Quebec (via Chateauguay), or (ii) by having its specified MW of External Installed Capacity evaluated in a Class Year Deliverability Study, both as described herein.

25.7.11.1.4.1 One-Time Conversion of Grandfathered Rights. An entity can request to convert a specified number of MW pursuant to the conversion process established in Section 5.12.2.3 of the Services Tariff.

25.7.11.1.4.2 Class Year Deliverability Study. An entity may seek to obtain External CRIS Rights for its External Installed Capacity by requesting that its External Installed Capacity be evaluated for deliverability in the Open Class Year. To make such a request an entity must provide to the ISO a completed External CRIS Rights Request stating whether it is making a Contract Commitment or Non-Contract Commitment, the number of MW of External Installed Capacity to be evaluated, and the specific External Interface(s). The first Class Year Deliverability Study to evaluate requests for External CRIS Rights will be that for Class Year 2010. After the ISO receives a completed External CRIS Rights Request, an entity making a Contract Commitment or Non-Contract Commitment that satisfies the requirements of Section 25.7.11.1 of this Attachment S will be eligible to proceed, as follows:

25.7.11.1.4.2.1 The entity is made a Class Year Project when the ISO receives the entity's executed Class Year Interconnection Facilities Study Agreement for External Installed Capacity and all required data and the full deposit.

25.7.11.1.4.2.2 The entity's MW of External Installed Capacity covered by its bilateral contract(s) or, in the case of a Non-Contract Commitment the number of MW committed by the entity, are evaluated for deliverability within the Rest of State Capacity Region. The entity's External Installed Capacity is not subject to the NYISO Minimum Interconnection Standard. The ISO will determine whether the requests for External CRIS Rights within a given Class Year exceed the import limit, established pursuant to ISO procedures, for the applicable External Interface that is in effect on the Class Year Start Date when combined, to the extent not already reflected in the import limit, with the following: (1) awarded External CRIS Rights at the same External Interface, (2) Grandfathered External Installed Capacity Agreements listed in Attachment E of the ISO Installed Capacity Manual at the same External Interface, and (3) the Existing Transmission Capacity for Native Load listed for New York State Electric & Gas Corporation in Table 3 of Attachment L to the ISO OATT (applies to the PJM interface only) ("Combined Total MW"). In addition to the other requirements stated herein, External CRIS Rights will only be awarded to the extent that the Combined Total MW does not exceed the import limit, as described above.

25.7.11.1.4.2.3 The Class Year Deliverability Study report will include an SDU Project Cost Allocation and a Deliverable MW number for the entity's External Installed Capacity.

25.7.11.1.4.2.4 The entity will have the same decision alternatives as other Class Year Projects participating in the Deliverability Study only. That is, the entity may either (a) accept its SDU Project Cost Allocation, (b) decline its SDU Project Cost Allocation and accept its Deliverability MW figure, or (c) decline both its SDU Project Cost Allocation and its Deliverable MW. If the entity does decline both its SDU Project Cost Allocation and its Deliverable MW, the entity's External Installed Capacity will be removed from the Class Year Deliverability Study. Once removed from the then current Class Year Deliverability Study, the entity can request for its External Installed Capacity to be evaluated again for deliverability in a subsequent Class Year Deliverability Study that is open at the time of its request.

25.7.11.1.4.2.5 If the entity accepts its SDU Project Cost Allocation, it must fund, or commit to fund the SDU upgrades, like any other Class Year Project.

25.7.11.1.4.2.6 If the entity accepts its SDU Project Cost Allocation and funds or commits to fund the SDU upgrades as required by this Attachment S, the entity must also execute and fulfill agreement(s) with the ISO and the Connecting Transmission Owner and any Affected Transmission Owner to cover the engineering, procurement and construction of the SDUs.

25.7.11.1.4.2.7 By the end of the Initial Decisional Period (*i.e.*, 30 days from Operating Committee approval of the Class Year Deliverability Study), an entity making a Contract Commitment and accepting either its SDU Project Cost Allocation or Deliverable MW quantity, must provide specific contract and resource information to the ISO. Unless entities are supplying External Installed

Capacity as Control Area System Resources, requests for External Installed Capacity shall be resource-specific. Entities are permitted to substitute resources located in the same External Control Area. Such substitutions shall be subject to review and approval by ISO consistent with ISO Procedures and deadlines specified therein.

25.7.11.1.4.2.8 If the entity satisfies the requirements described in this Section 25.7.11.1.4, the entity will obtain External CRIS Rights for the number of MW determined to be deliverable, made deliverable through an SDU (with an accepted SDU Project Cost Allocation), or deemed deliverable through a commitment to pay for an SDU.

25.7.12 Cost Allocation for Highway System Deliverability Upgrades

25.7.12.1 If the portion of the Highway System Deliverability Upgrades (measured in MW) required to make one or more CRIS projects in a Class Year deliverable is ninety percent (90%) or more of the total size (measured in MW) of the System Deliverability Upgrades, each Developer(s) of a Class Year CRIS Project(s) will be responsible for its pro rata Class Year share of one hundred percent (100%) of the cost of the System Deliverability Upgrades.

25.7.12.2 If the portion of the System Deliverability Upgrades required to make one or more CRIS projects in a Class Year deliverable is less than 90% of the total size (measured in MW) of the Highway System Deliverability Upgrade, the Developer(s) will be required to pay or commit to pay for a percentage share of the total cost of the Highway System Deliverability Upgrades equal to the estimated percentage megawatt usage by the Class Year CRIS Project of the total

megawatts provided by the System Deliverability Upgrades. Other generators or Class Year Transmission Projects in the current Class Year Deliverability Study may share in the cost of these System Deliverability Upgrades, on the same basis. Projects in the current Class Year Deliverability Study will not be allocated all of the cost of these System Deliverability Upgrades. The rest of the cost of these System Deliverability Upgrades will be allocated to Load Serving Entities and subsequent Developers, as described in this Section 25.7.12. The Developer may either (1) make a cash payment of its proportionate share of the upgrade, which will be held by the Connecting Transmission Owner and Affected Transmission Owner(s) in interest-bearing account(s); or (2) post Security (as defined in this Attachment S) meeting the commercially reasonable requirements of the Connecting Transmission Owner and Affected Transmission Owner(s) for the Developer's proportionate share of the cost of the upgrade. The amount(s) of cash or Security that a Developer must provide to its Connecting Transmission Owner and any Affected Transmission Owners will be included in the Class Year Deliverability Study report. If the Developer chooses to provide Security, its allocated cost will be increased by an annual construction-focused inflation index. The Developer will update its Security on an annual basis to reflect this increase. Except for this adjustment for inflation, the cost allocated to the Developers will not be increased if the estimated cost of the Highway System Deliverability Upgrade increases. However, the costs allocated to subsequent Developers will be based on a current cost estimate of the Highway System Deliverability Upgrade project.

25.7.12.3 If requesting CRIS, the generator or Class Year Transmission Project will be considered deliverable, and eligible to become a qualified Installed Capacity Supplier or to receive Unforced Capacity Deliverability Rights or External-to-ROS Deliverability Rights, as applicable and subject to eligibility requirements in the ISO Procedures, when the project associated with the CRIS request is in service, provided the Developer has paid its share of the total cost of System Deliverability Upgrades necessary to support the requested CRIS level, or made a satisfactory commitment to do so. Highway System Deliverability Upgrades--where the System Deliverability Upgrades are below the 90% threshold discussed in Section 25.7.12.2 above--will be constructed and funded either (i) according to Sections 25.7.12.3.1 and 25.7.12.3.2 below, or (ii) according to Section 25.7.12.3.3 below.

25.7.12.3.1 When a threshold of 60% of the most current cost estimate of the System Deliverability Upgrade has been paid or posted as Security by Developers, the Highway System Deliverability Upgrade will be built by the Transmission Owner that owns the facility to be upgraded. If the facility to be constructed will be entirely new, construction should be completed by the Transmission Owner that owns or controls the necessary site or right of way. If no Transmission Owner(s) has such control, construction should be completed by the Transmission Owner in whose Transmission District the facility would be constructed. If the upgrade crosses multiple Transmission Districts, each Transmission Owner will be responsible for the portion of the upgrade in its Transmission District; and

25.7.12.3.2 The actual cost of the Highway System Deliverability Upgrade project above that paid for by Developers will be funded by Load Serving Entities, using the rate mechanism contained in Schedule 12 of the ISO OATT. Load Serving Entity funding responsibility for the Highway System Deliverability Upgrade will be allocated among Load Serving Entities based on their proportionate share of the ICAP requirement in the statewide capacity market, adjusted to subtract their locational capacity requirements. Provided, however, Load Serving Entities will not be responsible for actual costs in excess of their share of the final Class Year estimated cost of the Highway System Deliverability Upgrade if the excess results from causes, as described in Section 25.8.6.4 of this Attachment S, within the control of a Transmission Owner(s) responsible for constructing the Highway System Deliverability Upgrade; or

25.7.12.3.3 If the NYISO triggers a transmission project under the Reliability Planning Process, selects a transmission project under the Short-Term Reliability Process, selects a transmission upgrade under the Public Policy Transmission Planning Process, or results in a transmission project being approved under the Congestion Assessment and Resource Integration Study (“CARIS”) (collectively “CSPP transmission upgrade”) and the CSPP transmission upgrade requires construction of a transmission facility that provides the same or greater transfer limit capability as the Highway facility identified as a Highway System Deliverability Upgrade to be constructed earlier than would be the case pursuant to Section 25.7.12.3.1, the CSPP transmission upgrade will be constructed as determined in the CSPP or the Short-Term Reliability Process, as applicable.

Funds collected from Developers (pursuant to Section 25.7.12.2, above) will be used to cover a portion of the regulated solution costs to the extent that the funds collected from Developers were collected for System Deliverability Upgrades that are actually constructed by the regulated solution. To the extent this is true, these funds originally collected (or posted as Security) for System Deliverability Upgrades will be used as an offset to the total CSPP transmission upgrade cost, with the remainder of the upgrade cost to be allocated per the requirements of the CSPP, as set forth in Section 31.5 of Attachment Y to the ISO OATT, or the Short-Term Reliability Process, as set forth in Section 38.22 of Attachment FF to the ISO OATT.

To the extent funds collected from Developers for System Deliverability Upgrades are insufficient to cover the entire cost of the CSPP transmission upgrades, the Developers' contribution to the System Deliverability Upgrades allocated to the CSPP transmission upgrades will not exceed the Developers' respective Project Cost Allocations for the System Deliverability Upgrade. To the extent funds collected from Developers for System Deliverability Upgrades exceed the cost of the CSPP transmission upgrades, the funds collected for the System Deliverability Upgrades will be allocated to the CSPP transmission upgrade *pro rata* with the Developers' contribution to the System Deliverability Upgrades, and excess funds or Security for System Deliverability Upgrades above the cost of the CSPP transmission upgrade will be returned to the Developers.

25.7.12.4 If a Developer has accepted its Project Cost Allocation, before construction of an identified System Deliverability Upgrade for a Highway is

commenced, if a Developer elects to be retested for deliverability it may request to be placed in the then Open Class Year. The Developer's cost responsibility for System Deliverability Upgrades shall not increase as a result of such retesting. It may decrease or be eliminated. If the Developer's facility is found to be deliverable without the System Deliverability Upgrades previously identified, the Developer's Security posting will be terminated, or the Developer's cash payment will be returned with the interest earned.

25.7.12.5 When the Highway System Deliverability Upgrades are placed in to Commercial Operation and any resulting Incremental TCCs related to the Highway System Deliverability Upgrade become effective in accordance with Section 19.2.4 of Attachment M of the ISO OATT, a Developer electing to receive its proportionate share of such Incremental TCCs, as further described in Section 25.7.2.2 of this Attachment S, will receive its proportionate share of such Incremental TCCs.

25.7.12.5.1 Load Serving Entities required by this Section 25.7.12 to fund a portion of the costs of a Highway System Deliverability Upgrade will receive the corresponding financial value of any Incremental TCCs related to the System Deliverability Upgrade held by the Transmission Owner(s) responsible for constructing the Highway System Deliverability Upgrade, as further described in Section 25.7.2.2 of this Attachment S. The corresponding financial value of any such Incremental TCCs will be accounted for in determining the applicable Highway Facilities Charge in accordance with Schedule 12 of the ISO OATT. The eligibility of the Load Serving Entities to the financial value of any

Incremental TCCs related to the System Deliverability Upgrade held by the Transmission Owner(s) responsible for constructing the Highway System Deliverability Upgrade shall commence as of the date such Incremental TCCs become effective in accordance with Section 19.2.4 of Attachment M to the OATT and continue until the earlier of: (i) the expiration of any such Incremental TCCs; or (ii) the termination of the obligation of the Load Serving Entities to fund a portion of the costs of the Highway System Deliverability Upgrade.

25.7.12.6 As new generators and Class Year Transmission Projects come on line and use the Headroom on System Deliverability Upgrades created by a prior Highway System Deliverability Upgrade, the Developers of those new facilities will reimburse the prior Developers or will compensate the Load Serving Entities who funded the System Deliverability Upgrades for use of the Headroom created by the prior Developers and Load Saving Entities in accordance with Sections 25.8.7 and 25.8.8 of these rules.

25.7.12.6.1 In accordance with Section 25.7.2.2 of this Attachment S, as subsequent Developers make Headroom payments to prior Developers and if a subsequent Developer elects to receive its proportionate share of any Incremental TCCs related to the Highway System Deliverability Upgrade, such Incremental TCCs will be transferred to the subsequent Developers; provided, however, that Incremental TCCs that were previously deemed reserved and are transferred to a subsequent Developer will become effective on the first day of the Capability Period that commences following the next Centralized TCC Auction conducted

after the subsequent Developer makes the necessary Headroom payment and elects to receive its proportionate share of Incremental TCCs.

25.7.12.6.2 In accordance with Section 25.7.2.2 of this Attachment S, as subsequent Developers compensate Load Serving Entities for use of their Headroom by providing any such Headroom payments to the Transmission Owner(s) responsible for constructing a Highway System Deliverability Upgrade and if a subsequent Developer elects to receive its proportionate share of any Incremental TCCs related to the Highway System Deliverability Upgrade, such Incremental TCCs will be transferred to the subsequent Developer.

25.7.12.7 The Transmission Owner responsible for constructing a System Deliverability Upgrade or a Developer contributing toward the cost of a System Deliverability Upgrade can elect to construct upgrades that are larger and/or more expensive than the System Deliverability Upgrades identified to support the requested level of CRIS for the Class Year CRIS Project in the Class Year Deliverability Study, provided that those upgrades are reasonably related to the Class Year Project. The party electing to construct the larger upgrade will pay for the incremental cost of the upgrade; *i.e.*, the difference in cost between the cost of the System Deliverability Upgrades as determined by these rules, and the cost of the larger and/or more expensive upgrade.

25.7.12.13 Engineering, Procurement and Construction Agreement for System Deliverability Upgrades

If a System Deliverability Upgrade on the Connecting Transmission Owner's system is cost allocated to a Developer and such Developer accepts its SDU Project Cost Allocation and fund or commits to fund the System Deliverability Upgrade, the Interconnection Agreement

among the Developer, Connecting Transmission Owner and ISO will provide for the engineering, procurement and construction of such System Deliverability Upgrade.

If a System Deliverability Upgrade on an Affected System is cost allocated to a Developer and such Developer accepts its SDU Project Cost Allocation and fund or commits to fund the System Deliverability Upgrade, the Developer and Affected System Operator will cooperate with the ISO in development of an Engineering, Procurement and Construction Agreement to provide for the engineering, procurement and construction of the System Deliverability Upgrades on the Affected System.

If a System Deliverability Upgrade is cost allocated to a Developer or multiple Developers and multiple Developers accept their SDU Project Cost Allocation and fund or commit to fund such System Deliverability Upgrades as required by Attachment S, the Developers, Connecting Transmission Owner(s), and Affected Transmission Owner(s) will cooperate with the ISO in development of an Engineering, Procurement and Construction Agreement to provide for the engineering, procurement and construction of the System Deliverability Upgrades on the Affected System.

The Engineering, Procurement and Construction Agreement shall be consistent with the NYISO's Commission-approved Standard Large Generator Interconnection Agreement located in Appendix 2 to Attachment X of the OATT, modified to address only the engineering, procurement and construction of the System Deliverability Upgrades. The Parties to such agreement will use Reasonable Efforts to complete and execute the agreement, or submit the agreement unexecuted to the Commission, within six (6) months of the ISO's tender of the agreement.

31.1 New York Comprehensive System Planning Process (“CSPP”)

31.1.1 Definitions

Throughout Sections 31.1 through 31.7, the following capitalized terms shall have the meanings set forth in this subsection:

Affected TO: The Transmission Owner who receives written notification of a dispute related to a Local Transmission Planning Process pursuant to Section 31.2.1.3.1.

Bounded Region: A Load Zone or Zones within an area that is isolated from the rest of the NYCA as a result of constrained interface limits.

CARIS: The Congestion Assessment and Resource Integration Study for economic planning developed by the ISO in consultation with the Market Participants and other interested parties pursuant to Section 31.3 of this Attachment Y.

Cost Cap: A Developer’s commitment to contain the capital costs of its proposed Public Policy Transmission Project in accordance with the requirements in Section 31.4.5.1.8. The Cost Cap must be in the form of a hard Cost Cap or a soft Cost Cap as described in Section 31.4.5.1.8.3.

CRP: The Comprehensive Reliability Plan as approved by the ISO Board of Directors pursuant to this Attachment Y.

CSPP: The Comprehensive System Planning Process set forth in this Attachment Y, and in the Interregional Planning Protocol, which covers reliability planning, economic planning, Public Policy Requirements planning, cost allocation and cost recovery, and the interregional planning process.

Developer: A person or entity, including a Transmission Owner, sponsoring or proposing a project pursuant to this Attachment Y.

Development Agreement: The agreement between the ISO and the Developer concerning the timely development and construction of: (i) a regulated transmission solution selected and/or triggered by the ISO to address a Reliability Need that the parties are required to enter into pursuant to Section 31.2.8.1.6 of this Attachment Y and is in the form set forth in Appendix C of this Attachment Y, or (ii) a Public Policy Transmission Project selected by the ISO to address a Public Policy Transmission Need that the parties are required to enter into pursuant to Section 31.4.12.2 of this Attachment Y and is in the form set forth in Appendix D of this Attachment Y.

ESPWG: The Electric System Planning Work Group, or any successor work group or committee designated to fulfill the functions assigned to the ESPWG in this tariff.

Gap Solution: A solution to a Reliability Need that is designed to be temporary and to strive to be compatible with permanent market-based proposals. A permanent regulated solution, if appropriate, may proceed in parallel with a Gap Solution.

Interregional Planning Protocol: The Amended and Restated Northeastern ISO/RTO Planning Coordination Protocol, or any successor to that protocol.

Interregional Transmission Project: A transmission facility located in two or more transmission planning regions that is evaluated under the Interregional Planning Protocol and proposed to address an identified Reliability Need, congestion identified in the CARIS, or a transmission need driven by a Public Policy Requirement pursuant to Order No. 1000 and the provisions of this Attachment Y.

IPTF: The Interregional Planning Task Force, or any successor ISO stakeholder working group or committee, designated to fulfill the functions assigned to the IPTF in this tariff.

ISO/RTO Region: One or more of the three ISO or RTO regions known as PJM, ISO-New England, and NYISO, which are the “Parties” to the Interregional Planning Protocol.

ISO/TO Reliability Agreement: *The Agreement Between the New York Independent System Operator, Inc., and the New York Transmission Owners on the Comprehensive Planning Process for Reliability Needs*, as filed with and accepted by the Commission in *New York Independent System Operator, Inc.*, 109 FERC ¶ 61,372 (2004) and 111 FERC ¶ 61,182 (2005) in Docket No. ER04-1144, and as amended or supplemented from time to time, or any successor agreement thereto.

LCR: An abbreviation for the term Locational Minimum Installed Capacity Requirement, as defined in the ISO Open Access Transmission Tariff.

Loss of Load Expectation (“LOLE”): A measure used to determine the amount of resources needed to minimize the possibility of an involuntary loss of firm electric load on the New York State Bulk Power Transmission Facilities.

LTP: The Local Transmission Owner Plan, developed by each Transmission Owner, which describes its respective plans that may be under consideration or finalized for its own Transmission District.

LTP Dispute Resolution Process (“DRP”): The process for resolution of disputes relating to a Transmission Owner’s LTP set out in Section 31.2.1.3.

LTPP: The Local Planning Process conducted by each Transmission Owner for its own Transmission District.

Management Committee: The standing committee of the ISO of that name created pursuant to the ISO Agreement.

Merchant Transmission Facility shall mean a Developer’s proposed new transmission facility that will interconnect to the New York State Transmission System or a proposed upgrade—an

improvement to, addition to, or replacement of a part of an existing transmission facility—to the New York State Transmission System, for which the costs of construction will be recovered through negotiated rates instead of cost-based rates and not subject to the competitive evaluation and selection process for purposes of cost allocation under Attachment Y to the ISO OATT. Merchant Transmission Facilities shall not include Attachment Facilities, Network Upgrade Facilities, System Upgrade Facilities or System Deliverability Upgrades.

Net CONE: The value representing the cost of new entry, net of energy and ancillary services revenues, utilized by the ISO in establishing the ICAP Demand Curves pursuant to Section 5 of the ISO Market Services Tariff.

New York State Bulk Power Transmission Facilities (“BPTFs”): The facilities identified as the New York State Bulk Power Transmission Facilities in the annual Area Transmission Review submitted to NPCC by the ISO pursuant to NPCC requirements.

NPCC: The Northeast Power Coordinating Council, or any successor organization.

NYCA Free Flow Test: A NYCA unconstrained internal transmission interface test, performed by the ISO to determine if a Reliability Need is the result of a statewide resource deficiency or a transmission limitation.

NYDPS: The New York State Department of Public Service, as defined in the New York Public Service Law.

NYISO Load and Capacity Data Report: As defined in Section 25 of the ISO OATT.

NYPSC: The New York Public Service Commission, as defined in the New York Public Service Law.

Operating Agreement: An agreement between the NYISO and a non-incumbent owner of transmission facilities in the New York Control Area concerning the operation of the transmission facilities in the form of the agreement set forth in Appendix H (Section 31.11) of this Attachment Y.

Operating Committee: The standing committee of the NYISO of that name created pursuant to the ISO Agreement.

Order No. 1000: The Final Rule entitled Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities, issued by the Commission on July 21, 2011, in Docket RM10-23-001, as modified on rehearing, or upon appeal. (See FERC Stats & Regs. ¶ 31,323 (2011) (“Order No. 1000”), on reh’g and clarification, 139 FERC ¶ 61,132 (“Order No. 1000-A”), on reh’g and clarification, 141 FERC ¶ 61,044 (2012) (“Order No. 1000-B”).

Other Developer: A Developer, other than a Transmission Owner, sponsoring or proposing to sponsor a regulated economic project, a Public Policy Transmission Project, an Other Public Policy Project, or a regulated solution to a Reliability Need.

Other Public Policy Project: A non-transmission project or a portfolio of transmission and non-transmission projects proposed by a Developer to satisfy an identified Public Policy Transmission Need.

Public Policy Transmission Planning Process: The process by which the ISO solicits needs for transmission driven by Public Policy Requirements, evaluates all proposed Public Policy Transmission Projects and Other Public Policy Projects on a comparable basis, and selects the more efficient or cost effective Public Policy Transmission Project, if any, for eligibility for cost allocation under the ISO Tariffs.

Public Policy Transmission Need: A transmission need identified by the NYPSC that is driven by a Public Policy Requirement pursuant to Sections 31.4.2.1 through 31.4.2.3.

Public Policy Transmission Planning Report: The report approved by the ISO Board of Directors pursuant to this Attachment Y on the ISO's evaluation of all Public Policy Transmission Projects and Other Public Policy Projects proposed to satisfy an identified Public Policy Transmission Need pursuant to Section 31.4.6 and the ISO's selection of a proposed Public Policy Transmission Project, if any, that is the more efficient or cost effective solution to the identified Public Policy Transmission Need pursuant to Section 31.4.8.

Public Policy Requirement: A federal or New York State statute or regulation, including a NYPSC order adopting a rule or regulation subject to and in accordance with the State Administrative Procedure Act, any successor statute, or any duly enacted law or regulation passed by a local governmental entity in New York State, that may relate to transmission planning on the BPTFs.

Public Policy Transmission Project: A transmission project or a portfolio of transmission projects proposed by Developer(s) to satisfy an identified Public Policy Transmission Need and for which the Developer(s) seek to be selected by the ISO for purposes of allocating and recovering the project's costs under the ISO OATT.

Reliability Criteria: The electric power system planning and operating policies, standards, criteria, guidelines, procedures, and rules promulgated by the North American Electric Reliability Corporation ("NERC"), Northeast Power Coordinating Council ("NPCC"), and the New York State Reliability Council ("NYSRC"), as they may be amended from time to time.

Reliability Need: A condition identified by the ISO as a violation or potential violation of one or more Reliability Criteria.

Reliability Planning Process: The process set forth in this Attachment Y by which the ISO determines in the RNA whether any Reliability Need(s) on the BPTFs will arise in the Study Period and addresses any identified Reliability Need(s) in the CRP, as the process is further described in Section 31.1.2.2.

Responsible Transmission Owner: The Transmission Owner or Transmission Owners designated by the ISO, pursuant to Section 31.2.4.3, to prepare a proposal for a regulated backstop solution to a Reliability Need or to proceed with a regulated solution to a Reliability Need. The Responsible Transmission Owner will normally be the Transmission Owner in whose

Transmission District the ISO identifies a Reliability Need and/or that owns a transmission facility on which a Reliability Need arises.

RNA: The Reliability Needs Assessment as approved by the ISO Board under this Attachment.

RNA Base Case: The model(s) representing the New York State Power System over the Study Period.

Short-Term Reliability Process: This term shall have the meaning set forth in Section 38.1 of Attachment FF of the ISO OATT.

Site Control: Documentation reasonably demonstrating: (1) ownership of, a leasehold interest in, or a right to develop a site or right of way for the purpose of constructing a proposed project; (2) an option to purchase or acquire a leasehold site or right of way for such purpose; or (3) an exclusivity or other business relationship between the Transmission Owner, or Other Developer, and the entity having the right to sell, lease, or grant the Transmission Owner, or Other Developer, the right to possess or occupy a site or right of way for such purpose.

Study Period: The seven-year time period encompassing years 4 through 10 following the year in which the RNA is conducted, which is used in the RNA and the CRP.

Target Year: The calendar year in which a Reliability Need arises, as determined by the ISO pursuant to Section 31.2.

TPAS: The Transmission Planning Advisory Subcommittee, or any successor work group or committee designated to fulfill the functions assigned to TPAS pursuant to this Attachment.

Trigger Date: The date by which the ISO must request implementation of a regulated backstop solution or an alternative regulated solution pursuant to Section 31.2.8 in order to meet a Reliability Need.

Viability and Sufficiency Assessment: The results of the ISO's assessment of the viability and sufficiency of proposed solutions to a Reliability Need under Section 31.2.5 or a Public Policy Transmission Need under Section 31.4.6, as applicable.

All other capitalized terms shall have the meanings provided for them in the ISO's Tariffs.

31.1.2 Short-Term Reliability Process and Reliability Planning Process

31.1.2.1 Short-Term Reliability Process

The Short-Term Reliability Process set forth in Attachment FF of the ISO OATT establishes the process that the ISO, Transmission Owners, Market Participants, Generator

Owners, Developers and other interested parties shall follow to plan to meet Generator Deactivation Reliability Needs that would result from a Generator's deactivation and other Reliability Needs identified pursuant to Attachment FF affecting the BPTFs (collectively, Short-Term Reliability Process Needs), which needs cannot be timely addressed in the Reliability Planning Process set forth in this Attachment Y.

Consistent with Section 38.2 of the OATT, Short-Term Reliability Process Needs that arise within three years of the later of (a) the conclusion of the 365 day prior notice period for that is described in Section 38.3.1.1 of the OATT for Generator Deactivation Reliability Needs, or (b) the posting of a completed Short-Term Assessment of Reliability ("STAR") for other Reliability Needs on the BPTF, will be addressed using the Short-Term Reliability Process. The terms "Generator Deactivation Reliability Need" and "STAR" are defined in Section 38.1 of the OATT.

Short-Term Reliability Process Needs that arise more than three years after the later of (x) the conclusion of the 365 day prior notice period for Generator Deactivation Reliability Needs, or (y) the posting of a completed STAR for other Reliability Needs on the BPTF, will only be addressed using the Short-Term Reliability Process if the identified Reliability Need cannot timely be addressed through the Reliability Planning Process set forth in this Attachment Y.

31.1.2.2 Reliability Planning Process

The Reliability Planning Process set forth in Sections 31.2.1 through 31.2.13 of this Attachment Y establishes the process that the ISO, Transmission Owners, Market Participants, and other interested parties shall follow to plan to meet Reliability Needs of the BPTFs that are identified in the RNA. The objectives of the process are to: (1) evaluate the Reliability Needs of

the BPTFs over the Study Period pursuant to Reliability Criteria (2) identify, through the development of appropriate scenarios, factors and issues that might adversely impact the reliability of the BPTFs; (3) provide a process whereby solutions to identified needs are proposed, evaluated on a comparable basis, and implemented in a timely manner to ensure the reliability of the system; (4) provide a process by which the ISO will select the more efficient or cost effective regulated transmission solution to satisfy the Reliability Need for eligibility for cost allocation under the ISO Tariffs; (5) provide an opportunity first for the implementation of market-based solutions while ensuring the reliability of the BPTFs; and (6) coordinate the ISO's reliability assessments with neighboring Control Areas.

The ISO will provide, through the analysis of historical system congestion costs, information about historical congestion including the causes for that congestion so that Market Participants and other stakeholders can make appropriately informed decisions. See Appendix A.

31.1.3 Transmission Owner Planning Process

The Transmission Owners will continue to plan for their transmission systems, including the BPTFs and other NYS Transmission System facilities. The planning process of each Transmission Owner is referred to herein as the LTPP, and the plans resulting from the LTPP are referred to herein as LTPs, whether under consideration or finalized. Each Transmission Owner will be responsible for administering its LTPP and for making provisions for stakeholder input into its LTPP. The ISO's role in the LTPP is limited to the procedural activities described in this Attachment Y.

The finalized portions of the LTPs periodically prepared by the Transmission Owners will be used as inputs to the CSPP described in this Attachment Y. Each Transmission Owner

will prepare an LTP for its transmission system in accordance with the procedures described in Section 31.2.1.

31.1.4 Economic Planning Process

Sections 31.3.1 and 31.3.2 of this Attachment Y describe the process that the ISO, the Transmission Owners, and Market Participants shall follow for economic planning to identify and reduce current and future projected congestion on the BPTFs. The objectives of the economic planning process are to: (1) project congestion on the BPTFs over the ten-year planning period of this CSPP, (2) identify, through the development of appropriate scenarios, factors that might produce or increase congestion, (3) provide a process whereby projects to reduce congestion identified in the economic planning process are proposed and evaluated on a comparable basis in a timely manner, (4) provide an opportunity for the development of market-based solutions to reduce the congestion identified, and (5) coordinate the ISO's congestion assessments and economic planning process with neighboring Control Areas.

31.1.5 Public Policy Transmission Planning Process

Section 31.4 of this Attachment Y describes the planning process that the ISO, and all interested parties, shall follow to consider Public Policy Requirements that drive the need for expansions or upgrades to BPTFs. The objectives of the Public Policy Transmission Planning Process are to: (1) allow Market Participants and other interested parties to propose transmission needs that they believe are being driven by Public Policy Requirements and for which transmission solutions should be evaluated, (2) provide a process by which the NYPSC will, with input from the ISO, Market Participants, and other interested parties, identify the transmission needs, if any, for which transmission solutions should be evaluated, (3) provide a process whereby Public Policy Transmission Projects and Other Public Policy Projects are proposed to

satisfy each identified Public Policy Transmission Need and are evaluated by the ISO on a comparable basis, (4) provide a process by which the ISO will select the more efficient or cost effective regulated Public Policy Transmission Project, if any, to satisfy each identified Public Policy Transmission Need for eligibility for cost allocation under the ISO Tariffs; (5) provide a cost allocation methodology for regulated Public Policy Transmission Projects that have been selected by the ISO, and (6) coordinate the ISO's Public Policy Transmission Planning Process with neighboring Control Areas.

31.1.6 Interregional Planning Process

The ISO, the Transmission Owners, and Market Participants and other interested parties shall coordinate system planning activities with neighboring planning regions (*i.e.*, the ISO/RTO Regions and adjacent portions of Canada). The Interregional Planning Protocol includes a description of the committee structure, processes, and procedures through which system planning activities are openly and transparently coordinated by the ISO/RTO Regions. The objective of the interregional planning process is to contribute to the on-going reliability and the enhanced operational and economic performance of the ISO/RTO Regions through: (1) exchange of relevant data and information; (2) coordination of procedures to evaluate certain interconnection and transmission service requests; (3) periodic comprehensive interregional assessments; (4) identification and evaluation of potential Interregional Transmission Projects that can address regional needs in a manner that may be more efficient or cost-effective than separate regional solutions, in accordance with the requirements of Order No. 1000; (5) allocation of costs among the ISO/RTO Regions of Interregional Transmission Projects, identified in accordance with the Interregional Planning Protocol and approved by each region, pursuant to the cost allocation methodology set forth in Section 31.5.7 herein. The planning activities of the ISO/RTO Regions

shall be conducted consistent with the planning criteria of each ISO/RTO Region's regional reliability organization(s) as well as the relevant local reliability entities. The ISO/RTO Regions shall periodically produce a Northeastern Coordinated System Plan that integrates the system plans of all of the ISO/RTO Regions.

31.1.7 Enrollment in the ISO's Transmission Planning Region

31.1.7.1 For purposes of any matter addressed by this Attachment Y, participation in the ESPWG, IPTF and TPAS shall be open to any interested entity, irrespective of whether that entity has become a Party to the ISO Agreement. Any entity may enroll in the ISO's transmission planning region in order to fully participate in the ISO's governance process by becoming a Party to the ISO Agreement, as set forth in Section 2.02 of the ISO Agreement.

31.1.7.2. An owner of transmission in New York State may become a Transmission Owner by executing the ISO/TO Agreement or an Operating Agreement as provided for in Section 31.1.7.3.

31.1.7.3 A transmission owner that is not a party to the ISO/TO Agreement or an Operating Agreement and will own transmission facilities in the New York Control Area over which Transmission Service will be provided under the ISO Tariffs must enter into an Operating Agreement prior to energizing its transmission facilities. The ISO will tender a draft Operating Agreement as soon as practicable following its selection of the transmission owner's transmission facilities under the CSPP in this Attachment Y or under the Short-Term Reliability Process in Attachment FF of this ISO OATT. If the transmission owner's transmission facilities were not selected under the CSPP, the

transmission owner shall request that the ISO tender the draft Operating Agreement as soon as practicable after receiving its Article VII certification or other applicable siting permits or authorizations under New York State law. The draft Operating Agreement will be completed by the ISO to the extent practicable for review and completion by the transmission owner. The draft shall be in the form of the ISO's Commission-approved Operating Agreement, which is located in Appendix H in Section 31.11 of this Attachment Y. The ISO and the transmission owner shall finalize and negotiate concerning any disputed provisions. Unless otherwise agreed by the ISO and the transmission owner, the transmission owner must execute the Operating Agreement within three (3) months of the ISO's tendering of the draft Operating Agreement; *provided, however*, if, during the negotiation period, the ISO or the transmission owner determines that negotiations are at an impasse, the ISO may file the Operating Agreement in unexecuted form with the Commission on its own or following the transmission owner's request in writing that the agreement be filed unexecuted.

31.1.7.4 If the Operating Agreement resulting from the negotiation between the ISO and the transmission owner does not conform with the Commission-approved standard form in Appendix H in Section 31.11 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 Operating Agreement by both parties. If the transmission owner requests that the Operating 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 transmission owner. The ISO

will draft to the extent practicable the portions of the Operating 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 transmission owner 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.

31.1.7.5 Upon the ISO's and the transmission owner's execution of the Operating Agreement or the ISO's filing of an unexecuted Operating Agreement with the Commission, the ISO and the transmission owner shall perform their respective obligations in accordance with the terms of the Operating Agreement that are not in dispute, subject to modification by the Commission.

31.1.7.6 As of June 1, 2016, the Transmission Owners are: (1) Central Hudson Gas & Electric Corporation, (2) Consolidated Edison Company of New York, Inc., (3) New York State Electric & Gas Corporation, (4) Niagara Mohawk Power Corporation d/b/a National Grid, (5) Orange and Rockland Utilities, Inc., (6) Rochester Gas and Electric Corporation, (7) the Power Authority of the State of New York, (8) Long Island Lighting Company d/b/a LIPA, and (9) New York Transco, LLC.

31.1.8 NYISO Implementation and Administration

31.1.8.1 The ISO shall adopt procedures for the implementation and administration of the CSPP set forth in this Attachment Y, the Short-Term Reliability Process in Attachment FF of this ISO OATT, and the Interregional Planning Protocol, and shall revise those procedures as and when necessary. Such procedures will be

incorporated in the ISO's manuals. The ISO Procedures shall provide for the open and transparent coordination of the CSPP to allow Market Participants and all other interested parties to have a meaningful opportunity to participate in each stage of the CSPP through the meetings conducted in accordance with the ISO system of collaborative governance. Confidential Information and Critical Energy Infrastructure Information exchanged through the CSPP shall be subject to the protections for such information contained in the ISO's tariffs and procedures, including this Attachment Y and Attachment F of the NYISO OATT.

31.1.8.2 The ISO Procedures shall include a schedule for the collection and submission of data and the preparation of models to be used in the studies contemplated under this tariff. That schedule shall provide for a rolling two-year cycle of studies and reports conducted in each of the ISO planning processes (reliability, economic and public policy) as part of the Comprehensive System Planning Process. Each cycle commences with the LTPP providing input into the Reliability Planning Process. The CARIS study under Section 31.3 of this Attachment Y will commence upon completion of the viability and sufficiency analysis performed pursuant to Section 31.2.5.7, as part of the CRP process. The Public Policy Transmission Planning Process will to the extent practicable run in parallel with the Reliability Planning Process, provided that the NYPSC's issuance of a written statement pursuant to Section 31.4.2.1 will occur after the draft RNA study results are posted. If the CRP cannot be completed within a two-year cycle, the ISO will notify stakeholders and provide an estimated completion date and an explanation of the reasons the additional time is required. As detailed

in Attachment FF of the ISO OATT, the Short-Term Reliability Process will be conducted on a quarterly basis and will run in parallel with the other planning processes. As further detailed in Sections 31.2, 31.3, 31.4, and 31.5, the interregional planning process shall be conducted in parallel with the Reliability Planning Process, the economic planning process, and the Public Policy Transmission Planning Process to identify and evaluate Interregional Transmission Projects that may more efficiently or cost-effectively meet the needs of the region than a regional transmission project.

- 31.1.8.3 The ISO Procedures shall be designed to allow the coordination of the ISO's planning activities with those of the ISO/RTO Regions, NERC, NPCC, the NYSRC, and other regional reliability organizations so as to develop consistency of the models, databases, and assumptions utilized in making reliability and economic determinations.
- 31.1.8.4 The ISO Procedures shall facilitate the timely identification and resolution of all substantive and procedural disputes that arise out of the CSPP. Any party participating in the CSPP and having a dispute arising out of the CSPP may seek to have its dispute resolved in accordance with ISO governance procedures during the course of the CSPP. If the party's dispute is not resolved in this manner as a part of the plan development process, the party may invoke formal dispute resolution procedures administered by the ISO that are the same as those available to Transmission Customers under Section 11 of the ISO Market Administration and Control Area Services Tariff. Disputes arising out of the LTPP shall be addressed by the LTPP set forth in Section 31.2.1.3 of this Attachment Y.

31.1.8.5 Except for those cases where the ISO OATT provides that an individual customer shall be responsible for the cost, or a specified share of the cost, of an individually requested study related to interconnection or to system expansion or to congestion and resource integration, the study costs incurred by the ISO as a result of its administration of the CSPP will be recovered from all customers through and in accordance with Rate Schedule 1 of the ISO OATT.

31.1.8.6 The ISO shall make reasonable efforts to meet all deadlines provided in this Attachment Y; *provided, however*, that the ISO must meet all deadlines set forth in a development agreement entered into pursuant to this Attachment Y in accordance with the terms of that agreement. If the ISO cannot meet a deadline set forth in this Attachment Y and an extension of that deadline will not result in a reliability violation, the NYISO may extend the deadline, provided that it shall notify Market Participants and other interested parties, explain the reason for the failure to meet the deadline, and provide an estimated time by which it will complete the applicable action.

31.1.8.7 The ISO may extend, at its discretion, the deadlines indicated below that are applicable to all parties participating in a given process for a reasonable period of time if the extension: (i) is applied equally to all parties that are required to meet the deadline, and (ii) will not result in a reliability violation. The deadlines eligible for extension are:

- Sixty (60) day deadline in Section 31.2.5.1 for interested Developers to propose solutions in response to the ISO's solicitation for solutions to a Reliability Need;

- Thirty (30) day deadline in Section 31.2.6.1 for Developers of viable and sufficient transmission solutions to submit project information in response to ISO request;
- Sixty (60) day deadline in Section 31.4.2 for stakeholders and interested parties to submit proposed transmission needs in response to ISO solicitation for proposed needs;

Sixty (60) day deadline in Section 31.4.4.3.2: (i) for Developers to propose solutions to a Public Policy Transmission Need in response to ISO solicitation for solutions, and (ii) pursuant to Section 31.4.4.4, for Developers of Public Policy Transmission Projects to execute a study agreement, provide a study deposit, and provide an application fee in response to ISO solicitation for solutions; and

- Deadline in Section 31.4.6.6 for Developers to inform the ISO following the ISO's filing of the Viability and Sufficiency Assessment at the NYPSC that their viable and sufficient Public Policy Transmission Projects will proceed to be evaluated by the ISO for purposes of selection.

31.2 Reliability Planning Process

31.2.1 Local Transmission Owner Planning Process

31.2.1.1 Scope

31.2.1.1.1 Criteria, Assumptions and Data

Each Transmission Owner will post on its website the planning criteria and assumptions currently used in its LTPP as well as a list of any applicable software and/or analytical tools currently used in the LTPP. Customers, Market Participants and other interested parties may review and comment on the planning criteria and assumptions used by each Transmission Owner, as well as other data and models used by each Transmission Owner in its LTPP. The Transmission Owners will take into consideration any comments received. Any planning criteria or assumptions for a Transmission Owner's BPTFs will meet or exceed any applicable NERC, NPCC or NYSRC criteria. The LTPP shall include a description of the needs addressed by the LTPP as well as the assumptions, applicable planning criteria and methodology utilized and the Public Policy Requirements considered. A link to each Transmission Owner's website will be posted on the ISO website.

31.2.1.1.2 Consideration of Transmission Needs Driven by Public Policy Requirements

31.2.1.1.2.1 Procedures for the Identification of Transmission Needs Driven by Public Policy Requirements in Local Transmission Plans and for the Consideration of Transmission Solutions

In developing its LTP, each Transmission Owner shall consider whether there is a transmission need on its system that is being driven by a Public Policy Requirement. The LTP will identify any transmission project included in the LTP as a solution to a transmission need being driven by a Public Policy Requirement. In evaluating potential transmission solutions, the

Transmission Owner will give consideration to the objectives of the Public Policy Requirement(s) driving the need for transmission.

31.2.1.1.2.2 Determination of Local Transmission Needs Driven by Public Policy Requirements

As part of its LTP process pursuant to Section 31.2.1.2 below, each Transmission Owner will consider whether there is a transmission need on its local system that is being driven by a Public Policy Requirement for which a local transmission solution should be evaluated, including needs proposed by market participants and other interested parties. A market participant or other interested party proposing a transmission need on a Transmission Owner's local system driven by a Public Policy Requirement shall submit its proposal to the ISO and the relevant Transmission Owner, and will identify the specific Public Policy Requirement that is driving the proposed transmission need and an explanation of why a local transmission upgrade is necessary to implement the Public Policy Requirement. Any proposed local system transmission need will be posted on the ISO website. The ISO will transmit proposed transmission needs on a Transmission Owner's local system driven by Public Policy Requirements to the NYDPS, with a request that the NYDPS review the proposals and provide the relevant Transmission Owner with input to assist the Transmission Owner in its determination. The Transmission Owner, after considering the input provided by the NYDPS and any information provided by a market participant or other party, will determine whether there are transmission needs driven by Public Policy Requirements for which local transmission solutions should be evaluated. The Transmission Owner will post on its website a list of the transmission needs driven by Public Policy Requirements for which local transmission solutions should be evaluated, with an explanation of why the Transmission Owner identified those transmission needs and declined to identify other proposed transmission needs.

31.2.1.1.2.3 Evaluation of Proposed Local Transmission Solutions

In evaluating potential transmission solutions, if any, the Transmission Owner will give consideration to the objectives of the Public Policy Requirement driving the need for a local transmission solution. The Transmission Owner will evaluate solutions to identified transmission needs, including transmission solutions proposed by market participants and other parties for inclusion in its LTP. The Transmission Owner, in consultation with the NYDPS, will evaluate proposed transmission solutions on its local system to determine the more efficient or cost-effective transmission solutions. The Transmission Owner will consider the relative costs and benefits of proposed transmission solutions and their impact on the Transmission Owner's transmission system and its customers. Any local transmission solution identified by the Transmission Owner through the LTP process will be reviewed with stakeholders as part of each Transmission Owner's regular LTP process and will be included in the Transmission Owner's subsequent LTP. In conducting its evaluation, the Transmission Owner will use criteria that are relevant to the Public Policy Requirement driving the transmission need, which may include its published local planning criteria and assumptions.

31.2.1.2 Process Timeline

31.2.1.2.1 Each Transmission Owner, in accordance with a schedule set forth in the ISO Procedures, will post its current LTP on its website for review and comment by interested parties sufficiently in advance of the time for submission to the ISO for input to its RNA so as to allow adequate time for stakeholder review and comment. Each LTP will include:

- identification of the planning horizon covered by the LTP,
- data and models used,

- reliability needs, needs driven by Public Policy Requirements, and other needs addressed,
- potential solutions under consideration, and,
- a description of the transmission facilities covered by the plan.

31.2.1.2.2 To the extent the current LTP utilizes data or inputs, related to the ISO's planning process, not already reported by the ISO in Form 715 and referenced on its website, any such data will be provided to the ISO at the time each Transmission Owner posts criteria and planning assumptions in accordance with Section 31.2.1.1 and will be posted by the ISO on its website subject to any confidentiality or Critical Energy Infrastructure Information restrictions or requirements.

31.2.1.2.3 Each planning cycle, the ISO shall hold one or more stakeholder meetings of the ESPWG and TPAS at which each Transmission Owner's current LTP will be discussed. Such meetings will be held either at the Transmission Owner's Transmission District, or at an ISO location. The ISO shall post notice of the meeting and shall disclose the agenda and any other material distributed prior to the meeting.

31.2.1.2.4 Interested parties may submit written comments to a Transmission Owner with respect to its current LTP within thirty days after the meeting. Each Transmission Owner shall list on its website, as part of its LTP, the person and/or location to which comments should be sent by interested parties. All comments will be posted on the ISO website. Each Transmission Owner will consider comments received in developing any modifications to its LTP. Any such modification will be explained in its current LTP posted on its website pursuant to

Section 31.2.1.2.2 above and discussed at the next meeting held pursuant to
Section 31.2.1.2.3 above.

31.2.1.2.5 Each planning cycle, each Transmission Owner will submit the finalized
portions of its current LTP to the ISO as contemplated in Section 31.2.2.4.2 below
for timely inclusion in the RNA.

31.2.1.3 ISO Evaluation of Transmission Owner Local Transmission Plans in Relation to Regional and Local Transmission Needs

The ISO will review the Transmission Owner LTPs as they relate to the BPTFs as set forth in Section 31.2.2.4.2. The ISO will also evaluate whether a regional transmission solution – including, but not limited to, regional transmission solutions proposed by Developers pursuant to this Attachment Y – could satisfy an identified regional transmission need on the BPTFs that impacts more than one Transmission District more efficiently or more cost effectively than a local transmission solution identified in a Transmission Owner’s LTP in accordance with Section 31.2.6.4.2 for the satisfaction of a regional Reliability Need, Section 31.3.1.3.6 for the reduction of congestion identified in CARIS, or Section 31.4.7.2 for the satisfaction of a Public Policy Transmission Need. The ISO will report the results of its evaluation solely for informational purposes in the relevant ISO planning report prepared under this Attachment Y, and the Transmission Owners shall not be required to revise their LTPs based on the results of the ISO’s evaluation.

31.2.1.4 LTP Dispute Resolution Process

31.2.1.4.1 Disputes Related to the LTPP; Objective; Notice

Disputes related to the LTPP are subject to the DRP. The objective of the DRP is to assist parties having disputes in communicating effectively and resolving disputes as

expeditiously as possible. Within fifteen (15) calendar days of the presentation by a Transmission Owner of its LTP to the ESPWG and TPAS, a party with a dispute shall notify in writing the Affected TO, the ISO, the ESPWG and TPAS of its intention to utilize the DRP. The notice shall identify the specific issue in dispute and describe in sufficient detail the nature of the dispute.

31.2.1.4.2 Review by the ESPWG/TPAS

The issue raised by a party with a dispute shall be reviewed and discussed at a joint meeting of the ESPWG and the TPAS in an effort to resolve the dispute. The party with a dispute and the Affected TO shall have an opportunity to present information concerning the issue in dispute to the ESPWG and the TPAS.

31.2.1.4.3 Information Discussions

To the extent the ESPWG and the TPAS are unable to resolve the dispute, the dispute will be subject to good faith informal discussions between the party with a dispute and the Affected TO. Each of those parties will designate a senior representative authorized to enter into informal discussions and to resolve the dispute. The parties to the dispute shall make a good faith effort to resolve the dispute through informal discussions as promptly as practicable.

31.2.1.4.4 Alternative Dispute Resolution

In the event that the parties to the dispute are unable to resolve the dispute through informal discussions within sixty (60) days, or such other period as the parties may agree upon, the parties may, by mutual agreement, submit the dispute to mediation or any other form of alternative dispute resolution. The parties shall attempt in good faith to resolve the dispute in accordance with a mutually agreed upon schedule but in no event may the schedule extend

beyond ninety (90) days from the date on which the parties agreed to submit the dispute to alternative dispute resolution.

31.2.1.4.5 Notice of Results of Dispute Resolution

The Affected TO shall notify the ISO and ESPWG and TPAS of the results of the DRP and update its LTP to the extent necessary. The ISO shall use in its planning process the LTP provided by the Affected TO.

31.2.1.4.6 Rights Under the Federal Power Act

Nothing in the DRP shall affect the rights of any party to file a complaint with the Commission under relevant provisions of the FPA.

31.2.1.4.7 Confidentiality

All information disclosed in the course of the DRP shall be subject to the same protections accorded to confidential information and CEII by the ISO under its confidentiality and CEII policies.

31.2.2 Reliability Needs Assessment

31.2.2.1 General

The ISO shall prepare and publish the RNA as described below. The RNA will identify Reliability Needs. The ISO shall also designate in the RNA the Responsible Transmission Owner with respect to each Reliability Need.

31.2.2.2 Interested Party Participation in the Development of the RNA

The ISO shall develop the RNA in consultation with Market Participants and all other interested parties. TPAS will have responsibility consistent with ISO Procedures for review of the ISO's reliability analyses. ESPWG will have responsibility consistent with ISO Procedures

for providing commercial input and assumptions to be used in the development of reliability assessment scenarios provided under Section 31.2.2.5, and in the reporting and analysis of historic congestion costs. Coordination and communication will be established and maintained between these two groups and ISO staff to allow Market Participants and other interested parties to participate in a meaningful way during each stage of the CSPP. The ISO staff shall report any majority and minority views of these collaborative governance work groups when it submits the RNA to the Operating Committee for a vote, as provided below.

31.2.2.3 Preparation of the Reliability Needs Assessment

31.2.2.3.1 The ISO shall evaluate bulk power system needs in the RNA over the Study Period.

31.2.2.3.2 The starting point for the development of the RNA Base Case will be the system as defined for the FERC Form No. 715 Base Case. The ISO shall develop this system representation to be used for its evaluations of the Study Period by primarily using: (1) the most recent NYISO Load and Capacity Data Report published by the ISO on its web site; (2) the most recent versions of ISO reliability analyses and assessments provided for or published by NERC, NPCC, NYSRC, and neighboring Control Areas; (3) information reported by neighboring Control Areas such as power flow data, forecasted load, significant new or modified generation and transmission facilities, and anticipated system conditions that the ISO determines may impact the BPTFs; and (4) data submitted pursuant to paragraph 31.2.2.4 below; *provided, however*, the ISO shall not include in the RNA Base Case an Interim Service Provider, an RMR Generator, or any other interim Short-Term Reliability Process Solution selected by the ISO pursuant to

Attachment FF of the ISO OATT; *provided, further*, the ISO will include in the RNA Base Case a permanent transmission Short-Term Reliability Process Solution selected by the ISO pursuant to Attachment FF of the ISO OATT if it meets the base case inclusion requirements in the ISO Procedures. The details of the development of the RNA Base Case are contained in the ISO Procedures. The RNA Base Case shall also include Interregional Transmission Projects that have been approved by the NYPSC transmission siting process and meet the base case inclusion requirements in the ISO Procedures.

31.2.2.3.3 The ISO shall assess the RNA Base Case to determine whether the BPTFs meet all Reliability Criteria for both resource and transmission adequacy in each year, and report the results of its evaluation in the RNA. Transmission analyses will include thermal, voltage, short circuit, and stability studies. Then, if any Reliability Criteria are not met in any year, the ISO shall perform additional analyses to determine whether additional resources and/or transmission capacity expansion are needed to meet those requirements, and to determine the Target Year of need for those additional resources and/or transmission. A short circuit assessment will be performed for the tenth year of the Study Period. The study will not seek to identify specific additional facilities. Reliability Needs will be defined in terms of total deficiencies relative to Reliability Criteria and not necessarily in terms of specific facilities.

31.2.2.4 Planning Participant Data Input

31.2.2.4.1 At the ISO's request, Market Participants, Developers, and other parties shall provide, in accordance with the schedule set forth in the ISO Procedures, the

data necessary for the development of the RNA. This data will include but not be limited to (1) existing and planned additions to the New York State Transmission System (to be provided by Transmission Owners and municipal electric utilities); (2) proposals for Merchant Transmission Facilities (to be provided by merchant transmission Developers); (3) generation additions and retirements (to be provided by generator owners and Developers); (4) demand response programs (to be provided by demand response providers); and (5) any long-term firm transmission requests made to the ISO.

31.2.2.4.2 The Transmission Owners shall submit their current LTPs referenced in Section 31.1.3 and Section 31.2.1 to the ISO. The Transmission Owners and the ISO will coordinate with each other in reviewing the LTPs. The ISO will review the Transmission Owners' LTPs, as they relate to BPTFs, to determine whether they will meet reliability needs identified in the LTPs, recommend an alternate means to resolve the local needs from a regional perspective pursuant to Section 31.2.6.4, and indicate if it is not in agreement with a Transmission Owner's proposed additions. The ISO shall report its determinations under this section in the RNA and in the CRP.

31.2.2.4.3 All data received from Market Participants, Developers, and other parties shall be considered in the development of the system representation for the Study Period in accordance with the ISO Procedures.

31.2.2.5 Reliability Scenario Development

The ISO, in consultation with the ESPWG and TPAS, shall develop reliability scenarios addressing the Study Period. Variables for consideration in the development of these reliability

scenarios include but are not limited to: load forecast uncertainty, fuel prices and availability, new resources, retirements, transmission network topology, and limitations imposed by proposed environmental or other legislation.

31.2.2.6 Evaluation of Reliability Scenarios

The ISO will conduct additional reliability analyses for the reliability scenarios developed pursuant to paragraph 31.2.2.5. These evaluations will test the robustness of the needs assessment studies conducted under paragraphs 31.2.2.3. This evaluation will only identify conditions under which Reliability Criteria may not be met. It will not identify or propose additional Reliability Needs. In addition, the ISO will perform appropriate sensitivity studies to determine whether Reliability Needs previously identified can be mitigated through alternate system configurations or operational modes. The Reliability Needs may increase in some reliability scenarios and may decrease, or even be eliminated, in others. The ISO shall report the results of these evaluations in the RNA.

31.2.2.7 Consequences for Other Regions

The ISO will coordinate with the ISO/RTO Regions to identify the consequences of the reliability transmission projects on such ISO/RTO Regions using the respective planning criteria of such ISO/RTO Regions. The ISO shall report the results in the CRP. The ISO shall not bear the costs of required upgrades in another region.

31.2.2.8 Reliability Needs Assessment Report Preparation

Once all the analyses described above have been completed, ISO staff will prepare a draft of the RNA including discussion of its assumptions, Reliability Criteria, and results of the analyses and, if necessary, designate the Responsible Transmission Owner. One or more

compensatory MW/ Load adjustment scenarios will be developed by the ISO as a guide to the development of proposed solutions to meet the identified Reliability Need.

31.2.3 RNA Review Process

31.2.3.1 Collaborative Governance Process

The draft RNA shall be submitted to both TPAS and the ESPWG for review and comment. The ISO shall make available to any interested party sufficient information to replicate the results of the draft RNA. The information made available will be electronically masked and made available pursuant to a process that the ISO reasonably determines is necessary to prevent the disclosure of any Confidential Information or Critical Energy Infrastructure Information contained in the information made available. Market Participants and other interested parties may submit at any time optional suggestions for changes to ISO rules or procedures which could result in the identification of additional resources or market alternatives suitable for meeting Reliability Needs. Following completion of the TPAS and ESPWG review, the draft RNA reflecting the revisions resulting from the TPAS and ESPWG review, shall be forwarded to the Operating Committee for discussion and action. The ISO shall notify the Business Issues Committee of the date of the Operating Committee meeting at which the draft RNA is to be presented. Following the Operating Committee vote, the draft RNA will be transmitted to the Management Committee for discussion and action.

31.2.3.2 Board Action

Following the Management Committee vote, the draft RNA, with working group, Operating Committee, and Management Committee input, will be forwarded to the ISO Board for review and action. Concurrently, the draft RNA will be provided to the Market Monitoring Unit for its review and consideration of whether market rules changes are necessary to address

an identified failure, if any, in one of the ISO's competitive markets. The Board may approve the RNA as submitted, or propose modifications on its own motion. If any changes are proposed by the Board, the revised RNA shall be returned to the Management Committee for comment. The Board shall not make a final determination on a revised RNA until it has reviewed the Management Committee comments. Upon approval by the Board, the ISO shall issue the final RNA to the marketplace by posting it on its web site.

The responsibilities of the Market Monitoring Unit that are addressed in the above section of this Attachment are also addressed in Section 30.4.6.8.2 of the Market Monitoring Plan, Attachment O to the ISO Services Tariff.

31.2.3.3 Needs Assessment Disputes

Notwithstanding any provision to the contrary in this Attachment, the ISO OATT, or the NYISO Services Tariff, in the event that a Market Participant raises a dispute solely within the NYPSC's jurisdiction relating to the final conclusions or recommendations of the RNA, a Market Participant may refer such dispute to the NYPSC for resolution. The NYPSC's final determination shall be binding, subject only to judicial review in the courts of the State of New York pursuant to Article 78 of the NYCPLR.

31.2.3.4 Public Information Sessions

In order to provide ample exposure for the marketplace to understand the identified Reliability Needs, the ISO will provide various opportunities for Market Participants and other potentially interested parties to discuss the final RNA. Such opportunities may include presentations at various ISO Market Participant committees, focused discussions with various industry sectors, and/or presentations in public venues.

31.2.4 Development of Solutions to Reliability Needs

31.2.4.1 Eligibility and Qualification Criteria for Developers and Projects

For purposes of fulfilling the requirements of the Developer qualification criteria in this Section 31.2.4.1 and its subsections, the term “Developer” includes Affiliates, as that term is defined in Section 2 of the ISO Services Tariff and Section 1 of the ISO OATT. To the extent that a Developer relies on Affiliate(s) to satisfy any or all of the qualification criteria set forth in Section 31.2.4.1.1.1, the Affiliate(s) shall provide to the ISO: (i) the information required in Section 31.2.4.1.1.1 to demonstrate its capability to satisfy the applicable qualification criteria, and (ii) a notarized officer’s certificate, signed by an authorized officer of the Affiliate with signatory authority, in a form acceptable to the ISO, certifying that the Affiliate will participate in the Developer’s project in the manner described by the Developer and will abide by the requirements set forth in this Attachment Y, the ISO Tariffs, and ISO Procedures related and applicable to the Affiliate’s participation.

31.2.4.1.1 Developer Qualification and Timing

The ISO shall provide each Developer with an opportunity to demonstrate that it has or can draw upon the financial resources, technical expertise, and experience needed to finance, develop, construct, operate and maintain a transmission project to meet identified Reliability Needs. The ISO shall consider the qualifications of each Developer in an evenhanded and non-discriminatory manner, treating Transmission Owners and Other Developers alike.

31.2.4.1.1.1 Developer Qualification Criteria

The ISO shall make a determination on the qualification of a Developer to propose to develop a transmission project as a solution to an identified Reliability Need based on the following criteria:

31.2.4.1.1.1.1 The technical and engineering qualifications and experience of the

Developer relevant to the development, construction, operation and maintenance of a transmission facility, including evidence of the Developer's demonstrated capability to adhere to standardized construction, maintenance, and operating practices and to contract with third parties to develop, construct, maintain, and/or operate transmission facilities;

31.2.4.1.1.1.2 The current and expected capabilities of the Developer to develop and

construct a transmission facility and to operate and maintain it for the life of the facility. If the Developer has previously developed, constructed, maintained or operated transmission facilities, the Developer shall provide the ISO a description of the transmission facilities (not to exceed ten) that the Developer has previously developed, constructed, maintained or operated and the status of those facilities, including whether the construction was completed, whether the facility entered into commercial operations, whether the facility has been suspended or terminated for any reason, and evidence demonstrating the ability of the Developer to address and timely remedy any operational failure of the facilities; and

31.2.4.1.1.1.3 The Developer's current and expected capability to finance, or its

experience in arranging financing for, transmission facilities. For purposes of the ISO's determination, the Developer shall provide the ISO:

- (1) evidence of its demonstrated experience financing or arranging financing for transmission facilities, if any, including a description of such projects (not to exceed ten) over the previous ten years, the capital costs and financial structure of such projects, a description of any financing obtained for these projects through

- rates approved by the Commission or a state regulatory agency, the financing closing date of such projects, and whether any of the projects are in default;
- (2) its audited annual financial statements from the most recent three years and its most recent quarterly financial statement, or equivalent information;
 - (3) its credit rating from Moody's Investor Services, Standard & Poor's, or Fitch, or equivalent information, if available;
 - (4) a description of any prior bankruptcy declarations, material defaults, dissolution, merger or acquisition by the Developer or its predecessors or subsidiaries occurring within the previous five years; and
 - (5) such other evidence that demonstrates its current and expected capability to finance a project to solve a Reliability Need.

31.2.4.1.1.1.4 A detailed plan describing how the Developer – in the absence of previous experience financing, developing, constructing, operating, or maintaining transmission facilities – will finance, develop, construct, operate, and maintain a transmission facility, including the financial, technical, and engineering qualifications and experience and capabilities of any third parties with which it will contract for these purposes.

31.2.4.1.1.2 Developer Qualification Determination

Any Developer seeking to become qualified may submit the required information, or update any previously submitted information, at any time. The ISO shall treat on a confidential basis in accordance with the requirements of its Code of Conduct in Attachment F of the ISO OATT any non-public financial qualification information that is submitted to the ISO by the Developer under Section 31.2.4.1.1.1.3 and is designated by the Developer as "Confidential

Information.” The ISO shall within 15 days of a Developer’s submittal, notify the Developer if the information is incomplete. If the submittal is deemed incomplete, the Developer shall submit the additional information within 30 days of the ISO’s request. The ISO shall notify the Developer of its qualification status within 30 days of receiving all necessary information. A Developer shall retain its qualification status for a three-year period following the notification date; *provided, however*, that the ISO may revoke this status if it determines that there has been a material change in the Developer’s qualifications and the Developer no longer meets the qualification requirements. A Developer that has been qualified shall inform the ISO within thirty days of any material change to the information it provided regarding its qualifications and shall submit to the ISO each year its most recent audited annual financial statement when available. At the conclusion of the three-year period or following the ISO’s revocation of a Developer’s qualification status, the Developer may re-apply for a qualification status under this section.

Any Developer determined by the ISO to be qualified under this section shall be eligible to propose a regulated transmission project as a solution to an identified Reliability Need and shall be eligible to use the cost allocation and cost recovery mechanism for regulated transmission projects set forth in Section 31.5 of this Attachment Y and Rate Schedule 10, Section 6.10, of the ISO OATT for any approved project.

31.2.4.2 Interregional Transmission Projects

Interregional Transmission Projects may be proposed under Section 31.2.5.1 of this Attachment Y as regulated backstop solutions, alternative regulated solutions, or market-based solutions, in response to a request by the ISO for solutions to a Reliability Need under the relevant provisions of Section 31.2.4. Interregional Transmission Projects proposed as regulated

backstop solutions, alternative regulated solutions or market-based solutions shall be: (i) evaluated by the ISO in accordance with the applicable requirements of the Reliability Planning Process of this Attachment Y, and (ii) jointly evaluated by the ISO and the relevant adjacent transmission planning region(s) in accordance with Section 7.3 of the Interregional Planning Protocol.

31.2.4.3 Regulated Backstop Solutions

31.2.4.3.1 When a Reliability Need is identified in any RNA issued under this tariff, the ISO shall request and the Responsible Transmission Owner shall provide to the ISO, as set forth in Section 31.2.5 below, a proposal for a regulated solution or combination of solutions that shall serve as a backstop to meet the Reliability Need if requested by the ISO due to the lack of sufficient viable market-based solutions to meet such Reliability Needs identified for the Study Period. The Responsible Transmission Owner shall be eligible to recover its costs for developing its proposal and seeking necessary approvals under Rate Schedule 10 of the ISO OATT. Regulated backstop solutions may include generation, transmission, or demand side resources. Such proposals may include reasonable alternatives that would effectively address the Reliability Need; provided however, the Responsible Transmission Owner's obligation to propose and implement regulated backstop solutions under this tariff is limited to regulated transmission solutions. Prior to providing its response to the RNA, each Responsible Transmission Owner will present for discussion at the ESPWG and TPAS any updates in its LTP that impact a Reliability Need identified in the RNA. The ISO will present at the ESPWG and TPAS any updates to its

determination under Section 31.2.2.4.2 with respect to the Transmission Owners' LTPs. Should more than one regulated backstop solution be proposed by a Responsible Transmission Owner to address a Reliability Need, it will be the responsibility of that Responsible Transmission Owner to determine which of the regulated backstop solutions will proceed following a finding by the ISO under Section 31.2.8 of this Attachment Y. The determination by the Responsible Transmission Owner will be made prior to the approval of the CRP which precedes the Trigger Date for the regulated backstop solution with the longest lead time. Contemporaneous with the request to the Responsible Transmission Owner, the ISO shall solicit market-based and alternative regulated responses as set forth in Sections 31.2.4.5 and 31.2.4.7, which shall not be a formal RFP process.

31.2.4.4 Qualifications for Regulated Backstop Solutions

31.2.4.4.1 The submission of a regulated backstop solution to a Reliability Need for purposes of the ISO's evaluation under Section 31.2.5 of the viability and sufficiency of the proposed solution and the determination of the Trigger Date for the proposed solution shall include, at a minimum, the following details: (1) contact information; (2) the lead time necessary to complete the project, including, if available, the construction windows in which the Responsible Transmission Owner can perform construction and what, if any, outages may be required during these periods; (3) a description of the project, including type, size, and geographic and electrical location, as well as planning and engineering specifications and drawings as appropriate; (4) evidence of a commercially viable

technology, (5) a major milestone schedule; (6) the schedule for obtaining any permits and other certifications, if available; (7) status of ISO interconnection studies and interconnection agreement, if available; and (8) status of equipment availability and procurement, if available.

31.2.4.4.2 The submission of a regulated backstop solution to a Reliability Need for purposes of the ISO's evaluation of the proposed solution for possible selection as the more efficient or cost effective solution to the Reliability Need shall include, at a minimum, the following details: (1) updates to the information required under Section 31.2.4.4.1; (2) the schedule for obtaining required permits and other certifications; (3) a demonstration of Site Control or a schedule for obtaining such control; (4) the status of any contracts (other than an interconnection agreement) that are under negotiation or in place, including any contracts with third-party contractors; (5) status of ISO interconnection studies and interconnection agreement; (6) status of equipment availability and procurement; (7) evidence of financing or ability to finance the project; (8) capital cost estimates for the project; (9) a description of permitting or other risks facing the project at the stage of project development, including evidence of the reasonableness of project cost estimates, all based on the information available at the time of the submission; and (10) any other information requested by the ISO.

A Responsible Transmission Owner shall submit the following information to indicate the status of any contracts: (i) copies of all final contracts the ISO determines are relevant to its consideration, or (ii) where one or more contracts are pending, a timeline on the status of discussions and negotiations

with the relevant documents and when the negotiations are expected to be completed. The final contracts shall be submitted to the ISO when available. The ISO shall treat on a confidential basis in accordance with the requirements of its Code of Conduct in Attachment F of the ISO OATT any contract that is submitted to the ISO and is designated by the Responsible Transmission Owner as “Confidential Information.”

A Responsible Transmission Owner shall submit the following information to indicate the status of any required permits: (i) copies of all final permits received that the ISO determines are relevant to its consideration, or (ii) where one or more permits are pending, the completed permit application(s) with information on what additional actions must be taken to meet the permit requirements and a timeline providing the expected timing for finalization and receipt of the final permit(s). The final permits shall be submitted to the ISO when available.

A Responsible Transmission Owner shall submit the following information, as appropriate, to indicate evidence of financing by it or any Affiliate upon which it is relying for financing: (i) evidence of self-financing or project financing through approved rates or the ability to do so, (ii) copies of all loan commitment letter(s) and signed financing contract(s), or (iii) where such financing is pending, the status of the application for any relevant financing, including a timeline providing the status of discussions and negotiations of relevant documents and when the negotiations are expected to be completed. The final contracts or approved rates shall be submitted to the ISO when available.

Upon the completion of any interconnection study or transmission expansion study of a proposed regulated backstop solution that is performed under Sections 3.7 or 4.5 of the ISO OATT or Attachments P or X of the ISO OATT, the Responsible Transmission Owner of the proposed project shall notify the ISO that the study has been completed and, at the ISO's request, shall submit to the ISO any study report and related materials prepared in connection with the study.

31.2.4.4.3 If the regulated backstop solution does not meet the Reliability Needs, the ISO will provide sufficient information to the Responsible Transmission Owner to determine how the regulated backstop should be modified to meet the identified Reliability Needs. The Responsible Transmission Owner will make necessary changes to its proposed regulated backstop solution to address reliability deficiencies identified by the ISO, and submit a revised proposal to the ISO for review and approval.

31.2.4.5 Market-Based Responses

At the same time that a proposal for a regulated backstop solution is requested from the Responsible Transmission Owner under Section 31.2.4.3, the ISO shall also request market-based responses from the market place. Subject to the execution of appropriately drawn confidentiality agreements and the Commission's standards of conduct, the ISO and the appropriate Transmission Owner or Transmission Owners shall provide any party who wishes to develop such a response access to the data that is necessary to develop its response. Such data shall only be used for the purposes of preparing a market-based response to a Reliability Need under this section. Such responses will be open on a comparable basis to all resources, including generation, demand response providers, and merchant transmission Developers.

31.2.4.6 Qualifications for a Valid Market-Based Response

The submission of a proposed market-based solution must include, at a minimum:

(1) contact information; (2) the lead time necessary to complete the project, including, if available, the construction windows in which the Developer can perform construction and what, if any, outages may be required during these periods; (3) a description of the project, including type, size, and geographic and electrical location, as well as planning and engineering specifications and drawings as appropriate; (4) evidence of a commercially viable technology; (5) a major milestone schedule; (6) a schedule for obtaining any required permits and other certifications; (7) a demonstration of Site Control or a schedule for obtaining Site Control; (8) the status of any contracts (other than an interconnection agreement) that are under negotiation or in place; (9) the status of ISO interconnection studies and interconnection agreement; (10) the status of equipment availability and procurement; (11) evidence of financing or ability to finance the project; and (12) any other information requested by the ISO.

A Developer shall submit the following information to indicate the status of any contracts: (i) copies of all final contracts the ISO determines are relevant to its consideration, or (ii) where one or more contracts are pending, a timeline on the status of discussions and negotiations with the relevant documents and when the negotiations are expected to be completed. The final contracts shall be submitted to the ISO when available. The ISO shall treat on a confidential basis in accordance with the requirements of its Code of Conduct in Attachment F of the ISO OATT any contract that is submitted to the ISO and is designated by the Developer as “Confidential Information.”

A Developer shall submit the following information to indicate the status of any required permits: (i) copies of all final permits received that the ISO determines are relevant to its consideration, or (ii) where one or more permits are pending, the completed permit application(s)

with information on what additional actions must be taken to meet the permit requirements and a timeline providing the expected timing for finalization and receipt of the final permit(s). The final permits shall be submitted to the ISO when available.

A Developer shall submit the following information, as appropriate, to indicate evidence of financing by it or any Affiliate upon which it is relying for financing: (i) copies of all loan commitment letter(s) and signed financing contract(s), or (ii) where such financing is pending, the status of the application for any relevant financing, including a timeline providing the status of discussions and negotiations of relevant documents and when the negotiations are expected to be completed. The final contracts shall be submitted to the ISO when available.

Upon the completion of any interconnection study or transmission expansion study of a proposed market-based solution that is performed under Sections 3.7 or 4.5 of the ISO OATT or Attachments P or X of the ISO OATT, the Developer of the proposed project shall notify the ISO that the study has been completed and, at the ISO's request, shall submit to the ISO any study report and related materials prepared in connection with the study.

Failure to provide any data requested by the ISO within the timeframe set forth in Section 31.2.5.1 of this Attachment Y will result in the rejection of the proposed market-based solution from further consideration during that planning cycle.

31.2.4.7 Alternative Regulated Responses

31.2.4.7.1 The ISO will request alternative regulated responses to Reliability Needs at the same time that it requests market-based responses and regulated backstop solutions. Such proposals may include reasonable alternatives that would effectively address the identified Reliability Need.

31.2.4.7.2 In response to the ISO's request, Other Developers may develop alternative regulated proposals for generation, demand side alternatives, and/or other solutions to address a Reliability Need and submit such proposals to the ISO. Transmission Owners, at their option, may submit additional proposals for regulated solutions to the ISO. Transmission Owners and Other Developers may submit such proposals to the NYDPS for review at any time. Subject to the execution of appropriately drawn confidentiality agreements and the Commission's standards of conduct, the ISO and the appropriate Transmission Owner(s) shall provide Other Developers access to the data that is needed to develop their proposals. Such data shall be used only for purposes of preparing an alternative regulated proposal in response to a Reliability Need.

31.2.4.8 Qualifications for Alternative Regulated Solutions

31.2.4.8.1 The submission of an alternative regulated solution to a Reliability Need for purposes of the ISO's evaluation under Section 31.2.5 of the viability and sufficiency of the proposed solution and the determination of the Trigger Date for the proposed solution shall include, at a minimum, the following details: (1) contact information; (2) the lead time necessary to complete the project, including, if available, the construction windows in which the Other Developer or Transmission Owner can perform construction and what, if any, outages may be required during these periods; (3) a description of the project, including type, size, and geographic and electrical location, as well as planning and engineering specifications and drawings as appropriate; (4) evidence of a commercially viable technology; (5) a major milestone schedule; (6) the schedule for obtaining any

permits and other certifications, if available; (7) status of ISO interconnection studies and interconnection agreement, if available; and (8) status of equipment availability and procurement, if available.

31.2.4.8.2 The submission of a proposed alternative regulated solution to a Reliability Need for purposes of the ISO's evaluation of the proposed solution for possible selection as the more efficient or cost effective solution for the Reliability Need must include, at a minimum: (1) updates to the information required under Section 31.2.4.8.1; (2) a demonstration of Site Control or a schedule for obtaining Site Control; (3) the status of any contracts (other than an Interconnection Agreement) that are under negotiation or in place, including any contracts with third-party contractors; (4) the status of any interconnection studies and interconnection agreement; (5) the schedule for obtaining any required permits and other certifications; (6) the status of equipment availability and procurement; (7) evidence of financing or ability to finance the project; (8) capital cost estimates for the project; (9) a description of permitting or other risks facing the project at the stage of project development, including evidence of the reasonableness of project cost estimates, all based on the information available at the time of the submission; and (10) any other information requested by the ISO.

An Other Developer or Transmission Owner shall submit the following information to indicate the status of any contracts: (i) copies of all final contracts the ISO determines are relevant to its consideration, or (ii) where one or more contracts are pending, a timeline on the status of discussions and negotiations with the relevant documents and when the negotiations are expected to be

completed. The final contracts shall be submitted to the ISO when available. The ISO shall treat on a confidential basis in accordance with the requirements of its Code of Conduct in Attachment F of the ISO OATT any contract that is submitted to the ISO and is designated by the Other Developer or Transmission Owner as “Confidential Information.”

An Other Developer or Transmission Owner shall submit the following information to indicate the status of any required permits: (i) copies of all final permits received that the ISO determines are relevant to its consideration, or (ii) where one or more permits are pending, the completed permit application(s) with information on what additional actions must be taken to meet the permit requirements and a timeline providing the expected timing for finalization and receipt of the final permit(s). The final permits shall be submitted to the ISO when available.

An Other Developer or Transmission Owner shall submit the following information, as appropriate, to indicate evidence of financing by it or any Affiliate upon which it is relying for financing: (i) evidence of self-financing or project financing through approved rates or the ability to do so, (ii) copies of all loan commitment letter(s) and signed financing contract(s), or (iii) where such financing is pending, the status of the application for any relevant financing, including a timeline providing the status of discussions and negotiations of relevant documents and when the negotiations are expected to be completed. The final contracts or approved rates shall be submitted to the ISO when available.

Upon the completion of any interconnection study or transmission expansion study of a proposed alternative regulated solution that is performed under Sections 3.7 or 4.5 of the ISO OATT or Attachments P or X of the ISO OATT, the Other Developer or Transmission Owner of the proposed project shall notify the ISO that the study has been completed and, at the ISO's request, shall submit to the ISO any study report and related materials prepared in connection with the study.

31.2.4.8.3 Failure to provide any data requested by the ISO within the timeframe provided in Sections 31.2.5.1 and 31.2.6.1 of this Attachment Y will result in the rejection of the proposed alternative regulated solution from further consideration during that planning cycle. A proponent of a proposed alternative regulated solution must notify the ISO immediately of any material change in status of a proposed alternative regulated solution. For purposes of this provision, a material change includes, but is not limited to, a change in the financial viability of the developer, a change in the siting status of the project, or a change in a major element of the project's development. If the ISO, at any time, learns of a material change in the status of a proposed alternative regulated solution, it may, at that time, make a determination as to the continued viability of the proposed alternative regulated solution.

31.2.4.9 Additional Solutions

Should the ISO determine that it has not received adequate regulated backstop or market-based solutions to satisfy the Reliability Need, the ISO may, in its discretion, solicit additional

regulated backstop or market-based solutions. Other Developers or Transmission Owners may submit additional alternative regulated solutions for the ISO's consideration at that time.

31.2.5 ISO Evaluation of Viability, Sufficiency, and Trigger Date of Proposed Solutions to Reliability Needs

31.2.5.1 Timing for Submittal of Project Information and Developer Qualification Information and Opportunity to Provide Additional Information

Within 60 days after a request for solutions to a Reliability Need is made by the ISO after completion of the RNA, which time period may be extended by the ISO pursuant to Section 31.1.8.7, all Developers proposing solutions to an identified Reliability Need shall submit to the ISO for purposes of its evaluation the project information, as applicable, for: (i) a proposed regulated backstop solution under Section 31.2.4.4.1, (ii) a proposed market-based solution under Section 31.2.4.6, or (iii) a proposed alternative regulated solution under Section 31.2.4.8.1 of this Attachment Y. In response to a solicitation for a solution to a Reliability Need identified after the 2014-2015 planning cycle, the Developer of a proposed transmission solution must also demonstrate to the ISO, simultaneous with its submission of project information, that it has submitted a Transmission Interconnection Application or Interconnection Request, as applicable.

Any Developer that the ISO has determined under Section 31.2.4.1.1.2 or as set forth in this Section 31.2.5.1 below to be qualified to propose to develop a project as a transmission solution to an identified Reliability Need may submit the required project information; *provided, however*, that: (i) the Developer shall provide a non-refundable application fee of \$10,000 and (ii) based on the actual identified need, the ISO may request that the qualified Developer provide additional Developer qualification information. Any Developer that has not been determined by the ISO to be qualified, but that wants to propose to develop a project, must submit to the ISO the information required for Developer qualification under Section 31.2.4.1.1 within 30 days

after a request for solutions is made by the ISO. The ISO shall within 30 days of a Developer's submittal of its Developer qualification information, notify the Developer if this information is incomplete. The Developer shall submit additional Developer qualification information or project information required by the ISO within 15 days of the ISO's request. A Developer that fails to submit the additional Developer qualification information or the required project information will not be eligible for its project to be considered in that planning cycle.

31.2.5.2 Comparable Evaluation of All Proposed Solutions

The ISO shall evaluate: (i) any proposed market-based solution submitted by a Developer pursuant to Section 31.2.4.5, (ii) any proposed regulated backstop solution submitted by a Responsible Transmission Owner pursuant to Section 31.2.4.3, and (iii) any proposed alternative regulated solution submitted by a Transmission Owner or Other Developer pursuant to Section 31.2.4.7. The ISO will evaluate whether each proposed solution is viable and is sufficient to satisfy the identified Reliability Need by the need date pursuant to Sections 31.2.5.3 and 31.2.5.4. The proposed solutions may include multiple components and resource types. When evaluating proposed solutions to Reliability Needs from any Developer, all resource types – generation, transmission, demand response, or a combination of these resource types – shall be considered on a comparable basis as potential solutions to the Reliability Needs identified. All solutions will be evaluated in the same general time frame.

31.2.5.3 Evaluation of Viability of Proposed Solution

The ISO will determine the viability of a solution – transmission, generation, demand response, or a combination of these resource types – proposed to satisfy a Reliability Need. For purposes of its analysis, the ISO will evaluate whether: (i) the Developer has provided the required Developer qualification data pursuant to Section 31.2.4.1 and the required project

information data under Sections 31.2.4.4.1, 31.2.4.6, or 31.2.4.8.1; (ii) the proposed solution is technically practicable; (iii) the Developer has indicated possession of, or an approach for acquiring, any necessary rights-of-way, property, and facilities that will make the proposal reasonably feasible in the required timeframe; and (iv) the proposed solution can be completed in the required timeframe. If the ISO determines that the proposed solution is not viable and, for regulated solutions, the Developer does not address any identified deficiency pursuant to Section 31.2.5.6, the ISO shall reject the proposed solution from further consideration during that planning cycle.

31.2.5.4 Evaluation of Sufficiency of Proposed Solution

The ISO will perform a comparable analysis of each proposed solution – transmission, generation, demand response, or a combination of these resource types – through the Study Period to identify whether it satisfies the Reliability Need(s). The ISO will evaluate each solution to determine whether the solution proposed by the Developer fully eliminates the Reliability Need(s). If the ISO determines that a proposed regulated solution is not sufficient and the Developer does not address any identified deficiency pursuant to Section 31.2.5.6, the ISO shall reject the proposed regulated solution from further consideration during that planning cycle.

31.2.5.5 Establishment of Trigger Date of Proposed Regulated Solutions

Upon receipt of all Developers' proposed regulated solutions pursuant to Section 31.2.5.1, the ISO will notify all Developers if any Developer has proposed a lead time for the implementation of its regulated solution that could result in a Trigger Date for the regulated solution within thirty-six months of the date of the ISO's presentation of the Viability and Sufficiency Assessment to the ESPWG, provided that the ISO will not disclose the identity of such Developer or the details of its project at that time. The ISO will independently analyze the

lead time proposed by each Developer for the implementation of its regulated solution. The ISO will use the Developer's estimate and the ISO's analysis to establish the ISO's Trigger Date for each regulated solution. The ISO will also establish benchmark lead times for proposed market-based solutions.

31.2.5.6 Resolution of Deficiencies

Following initial review of the proposals, as described above, ISO staff will identify any reliability deficiencies in each of the proposed solutions. The Responsible Transmission Owner, Transmission Owner or Other Developer will discuss any identified deficiencies with the ISO staff. Other Developers and Transmission Owners that propose alternative regulated solutions shall have the option to remedy their proposals to address any deficiency within 30 days of notification by the ISO. With respect to regulated backstop solutions proposed by a Responsible Transmission Owner pursuant to Section 31.2.4.3, the Responsible Transmission Owner shall make necessary changes to its proposed backstop solution to address any reliability deficiencies identified by the ISO, and submit a revised proposal to the ISO for review within 30 days. The ISO shall review all such revised proposals to determine whether the identified deficiencies have been resolved.

31.2.5.7 ISO Report of Evaluation Results

The ISO shall present its Viability and Sufficiency Assessment to stakeholders, interested parties, and the NYDPS for comment and will indicate at that time whether any of the proposed regulated solutions found to be viable and sufficient under this Section 31.2.5 will have a Trigger Date within thirty-six months of the date of the ISO's presentation of the Viability and Sufficiency Assessment to the ESPWG.

The ISO shall report in the CRP the results of its evaluation under this Section 31.2.5: (i) whether each proposed regulated backstop solution, alternative regulated solution, and market-based solution is viable and is sufficient to satisfy the identified Reliability Need by the need date, and (ii) the Trigger Dates for the proposed regulated solutions.

31.2.6 ISO Evaluation and Selection of Proposed Regulated Transmission Solutions

31.2.6.1 Submission of Project Information for Selection of Proposed Regulated Transmission Solution

If the ISO determines that the Trigger Date of any Developer's proposed regulated solution that was found to be viable and sufficient under Section 31.2.5 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 request that all Developers of regulated transmission solutions that the ISO determined were viable and sufficient submit to the ISO their project information, as applicable, for: (i) a proposed regulated backstop transmission solution under Section 31.2.4.4.2, or (ii) a proposed alternative regulated transmission solution under Section 31.2.4.8.2. If the ISO determines that none of the Developers' proposed regulated solutions that were found to be viable and sufficient under Section 31.2.5 have a Trigger Date that will occur within the thirty-six month period, the ISO will not request further project information, perform the evaluation, or make a selection of a more efficient or cost effective regulated solution under this Section 31.2.6 for that planning cycle.

The ISO will make its request, if necessary, for project information under this Section 31.2.6.1 sufficiently in advance of the earliest Trigger Date of the viable and sufficient regulated solutions to enable the ISO to evaluate and select the more efficient or cost effective transmission solution. Upon the ISO's request for project information, the Developers shall

submit such information for their regulated transmission solution within thirty (30) days, which time period may be extended by the ISO pursuant to Section 31.1.8.7. The Developer must include with its project information a demonstration that it has an executed System Impact Study Agreement or System Reliability Impact Study Agreement, as applicable. A Developer shall submit additional project information required by the ISO within 15 days of the ISO's request. A Developer that fails to submit the required project information will not be eligible for its project to be considered in that planning cycle.

31.2.6.2 Study Deposit for Proposed Regulated Transmission Solutions

A Developer that proposes a regulated backstop transmission solution or an alternative regulated transmission solution to satisfy the identified Reliability Need shall submit to the ISO, at the same time that it provides the project information required pursuant to Section 31.2.6.1, a study deposit of \$100,000, which shall be held in an interest-bearing account for which the interest earned will be associated with the Developer and shall be applied to study costs and subject to refund as described in this Section 31.2.6.2.

The ISO shall charge, and a Developer proposing a regulated backstop transmission solution or an alternative regulated transmission solution shall pay, the actual costs of the ISO's evaluation of the Developer's proposed transmission solution for purposes of the ISO's selection of the more efficient or cost effective transmission solution to satisfy a Reliability Need for cost allocation purposes, including costs associated with the ISO's use of subcontractors. The ISO will track its staff and administrative costs, including any costs associated with using subcontractors, that it incurs in performing the evaluation of a Developer's proposed transmission solution under this Section 31.2.6 and any supplemental evaluation or re-evaluation of the proposed transmission solution. If the ISO or its subcontractors perform study work for

multiple proposed transmission solutions on a combined basis, the ISO will allocate the costs of the combined study work equally among the applicable Developers. The ISO shall invoice the Developer monthly for study costs incurred by the ISO in evaluating the Developer's proposed transmission solution as described above. Such invoice shall include a description and an accounting of the study costs incurred by the ISO and estimated subcontractor costs. The Developer shall pay the invoiced amount within thirty (30) calendar days of the ISO's issuance of the monthly invoice. The ISO shall continue to hold the full amount of the study deposit until settlement of the final monthly invoice; *provided, however*, if a Developer: (i) does not pay its monthly invoice within the timeframe described above, or (ii) does not pay a disputed amount into an independent escrow account as described below, the ISO may draw upon the study deposit to recover the owed amount. If the ISO must draw on the study deposit, the ISO shall provide notice to the Developer, and the Developer shall within thirty (30) calendar days of such notice make payments to the ISO to restore the full study deposit amount. If the Developer fails to make such payments, the ISO may halt its evaluation of the Developer's proposed transmission solution and may disqualify the Developer's proposed transmission solution from further consideration. After the conclusion of the ISO's evaluation of the Developer's proposed transmission solution or if the Developer: (i) withdraws its proposed transmission solution or (ii) fails to pay an invoiced amount and the ISO halts its evaluation of the proposed transmission solution, the ISO shall issue a final invoice and refund to the Developer any portion of the Developer's study deposit submitted to the ISO under this Section 31.2.6.2 and any interest actually earned on the deposited amount that together exceeds the outstanding amounts that the ISO has incurred in evaluating that Developer's proposed transmission solution. The ISO shall

refund the remaining portion within sixty (60) days of the ISO's receipt of all final invoices from its subcontractors and involved Transmission Owners.

In the event of a Developer's dispute over invoiced amounts, the Developer shall: (i) timely pay any undisputed amounts to the ISO, and (ii) pay into an independent escrow account the portion of the invoice in dispute, pending resolution of such dispute. If the Developer fails to meet these two requirements, then the ISO shall not be obligated to perform or continue to perform its evaluation of the Developer's proposed transmission solution. Disputes arising under this section shall be addressed through the Dispute Resolution Procedures set forth in Section 2.16 of the ISO OATT and Section 11 of the ISO Services Tariff. Within thirty (30) Calendar Days after resolution of the dispute, the Developer will pay the ISO any amounts due with interest actually earned on such amounts.

31.2.6.3 Evaluation of System Impact of Proposed Regulated Transmission Solution

A proposed regulated transmission solution that will have a significant adverse impact on the reliability of the New York State Transmission System shall not be eligible for selection by the ISO under Section 31.2.6.5. The ISO shall evaluate the system impacts for the entire Study Period of a proposed regulated transmission solution that the ISO has determined under Section 31.2.5 is viable and sufficient. As part of this evaluation, the ISO shall give due consideration to the results of any completed System Impact Study or System Reliability Impact Study, as applicable. The ISO shall perform power flow and short circuit studies for the proposed regulated transmission solutions and additional studies, as appropriate. If the ISO identifies a significant adverse impact based on these studies, the ISO shall request that the Developer make an adjustment to its proposed regulated transmission solution to address this impact and remain

eligible for selection. The Developer shall submit the adjustment within 30 days of the ISO's notification.

If the Developer modifies its proposed regulated transmission solution, the ISO shall confirm that the adjusted solution still satisfies the viability and sufficiency requirements set forth in Section 31.2.5. If the ISO determines that the proposed regulated transmission solution does not satisfy the viability and sufficiency requirements or continues to have a significantly adverse impact on the reliability of the New York State Transmission System, the ISO shall remove the proposed solution from further consideration during that planning cycle.

31.2.6.4 Evaluation of Regional Transmission Solutions to Address Local and Regional Reliability Needs More Efficiently or More Cost Effectively Than Local Transmission Solutions

The ISO will review the LTPs as they relate to BPTFs. The results of the ISO's analysis will be reported in the CRP.

31.2.6.4.1 Evaluation of Regional Transmission Solutions to Address Local Reliability Needs Identified in Local Transmission Plans More Efficiently or More Cost Effectively than Local Transmission Solutions

The ISO, using engineering judgment, will determine whether proposed regional transmission solutions on the BPTFs may more efficiently or cost effectively satisfy reliability needs identified in the LTPs. If the ISO identifies that a regional transmission solution on the BPTFs has the potential to more efficiently or cost effectively satisfy the reliability need identified in the LTPs, it will perform a sensitivity analysis to determine whether the proposed regional transmission solution on the BPTFs would satisfy the reliability needs identified in the LTPs. If the ISO determines that the proposed regional transmission solutions on the BPTFs would satisfy the reliability need, the ISO will evaluate the proposed regional transmission solution using the metrics set forth in Section 31.2.6.5.1 to determine whether it may be a more

efficient or cost effective solution on the BPTFs to satisfy the reliability needs identified in the LTPs than the local solutions proposed in the LTPs.

31.2.6.4.2 Evaluation of Regional Transmission Solutions to Address Regional Reliability Needs More Efficiently or More Cost Effectively than Local Transmission Solutions

As referenced in Section 31.2.1.3, the ISO, using engineering judgment, will determine whether a regional transmission solution might more efficiently or more cost effectively satisfy an identified regional Reliability Need on the BPTFs that impacts more than one Transmission District than any local transmission solutions identified by the Transmission Owners in their LTPs in the event the LTPs specify such transmission solutions are included to address local reliability needs.

31.2.6.5 ISO Selection of More Efficient or Cost Effective Transmission Solution for Cost Allocation Purposes

A proposed regulated transmission solution – including a regulated backstop transmission solution submitted by a Responsible Transmission Owner pursuant to Section 31.2.4.3 and an alternative regulated transmission solution submitted by a Transmission Owner or Other Developer pursuant to Section 31.2.4.7 – that the ISO has determined satisfies the viability and sufficiency requirements in Section 31.2.5 and the system impact requirements in Section 31.2.6.3 shall be eligible under this Section 31.2.6.5 for selection in the CRP for the purpose of cost allocation and recovery under the ISO Tariffs. The ISO shall evaluate any eligible proposed regulated transmission solutions for the planning cycle using the metrics set forth in Section 31.2.6.5.1 below. For purposes of this evaluation, the ISO will review the information submitted by the Developer and determine whether it is reasonable and how such information should be used for purposes of the ISO evaluating each metric. In its review, the ISO will give due

consideration to the status of, and any available results of, any applicable interconnection or transmission expansion studies concerning the proposed regulated transmission solution performed in accordance with Sections 3.7 or 4.5 of the ISO OATT or Attachments X or P of the ISO OATT. The ISO may engage an independent consultant to review the reasonableness and comprehensiveness of the information submitted by the Developer and may rely on the independent consultant's analysis in evaluating each metric. The ISO shall select in the CRP for cost allocation purposes the more efficient or cost effective transmission solution to satisfy a Reliability Need in the manner set forth in Section 31.2.6.5.2 below.

31.2.6.5.1 Metrics for Evaluating More Efficient or Cost Effective Regulated Transmission Solution to Satisfy Reliability Need

In determining which of the eligible proposed regulated transmission solutions is the more efficient or cost effective solution to satisfy the Reliability Need, the ISO will consider, and will consult with the NYDPS regarding, the following metrics set forth in this Section 31.2.6.5.1 and rank each proposed solution based on the quality of its satisfaction of these metrics:

31.2.6.5.1.1 The capital cost estimates for the proposed regulated transmission solutions, including the accuracy of the proposed estimates. For this evaluation, the Developer shall provide the ISO with credible capital cost estimates for its proposed solution, with itemized supporting work sheets that identify all material and labor cost assumptions, and related drawings to the extent applicable and available. The work sheets should include an estimated quantification of cost variance, providing an assumed plus/minus range around the capital cost estimate.

The estimate shall include all components that are needed to meet the Reliability Need throughout the Study Period. To the extent information is available, the Developer should itemize: material and labor cost by equipment,

engineering and design work, permitting, site acquisition, procurement and construction work, and commissioning needed for the proposed solution, all in accordance with Good Utility Practice. For each of these cost categories, the Developer should specify the nature and estimated cost of all major project components and estimate the cost of the work to be done at each substation and/or on each feeder to physically and electrically connect each facility to the existing system. The work sheets should itemize to the extent applicable and available all equipment for: (i) the proposed project; (ii) interconnection facilities (including Attachment Facilities and Direct Assignment Facilities); and (iii) Network Upgrade Facilities, System Upgrade Facilities, System Deliverability Upgrades, Network Upgrades, and Distribution Upgrades.

31.2.6.5.1.2 The cost per MW ratio of the proposed regulated transmission solutions.

For this evaluation, the ISO will first determine the present worth, in dollars, of the total capital cost of the proposed solution in current year dollars. The ISO will then determine the MW value of the solution by summing the Reliability Need, in MW, with the additional improvement, in MW, that the proposed solution offers beyond serving the Reliability Need. The ISO will then determine the cost per MW ratio by dividing the present worth of the total capital cost by the MW value.

31.2.6.5.1.3 The expandability of the proposed regulated transmission solution. The

ISO will consider the impact of the proposed solution on future construction. The ISO will also consider the extent to which any subsequent expansion will continue to use this proposed solution within the context of system expansion.

- 31.2.6.5.1.4 The operability of the proposed regulated transmission solution. The ISO will consider how the proposed solution may affect additional flexibility in operating the system, such as dispatch of generation, access to operating reserves, access to ancillary services, or ability to remove transmission for maintenance. The ISO will also consider how the proposed solution may affect the cost of operating the system, such as how it may affect the need for operating generation out of merit for reliability needs, reducing the need to cycle generation, or providing more balance in the system to respond to system conditions that are more severe than design conditions.
- 31.2.6.5.1.5 The performance of the proposed regulated transmission solution. The ISO will consider how the proposed project may affect the utilization of the system (*e.g.* interface flows, percent loading of facilities).
- 31.2.6.5.1.6 The extent to which the Developer of a proposed regulated transmission solution has the property rights, or ability to obtain the property rights, required to implement the solution. The ISO will consider whether the Developer: (i) already possesses the rights of way necessary to implement the solution; (ii) has completed a transmission routing study, which (a) identifies a specific routing plan with alternatives, (b) includes a schedule indicating the timing for obtaining siting and permitting, and (c) provides specific attention to sensitive areas (*e.g.*, wetlands, river crossings, protected areas, and schools); or (iii) has specified a plan or approach for determining routing and acquiring property rights.
- 31.2.6.5.1.7 The potential issues associated with delay in constructing the proposed regulated transmission solution consistent with the major milestone schedule and

the schedule for obtaining any permits and other certifications as required to timely meet the need.

31.2.6.5.2 ISO Selection of More Efficient or Cost Effective Regulated Transmission Solution to Satisfy Reliability Need

The ISO shall select under this Section 31.2.6.5.2 the proposed regulated transmission solution, if any, that is the more efficient or cost effective transmission solution proposed in the planning cycle to satisfy the identified Reliability Need. The ISO shall report the selected regulated transmission solution in the CRP. The selected regulated transmission solution reported in the CRP shall be eligible to be triggered by the ISO to satisfy the identified Reliability Need pursuant to Section 31.2.8 at any point within thirty-six months of the date of the ISO's presentation of the Viability and Sufficiency Assessment to the ESPWG. An Other Developer or Transmission Owner of an alternative regulated transmission project shall not be eligible for cost allocation and cost recovery under the ISO OATT for its project unless its project is selected pursuant to this Section 31.2.6.5.2. Once such project is selected, the Other Developer or Transmission Owner shall be eligible for cost allocation and cost recovery under the ISO OATT for its project. Within thirty (30) days of the ISO's selection of an alternative regulated transmission solution, the Other Developer or Transmission Owner shall submit to the ISO for the ISO's approval a proposed schedule and scope of work that describe the preparation work, if any, that the Developer must perform prior to the Trigger Date of the project, including a good faith estimate of the costs of such work. Costs will be recovered when the project enters into service, is halted, or as otherwise determined by the Commission in accordance with the cost recovery requirements set forth in Section 31.5.6 of this Attachment Y and Rate Schedule 10 of the ISO OATT. Actual project cost recovery, including any issues related to cost recovery and project cost overruns, will be submitted to and decided by the Commission.

31.2.7 Comprehensive Reliability Plan

Following the ISO's evaluation of the proposed market-based and regulated solutions to Reliability Need(s), the ISO will prepare a draft CRP that sets forth the ISO's findings regarding the viability and sufficiency of solutions, the trigger dates of regulated solutions, and any recommendations that implementation of regulated solutions (which may be a Gap Solution) is necessary to ensure system reliability. The draft CRP will reflect any input from the NYDPS. If the CRP cannot be completed in the two-year planning cycle, the ISO will notify stakeholders and provide an estimated completion date and an explanation of the reasons the additional time is required.

The ISO will include in the draft CRP the list of Developers that qualify pursuant to Section 31.2.4.1 and will identify the proposed solutions that it has determined under Section 31.2.5 are viable and sufficient to satisfy the identified Reliability Need(s) by the need date. The ISO will identify in the CRP the regulated backstop solution that the ISO has determined will meet the Reliability Need by the need date and the Responsible Transmission Owner. If the ISO determines at the time of the issuance of the CRP that sufficient market-based solutions will not be available in time to meet a Reliability Need, and finds that it is necessary to take action to ensure reliability, it will state in the CRP that the development of regulated solutions (regulated backstop or alternative regulated solution) is necessary. The draft CRP will also include the results of the ISO's analysis of the LTPs consistent with Section 31.2.6.4.

The draft CRP shall indicate whether the ISO has determined that the Trigger Date to any proposed regulated solution will occur within thirty-six months of the date of ISO's presentation of the Viability and Sufficiency Assessment to the ESPWG. If the Trigger Date of any proposed regulated solution will occur within the thirty-six month period and the ISO makes a selection of the more efficient or cost effective transmission solution under Section 31.2.6.5.2, the draft CRP

shall include the regulated transmission solution selected for cost allocation purposes pursuant to Section 31.2.6.5.2 as the more efficient or cost effective transmission solution to satisfy the Reliability Need(s) and shall indicate whether that transmission solution should be triggered. The draft CRP shall also indicate the date by which a solution must be in-service to satisfy the Reliability Need.

If: (i) none of the proposed regulated solutions has a Trigger Date within the thirty-six month period, or (ii) the Trigger Date of any proposed regulated solution will occur within the thirty-six month period but the ISO determines in its discretion that it is not necessary at that time to select a more efficient or cost effective transmission solution under Section 31.2.6.5.2 prior to the completion of the CRP, the draft CRP will not select a regulated transmission solution. If: (i) the Trigger Date of any proposed regulated solution will occur within the thirty-six month period, and (ii) the ISO selects a more efficient or cost effective solution subsequent to the completion of the CRP but prior to the completion of that thirty-six month period, the ISO shall issue an updated CRP report pursuant to Section 31.2.7.3 that indicates the regulated transmission solution selected for cost allocation purposes pursuant to Section 31.2.6.5.2 as the more efficient or cost effective transmission solution to satisfy the Reliability Need(s) whether that transmission solution should be triggered, and the date by which a solution must be in-service to satisfy the Reliability Need.

The draft CRP shall include a comparison of a proposed regional solution to an identified Reliability Need to an Interregional Transmission Project identified and evaluated under the “Analysis and Consideration of Interregional Transmission Projects” section of the Interregional Planning Protocol, if any. An Interregional Transmission Project proposed in the Reliability

Planning Process may be selected as a market based response, regulated backstop solution, or an alternative regulated solution under the provisions of the Reliability Planning Process.

31.2.7.1 Collaborative Governance Process

The ISO staff shall submit the draft CRP to the TPAS and ESPWG for review and comment. The ISO shall make available to any interested party sufficient information to replicate the results of the draft CRP. The information made available will be electronically masked and made available pursuant to a process that the ISO reasonably determines is necessary to prevent the disclosure of any Confidential Information or Critical Energy Infrastructure Information contained in the information made available. Following completion of the TPAS and ESPWG review, the draft CRP reflecting the revisions resulting from the TPAS and ESPWG review shall be forwarded to the Operating Committee for a discussion and action. The ISO shall notify the Business Issues Committee of the date of the Operating Committee meeting at which the draft CRP is to be presented. Following the Operating Committee vote, the draft CRP will be transmitted to the Management Committee for a discussion and action.

31.2.7.2 Board Review, Consideration, and Approval of CRP

Following the Management Committee vote, the draft CRP, with working group, Operating Committee, and Management Committee input, will be forwarded to the ISO Board for review and action. Concurrently, the draft CRP will also be provided to the Market Monitoring Unit for its review and consideration of whether market rule changes are necessary to address an identified failure, if any, in one of the ISO's competitive markets. The Board may approve the draft CRP as submitted or propose modifications on its own motion, including the recommendations regarding the selection of transmission projects for cost allocation and cost recovery under the ISO Tariffs if such selection will occur during that planning cycle. If any

changes are proposed by the Board, the revised CRP shall be returned to the Management Committee for comment. The Board shall not make a final determination on the draft CRP until it has reviewed the Management Committee comments. Upon final approval by the Board, the ISO shall issue the CRP to the marketplace by posting the CRP on its website. The ISO will provide the CRP to the appropriate regulatory agency(ies) for consideration and appropriate action.

The responsibilities of the Market Monitoring Unit that are addressed in the above section of Attachment Y to the ISO OATT are also addressed in Section 30.4.6.8.3 of the Market Monitoring Plan, Attachment O to the ISO Services Tariff.

31.2.7.3 Updated CRP Report

If, pursuant to Section 31.2.7, the ISO identifies a proposed regulated transmission solution as the more efficient or cost effective transmission solution following the completion of the CRP, the ISO will prepare a draft updated CRP report that indicates the regulated transmission solution recommended for selection for cost allocation purposes pursuant to Section 31.2.6.5.2 as the more efficient or cost effective transmission solution to satisfy the Reliability Need(s), whether that transmission solution should be triggered at that time, and the date by which a solution must be in-service to satisfy the Reliability Need. The draft updated CRP report shall be reviewed in accordance with the stakeholder process set forth in Section 31.2.7.1 and will be then forwarded to the ISO Board for its review and action pursuant to Section 31.2.7.2.

31.2.7.4 Reliability Disputes

Notwithstanding any provision to the contrary in this Attachment, the ISO OATT, or the ISO Services Tariff, in the event that a Market Participant or other interested party raises a

dispute solely within the NYPSC's jurisdiction concerning ISO's final determination in the CRP that a proposed solution will or will not meet a Reliability Need, a Market Participant or other interested party seeking further review shall refer such dispute to the NYPSC for resolution, as provided for in the ISO Procedures. The NYPSC's final determination of such disputes shall be binding, subject only to judicial review in the courts of the State of New York pursuant to Article 78 of the New York Civil Practice Law and Rules.

31.2.7.5 Posting of Approved Solutions

The ISO shall post on its website a list of all Developers that have undertaken a commitment to the ISO to build a project (which may be a regulated backstop solution, market-based response, alternative regulated response or gap solution) that is necessary to ensure system reliability, as identified in the CRP and approved by the appropriate governmental agency(ies) and/or authority(ies).

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: (i) that sufficient market-based solutions are timely progressing to meet the Reliability Need by the need date or (ii) that, based upon circumstances at the time of the review, there is no longer a Reliability Need. 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 and that there continues to be a Reliability Need, (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 and that there continues to be a Reliability Need; (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 and that there continues to be a Reliability Need; (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 that there is no longer a Reliability Need, 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, to the extent permitted by the Commission in accordance with its regulations, 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 or that there is no longer a Reliability Need.

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, to the extent permitted by the Commission in accordance with its regulations, 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, to the extent permitted by the Commission in accordance with its regulations, 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, to the extent permitted by the Commission in accordance with its regulations, 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.

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) address the Reliability Need in

the next Short-Term Reliability Process; (iii) 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; (iv) 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; (v) request that the Responsible Transmission Owner complete the selected alternative regulated transmission solution; (vi) commence the Gap Solution process under Section 31.2.11; and/or (vii) adopt new ISO or Transmission Owner operating procedures. 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 If the ISO determines that neither market-based proposals nor regulated proposals can satisfy the Reliability Needs by the need date, the ISO will set forth its determination that a Gap Solution is necessary in the CRP. The ISO will also request the Responsible Transmission Owner to seek a Gap Solution. Gap Solutions may include generation, transmission, or demand side resources.

31.2.11.2 If there is an imminent threat to the reliability of the New York State Power System, the ISO Board, after consultation with the NYDPS, may request the appropriate Transmission Owner or Transmission Owners to propose a Gap Solution outside of the normal planning cycle.

31.2.11.3 Notwithstanding Sections 31.2.11.1 and 31.2.11.2, if a Market Participant notifies the ISO of its intent for its Generator to be Retired or to enter into a Mothball Outage pursuant to Section 38.3.1 of Attachment FF of the ISO OATT or if a Market Participant's Generator enters into an ICAP Ineligible Forced Outage pursuant to Section 5.18.2.1 of the ISO Services Tariff, the ISO will evaluate whether a Short-Term Reliability Process Need or an immediate reliability need will result from the Generator's deactivation and will address any resulting Short-Term Reliability Process Need or immediate reliability need in accordance with the Short-Term Reliability Process set forth in Attachment FF of the ISO OATT.

31.2.11.4 Upon the ISO's determination of the need for a Gap Solution, pursuant to Sections 31.2.11.1 or 31.2.11.2 above, the Responsible Transmission Owner will propose such a solution as soon as reasonably possible, for consideration by the ISO and NYDPS. The Responsible Transmission Owner shall be eligible to recover its costs for developing its Gap Solution proposal and seeking necessary approvals pursuant to the cost recovery requirements in Section 31.5.6 of this Attachment Y and Rate Schedule 10 of the ISO OATT.

31.2.11.5 Any party may submit an alternative Gap Solution proposal to the ISO and the NYDPS for their consideration. The ISO shall evaluate all Gap Solution

proposals to determine whether they will meet the Reliability Need or imminent threat. The ISO will also evaluate, as an alternative Gap Solution proposal, any Generator in a Mothball Outage or an ICAP Ineligible Forced Outage to determine whether its return to service would meet the Reliability Need or imminent threat; provided, however, that the Mothball Outage began on or after May 1, 2015 and the ICAP Ineligible Forced Outage followed a Forced Outage that began after May 1, 2015. The ISO will report the results of its evaluation to the party making the proposal, or to the Generator when evaluating its return to service, as well as to the NYDPS and/ or other appropriate governmental agency(ies) and/or authority(ies) for consideration in their review of the proposals. The appropriate governmental agency(ies) and/or authority(ies) with jurisdiction over the implementation or siting of Gap Solutions will determine whether the Gap Solution or an alternative Gap Solution will be implemented to address the identified Reliability Need. When the return to service of a Generator in a Mothball Outage or an ICAP Ineligible Forced Outage has been selected as either the Gap Solution or to resolve a reliability issue arising on a non-New York State Bulk Power Transmission Facility during its outage, the compensation and return to service procedures set forth in Section 5.18.4 of the Services Tariff shall apply.

31.2.11.6 A Responsible Transmission Owner, Other Developer, or Transmission Owner may recover its costs with respect to a transmission Gap Solution that is implemented pursuant to Section 31.2.11.5 in accordance with the cost recovery

requirements in Section 31.5.6 of this Attachment Y and Rate Schedule 10 of the ISO OATT.

31.2.11.7 Gap Solution proposals submitted under Sections 31.2.11.4 and 31.2.11.5 shall be designed to be temporary solutions and to strive to be compatible with permanent market-based proposals.

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

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.

31.2.13 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.

31.3 Economic Planning Process

31.3.1 Congestion Assessment and Resource Integration Study for Economic Planning

31.3.1.1 General

The ISO shall prepare and publish the CARIS as described below. Each CARIS shall (1) develop a ten-year projection of congestion and shall identify, rank, and group the most congested elements on the New York bulk power system based on historic and projected congestion; and (2) include three studies, selected pursuant to Section 31.3.1.2.2, of the potential impacts of generic solutions to mitigate the identified congestion.

The CARIS process shall determine whether to approve an Interregional Transmission Project, identified and evaluated under the “Analysis and Consideration of Interregional Transmission Projects” section of the Interregional Planning Protocol, if any, and proposed in the NYISO’s economic planning process, as an economic transmission project in lieu of a proposed regional economic transmission project for regulated cost allocation and recovery under the ISO Tariff.

The CARIS will align with the Reliability Planning Process.

31.3.1.2 Interested Party Participation in the Development of the CARIS

31.3.1.2.1 The ISO shall develop the CARIS in consultation with Market Participants and all other interested parties. The TPAS will have responsibilities consistent with ISO Procedures for review of the ISO’s technical analyses. ESPWG will have responsibilities consistent with ISO Procedures for providing commercial input and assumptions to be used in the development of the congestion assessment and the congestion assessment scenarios provided for under Section 31.3.1.5, and

in the reporting and analysis of congestion costs. Coordination and communication will be established and maintained between these two groups and ISO staff to allow Market Participants and other interested parties to participate in a meaningful way during each stage of the economic planning process. The ISO staff shall report any majority and minority views of these collaborative governance work groups when it submits the CARIS to the Business Issues Committee for a vote, as provided below.

31.3.1.2.2 The ISO, in conjunction with ESPWG, will develop criteria for the selection and grouping of the three congestion and resource integration studies that comprise each CARIS, as well as for setting the associated timelines for completion of the selected studies. Study selection criteria may include congestion estimates, and shall include a process to prioritize the three studies that comprise each CARIS. Criteria shall also include a process to set the cut off date for inputs into and completion of each CARIS study cycle.

31.3.1.2.3 The ISO, in conjunction with ESPWG, will develop a process by which interested parties can request and fund other congestion and resource integration studies, in addition to those included in each CARIS. These individual congestion and resource integration studies are in addition to those studies that a customer can request related to firm point-to-point transmission service pursuant to Section 3.7 of the ISO OATT, studies that a customer can request related to Network Integration Transmission Service pursuant to Section 4.5 of the ISO OATT, studies related to interconnection requests under Attachment X or Attachment Z

of the ISO OATT, or studies related to Transmission Interconnection Applications under Attachment P.

31.3.1.2.4 The ISO shall post all requests for congestion and resource integration studies on its website.

31.3.1.3 Preparation of the CARIS

31.3.1.3.1 The Study Period for the CARIS shall be the same ten-year Study Period covered by the most recently approved CRP.

31.3.1.3.2 The CARIS will assume a reliable system throughout the Study Period, based first upon the solutions identified in the most recently completed viability and sufficiency analysis performed pursuant to 31.2.5.7, as part of the CRP process, and reported to stakeholders and the NYDPS for comment. The baseline system for the CARIS shall first incorporate sufficient viable market-based solutions to meet the identified Reliability Needs as well as any regulated backstop solutions triggered by an ISO request pursuant to Section 31.2.8 of this Attachment Y. The ISO, in conjunction with the ESPWG, will develop methodologies to scale back market-based solutions to the minimum needed to meet the identified Reliability Needs, if more have been proposed than are necessary to meet the identified Reliability Needs. Regulated backstop solutions that have been proposed but not triggered pursuant to Section 31.2.8 shall also be used if there are insufficient market-based solutions for the ten-year Study Period. Multiple market-based solutions, as well as regulated solutions to Reliability Needs, may be included in the scenario assessments described in Section 31.3.1.5.

31.3.1.3.3 In conducting the CARIS, the ISO shall combine the component studies selected and assess system congestion and resource integration over the Study Period, measuring congestion by the metrics discussed in Appendix A to this Attachment Y. The ISO, in conjunction with the ESPWG, will develop the specific production costing model to be used in the CARIS. All resource types shall be considered on a comparable basis as potential solutions to the congestion identified: generation, transmission, demand response, and energy efficiency. The CARIS may include consideration of the economic impacts of advancing a regulated back stop solution contained in the CRP.

31.3.1.3.4 In conducting the CARIS, the ISO shall conduct benefit/cost analysis of each potential solution to the congestion identified, applying benefit/cost metrics that are described in this Section 31.3.1.3. The principal benefit metric for the CARIS analysis will be expressed as the present value of the NYCA-wide production cost reduction that would result from each potential solution. The present value of the NYCA-wide production cost reduction will be determined in accordance with the following formula:

Present Value in year 1 = Sum of the Present Values from each of the 10 years of the Study Period.

The discount rate to be used for the present value analysis shall be the current after-tax weighted average cost of capital for the Transmission Owners.

31.3.1.3.5 Additional benefit metrics shall include estimates of reductions in losses, LBMP load costs, generator payments, ICAP costs, Ancillary Services costs, emission costs, and TCC payments. The ISO will work with the ESPWG to determine the most useful metrics for each CARIS cycle, given overall ISO

resource requirements. The additional metrics will estimate the benefits of the potential generic solutions in mitigating the congestion identified for information purposes only. All the quantities, except ICAP, will be the result of the forward looking production cost simulation. The additional benefit metrics will be determined by measuring the difference between the CARIS base case system value and a system value when the potential generic solution is added. All four resource types will be considered as potential generic solutions to the congestion identified, such as generation, transmission, and/or demand response. The value of the additional metrics will be expressed in present value by using the following formula:

Present Value in year 1 = Sum of the Present Values from each of the 10 years of the Study Period.

The discount rate to be used for the present value analysis shall be the current after-tax weighted average cost of capital for the Transmission Owners. The definitions of the LBMP load cost metric, generator payments metric, reduction in losses metric, Ancillary Services costs metric, and TCC payment metric are set forth below.

31.3.1.3.5.1 LBMP load costs measure the change in total load payments and unhedged load payments. Total load payments will include the LBMP payments (energy, congestion and losses) paid by electricity demand (forecasted load, exports, and wheeling). Exports will be consistent with the input assumptions for each neighboring control area. Unhedged load payments will represent total load payments minus the TCC payments.

31.3.1.3.5.2 Reductions in losses measure the change in marginal losses payments.

Losses payments will be based upon the loss component of the zonal LBMP load payments.

31.3.1.3.5.3 Generator payments measure the change in generation payments.

Generation payments will include the LBMP payments (energy, congestion, losses), and Ancillary Services payments made to electricity suppliers. Ancillary Services costs will include payments for Regulation Services and Operating Reserves, including 10 Minute Synchronous, 10 Minute Non-synchronous and 30 Minute Non-synchronous. Generator payments will be the sum of the LBMP payments and Ancillary Services payments to generators and imports. Imports will be consistent with the input assumptions for each neighboring Control Area.

31.3.1.3.5.4 The TCC payment metric set forth below will be used for purposes of the study phase of the CARIS process, and will not be used for regulated economic transmission project cost allocation under Section 31.5.4.4 of this Attachment Y.

The TCC payment metric will measure the change in total congestion rents collected in the day-ahead market. These congestion rents shall be calculated as the product of the Congestion Component of the Day-Ahead LBMP in each Load Zone or Proxy Generator Bus and the withdrawals scheduled in each hour at that Load Zone or Proxy Generator Bus, minus the product of the Congestion Component of the Day-Ahead LBMP at each Generator Bus or Proxy Generator Bus and the injections scheduled in each hour at that Generator bus or Proxy Generator Bus, summed over all locations and hours.

31.3.1.3.5.5 The emission metric will measure the change in CO₂, NO_x, and SO₂, emissions in tons on a zonal basis as well as the change in emission cost by emission type. Emission costs will be reflected in the development of the production cost curve.

31.3.1.3.5.6 The calculation of the ICAP cost metric will be determined as set forth below. The ICAP cost metric will be highly dependent on the rules and procedures guiding the calculation of the IRM, LCR, and the ICAP Demand Curves, both for the next capability period and future capability periods. In each CARIS cycle, the ISO will review, with the ESPWG and, as appropriate, other ISO committees, the results of the ICAP cost metric.

31.3.1.3.5.6.1 The ICAP metric, in the form of a megawatt impact, will be computed for both generic and actual economic project proposals based on a methodology that: (1) determines the base system LOLE for the applicable horizon year; (2) adds the proposed project; and (3) calculates the LOLE for the system with the addition of the proposed project. If the system LOLE is lower than that of the base system, the ISO will reduce generation in all NYCA zones proportionally (*i.e.*, based on proportion of zonal capacity to total NYCA capacity) until the base system LOLE is achieved. That amount of reduced generation is the NYCA megawatt impact.

31.3.1.3.5.6.2 The ISO will calculate both of the following ICAP cost metrics described in subsections (1) and (2) below by first determining the megawatt impact described above in Section 31.3.1.3.5.6.1 and then:

- (1) For Rest of State, the ISO will measure the cost impact of a proposed generic project for each planning year by: (i) forecasting the cost per megawatt-year of

Installed Capacity in Rest of State under the assumption that the proposed generic project is not in place, with that forecast based on the latest available ICAP Demand Curve for the NYCA and the amount of Installed Capacity available in the NYCA, as shown in the NYISO Load and Capacity Data Report developed for that year; and (ii) multiplying that forecasted cost per megawatt-year for Rest of State in that year by the sum of the megawatt impact for all Load Zones contained within Rest of State, as calculated in accordance with subsection (A) of this Section 31.3.1.3.5.4.

For each Locality, the ISO will measure the cost impact of a proposed generic project for each planning year by: (i) forecasting the cost per megawatt-year of Installed Capacity in that Locality under the assumption that the proposed generic project is not in place, with that forecast based on the latest available ICAP Demand Curve for that Locality and the amount of Installed Capacity available in that Locality as shown in the relevant NYISO Load and Capacity Data Report developed for that year, and (ii) multiplying that forecasted cost per megawatt-year for that Locality in each year by the sum of the megawatt impact for all Load Zones contained within that Locality, as calculated in accordance with subsection (A) of this Section 31.3.1.3.5.4.

This ICAP cost metric will then be presented for each applicable planning year as a stream of present value benefits for each Locality and for Rest of State. The applicable planning years start with the proposed commercial operation date of the proposed generic project and end ten years after the proposed commercial operation date of the proposed generic project.

- (2) For Rest of State, the ISO will measure the cost impact of a proposed economic project for each planning year by: (i) forecasting the cost per megawatt-year of Installed Capacity in Rest of State under the assumption that the proposed generic project is in place, with that forecast based on the latest available ICAP Demand Curve for the NYCA and the amount of Installed Capacity available in the NYCA; (ii) subtracting that forecasted cost per megawatt-year from the forecasted cost per megawatt-year of Installed Capacity in Rest of State calculated in subsection (1) under the assumption that the proposed generic project is not in place; and (iii) multiplying that difference by fifty percent (50%) of the assumed amount of Installed Capacity available in Rest of State as calculated from the relevant NYISO Load and Capacity Data Report developed for the CARIS process.

For each Locality, the ISO will measure the cost impact of a proposed generic project for each planning year by: (i) forecasting the cost per megawatt-year of Installed Capacity in that Locality under the assumption that the proposed generic project is in place, with that forecast based on the latest available ICAP Demand Curve for that Locality and the amount of Installed Capacity available in that Locality as shown in the relevant NYISO Load and Capacity Data Report developed for that year; (ii) subtracting the greater of that forecasted cost per megawatt-year with the proposed generic project in place or the forecasted Rest of State Installed Capacity cost per megawatt-year with the proposed generic project in place from the forecasted cost of Installed Capacity in that Locality calculated in subsection (1) under the assumption that the proposed generic project is not in

place; and (iii) multiplying that difference by fifty percent (50%) of assumed amount of Installed Capacity available in that Locality, as taken from the relevant Load and Capacity tables developed for the CARIS process.

This ICAP cost metric will then be represented for each applicable planning year as a stream of present value benefits for each Locality and for Rest of State. The applicable planning years start with the proposed commercial operation date of the proposed generic project and end with the earlier of: (i) the year when the system, with the proposed generic project in place, reaches an LOLE of 0.1, or (ii) ten years after the proposed commercial operation date of the proposed generic project.

- (3) The forecast of Installed Capacity costs per megawatt-year are developed by: first, escalating the Net Cost of New Entry (“CONE”) for the NYCA or a Locality from the most recently completed ICAP Demand Curves for each year of the planning period; second, determining the future proxy Locational Minimum Installed Capacity Requirement or Minimum Installed Capacity Requirement for the NYCA as the actual amount of Installed Capacity in the Locality or the NYCA for the year that NYCA reaches 0.1 LOLE; third, reducing the cost per megawatt-year in each year from the escalated Net CONE to reflect the excess Installed Capacity from the NYISO Load and Capacity Data Report above the future proxy Minimum Installed Capacity Requirement with the adjustment calculated from the excess and the slope of the ICAP Demand Curve.

The forecasts of Installed Capacity costs for Localities or Rest of State performed in subsections (1) and (2) above shall, in addition to the assumptions listed above,

be based upon: (i) the forecasted Net CONE for the Locality (the NYCA in the case of the Rest of State forecast); (ii) the amount of Installed Capacity required to meet the future proxy Locational Minimum Installed Capacity Requirement (the Minimum Installed Capacity Requirement for the NYCA in the case of the Rest of State forecast); (iii) the slope of the relevant ICAP Demand Curve, and (iv) the smallest quantity where the cost of Installed Capacity on that ICAP Demand Curve reaches zero.

31.3.1.3.6 As referenced in Section 31.2.1.3, the ISO, using engineering judgment, will determine whether a regional alternative transmission solution might more efficiently or more cost effectively address congestion on the BPTFs identified in the CARIS that impacts more than one Transmission District than any local transmission solutions identified by the Transmission Owners in their LTPs in the event the LTPs specify that such transmission solutions are included to address congestion for economic reasons.

31.3.1.4 Planning Participant Data Input

At the ISO's request, Market Participants, Developers, and other parties shall provide, in accordance with the schedule set forth in the ISO Procedures, the data necessary for the development of the CARIS. This input will include but not be limited to existing and planned additions and modifications to the New York State Transmission System (to be provided by Transmission Owners and municipal electric utilities); proposals for Merchant Transmission Facilities (to be provided by merchant Developers); generation additions and retirements (to be provided by generator owners and Developers); demand response programs (to be provided by demand response providers); and any long-term firm transmission requests made to the ISO.

The relevant Transmission Owners will assist the ISO in developing the potential solution cost estimates to be used by the ISO to conduct benefit/cost analysis of each of the potential solutions.

31.3.1.5 Congestion and Resource Integration Scenario Development

The ISO, in consultation with the ESPWG, shall develop congestion and resource integration scenarios addressing the Study Period. Variables for consideration in the development of these congestion and resource integration scenarios include but are not limited to: load forecast uncertainty, fuel price uncertainty, new resources, retirements, emission data, the cost of allowances and potential requirements imposed by proposed environmental and energy efficiency mandates, as well as overall ISO resource requirements. The ISO shall report the results of these scenario analyses in the CARIS.

31.3.1.6 Consequences for Other Regions

The ISO will coordinate with the ISO/RTO Regions to identify the consequences of an economic transmission project on such neighboring ISO/RTO Regions using the respective planning criteria of such ISO/RTO Regions. The ISO shall report the results in the CARIS. The ISO shall not bear the costs of required upgrades in another region.

31.3.1.7 CARIS Report Preparation

Once all the analyses described above have been completed, ISO staff will prepare a draft of the CARIS including a discussion of its assumptions, inputs, methodology, and the results of its analyses.

31.3.2 CARIS Review Process and Actual Project Proposals

31.3.2.1 Collaborative Governance Process

The draft CARIS shall be submitted to both TPAS and the ESPWG for review and comment. The ISO shall make available to any interested party sufficient information to replicate the results of the draft CARIS. The information made available will be electronically masked and made available pursuant to a process that the ISO reasonably determines is necessary to prevent the disclosure of any Confidential Information or Critical Energy Infrastructure Information contained in the information made available. Following completion of that review, the draft CARIS reflecting the revisions resulting from the TPAS and ESPWG review shall be forwarded to the Business Issues Committee and the Management Committee for discussion and action.

31.3.2.2 Board Action

Following the Management Committee vote, the draft CARIS, with Business Issues Committee and Management Committee input, will be forwarded to the ISO Board for review and action. Concurrently, the draft CARIS will be provided to the Market Monitoring Unit for its review and consideration. The Board may approve the CARIS as submitted, or propose modifications on its own motion. If any changes are proposed by the Board, the revised CARIS shall be returned to the Management Committee for comment. The Board shall not make a final determination on a revised CARIS until it has reviewed the Management Committee comments. Upon approval by the Board, the ISO shall issue the CARIS to the marketplace by posting it on its website.

The responsibilities of the Market Monitoring Unit that are addressed in the above section of Attachment Y to the ISO OATT are also addressed in Section 30.4.6.8.4 of the Market Monitoring Plan, Attachment O to the ISO Services Tariff.

31.3.2.3 Public Information Sessions

In order to provide ample exposure for the market place to understand the content of the CARIS, the ISO will provide various opportunities for Market Participants and other potentially interested parties to discuss final CARIS. Such opportunities may include presentations at various ISO Market Participant committees, focused discussions with various industry sectors, and /or presentations in public venues.

31.3.2.4 Actual Project Proposals

As discussed in Section 31.3.1 of this Attachment Y, the CARIS analyzes system congestion over the Study Period and, for informational purposes, provides benefit/cost analysis and other analysis of potential generic solutions to the congestion identified. If, in response to the CARIS, a Developer proposes an actual project, including an Interregional Transmission Project, to address specific congestion identified in the CARIS, then the ISO will: (i) process that project proposal in accordance with the relevant provisions of Sections 31.5.1, 31.5.4 and 31.5.6 of this Attachment Y, and (ii) for Interregional Transmission Projects, jointly evaluate the project proposal with the relevant adjacent transmission planning region(s) in accordance with Section 7.3 of the Interregional Planning Protocol.

31.3.2.4.1 Eligibility and Qualification Criteria for Developers and Projects

For purposes of fulfilling the requirements of the Developer qualification criteria in this Section 31.3.2.4.1 and its subsections, the term “Developer” includes Affiliates, as that term is

defined in Section 2 of the ISO Services Tariff and Section 1 of the ISO OATT. To the extent that a Developer relies on Affiliate(s) to satisfy any or all of the qualification criteria set forth in Section 31.3.2.4.1.1.1, the Affiliate(s) shall provide to the ISO: (i) the information required in Section 31.3.2.4.1.1.1 to demonstrate its capability to satisfy the applicable qualification criteria, and (ii) a notarized officer's certificate, signed by an authorized officer of the Affiliate with signatory authority, in a form acceptable to the ISO, certifying that the Affiliate will participate in the Developer's project in the manner described by the Developer and will abide by the requirements set forth in this Attachment Y, the ISO Tariffs, and ISO Procedures related and applicable to the Affiliate's participation.

31.3.2.4.1.1 Developer Qualification and Timing

The ISO shall provide each Developer with an opportunity to demonstrate that it has or can draw upon the financial resources, technical expertise, and experience needed to finance, develop, construct, operate and maintain a transmission project proposed to address specific congestion identified in the CARIS. The ISO shall consider the qualifications of each Developer in an even-handed and non-discriminatory manner, treating Transmission Owners and Other Developers alike.

31.3.2.4.1.1.1 Developer Qualification Criteria

The ISO shall make a determination on the qualification of a Developer to propose to develop a transmission project as a solution to address specific congestion identified in the CARIS based on the following criteria:

31.3.2.4.1.1.1.1 The technical and engineering qualifications and experience of the Developer relevant to the development, construction, operation and maintenance of a transmission facility, including evidence of the Developer's demonstrated

capability to adhere to standardized construction, maintenance, and operating practices and to contract with third parties to develop, construct, maintain, and/or operate transmission facilities;

31.3.2.4.1.1.1.2 The current and expected capabilities of the Developer to develop and construct a transmission facility and to operate and maintain it for the life of the facility. If the Developer has previously developed, constructed, maintained or operated transmission facilities, the Developer shall provide the ISO a description of the transmission facilities (not to exceed ten) that the Developer has previously developed, constructed, maintained or operated and the status of those facilities, including whether the construction was completed, whether the facility entered into commercial operations, whether the facility has been suspended or terminated for any reason, and evidence demonstrating the ability of the Developer to address and timely remedy any operational failure of the facilities; and

31.3.2.4.1.1.1.3 The Developer's current and expected capability to finance, or its experience in arranging financing for, transmission facilities. For purposes of the ISO's determination, the Developer shall provide the ISO:

- (1) evidence of its demonstrated experience financing or arranging financing for transmission facilities, if any, including a description of such projects (not to exceed ten) over the previous ten years, the capital costs and financial structure of such projects, a description of any financing obtained for these projects through rates approved by the Commission or a state regulatory agency, the financing closing date of such projects, and whether any of the projects are in default;

- (2) its audited annual financial statements from the most recent three years and its most recent quarterly financial statement or equivalent information;
- (3) its credit rating from Moody's Investor Services, Standard & Poor's, or Fitch or equivalent information, if available;
- (4) a description of any prior bankruptcy declarations, material defaults, dissolution, merger or acquisition by the Developer or its predecessors or subsidiaries occurring within the previous five years; and
- (5) such other evidence that demonstrates its current and expected capability to finance a project to address specific congestion identified in the CARIS.

31.3.2.4.1.1.1.4 A detailed plan describing how the Developer – in the absence of previous experience financing, developing, constructing, operating, or maintaining transmission facilities – will finance, develop, construct, operate, and maintain a transmission facility, including the financial, technical, and engineering qualifications and experience and capabilities of any third parties with which it will contract for these purposes.

31.3.2.4.1.1.2 Developer Qualification Determination

Any Developer seeking to become qualified may submit the required information, or update any previously submitted information, at any time. The ISO shall treat on a confidential basis in accordance with the requirements of its Code of Conduct in Attachment F of the ISO OATT any non-public financial qualification information that is submitted to the ISO by the Developer under Section 31.3.2.4.1.1.1.3 and is designated by the Developer as "Confidential Information." The ISO shall within 15 days of a Developer's submittal, notify the Developer if the information is incomplete. If the submittal is deemed incomplete, the Developer shall submit

the additional information within 30 days of the ISO's request. The ISO shall notify the Developer of its qualification status within 30 days of receiving all necessary information. A Developer shall retain its qualification status for a three-year period following the notification date; *provided, however*, that the ISO may revoke this status if it determines that there has been a material change in the Developer's qualifications and the Developer no longer meets the qualification requirements. A Developer that has been qualified shall inform the ISO within thirty days of any material change to the information it provided regarding its qualifications and shall submit to the ISO each year its most recent audited annual financial statement when available. At the conclusion of the three-year period or following the ISO's revocation of a Developer's qualification status, the Developer may re-apply for a qualification status under this section.

Any Developer determined by the ISO to be qualified under this section shall be eligible to propose a regulated transmission project as a solution to address specific congestion identified in the CARIS and shall be eligible to use the cost allocation and cost recovery mechanism for regulated transmission projects set forth in Section 31.5 of this Attachment Y and Rate Schedule 10 of the ISO OATT for any approved project.

31.3.2.4.1.2 Information Requirements for Projects

The ISO shall consider the criteria in Section 31.3.2.4.2 when determining whether a proposed project is eligible to be offered as a regulated economic transmission project.

31.3.2.4.1.3 Timing for Submittal of Project Information and Entity Qualification Information and Opportunity to Provide Additional Information

The required project information may be submitted at any time, but the proposed regulated economic transmission project will be evaluated against the most recently available

CARIS Phase II database. Any Developer that the ISO has determined under Section 31.3.2.4.1.1.2 to be qualified to propose to develop a transmission project to address specific congestion identified in the CARIS may submit the required project information; *provided, however*, that based on the specific congestion identified that requires a solution, the ISO may request that the qualified Developer provide additional Developer information. Any Developer that the ISO has not determined to be qualified, but that wants to propose to develop a project, must submit to the ISO the information required for Developer qualification under Section 31.3.2.4.1.1. The ISO shall within 30 days of a Developer's submittal of its Developer qualification information, notify the Developer if this information is incomplete. The Developer shall submit additional Developer or project information required by the ISO within 15 days of the ISO's request. A Developer that fails to submit the additional Developer qualification information or the required project information will not be eligible for its project to be considered in that planning cycle.

31.3.2.4.2 Project Information Requirements

Any Developer seeking to offer a regulated economic transmission project as a solution to address specific congestion identified in the CARIS must provide, at a minimum, the following details: (1) contact information; (2) the lead time necessary to complete the project including, if available, the construction windows in which the Developer can perform construction and what, if any, outages may be required during these periods; (3) a description of the project, including type, size, and geographic and electrical location, as well as planning and engineering specifications as appropriate; (4) evidence of a commercially viable technology; (5) a major milestone schedule; (6) a schedule for obtaining any required permits and other certifications; (7) a demonstration of Site Control or a schedule for obtaining such control; (8)

status of any contracts (other than an interconnection agreement) that are under negotiation or in place, including any contracts with third-party contractors; (9) status of ISO interconnection studies and interconnection agreement; (10) status of equipment availability and procurement; (11) evidence of financing or ability to finance the project; (12) detailed capital cost estimates for each segment of the project; (13) a description of permitting or other risks facing the project at the stage of project development, including evidence of the reasonableness of project cost estimates, all based on the information available at the time of the submission; and (14) any other information requested by the ISO.

A Developer shall submit the following information to indicate the status of any contracts: (i) copies of all final contracts the ISO determines are relevant to its consideration, or (ii) where one or more contracts are pending, a timeline on the status of discussions and negotiations with the relevant documents and when the negotiations are expected to be completed. The final contracts shall be submitted to the ISO when available. The ISO shall treat on a confidential basis in accordance with the requirements of its Code of Conduct in Attachment F of the ISO OATT any contract that is submitted to the ISO and is designated by the Developer as “Confidential Information.”

A Developer shall submit the following information to indicate the status of any required permits: (i) copies of all final permits received that the ISO determines are relevant to its consideration, or (ii) where one or more permits are pending, the completed permit application(s) with information on what additional actions must be taken to meet the permit requirements and a timeline providing the expected timing for finalization and receipt of the final permit(s). The final permits shall be submitted to the ISO when available.

A Developer shall submit the following information, as appropriate, to indicate evidence of financing by it or any Affiliate upon which it is relying for financing: (i) evidence of self-financing or project financing through approved rates or the ability to do so, (ii) copies of all loan commitment letter(s) and signed financing contract(s), or (iii) where such financing is pending, the status of the application for any relevant financing, including a timeline providing the status of discussions and negotiations of relevant documents and when the negotiations are expected to be completed. The final contracts or approved rates shall be submitted to the ISO when available.

Upon the completion of any interconnection study or transmission expansion study of a proposed regulated economic transmission project that is performed under Sections 3.7 or 4.5 of the ISO OATT or Attachments P or X of the ISO OATT, the Developer of the proposed project shall notify the ISO that the study has been completed and, at the ISO's request, shall submit to the ISO any study report and related materials prepared in connection with the study.

Failure to provide any data requested by the ISO within the timeframe provided in Section 31.3.2.4.1.3 of this Attachment Y will result in the rejection of the proposed solution from further consideration during that planning cycle.

31.3.2.5 Posting of Approved Solutions

The ISO shall post on its website a list of all Developers who have undertaken a commitment to build a project that has been approved by project beneficiaries, in accordance with Section 31.5.4.6 of this Attachment Y.

31.4 Public Policy Transmission Planning Process

31.4.1 General

The Public Policy Transmission Planning Process shall consist of three steps: (1) identification of Public Policy Transmission Needs; (2) requests for proposed Public Policy Transmission Projects and Other Public Policy Projects to address those Public Policy Transmission Needs and the evaluation of those projects; and (3) selection of the more efficient or cost-effective Public Policy Transmission Project, if any, to satisfy each Public Policy Transmission Need to be eligible for cost allocation under the ISO OATT. Sections 31.4.2.1 through 31.4.2.3 provide for the identification of transmission needs driven by Public Policy Requirements and warranting evaluation by the ISO. The ISO shall request and evaluate proposed Public Policy Transmission Projects and Other Public Policy Projects to address such needs. The ISO shall select the more efficient or cost-effective Public Policy Transmission Project, if any, to satisfy each need. The Public Policy Transmission Planning Process will be conducted on a two-year cycle, unless requested by the NYPSC to be conducted out of that cycle. If the Public Policy Transmission Planning Process cannot be completed in the two-year cycle, the ISO will notify stakeholders and provide an estimated completion date and an explanation of the reasons the additional time is required. The NYPSC's issuance of a written statement pursuant to Section 31.4.2.1 below will occur after the draft RNA study results are posted.

31.4.2 Identification and Posting of Proposed Transmission Needs Driven by Public Policy Requirements

At the start of each cycle for the Public Policy Transmission Planning Process, the ISO will provide a 60-day period, which time period may be extended by the ISO pursuant to Section

31.1.8.7, to allow any stakeholders or interested parties to submit to the ISO, or for the ISO on its own initiative to identify, any proposed transmission need(s) that it believes are being driven by Public Policy Requirement(s) and for which transmission solutions should be requested and evaluated. Each submittal will identify the Public Policy Requirement(s) that the party believes is driving the need for transmission, propose criteria for the evaluation of transmission solutions to that need, and describe how the construction of transmission will fulfill the Public Policy Requirement(s).

For submittals to identify transmission needs pursuant to Section 31.4.2.1, the ISO will post all submittals on its website after the end of the needs solicitation period, and will submit to the NYPSC all submittals proposed by stakeholders, other interested parties, and any additional transmission needs and criteria identified by the ISO. For submittals to identify transmission needs that require a physical modification to transmission facilities in the Long Island Transmission District pursuant to Section 31.4.2.3, the ISO will post all submittals on its website after the end of the needs solicitation period, and will provide to the NYPSC and the Long Island Power Authority all submittals proposed by stakeholders, other interested parties, and any additional transmission needs and criteria identified by the ISO.

31.4.2.1 Identification and Determination of Transmission Needs Driven by Public Policy Requirements

The NYPSC will review all proposed transmission need(s) and, with input from the ISO and interested parties, identify the transmission needs, if any, for which specific transmission solutions should be requested and evaluated. The NYPSC will maintain procedures to govern the process by which it will review proposed transmission need(s), which procedures shall: ensure that such process is open and transparent, provide the ISO and interested parties a meaningful opportunity to participate in such process, provide input regarding the NYPSC's

considerations, and result in the development of a written determination as required by law, inclusive of the input provided by the ISO and interested parties. In addition, the NYPSC may, on its own, identify a transmission need driven by a Public Policy Requirement. Any such transmission need identified by the NYPSC on its own shall be described by the NYPSC in accordance with the requirements for stakeholder submittals set forth in Section 31.4.2, and shall be identified and posted to the ISO's website prior to NYPSC's issuance of the required written statement discussed below in this Section 31.4.2.1 so as to provide the ISO and interested parties an opportunity to provide input to the NYPSC relating thereto.

The ISO shall assist the NYPSC in its analyses as requested. The NYPSC may also request that the ISO, pursuant to Section 3.8.1 of the ISO OATT, conduct an evaluation of alternative options to address the transmission needs.

The NYPSC shall issue a written statement that identifies the relevant Public Policy Requirements driving transmission needs and explains why it has identified the Public Policy Transmission Needs for which transmission solutions will be requested by the ISO. The statement shall also explain why transmission solutions to other suggested transmission needs should not be requested. The NYPSC's statement may also provide: (i) additional criteria for the evaluation of transmission solutions and non-transmission projects, (ii) the required timeframe, if any, for completion of the proposed solution, and (iii) the type of analyses that it will request from the ISO.

If the NYPSC does not identify any transmission needs driven by Public Policy Requirements, it will provide confirmation of that conclusion to the ISO, and the ISO shall not request solutions. The ISO shall post the NYPSC's statement on the ISO's website.

31.4.2.2 Disputes of NYPSC Determinations

In the event that a dispute is raised solely within the NYPSC's jurisdiction relating to any NYPSC decision to either accept or deny a proposed transmission need as one for which transmission solutions should be requested, the dispute shall be addressed through judicial review in the courts of the State of New York pursuant to Article 78 of the New York Civil Practice Law and Rules.

31.4.2.3 Identification and Determination of Transmission Needs Within the Long Island Transmission District Driven by Public Policy Requirements

The Long Island Power Authority, pursuant to its jurisdiction under Title 1-A of Article 5 (§1020 et seq.) of the Public Authorities Law of the State of New York, shall identify and determine whether a Public Policy Requirement drives the need for a physical modification to transmission facilities in the Long Island Transmission District. The identification and determination of such transmission needs shall be consistent with Section 31.4.2.1, as further supplemented by this Section 31.4.2.3. The Long Island Power Authority shall have no authority to identify a transmission need outside of the Long Island Transmission District.

Based on the information provided by the ISO pursuant to Section 31.4.2, the Long Island Power Authority shall review whether a proposed Public Policy Requirement drives the need for a physical modification to transmission facilities in the Long Island Transmission District. In addition, the following requirements shall apply to the Long Island Power Authority:

- (i) The Long Island Power Authority shall consult with the NYDPS on the identification of transmission needs driven by a Public Policy Requirement solely within the Long Island Transmission District;
- (ii) Upon completion of its review, the Long Island Power Authority shall issue a written statement explaining whether a Public Policy Requirement does or does

not drive the need for a physical modification to transmission facilities solely within the Long Island Transmission District, and describing the consultation undertaken with the NYDPS;

- (iii) In conjunction with the issuance of its written statement, the Long Island Power Authority shall transmit to the NYPSC and request that it review and determine whether a transmission need solely within the Long Island Transmission District identified by the Long Island Power Authority as being driven by a Public Policy Requirement should be considered a Public Policy Transmission Need for purposes of the evaluation of solutions by the ISO and the potential eligibility of transmission solutions for selection and regional cost allocation under the ISO OATT. Any transmission need within the Long Island Transmission District that has been identified by the Long Island Power Authority, but which the NYPSC has not determined to be a Public Policy Transmission Need that would be evaluated by the ISO, shall be addressed under the Long Island Power Authority's Local Transmission Plan.
- (iv) The determination of whether there is a transmission need solely within the Long Island Transmission District is the sole responsibility of the Long Island Power Authority;
- (v) The NYDPS and Long Island Power Authority shall consult and coordinate on procedures to be adopted by the NYPSC and Long Island Power Authority to ensure that their respective determinations under this Section 31.4.2.3, including any NYPSC determination that there is a Public Policy Transmission Need within the Long Island Transmission District for which solutions should be evaluated by

the ISO, are completed, publicly posted and transmitted to the ISO at the same time as the NYPSC makes its final determinations pursuant to Section 31.4.2.1; and

- (vi) In the event that a dispute is raised solely within the Long Island Power Authority's jurisdiction relating to a decision by the Long Island Power Authority to either accept or deny a proposed transmission need solely within the Long Island Transmission District, the dispute shall be addressed through judicial review in the courts of the State of New York pursuant to Article 78 of the New York Civil Practice Law and Rules.

31.4.3 Request for Proposed Solutions

The ISO will request proposed Public Policy Transmission Projects, including Interregional Transmission Projects, to satisfy each Public Policy Transmission Need identified pursuant to Sections 31.4.2.1 through 31.4.2.3. An Interregional Transmission Project shall be: (i) evaluated in accordance with the applicable requirements of the Public Policy Transmission Planning Process of this Attachment Y, and (ii) jointly evaluated by the ISO and the relevant adjacent transmission planning region(s) in accordance with Section 7.3 of the Interregional Planning Protocol. The ISO shall also accept specific proposed Other Public Policy Projects to satisfy a Public Policy Transmission Need identified pursuant to Sections 31.4.2.1 through 31.4.2.3.

31.4.3.1 ISO Request for Proposed Solutions

Following posting of a determination pursuant to Sections 31.4.2.1 through 31.4.2.3, the ISO will request that Developers propose specific solutions, whether Public Policy Transmission Project(s) or Other Public Policy Project(s), to satisfy each identified Public Policy Transmission

Need in accordance with the requirements set forth in Section 31.4.4.3. Any proposed transmission needs that are under appeal pursuant to Section 31.4.2.2 or Section 31.4.2.3(vi) may be addressed with proposed solutions, if required, except where the NYPSC order has been stayed pending the resolution of that appeal.

31.4.3.2 NYPSC and LIPA Requests for Solutions

To ensure that there will be a response to a Public Policy Transmission Need, the NYPSC may request the appropriate Transmission Owner(s) or Other Developer, as identified by the NYPSC, to propose a Public Policy Transmission Project. With respect to a transmission need identified by the Long Island Power Authority and determined to be a Public Policy Transmission Need by the NYPSC pursuant to Section 31.4.2.3, the Long Island Power Authority's Board of Trustees may request that an appropriate Transmission Owner(s) or Other Developer propose a Public Policy Transmission Project or Other Public Policy Project. A request for the provision of a Public Policy Transmission Project or Other Public Policy Project by either the NYPSC or the Long Island Power Authority's Board of Trustees, pursuant to this section, is supplementary to, and not to the exclusion of, the submission of proposed projects pursuant to Section 31.4.3.1. Costs incurred by a Transmission Owner or Other Developer in preparing a proposed transmission solution in response to a request under this Section 31.4.3.2 will be recoverable under Section 31.5.6 and Rate Schedule 10 of the ISO OATT. The ISO shall allocate these costs among Load Serving Entities in accordance with Section 31.5.5.4.3, except as otherwise determined by the Commission.

31.4.4 Eligibility and Qualification Criteria for Developers and Projects

For purposes of fulfilling the requirements of the Developer qualification criteria in this Section 31.4.4 and its subsections, the term "Developer" includes Affiliates, as that term is

defined in Section 2 of the ISO Services Tariff and Section 1 of the ISO OATT. To the extent that a Developer relies on Affiliate(s) to satisfy any or all of the qualification criteria set forth in Section 31.4.4.1.1, the Affiliate(s) shall provide to the ISO: (i) the information required in Section 31.4.4.1.1 to demonstrate its capability to satisfy the applicable qualification criteria and (ii) a notarized officer's certificate, signed by an authorized officer of the Affiliate with signatory authority, in a form acceptable to the ISO, certifying that the Affiliate will participate in the Developer's project in the manner described by the Developer and will abide by the requirements set forth in this Attachment Y, the ISO Tariffs, and ISO Procedures, related and applicable to the Affiliate's participation.

31.4.4.1 Developer Qualification and Timing

The ISO shall provide each Developer with an opportunity to demonstrate that it has or can draw upon the financial resources, technical expertise, and experience needed to finance, develop, construct, operate, and maintain a Public Policy Transmission Project. The ISO shall consider the qualification of each Developer in an evenhanded and non-discriminatory manner, treating Transmission Owners and Other Developers alike.

31.4.4.1.1 Developer Qualification Criteria

The ISO shall make a determination on the qualification of a Developer to propose to develop a Public Policy Transmission Project based on the following criteria:

31.4.4.1.1.1 The technical and engineering qualifications and experience of the Developer relevant to the development, construction, operation and maintenance of a transmission facility, including evidence of the Developer's demonstrated capability to adhere to standardized construction, maintenance, and operating

practices and to contract with third parties to develop, construct, maintain, and/or operate transmission facilities;

31.4.4.1.1.2 The current and expected capabilities of the Developer to develop and construct a transmission facility and to operate and maintain it for the life of the facility. If the Developer has previously developed, constructed, maintained or operated transmission facilities, the Developer shall provide the ISO a description of the transmission facilities (not to exceed ten) that the Developer has previously developed, constructed, maintained or operated and the status of those facilities, including whether the construction was completed, whether the facility entered into commercial operations, whether the facility has been suspended or terminated for any reason, and evidence demonstrating the ability of the Developer to address and timely remedy any operational failure of the facilities; and

31.4.4.1.1.3 The Developer's current and expected capability to finance, or its experience in arranging financing for, transmission facilities. For purposes of the ISO's determination, the Developer shall provide the ISO:

- (1) evidence of its demonstrated experience financing or arranging financing for transmission facilities, if any, including a description of such projects (not to exceed ten) over the previous ten years, the capital costs and financial structure of such projects, a description of any financing obtained for these projects through rates approved by the Commission or a state regulatory agency, the financing closing date of such projects, and whether any of the projects are in default;
- (2) its audited annual financial statements from the most recent three years and its most recent quarterly financial statement or equivalent information, if available;

- (3) its credit rating from Moody's Investor Services, Standard & Poor's, or Fitch or equivalent information, if available;
- (4) a description of any prior bankruptcy declarations, material defaults, dissolution, merger or acquisition by the Developer or its predecessors or subsidiaries occurring within the previous five years; and
- (5) such other evidence that demonstrates its current and expected capability to finance a project to solve a Public Policy Transmission Need.

31.4.4.1.1.4 A detailed plan describing how the Developer – in the absence of previous experience financing, developing, constructing, operating, or maintaining transmission facilities – will finance, develop, construct, operate, and maintain a transmission facility, including the financial, technical, and engineering qualifications and experience and capabilities of any third parties with which it will contract for these purposes.

31.4.4.1.2 Developer Qualification Determination

Any Developer seeking to be qualified may submit the required information, or update any previously submitted information, at any time. The ISO shall treat on a confidential basis in accordance with the requirements of its Code of Conduct in Attachment F of the ISO OATT any non-public financial qualification information that is submitted to the ISO by the Developer under Section 31.4.4.1.1.3 and is designated by the Developer as "Confidential Information."

The ISO shall within 15 days of a Developer's submittal, notify the Developer if the information is incomplete. If the submittal is deemed incomplete, the Developer shall submit the additional information within 30 days of the ISO's request. The ISO shall notify the Developer of its qualification status within 30 days of receiving all necessary information. A Developer shall

retain its qualification status for a three-year period following the notification date; *provided, however*, that the ISO may revoke this status if it determines that there has been a material change in the Developer's qualifications and the Developer no longer meets the qualification requirements. A Developer that has been qualified shall inform the ISO within thirty days of any material change to the information it provided regarding its qualifications and shall submit to the ISO each year its most recent audited annual financial statement when available. At the conclusion of the three-year period or following the ISO's revocation of a Developer's qualification status, the Developer may re-apply for a qualification status under this section.

Any Developer determined by the ISO to be qualified under this section shall be eligible to propose a regulated Public Policy Transmission Project and shall be eligible to use the cost allocation and cost recovery mechanism for regulated Public Policy Transmission Projects set forth in Section 31.5 of this Attachment Y and the Rate Schedule 10 of the ISO OATT for any approved project.

31.4.4.2 Reserved.

31.4.4.3 Submittal of Project Information and Developer Qualification Information and Opportunity to Provide Additional Information

31.4.4.3.1 Following the posting of the NYPSC's determination of a Public Policy Transmission Need in accordance with Sections 31.4.2.1 through 31.4.2.3 and before issuing a solicitation for solutions in accordance with Section 31.4.3, the ISO shall hold a technical conference with Developers and interested parties to obtain their input on the ISO's application of the selection metrics set forth in Section 31.4.8.1 for purposes of soliciting solutions to the Public Policy Transmission Need. To the extent practicable, before issuing a solicitation for solutions in accordance with Section 31.4.3, the ISO will present to Developers

and interested parties any contingency percentage and escalation factors that its independent consultant will use in formulating capital cost estimates for proposed Public Policy Transmission Projects.

31.4.4.3.2 All Developers proposing Public Policy Transmission Projects or Other Public Policy Projects to satisfy a Public Policy Transmission Need shall submit to the ISO within 60 days of the ISO's request for solutions to a Public Policy Transmission Need, which time period may be extended by the ISO pursuant to Section 31.1.8.7, the project information required under Section 31.4.5. The only permitted alternatives within a proposed Public Policy Transmission Project are routing alternatives as provided in Section 31.4.5.1.3. Any other alternative must be submitted as a separate Public Policy Transmission Project.

31.4.4.3.3 If the Developer submits Confidential Information, as defined in Section 31.4.15, as part of its project information submitted pursuant to Section 31.4.4.3.2 or as part of its additional project information submitted pursuant to Section 31.4.4.3.5, the Developer shall submit redacted and un-redacted versions of this project information pursuant to Section 31.4.15.4.

31.4.4.3.4 The Developer of a Public Policy Transmission Project must also demonstrate to the ISO, simultaneous with its submission of project information, that it has submitted, as applicable, a new or revised Transmission Interconnection Application or Interconnection Request. The project information submitted by the Developer for its Public Policy Transmission Project in accordance with this Section 31.4.4.3 shall be the same as the Developer's proposed project in its Transmission Interconnection Application or

Interconnection Request, as applicable, including the same electrical characteristics, related modeling information, and contingency information necessary to perform all analyses, including thermal, voltage, stability, short circuit, and transfer limit analyses.

31.4.4.3.5 If: (i) the ISO determines that a Developer's submission of its project information is incomplete, or (ii) the ISO determines at any time in the planning process that additional project information is required, the ISO shall request that the Developer provide additional project information within the timeframe set forth in Section 31.4.4.3.8. A Developer's failure to provide the data requested by the ISO or to satisfy the other requirements in Sections 31.4.4.3 or 31.4.4.4 within the required timeframes shall result in the rejection of the Developer's proposed Public Policy Transmission Project or Other Public Policy Project from further consideration during that planning cycle.

31.4.4.3.6 Any Developer that the ISO has determined under Section 31.4.4.1.2 of this Attachment Y to be qualified to propose to develop a transmission project as a transmission solution to a Public Policy Transmission Need may submit the required project information for its proposed Public Policy Transmission Project; *provided, however*, that based on the actual identified need that requires resolution, the ISO may request that the qualified Developer provide additional Developer qualification information within the timeframe set forth in Section 31.4.4.3.8.

31.4.4.3.7 Any Developer that has not been determined by the ISO to be qualified, but that wants to propose to develop a Public Policy Transmission Project, must

submit to the ISO the information required for Developer qualification under Section 31.4.4.1 within 30 days after a request for solutions is made by the ISO. The ISO shall within 30 days of a Developer's submittal of its Developer qualification information, notify the Developer if this information is incomplete and request that the Developer provide additional Developer qualification information within the timeframe set forth in Section 31.4.4.3.8. The ISO shall notify a Developer that has submitted the requested Developer qualification information whether it is qualified to propose to develop a Public Policy Transmission Project to be considered in that planning cycle.

31.4.4.3.8 The Developer shall submit additional Developer qualification information or project information required by the ISO within 15 days of the ISO's request.

31.4.4.3.9 If a Developer fails to timely submit the additional Developer qualification information requested by the ISO, the Developer will not be eligible for its proposed Public Policy Transmission Project to be considered in that planning cycle.

31.4.4.3.10 Within five (5) business days of its receipt of proposed Public Policy Transmission Projects and Other Public Policy Projects pursuant to Section 31.4.4.3.2, the ISO shall publicly post a brief description of the project proposals in accordance with ISO Procedures, which description shall not include Critical Energy Infrastructure Information or Confidential Information, as defined in Section 31.4.15.

31.4.4.3.11 Following the ISO's determination that the project information submitted by the Developer for its proposed Public Policy Transmission Project pursuant to Sections 31.4.4.3.2 and 31.4.4.3.5 is complete and at least 30 calendar days prior to the ISO's presentation of its Viability and Sufficiency Assessment pursuant to Section 31.4.6.5, the ISO shall make available upon request the redacted version of Developer's initial submission of project information required pursuant to Section 31.4.5 for its proposed Public Policy Transmission Project, subject to the requestor's compliance with the ISO's requirements concerning the disclosure of Critical Energy Infrastructure Information. Within thirty (30) days of the ISO's receipt of any additional project information submitted by the Developer for its proposed Public Policy Transmission Project pursuant to Section 31.4.4.3.5, the ISO shall make available to any requestor that requested the initial submission of project information or upon request from any other requestor the redacted version of the additional project information, subject to the requestor's compliance with the ISO's requirements concerning the disclosure of Critical Energy Infrastructure Information.

31.4.4.4. Application Fee and Study Deposit for Proposed Regulated Public Policy Transmission Project

All Developers that propose Public Policy Transmission Projects shall for each such project, at the same time that they provide project information pursuant to Section 31.4.4.3.2, (i) execute a study agreement with the ISO in the form set forth in Section 31.12 (Appendix I) of this Attachment Y for purposes of the ISO's evaluation of the proposed Public Policy Transmission Project under Sections 31.4.7, 31.4.8, 31.4.9, 31.4.10, and 31.4.11, and (ii) submit to the ISO: (A) a non-refundable application fee of \$10,000, and (B) a study deposit of \$100,000,

which shall be applied to study costs and subject to refund as described in this Section 31.4.4.4.

The study deposit shall be held in an interest-bearing account for which the interest earned will be associated with the Developer and shall be applied to study costs and subject to refund as described in this Section 31.4.4.4.

The ISO shall charge, and a Developer proposing a regulated Public Policy Transmission Project shall pay, the actual costs of the ISO's evaluation of the Developer's proposed Public Policy Transmission Project for purposes of the ISO's selection of the more efficient or cost effective Public Policy Transmission Project to satisfy a Public Policy Transmission Need for cost allocation purposes, including costs associated with the ISO's use of subcontractors. The ISO will track its staff and administrative costs, including any costs associated with using subcontractors, that it incurs in performing the evaluation of a Developer's proposed Public Policy Transmission Project under Sections 31.4.7, 31.4.8, 31.4.9, 31.4.10, and 31.4.11 and any supplemental evaluation or re-evaluation of the proposed Public Policy Transmission Project. If the ISO or its subcontractors perform study work for multiple proposed Public Policy Transmission Projects on a combined basis, the ISO will allocate the costs of the combined study work equally among the applicable Developers.

The ISO shall invoice the Developer monthly for study costs incurred by the ISO in evaluating the Developer's proposed Public Policy Transmission Projects as described above. Such invoice shall include a description and an accounting of the study costs incurred by the ISO and estimated subcontractor costs. The Developer shall pay the invoiced amount within thirty (30) calendar days of the ISO's issuance of the monthly invoice. The ISO shall continue to hold the full amount of the study deposit until settlement of the final monthly invoice; *provided, however*, if a Developer: (i) does not pay its monthly invoice within the timeframe described

above, or (ii) does not pay a disputed amount into an independent escrow account as described below, the ISO may draw upon the study deposit to recover the owed amount. If the ISO must draw on the study deposit, the ISO shall provide notice to the Developer, and the Developer shall within thirty (30) calendar days of such notice make payments to the ISO to restore the full study deposit amount. If the Developer fails to make such payments, the ISO may halt its evaluation of the Developer's proposed Public Policy Transmission Project and may disqualify the Developer's proposed Public Policy Transmission Project from further consideration. After the conclusion of the ISO's evaluation of the Developer's proposed Public Policy Transmission Project or if the Developer: (i) withdraws its proposed Public Policy Transmission Project or (ii) fails to pay an invoiced amount and the ISO halts its evaluation of the proposed Public Policy Transmission Project, the ISO shall issue a final invoice and refund to the Developer any portion of the Developer's study deposit submitted to the ISO under this Section 31.4.4.4 and any interest actually earned on the deposited amount that together exceeds the outstanding amounts that the ISO has incurred in evaluating that Developer's proposed Public Policy Transmission Project. The ISO shall refund the remaining portion within sixty (60) days of the ISO's receipt of all final invoices from its subcontractors and involved Transmission Owners.

In the event of a Developer's dispute over invoiced amounts, the Developer shall: (i) timely pay any undisputed amounts to the ISO, and (ii) pay into an independent escrow account the portion of the invoice in dispute, pending resolution of such dispute. If the Developer fails to meet these two requirements, then the ISO shall not be obligated to perform or continue to perform its evaluation of the Developer's proposed Public Policy Transmission Project. Disputes arising under this section shall be addressed through the Dispute Resolution Procedures set forth in Section 2.16 of the ISO OATT and Section 11 of the ISO Services Tariff. Within

thirty (30) Calendar Days after resolution of the dispute, the Developer will pay the ISO any amounts due with interest actually earned on such amounts.

31.4.5 Project Information Requirements

31.4.5.1 Requirements for Public Policy Transmission Projects

31.4.5.1.1 In response to the ISO's solicitation for solutions pursuant to Section 31.4.4.3.2, a Developer proposing a Public Policy Transmission Project to satisfy a Public Policy Transmission Need must provide, at a minimum, the following details: (1) contact information; (2) the lead time necessary to complete the project, including, if available, the construction windows in which the Developer can perform construction and what, if any, outages may be required during these periods; (3) a description of the project, including type, size, and geographic and electrical location, as well as planning and engineering specifications as appropriate; (4) evidence of a commercially viable technology; (5) a detailed major milestone schedule and expected In-Service Date; (6) a schedule for obtaining any required permits and other certifications; (7) a transmission and substation routing study or studies and demonstration that the Developer already possesses the rights of way necessary to implement the project or has specified a detailed plan or approach and schedule for acquiring property rights; (8) status of any contracts (other than an interconnection agreement) that are under negotiations or in place, including any contracts with third-party contractors; (9) a Transmission Interconnection Application or Interconnection Request, as applicable, as described in Section 31.4.4.3.4; (10) status of equipment availability and procurement; (11) evidence of financing or ability to finance the

project; (12) capital cost estimates for the project; (13) any Cost Cap that the Developer voluntarily submits in accordance with Section 31.4.5.1.8; (14) a description of permitting requirements and other specific risks facing the project at the stage of project development, including any specific proposed mitigation to permitting risks, and evidence of the reasonableness of project capital cost estimates all based on the information available at the time of the submission; and (15) any other information required by ISO Procedures or requested by the ISO.

31.4.5.1.2 A Developer shall submit the following information to indicate its capital cost estimates for the project. The Developer shall provide the ISO with credible capital cost estimates for its proposed project, with itemized supporting work sheets that identify all material and labor cost assumptions, and related drawings to the extent applicable and available. The work sheets should include an estimated quantification of cost variance, providing an assumed plus/minus range around the capital cost estimate. The estimate shall include all components that are needed to meet the Public Policy Transmission Need. To the extent information is available, the Developer should itemize: material and labor cost by equipment, engineering and design work, permitting, site acquisition, procurement and construction work, and commissioning needed for the proposed project, all in accordance with Good Utility Practice. For each of these cost categories, the Developer should specify the nature and estimated cost of all major project components and estimate the cost of the work to be done at each substation and/or on each feeder to physically and electrically connect each facility to the existing system. The work sheets should itemize to the extent

applicable and available all equipment for: (i) the proposed project, (ii) interconnection facilities (including Attachment Facilities and Direct Assignment Facilities), and (iii) Network Upgrade Facilities, System Upgrade Facilities, System Deliverability Upgrades, Network Upgrades, and Distribution Upgrades.

31.4.5.1.3 A completed transmission and substation routing study provided by the Developer shall: (i) identify a specific routing plan with alternatives, (ii) include a schedule indicating the timing for obtaining siting and permitting, and (iii) provide specific attention to sensitive areas (*e.g.*, wetlands, river crossings, protected areas, and schools).

31.4.5.1.4 A Developer shall submit the following information to indicate the status of any contracts: (i) copies of all final contracts the ISO determines are relevant to its consideration, or (ii) where one or more contracts are pending, a timeline on the status of discussions and negotiations with the relevant documents and when the negotiations are expected to be completed. The final contracts shall be submitted to the ISO when available. The ISO shall treat on a confidential basis in accordance with the requirements of Section 31.4.15 and its Code of Conduct in Attachment F of the ISO OATT any contract that is submitted to the ISO and is designated by the Developer as “Confidential Information.”

31.4.5.1.5 A Developer shall submit the following information to indicate the status of any required permits: (i) copies of all final permits received that the ISO determines are relevant to its consideration, or (ii) where one or more permits are pending, the completed permit application(s) with information on what additional actions must be taken to meet the permit requirements and a timeline providing

the expected timing for finalization and receipt of the final permit(s). The final permits shall be submitted to the ISO when available.

31.4.5.1.6 A Developer shall submit the following information, as appropriate, to indicate evidence of financing by it or any Affiliate upon which it is relying for financing: (i) evidence of self-financing or project financing through approved rates or the ability to do so, (ii) copies of all loan commitment letter(s) and signed financing contract(s), or (iii) where such financing is pending, the status of the application for any relevant financing, including a timeline providing the status of discussions and negotiations of relevant documents and when the negotiations are expected to be completed. The final contracts or approved rates shall be submitted to the ISO when available.

31.4.5.1.7 Upon the completion of any interconnection study or transmission expansion study of a proposed Public Policy Transmission Project that is performed under Sections 3.7 or 4.5 of the ISO OATT or Attachments P or X of the ISO OATT, the Developer of the proposed project shall notify the ISO that the study has been completed and, at the ISO's request, shall submit to the ISO any study report and related materials prepared in connection with the study.

31.4.5.1.8 A Developer may voluntarily submit with its project information a Cost Cap for its proposed Public Policy Transmission Project that covers its Included Capital Costs, as defined in Section 31.4.5.1.8.1, but not its Excluded Capital Costs, as defined in Section 31.4.5.1.8.2. The Developer must submit any Cost Cap in the form of a hard Cost Cap or a soft Cost Cap in accordance with Section 31.4.5.1.8.3. If the Developer's proposed Public Policy Transmission Project is

selected by the ISO pursuant to Sections 31.4.8.2 and 31.4.11, the Developer shall include its proposed Cost Cap in its Development Agreement for its Public Policy Transmission Project in accordance with Section 31.4.12.2. In accordance with Section 6.10.6 of the ISO OATT, the Developer of the selected Public Policy Transmission Project shall file its Cost Cap at the Commission and shall not seek to recover through its transmission rates or through any other means costs for the Included Capital Costs above its agreed-upon Cost Cap, except as permitted for excusing conditions in Section 6.10.6.2 of the ISO OATT. The Developer of the selected Public Policy Transmission Project may recover through Rate Schedule 10 of the ISO OATT, subject to the cost recovery requirements in Section 6.10.4 or 6.10.5, as applicable, of the ISO OATT, the Included Capital Costs that do not exceed the amount in its Cost Cap, Excluded Capital Costs as defined in Section 31.4.5.1.8.2, and any Included Capital Costs permitted for excusing conditions as defined in Section 6.10.6.2 of the ISO OATT.

31.4.5.1.8.1 A Developer that elects to submit a Cost Cap for its proposed Public Policy Transmission Project must propose to contain all capital costs incurred by a Developer to plan for and construct a Public Policy Transmission Project, and to make it ready for its intended use (the “Included Capital Costs”), with the exception of the capital costs defined as Excluded Capital Costs in Section 31.4.5.1.8.2. Capital costs include the cost of contract work, labor, materials and supplies, transportation, special machine services, shop services, protection, injuries and damages, privileges and permits, engineering services, reasonably expected environmental site remediation and environmental mitigation costs as

described in Section 31.4.5.1.8.1.1, general administration services, legal services, real estate and land rights, rents, studies, training, asset retirement, and taxes. At its option, a Developer may choose to include as Included Capital Costs real estate costs for existing rights-of-way that are part of the proposed Public Policy Transmission Project, but are not owned by the Developer (*e.g.*, existing utility rights-of-way).

31.4.5.1.8.1.1 For purposes of Section 31.4.5.1.8.1, the phrase “reasonably expected environmental site remediation and environmental mitigation costs” means any estimated site investigation and remediation costs to the extent they would arise in the normal course of planning and constructing a Public Policy Transmission Project, which includes, but is not limited to, the following circumstances:

- (i) For project sites for which an environmental site assessment has already been conducted or environmental remediation or mitigation activities are ongoing, the Developer shall provide an estimate of any additional environmental site investigation, remediation, or mitigation that is known or reasonably anticipated at the time of submission.
- (ii) For project sites for which the Developer has no reason to believe any environmental remediation or mitigation is required without undertaking a site investigation, such as but not limited to any greenfield or undeveloped land, the Developer shall provide an estimate of the cost to perform a Phase I Environmental Site Assessment on a per mile basis.
- (iii) For project sites for which the Developer has reason to believe environmental site investigation, remediation, or mitigation may be required, the Developer shall

provide an estimate of the cost to perform such environmental site investigation, remediation, or mitigation to the extent possible based upon the information reasonably available to the Developer at the time of submission.

31.4.5.1.8.2 A Developer may not include the “Excluded Capital Costs” of a proposed Public Policy Transmission Project in a Cost Cap submitted to the ISO. Excluded Capital Costs include the following categories of costs: (i) the cost of system upgrades determined by the ISO in one of its interconnection processes; (ii) debt costs, allowance for funds used during construction (“AFUDC”), and other representations of the cost of financing the transmission project during the construction timeframe that may be included as part of the capital cost of the project when it enters into service or as otherwise determined by the Commission; (iii) unforeseeable environmental remediation and environmental mitigation costs as described in Section 31.4.5.1.8.2.1, and (iv) real estate costs for existing rights-of-way that are part of the proposed Public Policy Transmission Project, but are not owned by the Developer, that Developer chooses not to include as Included Capital Costs pursuant to Section 31.4.5.1.8.1.

31.4.5.1.8.2.1 For purposes of Section 31.4.5.1.8.2, the phrase “unforeseeable environmental remediation and environmental mitigation costs” means any costs relating to environmental remediation and environmental mitigation that are not anticipated by the Developer or are otherwise indeterminable based upon information reasonably available to the Developer at the time of submission, including any environmental remediation or mitigation costs that cannot be estimated by the Developer without performing an environmental site assessment

or investigation; *provided, however*, that the cost of conducting such environmental site assessment or investigation shall be considered an Included Capital Cost pursuant to Section 31.4.5.1.8.1. Costs attributable to environmental investigation, remediation, and mitigation that exceed the amount estimated in the Developer's bid based on, among other things, changes in the extent of known contamination will be considered "unforeseeable environmental remediation and environmental mitigation costs" and Excluded Capital Costs.

31.4.5.1.8.3 A Developer may submit a Cost Cap for its proposed Public Policy Transmission Project in the form of a hard Cost Cap or a soft Cost Cap. A hard Cost Cap for Included Capital Costs is a dollar amount for those costs above which the Developer commits in its proposed Public Policy Transmission Project not to recover from ratepayers. A soft Cost Cap for Included Capital Costs is a dollar amount for those costs above which the Included Capital Costs are shared between the Developer and ratepayers based on a defined percentage. The Developer's percentage of cost sharing under a soft Cost Cap of Included Capital Costs shall be at least twenty (20) percent.

31.4.5.1.8.4. A Developer must include contingency percentage and escalation factors, if any, applicable to the Included Capital Costs in its Cost Cap provided to the ISO as part of its proposal.

31.4.5.2 Requirements for Other Public Policy Projects

31.4.5.2.1 In response to the ISO's solicitation for solutions pursuant to Section 31.4.4.3.2, a Developer proposing an Other Public Policy Project to satisfy a Public Policy Transmission Need must provide, at a minimum: (1) contact

information; (2) the lead time necessary to complete the project, including, if available, the construction windows in which the Developer can perform construction and what, if any, outages may be required during these periods; (3) a description of the project, including type, size, and geographic and electrical location, as well as planning and engineering specifications and drawings as appropriate; (4) evidence of a commercially viable technology; (5) a major milestone schedule; (6) a schedule for obtaining any required permits and other certifications, if available; (7) a demonstration of Site Control or a schedule for obtaining Site Control, as applicable; (8) the status of any contracts (other than an interconnection agreement) that are under negotiation or in place; (9) the status of ISO interconnection studies and interconnection agreement, as applicable and if available; (10) the status of equipment availability and procurement, as applicable and if available; (11) evidence of financing or ability to finance the project; and (12) any other information required by ISO Procedures or requested by the ISO.

31.4.5.2.2 A Developer shall submit the following information to indicate the status of any contracts: (i) copies of all final contracts the ISO determines are relevant to its consideration, or (ii) where one or more contracts are pending, a timeline on the status of discussions and negotiations with the relevant documents and when the negotiations are expected to be completed. The final contracts shall be submitted to the ISO when available. The ISO shall treat on a confidential basis in accordance with the requirements of Section 31.4.15 and its Code of Conduct in Attachment F of the ISO OATT any contract that is submitted to the ISO and is designated by the Developer as “Confidential Information.”

31.4.5.2.3 A Developer shall submit the following information to indicate the status of any required permits: (i) copies of all final permits received that the ISO determines are relevant to its consideration, or (ii) where one or more permits are pending, the completed permit application(s) with information on what additional actions must be taken to meet the permit requirements and a timeline providing the expected timing for finalization and receipt of the final permit(s). The final permits shall be submitted to the ISO when available.

31.4.5.2.4 A Developer shall submit the following information, as appropriate, to indicate evidence of financing by it or any Affiliate upon which it is relying for financing: (i) copies of all loan commitment letter(s) and signed financing contract(s), or (ii) where such financing is pending, the status of the application for any relevant financing, including a timeline providing the status of discussions and negotiations of relevant documents and when the negotiations are expected to be completed. The final contracts shall be submitted to the ISO when available.

31.4.5.2.5 Upon the completion of any interconnection study or transmission expansion study of a proposed Other Public Policy Project that is performed under Sections 3.7 or 4.5 of the ISO OATT or Attachments P or X of the ISO OATT, the Developer of the proposed project shall notify the ISO that the study has been completed and, at the ISO's request, shall submit to the ISO any study report and related materials prepared in connection with the study.

31.4.6 ISO Evaluation of Proposed Solutions to Public Policy Transmission Needs

31.4.6.1 Evaluation Time Period

The ISO will study proposed Public Policy Transmission Projects and Other Public Policy Projects using: (i) the most recent base case from the Reliability Planning Process, (ii) updates in accordance with ISO Procedures, and (iii) compensatory MWs as needed to resolve the Reliability Needs over the ten-year Study Period. The ISO will extend the most recent reliability and economic planning models for modeling solutions for Public Policy Transmission Needs by up to an additional twenty years following the Study Period, as appropriate based upon the Public Policy Requirement and the identified Public Policy Transmission Need.

31.4.6.2 Comparable Evaluation of All Proposed Solutions

The ISO shall evaluate any proposed Public Policy Transmission Project or Other Public Policy Project submitted by a Developer to a Public Policy Transmission Need. The ISO will evaluate whether each proposed solution is viable pursuant to Section 31.4.6.3 below and is sufficient to satisfy the Public Policy Transmission Need pursuant to Section 31.4.6.4. The proposed solution may include multiple components and resource types. When evaluating proposed solutions to a Public Policy Transmission Need from any Developer, the ISO shall consider all resource types – including generation, transmission, demand response, or a combination of these resource types – on a comparable basis as potential solutions. All solutions will be evaluated in the same general time frame.

31.4.6.3 Evaluation of Viability of Proposed Solution

The ISO will determine the viability of a Public Policy Transmission Project or Other Public Policy Project – whether transmission, generation, demand response, or a combination of

these resource types – proposed to satisfy a Public Policy Transmission Need. For purposes of its analysis, the ISO will consider: (i) the Developer qualification data provided pursuant to Section 31.4.4 and the project information data provided under Section 31.4.5; (ii) whether the proposed solution is technically practicable; (iii) the Developer’s possession of, or approach for acquiring, any necessary rights-of-way, property, and facilities that will make the proposal reasonably feasible in the required timeframe; and (iv) whether the proposed solution can be completed in the required timeframe, if any. If the ISO determines that the proposed solution is not viable, the ISO shall reject the proposed solution from further consideration during that planning cycle.

31.4.6.4 Evaluation of Sufficiency of Proposed Solution

The ISO will perform a comparable analysis of each proposed Public Policy Transmission Project or Other Public Policy Project – whether transmission, generation, demand response, or a combination of these resource types – to confirm that the proposed solution satisfies the Public Policy Transmission Need. The ISO will evaluate each solution to measure the degree to which the proposed solution independently satisfies the Public Policy Transmission Need, including the evaluation criteria provided by the NYPSC. If the ISO determines that the proposed solution is not sufficient, the ISO shall reject the proposed solution from further consideration during that planning cycle.

31.4.6.5 Viability and Sufficiency Assessment

The ISO will present its Viability and Sufficiency Assessment to stakeholders, interested parties, and the NYDPS for comment. The Viability and Sufficiency Assessment shall identify the information and sources relied upon by the ISO, describe the ISO’s assumptions, inputs, methodologies, and state the results of its analyses. The ISO shall file the final Viability and

Sufficiency Assessment at the NYPSC. The ISO shall report in the Public Policy Transmission Planning Report the results of its evaluation under this Section 31.4.6 of whether each proposed Public Policy Transmission Project or Other Public Policy Project is viable and is sufficient to satisfy the identified Public Policy Transmission Need.

31.4.6.6 Developer's Determination to Proceed

Within 15 Calendar Days following the ISO's filing of the Viability and Sufficiency Assessment at the NYPSC, which time period may be extended by the ISO pursuant to Section 31.1.8.7, all Developers of proposed Public Policy Transmission Projects that the ISO has determined satisfy the viability and sufficiency requirements in this Section 31.4.6 shall notify the ISO whether they intend for their projects to proceed to be evaluated by the ISO for purposes of the ISO's selection of the more efficient or cost effective Public Policy Transmission Project to satisfy an identified Public Policy Transmission Need. To proceed, a Developer must include with its notification to the ISO under this Section 31.4.6.6 a demonstration that it has an executed System Impact Study Agreement or System Reliability Impact Study Agreement, as applicable. If a Developer: (i) notifies the ISO that it does not intend for its proposed Public Policy Transmission Project to proceed to be evaluated for purposes of the ISO's selection, or (ii) does not provide the required notification to the ISO under this Section 31.4.6.6, the ISO will remove the project from further consideration during that planning cycle.

31.4.6.7 NYPSC's Modification or Elimination of a Public Policy Transmission Need

31.4.6.7.1 If, at any time prior to the ISO's selection of the more efficient or cost effective transmission solution pursuant to Section 31.4.11.2, the NYPSC issues an order, subject to and in accordance with the State Administrative Procedure

Act, that determines that either: (i) there is no longer a transmission need driven by a Public Policy Requirement that requires the ISO's evaluation of potential transmission solutions, or (ii) the transmission need should be modified, the ISO shall take the following action.

31.4.6.7.2 If the NYPSC determines that there is no longer a transmission need driven by a Public Policy Requirement in an order as set forth in Section 31.4.6.7.1, the ISO will not perform or complete, as applicable, an evaluation, or make a selection of, a more efficient or cost-effective transmission solution under Sections 31.4.7 through 31.4.11 for the Public Policy Transmission Need initially identified by the NYPSC for that planning cycle pursuant to Section 31.4.2.1.

31.4.6.7.3 If the NYPSC modifies the transmission need driven by a Public Policy Requirement in an order as set forth in Section 31.4.6.7.1, the ISO will re-start its Public Policy Transmission Planning Process as an out-of-cycle process to evaluate Public Policy Transmission Projects to address the modified Public Policy Transmission Need. This out-of-cycle process will begin with the ISO's solicitation for Public Policy Transmission Projects to address the modified Public Policy Transmission Need in accordance with Sections 31.4.3 and 31.4.4.3. The ISO shall then perform the remainder of the out-of-cycle Public Policy Transmission Planning Process in accordance with the process requirements in Section 31.4 that follow its solicitation for proposed solutions.

31.4.7 Evaluation of Regional Public Policy Transmission Projects to Address Local and Regional Needs Driven by Public Policy Requirements More Efficiently or More Cost Effectively Than Local Transmission Solutions

The ISO will review the LTPs as they relate to the BPTFs. The ISO will include the results of its analysis in its Public Policy Transmission Planning Report, as approved by the ISO Board.

31.4.7.1 Evaluation of Regional Public Policy Transmission Projects to Address Local Needs Driven By Public Policy Requirements Identified in Local Transmission Plans More Efficiently or More Cost Effectively than Local Transmission Solutions

The ISO, using engineering judgment, will determine whether any proposed regional Public Policy Transmission Project on the BPTFs more efficiently or cost-effectively satisfies any needs driven by a Public Policy Requirement identified in the LTPs. If the ISO identifies that a regional Public Policy Transmission Project has the potential to more efficiently or cost effectively satisfy the needs driven by a Public Policy Requirement identified in the LTPs, it will perform a sensitivity analysis to determine whether the proposed regional Public Policy Transmission Project on the BPTFs would satisfy the needs driven by a Public Policy Requirement identified in the LTPs. If the ISO determines that the proposed regional Public Policy Transmission Project would satisfy the need, the ISO will evaluate the proposed regional Public Policy Transmission Project using the metrics set forth in Section 31.4.8.1 below to determine whether it may be a more efficient or cost effective solution on the BPTFs to the needs driven by a Public Policy Requirement identified in the LTPs than the local solutions proposed in the LTPs.

31.4.7.2 Evaluation of Regional Public Policy Transmission Project to Address Regional Public Policy Transmission Needs More Efficiently or More Cost Effectively than Local Transmission Solutions

As referenced in Section 31.2.1.3, the ISO, using engineering judgment, will determine whether a regional Public Policy Transmission Project might more efficiently or more cost effectively satisfy an identified regional Public Policy Transmission Need on the BPTFs that impacts more than one Transmission District than any local transmission solutions identified by the Transmission Owners in their LTPs in the event the LTPs specify that such transmission solutions are included to address local transmission needs driven by Public Policy Requirements.

31.4.8 ISO Selection of More Efficient or Cost Effective Public Policy Transmission Project to Satisfy a Public Policy Transmission Need

A proposed regulated Public Policy Transmission Project submitted by a Developer that the ISO has determined has provided the required notification to proceed under Section 31.4.6.6 shall be eligible under this Section 31.4.8 for selection in the Public Policy Transmission Planning Report for the purpose of cost allocation under the ISO Tariffs. The ISO shall evaluate any proposed regulated Public Policy Transmission Projects that are eligible for selection in the planning cycle of the Public Policy Transmission Planning Process using the metrics set forth in Section 31.4.8.1 below. For purposes of this evaluation, the ISO will review the information submitted by the Developer and determine whether it is reasonable and how such information should be used for purposes of the ISO evaluating each metric. In its review, the ISO will give due consideration to the status of, and any available results of, any applicable interconnection or transmission expansion studies concerning the proposed Public Policy Transmission Project performed in accordance with Sections 3.7 or 4.5 of the ISO OATT or Attachments X or P of the ISO OATT. The ISO may engage an independent consultant to review the reasonableness and comprehensiveness of the information submitted by the Developer and may rely on the

independent consultant's analysis in evaluating each metric. In formulating the independent consultant's estimate for the total capital costs of a Public Policy Transmission Project, the ISO and its independent consultant may add appropriate contingency percentages and escalation factors. The ISO shall select in the Public Policy Transmission Planning Report for cost allocation purposes the more efficient or cost effective transmission solution to satisfy a Public Policy Transmission Need in the manner set forth in Section 31.4.8.2 below.

31.4.8.1 Metrics for Evaluating More Efficient or Cost Effective Regulated Public Policy Transmission Project to Satisfy Public Policy Transmission Need

In determining which of the eligible proposed regulated Public Policy Transmission Projects is the more efficient or cost effective solution to satisfy a Public Policy Transmission Need, the ISO will consider, and will consult with the NYDPS regarding, the metrics set forth below in this Section 31.4.8.1 and rank each proposed project based on the quality of its satisfaction of these metrics:

31.4.8.1.1 The capital cost estimates for the proposed regulated Public Policy Transmission Project, including the accuracy of the proposed estimates and any Cost Cap voluntarily submitted by the Developer of the proposed Public Policy Transmission Project pursuant to Sections 31.4.5.1.1 and 31.4.5.1.8.

31.4.8.1.2 A qualitative evaluation of any Cost Cap voluntarily submitted by the Developer of the proposed Public Policy Transmission Project as determined pursuant to Section 31.4.8.2.2.

31.4.8.1.3 The cost per MW ratio of the proposed regulated Public Policy Transmission Project. For this evaluation, the ISO will first determine the present worth, in dollars, of the total capital cost of the proposed project in current year

dollars. The ISO will then determine the cost per MW ratio by dividing the capital cost by the MW value of increased transfer capability.

31.4.8.1.4 The expandability of the proposed regulated Public Policy Transmission Project. The ISO will consider the impact of the proposed project on future construction. The ISO will also consider the extent to which any subsequent expansion will continue to use this proposed project within the context of system expansion.

31.4.8.1.5 The operability of the proposed regulated Public Policy Transmission Project. The ISO will consider how the proposed project may affect additional flexibility in operating the system, such as dispatch of generation, access to operating reserves, access to ancillary services, or ability to remove transmission for maintenance. The ISO will also consider how the proposed project may affect the cost of operating the system, such as how it may affect the need for operating generation out of merit for reliability needs, reducing the need to cycle generation, or providing more balance in the system to respond to system conditions that are more severe than design conditions.

31.4.8.1.6 The performance of the proposed regulated Public Policy Transmission Project. The ISO will consider how the proposed project may affect the utilization of the system (e.g. interface flows, percent loading of facilities).

31.4.8.1.7 The extent to which the Developer of a proposed regulated Public Policy Transmission Project has the property rights, or ability to obtain the property rights, required to implement the project. The ISO will consider the completed transmission and substation routing studies, including identified routing

alternatives, and whether the Developer: (i) already possesses the rights of way necessary to implement the project; or (ii) has specified a plan or approach and schedule for determining routing and acquiring property rights.

31.4.8.1.8 The potential issues associated with delay in constructing the proposed regulated Public Policy Transmission Project consistent with the major milestone schedule and the schedule for obtaining any permits and other certifications as required to timely meet the need.

31.4.8.1.9 The ISO shall apply any criteria specified by the Public Policy Requirement or provided by the NYPSC and perform the analyses requested by the NYPSC, to the extent compliance with such criteria and analyses are feasible.

31.4.8.1.10 The ISO, in consultation with stakeholders, shall, as appropriate, consider other metrics in the context of the Public Policy Requirement, such as: change in production costs; LBMP; losses; emissions; ICAP; TCC; congestion; impact on transfer limits; and deliverability.

31.4.8.2 Evaluation of Capital Cost and Cost Caps for Included Capital Costs

The ISO will consider in its evaluation and selection of the more efficient or cost effective transmission solution any voluntary Cost Cap made by a Developer on a quantitative and qualitative basis as described in this Section 31.4.8.2.

31.4.8.2.1 Quantitative Evaluation of Cost Cap. The ISO will use the Developer's Cost Cap in the manner described in this Section 31.4.8.2.1 in estimating the total capital costs for Developer's Public Policy Transmission Project for purposes of the ISO's evaluation of that project under the metrics set forth in Section 31.4.8.1. If the Developer elected to submit a Cost Cap, the ISO will calculate the total

capital costs by estimating and adding the amount of Excluded Capital Costs for the Developer's proposed Public Policy Transmission Project to the amount of Included Capital Costs for the Public Policy Transmission Project that is determined pursuant to Sections 31.4.8.2.1.1 or 31.4.8.2.1.2, as applicable. If the Developer elected not to submit a Cost Cap, the ISO will rely on its independent consultant to estimate the total capital cost of the Developer's Public Policy Transmission Project. For purposes of its calculation of the total capital costs of a Public Policy Transmission Project, the ISO will not estimate and will not add to the Excluded Capital Costs any costs concerning unforeseeable environmental mitigation or remediation costs set forth in Section 31.4.5.1.8.2(iii), or concerning the financing of the Public Policy Transmission Project set forth in Section 31.4.5.1.8.2(ii), including debt costs, AFUDC, and any other financing costs.

31.4.8.2.1.1 If the Developer submits a hard Cost Cap for the Included Capital Costs of its proposed Public Policy Transmission Project, the ISO will use the amount of the Developer's Cost Cap as the amount for Included Capital Costs.

31.4.8.2.1.2 If the Developer submits a soft Cost Cap for the Included Capital Costs of its proposed Public Policy Transmission Project, the ISO will calculate the Included Capital Costs amount for that project as follows. If the Developer's soft Cost Cap for the Included Capital Costs is above the amount estimated by the ISO's independent consultant, the ISO will rely on the Developer's amount for the Included Capital Costs to calculate the total capital cost of the Developer's Public Policy Transmission Project. If the Developer's soft Cost Cap for the Included Capital Costs is below the amount estimated by the ISO's independent

consultant, the ISO will calculate an adjusted value for the Included Capital Costs.

The ISO will calculate the adjusted value of the Included Capital Costs by: (i) multiplying the difference between (a) the independent consultant's cost estimate for Included Capital Costs and (b) the Developer's Included Capital Costs amount, by (c) the risk percentage assumed by ratepayers, and (ii) adding that amount to the Developer's Included Capital Costs amount. The ISO will use the adjusted value for the Included Capital Costs to estimate the total capital cost of the Developer's Public Policy Transmission Project.

31.4.8.2.2 Qualitative Evaluation of Cost Cap. For purposes of the ISO's evaluation of a proposed Public Policy Transmission Project under the metric in Section 31.4.8.1.2, the ISO will evaluate on a qualitative basis a Developer's proposed Cost Cap for Included Capital Costs and assess the proposed project based upon the following criteria:

- (i) The effectiveness of the proposed Cost Cap in providing an incentive to the Developer to contain its Included Capital Costs, *i.e.*, how aligned is the Developer's incentive to maximize its profits by avoiding cost overruns compared to the level of risk exposure to consumers, and what degree of risk is the Developer assuming to pay for cost overruns;
- (ii) The effectiveness of the proposed Cost Cap in protecting ratepayers from Included Capital Cost overruns;
- (iii) The magnitude of the difference between the Cost Cap and the independent cost estimate as described below;

- a. If the Developer's proposed Cost Cap is below the ISO's independent consultant's cost estimate for Included Capital Costs, the ISO will assess how close (*i.e.*, how far below) is the Developer's proposed Cost Cap for Included Capital Costs to the ISO's independent cost estimate, considering the Developer's financial and technical qualifications, and considering the likelihood that the project could be constructed at the Cost Cap amount;
- b. If the Developer's proposed Cost Cap is above the ISO's independent consultant's cost estimate for Included Capital Costs, the ISO will assess (a) how close (*i.e.*, how far above) is the Developer's proposed Cost Cap for Included Capital Costs to the ISO's independent cost estimate; (b) whether the Cost Cap is so significantly above the ISO independent consultant's cost estimate that it is unlikely to bind the Developer and provide benefit to ratepayers; and (c) whether the Cost Cap exceeds the ISO's independent cost estimate by only a small amount, such that the Cost Cap could protect ratepayers from cost overruns.

In conducting the evaluation in this Section 31.4.8.2.2, the ISO may request from the Developer additional project information pursuant to Section 31.4.4.3.5 and Developer financial qualification information pursuant to Section 31.4.4.3.6.

31.4.8.3 ISO Selection of More Efficient or Cost Effective Regulated Public Policy Transmission Project to Satisfy a Public Policy Transmission Need

The ISO shall identify under this Section 31.4.8 the proposed regulated Public Policy Transmission Project, if any, that is the more efficient or cost effective transmission solution proposed in the planning cycle for the Public Policy Transmission Planning Process to satisfy a Public Policy Transmission Need. The ISO shall include the more efficient or cost effective transmission solution in the Public Policy Transmission Planning Report. The Developer of a

regulated Public Policy Transmission Project shall be eligible to recover costs for the project only if the project is selected by the ISO, except as otherwise provided in Section 31.4.3.2 or as otherwise determined by the Commission. Costs will be recovered when the project enters into service, is halted, or as otherwise determined by the Commission in accordance with the cost recovery requirements set forth in Section 31.5.6 of this Attachment Y and Rate Schedule 10 of the ISO OATT. Actual project cost recovery, including any issues related to cost recovery and project cost overruns, will be submitted to and decided by the Commission; *provided, however*, that the Developer: (i) shall include in the Development Agreement in accordance with Section 31.4.12.2 any Cost Cap proposed under Section 31.4.5.1 and (ii) shall agree in the Development Agreement that it shall not seek to recover through its transmission rates or through any other means costs for the Included Capital Costs above its agreed-upon Cost Cap in accordance with Section 6.10.6 of the ISO OATT, except as permitted for excusing conditions in Section 6.10.6.2 of the ISO OATT.

Any selection of a Public Policy Transmission Project by the ISO under Section 31.4.8, including but not limited to the selection of a project that involves the physical modification of facilities within the Long Island Transmission District, shall not affect the obligation and responsibility of the Developer to apply for, and receive, all necessary authorizations or permits required by federal or state law for such project.

31.4.9 Consequences for Other Regions

The ISO will coordinate with the ISO/RTO Regions to identify the consequences of a transmission solution driven by Public Policy Requirements on neighboring ISO/RTO Regions using the respective planning criteria of such ISO/RTO Regions. The ISO shall report the results

in its Public Policy Transmission Planning Report. The ISO shall not bear the costs of required upgrades in another region.

31.4.10 Evaluation of Impact of Proposed Public Policy Transmission Project on ISO Wholesale Electricity Markets

The ISO shall evaluate using the metrics set forth in Section 31.4.8.1.9 the impacts on the ISO-administered wholesale electricity markets of a proposed Public Policy Transmission Project that the ISO has determined under Section 31.4.6 is viable and sufficient. The ISO shall include the results of its analysis in the Public Policy Transmission Planning Report.

31.4.11 Public Policy Transmission Planning Report

Following the ISO's evaluation of the proposed solutions to Public Policy Transmission Need(s), the ISO will prepare a draft Public Policy Transmission Planning Report that identifies the information and sources relied upon by the ISO, describes the ISO's assumptions, inputs, methodologies, and states the results of its analyses. The draft Public Policy Transmission Planning Report will reflect any input from the NYDPS.

Except as otherwise provided in the confidentiality requirements in Section 31.4.15, the ISO will include in the draft Public Policy Transmission Planning Report: (i) the list of Developers and their proposed Public Policy Transmission Projects and Other Public Policy Projects that qualify pursuant to Sections 31.4.4 and 31.4.5; (ii) the proposed Public Policy Transmission Projects and Other Public Policy Projects that the ISO has determined under Section 31.4.6 are viable and sufficient to satisfy the identified Public Policy Transmission Need(s); (iii) the total amount of Included Capital Costs and any cost sharing percentage contained in any Cost Cap proposed by a Developer that has determined to proceed with a viable and sufficient project under Section 31.4.6.6; and (iv) the regulated Public Policy Transmission

Project, if any, that the ISO staff recommends for selection for cost allocation purposes pursuant to Section 31.4.8 as the more efficient or cost effective transmission solution to satisfy each identified Public Policy Transmission Need. The draft Public Policy Transmission Planning Report will also include the results of the ISO's analysis of the LTPs consistent with Section 31.4.7.

The draft Public Policy Transmission Planning Report shall also indicate the date by which the Public Policy Transmission Project must be in-service to address the Public Policy Transmission Need. The in-service date shall be: (i) the date prescribed by the NYPSC in its order identifying the Public Policy Transmission Need as described in Section 31.4.2.1 or in a subsequent order, or (ii) if the NYPSC has not prescribed a date, the date proposed by the Developer and reviewed and accepted by the ISO, which date may be either: (A) the in-service date included in the Developer's project proposal, or (B) such other date accepted by the ISO as reasonable in light of the Public Policy Transmission Need.

The draft Public Policy Transmission Planning Report shall include a comparison of a proposed Public Policy Transmission Project to an Interregional Transmission Project proposed in the Public Policy Transmission Planning Process, if any, identified and evaluated under the "Analysis and Consideration of Interregional Transmission Projects" section of the Interregional Planning Protocol. An Interregional Transmission Project proposed in the ISO's Public Policy Transmission Planning Process may be selected as a regulated Public Policy Transmission Project under the provisions of this process.

31.4.11.1 Collaborative Governance Process

The draft Public Policy Transmission Planning Report shall be submitted to both TPAS and the ESPWG for review and comment. Concurrently, the draft report will be provided to the

Market Monitoring Unit for its review and consideration. The Market Monitoring Unit's evaluation will be provided to the Management Committee prior to the Management Committee's advisory vote. The ISO shall make available to any interested party sufficient information to replicate the results of the draft Public Policy Transmission Planning Report. The information made available will be electronically masked and made available pursuant to a process that the ISO reasonably determines is necessary to prevent the disclosure of any Confidential Information or Critical Energy Infrastructure Information contained in the information made available. Following completion of that review, the draft report reflecting the revisions resulting from the TPAS and ESPWG review shall be forwarded to the Business Issues Committee and the Management Committee for discussion and an advisory vote.

31.4.11.2 Board Review, Consideration, and Approval of Public Policy Transmission Planning Report

Following the Management Committee vote, the draft Public Policy Transmission Planning Report, with Business Issues Committee and Management Committee input, will be forwarded to the ISO Board for review and action. Concurrently, the Market Monitoring Unit's evaluation will be provided to the Board. The Board may approve the Public Policy Transmission Planning Report as submitted or propose modifications on its own motion, including a determination not to select a Public Policy Transmission Project to satisfy a Public Policy Transmission Need. If any changes are proposed by the Board, the revised report shall be returned to the Management Committee for comment. The Board shall not make a final determination on a revised report until it has reviewed the Management Committee comments, including comments regarding the Market Monitoring Unit's evaluation. Upon approval by the Board, the ISO shall issue the report to the marketplace by posting it on its website. If the ISO

Board determines not to select a Public Policy Transmission Project under this Section 31.4.11.2, the Board shall state the reasons for its determination.

The responsibilities of the Market Monitoring Unit that are addressed in the above Section of Attachment Y to the ISO OATT are also addressed in Section 30.4.6.8.5 of the Market Monitoring Plan, Attachment O to the ISO Services Tariff.

31.4.12 Developer's Responsibilities Following Selection of Its Public Policy Transmission Project

31.4.12.1 Developer's Responsibility to Obtain Necessary Approvals and Authorizations

Upon its selection of a Public Policy Transmission Project, the ISO will inform the Developer that it should submit the selected Public Policy Transmission Project to the appropriate governmental agency(ies) and/or authority(ies) to begin the necessary approval process to the site, construct, and operate the project. In response to the ISO's request, the Developer shall make such a submission to the appropriate governmental agency(ies) and/or authority(ies) to the extent such authorization has not already been requested or obtained.

If the appropriate federal, state or local agency(ies) either rejects a necessary authorization, or approves and later withdraws authorization, for the selected Public Policy Transmission Project, the Developer may recover 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, to the extent permitted by the Commission in accordance with its regulations on abandoned plant recovery. The ISO shall allocate these costs among Load Serving Entities in accordance with Section 31.5.5.4.3, except as otherwise determined by the Commission. The

ISO shall recover such costs in accordance with Section 31.5.6 of this Attachment Y and Rate Schedule 10 of the ISO OATT.

31.4.12.2 Development Agreement

As soon as reasonably practicable following the ISO's selection of the proposed project, the ISO shall tender to the Developer that proposed the selected Public Policy Transmission Project a draft Development Agreement with draft appendices 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 D in Section 31.7 of this Attachment Y. If a Developer submitted a Cost Cap for its Public Policy Transmission Project selected by the ISO, its Development Agreement for that project shall contain the Cost Cap.

The ISO and the Developer, as applicable, 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 Public Policy Transmission Planning Report, 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 D 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. Upon the ISO's and the Developer's execution of the Development Agreement or the ISO's filing of an unexecuted Development Agreement with the Commission, the ISO and the Developer shall perform their respective obligations in accordance with the terms of the Development Agreement that are not in dispute, subject to modification 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 Public Policy Transmission Project shall act in good faith in timely performing their obligations that are required for the Developer to satisfy its obligations under the Development Agreement.

31.4.12.3 Process for Addressing Inability of Developer to Complete Selected Public Policy Transmission Project

31.4.12.3.1 The ISO may take the actions described in Sections 31.4.12.3.1.1 through 31.4.12.3.1.3 as soon as practicable if one of the following events occur: (i) the Developer that proposed the selected Public Policy Transmission Project and is required to execute the Development Agreement pursuant to Section 31.4.12.2 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 31.4.12.2, or (ii) 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.

31.4.12.3.1.1 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.

31.4.12.3.1.2 The ISO may take one or more of the following actions to address a Public Policy Transmission Need based on the particular circumstances: (i) address the Public Policy Transmission Need in the subsequent planning cycle or, if requested by the NYPSC pursuant to Section 31.4.1, in an out-of-cycle process; (ii) direct the Developer to continue with the development of its Public Policy Transmission Project for completion beyond the in-service date required to address the Public Policy Transmission Need; or (iii) solicit bids from qualified Developers to complete the selected Public Policy Transmission Project in accordance with Section 31.4.12.3.1.3.

31.4.12.3.1.3 If the ISO determines in accordance with Section 31.4.12.3.1.2 that an alternative Developer should be identified to complete a selected Public Policy Transmission Project, the ISO shall solicit bids from Developers to finance and complete the development and construction of the project to bring it into service. Any Developer that is qualified at the time of the ISO's solicitation to propose a Public Policy Transmission Project may submit a proposal to complete the Public Policy Transmission Project. The ISO will specify in its solicitation for bids by Developers those categories of project information described in Section 31.4.5.1.1 that the Developer must submit and will identify the metrics in Section 31.4.8 that the ISO will use to select among the bidding Developers. The ISO will determine the appropriate project information and metrics based on the current status of development of the Public Policy Transmission Project. The ISO will make any selection of an alternative Developer using the selection metrics identified in its solicitation for bids and consistent with the selection processes set forth in Sections 31.4.8 and 31.4.11, including issuing an updated Public Policy Transmission Planning Report. The ISO shall charge, and a Developer bidding for the Public Policy Transmission Project, shall pay the actual costs of the ISO's evaluation of its bid for purposes of selecting a Developer to complete the project consistent with Section 31.4.4.4. Each bidding Developer will reimburse the ISO for its actual study costs consistent with the requirements in Section 31.4.4.4. The selected alternative Developer must enter into a Development Agreement with the ISO in accordance with the requirements in Section 31.4.12.2. The selected alternative Developer will be eligible for cost allocation under the ISO OATT for

its development and construction of the Public Policy Transmission Project. The selected alternative Developer and the Developer that initially proposed the selected Public Policy Transmission Project 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 selected alternative Developer and the initial 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.

31.4.12.4 Execution of ISO/TO Agreement or Comparable Agreement

The Developer of a selected Public Policy Transmission Project shall execute the ISO/TO Agreement or an Operating Agreement in accordance with Section 31.1.7 of this Attachment Y prior to energizing the Public Policy Transmission Project.

31.4.13 ISO Monitoring of Selected Public Policy Transmission Projects

The ISO shall monitor Public Policy Transmission Projects selected by the ISO as the more efficient or cost effective transmission solutions to Public Policy Transmission Needs to confirm that they continue to develop consistent with the conditions, actions, or schedules for the projects.

31.4.14 Posting of Approved Solutions

The ISO shall post on its website a list of all Developers who have accepted the terms and conditions of an Article VII certificate under the New York Public Service Law, or any successor statute, or any other applicable permits to build a Public Policy Transmission Project in response to a need driven by a Public Policy Requirement.

31.4.15 Confidentiality of Solutions

31.4.15.1 The ISO shall treat Confidential Information, as defined in Section 31.4.15.2, that is submitted to the ISO by the Developer of a proposed Public Policy Transmission Project or Other Public Policy Project in accordance with the requirements for the treatment of Confidential Information in Section 12.4 of its Code of Conduct in Attachment F of the ISO OATT. The ISO shall treat Critical Energy Infrastructure Information submitted to the ISO by the Developer of a proposed Public Policy Transmission Project in accordance with ISO Procedures.

31.4.15.2 For purposes of this Section 31.4, the term “Confidential Information” shall only include the following non-public information submitted by the Developer and labeled as Confidential Information as part of its submission to satisfy its Developer qualification requirements pursuant to Section 31.4.4 or part of its submission of the project information requirements described in Section 31.4.5 for its Public Policy Transmission Project or Other Public Policy Project to satisfy its project information requirements pursuant to Sections 31.4.4.3.2 and 31.4.4.3.5: (i) all project cost information; (ii) all details of the Developer’s financing arrangements; (iii) any non-public financial qualification information submitted pursuant to Section 31.4.4.1.2; and (iv) any contracts provided under

Sections 31.4.5.1.4 or 31.4.5.2.2; *provided, however*, that the total amount of Included Capital Costs and any cost sharing percentage contained in any Cost Cap proposed by a Developer that are included in the draft Public Policy Transmission Planning Report pursuant to Section 31.4.11 shall, upon the posting of the draft report, not be treated or designated as Confidential Information for purposes of this Section 31.4 and Attachment F of the ISO OATT.

31.4.15.3 All other project information submitted by a Developer of a Public Policy Transmission Project or an Other Public Policy Project shall not be treated or designated as Confidential Information for purposes of this Section 31.4 and Attachment F of the ISO OATT.

31.4.15.4 If a Developer of a Public Policy Transmission Project intends for the ISO to maintain certain project information as Confidential Information, the Developer shall submit both an un-redacted and a redacted version of the project information required pursuant to Section 31.4.5.1 for its proposed Public Policy Transmission Project. The Developer shall label the material in the un-redacted version that it deems to be “Confidential Information” and shall not include this material in the redacted version. The ISO may review the Developer’s proposed redactions to ensure that the redacted information is consistent with the ISO’s requirements for Confidential Information in this Section 31.4.15. Based on its review, the ISO may require additional redactions or require the disclosure of redacted information.

31.4.15.5 Regardless of whether the information is requested pursuant to Section 31.4.4.3.11, the ISO may disclose any information submitted by the Developer

that is not Confidential Information, as defined in this Section 31.4.15, to the extent required to administer its Public Policy Transmission Planning Process or interconnection process, including, but not limited to, using such information in its Viability and Sufficiency Assessment and its Public Policy Transmission Planning Report.

31.5 Cost Allocation and Cost Recovery

31.5.1 The Scope of Attachment Y Cost Allocation

31.5.1.1 Regulated Responses

The cost allocation principles and methodologies in this Attachment Y cover only regulated transmission solutions to Reliability Needs, regulated transmission responses to congestion identified in the CARIS, and regulated Public Policy Transmission Projects whether proposed by a Responsible Transmission Owner or a Transmission Owner or Other Developer. The cost allocation principles and methodology for: (i) regulated transmission solutions to Reliability Needs identified in the Reliability Planning Process are contained in Sections 31.5.3.1 and 31.5.3.2 of this Attachment Y, (ii) regulated transmission responses to congestion identified in the CARIS are contained in Sections 31.5.4.1 and 31.5.4.2 of this Attachment Y, and (iii) regulated Public Policy Transmission Projects are contained in Sections 31.5.5 and 31.5.6 of this Attachment Y.

31.5.1.2 Market-Based Responses

The cost allocation principles and methodologies in this Attachment Y do not apply to market-based solutions to Reliability Needs, to market-based responses to congestion identified in the CARIS, or to Other Public Policy Projects. The cost of a market-based project shall be the responsibility of the developer of that project.

31.5.1.3 Interconnection Cost Allocation

The cost allocation principles and methodologies in this Attachment Y do not apply to the interconnection costs of generation projects and Merchant Transmission Facilities. Interconnection costs are determined and allocated in accordance with Attachment P, Attachment S, Attachment X and Attachment Z of the ISO OATT. Cost related to the deliverability of a

resource will be addressed under the ISO's deliverability procedures in Attachment S of the ISO OATT.

31.5.1.4 Individual Transmission Service Requests

The cost allocation principles and methodologies in this Attachment Y do not apply to the cost of transmission expansion projects undertaken in connection with an individual request for Transmission Service. The cost of such a project is determined and allocated in accordance with Section 3.7 or Section 4.5 of the ISO OATT.

31.5.1.5 LTP Facilities

The cost allocation principles and methodologies in this Attachment Y do not apply to the cost of transmission projects included in LTPs or LTP updates. Each Transmission Owner will recover the cost of such transmission projects in accordance with its then existing rate recovery mechanisms.

31.5.1.6 Regulated Non-Transmission Projects

Costs related to regulated non-transmission projects will be recovered by Responsible Transmission Owners, Transmission Owners and Other Developers in accordance with the provisions of New York Public Service Law, New York Public Authorities Law, or other applicable state law. Nothing in this section shall affect the Commission's jurisdiction over the sale and transmission of electric energy subject to the jurisdiction of the Commission.

31.5.1.7 Eligibility for Cost Allocation and Cost Recovery

Any entity, whether a Responsible Transmission Owner, Other Developer, or Transmission Owner, shall be eligible for cost allocation and cost recovery as set forth in Section 31.5 of this Attachment Y and Rate Schedule 10 of the ISO OATT for any transmission project

proposed to satisfy an identified Reliability Need, regulated economic transmission project, or Public Policy Transmission Project that is determined by the ISO to be eligible under Sections 31.2, 31.3, or 31.4, as applicable. Interregional Transmission Projects identified in accordance with the Interregional Planning Protocol, and that have been accepted in each region's planning process, shall be eligible for interregional cost allocation and cost recovery, as set forth in Section 31.5 of this Attachment Y and Rate Schedule 10 of the ISO OATT. The ISO's share of the cost of an Interregional Transmission Project selected pursuant to this Attachment Y to meet a Reliability Need, congestion identified in the CARIS, or a Public Policy Transmission Need shall be eligible for cost allocation consistent with the cost allocation methodology applicable to the type of regional transmission project that would be replaced through the construction of such Interregional Transmission Project.

31.5.2 Cost Allocation Principles Required Under Order No. 1000

31.5.2.1 In compliance with Commission Order No. 1000, the ISO shall implement the specific cost allocation methodology in Section 31.5.3.2, 31.5.4.4, and 31.5.5.4 in accordance with the following Regional Cost Allocation Principles ("Order No. 1000 Regional Cost Allocation Principles"):

Regional Cost Allocation Principle 1: The ISO shall allocate the cost of transmission facilities to those within the transmission planning region that benefit from those facilities in a manner that is at least roughly commensurate with estimated benefits. In determining the beneficiaries of transmission facilities, the ISO's CSPP will consider benefits including, but not limited to, the extent to which transmission facilities, individually or in the aggregate provide for

maintaining reliability and sharing reserves, production cost savings and congestion relief, and/or meeting Public Policy Requirements.

Regional Cost Allocation Principle 2: The ISO shall not involuntarily allocate any of the costs of transmission facilities to those that receive no benefit from transmission facilities.

Regional Cost Allocation Principle 3: In the event that the ISO adopts a benefit to cost threshold in its CSPP to determine which transmission facilities have sufficient net benefits to be selected in a regional transmission plan for the purpose of cost allocation, such benefit to cost threshold will not be so high that transmission facilities with significant positive net benefits are excluded from cost allocation. If the ISO chooses to adopt such a threshold in its CSPP it will not include a ratio of benefits to costs that exceeds 1.25 unless the ISO justifies and the Commission approves a higher ratio.

Regional Cost Allocation Principle 4: The ISO's allocation method for the cost of a transmission facility selected pursuant to the process in the CSPP shall allocate costs solely within the ISO's transmission planning region unless another entity outside the region or another transmission planning region voluntarily agrees to assume a portion of those costs. Costs for an Interregional Transmission Project must be assigned only to regions in which the facility is physically located. Costs cannot be assigned involuntarily to another region. The ISO shall not bear the costs of required upgrades in another region.

Regional Cost Allocation Principle 5: The ISO's cost allocation method and data requirements for determining benefits and identifying beneficiaries for a

transmission facility shall be transparent with adequate documentation to allow a stakeholder to determine how they were applied to a proposed transmission facility, as consistent with confidentiality requirements set forth in this Attachment Y and the ISO Code of Conduct in Attachment F of the OATT.

Regional Cost Allocation Principle 6: The ISO's CSPP provides a different cost allocation method for different types of transmission facilities in the regional transmission plan and each cost allocation method is set out clearly and explained in detail in this Section 31.5.

31.5.2.2 In compliance with Commission Order No. 1000, the ISO shall implement the specific cost allocation methodology in Section 31.5.7 of this Attachment Y in accordance with the following Interregional Cost Allocation Principles:

Interregional Cost Allocation Principle 1: The ISO shall allocate the cost of new Interregional Transmission Projects to each region in which an Interregional Transmission Project is located in a manner that is at least roughly commensurate with estimated benefits of the Interregional Transmission Project in each of the regions. In determining the beneficiaries of Interregional Transmission Projects, the ISO will consider benefits including, but not limited to, those associated with maintaining reliability and sharing reserves, production cost savings and congestion relief, and meeting Public Policy Requirements.

Interregional Cost Allocation Principle 2: The ISO shall not involuntarily allocate any of the costs of an Interregional Transmission Project to a region that receives no benefit from an Interregional Transmission Project that is located in that region, either at present or in a likely future scenario.

Interregional Cost Allocation Principle 3: In the event that the ISO adopts a benefit-cost threshold ratio to determine whether an Interregional Transmission Project has sufficient net benefits to qualify for interregional cost allocation, this ratio shall not be so large as to exclude an Interregional Transmission Project with significant positive net benefits from cost allocation. If the ISO chooses to adopt such a threshold, they will not include a ratio of benefits to costs that exceeds 1.25 unless the Parties justify and the Commission approves a higher ratio.

Interregional Cost Allocation Principle 4: The ISO's allocation of costs for an Interregional Transmission Project shall be assigned only to regions in which the Interregional Transmission Project is located. The ISO shall not assign costs involuntarily to a region in which that Interregional Transmission Project is not located. The ISO shall, however, identify consequences for other regions, such as upgrades that may be required in a third region. The ISO's interregional cost allocation methodology includes provisions for allocating the costs of upgrades among the beneficiaries in the region in which the Interregional Transmission Project is located to the transmission providers in such region that agree to bear the costs associated with such upgrades.

Interregional Cost Allocation Principle 5: The ISO's cost allocation methodology and data requirements for determining benefits and identifying beneficiaries for an Interregional Transmission Project shall be transparent with adequate documentation to allow a stakeholder to determine how they were applied to a proposed Interregional Transmission Project, as consistent with the

confidentiality requirements set forth in this Attachment Y and the ISO Code of Conduct in Attachment F of the OATT.

Interregional Cost Allocation Principle 6: Though Order No. 1000 allows the ISO to provide a different cost allocation methodology for different types of interregional transmission facilities, such as facilities needed for reliability, congestion relief, or to achieve Public Policy Requirements, the ISO has chosen to adopt one interregional cost allocation methodology for all Interregional Transmission Planning Projects. The interregional cost allocation methodology is set out clearly and explained in detail in Section 31.5.7 of this Attachment Y. The share of the cost related to any Interregional Transmission Project assigned to the ISO shall be allocated as described in Section 31.5.7.1.

31.5.3 Regulated Responses to Reliability Needs

31.5.3.1 Cost Allocation Principles

The ISO shall implement the specific cost allocation methodology in Section 31.5.3.2 of this Attachment Y in accordance with the Order No. 1000 Regional Cost Allocation Principles as set forth in Section 31.5.2.1. This methodology shall apply to cost allocation for a regulated transmission solution to a Reliability Need identified in the Reliability Planning Process, including the ISO's share of the costs of an Interregional Transmission Project proposed as a regulated transmission solution to a Reliability Need identified in the Reliability Planning Process allocated in accordance with Section 31.5.7 of this Attachment Y.

The specific cost allocation methodology in Section 31.5.3.2 incorporates the following elements:

- 31.5.3.1.1 The focus of the cost allocation methodology shall be on solutions to Reliability Needs.
- 31.5.3.1.2 Potential impacts unrelated to addressing the Reliability Needs shall not be considered for the purpose of cost allocation for regulated solutions.
- 31.5.3.1.3 Primary beneficiaries shall initially be those Load Zones or Subzones identified as contributing to the reliability violation.
- 31.5.3.1.4 The cost allocation among primary beneficiaries shall be based upon their relative contribution to the need for the regulated solution.
- 31.5.3.1.5 The ISO will examine the development of specific cost allocation rules based on the nature of the reliability violation (*e.g.*, thermal overload, voltage, stability, resource adequacy and short circuit).
- 31.5.3.1.6 Cost allocation shall recognize the terms of prior agreements among the Transmission Owners, if applicable.
- 31.5.3.1.7 Consideration should be given to the use of a materiality threshold for cost allocation purposes.
- 31.5.3.1.8 The methodology shall provide for ease of implementation and administration to minimize debate and delays to the extent possible.
- 31.5.3.1.9 Consideration should be given to the “free rider” issue as appropriate.
The methodology shall be fair and equitable.
- 31.5.3.1.10 The methodology shall provide cost recovery certainty to investors to the extent possible.
- 31.5.3.1.11 The methodology shall apply, to the extent possible, to Gap Solutions.

31.5.3.1.12 Cost allocation is independent of the actual triggered project(s), except when allocating cost responsibilities associated with meeting a Locational Minimum Installed Capacity Requirement (“LCR”), and is based on a separate process that results in NYCA meeting its LOLE requirement.

31.5.3.1.13 Cost allocation for a solution that meets the needs of a Target Year assumes that backstop solutions of prior years have been implemented.

31.5.3.1.14 Cost allocation will consider the most recent values for LCRs. LCRs must be met for the Target Year.

31.5.3.2 Cost Allocation Methodology

The cost allocation mechanism under this Section 31.5.3.2 sets forth the basis for allocating costs associated with a Responsible Transmission Owner’s regulated backstop solution or an Other Developer’s or Transmission Owner’s alternative regulated transmission solution selected by the ISO as the more efficient or cost-effective transmission solution to a Reliability Need identified in the Reliability Planning Process.

The formula is not applicable to that portion of a project beyond the size of the solution needed to provide the more efficient or cost effective solution appropriate to the Reliability Need identified in the RNA. Nor is the formula applicable to that portion of the cost of a regulated transmission reliability project that is, pursuant to Section 25.7.12 of Attachment S to the ISO OATT, paid for with funds previously committed by or collected from Developers for the installation of System Deliverability Upgrades required for the interconnection of generation projects or Class Year Transmission Projects.

This Section 31.5.3.2 establishes the allocation of the costs related to resolving Reliability Needs resulting from resource adequacy, BPTF thermal transmission security, BPTF

voltage security, dynamic stability, and short circuit issues. Costs will be allocated in accordance with the following hierarchy: (i) resource adequacy pursuant to Section 31.5.3.2.1, (ii) BPTF thermal transmission security pursuant to Section 31.5.3.2.2, (iii) BPTF voltage security pursuant to Section 31.5.3.2.3, (iv) dynamic stability pursuant to Section 31.5.3.2.4, and (v) short circuit pursuant to Section 31.5.3.2.5.

31.5.3.2.1 Resource Adequacy Reliability Solution Cost Allocation Formula

For purposes of solutions eligible for cost allocation under this Section 31.5.3.2, this section sets forth the cost allocation methodology applicable to that portion of the costs of the solution attributable to resolving resource adequacy. The same cost allocation formula is applied regardless of the project or sets of projects being triggered; however, the nature of the solution set may lead to some terms equaling zero, thereby dropping out of the equation. To ensure that appropriate allocation to the LCR and non-LCR zones occurs, the zonal allocation percentages are developed through a series of steps that first identify responsibility for LCR deficiencies, followed by responsibility for remaining need. The following formula shall apply to the allocation of the costs of the solution attributable to resource adequacy:

$$\begin{aligned} \text{Resource Adequacy Cost Allocation}_i = & \frac{\text{LCRdef}_i}{\text{Soln Size}} + \frac{\frac{\text{Coincident Peak}_i * (1 + \text{IRM} - \text{LCR}_i)}{\sum_{k=1}^n \text{Coincident Peak}_k * (1 + \text{IRM} - \text{LCR}_k)}} * \frac{\text{Soln STWdef}}{\text{Soln Size}} \\ & + \frac{\frac{\text{Coincident Peak}_i * (1 + \text{IRM} - \text{LCR}_i)}{\sum_{l=1}^m \text{Coincident Peak}_l * (1 + \text{IRM} - \text{LCR}_l)}} * \frac{\text{Soln Cldef}}{\text{Soln Size}} * 100\% \end{aligned}$$

Where i is for each applicable zone, n represent the total zones in NYCA, m represents the zones isolated by the binding interfaces, IRM is the statewide reserve margin, and where LCR is defined as the locational capacity requirement in terms of percentage and is equal to zero

for those zones without an LCR requirement, $LCRdef_i$ is the applicable zonal LCR deficiency, $SolnSTWdef$ is the $STWdef$ for each applicable project, $SolnCIdef$ is the $CIdef$ for each applicable project, and $Soln_Size$ represents the total compensatory MW addressed by each applicable project for all reliability cost allocation steps in this Section 31.5.3.2.

Three step cost allocation methodology for regulated reliability solutions:

31.5.3.2.1.1 Step 1 - LCR Deficiency

31.5.3.2.1.1.1 Any deficiencies in meeting the LCRs for the Target Year will be referred to as the $LCRdef$. If the reliability criterion is met once the LCR deficiencies have been addressed, that is $LOLE \leq 0.1$ for the Target Year is achieved, then the only costs allocated will be those related to the $LCRdef$ MW. Cost responsibility for the $LCRdef$ MW will be borne by each deficient locational zone(s), to the extent each is individually deficient.

For a single solution that addresses only an LCR deficiency in the applicable LCR zone, the equation would reduce to:

$$Allocation_i = \frac{LCRdef_i}{Soln_Size} * 100\%$$

Where i is for each applicable LCR zone, $LCRdef_i$ represents the applicable zonal LCR deficiency, and $Soln_Size$ represents the total compensatory MW addressed by the applicable project.

31.5.3.2.1.1.2 Prior to the $LOLE$ calculation, voltage constrained interfaces will be recalculated to determine the resulting transfer limits when the $LCRdef$ MW are added.

31.5.3.2.1.2 Step 2 - Statewide Resource Deficiency. If the reliability criterion is not met after the $LCRdef$ has been addressed, that is an $LOLE > 0.1$, then a NYCA

Free Flow Test will be conducted to determine if NYCA has sufficient resources to meet an LOLE of 0.1.

31.5.3.2.1.2.1 If NYCA is found to be resource limited, the ISO, using the transfer limits and resources determined in Step 1, will determine the optimal distribution of additional resources to achieve a reduction in the NYCA LOLE to 0.1.

31.5.3.2.1.2.2 Cost allocation for compensatory MW added for cost allocation purposes to achieve an LOLE of 0.1, defined as a Statewide MW deficiency (STWdef), will be prorated to all NYCA zones, based on the NYCA coincident peak load. The allocation to locational zones will take into account their locational requirements. For a single solution that addresses only a statewide deficiency, the equation would reduce to:

$$\text{Allocation}_i = \frac{\text{Coincident Peak}_i * (1 + \text{IRM} - \text{LCR}_i)}{\sum_{k=1}^n \text{Coincident Peak}_k * (1 + \text{IRM} - \text{LCR}_k)} * \frac{\text{Soln STWdef}}{\text{Soln Size}} * 100\%$$

Where i is for each applicable zone, n is for the total zones in NYCA, IRM is the statewide reserve margin, and LCR is defined as the locational capacity requirement in terms of percentage and is equal to zero for those zones without an LCR requirement, Soln STWdef is the STWdef for the applicable project, and Soln_Size represents the total compensatory MW addressed by the applicable project.

31.5.3.2.1.3 Step 3 - Constrained Interface Deficiency. If the NYCA is not resource limited as determined by the NYCA Free Flow Test, then the ISO will examine constrained transmission interfaces, using the Binding Interface Test.

31.5.3.2.1.3.1 The ISO will provide output results of the reliability simulation program utilized for the RNA that indicate the hours that each interface is at limit in each flow direction, as well as the hours that coincide with a loss of load event. These values will be used as an initial indicator to determine the binding interfaces that are impacting LOLE within the NYCA.

31.5.3.2.1.3.2 The ISO will review the output of the reliability simulation program utilized for the RNA along with other applicable information that may be available to make the determination of the binding interfaces.

31.5.3.2.1.3.3 Bounded Regions are assigned cost responsibility for the compensatory MW, defined as C_{ldef}, needed to reach an LOLE of 0.1.

31.5.3.2.1.3.4 If one or more Bounded Regions are isolated as a result of binding interfaces identified through the Binding Interface Test, the ISO will determine the optimal distribution of compensatory MW to achieve a NYCA LOLE of 0.1. Compensatory MW will be added until the required NYCA LOLE is achieved.

31.5.3.2.1.3.5 The Bounded Regions will be identified by the ISO's Binding Interface Test, which identifies the bounded interface limits that can be relieved and have the greatest impact on NYCA LOLE. The Bounded Region that will have the greatest benefit to NYCA LOLE will be the area to be first allocated costs in this step. The ISO will determine if after the first addition of compensating MWs the Bounded Region with the greatest impact on LOLE has changed. During this iterative process, the Binding Interface Test will look across the state to identify the appropriate Bounded Region. Specifically, the Binding Interface Test will be applied starting from the interface that has the greatest benefit to LOLE (the

greatest LOLE reduction per interface compensatory MW addition), and then extended to subsequent interfaces until a NYCA LOLE of 0.1 is achieved.

31.5.3.2.1.3.6 The CIdef MW are allocated to the applicable Bounded Region isolated as a result of the constrained interface limits, based on their NYCA coincident peaks. Allocation to locational zones will take into account their locational requirements. For a single solution that addresses only a binding interface deficiency, the equation would reduce to:

$$\text{Allocation}_i = \frac{\text{Coincident Peak}_i * (1 + \text{IRM} - \text{LCR}_i)}{\sum_{l=1}^m \text{Coincident Peak}_l * (1 + \text{IRM} - \text{LCR}_l)} * \frac{\text{SolnCIdf}}{\text{Soln Size}} * 100\%$$

Where i is for each applicable zone, m is for the zones isolated by the binding interfaces, IRM is the statewide reserve margin, and where LCR is defined as the locational capacity requirement in terms of percentage and is equal to zero for those zones without an LCR requirement, SolnCIdf is the CIdf for the applicable project and Soln_Size represents the total compensatory MW addressed by the applicable project.

31.5.3.2.2 BPTF Thermal Transmission Security Cost Allocation Formula

For purposes of solutions eligible for cost allocation under this Section 31.5.3.2, this section sets forth the cost allocation methodology applicable to that portion of the costs of the solution attributable to resolving BPTF thermal transmission security issues. If, after consideration of the compensatory MW identified in the resource adequacy reliability solution cost allocation in accordance with Section 31.5.3.2.1, there remains a BPTF thermal transmission security issue, the ISO will allocate the costs of the portion of the solution attributable to

resolving the BPTF thermal transmission security issue(s) to the Subzones that contribute to the BPTF thermal transmission security issue(s) in the following manner.

31.5.3.2.2.1 Calculation of Nodal Distribution Factors. The ISO will calculate the nodal distribution factor for each load bus modeled in the power flow case utilizing the output of the reliability simulation program that identified the Reliability Need, including the NYCA generation dispatch and NYCA coincident peak Load. The nodal distribution factor represents the percentage of the Load that flows across the facility subject to the Reliability Need. The sign (positive or negative) of the nodal distribution factor represents the direction of flow.

31.5.3.2.2.2 Calculation of Nodal Flow. The ISO will calculate the nodal megawatt flow, defined as Nodal Flow, for each load bus modeled in the power flow case by multiplying the amount of Load in megawatts for the bus, defined as Nodal Load, by the nodal distribution factor for the bus. Nodal Flow represents the number of megawatts that flow across the facility subject to the Reliability Need due to the Load.

31.5.3.2.2.3 Calculation of Contributing Load and Contributing Flow. The Nodal Load for a load bus with a positive nodal distribution factor is a contributing Load, defined as CLoad, and the Nodal Flow for that Load is contributing flow, defined as CFlow. To identify contributing Loads that have a material impact on the Reliability Need, the ISO will calculate a contributing materiality threshold, defined as CMT, as follows:

$$CMT = \frac{\sum_{k=1}^m \sum_{Lk=1}^n CFlow_{Lk}}{\sum_{k=1}^m \sum_{Lk=1}^n CLoad_{Lk}}$$

Where m is for the total number of Subzones and n is for the total number of load buses in a given Subzone.

31.5.3.2.2.4 Calculation of Helping Load and Helping Flow. The Nodal Load for a load bus with a negative or zero nodal distribution factor is a helping Load, defined as HLoad, and the Nodal Flow for that Load is helping flow, defined as HFlow. To identify helping Loads that have a material impact on the Reliability Need, the ISO will calculate a helping materiality threshold, defined as HMT, as follows:

$$HMT = \frac{\sum_{k=1}^m \sum_{Lk=1}^n HFlow_{Lk}}{\sum_{k=1}^m \sum_{Lk=1}^n HLoad_{Lk}}$$

Where m is for the total number of Subzones and n is for the total number of load buses in a given Subzone.

31.5.3.2.2.5 Calculation of Net Material Flow for Each Subzone. The ISO will identify material Nodal Flow for each Subzone and calculate the net material flow for each Subzone. For each load bus, the Nodal Flow will be identified as material flow, defined as MFlow, if the nodal distribution factor is (i) greater than or equal to CMT, or (ii) less than or equal to HMT. The net material flow for each Subzone, defined as SZ_NetFlow, is calculated as follows:

$$SZ_NetFlow_j = \sum_{Lj=1}^n MFlow_{Lj}$$

Where j is for each Subzone and n is for the total number of load buses in a given Subzone.

31.5.3.2.2.6 Identification of Allocated Flow for Each Subzone. The ISO will identify the allocated flow for each Subzone and verify that sufficient contributing flow is

being allocated costs. For each Subzone, if the SZ_NetFlow is greater than zero, that Subzone has a net material contribution to the Reliability Need and the SZ_NetFlow is identified as allocated flow, defined as SZ_AllocFlow. If the SZ_NetFlow is less than or equal to zero, that Subzone does not have a net material contribution to the Reliability Need and the SZ_AllocFlow is zero for that Subzone. If the total SZ_AllocFlow for all Subzones is less than 60% of the total CFlow for all Subzones, then the CMT will be reduced and SZ_NetFlow recalculated until the total SZ_AllocFlow for all Subzones is at least 60% of the total CFlow for all Subzones.

31.5.3.2.2.7 Cost Allocation for a Single BPTF Thermal Transmission Security Issue.

For a single solution that addresses only a BPTF thermal transmission security issue, the equation for cost allocation would reduce to:

$$BPTF\ Thermal\ Cost\ Allocation_j = \frac{SZ_AllocFlow_j}{\sum_{k=1}^m SZ_AllocFlow_k} \times \frac{SolnBTSdef}{Soln_Size}$$

Where j is for each Subzone; m is for the total number of Subzones;

SZ_AllocFlow is the allocated flow for each Subzone; SolnBTSdef is the number of compensatory MW for the BPTF thermal transmission security issue for the applicable project; and Soln_Size represents the total compensatory MW addressed by the applicable project.

31.5.3.2.2.8 Cost Allocation for Multiple BPTF Thermal Transmission Security Issues.

If a single solution addresses multiple BPTF thermal transmission security issues, the ISO will calculate weighting factors based on the ratio of the present value of the estimated costs for individual solutions to each BPTF thermal transmission security issue. The present values of the estimated costs for the individual

solutions shall be based on a common base date that will be the beginning of the calendar month in which the cost allocation analysis is performed (the “Base Date”). The ISO will apply the weighting factors to the cost allocation calculated for each Subzone for each individual BPTF thermal transmission security issue.

The following example illustrates the cost allocation for such a solution:

- A cost allocation analysis for the selected solution is to be performed during a given month establishing the beginning of that month as the Base Date.
- The ISO has identified two BPTF thermal transmission security issues, Overload X and Overload Y, and the ISO has selected a single solution (Project Z) to address both BPTF thermal transmission security issues.
- The cost of a solution to address only Overload X (Project X) is $\text{Cost}(X)$, provided in a given year’s dollars. The number of years from the Base Date to the year associated with the cost estimate of Project (X) is $N(X)$.
- The cost of a solution to address only Overload Y (Project Y) is $\text{Cost}(Y)$, provided in a given year’s dollars. The number of years from the Base Date to the year associated with the cost estimate of Project Y is $N(Y)$.
- The discount rate, D , to be used for the present value analysis shall be the current after-tax weighted average cost of capital for the Transmission Owners.
- Based on the foregoing assumptions, the following formulas will be used:
 - $\text{Present Value of Cost (X)} = \text{PV Cost (X)} = \text{Cost (X)} / (1+D)^{N(X)}$
 - $\text{Present Value of Cost (Y)} = \text{PV Cost (Y)} = \text{Cost (Y)} / (1+D)^{N(Y)}$
 - $\text{Overload X weighting factor} = \text{PV Cost (X)} / [\text{PV Cost (X)} + \text{PV Cost (Y)}]$
 - $\text{Overload Y weighting factor} = \text{PV Cost (Y)} / [\text{PV Cost (X)} + \text{PV Cost (Y)}]$

- Applying those formulas, if:

Cost (X) = \$100 Million and N(X) = 6.25 years

Cost (Y) = \$25 Million and N(Y) = 4.75 years

D = 7.5% per year

Then:

PV Cost (X) = $100 / (1 + 0.075)^{6.25} = 63.635$ Million

PV Cost (Y) = $25 / (1 + 0.075)^{4.75} = 17.732$ Million

Overload X weighting factor = $63.635 / (63.635 + 17.732) = 78.21\%$

Overload Y weighting factor = $17.732 / (63.635 + 17.732) = 21.79\%$

- Applying those weighing factors, if:

Subzone A cost allocation for Overload X is 15%

Subzone A cost allocation for Overload Y is 70%

Then:

Subzone A cost allocation % for Project Z =

$(15\% * 78.21\%) + (70\% * 21.79\%) = 26.99\%$

31.5.3.2.2.9 Exclusion of Subzone(s) Based on De Minimis Impact. If a Subzone is assigned a BPTF thermal transmission security cost allocation less than a *de minimis* dollar threshold of the total project costs, that Subzone will not be allocated costs; *provided however*, that the total *de minimis* Subzones may not exceed 10% of the total BPTF thermal transmission security cost allocation. The *de minimis* threshold is initially \$10,000. If the total allocation percentage of all *de minimis* Subzones is greater than 10%, then the *de minimis* threshold will be

reduced until the total allocation percentage of all *de minimis* Subzones is less than or equal to 10%.

31.5.3.2.3 BPTF Voltage Security Cost Allocation

If, after consideration of the compensatory MW identified in the resource adequacy cost allocation in accordance with Section 31.5.3.2.1 and BPTF thermal transmission security cost allocation in accordance with Section 31.5.3.2.2, there remains a BPTF voltage security issue, the ISO will allocate the costs of the portion of the solution attributable to resolving the BPTF voltage security issue(s) to the Subzones that contribute to the BPTF voltage security issue(s). The cost responsibility for the portion (MW or MVar) of the solution attributable to resolving the BPTF voltage security issue(s), defined as SolnBVSdef, will be allocated on a Load-ratio share to each Subzone to which each bus with a voltage issue is connected, as follows:

$$BPTF\ Voltage\ Cost\ Allocation_j = \frac{Coincident\ Peak_j}{\sum_{k=1}^m Coincident\ Peak_k} \times \frac{SolnBVSdef}{Soln_Size}$$

Where j is for each Subzone; m is for the total number of Subzones that are subject to BPTF voltage cost allocation; Coincident Peak is for the total peak Load for each Subzone; SolnBVSdef is for the portion of the solution necessary to resolve the BPTF voltage security issue(s); and Soln_Size represents the total compensatory MW addressed by the applicable project.

31.5.3.2.4 Dynamic Stability Cost Allocation

If, after consideration of the compensatory MW identified in the resource adequacy cost allocation in accordance with Section 31.5.3.2.1, BPTF thermal transmission security cost allocation in accordance with Section 31.5.3.2.2, and BPTF voltage security cost allocation in accordance with Section 31.5.3.2.3, there remains a dynamic stability issue, the ISO will allocate

the costs of the portion of the solution attributable to resolving the dynamic stability issue(s) to all Subzones in the NYCA on a Load-ratio share basis, as follows:

$$Dynamic\ Stability\ Cost\ Allocation_j = \frac{Coincident\ Peak_j}{\sum_{k=1}^m Coincident\ Peak_k} \times \frac{DynamicMW}{Soln_Size}$$

Where j is for each Subzone; m is for the total number of Subzones; Coincident Peak is for the total peak Load for each Subzone; DynamicMW is for the megawatt portion of the solution necessary to resolve the dynamic stability issue(s) for the applicable project; and Soln_Size represents the total compensatory MW addressed by the applicable project.

31.5.3.2.5 Short Circuit Issues

If, after the completion of the prior reliability cost allocation steps, there remains a short circuit issue, the short circuit issue will be deemed a local issue and related costs will not be allocated under this process.

31.5.4 Regulated Economic Projects

31.5.4.1 The Scope of Section 31.5.4

As discussed in Section 31.5.1 of this Attachment Y, the cost allocation principles and methodologies of this Section 31.5.4 apply only to regulated economic transmission projects (“RETPs”) proposed in response to congestion identified in the CARIS.

This Section 31.5.4 does not apply to generation or demand side management projects, nor does it apply to any market-based projects. This Section 31.5.4 does not apply to regulated backstop solutions triggered by the ISO pursuant to the CSPP, provided, however, the cost allocation principles and methodologies in this Section 31.5.4 will apply to regulated backstop solutions when the implementation of the regulated backstop solution is accelerated solely to reduce congestion in earlier years of the Study Period. The ISO will work with the ESPWG to

develop procedures to deal with the acceleration of regulated backstop solutions for economic reasons.

Nothing in this Attachment Y mandates the implementation of any project in response to the congestion identified in the CARIS.

31.5.4.2 Cost Allocation Principles

The ISO shall implement the specific cost allocation methodology in Section 31.5.4.4 of this Attachment Y in accordance with the Order No. 1000 Regional Cost Allocation Principles as set forth in Section 31.5.2.1. The specific cost allocation methodology in Section 31.5.4.4 incorporates the following elements:

31.5.4.2.1 The focus of the cost allocation methodology shall be on responses to specific conditions identified in the CARIS.

31.5.4.2.2 Potential impacts unrelated to addressing the identified congestion shall not be considered for the purpose of cost allocation for RETPs.

31.5.4.2.3 Projects analyzed hereunder as proposed RETPs may proceed on a market basis with willing buyers and sellers at any time.

31.5.4.2.4 Cost allocation shall be based upon a beneficiaries pay approach. Cost allocation under the ISO tariff for a RETP shall be applicable only when a super majority of the beneficiaries of the project, as defined in Section 31.5.4.6 of this Attachment Y, vote to support the project.

31.5.4.2.5 Beneficiaries of a RETP shall be those entities economically benefiting from the proposed project. The cost allocation among beneficiaries shall be based upon their relative economic benefit.

31.5.4.2.6 Consideration shall be given to the proposed project's payback period.

- 31.5.4.2.7 The cost allocation methodology shall address the possibility of cost overruns.
- 31.5.4.2.8 Consideration shall be given to the use of a materiality threshold for cost allocation purposes.
- 31.5.4.2.9 The methodology shall provide for ease of implementation and administration to minimize debate and delays to the extent possible.
- 31.5.4.2.10 Consideration should be given to the “free rider” issue as appropriate. The methodology shall be fair and equitable.
- 31.5.4.2.11 The methodology shall provide cost recovery certainty to investors to the extent possible.
- 31.5.4.2.12 Benefits determination shall consider various perspectives, based upon the agreed-upon metrics for analyzing congestion.
- 31.5.4.2.13 Benefits determination shall account for future uncertainties as appropriate (e.g., load forecasts, fuel prices, environmental regulations).
- 31.5.4.2.14 Benefits determination shall consider non-quantifiable benefits as appropriate (*e.g.*, system operation, environmental effects, renewable integration).

31.5.4.3 Project Eligibility for Cost Allocation

The methodologies in this Section 31.5.4.3 will be used to determine the eligibility of a proposed RETP to have its cost allocated and recovered pursuant to the provisions of this Attachment Y.

- 31.5.4.3.1 The ISO will evaluate the benefits against the costs (as provided by the Developer) of each proposed RETP over a ten-year period commencing with the proposed commercial operation date for the project. The Developer of each

project will pay the cost incurred by the ISO to conduct the ten-year benefit/cost analysis of its project. The ISO, in conjunction with the ESPWG, will develop methodologies for extending the most recently completed CARIS database as necessary to evaluate the benefits and costs of each proposed RETP.

31.5.4.3.2 The benefit metric for eligibility under the ISO's benefit/cost analysis will be expressed as the present value of the annual NYCA-wide production cost savings that would result from the implementation of the proposed project, measured for the first ten years from the proposed commercial operation date for the project.

31.5.4.3.3 The cost for the ISO's benefit/cost analysis will be supplied by the Developer of the project, and the cost metric for eligibility will be expressed as the present value of the first ten years of annual total revenue requirements for the project, reasonably allocated over the first ten years from the proposed commercial operation date for the project.

31.5.4.3.4 For informational purposes only, the ISO will also calculate the present value of the annual total revenue requirement for the project over a 30 year period commencing with the proposed commercial operation date of the project.

31.5.4.3.5 To be eligible for cost allocation and recovery under this Attachment Y, the benefit of the proposed project must exceed its cost measured over the first ten years from the proposed commercial operation date for the project, and the requirements of section 31.5.4.2 must be met. The total capital cost of the project must exceed \$25 million. In addition, a super-majority of the beneficiaries must vote in favor of the project, as specified in Section 31.5.4.6 of this Attachment Y.

31.5.4.3.6 In addition to calculating the benefit metric as defined in Section 31.5.4.3.2, the ISO will calculate additional metrics to estimate the potential benefits of the proposed project, for information purposes only, in accordance with Section 31.3.1.3.5, for the applicable metric. These additional metrics shall include those that measure reductions in LBMP load costs, changes to generator payments, ICAP costs, Ancillary Service costs, emissions costs, and losses. TCC revenues will be determined in accordance with Section 31.5.4.4.2.3. The ISO will provide information on these additional metrics to the maximum extent practicable considering its overall resource commitments.

31.5.4.3.7 In addition to the benefit/cost analysis performed by the ISO under this Section 31.5.4.3, the ISO will work with the ESPWG to consider the development and implementation of scenario analyses, for information only, that shed additional light on the benefit/cost analysis of a proposed project. These additional scenario analyses may cover fuel and load forecast uncertainty, emissions data and the cost of allowances, pending environmental or other regulations, and alternate resource and energy efficiency scenarios. Consideration of these additional scenarios will take into account the resource commitments of the ISO.

31.5.4.4 Cost Allocation for Eligible Projects

As noted in Section 31.5.4.2 of this Attachment Y, the cost of a RETP will be allocated to those entities that would economically benefit from implementation of the proposed project. This methodology shall apply to cost allocation for a RETP, including the ISO's share of the costs of

an Interregional Transmission Project proposed as a RETP allocated in accordance with Section 31.5.7 of this Attachment Y.

31.5.4.4.1 The ISO will identify the beneficiaries of the proposed project over a ten-year time period commencing with the proposed commercial operation date for the project. The ISO, in conjunction with the ESPWG, will develop methodologies for extending the most recently completed CARIS database as necessary for this purpose.

31.5.4.4.2 The ISO will identify beneficiaries of a proposed project as follows:

31.5.4.4.2.1 The ISO will measure the present value of the annual zonal LBMP load savings for all Load Zones which would have a load savings, net of reductions in TCC revenues, and net of reductions from bilateral contracts (based on available information provided by Load Serving Entities to the ISO as set forth in subsection 31.5.4.4.2.5 below) as a result of the implementation of the proposed project. For purposes of this calculation, the present value of the load savings will be equal to the sum of the present value of the Load Zone's load savings for each year over the ten-year period commencing with the project's commercial operation date. The load savings for a Load Zone will be equal to the difference between the zonal LBMP load cost without the project and the LBMP load cost with the project, net of reductions in TCC revenues and net of reductions from bilateral contracts.

31.5.4.4.2.2 The beneficiaries will be those Load Zones that experience net benefits measured over the first ten years from the proposed commercial operation date for the project. If the sum of the zonal benefits for those Load Zones with load

savings is greater than the revenue requirements for the project (both load savings and revenue requirements measured in present value over the first ten years from the commercial operation date of the project), the ISO will proceed with the development of the zonal cost allocation information to inform the beneficiary voting process.

31.5.4.4.2.3 Reductions in TCC revenues will reflect the forecasted impact of the project on TCC auction revenues and day-ahead residual congestion rents allocated to load in each zone, not including the congestion rents that accrue to any Incremental TCCs that may be made feasible as a result of this project. This impact will include forecasts of: (1) the total impact of that project on the Transmission Service Charge offset applicable to loads in each zone (which may vary for loads in a given zone that are in different Transmission Districts); (2) the total impact of that project on the NYPA Transmission Adjustment Charge offset applicable to loads in that zone; and (3) the total impact of that project on payments made to LSEs serving load in that zone that hold Grandfathered Rights or Grandfathered TCCs, to the extent that these have not been taken into account in the calculation of item (1) above. These forecasts shall be performed using the procedure described in Appendix B to this Attachment Y.

31.5.4.4.2.4 Estimated TCC revenues from any Incremental TCCs created by a proposed RETP over the ten-year period commencing with the project's commercial operation date will be added to the Net Load Savings used for the cost allocation and beneficiary determination.

31.5.4.4.2.5 The ISO will solicit bilateral contract information from all Load Serving Entities, which will provide the ISO with bilateral energy contract data for modeling contracts that do not receive benefits, in whole or in part, from LBMP reductions, and for which the time period covered by the contract is within the ten-year period beginning with the commercial operation date of the project.

Bilateral contract payment information that is not provided to the ISO will not be included in the calculation of the present value of the annual zonal LBMP savings in section 31.5.4.4.2.1 above.

31.5.4.4.2.5.1 All bilateral contract information submitted to the ISO must identify the source of the contract information, including citations to any public documents including but not limited to annual reports or regulatory filings

31.5.4.4.2.5.2 All non-public bilateral contract information will be protected in accordance with the ISO's Code of Conduct, as set forth in Section 12.4 of Attachment F of the ISO OATT, and Section 6 of the ISO Services Tariff.

31.5.4.4.2.5.3 All bilateral contract information and information on LSE-owned generation submitted to the ISO must include the following information:

- (1) Contract quantities on an annual basis:
 - (a) For non-generator specific contracts, the Energy (in MWh) contracted to serve each Zone for each year.
 - (b) For generator specific contracts or LSE-owned generation, the name of the generator(s) and the MW or percentage output contracted or self-owned for use by Load in each Zone for each year.

- (2) For all Load Serving Entities serving Load in more than one Load Zone, the quantity (in MWh or percentage) of bilateral contract Energy to be applied to each Zone, by year over the term of the contract.
- (3) Start and end dates of the contract.
- (4) Terms in sufficient detail to determine that either pricing is not indexed to LBMP, or, if pricing is indexed to LBMP, the manner in which prices are connected to LBMP.
- (5) Identify any changes in the pricing methodology on an annual basis over the term of the contract.

31.5.4.4.2.5.4 Bilateral contract and LSE-owned generation information will be used to calculate the adjusted LBMP savings for each Load Zone as follows:

$AdjLBMP_{y,z}$, the adjusted LBMP savings for each Load Zone z in each year y , shall be calculated using the following equation:

$$AdjLBMP_{y,z} = \max \left[0, TL_{y,z} - \sum_{b \in B_{y,z}} \left(BCL_{b,y,z} * (1 - Ind_{b,y,z}) \right) - SG_{y,z} \right] * (LBMP1_{y,z} - LBMP2_{y,z})$$

Where:

$TL_{y,z}$ is the total annual amount of Energy forecasted to be consumed by Load in year y in Load Zone z ;

$B_{y,z}$ is the set of blocks of Energy to serve Load in Load Zone z in year y that are sold under bilateral contracts for which information has been provided to the ISO that meets the requirements set forth elsewhere in this Section 31.5.4.4.2.5

$BCL_{b,y,z}$ is the total annual amount of Energy sold into Load Zone z in year y under bilateral contract block b ;

$Ind_{b,y,z}$ is the ratio of (1) the increase in the amount paid by the purchaser of Energy, under bilateral contract block b , as a result of an increase in the LBMP in Load Zone z in year y to (2) the increase in the amount that a purchaser of that amount of Energy would pay if the purchaser paid the LBMP for that Load Zone in that year for all of that Energy (this ratio shall be zero for any bilateral contract block of Energy that is sold at a fixed price or for which the cost of Energy purchased under that contract otherwise insensitive to the LBMP in Load Zone z in year y);

$SG_{y,z}$ is the total annual amount of Energy in Load Zone z that is forecasted to be served by LSE-owned generation in that Zone in year y ;

$LBMP1_{y,z}$ is the forecasted annual load-weighted average LBMP for Load Zone z in year y , calculated under the assumption that the project is not in place; and

$LBMP2_{y,z}$ is the forecasted annual load-weighted average LBMP for Load Zone z in year y , calculated under the assumption that the project is in place.

31.5.4.4.2.6 NZS_z , the Net Zonal Savings for each Load Zone z resulting from a given project, shall be calculated using the following equation:

$$NZS_z = \max \left[0, \sum_{y=PS}^{PS+9} \left((AdjLBMP_{S_{y,z}} - TCCRevImpact_{y,z}) * DF_y \right) \right]$$

Where:

PS is the year in which the project is expected to enter commercial operation;

$AdjLBMP_{S_{y,z}}$ is as calculated in Section 31.5.4.4.2.5;

$TCCRevImpact_{y,z}$ is the forecasted impact of TCC revenues allocated to Load Zone z in year y , calculated using the procedure described in Appendix B in Section 31.7 of this Attachment Y; and

DF_y is the discount factor applied to cash flows in year y to determine the present value of that cash flow in year PS .

31.5.4.4.3 Load Zones not benefiting from a proposed RETP will not be allocated any of the costs of the project under this Attachment Y. There will be no “make whole” payments to non-beneficiaries.

31.5.4.4.4 Costs of a project will be allocated to beneficiaries as follows:

31.5.4.4.4.1 The ISO will allocate the cost of the RETP based on the zonal share of total savings to the Load Zones determined pursuant to Section 31.5.4.4.2 to be beneficiaries of the proposed project. Total savings will be equal to the sum of load savings for each Load Zone that experiences net benefits pursuant to Section 31.5.4.4.2. A Load Zone’s cost allocation will be equal to the present value of the following calculation:

$$\text{Zonal Cost Allocation} = \text{Project Cost} * \left(\frac{(\text{Zonal Benefits})}{(\text{Total Zonal Benefits for zone with positive net benefits})} \right)$$

31.5.4.4.4.2 Zonal cost allocation calculations for a RETP will be performed prior to the commencement of the ten-year period that begins with the project’s commercial operation date, and will not be adjusted during that ten-year period.

31.5.4.4.4.3 Within zones, costs will be allocated to LSEs based on MWhs calculated for each LSE for each zone using data from the most recent available 12 month period. Allocations to an LSE will be calculated in accordance with the following formula:

$$\text{LSE Intrazonal Cost Allocation} = \text{Zonal Cost Allocation} * \left(\frac{\text{LSE Zonal MWh}}{(\text{Total Zonal MWh})} \right)$$

31.5.4.4.5 Project costs allocated under this Section 31.5.4.4 will be determined as follows:

31.5.4.4.5.1 The project cost allocated under this Section 31.5.4.4 will be based on the total project revenue requirement, as supplied by the Developer of the project, for the first ten years of project operation. The total project revenue requirement will be determined in accordance with the formula rate on file at the Commission. If there is no formula rate on file at the Commission, then the Developer shall provide to the ISO the project-specific parameters to be used to calculate the total project revenue requirement.

31.5.4.4.5.2 Once the benefit/cost analysis is completed the amortization period and the other parameters used to determine the costs that will be recovered for the project should not be changed, unless so ordered by the Commission or a court of applicable jurisdiction, for cost recovery purposes to maintain the continued validity of the benefit/cost analysis.

31.5.4.4.5.3 The ISO, in conjunction with the ESPWG, will develop procedures to allocate the risk of project cost increases that occur after the ISO completes its benefit/cost analysis under this Attachment Y. These procedures may include consideration of an additional review and vote prior to the start of construction and whether the developer should bear all or part of the cost of any overruns.

31.5.4.4.6 The Commission must approve the cost of a proposed RETP for that cost to be recovered through Rate Schedule 10 of the ISO OATT. The developer's filing of its project revenue requirement with the Commission pursuant to Rate

Schedule 10 must be consistent with the project proposal evaluated by the ISO under this Attachment Y in order to be cost allocated to beneficiaries.

31.5.4.5 Collaborative Governance Process and Board Action

31.5.4.5.1 The ISO shall submit the results of its project benefit/cost analysis and beneficiary determination to the ESPWG and TPAS, and to the identified beneficiaries of the proposed RETP for comment. The ISO shall make available to any interested party sufficient information to replicate the results of the benefit/cost analysis and beneficiary determination. The information made available will be electronically masked and made available pursuant to a process that the ISO reasonably determines is necessary to prevent the disclosure of any Confidential Information or Critical Energy Infrastructure Information contained in the information made available. Following completion of the review by the ESPWG and TPAS of the project benefit/cost analysis, the ISO's analysis reflecting any revisions resulting from the TPAS and ESPWG review shall be forwarded to the Business Issues Committee and Management Committee for discussion and action.

31.5.4.5.2 Following the Management Committee vote, the ISO's project benefit/cost analysis and beneficiary determination will be forwarded, with the input of the Business Issues Committee and Management Committee, to the ISO Board for review and action. In addition, the ISO's determination of the beneficiaries' voting shares will be forwarded to the ISO Board for review and action. The Board may approve the analysis and beneficiary determinations as submitted or propose modifications on its own motion. If any changes to the benefit/cost

analysis or the beneficiary determinations are proposed by the Board, the revised analysis and beneficiary determinations shall be returned to the Management Committee for comment. If the Board proposes any changes to the ISO's voting share determinations, the Board shall so inform the LSE or LSEs impacted by the proposed change and shall allow such an LSE or LSEs an opportunity to comment on the proposed change. The Board shall not make a final determination on the project benefit/cost analysis and beneficiary determination until it has reviewed the Management Committee comments. Upon final approval of the Board, project benefit/cost analysis and beneficiary determinations shall be posted by the ISO on its website and shall form the basis of the beneficiary voting described in Section 31.5.4.6 of this Attachment Y.

31.5.4.6 Voting by Project Beneficiaries

31.5.4.6.1 Only LSEs serving Load located in a beneficiary zone determined in accordance with the procedures in Section 31.5.4.4 of this Attachment Y shall be eligible to vote on a proposed project. The ISO will, in conjunction with the ESPWG, develop procedures to determine the specific list of voting entities for each proposed project. Prior to a vote being conducted, the Developer of the RETP must have a completed System Impact Study or System Reliability Impact Study, as applicable.

31.5.4.6.2 The voting share of each LSE shall be weighted in accordance with its share of the total project benefits, as allocated by Section 31.5.4.4 of this Attachment Y.

31.5.4.6.3 The costs of a RETP shall be allocated under this Attachment Y if eighty percent (80%) or more of the actual votes cast on a weighted basis are cast in favor of implementing the project.

31.5.4.6.4 If the proposed RETP meets the required vote in favor of implementing the project, and the project is implemented, all beneficiaries, including those voting “no,” will pay their proportional share of the cost of the project.

31.5.4.6.5 The ISO will tally the results of the vote in accordance with procedures set forth in the ISO Procedures, and report the results to stakeholders. Beneficiaries voting against approval of a project must submit to the ISO their rationale for their vote within 30 days of the date that the vote is taken. Beneficiaries must provide a detailed explanation of the substantive reasons underlying the decision, including, where appropriate: (1) which additional benefit metrics, either identified in the tariff or otherwise, were used; (2) the actual quantification of such benefit metrics or factors; (3) a quantification and explanation of the net benefit or net cost of the project to the beneficiary; and (4) data supporting the metrics and other factors used. Such explanation may also include uncertainties, and/or alternative scenarios and other qualitative factors considered, including state public policy goals. The ISO will report this information to the Commission in an informational filing to be made within 60 days of the vote. The informational filing will include: (1) a list of the identified beneficiaries; (2) the results of the benefit/cost analysis; and (3) where a project is not approved, whether the developer has provided any formal indication to the ISO as to the future development of the project.

31.5.5 Regulated Transmission Solutions to Public Policy Transmission Needs

31.5.5.1 The Scope of Section 31.5.5

As discussed in Section 31.5.1 of this Attachment Y, the cost allocation principles and methodologies of this Section 31.5.5 apply only to regulated Public Policy Transmission Projects. This Section 31.5.5 does not apply to Other Public Policy Projects, including generation or demand side management projects, or any market-based projects. This Section 31.5.5 does not apply to regulated reliability solutions implemented pursuant to the Reliability Planning Process, nor does it apply to RETPs proposed in response to congestion identified in the CARIS.

A regulated solution shall only utilize the cost allocation methodology set forth in Section 31.5.3 where it is: (1) a Responsible Transmission Owner's regulated backstop solution, (2) an alternative regulated transmission solution selected by the ISO as the more efficient or cost effective regulated transmission solution to satisfy a Reliability Need, or (3) seeking cost recovery where it has been halted or cancelled pursuant to the provisions of Section 31.2.8.2. A regulated economic transmission solution proposed in response to congestion identified in the CARIS, and approved pursuant to Section 31.5.4.6, shall only be eligible to utilize the cost allocation principles and methodologies set forth in Section 31.5.4.

31.5.5.2 Cost Allocation Principles

The ISO shall implement the specific cost allocation methodology in Section 31.5.5.4 of this Attachment Y in accordance with the Order No. 1000 Regional Cost Allocation Principles as set forth in Section 31.5.2.1. The specific cost allocation methodology in Section 31.5.5.4 incorporates the following elements:

31.5.5.2.1 The focus of the cost allocation methodology shall be on regulated Public Policy Transmission Projects.

31.5.5.2.2 Projects analyzed hereunder as Public Policy Transmission Projects may proceed on a market basis with willing buyers and sellers at any time.

31.5.5.2.3 Cost allocation shall be based on a beneficiaries pay approach.

31.5.5.2.4 Project benefits will be identified in accordance with Section 31.5.5.4.

31.5.5.2.5 Identification of beneficiaries for cost allocation and cost allocation among those beneficiaries shall be according to the methodology specified in Section 31.5.5.4.

31.5.5.3 Project Eligibility for Cost Allocation

The Developer of a Public Policy Transmission Project will be eligible for cost allocation in accordance with the process set forth in Section 31.5.5.4 when its project is selected by the ISO as the more efficient or cost effective regulated Public Policy Transmission Project; *provided, however*, that if the appropriate federal, state, or local agency(ies) rejects the selected project's necessary authorizations, or such authorizations are withdrawn, the costs the Developer is eligible to recover under Section 31.4.12.1 shall be allocated in accordance with Section 31.5.5.4.3, except as otherwise determined by the Commission. The Developer of the selected regulated transmission solution may recover its costs in accordance with Section 31.5.6 and Rate Schedule 10 of the ISO OATT. If the Developer proposed its Public Policy Transmission Project in response to a request by the NYPSC or Long Island Power Authority pursuant to Section 31.4.3.2 and its project was not selected by the ISO, the costs that the Developer is eligible to recover pursuant to Section 31.4.3.2 shall be allocated in accordance with Section 31.5.5.4.3,

except as otherwise determined by the Commission. The Developer may recover these costs in accordance with Section 31.5.6 and Rate Schedule 10 of the ISO OATT.

31.5.5.4 Cost Allocation for Eligible Projects

As noted in Section 31.5.5.2 of this Attachment Y, the identification of beneficiaries for cost allocation and the cost allocation of a selected Public Policy Transmission Project will be conducted in accordance with the process described in this Section 31.5.5.4. This Section will also apply to the allocation within New York of the ISO's share of the costs of an Interregional Transmission Project proposed as a solution to a Public Policy Transmission Need allocated in accordance with Section 31.5.7 of this Attachment Y. The establishment of a cost allocation methodology and rates for a proposed solution that is undertaken by LIPA or NYPA as an Unregulated Transmitting Utility to a Public Policy Transmission Need as determined in Sections 31.4.2.1 through 31.4.2.3, as applicable, or an Interregional Transmission Project shall occur pursuant to Section 31.5.5.4.4 through 31.5.5.4.6, as applicable. Nothing herein shall deprive a Transmission Owner or Other Developer of any rights it may have under Section 205 of the Federal Power Act to submit filings proposing any other cost allocation methodology to the Commission or create any Section 205 filing rights for any Transmission Owner, Other Developer, the ISO, or any other entity. The ISO shall apply the cost allocation methodology accepted by the Commission. The cost allocation methodology that is accepted or approved by the Commission for a particular Public Policy Transmission Project in accordance with this Section 31.5.5.4 will be set forth in Appendix E (Section 31.8) of this Attachment Y.

31.5.5.4.1 If the Public Policy Requirement that results in the identification by the NYPSC of a Public Policy Transmission Need prescribes the use of a particular cost allocation and recovery methodology, then the ISO shall file that methodology with the Commission within 60 days of the issuance by the NYPSC of its identification of a Public Policy Transmission Need. Nothing herein shall deprive a Transmission Owner or Other Developer of any rights it may have under Section 205 of the Federal Power Act to submit filings proposing any other cost allocation methodology to the Commission or create any Section 205 filing rights for any Transmission Owner, Other Developer, the ISO, or any other entity. If the Developer files a different proposed cost allocation methodology under Section 205 of the Federal Power Act, it shall have the burden of demonstrating that its proposed methodology is compliant with the Order No. 1000 Regional Cost Allocation Principles taking into account the methodology specified in the Public Policy Requirement.

31.5.5.4.2 Subject to the provisions of Section 31.5.5.4.1, the Developer may submit to the NYPSC for its consideration – no later than 30 days after the ISO's selection of the regulated Public Policy Transmission Project – a proposed cost allocation methodology, which may include a cost allocation based on load ratio share, adjusted to reflect, as applicable, the Public Policy Requirement or Public Policy Transmission Need, the party(ies) responsible for complying with the Public Policy Requirement, and the party(ies) who benefit from the transmission facility.

31.5.5.4.2.1 The NYPSC shall have 150 days to review the Developer's proposed cost allocation methodology and to inform the Developer regarding whether it supports the methodology.

31.5.5.4.2.2. If the NYPSC supports the proposed cost allocation methodology, the Developer shall file that cost allocation methodology with the Commission for its acceptance under Section 205 of the Federal Power Act within 30 days of the NYPSC informing the Developer of its support. The Developer shall have the burden of demonstrating that the proposed cost allocation methodology is compliant with the Order No. 1000 Regional Cost Allocation Principles.

31.5.5.4.2.3 If the NYPSC does not support the proposed cost allocation methodology, then the Developer shall take reasonable steps to respond to the NYPSC's concerns and to develop a mutually agreeable cost allocation methodology over a period of no more than 60 days after the NYPSC informing the Developer that it does not support the methodology.

31.5.5.4.2.4 If a mutually acceptable cost allocation methodology is developed during the timeframe set forth in Section 31.5.5.4.2.3, the Developer shall file it with the Commission for acceptance under Section 205 of the Federal Power Act no later than 30 days after the conclusion of the 60 day discussion period with the NYPSC. The Developer shall have the burden of demonstrating that the proposed cost allocation methodology is compliant with the Order No. 1000 Regional Cost Allocation Principles.

31.5.5.4.2.5 If no mutually agreeable cost allocation methodology is developed, the Developer shall file its preferred cost allocation methodology with the

Commission for acceptance under Section 205 of the Federal Power Act no later than 30 days after the conclusion of the 60 day discussion period with the NYPSC. The Developer shall have the burden of demonstrating that its proposed methodology is compliant with the Order No. 1000 Regional Cost Allocation Principles in consideration of the position of the NYPSC. The filing shall include the methodology supported by NYPSC for the Commission's consideration. If the Developer elects to use the load ratio share cost allocation methodology referenced below in Section 31.5.5.4.3, the Developer shall notify the Commission of its intent to utilize the load ratio share methodology and shall include in its notice the NYPSC supported methodology for the Commission's consideration.

31.5.5.4.3. Unless the Commission has accepted an alternative cost allocation methodology pursuant to this Section, the ISO shall allocate the costs of the Public Policy Transmission Project to all Load Serving Entities in the NYCA using the default cost allocation methodology, based upon a load ratio share methodology.

31.5.5.4.4 The NYISO will make any Section 205 filings related to this Section on behalf of NYPA to the extent requested to do so by NYPA. NYPA shall bear the burden of demonstrating that such a filing is compliant with the Order No. 1000 Regional Cost Allocation Principles. NYPA shall also be solely responsible for making any jurisdictional reservations or arguments related to their status as non-Commission-jurisdictional utilities that are not subject to various provisions of the Federal Power Act.

31.5.5.4.5 The cost allocation methodology and any rates for cost recovery for a proposed solution to a Public Policy Transmission Need undertaken by LIPA, as an Unregulated Transmitting Utility (for purposes of this section a “LIPA project”), shall be established and recovered as follows:

31.5.5.4.5.1 *For costs solely to LIPA customers.* The cost allocation methodology and rates to be established for a LIPA project, for which cost recovery will only occur from LIPA customers, will be established pursuant to Article 5, Title 1-A of the New York Public Authorities Law, Sections 1020-f(u) and 1020-s. Prior to the adoption of any cost allocation mechanism or rates for such a LIPA project, and pursuant to Section 1020-f(u), the Long Island Power Authority’s Board of Trustees shall request that the NYDPS provide a recommendation with respect to the cost allocation methodology and rate that LIPA has proposed and the Board of Trustees shall consider such recommendation in accordance with the requirements of Section 1020-f(u). Upon approval of the cost allocation mechanism and/or rates by the Long Island Power Authority’s Board of Trustees, LIPA shall provide to the ISO, for purposes of inclusion within the ISO OATT and filing with FERC on an informational basis only, a description of the cost allocation mechanism and the rate that LIPA will charge and collect within the Long Island Transmission District.

31.5.5.4.5.2 *For Costs for a LIPA Project That May be Allocated to Other Transmission Districts.* A LIPA project that meets a Public Policy Transmission Need as determined by the NYPSC pursuant to Section 31.4.2.3(iii) may be allocated to market participants outside of the Long Island Transmission District.

The cost allocation methodology and rate for such a LIPA project shall be established in accordance with the following procedures. LIPA's proposed cost allocation methodology and/or rate shall be reviewed and approved by the Long Island Power Authority's Board of Trustees pursuant to Article 5, Title 1-A of the New York Public Authorities Law, Sections 1020-f(u) and 1020-s. Prior to the adoption of any cost allocation mechanism or rates for such project and pursuant to Section 1020-f(u), the Long Island Power Authority's Board of Trustees shall request that the NYDPS provide a recommendation with respect to the cost allocation methodology and rate that LIPA has proposed and the Board of Trustees shall consider such recommendation in accordance with the requirements of Section 1020-f(u). LIPA shall inform the ISO of the cost allocation methodology and rate that has been approved by the Long Island Power Authority's Board of Trustees for filing with the Commission.

Upon approval by the Long Island Power Authority's Board of Trustees, LIPA shall submit and request that the ISO file the LIPA cost allocation methodology for approval with the Commission. Any cost allocation methodology for a LIPA project that allocates costs to market participants outside of the Long Island Transmission District shall be reviewed as to whether there is comparability in the derivation of the cost allocation for market participants such that LIPA has demonstrated that the proposed cost allocation is compliant with the Order No. 1000 cost allocation principles, there are benefits provided by the project to market participants outside of the Long Island Transmission District,

and that the proposed allocation is roughly commensurate to the identified benefits.

Article 5, Title 1-A of the New York Public Authorities Law, Sections 1020-f(u) and 1020-s, requires that LIPA's rates be established at the lowest level consistent with sound fiscal and operating practices of the Long Island Power Authority and which provide for safe and adequate service. Upon approval of a LIPA rate by the Long Island Power Authority's Board of Trustees pursuant to Section 1020-f(u), LIPA shall submit, and request that the ISO file, the LIPA rate with the Commission for review under the same comparability standard as applied to the review of changes in LIPA's TSC under Attachment H of this tariff.

In the event that the cost allocation methodology or rate approved by the Long Island Power Authority's Board of Trustees did not adopt the NYDPS recommendation, the NYDPS recommendation shall be included in the filing for the Commission's consideration.

31.5.5.4.5.3 *Support for Filing.* LIPA shall intervene in support of the filing(s) made pursuant to Section 31.5.5.4.5 at the Commission and shall take the responsibility to demonstrate that: (i) the cost allocation methodology and/or rate approved by the Long Island Power Authority's Board of Trustees meets the applicable standard of comparability, and (ii) the Commission should accept such methodology or rate for filing. LIPA shall also be responsible for responding to, and seeking to resolve, concerns about the contents of the filing that might be raised in such proceeding.

31.5.5.4.5.4 *Billing of LIPA Charges Outside of the Long Island Transmission District.*

For Transmission Districts other than the Long Island Transmission District, the ISO shall bill for LIPA, as a separate charge, the costs incurred by LIPA for a solution to a Public Policy Transmission Need allocated using the cost allocation methodology and rates established pursuant to Section 31.5.5.4.5.2 and accepted for filing by the Commission and shall remit the revenues collected to LIPA each Billing Period in accordance with the ISO's billing and settlement procedures.

31.5.5.4.6 The inclusion in the ISO OATT or in a filing with the Commission of the cost allocation and charges for recovery of costs incurred by NYPA or LIPA related to a solution to a transmission need driven by a Public Policy Requirement or Interregional Transmission Project as provided for in Sections 31.5.5.4.4 and 31.5.5.4.5 shall not be deemed to modify the treatment of such rates as non-jurisdictional pursuant to Section 201(f) of the FPA.

31.5.6 Cost Recovery for Regulated Projects

31.5.6.1 Cost Recovery for Regulated Transmission Project to Address a Reliability Need Identified in the Reliability Planning Process

31.5.6.1.1 A Responsible Transmission Owner, a Transmission Owner, or an Other Developer may recover in accordance with Rate Schedule 10 of the ISO OATT the costs incurred with respect to the implementation of: (i) a regulated backstop transmission solution proposed by a Responsible Transmission Owner pursuant to Section 31.2.4.3.1 of this Attachment Y and the ISO/TO Reliability Agreement or an Operating Agreement; (ii) an alternative regulated transmission solution that the ISO has selected pursuant to Section 31.2.6.5.2 of this Attachment Y as the more efficient or cost-effective solution to a Reliability Need; (iii) a regulated

transmission Gap Solution proposed by a Responsible Transmission Owner pursuant to Section 31.2.11.4 of this Attachment Y; or (iv) an alternative regulated transmission Gap Solution that has been determined by the appropriate state regulatory agency(ies) as the preferred solution(s) to a Reliability Need pursuant to Section 31.2.11.5 of Attachment Y of the ISO OATT.

31.5.6.1.2 If a regulated solution: (i) is eligible for cost recovery as described in Section 31.5.6.1.1 and (ii) is not triggered or is halted pursuant to Sections 31.2.8 or 31.2.10.1.2 of this Attachment Y, the Responsible Transmission Owner, Transmission Owner or Other Developer of that solution may recover the costs that it eligible to recover pursuant to Sections 31.2.8 or 31.2.10.1.2 in accordance with Rate Schedule 10 of the ISO OATT.

31.5.6.1.3 Costs related to non-transmission regulated solutions to Reliability Needs will be recovered by a Responsible Transmission Owner, Transmission Owner, or Other Developer in accordance with the provisions of New York Public Service Law, New York Public Authorities Law, or other applicable state law. A Responsible Transmission Owner, a Transmission Owner, or Other Developer may propose and undertake a regulated non-transmission solution, provided that the appropriate state agency(ies) has established cost recovery procedures comparable to those provided in this tariff for regulated transmission solutions to ensure the full and prompt recovery of all reasonably-incurred costs related to such non-transmission solutions. Nothing in this section shall affect the Commission's jurisdiction over the sale and transmission of electric energy subject to the jurisdiction of the Commission.

31.5.6.2 Cost Recovery for Regulated Economic Transmission Project

A Transmission Owner or an Other Developer may recover in accordance with Rate Schedule 10 of the ISO OATT the costs incurred with respect to the implementation a regulated economic transmission project that has been approved pursuant to Section 31.5.4.6 of this Attachment Y.

31.5.6.3 Cost Recovery for Regulated Transmission Project to Address a Public Policy Transmission Need

31.5.6.3.1 A Transmission Owner or an Other Developer may recover in accordance with Rate Schedule 10 of the ISO OATT the costs incurred with respect to the implementation of: (i) a Public Policy Transmission Project that the ISO has selected as the more efficient or cost-effective solution to a Public Policy Transmission Need, or (ii) a Public Policy Transmission Project proposed by a Developer in response to a request by the NYPSC or Long Island Power Authority in accordance with Section 31.4.3.2 of Attachment Y of the ISO OATT. Such cost recovery will also include reasonable costs incurred by the Developer to provide a more detailed study or cost estimate for such project at the request of the NYPSC, and to prepare the application required to comply with New York Public Service Law Article VII, or any successor statute or any other applicable permits, and to seek other necessary authorizations.

31.5.6.3.2 If a regulated solution that: (i) is eligible for cost recovery as described in Section 31.5.6.3.1 and (ii) is halted as described in Section 31.4.12.1 of this Attachment Y, the Transmission Owner or Other Developer of that solution may recover the costs that it is eligible to recover pursuant to Section 31.4.12.1 in accordance with Rate Schedule 10 of the ISO OATT.

31.5.6.4 Cost Recovery for Interregional Transmission Project

A Responsible Transmission Owner, a Transmission Owner, or an Other Developer may recover in accordance with Rate Schedule 10 of the ISO OATT the costs incurred with respect to the implementation of the portion of an Interregional Transmission Project selected by the ISO in the CSPP that is allocated to the NYISO region pursuant to Section 31.5.7 of Attachment Y of the ISO OATT.

31.5.7 Cost Allocation for Eligible Interregional Transmission Projects

31.5.7.1 Costs of Approved Interregional Transmission Projects

The cost allocation methodology reflected in this Section 31.5.7.1 shall be referred to as the “Northeastern Interregional Cost Allocation Methodology” (or “NICAM”), and shall not be modified without the mutual consent of the Section 205 rights holders in each region.

The costs of Interregional Transmission Projects, as defined in the Interregional Planning Protocol, evaluated under the Interregional Planning Protocol and selected by ISO-NE, PJM and the ISO in their regional transmission plans for purposes of cost allocation under their respective tariffs shall, when applicable, be allocated to the ISO-NE region, PJM region and the ISO region in accordance with the cost allocation principles of FERC Order No. 1000, as follows:

(a) To be eligible for interregional cost allocation, an Interregional Transmission Project must be selected in the regional transmission plan for purposes of cost allocation in each of the transmission planning regions in which the transmission project is proposed to be located, pursuant to agreements and tariffs on file at FERC for each region. With respect to Interregional Transmission Projects and other transmission projects involving the ISO and PJM, the cost allocation of such projects shall be in accordance with the Joint Operating Agreement (“JOA”) among and between the ISO and PJM. With respect to Interregional Transmission Projects and

other transmission projects involving the ISO and ISO-NE, the cost allocation for such projects shall be in accordance with this Section 31.5.7 of Attachment Y of the NYISO Open Access Transmission Tariff and with the respective tariffs of ISO-NE.

(b) The share of the costs of an Interregional Transmission Project allocated to a region will be determined by the ratio of the present value of the estimated costs of such region's displaced regional transmission project to the total of the present values of the estimated costs of the displaced regional transmission projects in all regions that have selected the Interregional Transmission Project in their regional transmission plans.

- (i) The present values of the estimated costs of each region's displaced regional transmission project shall be based on a common base date that will be the beginning of the calendar month of the cost allocation analysis for the subject Interregional Transmission Project (the "Base Date").
- (ii) In order to perform the analysis in this Section 31.5.7.1(b), the estimated cost of the displaced regional transmission projects shall specify the year's dollars in which those estimates are provided.
- (iii) The present value analysis for all displaced regional transmission projects shall use a common discount rate. The regions having displaced projects will mutually agree, in consultation with their respective transmission owners, and for purposes of the ISO, its other stakeholders, on the discount rate to be used for the present value analysis.
- (iv) For the purpose of this allocation, cost estimates shall use comparable cost estimating procedures. In the Interregional Planning Stakeholder Advisory Committee review process, the regions having displaced projects will review and

determine, in consultation with their respective transmission owners, and for purposes of the NYISO, its other stakeholders, that reasonably comparable estimating procedures have been used prior to applying this cost allocation.

(c) No cost shall be allocated to a region that has not selected the Interregional Transmission Project in its regional transmission plan.

(d) When a portion of an Interregional Transmission Project evaluated under the Interregional Planning Protocol is included by a region (Region 1) in its regional transmission plan but there is no regional need or displaced regional transmission project in Region 1, and the neighboring region (Region 2) has a regional need or displaced regional project for the Interregional Transmission Project and selects the Interregional Transmission Project in its regional transmission plan, all of the costs of the Interregional Transmission Project shall be allocated to Region 2 in accordance with the NICAM and none of the costs shall be allocated to Region 1. However, Region 1 may voluntarily agree, with the mutual consent of the Section 205 rights holders in the other affected region(s) (including the Long Island Power Authority and the New York Power Authority in the NYISO region) to use an alternative cost allocation method filed with and accepted by the Commission.

(e) The portion of the costs allocated to a region pursuant to the NICAM shall be further allocated to that region's transmission customers pursuant to the applicable provisions of the region's FERC-filed documents and agreements, for the ISO in accordance with Section 31.5.1.7 of Attachment Y of the ISO OATT.

(f) The following example illustrates the cost allocation for such an Interregional Transmission Project:

- A cost allocation analysis of the costs of Interregional Transmission Project Z is to be performed during a given month establishing the beginning of that month as the Base Date.
- Region A has identified a reliability need in its region and has selected a transmission project (Project X) as the preferred solution in its regional plan. The estimated cost of Project X is: Cost (X), provided in a given year's dollars. The number of years from the Base Date to the year associated with the cost estimate of Project (X) is: $N(X)$.
- Region B has identified a reliability need in its region and has selected a transmission project (Project Y) as the preferred solution in its Regional Plan. The estimated cost of Project Y is: Cost (Y), provided in a given year's dollars. The number of years from the Base Date to the year associated with the cost estimate of Project (Y) is: $N(Y)$.
- Regions A and B, through the interregional planning process have determined that an Interregional Transmission Project (Project Z) will address the reliability needs in both regions more efficiently and cost-effectively than the separate regional projects. The estimated cost of Project Z is: Cost (Z). Regions A and B have each determined that Interregional Transmission Project Z is the preferred solution to their reliability needs and have adopted that Interregional Transmission Project in their respective regional plans in lieu of Projects X and Y respectively. If Regions A and B have agreed to bear the costs of upgrades in other affected transmission planning regions, these costs will be considered part of Cost (Z).
- The discount rate used for all displaced regional transmission projects is: D
- Based on the foregoing assumptions, the following formulas will be used:

- Present Value of Cost (X) = PV Cost (X) = Cost (X) / (1+D)^{N(X)}
- Present Value of Cost (Y) = PV Cost (Y) = Cost (Y) / (1+D)^{N(Y)}
- Cost Allocation to Region A = Cost (Z) x PV Cost (X)/[PV Cost (X) + PV Cost (Y)]
- Cost Allocation to Region B = Cost (Z) x PV Cost (Y)/[PV Cost (X) + PV Cost (Y)]

- Applying those formulas, if:

Cost (X) = \$60 Million and N(X) = 8.25 years

Cost (Y) = \$40 Million and N(Y) = 4.50 years

Cost (Z) = \$80 Million

D = 7.5% per year

Then:

PV Cost (X) = 60/(1+0.075)^{8.25} = 33.039 Million

PV Cost (Y) = 40/(1+0.075)^{4.50} = 28.888 Million

Cost Allocation to Region A = \$80 x 33.039/(33.039 + 28.888) = \$42,681 Million

Cost Allocation to Region B = \$80 x 28.888/(33.039+28.888) = \$37.319 Million

31.5.7.2 Other Cost Allocation Arrangements

(a) Except as provided in Section 31.5.7.2(b), the NICAM is the exclusive means by which any costs of an Interregional Transmission Project may be allocated between or among PJM, the ISO, and ISO-NE.

(b) Nothing in the FERC-filed documents of ISO-NE, the ISO or PJM shall preclude agreement by entities with cost allocation rights under Section 205 of the Federal Power Act for their respective regions (including the Long Island Power Authority and the New York Power

Authority in the ISO region) to enter into separate agreements to allocate the cost-of Interregional Transmission Projects proposed to be located in their regions as an alternative to the NICAM, or other transmission projects identified pursuant to assessments and studies conducted pursuant to Section 6 of the Interregional Planning Protocol. Such other cost-allocation methodologies must be approved in each region pursuant to the Commission-approved rules in each region, filed with and accepted by the Commission, and shall apply only to the region's share of the costs of an Interregional Transmission Project or other transmission projects pursuant to Section 6 of the Interregional Planning Protocol, as applicable.

31.5.7.3 Filing Rights

Nothing in this Section 31.5.7 will convey, expand, limit or otherwise alter any rights of ISO-NE, the ISO, PJM, each region's transmission owners, market participants, or other entities to submit filings under Section 205 of the Federal Power Act regarding interregional cost allocation or any other matter.

Where applicable, the regions have been authorized by entities that have cost allocation rights for their respective regions to implement the provisions of this Section 31.5.7.

31.5.7.4 Merchant Transmission and Individual Transmission Owner Projects

Nothing in this Section 31.5.7 shall preclude the development of Interregional Transmission Projects that are funded solely by merchant transmission developers or by individual transmission owners.

31.5.7.5 Consequences to Other Regions from Regional or Interregional Transmission Projects

Except as provided herein in Sections 31.5.7.1 and 31.5.7.2, or where cost responsibility is expressly assumed by ISO-NE, the ISO or PJM in other documents, agreements or tariffs on

file with FERC, neither the ISO-NE region, the ISO region nor the PJM region shall be responsible for compensating another region or each other for required upgrades or for any other consequences in another planning region associated with regional or interregional transmission facilities, including but not limited to, transmission projects identified pursuant to Section 6 of the Interregional Planning Protocol and Interregional Transmission Projects identified pursuant to Section 7 of the Interregional Planning Protocol.

31.6 Other Provisions

31.6.1 The Commission's Role in Dispute Resolution

Disputes directly relating to the ISO's compliance with its tariffs that are not resolved in the internal ISO collaborative governance appeals process or ISO dispute resolution process, and all disputes relating to matters that fall within the exclusive jurisdiction of the Commission, shall be reviewed at the Commission pursuant to the Federal Power Act if such review is sought by any party to the dispute. The NYPSC or any party to a dispute regarding matters over which both the NYPSC and the Commission have jurisdiction and responsibility for action may submit a request to the Commission for a joint or concurrent hearing to resolve the dispute.

31.6.2 Non-Jurisdictional Entities

LIPA's and NYPA's participation in the CSPP shall in no way be considered to be a waiver of their non-jurisdictional status pursuant to Section 201(f) of the Federal Power Act, including with respect to the Commission's exercise of the Federal Power Act's general ratemaking authority.

31.6.3 Tax Exempt Financing Provisions

Con Edison, NYPA and LIPA shall not be required to construct, or cause to construct, a transmission facility identified through the Reliability Planning Process if such construction would result in the loss of tax-exempt status of any tax-exempt bond issued by Con Edison, NYPA or LIPA, or impair their ability to secure future tax-exempt financing.

31.6.4 Rights of Transmission Owners

Nothing in this Attachment Y affects the right of a Transmission Owner to: (1) build, own, and recover the costs for upgrades to the facilities it owns, provided that nothing in

Attachment Y affects a Transmission Owner's right to recover the costs of upgrades to its facilities except if the upgrade has been selected in the regional transmission plan for purposes of cost allocation, in which case the regional cost allocation method set forth in Attachment Y of the ISO OATT applies, unless the Transmission Owner has declined to pursue regional cost allocation; (2) retain, modify, or transfer rights-of-way subject to relevant law or regulation granting such rights-of-way; or (3) develop a local transmission solution that is not eligible for regional cost allocation to meet its reliability needs or service obligations in its Transmission District or footprint, as applicable. For purposes of Section 31.6.4, the term "upgrade" shall refer to an improvement to, addition to, or replacement of a part of an existing transmission facility and shall not refer to an entirely new transmission facility.

31.6.5 Notice of Reliability Requirements

The Developer of a project selected pursuant to the provisions in this Attachment Y is hereby notified that it must comply with all applicable reliability criteria, policies, standards, rules, regulations, and other requirements of NERC, NPCC, NYSRC, Transmission Owners, and any other applicable reliability entities or their successors, to the extent required by, and in accordance with, their procedures.

31.7 Appendices

APPENDIX A – REPORTING OF HISTORIC AND PROJECTED CONGESTION

1.0 General

As part of its CSPP, the ISO will prepare summaries and detailed analysis of historic and projected congestion across the NYS Transmission System. This will include analysis to identify the significant causes of historic congestion in an effort to help Market Participants and other interested parties distinguish persistent and addressable congestion from congestion that results from one time events or transient adjustments in operating procedures that may or may not recur. This information will assist Market Participants and other stakeholders to make appropriately informed decisions.

2.0 Historic Congestion Reporting

The ISO will report historic Day-Ahead Market congestion-related data. The following elements of historic congestion-related data will be reported: (i) LBMP load costs (energy, congestion and losses) by Load Zone; (ii) LBMP payments to generators (energy, congestion and losses) by Load Zone; (iii) congestion cost by constraint; and (iv) congestion cost of each constraint to load (commonly referred to in CARIS as “demand dollar congestion” by constraint).

3.0 Analysis

Each RNA will include the ISO’s summaries and detailed analysis of the prior year’s congestion across the NYS Transmission System. The ISO’s analysis will identify the significant causes of the historic congestion.

Each study of projected congestion for economic planning will include the results of the ISO’s analysis conducted in accordance with Section 31.3.1 of this Attachment Y. The ISO’s analysis will identify the significant causes of the projected congestion.

4.0 Detailed Cause Analysis for Unusual Events

The ISO will perform an analysis to identify unusual events causing significant congestion levels. Such analysis will include the following elements: (i) identification of major transmission or generation outages; and (ii) quantification of the market impact of relieving historic constraints.

Some of the information necessary to this analysis may constitute critical energy infrastructure information and will need to be handled with appropriate confidentiality limitations to protect national security interests.

5.0 Summary Reports

The ISO will prepare various reports of historic and projected congestion costs. Historic congestion reports will be based upon the actual congestion-related data from the Day-Ahead Market, and will include the information required by Section 2.0 of this Appendix A to Attachment Y of the ISO OATT. Results of projected congestion studies conducted pursuant to Section 31.3.1 of this Attachment Y will include summaries of selected additional metrics and scenarios.

APPENDIX B – PROCEDURE FOR FORECASTING THE NET REDUCTIONS IN TCC REVENUES THAT WOULD RESULT FROM A PROPOSED PROJECT

For the purpose of determining the allocation of costs associated with a proposed project as described in Section 31.5.4.4 of this Attachment Y, the ISO shall use the procedure described herein to forecast the net reductions in TCC revenues allocated to Load in each Load Zone as a result of a proposed project.

Definitions

The following definitions will apply to this appendix:

Pre-CARIS Centralized TCC Auction: The last Centralized TCC Auction that had been completed as of the date the input assumptions were determined for the CARIS in which the Project was identified as a candidate for development under the provisions of this Attachment Y.

Project: The proposed transmission project for which the evaluation of the net benefits forecasted for Load in each Load Zone, as described in Section 31.5.4.4.2 of this Attachment Y, is being performed.

TCC Revenue Factor: A factor that is intended to reflect the expected ratio of (1) revenue realized in the TCC auction from the sale of a TCC to (2) the Congestion Rents that a purchaser of that TCC would expect to realize. The value to be used for the TCC Revenue Factor shall be stated in the ISO Procedures.

Steps 1 Through 6 of the Procedure

For each Project, the ISO will perform Steps 1 through 6 of this procedure twice for each of the ten (10) years following the proposed commercial operation date of the Project: once under the assumption that the Project is in place in each of those years, and once under the assumption that the Project is not in place in each of those years.

Forecasting the Value of Grandfathered TCCs and TCC Auction Revenue

Step 1. The ISO shall forecast Congestion Rents collected on the New York electricity system in each year, which shall be equal to:

- (a) the product of:
 - (i) the forecasted Congestion Component of the Day-Ahead LBMP for each hour at each Load Zone or Proxy Generator Bus and
 - (ii) forecasted withdrawals scheduled in that hour in that Load Zone or Proxy Generator Bus,

summed over all locations and over all hours in that year, minus:

- (b) the product of:
 - (i) the forecasted Congestion Component of the Day-Ahead LBMP for each hour at each Generator bus or Proxy Generator Bus and
 - (ii) forecasted injections scheduled in that hour at that Generator bus or Proxy Generator Bus,

summed over all locations and over all hours in that year.

Step 2. The ISO shall forecast:

- (a) payments in each year associated with any Incremental TCCs that the ISO projects would be awarded in conjunction with that Project (which will be zero for the calculation that is performed under the assumption that the Project is not in place);
- (b) payments in each year associated with any Incremental TCCs that the ISO has awarded, or that the ISO projects it would award, in conjunction with other projects that have entered commercial operation or are expected to enter commercial operation before the Project enters commercial operation; and
- (c) payments that would be made to holders of Grandfathered Rights and imputed payments that would be made to the Primary Holders of Grandfathered TCCs that would be in effect in each year, under the following assumptions:
 - (i) all Grandfathered Rights and Grandfathered TCCs expire at their stated expiration dates;
 - (ii) imputed payments to holders of Grandfathered Rights are equal to the payments that would be made to the Primary Holder of a TCC with the same Point of Injection and Point of Withdrawal as that Grandfathered Right; and
 - (iii) in cases where a Grandfathered TCC is listed in Table 1 of Attachment M of the ISO OATT, the number of those TCCs held by their Primary Holders shall be set to the number of such TCCs remaining at the conclusion of the ETCNL reduction procedure conducted before the Pre-CARIS Centralized TCC Auction.

Step 3. The ISO shall forecast TCC auction revenues for each year by subtracting:

- (a) the forecasted payments calculated for that year in Steps 2(a), 2(b) and 2(c) of this procedure

from:

- (b) the forecasted Congestion Rents calculated for that year in Step 1 of this procedure, and multiplying the difference by the TCC Revenue Factor.

Forecasting the Allocation of TCC Auction Revenues Among the Transmission Owners

Step 4. The ISO shall forecast the following:

- (a) payments in each year to the Primary Holders of Original Residual TCCs and
- (b) payments in each year to the Primary Holders of TCCs that correspond to the amount of ETCNL remaining at the conclusion of the ETCNL reduction procedure conducted before the Pre-CARIS Centralized TCC Auction,

and multiply each by the TCC Revenue Factor to determine the forecasted payments to the Primary Holders of Original Residual TCCs and the Transmission Owners that have been allocated ETCNL.

Step 5. The ISO shall forecast residual auction revenues for each year by subtracting:

- (a) the sum of the forecasted payments for each year to the Primary Holders of Original Residual TCCs and the Transmission Owners that have been allocated ETCNL, calculated in Step 4 of this procedure

from:

- (b) forecasted TCC auction revenues for that year calculated in Step 3 of this procedure.

Step 6. The ISO shall forecast each Transmission Owner's share of residual auction revenue for each year by multiplying:

- (a) the forecast of residual auction revenue calculated in Step 5 of this procedure and
- (b) the ratio of:
 - (i) the amount of residual auction revenue allocated to that Transmission Owner in the Pre-CARIS Centralized TCC Auction to
 - (ii) the total amount of residual auction revenue allocated in the Pre-CARIS Centralized TCC Auction.

Steps 7 Through 10 of the Procedure

The ISO will perform Steps 7 through 10 of this procedure once for each of the ten (10) years following the proposed commercial operation date of the Project, using the results of the preceding calculations performed both under the assumption that the Project is in place in each of those years, and under the assumption that the Project is not in place in each of those years.

Forecasting the Impact of the Project on TSC Offsets and the NTAC Offset

Step 7. The ISO shall calculate the forecasted net impact of the Project on the TSC offset for each megawatt-hour of electricity consumed by Load in each Transmission District (other than the NYPA Transmission District) in each year by:

- (a) summing the following, each forecasted for that Transmission District for that year under the assumption that the Project is in place:
 - (i) forecasted Congestion Rents associated with any Incremental TCCs that the ISO has awarded, or that the ISO projects it would award, as calculated in Step 2(b) of this procedure, in conjunction with other projects that have entered commercial operation or are expected to enter commercial operation before the Project enters

commercial operation, if those Congestion Rents would affect the TSC for that Transmission District;

- (ii) forecasted Congestion Rents associated with any Grandfathered TCCs and forecasted imputed Congestion Rents associated with any Grandfathered Rights held by the Transmission Owner serving that Transmission District that would be paid to that Transmission Owner for that year, as calculated in Step 2(c) of this procedure, if those Congestion Rents would affect the TSC for that Transmission District;
 - (iii) the payments that are forecasted to be made for that year to the Primary Holders of Original Residual TCCs and ETCNL that have been allocated to the Transmission Owner serving that Transmission District, as calculated in Step 4 of this procedure; and
 - (iv) that Transmission District's forecasted share of residual auction revenues for that year, as calculated in Step 6 of this procedure for the Transmission Owner serving that Transmission District;
- (b) subtracting the sum of items (i) through (iv) above, each forecasted for that Transmission District for that year under the assumption that the Project is not in place; and
- (c) dividing this difference by the amount of Load forecasted to be served in that Transmission District in that year, stated in terms of megawatt-hours, net of any Load served by municipally owned utilities that is not subject to the TSC.

Step 8. The ISO shall calculate the forecasted net impact of the Project on the NTAC offset for each megawatt-hour of electricity consumed by Load in each year by:

- (a) summing the following, each forecasted for that year under the assumption that the Project is in place:
 - (i) forecasted Congestion Rents associated with any Incremental TCCs that the ISO has awarded, or that the ISO projects it would award, as calculated in Step 2(b) of this procedure, in conjunction with other projects that have entered commercial operation or are expected to enter commercial operation before the Project enters commercial operation, if those Congestion Rents would affect the NTAC;
 - (ii) forecasted Congestion Rents associated with any Grandfathered TCCs and forecasted imputed Congestion Rents associated with any Grandfathered Rights held by NYPA that would be paid to NYPA for that year, as calculated in Step 2(c) of this procedure, if those Congestion Rents would affect the NTAC;
 - (iii) the payments that are forecasted to be made for that year to NYPA in association with Original Residual TCCs allocated to NYPA, as calculated in Step 4 of this procedure; and

- (iv) NYPA's forecasted share of residual auction revenues for that year, as calculated in Step 6 of this procedure;
- (b) subtracting the sum of items (i) through (iv) above, each forecasted for that year under the assumption that the Project is not in place; and
- (c) dividing this difference by the amount of Load expected to be served in the NYCA in that year, stated in terms of megawatt-hours, net of any Load served by municipally owned utilities that is not subject to the NTAC.

Forecasting the Net Impact of the Project on TCC Revenues Allocated to Load in Each Zone

Step 9. The ISO shall calculate the forecasted net impact of the Project in each year in each Load Zone on payments made in conjunction with TCCs and Grandfathered Rights that benefit Load but which do not affect TSCs or the NTAC, which shall be the sum of:

- (a) Forecasted Congestion Rents paid or imputed to municipally owned utilities serving Load in that Load Zone that own Grandfathered Rights or Grandfathered TCCs that were not included in the calculation of the TSC offset in Step 7(a)(ii) of this procedure or the NTAC offset in Step 8(a)(ii) of this procedure, which the ISO shall calculate by:
 - (i) summing forecasted Congestion Rents that any such municipally owned utilities serving Load in that Load Zone would be paid for that year in association with any such Grandfathered TCCs and any forecasted imputed Congestion Rents that such a municipally owned utility would be paid for that year in association with any such Grandfathered Rights, as calculated in Step 2(c) of this procedure under the assumption that the Project is in place; and
 - (ii) subtracting forecasted Congestion Rents that any such municipally owned utilities would be paid for that year in association with any such Grandfathered TCCs, and any forecasted imputed Congestion Rents that such a municipally owned utility would be paid for that year in association with any such Grandfathered Rights, as calculated in Step 2(c) of this procedure under the assumption that the Project is not in place.
- (b) Forecasted Congestion Rents collected from Incremental TCCs awarded in conjunction with projects that were previously funded through this procedure, if those Congestion Rents are used to reduce the amount that Load in that Load Zone must pay to fund such projects, which the ISO shall calculate by:
 - (i) summing forecasted Congestion Rents that would be collected for that year in association with any such Incremental TCCs, as calculated in Step 2(b) of this procedure under the assumption that the Project is in place; and
 - (ii) subtracting forecasted Congestion Rents that would be collected for that year in association with any such Incremental TCCs, as calculated in Step 2(b) of this procedure under the assumption that the Project is not in place.

Step 10. The ISO shall calculate the forecasted net reductions in TCC revenues allocated to Load in each Load Zone as a result of a proposed Project by summing the following:

- (a) the product of:
 - (i) the forecasted net impact of the Project on the TSC offset for each megawatt-hour of electricity consumed by Load, as calculated for each Transmission District (other than the NYPA Transmission District) in Step 7 of this procedure; and
 - (ii) the number of megawatt-hours of energy that are forecasted to be consumed by Load in that year, in the portion of that Transmission District that is in that Load Zone, for Load that is subject to the TSC;summed over all Transmission Districts;
- (b) the product of:
 - (i) the forecasted net impact of the Project on the NTAC offset for each megawatt-hour of electricity consumed by Load, as calculated in Step 8 of this procedure; and
 - (ii) the number of megawatt-hours of energy that are forecasted to be consumed by Load in that year in that Load Zone, for Load that is subject to the NTAC; and
- (c) the forecasted net impact of the Project on payments and imputed payments made in conjunction with TCCs and Grandfathered Rights that benefit Load but which do not affect TSCs or the NTAC, as calculated in Step 9 of this procedure.

Additional Notes Concerning the Procedure

For the purposes of Steps 2(c) and 4(b) of this procedure, the ISO will utilize the currently effective version of Attachment L of the ISO OATT to identify Existing Transmission Agreements and Existing Transmission Capacity for Native Load.

Each Transmission Owner, other than NYPA, will inform the ISO of any Grandfathered Rights and Grandfathered TCCs it holds whose Congestion Rents should be taken into account in Step 7 of this procedure because those Congestion Rents affect its TSC.

NYPA will inform the ISO of any Grandfathered Rights and Grandfathered TCCs it holds whose Congestion Rents should be taken into account in Step 8 of this procedure because those Congestion Rents affect the NTAC.

APPENDIX C – RELIABILITY PLANNING PROCESS DEVELOPMENT AGREEMENT

TABLE OF CONTENTS

ARTICLE 1. DEFINITIONS

ARTICLE 2. EFFECTIVE DATE AND TERM

- 2.1. Effective Date
- 2.2. Filing
- 2.3. Term of Agreement

ARTICLE 3. TRANSMISSION PROJECT DEVELOPMENT AND CONSTRUCTION

- 3.1. Application for Required Authorizations and Approvals
- 3.2. Development and Construction of Transmission Project
- 3.3. Milestones
- 3.4. Modifications to Transmission Project
- 3.5. Billing and Payment
- 3.6. Project Monitoring
- 3.7. Right to Inspect
- 3.8. Exclusive Responsibility of Developer
- 3.9. Subcontractors
- 3.10. No Services or Products Under NYISO Tariffs
- 3.11. Tax Status

ARTICLE 4. COORDINATION WITH THIRD PARTIES

- 4.1. Interconnection Requirements for Transmission Project
- 4.2. Interconnection with Affected System
- 4.3. Coordination of Interregional Transmission Project

ARTICLE 5. OPERATION REQUIREMENTS FOR THE TRANSMISSION PROJECT

ARTICLE 6. INSURANCE

ARTICLE 7. BREACH AND DEFAULT

- 7.1. Breach
- 7.2. Default
- 7.3. Remedies

ARTICLE 8. TERMINATION

- 8.1. Termination by the NYISO
- 8.2. Reporting of Inability to Comply with Provisions of Agreement
- 8.3. Transmission Project Transfer Rights Upon Termination

ARTICLE 9. LIABILITY AND INDEMNIFICATION

- 9.1. Liability
- 9.2. Indemnity

ARTICLE 10. ASSIGNMENT

ARTICLE 11. INFORMATION EXCHANGE AND CONFIDENTIALITY

- 11.1. Information Access
- 11.2. Confidentiality

ARTICLE 12. REPRESENTATIONS, WARRANTIES AND COVENANTS

- 12.1. General
- 12.2. Good Standing
- 12.3. Authority
- 12.4. No Conflict
- 12.5. Consent and Approval
- 12.6. Compliance with All Applicable Laws and Regulations

ARTICLE 13. DISPUTE RESOLUTION

ARTICLE 14. SURVIVAL

ARTICLE 15. MISCELLANEOUS

15.1. Notices

15.2. Entire Agreement

15.3. Cost Recovery

15.4. Binding Effect

15.5. Force Majeure

15.6. Disclaimer

15.7. No NYISO Liability for Review or Approval of Developer Materials

15.8. Amendment

15.9. No Third Party Beneficiaries

15.10. Waiver

15.11. Rules of Interpretation

15.12. Severability

15.13. Multiple Counterparts

15.14. No Partnership

15.15. Headings

15.16. Governing Law

15.17. Jurisdiction and Venue

Appendices

THIS DEVELOPMENT AGREEMENT (“Agreement”) is made and entered into this ____ day of _____ 20__, by and between _____, a [corporate description] organized and existing under the laws of the State/Commonwealth of _____ (“Developer”), and the New York Independent System Operator, Inc., a not-for-profit corporation organized and existing under the laws of the State of New York (“NYISO”). Developer or NYISO each may be referred to as a “Party” or collectively referred to as the “Parties.”

RECITALS

WHEREAS, the NYISO administers the Comprehensive System Planning Process (“CSPP”) in the New York Control Area pursuant to the terms set forth in Attachment Y of the NYISO’s Open Access Transmission Tariff (“OATT”), as accepted by the Federal Energy Regulatory Commission (“FERC”);

WHEREAS, as part of the CSPP, the NYISO administers a Reliability Planning Process pursuant to which the reliability of the New York State Bulk Power Transmission Facilities is assessed over a ten-year Study Period; Reliability Need(s) that may arise over this period are identified; proposed solutions to the identified need(s) are solicited by the NYISO; and the more efficient or cost-effective transmission solution to satisfy the identified need(s) is selected by the NYISO and reported in the NYISO’s Comprehensive Reliability Plan report;

[Alternative 1 – To include if the Developer’s regulated transmission solution was selected as the more efficient or cost effective solution:]

WHEREAS, the Developer has proposed a regulated transmission solution to satisfy an identified Reliability Need (“Transmission Project”);

WHEREAS, the NYISO has selected the Developer’s Transmission Project as the more efficient or cost-effective transmission solution to satisfy an identified Reliability Need and has directed the Developer to proceed with the Transmission Project pursuant to Section 31.2.8.1 of Attachment Y of the OATT;]

[Alternative 2 – To include if the NYISO triggers a Developer’s regulated backstop transmission solution that has not been selected pursuant to Sections 31.2.8.1.2, 31.2.8.1.3, or 31.2.8.1.4:]

WHEREAS, the Developer has proposed a regulated backstop transmission solution to satisfy an identified Reliability Need (“Transmission Project”);

WHEREAS, the NYISO has triggered the Transmission Project to proceed pursuant to Sections 31.2.8.1.2, 31.2.8.1.3, or 31.2.8.1.4;]

[Alternative 3 – To include if a Transmission Owner agrees to complete an alternative selected transmission solution pursuant to Section 31.2.10.1.3:]

WHEREAS, the Developer has agreed to step-in to complete a regulated transmission project to satisfy an identified Reliability Need (“Transmission Project”) pursuant to Section 31.2.10.1.3 of Attachment Y of the OATT;]

WHEREAS, the Developer has agreed to obtain the required authorizations and approvals from Governmental Authorities needed for the Transmission Project, to develop and construct the Transmission Project, and to abide by the related requirements in Attachment Y of the OATT, the ISO Tariffs, and the ISO Procedures;

WHEREAS, the Developer and the NYISO have agreed to enter into this Agreement pursuant to Section 31.2.8.1.6 of Attachment Y of the OATT for the purpose of ensuring that the Transmission Project will be constructed and in service in time to satisfy the Reliability Need (“Required Project In-Service Date”); and

WHEREAS, the Developer has agreed to construct, and the NYISO has requested that the Developer proceed with construction of, the Transmission Project to address the identified Reliability Need by the Required Project In-Service Date.

NOW, THEREFORE, in consideration of and subject to the mutual covenants contained herein, it is agreed:

ARTICLE 1. DEFINITIONS

Whenever used in this Agreement with initial capitalization, the following terms shall have the meanings specified in this Article 1. Terms used in this Agreement with initial capitalization that are not defined in this Article 1 shall have the meanings specified in Section 31.1.1 of Attachment Y of the OATT or, if not therein, in Article 1 of the OATT.

Advisory Milestones shall mean the milestones set forth in the Development Schedule in Attachment C to this Agreement that are not Critical Path Milestones.

Affected System Operator shall mean any Affected System Operator(s) identified in connection with the Transmission Project pursuant to Attachment P of the ISO OATT.

Applicable Laws and Regulations shall mean: (i) all duly promulgated applicable federal, state and local laws, regulations, rules, ordinances, codes, decrees, judgments, directives, or judicial or administrative orders, permits and other duly authorized actions of any Governmental Authority, and (ii) all applicable requirements of the ISO Tariffs, ISO Procedures, and ISO Related Agreements.

Applicable Reliability Organizations shall mean the NERC, the NPCC, and the NYSRC.

Applicable Reliability Requirements shall mean the requirements, criteria, rules, standards, and guidelines, as they may be amended and modified and in effect from time to time, of: (i) the Applicable Reliability Organizations, (ii) the Connecting Transmission Owner(s), (iii) *[to insert the name(s) of any other Transmission Owners or developers whose transmission facilities the NYISO has determined may be impacted by the Transmission Project]*, and (iv) any Affected System Operator; *provided, however*, that no Party shall waive its right to challenge the applicability or validity of any requirement, criteria, rule, standard, or guideline as applied to it in the context of this Agreement.

Breach shall have the meaning set forth in Article 7.1 of this Agreement.

Breaching Party shall mean a Party that is in Breach of this Agreement.

Business Day shall mean Monday through Friday, excluding federal holidays.

Calendar Day shall mean any day including Saturday, Sunday, or a federal holiday.

Change of Control shall mean a change in ownership of more than 50% of the membership or ownership interests or other voting securities of the Developer to a third party in one or more related transactions, or any other transaction that has the effect of transferring control of the Developer to a third party.

Confidential Information shall mean any information that is defined as confidential by Article 11.2.

Connecting Transmission Owner shall be the Connecting Transmission Owner(s) identified in connection with the Transmission Project pursuant to Attachment P of the ISO OATT.

Critical Path Milestones shall mean the milestones identified as such in the Development Schedule in Attachment C to this Agreement that must be met for the Transmission Project to be constructed and operating by the Required Project In-Service Date.

Default shall mean the failure of a Party in Breach of this Agreement to cure such Breach in accordance with Article 7.2 of this Agreement.

Developer shall have the meaning set forth in the introductory paragraph.

Development Schedule shall mean the schedule of Critical Path Milestones and Advisory Milestones set forth in Appendix C to this Agreement.

Effective Date shall mean the date upon which this Agreement becomes effective as determined in Article 2.1 of this Agreement.

FERC shall mean the Federal Energy Regulatory Commission or its successor.

Force Majeure shall mean any act of God, labor disturbance, act of the public enemy, war, insurrection, riot, fire, storm or flood, explosion, breakage or accident to machinery or equipment, any order, regulation or restriction imposed by governmental, military or lawfully established civilian authorities, or any other cause beyond a Party's control. A Force Majeure event does not include acts of negligence or intentional wrongdoing by the Party claiming Force Majeure.

Good Utility Practice shall mean any of the practices, methods and acts engaged in or approved by a significant portion of the electric industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practice, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method,

or act to the exclusion of all others, but rather to delineate acceptable practices, methods, or acts generally accepted in the region.

Governmental Authority shall mean any federal, state, local or other governmental regulatory or administrative agency, public authority, court, commission, department, board, or other governmental subdivision, legislature, rulemaking board, tribunal, or other governmental authority having jurisdiction over any of the Parties, their respective facilities, or the respective services they provide, and exercising or entitled to exercise any administrative, executive, police, or taxing authority or power; *provided, however*, that such term does not include the NYISO, the Developer, the Connecting Transmission Owner(s), the Affected System Operator(s), or any Affiliate thereof.

In-Service Date shall mean the date upon which the Transmission Project is energized consistent with the provisions of the Transmission Project Interconnection Agreement and available to provide Transmission Service under the NYISO Tariffs.

ISO/TO Agreement shall mean the *Agreement Between the New York Independent System Operator and Transmission Owners*, as filed with and accepted by the Commission in *Cent. Hudson Gas & Elec. Corp., et al.*, 88 FERC ¶ 61,138 (1999) in Docket Nos. ER97-1523, *et al.*, and as amended or supplemented from time to time, or any successor agreement thereto.

ISO/TO Reliability Agreement shall mean the Agreement Between the New York Independent System Operator, Inc., and the New York Transmission Owners on the Comprehensive Planning Process for Reliability Needs, as filed with and accepted by the Commission in New York Independent System Operator, Inc., 109 FERC ¶ 61,372 (2004) and 111 FERC ¶ 61,182 (2005) in Docket No. ER04-1144, and as amended or supplemented from time to time, or any successor agreement thereto.

New York State Transmission System shall mean the entire New York State electrical transmission system, which includes: (i) the Transmission Facilities Under ISO Operational Control; (ii) the Transmission Facilities Requiring ISO Notification; and (iii) all remaining transmission facilities within the New York Control Area.

NERC shall mean the North American Electric Reliability Corporation or its successor organization.

NPCC shall mean the Northeast Power Coordinating Council or its successor organization.

NYSRC shall mean the New York State Reliability Council or its successor organization.

OATT shall mean the NYISO's Open Access Transmission Tariff, as filed with the Commission, and as amended or supplemented from time to time, or any successor tariff thereto.

Party or Parties shall mean the NYISO, the Developer, or both.

Point of Interconnection shall mean the point or points at which the Developer's Transmission Project will interconnect to the New York State Transmission System.

Project Description shall mean the description of the Transmission Project set forth in Appendix A to this Agreement that is consistent with the project proposed and evaluated in the NYISO's Reliability Planning Process and, if applicable, selected by the NYISO Board of Directors as the more efficient or cost-effective transmission solution to the identified Reliability Need.

Reliability Planning Process Manual shall mean the NYISO's manual adopted by the NYISO stakeholder Operating Committee describing the NYISO's procedures for implementing the Reliability Planning Process component of the NYISO's Comprehensive System Planning Process, as the manual is amended or supplemented from time to time, or any successor manual thereto.

Required Project In-Service Date shall mean the In-Service Date by which the Transmission Project must be constructed and operating to satisfy the Reliability Need, as specified in the Development Schedule set forth in Appendix C to this Agreement.

Services Tariff shall mean the NYISO's Market Administration and Control Area Services Tariff, as filed with the Commission, and as amended or supplemented from time to time, or any successor tariff thereto.

Significant Modification shall mean a Developer's proposed modification to its Transmission Project that: (i) could impair the Transmission Project's ability to meet the identified Reliability Need, (ii) could delay the In-Service Date of the Transmission Project beyond the Required Project In-Service Date, or (iii) would constitute a material change to the project information submitted by the Developer under Attachment Y of the OATT for use by the NYISO in evaluating the Transmission Project for purposes of selecting the more efficient or cost-effective transmission solution to meet the identified Reliability Need.

Scope of Work shall mean the description of the work required to implement the Transmission Project as set forth in Appendix B to this Agreement. The Scope of Work shall be drawn from the Developer's submission of the Required Data Submission for Solutions to Reliability Needs, which is set forth in Attachment C of the NYISO Reliability Planning Manual, as may be updated as agreed upon by the Parties, and shall include, but not be limited to, a description of: the acquisition of required rights-of-ways, the work associated with the licensing, design, financing, environmental and regulatory approvals, engineering, procurement of equipment, construction, installation, testing, and commissioning of the Transmission Project; the relevant technical requirements, standards, and guidelines pursuant to which the work will be performed; the major equipment and facilities to be constructed and/or installed in connection with the Transmission Project, and the cost estimates for the work associated with the Transmission Project.

Transmission Owner Technical Standards shall mean the technical requirements and standards (e.g. equipment or facilities electrical and physical capabilities, design characteristics, or construction requirements), as those requirements and standards are amended and modified and in effect from time to time, of: (i) the Connecting Transmission Owner(s), (ii) *[to insert the name(s) of any other Transmission Owners or developers whose transmission facilities the NYISO has*

determined may be impacted by the Transmission Project], and (iii) any Affected System Operator.

Transmission Project shall mean the Developer's regulated transmission solution that is subject to this Agreement as described in the Project Description set forth in Appendix A to this Agreement.

ARTICLE 2. EFFECTIVE DATE AND TERM

2.1. Effective Date

This Agreement shall become effective on the date it has been executed by all Parties; *provided, however*, if the Agreement is filed with FERC as a non-conforming or an unexecuted agreement pursuant to Section 31.2.8.1.6 of Attachment Y of the OATT, the Agreement shall become effective on the effective date accepted by FERC.

2.2. Filing

If the Agreement must be filed with FERC pursuant to Section 31.2.8.1.6 of Attachment Y of the OATT, the NYISO shall file this Agreement for acceptance with FERC within the timeframe set forth for the filing in Section 31.2.8.1.6 of Attachment Y of the OATT. The Developer shall cooperate in good faith with the NYISO with respect to such filing and provide any information requested by the NYISO to comply with Applicable Laws and Regulations. Any Confidential Information shall be treated in accordance with Article 11.2 of this Agreement.

2.3. Term of Agreement

Subject to the termination provisions in Article 8 of this Agreement, this Agreement shall remain in effect from the Effective Date until: (i) the Developer executes an operating agreement with the NYISO, and (ii) the Transmission Project: (A) has been completed in accordance with the terms and conditions of this Agreement, and (B) is in-service; *provided, however*, that the terms of this Agreement shall continue in effect to the extent provided in Article 14 of this Agreement.

ARTICLE 3. TRANSMISSION PROJECT DEVELOPMENT AND CONSTRUCTION

3.1. Application for Required Authorizations and Approvals

The Developer shall timely seek and obtain all authorizations and approvals from Governmental Authorities required to develop, construct, and operate the Transmission Project by the Required Project In-Service Date. The required authorizations and approvals shall be listed in the Scope of Work in Appendix B to this Agreement. The Developer shall seek and obtain the required authorizations and approvals in accordance with the milestones set forth in the Development Schedule in Appendix C to this Agreement. The milestones for obtaining the required authorizations and approvals shall be included in the Development Schedule as Critical Path Milestones and Advisory Milestones, as designated by the Parties under Article 3.3.1. The Developer shall notify the NYISO in accordance with the notice requirements in Article 3.3 if it has reason to believe that it may be unable to timely obtain or is denied an approval or

authorization by a Governmental Authority required for the development, construction, or operation of the Transmission Project, or if such approval or authorization is withdrawn or modified.

3.2. Development and Construction of Transmission Project

The Developer shall design, engineer, procure, install, construct, test and commission the Transmission Project in accordance with: (i) the terms of this Agreement, including, but not limited to, the Project Description in Appendix A to this Agreement, the Scope of Work in Appendix B to this Agreement, and the Development Schedule in Appendix C to this Agreement; (ii) Applicable Reliability Requirements; (iii) Applicable Laws and Regulations; (iv) Good Utility Practice; (v) the Transmission Owner Technical Standards, and (vi) any interconnection agreement(s) entered into by and among the NYISO, Developer, and Connecting Transmission Owner(s) for the Transmission Project to interconnect to the New York State Transmission System.

3.3. Milestones

- 3.3.1. The NYISO shall provide the Developer with the Required Project In-Service Date that is set forth in the Comprehensive Reliability Plan report or the updated Comprehensive Reliability Plan report, as applicable, in accordance with Sections 31.2.7 and 31.2.7.3 of Attachment Y of the OATT. Prior to executing and/or filing this Agreement with FERC, the NYISO and the Developer shall agree to the Critical Path Milestones and Advisory Milestones set forth in the Development Schedule in Appendix C to this Agreement for the development, construction, and operation of the Transmission Project by the Required Project In-Service Date in accordance with Section 31.2.8.1.6 of Attachment Y of the OATT; provided that any such milestone for the Transmission Project that requires action by a Connecting Transmission Owner or an Affected System Operator to complete must be included as an Advisory Milestone.
- 3.3.2. The Developer shall meet the Critical Path Milestones in accordance with the Development Schedule set forth in Appendix C to this Agreement. The Developer's inability or failure to meet a Critical Path Milestone specified in the Development Schedule, as such Critical Path Milestone may be amended with the agreement of the NYISO under this Article 3.3, shall constitute a Breach of this Agreement under Article 7.1.
- 3.3.3. The Developer shall notify the NYISO thirty (30) Calendar Days prior to the date of each Critical Path Milestone specified in the Development Schedule whether, to the best of its knowledge, it expects to meet the Critical Path Milestone by the specified date; *provided*, however, that notwithstanding this requirement:
 - (i) the Developer shall notify the NYISO as soon as reasonably practicable, and no later than fifteen (15) Calendar Days, following the Developer's discovery of a potential delay in meeting a Critical Path Milestone, including a delay caused by a Force Majeure event; and

- (ii) the NYISO may request in writing at any time, and Developer shall submit to the NYISO within five (5) Business Days of the request, a written response indicating whether the Developer will meet, or has met, a Critical Path Milestone and providing all required supporting documentation for its response.
- 3.3.4. The Developer shall not make a change to a Critical Path Milestone without the prior written consent of the NYISO. To request a change to a Critical Path Milestone, the Developer must: (i) inform the NYISO in writing of the proposed change to the Critical Path Milestone and the reason for the change, including the occurrence of a Force Majeure event in accordance with Section 15.5, (ii) submit to the NYISO a revised Development Schedule containing any necessary changes to Critical Path Milestones and Advisory Milestones that provide for the Transmission Project to be completed and achieve its In-Service Date no later than the Required Project In-Service Date, and (iii) submit a notarized officer's certificate certifying the Developer's capability to complete the Transmission Project in accordance with the modified schedule. If the Developer: (i) must notify the NYISO of a potential delay in meeting a Critical Path Milestone in accordance with one of the notification requirements in Section 3.3.3 or (ii) is requesting a change to a Critical Path Milestone to cure a Breach in Section 7.2, the Developer shall submit any request to change the impacted Critical Path Milestone(s) within the relevant notification timeframe set forth in Section 3.3.3 or the cure period set forth in Section 7.2, as applicable. The NYISO will promptly review the Developer's requested change. The Developer shall provide the NYISO with all required information to assist the NYISO in making its determination and shall be responsible for the costs of any study work the NYISO performs in making its determination. If the Developer demonstrates to the NYISO's satisfaction that the delay in meeting a Critical Path Milestone will not delay the Transmission Project's In-Service Date beyond the Required Project In-Service Date, then the NYISO's consent to extending the Critical Path Milestone date will not be unreasonably withheld, conditioned, or delayed. The NYISO's written consent to a revised Development Schedule proposed by the Developer will satisfy the amendment requirements in Article 15.8, and the NYISO will not be required to file the revised Development Schedule with FERC.
- 3.3.5. Within fifteen (15) Calendar Days of the Developer's discovery of a potential delay in meeting an Advisory Milestone, the Developer shall inform the NYISO of the potential delay and describe the impact of the delay on meeting the Critical Path Milestones. The Developer may extend an Advisory Milestone date upon informing the NYISO of such change; *provided, however*, that if the change to the Advisory Milestone will delay a Critical Path Milestone, the NYISO's written consent to make such change is required as described in Article 3.3.4.

3.4. Modifications to Transmission Project

The Developer shall not make a Significant Modification to the Transmission Project without the prior written consent of the NYISO, including, but not limited to, modifications necessary for the Developer to obtain required approvals or authorizations from Governmental Authorities. The NYISO's determination regarding a Significant Modification to the

Transmission Project under this Agreement shall be separate from, and shall not replace, the NYISO's review and determination of material modifications to the Transmission Project under Attachment P of the OATT. The Developer may request that the NYISO review whether a modification to the Transmission Project would constitute a Significant Modification. The Developer shall provide the NYISO with all required information to assist the NYISO in making its determination regarding a Significant Modification and shall be responsible for the costs of any study work the NYISO must perform in making its determination. If the Developer demonstrates to the NYISO's satisfaction that its proposed Significant Modification: (i) does not impair the Transmission Project's ability to satisfy the identified Reliability Need, (ii) does not delay the In-Service Date of the Transmission Project beyond the Required Project In-Service Date, and (iii) does not change the grounds upon which the NYISO selected the Transmission Project as the more efficient or cost-effective transmission solution to the identified Reliability Need (if applicable), the NYISO's consent to the Significant Modification will not be unreasonably withheld, conditioned, or delayed. The NYISO's performance of this review shall not constitute its consent to delay the completion of any Critical Path Milestone.

3.5. Billing and Payment

The NYISO shall charge, and the Developer shall pay, the actual costs of: (i) any study work performed by the NYISO or its subcontractor(s) under Articles 3.3 and 3.4, or (ii) any assessment of the Transmission Project by the NYISO or its subcontractor(s) under Article 3.7. The NYISO will invoice Developer on a monthly basis for the expenses incurred by the NYISO each month, including estimated subcontractor costs, computed on a time and material basis. The Developer shall pay invoiced amounts to the NYISO within thirty (30) Calendar Days of the NYISO's issuance of a monthly invoice. In the event the Developer disputes an amount to be paid, the Developer shall pay the disputed amount to the NYISO, pending resolution of the dispute. To the extent the dispute is resolved in the Developer's favor, the NYISO will net the disputed amount, including interest calculated from Developer's date of payment at rates applicable to refunds under FERC regulations, against any current amounts due from the Developer and pay the balance to the Developer. This Article 3.5 shall survive the termination, expiration, or cancellation of this Agreement.

3.6. Project Monitoring

The Developer shall provide regular status reports to the NYISO in accordance with the monitoring requirements set forth in the Development Schedule, the Reliability Planning Process Manual and Attachment Y of the OATT.

3.7. Right to Inspect

Upon reasonable notice, the NYISO or its subcontractor shall have the right to inspect the Transmission Project for the purpose of assessing the progress of the development and construction of the Transmission Project and satisfaction of milestones. The exercise or non-exercise by the NYISO or its subcontractor of this right shall not be construed as an endorsement or confirmation of any element or condition of the development or construction of the Transmission Project, or as a warranty as to the fitness, safety, desirability or reliability of the same. Any such inspection shall take place during normal business hours, shall not interfere

with the construction of the Transmission Project and shall be subject to such reasonable safety and procedural requirements as the Developer shall specify.

3.8. Exclusive Responsibility of Developer

As between the Parties, the Developer shall be solely responsible for all planning, design, engineering, procurement, construction, installation, management, operations, safety, and compliance with Applicable Laws and Regulations, Applicable Reliability Requirements, and Transmission Owner Technical Standards associated with the Transmission Project, including, but not limited to, scheduling, meeting Critical Path Milestones and Advisory Milestones, timely requesting review and consent to any project modifications, and obtaining all necessary permits, siting, and other regulatory approvals. The NYISO shall have no responsibility and shall have no liability regarding the management or supervision of the Developer's development of the Transmission Project or the compliance of the Developer with Applicable Laws and Regulations, Applicable Reliability Requirements, and Transmission Owner Technical Standards. The NYISO shall cooperate with the Developer in good faith in providing information to assist the Developer in obtaining all approvals and authorizations from Governmental Authorities required to develop, construct, and operate the Transmission Project by the Required Project In-Service Date, including, if applicable, information describing the NYISO's basis for selecting the Transmission Project as the more efficient or cost-effective transmission solution to satisfy an identified Reliability Need.

3.9. Subcontractors

- 3.9.1. Nothing in this Agreement shall prevent a Party from using the services of any subcontractor as it deems appropriate to perform its obligations under this Agreement; provided, *however*, that each Party shall require, and shall provide in its contracts with its subcontractors, that its subcontractors comply with all applicable terms and conditions of this Agreement in providing such services; *provided, further*, that each Party shall remain primarily liable to the other Party for the performance of such subcontractor.
- 3.9.2. The creation of any subcontractor relationship shall not relieve the hiring Party of any of its obligations under this Agreement. The hiring Party shall be fully responsible to the other Party for the acts or omissions of any subcontractor the hiring Party hires as if no subcontract had been made.

3.10. No Services or Products Under NYISO Tariffs

This Agreement does not constitute a request for, nor agreement by the NYISO to provide, Transmission Service, interconnection service, Energy, Ancillary Services, Installed Capacity, Transmission Congestion Contracts or any other services or products established under the ISO Tariffs. If Developer wishes to receive or supply such products or services, the Developer must make application to do so under the applicable provisions of the ISO Tariffs, ISO Related Agreements, and ISO Procedures.

3.11. Tax Status

Each Party shall cooperate with the other Party to maintain each Party's tax status to the extent the Party's tax status is impacted by this Agreement. Nothing in this agreement is intended to affect the tax status of any Party.

ARTICLE 4. COORDINATION WITH THIRD PARTIES

4.1. Interconnection Requirements for Transmission Project

The Developer shall satisfy all requirements set forth in the Transmission Interconnection Procedures in Attachment P of the OATT applicable to a "Transmission Project" to interconnect the Transmission Project to the New York State Transmission System by the Required Project In-Service Date, including, but not limited to, submitting a Transmission Interconnection Application; participating in all necessary studies; executing, and/or requesting the NYISO to file for FERC acceptance, a Transmission Project Interconnection Agreement; and constructing, or arranging for the construction of, all required Network Upgrade Facilities; *provided, however*, if the Developer began the interconnection process in Attachment X of the OATT or the transmission expansion process in Sections 3.7 or 4.5 of the OATT prior to the effective date of the Transmission Interconnection Procedures, the Developer shall satisfy the requirements of the Transmission Interconnection Procedures in accordance with the transition rules in Section 22.3.3 of Attachment P of the OATT.

If the NYISO determines that the proposed interconnection of a "Transmission Project" under Attachment P could affect the Transmission Project under this Agreement, the Developer shall participate in the Transmission Interconnection Procedures as an Affected System Operator in accordance with the requirements set forth in Section 22.4.4 of Attachment P. If the NYISO determines that the proposed interconnection of a "Large Generating Facility," "Small Generating Facility," or "Class Year Transmission Project" under Attachments X or Z of the OATT could affect the Transmission Project, the Developer shall participate in the interconnection process as an Affected System Operator in accordance with the requirements set forth in Section 30.3.5 of Attachment X of the OATT. If the NYISO determines that a proposed transmission expansion under Sections 3.7 and 4.5 of the OATT could affect the Transmission Project, the Developer shall participate in the transmission expansion process as an affected Transmission Owner in accordance with the requirements set forth in Sections 3.7 and 4.5 of the OATT.

4.2. Interconnection with Affected System

If part of the Transmission Project will affect the facilities of an Affected System as determined in Attachment P of the OATT, the Developer shall satisfy the requirements of the Affected System Operator for the interconnection of the Transmission Project.

4.3. Coordination of Interregional Transmission Project

If the Transmission Project is or seeks to become an Interregional Transmission Project selected by the NYISO and by the transmission provider in one or more neighboring transmission planning region(s) to address an identified Reliability Need, the Developer shall

coordinate its development and construction of the Transmission Project in New York with its responsibilities in the relevant neighboring transmission planning region(s) and must satisfy the applicable planning requirements of the relevant transmission planning region(s).

ARTICLE 5. OPERATION REQUIREMENTS FOR THE TRANSMISSION PROJECT

If the Developer is a Transmission Owner, the Developer shall comply with the operating requirements set forth in the ISO/TO Agreement. If the Developer is not a Transmission Owner, the Developer shall: (i) execute, and/or obtain a FERC accepted, interconnection agreement for the Transmission Project in accordance with the requirements in Attachment P of the OATT; (ii) satisfy the applicable requirements set forth in the interconnection agreement and ISO Procedures for the safe and reliable operation of the Transmission Project consistent with the Project Description set forth in Appendix A by the In-Service Date, including satisfying all applicable testing, metering, communication, system protection, switching, start-up, and synchronization requirements; (iii) enter into required operating protocols as determined by the NYISO; (iv) register with NERC as a Transmission Owner, be certified as a Transmission Operator unless otherwise agreed by the Parties, and comply with all NERC Reliability Standards and Applicable Reliability Requirements applicable to Transmission Owners and Transmission Operators; and (v) prior to energizing the Transmission Project, execute an operating agreement with the NYISO.

ARTICLE 6. INSURANCE

The Developer shall, at its own expense, maintain in force throughout the period of this Agreement, and until released by the NYISO, the following minimum insurance coverages, with insurers authorized to do business in the state of New York and rated “A- (minus) VII” or better by A.M. Best & Co. (or if not rated by A.M. Best & Co., a rating entity acceptable to the NYISO):

- 6.1 Workers’ Compensation and Employers’ Liability Insurance providing statutory benefits in accordance with the laws and regulations of New York State under NCCI Coverage Form No. WC 00 00 00, as amended or supplemented from time to time, or an equivalent form acceptable to the NYISO; *provided, however*, if the Transmission Project will be located in part outside of New York State, Developer shall maintain such Employers’ Liability Insurance coverage with a minimum limit of One Million Dollars (\$1,000,000).
- 6.2 Commercial General Liability Insurance – under ISO Coverage Form No. CG 00 01 (04/13), as amended or supplemented from time to time, or an equivalent form acceptable to the NYISO – with minimum limits of Two Million Dollars (\$2,000,000) per occurrence/Four Million Dollars (\$4,000,000) aggregate combined single limit for personal injury, bodily injury, including death and property damage.
- 6.3 Commercial Business Automobile Liability Insurance – under ISO Coverage Form No. CA 00 01 10 13, as amended or supplemented from time to time, or an equivalent form acceptable to the NYISO – for coverage of owned and non-owned and hired vehicles, trailers or semi-trailers designed for travel on public roads, with a minimum,

combined single limit of One Million Dollars (\$1,000,000) per occurrence for bodily injury, including death, and property damage.

- 6.4 Umbrella/Excess Liability Insurance over and above the Employers' Liability, Commercial General Liability, and Commercial Business Automobile Liability Insurance coverage, with a minimum combined single limit of Twenty-Five Million Dollars (\$25,000,000) per occurrence/Twenty-Five Million Dollars (\$25,000,000) aggregate.
- 6.5 Builder's Risk Insurance in a reasonably prudent amount consistent with Good Utility Practice.
- 6.6 The Commercial General Liability Insurance, Commercial Business Automobile Liability Insurance and Umbrella/Excess Liability Insurance policies of the Developer shall name the NYISO and its respective directors, officers, agents, servants and employees ("NYISO Parties") as additional insureds. For Commercial General Liability Insurance, the Developer shall name the NYISO Parties as additional insureds under the following ISO form numbers, as amended or supplemented from time to time, or an equivalent form acceptable to the NYISO: (i) ISO Coverage Form No. CG 20 37 04 13 ("Additional Insured – Owners, Lessees or Contractors – Completed Operations") and (ii) (A) ISO Coverage Form No. CG 20 10 04 13 ("Additional Insured – Owner, Lessees or Contractors – Scheduled Person or Organization"), or (B) ISO Coverage Form No. CG 20 26 04 13 ("Additional Insured – Designated Person or Organization"). For Commercial Business Automobile Liability Insurance, the Developer shall name the NYISO Parties as additional insureds under ISO Coverage Form No. CA 20 48 10 13 ("Designated Insured for Covered Autos Liability Coverage"), as amended or supplemented from time to time, or an equivalent form acceptable to the NYISO.
- 6.7 All policies shall contain provisions whereby the insurers waive all rights of subrogation in accordance with the provisions of this Agreement against the NYISO Parties and provide thirty (30) Calendar days advance written notice to the NYISO Parties prior to non-renewal, cancellation or any material change in coverage or condition.
- 6.8 The Commercial General Liability Insurance, Commercial Business Automobile Liability Insurance and Umbrella/Excess Liability Insurance policies shall contain provisions that specify that the policies are primary and shall apply to such extent without consideration for other policies separately carried and shall state that each insured is provided coverage as though a separate policy had been issued to each, except the insurer's liability shall not be increased beyond the amount for which the insurer would have been liable had only one insured been covered. The Developer shall be responsible for its respective deductibles or retentions.
- 6.9 The Commercial General Liability Insurance, Commercial Business Automobile Liability Insurance and Umbrella/Excess Liability Insurance policies, if written on a Claims First Made Basis in a form acceptable to the NYISO, shall be maintained in

full force and effect for two (2) years after termination of this Agreement, which coverage may be in the form of an extended reporting period (ERP) or a separate policy, if agreed by the Developer and the NYISO.

- 6.10 The requirements contained herein as to the types and limits of all insurance to be maintained by the Developer are not intended to and shall not in any manner, limit or qualify the liabilities and obligations assumed by the Developer under this Agreement.
- 6.11 The Developer shall provide certification of all insurance required in this Agreement, executed by each insurer or by an authorized representative of each insurer: (A) within ten (10) days following: (i) execution of this Agreement, or (ii) the NYISO's date of filing this Agreement if it is filed unexecuted with FERC, and (B) as soon as practicable after the end of each fiscal year or at the renewal of the insurance policy and in any event within thirty (30) days thereafter.
- 6.12 Notwithstanding the foregoing, the Developer may self-insure to meet the minimum insurance requirements of Articles 6.2 through 6.10 to the extent it maintains a self-insurance program; *provided that*, the Developer's senior debt is rated at investment grade, or better, by Standard & Poor's and that its self-insurance program meets the minimum insurance requirements of Articles 6.2 through 6.10. For any period of time that the Developer's senior debt is unrated by Standard & Poor's or is rated at less than investment grade by Standard & Poor's, the Developer shall comply with the insurance requirements applicable to it under Articles 6.2 through 6.11. In the event that the Developer is permitted to self-insure pursuant to this Article 6.12, it shall notify the NYISO that it meets the requirements to self-insure and that its self-insurance program meets the minimum insurance requirements in a manner consistent with that specified in Article 6.11.
- 6.13 The Developer and the NYISO agree to report to each other in writing as soon as practical all accidents or occurrences resulting in injuries to any person, including death, and any property damage arising out of this Agreement.
- 6.14 Notwithstanding the minimum insurance coverage types and amounts described in this Article 6, the Developer: (i) shall also maintain any additional insurance coverage types and amounts required under Applicable Laws and Regulations, including New York State law, and under Good Utility Practice for the work performed by the Developer and its subcontractors under this Agreement, and (ii) shall satisfy the requirements set forth in Articles 6.6 through 6.13 with regard to the additional insurance coverages, including naming the NYISO Parties as additional insureds under these policies.

ARTICLE 7. BREACH AND DEFAULT

7.1. Breach

A Breach of this Agreement shall occur when: (i) the Developer notifies the NYISO in writing that it will not proceed to develop the Transmission Project for reasons other than those set forth in Articles 8.1(i) through (iv); (ii) the Developer fails to meet a Critical Path Milestone,

as the milestone may be extended with the agreement of the NYISO under Article 3.3.4 of this Agreement, set forth in the Development Schedule in Appendix C to this Agreement; (iii) the Developer makes a Significant Modification to the Transmission Project without the prior written consent of the NYISO; (iv) the Developer fails to pay a monthly invoice within the timeframe set forth in Article 3.5; (v) the Developer misrepresents a material fact of its representations and warranties set forth in Article 12; (vi) a Party assigns this Agreement in a manner inconsistent with the terms of Article 10 of this Agreement; (vii) the Developer fails to comply with any other material term or condition of this Agreement; (viii) a custodian, receiver, trustee or liquidator of the Developer, or of all or substantially all of the assets of the Developer, is appointed in any proceeding brought by the Developer; or (ix) any such custodian, receiver, trustee, or liquidator is appointed in any proceeding brought against the Developer that is not discharged within ninety (90) Days after such appointment, or if the Developer consents to or acquiesces in such appointment. A Breach shall not occur as a result of a Force Majeure event in accordance with Article 15.5. A Breach shall also not occur as a result of a delay caused by a Connecting Transmission Owner or an Affected System Operator.

7.2. Default

Upon a Breach, the non-Breaching Party shall give written notice of the Breach to the Breaching Party describing in reasonable detail the nature of the Breach and, where known and applicable, the steps necessary to cure such Breach, including whether and what such steps must be accomplished to complete the Transmission Project by the Required Project In-Service Date. The Breaching Party shall have thirty (30) Calendar Days from receipt of the Breach notice to cure the Breach, or such other period of time as may be agreed upon by the Parties, which agreement the NYISO will not unreasonably withhold, condition, or delay if it determines a longer cure period will not threaten the Developer's ability to complete the Transmission Project by the Required Project In-Service Date; *provided, however*, that if the Breach is the result of a Developer's inability or failure to meet a Critical Path Milestone, the Developer may only cure the Breach if either: (i) it meets the Critical Path Milestone within the cure period and demonstrates to the NYISO's satisfaction that, notwithstanding its failure to timely meet the Critical Path Milestone, the Transmission Project will achieve its In-Service Date no later than the Required Project In-Service Date, or (ii) the Developer requests in writing within the cure period, and the NYISO consents to, a change to the missed Critical Path Milestone in accordance with Article 3.3.4. If the Breach is cured within such timeframe, the Breach specified in the notice shall cease to exist. If the Breaching Party does not cure its Breach within this timeframe or cannot cure the Breach in a manner that provides for the Transmission Project to be completed by the Required Project In-Service Date, the non-Breaching Party shall have the right to declare a Default and terminate this Agreement pursuant to Article 8.1.

7.3. Remedies

Upon the occurrence of an event of Default, the non-defaulting Party shall be entitled: (i) to commence an action to require the defaulting Party to remedy such Default and specifically perform its duties and obligations hereunder in accordance with the terms and conditions hereof; and (ii) to exercise such other rights and remedies as it may have in equity or at law; *provided, however*, the defaulting Party's liability under this Agreement shall be limited to the extent set forth in Article 9.1. No remedy conferred by any provision of this Agreement is intended to be

exclusive of any other remedy and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. The election of any one or more remedies shall not constitute a waiver of the right to pursue other available remedies. This Article 7.3 shall survive the termination, expiration, or cancellation of this Agreement.

ARTICLE 8. TERMINATION

8.1. Termination by the NYISO

The NYISO may terminate this Agreement by providing written notice of termination to the Developer in the event that: (i) the Transmission Project is not triggered pursuant to Section 31.2.8.1.1 of Attachment Y of the OATT or is halted pursuant to Sections 31.2.8.2.1 or 31.2.8.2.2, as applicable, of Attachment Y of the OATT; (ii) the Developer notifies the NYISO that it is unable to or has not received the required approvals or authorizations by Governmental Authorities required to develop, construct, and operate the Transmission Project by the Required Project In-Service Date; (iii) the Developer notifies the NYISO that its required approvals or authorizations by Governmental Authorities have been withdrawn by the Governmental Authorities; (iv) the Developer cannot complete the Transmission Project by the Required Project In-Service Date for any reason: (A) including the occurrence of a Force Majeure event that will prevent the Developer from completing the Transmission Project by the Required Project In-Service Date, but (B) excluding a delay caused by a Connecting Transmission Owner or an Affected System Operator; or (v) the NYISO declares a default pursuant to Article 7.2 of this Agreement.

The NYISO will provide the written notice of termination to the Developer within fifteen (15) Business Days of its determination under Article 8.1(i), which notice will specify the date of termination. If the NYISO identifies grounds for termination under Articles 8.1(iv) or (v) or receives notice from the Developer under Articles 8.1(ii) or (iii), the NYISO may, prior to providing a written notice of termination, take action in accordance with Section 31.2.10.1.3 of Attachment Y of the OATT to address the Reliability Need and, notwithstanding the confidentiality provisions in Article 11.2, may disclose information regarding the Transmission Project to Governmental Authorities as needed to implement such action. If the NYISO decides to terminate this Agreement under Article 8.1(ii), (iii), (iv), or (v), it will provide written notice of termination to the Developer, which notice will specify the date of termination. If the Agreement was filed and accepted by FERC pursuant to Section 31.2.8.1.6 of Attachment Y of the OATT, the NYISO will, following its provision of a notice of termination to the Developer, promptly file with FERC for its acceptance a notice of termination of this Agreement.

In the event of termination under Articles 8.1(i), (ii), or (iii), the Developer may be eligible for cost recovery under the OATT in the manner set forth in Attachment Y and Schedule 10 of the OATT. In the event of termination under Articles 8.1(iv) or (v), cost recovery may be permitted as determined by FERC. In the event of termination for any reason under this Article 8.1, the Developer shall use commercially reasonable efforts to mitigate the costs, damages, and charges arising as a consequence of termination and any transfer or winding up of the Transmission Project.

8.2. Reporting of Inability to Comply with Provisions of Agreement

Notwithstanding the notification requirements in Article 3 and this Article 8 of this Agreement, each Party shall notify the other Party promptly upon the notifying Party becoming aware of its inability to comply with any provision of this Agreement. The Parties agree to cooperate with each other and provide necessary information regarding such inability to comply, including the date, duration, reason for inability to comply, and corrective actions taken or planned to be taken with respect to such inability to comply.

8.3. Transmission Project Transfer Rights Upon Termination

If the Transmission Project was proposed as an alternative regulated transmission solution that was selected by the NYISO as the more efficient or cost-effective transmission solution to a Reliability Need and the NYISO terminates this Agreement pursuant to Article 8.1, the NYISO shall have the right, but shall not be required, to request an entity other than the Developer to complete the Transmission Project. The NYISO may exercise this right by providing the Developer with written notice within sixty (60) days after the date on which this Agreement is terminated. If the NYISO exercises its right under this Article 8.3 and Section 31.2.10.1.3 of Attachment Y of the OATT, the Developer shall work cooperatively with the NYISO's designee pursuant to the requirements set forth in Section 31.2.10.1.4 of Attachment Y of the OATT to implement the transition, including entering into good faith negotiations with the NYISO's designee to transfer the Transmission Project to the NYISO's designee. All liabilities under this Agreement existing prior to such transfer shall remain with the Developer, unless otherwise agreed upon by the Developer and the NYISO's designee as part of their good faith negotiations regarding the transfer. This Article 8.3 shall survive the termination, expiration, or cancellation of this Agreement.

ARTICLE 9. LIABILITY AND INDEMNIFICATION

9.1. Liability

Notwithstanding any other provision in the NYISO's tariffs and agreements to the contrary, neither Party shall be liable, whether based on contract, indemnification, warranty, equity, tort, strict liability, or otherwise, to the Other Party or any Transmission Owner, NYISO Market Participant, third party or any other person for any damages whatsoever, including, without limitation, direct, incidental, consequential (including, without limitation, attorneys' fees and litigation costs), punitive, special, multiple, exemplary, or indirect damages arising or resulting from any act or omission under this Agreement, except in the event the Party is found liable for gross negligence or intentional misconduct in the performance of its obligations under this Agreement, in which case the Party's liability for damages shall be limited only to direct actual damages. This Article 9.1 shall survive the termination, expiration, or cancellation of this Agreement.

9.2. Indemnity

Notwithstanding any other provision in the NYISO's tariffs and agreements to the contrary, each Party shall at all times indemnify and save harmless, as applicable, the other Party, its directors, officers, employees, trustees, and agents or each of them from any and all

damages (including, without limitation, any consequential, incidental, direct, special, indirect, exemplary or punitive damages and economic costs), losses, claims, including claims and actions relating to injury to or death of any person or damage to property, liabilities, judgments, demands, suits, recoveries, costs and expenses, court costs, attorney and expert fees, and all other obligations by or to third parties, arising out of, or in any way resulting from this Agreement, *provided, however*, that the Developer shall not have any indemnification obligation under this Article 9.2 with respect to any loss to the extent the loss results from the gross negligence or intentional misconduct of the NYISO; *provided, further*, that the NYISO shall only have an indemnification obligation under this Article 9.2 with respect to any loss resulting from its gross negligence or intentional misconduct to the same extent as provided in Section 2.11.3(b) of the ISO OATT. This Article 9.2 shall survive the termination, expiration, or cancellation of this Agreement.

ARTICLE 10. ASSIGNMENT

This Agreement may be assigned by a Party only with the prior written consent of the other Party; *provided that*:

- (i) any Change of Control shall be considered an assignment under this Article 10 and shall require the other Party's prior written consent;
- (ii) an assignment by the Developer shall be contingent upon the Developer or assignee demonstrating to the satisfaction of the NYISO prior to the effective date of the assignment that: (A) the assignee has the technical competence, financial ability, and materials, equipment, and plans to comply with the requirements of this Agreement and to construct and place in service the Transmission Project by the Required Project In-Service Date consistent with the assignor's cost estimates for the Transmission Project; and (B) the assignee satisfies the requirements for a qualified developer pursuant to Section 31.2.4.1.1 of Attachment Y of the OATT; and
- (iii) the Developer shall have the right to assign this Agreement, without the consent of the NYISO, for collateral security purposes to aid in providing financing for the Transmission Project and shall promptly notify the NYISO of any such assignment; *provided, however*, that such assignment shall be subject to the following: (i) prior to or upon the exercise of the secured creditor's, trustee's, or mortgagee's assignment rights pursuant to said arrangement, the secured creditor, the trustee, or the mortgagee will notify the NYISO of the date and particulars of any such exercise of assignment right(s), and (ii) the secured creditor, trustee, or mortgagee must demonstrate to the satisfaction of the NYISO that any entity that it proposes to complete the Transmission Project meets the requirements for the assignee of a Developer described in Article 10(ii).

For all assignments by any Party, the assignee must assume in a writing, to be provided to the other Party, all rights, duties, and obligations of the assignor arising under this Agreement, including the insurance requirements in Article 6 of this Agreement. Any assignment under this Agreement shall not relieve a Party of its obligations, nor shall a Party's obligations be enlarged,

in whole or in part, by reasons thereof, absent the written consent of the other Party. Where required, consent to assignment will not be unreasonably withheld, conditioned, or delayed. Any attempted assignment that violates this Article 10 is void and ineffective, is a Breach of this Agreement under Article 7.1 and may result in the termination of this Agreement under Articles 8.1 and 7.2.

ARTICLE 11. INFORMATION EXCHANGE AND CONFIDENTIALITY

11.1. Information Access

Subject to Applicable Laws and Regulations, each Party shall make available to the other Party information necessary to carry out obligations and responsibilities under this Agreement and Attachment Y of the OATT. The Parties shall not use such information for purposes other than to carry out their obligations or enforce their rights under this Agreement or Attachment Y of the OATT.

11.2. Confidentiality

- 11.2.1 Confidential Information shall mean: (i) all detailed price information and vendor contracts; (ii) any confidential and/or proprietary information provided by one Party to the other Party that is clearly marked or otherwise designated “Confidential Information”; and (iii) information designated as Confidential Information by the NYISO Code of Conduct contained in Attachment F of the OATT; *provided, however*, that Confidential Information does not include information: (i) in the public domain or that has been previously publicly disclosed; (ii) required by an order of a Governmental Authority to be publicly submitted or divulged (after notice to the other Party); or (iii) necessary to be divulged in an action to enforce this Agreement.
- 11.2.2 The NYISO shall treat any Confidential Information it receives in accordance with the requirements of the NYISO Code of Conduct contained in Attachment F of the OATT. If the Developer receives Confidential Information, it shall hold such information in confidence, employing at least the same standard of care to protect the Confidential Information obtained from the NYISO as it employs to protect its own Confidential Information. Each Party shall not disclose the other Party’s Confidential Information to any third party or to the public without the prior written authorization of the Party providing the information, except: (i) to the extent required for the Parties to perform their obligations under this Agreement, the ISO Tariffs, ISO Related Agreements, or ISO Procedures, or (ii) to fulfill legal or regulatory requirements, provided that if the Party must submit the information to a Governmental Authority in response to a request by the Governmental Authority on a confidential basis, the Party required to disclose the information shall request under applicable rules and regulations that the information be treated as confidential and non-public by the Governmental Authority.

ARTICLE 12. REPRESENTATIONS, WARRANTIES, AND COVENANTS

12.1. General

The Developer makes the following representations, warranties, and covenants, which are effective as to the Developer during the full time this Agreement is effective:

12.2. Good Standing

The Developer is duly organized, validly existing and in good standing under the laws of the state in which it is organized, formed, or incorporated, as applicable. The Developer is qualified to do business in the state or states in which the Transmission Project is located. The Developer has the corporate power and authority to own its properties, to carry on its business as now being conducted and to enter into this Agreement and carry out the transactions contemplated hereby and to perform and carry out covenants and obligations on its part under and pursuant to this Agreement.

12.3. Authority

The Developer has the right, power, and authority to enter into this Agreement, to become a Party hereto, and to perform its obligations hereunder. This Agreement is a legal, valid, and binding obligation of the Developer, enforceable against the Developer in accordance with its terms, except as the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization, or other similar laws affecting creditors' rights generally and by general equitable principles (regardless of whether enforceability is sought in a proceeding in equity or at law).

12.4. No Conflict

The execution, delivery and performance of this Agreement does not violate or conflict with the organizational or formation documents, or bylaws or operating agreement, of the Developer, or any judgment, license, permit, order, material agreement or instrument applicable to or binding upon the Developer or any of its assets.

12.5. Consent and Approval

The Developer has sought or obtained, or, in accordance with this Agreement will seek or obtain, such consent, approval, authorization, order, or acceptance by any Governmental Authority in connection with the execution, delivery and performance of this Agreement, and it will provide to any Governmental Authority notice of any actions under this Agreement that are required by Applicable Laws and Regulations.

12.6. Compliance with All Applicable Laws and Regulations

The Developer will comply with all Applicable Laws and Regulations, including all approvals, authorizations, orders, and permits issued by any Governmental Authority; all Applicable Reliability Requirements, and all applicable Transmission Owner Technical Standards in the performance of its obligations under this Agreement.

ARTICLE 13. DISPUTE RESOLUTION

If a dispute arises under this Agreement, the Parties shall use the dispute resolution process described in Article 11 of the NYISO's Services Tariff, as such process may be amended from time to time. Notwithstanding the process described in Article 11 of the NYISO's Services Tariff, the NYISO may terminate this Agreement in accordance with Article 8 of this Agreement.

ARTICLE 14. SURVIVAL

The rights and obligations of the Parties in this Agreement shall survive the termination, expiration, or cancellation of this Agreement to the extent necessary to provide for the determination and enforcement of said obligations arising from acts or events that occurred while this Agreement was in effect. The remedies and rights and obligation upon termination provisions in Articles 7.3 and 8.3 of this Agreement, the liability and indemnity provisions in Article 9, and the billing and payment provisions in Article 3.5 of this Agreement shall survive termination, expiration, or cancellation of this Agreement.

ARTICLE 15. MISCELLANEOUS

15.1. Notices

Any notice or request made to or by any Party regarding this Agreement shall be made to the Parties, as indicated below:

NYISO:

[Insert contact information.]

Developer:

[Insert contact information.]

15.2. Entire Agreement

Except as described below in this Section 15.2, this Agreement, including all Appendices attached hereto, constitutes the entire agreement between the Parties with reference to the subject matter hereof, and supersedes all prior and contemporaneous understandings of agreements, oral or written, between the Parties with respect to the subject matter of this Agreement. There are no other agreements, representations, warranties, or covenants that constitute any part of the consideration for, or any condition to, either Party's compliance with its obligation under this Agreement.

Notwithstanding the foregoing, this Agreement is in addition to, and does not supersede or limit the Developer's and NYISO's rights and responsibilities, under any interconnection agreement(s) entered into by and among the NYISO, Developer, and Connecting Transmission Owner(s) for the Transmission Project to interconnect to the New York State Transmission

System, as such interconnection agreements may be amended, supplemented, or modified from time to time.

15.3. Cost Recovery

The Developer may recover the costs of the Transmission Project in accordance with the cost recovery requirements in the ISO Tariffs and, if the Developer is the Responsible Transmission Owner, the ISO Tariffs and the ISO/TO Reliability Agreement.

15.4. Binding Effect

This Agreement, and the rights and obligations hereof, shall be binding upon and shall inure to the benefit of the successors and permitted assigns of the Parties hereto.

15.5. Force Majeure

A Party that is unable to carry out an obligation imposed on it by this Agreement due to Force Majeure shall notify the other Party in writing as soon as reasonably practicable after the occurrence of the Force Majeure event and no later than the timeframe set forth in Article 3.3.3(i) if the Force Majeure event will result in a potential delay for the Developer to meet a Critical Path Milestone. If the notifying Party is the Developer, it shall indicate in its notice whether the occurrence of a Force Majeure event has the potential to delay its meeting one or more Critical Path Milestones and/or completing the Transmission Project by the Required Project In-Service Date. If the Force Majeure will delay the Developer's ability to meet one or more Critical Path Milestones, the Developer shall request with its notice a change to the impacted milestones in accordance with the requirements in Section 3.3.4 and must satisfy the requirements in Section 3.3.4 to change any Critical Path Milestones. A Party shall not be responsible for any non-performance or considered in Breach or Default under this Agreement, for any failure to perform any obligation under this Agreement to the extent that such failure is due to Force Majeure and will not delay the Developer's ability to complete the Transmission Project by the Required Project In-Service Date. A Party shall be excused from whatever performance is affected only for the duration of the Force Majeure and while the Party exercises reasonable efforts to alleviate such situation. As soon as the nonperforming Party is able to resume performance of its obligations excused because of the occurrence of Force Majeure, such Party shall resume performance and give prompt notice thereof to the other Party. In the event that Developer will not be able to complete the Transmission Project by the Required Project In-Service Date because of the occurrence of Force Majeure, the NYISO may terminate this Agreement in accordance with Section 8.1 of this Agreement.

15.6. Disclaimer

Except as provided in this Agreement, the Parties make no other representations, warranties, covenants, guarantees, agreements or promises regarding the subject matter of this Agreement.

15.7. No NYISO Liability for Review or Approval of Developer Materials

No review or approval by the NYISO or its subcontractor(s) of any agreement, document, instrument, drawing, specifications, or design proposed by the Developer nor any inspection carried out by the NYISO or its subcontractor(s) pursuant to this Agreement shall relieve the Developer from any liability for any negligence in its preparation of such agreement, document, instrument, drawing, specification, or design, or its carrying out of such works; or for its failure to comply with the Applicable Laws and Regulations, Applicable Reliability Requirements, and Transmission Owner Technical Standards with respect thereto, nor shall the NYISO be liable to the Developer or any other person by reason of its or its subcontractor's review or approval of an agreement, document, instrument, drawing, specification, or design or such inspection.

15.8. Amendment

The Parties may by mutual agreement amend this Agreement, including the Appendices to this Agreement, by a written instrument duly executed by both of the Parties. If the Agreement was filed and accepted by FERC pursuant to Section 31.2.8.1.6 of Attachment Y of the OATT, the NYISO shall promptly file the amended Agreement for acceptance with FERC.

15.9. No Third Party Beneficiaries

With the exception of the indemnification rights of the NYISO's directors, officers, employees, trustees, and agents under Article 9.2, this Agreement is not intended to and does not create rights, remedies, or benefits of any character whatsoever in favor of any persons, corporations, associations, or entities other than the Parties, and the obligations herein assumed are solely for the use and benefit of the Parties, their successors in interest and their permitted assigns.

15.10. Waiver

The failure of a Party to this Agreement to insist, on any occasion, upon strict performance of any provision of this Agreement will not be considered a waiver of any obligation, right, or duty of, or imposed upon, such Party. Any waiver at any time by either Party of its rights with respect to this Agreement shall not be deemed a continuing waiver or a waiver with respect to any other failure to comply with any other obligation, right, or duty of this Agreement. Any waiver of this Agreement shall, if requested, be provided in writing.

15.11. Rules of Interpretation

This Agreement, unless a clear contrary intention appears, shall be construed and interpreted as follows: (1) the singular number includes the plural number and vice versa; (2) reference to any person includes such person's successors and assigns but, in the case of a Party, only if such successors and assigns are permitted by this Agreement, and reference to a person in a particular capacity excludes such person in any other capacity or individually; (3) reference to any agreement (including this Agreement), document, instrument or tariff means such agreement, document, instrument, or tariff as amended or modified and in effect from time to time in accordance with the terms thereof and, if applicable, the terms hereof; (4) reference to any Applicable Laws and Regulations means such Applicable Laws and Regulations as

amended, modified, codified, or reenacted, in whole or in part, and in effect from time to time, including, if applicable, rules and regulations promulgated thereunder; (5) unless expressly stated otherwise, reference to any Article, Section or Appendix means such Article of this Agreement, such Appendix to this Agreement, or such Section of this Agreement, as the case may be; (6) “hereunder”, “hereof”, “herein”, “hereto” and words of similar import shall be deemed references to this Agreement as a whole and not to any particular Article or other provision hereof or thereof; (7) “including” (and with correlative meaning “include”) means including without limiting the generality of any description preceding such term; and (8) relative to the determination of any period of time, “from” means “from and including”, “to” means “to but excluding” and “through” means “through and including”.

15.12. Severability

Each provision of this Agreement shall be considered severable and if, for any reason, any provision is determined by a court or regulatory authority of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions of this Agreement shall continue in full force and effect and shall in no way be affected, impaired, or invalidated, and such invalid, void, or unenforceable provision should be replaced with valid and enforceable provision or provisions that otherwise give effect to the original intent of the invalid, void, or unenforceable provision.

15.13. Multiple Counterparts

This Agreement may be executed in two or more counterparts, each of which is deemed an original, but all constitute one and the same instrument.

15.14. No Partnership

This Agreement shall not be interpreted or construed to create an association, joint venture, agency relationship, or partnership among the Parties or to impose any partnership obligation or partnership liability upon any Party. No Party shall have any right, power, or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or otherwise bind, any other Party.

15.15. Headings

The descriptive headings of the various Articles and Sections of this Agreement have been inserted for convenience of reference only and are of no significance in the interpretation or construction of this Agreement.

15.16. Governing Law

This Agreement shall be governed, as applicable, by: (i) the Federal Power Act, and (ii) the substantive law of the State of New York, without regard to any conflicts of laws provisions thereof (except to the extent applicable, Sections 5-1401 and 5-1402 of the New York General Obligations Law).

15.17. Jurisdiction and Venue

Any legal action or judicial proceeding regarding a dispute arising out of or relating to this Agreement or any performance by either Party pursuant thereto that: (i) is within the primary or exclusive jurisdiction of FERC shall be brought in the first instance at FERC, or (ii) is not within the primary or exclusive jurisdiction of FERC shall be brought in, and fully and finally resolved in, either, as applicable, the courts of the State of New York situated in Albany County, New York or the United States District Court of the Northern District of New York situated in Albany, New York.

IN WITNESS WHEREFORE, the Parties have executed this Agreement in duplicate originals, each of which shall constitute an original Agreement between the Parties.

NYISO

By: _____

Title: _____

Date: _____

[Insert name of Developer]

By: _____

Title: _____

Date: _____

Appendix A – Project Description

Appendix B – Scope of Work

Appendix C – Development Schedule

[To be prepared by Developer consistent with the Developer's project information submission, pursuant to Attachment C of the Reliability Planning Process Manual, and subject to acceptance by the NYISO, as required by Article 3.3 of this Agreement.]

The Developer shall demonstrate to the NYISO that it timely meets the following Critical Path Milestones and Advisory Milestones and that such milestones remain in good standing.

Critical Path Milestones: *[To be developed with consideration of each of the work plan requirements submitted by the Developer pursuant to Attachment C to the Reliability Planning Process Manual and presented herein according to the sequence of the critical path. The NYISO anticipates that the Developer's critical path schedule will include many of the example milestones set forth below and that most of the other example milestones will be included as Advisory Milestones. The composition and sequence of the Critical Path Milestones will differ depending on the Developer's Transmission Project and schedule.]*

Advisory Milestones: *[To include in Development Schedule other milestones (e.g., periodic project review meetings) that are not determined to be on the critical path, but that will be monitored by the Developer and reported to NYISO.]*

[Example Milestones:

- *Interconnection studies (e.g. Optional Feasibility Study, System Impact Study, Facilities Study)*
- *Siting activities (e.g. locating line routing, access roads, and substation site location options)*
- *Environmental impact studies (relative to siting options)*
- *Engineering (initial)*
- *Permitting and regulatory activities (e.g. Certificate of Environmental Compatibility and Public Need)*
- *Public outreach plan*
- *Initiation of negotiation of key contracts and financing*
- *Acquisition of all necessary approvals and authorizations of Governmental Authorities, including identification of all required regulatory approvals*
- *Closing of project financing*
- *Completion of key contracts*
- *Engineering (detailed)*

- *Procurement of major equipment and materials*
- *Environmental management & construction plan (for Article VII certification)*
- *Acquisition of [all or %] required rights of way and property / demonstration of site control*
- *Surveying and geotechnical assessment (relative to line and station layouts)*
- *Execution, or filing of unexecuted version, of interconnection agreement*
- *Engineering (completed)*
- *Delivery of major electrical equipment*
- *Line and substation site work including milestones for foundations, towers, conductor stringing, equipment delivery and installation, substation controls and communication, security, etc.*
- *Construction outage and restoration coordination plan*
- *Completion, verification and testing*
- *Operating and maintenance agreements and instructions*
- *In-Service Date*
- *Required Project In-Service Date]*

**APPENDIX D – PUBLIC POLICY TRANSMISSION PLANNING PROCESS
DEVELOPMENT AGREEMENT**

TABLE OF CONTENTS

ARTICLE 1. DEFINITIONS

ARTICLE 2. EFFECTIVE DATE AND TERM

- 2.1. Effective Date
- 2.2. Filing
- 2.3. Term of Agreement

ARTICLE 3. TRANSMISSION PROJECT DEVELOPMENT AND CONSTRUCTION

- 3.1. Application for Required Authorizations and Approvals
- 3.2. Development and Construction of Transmission Project
- 3.3. Milestones
- 3.4. Modifications to Required Project In-Service Date
- 3.5. Modifications to Transmission Project
- 3.6. Billing and Payment
- 3.7. Project Monitoring
- 3.8. Right to Inspect
- 3.9. Exclusive Responsibility of Developer
- 3.10. Subcontractors
- 3.11. No Services or Products Under NYISO Tariffs
- 3.12. Tax Status

ARTICLE 4. COORDINATION WITH THIRD PARTIES

- 4.1. Interconnection Requirements for Transmission Project
- 4.2. Interconnection with Affected System
- 4.3. Coordination of Interregional Transmission Project

ARTICLE 5. OPERATION REQUIREMENTS FOR THE TRANSMISSION PROJECT

ARTICLE 6. INSURANCE

ARTICLE 7. BREACH AND DEFAULT

- 7.1. Breach
- 7.2. Default
- 7.3. Remedies

ARTICLE 8. TERMINATION

- 8.1. Termination by the NYISO
- 8.2. Reporting of Inability to Comply with Provisions of Agreement
- 8.3. Transmission Project Transfer Rights Upon Termination

ARTICLE 9. LIABILITY AND INDEMNIFICATION

- 9.1. Liability
- 9.2. Indemnity

ARTICLE 10. ASSIGNMENT

ARTICLE 11. INFORMATION EXCHANGE AND CONFIDENTIALITY

- 11.1. Information Access
- 11.2. Confidentiality

ARTICLE 12. REPRESENTATIONS, WARRANTIES AND COVENANTS

- 12.1. General
- 12.2. Good Standing
- 12.3. Authority
- 12.4. No Conflict

12.5. Consent and Approval

12.6. Compliance with All Applicable Laws and Regulations

ARTICLE 13. DISPUTE RESOLUTION

ARTICLE 14. SURVIVAL

ARTICLE 15. MISCELLANEOUS

15.1. Notices

15.2. Entire Agreement

15.3. Cost Recovery

15.4. Binding Effect

15.5. Force Majeure

15.6. Disclaimer

15.7. No NYISO Liability for Review or Approval of Developer Materials

15.8. Amendment

15.9. No Third Party Beneficiaries

15.10. Waiver

15.11. Rules of Interpretation

15.12. Severability

15.13. Multiple Counterparts

15.14. No Partnership

15.15. Headings

15.16. Governing Law

15.17. Jurisdiction and Venue

Appendices

THIS DEVELOPMENT AGREEMENT (“Agreement”) is made and entered into this ____ day of _____ 20__, by and between _____, a [corporate description] organized and existing under the laws of the State/Commonwealth of _____ (“Developer”), and the New York Independent System Operator, Inc., a not-for-profit corporation organized and existing under the laws of the State of New York (“NYISO”). Developer or NYISO each may be referred to as a “Party” or collectively referred to as the “Parties.”

RECITALS

WHEREAS, the NYISO administers the Comprehensive System Planning Process (“CSPP”) in the New York Control Area pursuant to the terms set forth in Attachment Y of the NYISO’s Open Access Transmission Tariff (“OATT”), as accepted by the Federal Energy Regulatory Commission (“FERC”);

WHEREAS, as part of the CSPP, the NYISO administers a Public Policy Transmission Planning Process pursuant to which Public Policy Transmission Need(s) are identified; proposed solutions to the identified need(s) are solicited by the NYISO; and the more efficient or cost-effective transmission solution to satisfy the identified need(s) is selected by the NYISO and reported in the NYISO’s Public Policy Transmission Planning Report;

WHEREAS, the Developer has proposed a Public Policy Transmission Project to satisfy an identified Public Policy Transmission Need (“Transmission Project”);

WHEREAS, the NYISO has selected the Developer’s Transmission Project as the more efficient or cost-effective transmission solution to satisfy an identified Public Policy Transmission Need and has directed the Developer to proceed with the Transmission Project;

WHEREAS, the Developer has agreed to obtain the required authorizations and approvals from Governmental Authorities needed for the Transmission Project, to develop and construct the Transmission Project, and to abide by the related requirements in Attachment Y of the OATT, the ISO Tariffs, and the ISO Procedures;

WHEREAS, the Developer and the NYISO have agreed to enter into this Agreement pursuant to Section 31.4.12.2 of Attachment Y of the OATT for the purpose of ensuring that the Transmission Project will be constructed and in service in time to satisfy the Public Policy Transmission Need (“Required Project In-Service Date”); and

WHEREAS, the Developer has agreed to construct, and the NYISO has requested that the Developer proceed with construction of, the Transmission Project to address the identified Public Policy Transmission Need by the Required Project In-Service Date.

NOW, THEREFORE, in consideration of and subject to the mutual covenants contained herein, it is agreed:

ARTICLE 1. DEFINITIONS

Whenever used in this Agreement with initial capitalization, the following terms shall have the meanings specified in this Article 1. Terms used in this Agreement with initial

capitalization that are not defined in this Article 1 shall have the meanings specified in Section 31.1.1 of Attachment Y of the OATT or, if not therein, in Article 1 of the OATT.

Advisory Milestones shall mean the milestones set forth in the Development Schedule in Attachment C to this Agreement that are not Critical Path Milestones.

Affected System Operator shall mean any Affected System Operator(s) identified in connection with the Transmission Project pursuant to Attachment P of the ISO OATT.

Applicable Laws and Regulations shall mean: (i) all duly promulgated applicable federal, state and local laws, regulations, rules, ordinances, codes, decrees, judgments, directives, or judicial or administrative orders, permits and other duly authorized actions of any Governmental Authority, and (ii) all applicable requirements of the ISO Tariffs, ISO Procedures, and ISO Related Agreements.

Applicable Reliability Organizations shall mean the NERC, the NPCC, and the NYSRC.

Applicable Reliability Requirements shall mean the requirements, criteria, rules, standards, and guidelines, as they may be amended and modified and in effect from time to time, of: (i) the Applicable Reliability Organizations, (ii) the Connecting Transmission Owner(s), (iii) *[to insert the name(s) of any other Transmission Owners or developers whose transmission facilities the NYISO has determined may be impacted by the Transmission Project]*, and (iv) any Affected System Operator; *provided, however*, that no Party shall waive its right to challenge the applicability or validity of any requirement, criteria, rule, standard, or guideline as applied to it in the context of this Agreement.

Breach shall have the meaning set forth in Article 7.1 of this Agreement.

Breaching Party shall mean a Party that is in Breach of this Agreement.

Business Day shall mean Monday through Friday, excluding federal holidays.

Calendar Day shall mean any day including Saturday, Sunday, or a federal holiday.

Change of Control shall mean a change in ownership of more than 50% of the membership or ownership interests or other voting securities of the Developer to a third party in one or more related transactions, or any other transaction that has the effect of transferring control of the Developer to a third party.

Confidential Information shall mean any information that is defined as confidential by Article 11.2.

Connecting Transmission Owner shall be the Connecting Transmission Owner(s) identified in connection with the Transmission Project pursuant to Attachment P of the ISO OATT.

Critical Path Milestones shall mean the milestones identified as such in the Development Schedule in Attachment C to this Agreement that must be met for the Transmission Project to be constructed and operating by the Required Project In-Service Date.

Default shall mean the failure of a Party in Breach of this Agreement to cure such Breach in accordance with Article 7.2 of this Agreement.

Developer shall have the meaning set forth in the introductory paragraph.

Development Schedule shall mean the schedule of Critical Path Milestones and Advisory Milestones set forth in Appendix C to this Agreement.

Effective Date shall mean the date upon which this Agreement becomes effective as determined in Article 2.1 of this Agreement.

FERC shall mean the Federal Energy Regulatory Commission or its successor.

Force Majeure shall mean any act of God, labor disturbance, act of the public enemy, war, insurrection, riot, fire, storm or flood, explosion, breakage or accident to machinery or equipment, any order, regulation or restriction imposed by governmental, military or lawfully established civilian authorities, or any other cause beyond a Party's control. A Force Majeure event does not include acts of negligence or intentional wrongdoing by the Party claiming Force Majeure.

Good Utility Practice shall mean any of the practices, methods and acts engaged in or approved by a significant portion of the electric industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practice, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to delineate acceptable practices, methods, or acts generally accepted in the region.

Governmental Authority shall mean any federal, state, local or other governmental regulatory or administrative agency, public authority, court, commission, department, board, or other governmental subdivision, legislature, rulemaking board, tribunal, or other governmental authority having jurisdiction over any of the Parties, their respective facilities, or the respective services they provide, and exercising or entitled to exercise any administrative, executive, police, or taxing authority or power; *provided, however*, that such term does not include the NYISO, the Developer, the Connecting Transmission Owner(s), the Affected System Operator(s), or any Affiliate thereof.

In-Service Date shall mean the date upon which the Transmission Project is energized consistent with the provisions of the Transmission Project Interconnection Agreement and available to provide Transmission Service under the NYISO Tariffs.

ISO/TO Agreement shall mean the *Agreement Between the New York Independent System Operator and Transmission Owners*, as filed with and accepted by the Commission in *Cent. Hudson Gas & Elec. Corp., et al.*, 88 FERC ¶ 61,138 (1999) in Docket Nos. ER97-1523, *et al.*, and as amended or supplemented from time to time, or any successor agreement thereto.

New York State Transmission System shall mean the entire New York State electrical transmission system, which includes: (i) the Transmission Facilities Under ISO Operational Control; (ii) the Transmission Facilities Requiring ISO Notification; and (iii) all remaining transmission facilities within the New York Control Area.

NERC shall mean the North American Electric Reliability Corporation or its successor organization.

NPCC shall mean the Northeast Power Coordinating Council or its successor organization.

NYPSC shall mean the New York State Public Service Commission or its successor.

NYSRC shall mean the New York State Reliability Council or its successor organization.

OATT shall mean the NYISO's Open Access Transmission Tariff, as filed with the Commission, and as amended or supplemented from time to time, or any successor tariff thereto.

Party or Parties shall mean the NYISO, the Developer, or both.

Point of Interconnection shall mean the point or points at which the Developer's Transmission Project will interconnect to the New York State Transmission System.

Project Description shall mean the description of the Transmission Project set forth in Appendix A to this Agreement that is consistent with the project proposed and evaluated in the NYISO's Public Policy Transmission Planning Process and selected by the NYISO Board of Directors as the more efficient or cost-effective transmission solution to the identified Public Policy Transmission Need.

Public Policy Transmission Planning Process Manual shall mean the NYISO's manual adopted by the NYISO stakeholder Operating Committee describing the NYISO's procedures for implementing the Public Policy Transmission Planning Process component of the NYISO's Comprehensive System Planning Process, as the manual is amended or supplemented from time to time, or any successor manual thereto.

Required Project In-Service Date shall mean the In-Service Date by which the Transmission Project must be constructed and operating, which date shall be: (i) the date by which the Public Policy Transmission Need must be satisfied as prescribed by the NYPSC in its order identifying the need or in a subsequent order, or (ii) if the NYPSC has not prescribed a date, the date proposed by the Developer and reviewed and accepted by the NYISO, which date may be either: (A) the In-Service Date specified by the Developer in the project information it submitted under Attachment Y of the OATT for use by the NYISO in its selection of the Transmission Project as the more efficient or cost-effective transmission solution to satisfy the Public Policy Transmission Need, or (B) such other date accepted by the NYISO as reasonable in light of the Public Policy Transmission Need. The Required Project In-Service Date is set forth in the Development Schedule contained in Appendix C to this Agreement.

Services Tariff shall mean the NYISO's Market Administration and Control Area Services Tariff, as filed with the Commission, and as amended or supplemented from time to time, or any successor tariff thereto.

Significant Modification shall mean a Developer's proposed modification to its Transmission Project that: (i) could impair the Transmission Project's ability to meet the identified Public Policy Transmission Need, (ii) could delay the In-Service Date of the Transmission Project beyond the Required Project In-Service Date, or (iii) would constitute a material change to the project information submitted by the Developer under Attachment Y of the OATT for use by the NYISO in evaluating the Transmission Project for purposes of selecting the more efficient or cost-effective transmission solution to meet the identified Public Policy Transmission Need.

Scope of Work shall mean the description of the work required to implement the Transmission Project as set forth in Appendix B to this Agreement. The Scope of Work shall be drawn from the Developer's submission of the "Information for a Proposed Solution to a Public Policy Transmission Need" and the "Data Submission for Public Policy Transmission Projects," which are set forth in Attachments B and C of the NYISO Public Policy Transmission Planning Process Manual, as may be updated as agreed upon by the Parties. The Scope of Work shall include, but not be limited to, a description of: the acquisition of required rights-of-ways, the work associated with the licensing, design, financing, environmental and regulatory approvals, engineering, procurement of equipment, construction, installation, testing, and commissioning of the Transmission Project; the relevant technical requirements, standards, and guidelines pursuant to which the work will be performed; the major equipment and facilities to be constructed and/or installed in connection with the Transmission Project, and the cost estimates for the work associated with the Transmission Project.

Transmission Owner Technical Standards shall mean the technical requirements and standards (*e.g.*, equipment or facilities electrical and physical capabilities, design characteristics, or construction requirements), as those requirements and standards are amended and modified and in effect from time to time, of: (i) the Connecting Transmission Owner(s), (ii) *[to insert the name(s) of any other Transmission Owners or developers whose transmission facilities the NYISO has determined may be impacted by the Transmission Project]*, and (iii) any Affected System Operator.

Transmission Project shall mean the Developer's proposed Public Policy Transmission Project selected by the NYISO as the more efficient or cost-effective transmission solution to a Public Policy Transmission Need that is subject to this Agreement, as described in the Project Description set forth in Appendix A to this Agreement.

ARTICLE 2. EFFECTIVE DATE AND TERM

2.1. Effective Date

This Agreement shall become effective on the date it has been executed by all Parties; *provided, however*, if the Agreement is filed with FERC as a non-conforming or an unexecuted agreement pursuant to Section 31.4.12.2 of Attachment Y of the OATT, the Agreement shall become effective on the effective date accepted by FERC.

2.2. Filing

If the Agreement must be filed with FERC pursuant to Section 31.4.12.2 of Attachment Y of the OATT, the NYISO shall file this Agreement for acceptance with FERC within the timeframe set forth for the filing in Section 31.4.12.2 of Attachment Y of the OATT. The Developer shall cooperate in good faith with the NYISO with respect to such filing and provide any information requested by the NYISO to comply with Applicable Laws and Regulations. Any Confidential Information shall be treated in accordance with Article 11.2 of this Agreement.

2.3. Term of Agreement

Subject to the termination provisions in Article 8 of this Agreement, this Agreement shall remain in effect from the Effective Date until: (i) the Developer executes an operating agreement with the NYISO, and (ii) the Transmission Project: (A) has been completed in accordance with the terms and conditions of this Agreement, and (B) is in-service; *provided, however*, that the terms of this Agreement shall continue in effect to the extent provided in Article 14 of this Agreement.

ARTICLE 3. TRANSMISSION PROJECT DEVELOPMENT AND CONSTRUCTION

3.1. Application for Required Authorizations and Approvals

The Developer shall timely seek and obtain all authorizations and approvals from Governmental Authorities required to develop, construct, and operate the Transmission Project by the Required Project In-Service Date. The required authorizations and approvals shall be listed in the Scope of Work in Appendix B to this Agreement. The Developer shall seek and obtain the required authorizations and approvals in accordance with the milestones set forth in the Development Schedule in Appendix C to this Agreement. The milestones for obtaining the required authorizations and approvals shall be included in the Development Schedule as Critical Path Milestones and Advisory Milestones, as designated by the Parties under Article 3.3.1. The Developer shall notify the NYISO in accordance with the notice requirements in Article 3.3 if it has reason to believe that it may be unable to timely obtain or is denied an approval or authorization by a Governmental Authority required for the development, construction, or operation of the Transmission Project, or if such approval or authorization is withdrawn or modified.

3.2. Development and Construction of Transmission Project

The Developer shall design, engineer, procure, install, construct, test and commission the Transmission Project in accordance with: (i) the terms of this Agreement, including, but not limited to, the Project Description in Appendix A to this Agreement, the Scope of Work in Appendix B to this Agreement, and the Development Schedule in Appendix C to this Agreement; (ii) Applicable Reliability Requirements; (iii) Applicable Laws and Regulations; (iv) Good Utility Practice; (v) the Transmission Owner Technical Standards, and (vi) any interconnection agreement(s) entered into by and among the NYISO, Developer, and Connecting Transmission Owner(s) for the Transmission Project to interconnect to the New York State Transmission System.

3.3. Milestones

- 3.3.1. The NYISO shall provide the Developer with the Required Project In-Service Date that is set forth in the Public Policy Transmission Planning Report in accordance with Section 31.4.11 of Attachment Y of the OATT. Prior to executing and/or filing this Agreement with FERC, the NYISO and the Developer shall agree to the Critical Path Milestones and Advisory Milestones set forth in the Development Schedule in Appendix C to this Agreement for the development, construction, and operation of the Transmission Project by the Required Project In-Service Date in accordance with Section 31.4.12.2 of Attachment Y of the OATT; provided that any such milestone for the Transmission Project that requires action by a Connecting Transmission Owner or Affected System Operator to complete must be included as an Advisory Milestone.
- 3.3.2. The Developer shall meet the Critical Path Milestones in accordance with the Development Schedule set forth in Appendix C to this Agreement. The Developer's inability or failure to meet a Critical Path Milestone specified in the Development Schedule, as such Critical Path Milestone may be amended with the agreement of the NYISO under this Article 3.3, shall constitute a Breach of this Agreement under Article 7.1.
- 3.3.3. The Developer shall notify the NYISO thirty (30) Calendar Days prior to the date of each Critical Path Milestone specified in the Development Schedule whether, to the best of its knowledge, it expects to meet the Critical Path Milestone by the specified date; *provided, however*, that notwithstanding this requirement:
- (i) the Developer shall notify the NYISO as soon as reasonably practicable, and no later than fifteen (15) Calendar Days, following the Developer's discovery of a potential delay in meeting a Critical Path Milestone, including a delay caused by a Force Majeure event; and
 - (ii) the NYISO may request in writing at any time, and Developer shall submit to the NYISO within five (5) Business Days of the request, a written response indicating whether the Developer will meet, or has met, a Critical Path Milestone and providing all required supporting documentation for its response.
- 3.3.4. The Developer shall not make a change to a Critical Path Milestone without the prior written consent of the NYISO. To request a change to a Critical Path Milestone, the Developer must: (i) inform the NYISO in writing of the proposed change to the Critical Path Milestone and the reason for the change, including the occurrence of a Force Majeure event in accordance with Section 15.5, (ii) submit to the NYISO a revised Development Schedule containing any necessary changes to Critical Path Milestones and Advisory Milestones that provide for the Transmission Project to be completed and achieve its In-Service Date no later than the Required Project In-Service Date, and (iii) submit a notarized officer's certificate certifying the Developer's capability to complete the Transmission Project in accordance with the modified schedule. If the Developer: (i) must notify the NYISO of a potential delay in meeting a Critical Path Milestone in accordance with one of the notification

requirements in Section 3.3.3 or (ii) is requesting a change to a Critical Path Milestone to cure a Breach in Section 7.2, the Developer shall submit any request to change the impacted Critical Path Milestone(s) within the relevant notification timeframe set forth in Section 3.3.3 or the cure period set forth in Section 7.2, as applicable. The NYISO will promptly review the Developer's requested change. The Developer shall provide the NYISO with all required information to assist the NYISO in making its determination and shall be responsible for the costs of any study work the NYISO performs in making its determination. If the Developer demonstrates to the NYISO's satisfaction that the delay in meeting a Critical Path Milestone will not delay the Transmission Project's In-Service Date beyond the Required Project In-Service Date, then the NYISO's consent to extending the Critical Path Milestone date will not be unreasonably withheld, conditioned, or delayed. The NYISO's written consent to a revised Development Schedule proposed by the Developer will satisfy the amendment requirements in Article 15.8, and the NYISO will not be required to file the revised Development Schedule with FERC.

- 3.3.5. Within fifteen (15) Calendar Days of the Developer's discovery of a potential delay in meeting an Advisory Milestone, the Developer shall inform the NYISO of the potential delay and describe the impact of the delay on meeting the Critical Path Milestones. The Developer may extend an Advisory Milestone date upon informing the NYISO of such change; *provided, however*, that if the change to the Advisory Milestone will delay a Critical Path Milestone, the NYISO's written consent to make such change is required as described in Article 3.3.4.

3.4. Modifications to Required Project In-Service Date

- 3.4.1. The Developer shall not make a change to the Required Project In-Service Date without the prior written consent of the NYISO. To request a change, the Developer must: (i) inform the NYISO in writing of the proposed change to the Required Project In-Service Date and the reason for the change, including the occurrence of a Force Majeure event, (ii) submit to the NYISO a revised Development Schedule that provides for the Transmission Project to be completed and achieve its In-Service Date no later than the proposed, modified Required Project In-Service Date, and (iii) demonstrate that the Developer has made reasonable progress against the milestones set forth in the Development Schedule, and is capable of completing the Transmission Project in accordance with the modified schedule. If the Required Project In-Service Date is the date prescribed by the NYPSC in its order identifying the Public Policy Transmission Need or in a subsequent order, the Developer must also demonstrate that the NYPSC has issued an order modifying its prescribed date.
- 3.4.2. The NYISO will promptly review Developer's requested change to the Required Project In-Service Date. The Developer shall provide the NYISO with all required information to assist the NYISO in making its determination and shall be responsible for the costs of any study work the NYISO performs in making its determination. If the Developer fails to provide the NYISO with the information required to make its determination, the NYISO shall not be obligated to make this determination. The NYISO's consent to extend the Required Project In-Service Date will not be

unreasonably withheld, conditioned, or delayed if the Developer demonstrates to the NYISO's satisfaction that: (i) its proposed modified Required Project In-Service Date is reasonable in light of the Public Policy Transmission Need, (ii) it has made reasonable progress against the milestones set forth in the Development Schedule, and (iii) its proposed modified date will not result in a significant adverse impact to the reliability of the New York State Transmission System. The Parties shall amend this Agreement in accordance with Article 15.8 to incorporate a revised Required Project In-Service Date and Development Schedule.

3.5. Modifications to Transmission Project

The Developer shall not make a Significant Modification to the Transmission Project without the prior written consent of the NYISO, including, but not limited to, modifications necessary for the Developer to obtain required approvals or authorizations from Governmental Authorities; *provided, however*, that a proposed Significant Modification that is a proposed modification to the Required Project In-Service Date shall be addressed in accordance with Article 3.4. The NYISO's determination regarding a Significant Modification to the Transmission Project under this Agreement shall be separate from, and shall not replace, the NYISO's review and determination of material modifications to the Transmission Project under Attachment P of the OATT. The Developer may request that the NYISO review whether a modification to the Transmission Project would constitute a Significant Modification. The Developer shall provide the NYISO with all required information to assist the NYISO in making its determination regarding a Significant Modification and shall be responsible for the costs of any study work the NYISO must perform in making its determination. The NYISO's consent to the Significant Modification will not be unreasonably withheld, conditioned, or delayed if the Developer demonstrates to the NYISO's satisfaction that its proposed Significant Modification: (i) does not impair the Transmission Project's ability to satisfy the identified Public Policy Transmission Need, (ii) does not delay the In-Service Date of the Transmission Project beyond the Required Project In-Service Date, (iii) does not change the grounds upon which the NYISO selected the Transmission Project as the more efficient or cost-effective transmission solution to the identified Public Policy Transmission Need, and (iv) will not result in a significant adverse impact to the reliability of the New York State Transmission System. The NYISO's performance of this review shall not constitute its consent to delay the completion of any Critical Path Milestone.

3.6. Billing and Payment

The NYISO shall charge, and the Developer shall pay, the actual costs of: (i) any study work performed by the NYISO or its subcontractor(s) under Articles 3.3, 3.4, and 3.5, or (ii) any assessment of the Transmission Project by the NYISO or its subcontractor(s) under Article 3.8. The NYISO will invoice Developer on a monthly basis for the expenses incurred by the NYISO each month, including estimated subcontractor costs, computed on a time and material basis. The Developer shall pay invoiced amounts to the NYISO within thirty (30) Calendar Days of the NYISO's issuance of a monthly invoice. In the event the Developer disputes an amount to be paid, the Developer shall pay the disputed amount to the NYISO, pending resolution of the dispute. To the extent the dispute is resolved in the Developer's favor, the NYISO will net the disputed amount, including interest calculated from Developer's date of payment at rates

applicable to refunds under FERC regulations, against any current amounts due from the Developer and pay the balance to the Developer. This Article 3.6 shall survive the termination, expiration, or cancellation of this Agreement.

3.7. Project Monitoring

The Developer shall provide regular status reports to the NYISO in accordance with the monitoring requirements set forth in the Development Schedule, the Public Policy Transmission Planning Process Manual and Attachment Y of the OATT.

3.8. Right to Inspect

Upon reasonable notice, the NYISO or its subcontractor shall have the right to inspect the Transmission Project for the purpose of assessing the progress of the development and construction of the Transmission Project and satisfaction of milestones. The exercise or non-exercise by the NYISO or its subcontractor of this right shall not be construed as an endorsement or confirmation of any element or condition of the development or construction of the Transmission Project, or as a warranty as to the fitness, safety, desirability or reliability of the same. Any such inspection shall take place during normal business hours, shall not interfere with the construction of the Transmission Project and shall be subject to such reasonable safety and procedural requirements as the Developer shall specify.

3.9. Exclusive Responsibility of Developer

As between the Parties, the Developer shall be solely responsible for all planning, design, engineering, procurement, construction, installation, management, operations, safety, and compliance with Applicable Laws and Regulations, Applicable Reliability Requirements, and Transmission Owner Technical Standards associated with the Transmission Project, including, but not limited to, scheduling, meeting Critical Path Milestones and Advisory Milestones, timely requesting review and consent to any project modifications, and obtaining all necessary permits, siting, and other regulatory approvals. The NYISO shall have no responsibility and shall have no liability regarding the management or supervision of the Developer's development of the Transmission Project or the compliance of the Developer with Applicable Laws and Regulations, Applicable Reliability Requirements, and Transmission Owner Technical Standards. The NYISO shall cooperate with the Developer in good faith in providing information to assist the Developer in obtaining all approvals and authorizations from Governmental Authorities required to develop, construct, and operate the Transmission Project by the Required Project In-Service Date, including, if applicable, information describing the NYISO's basis for selecting the Transmission Project as the more efficient or cost-effective transmission solution to satisfy an identified Public Policy Transmission Need.

3.10. Subcontractors

- 3.10.1. Nothing in this Agreement shall prevent a Party from using the services of any subcontractor as it deems appropriate to perform its obligations under this Agreement; *provided, however*, that each Party shall require, and shall provide in its contracts with its subcontractors, that its subcontractors comply with all applicable terms and conditions of this Agreement in providing such services; *provided, further*, that each

Party shall remain primarily liable to the other Party for the performance of such subcontractor.

- 3.10.2. The creation of any subcontractor relationship shall not relieve the hiring Party of any of its obligations under this Agreement. The hiring Party shall be fully responsible to the other Party for the acts or omissions of any subcontractor the hiring Party hires as if no subcontract had been made.

3.11. No Services or Products Under NYISO Tariffs

This Agreement does not constitute a request for, nor agreement by the NYISO to provide, Transmission Service, interconnection service, Energy, Ancillary Services, Installed Capacity, Transmission Congestion Contracts or any other services or products established under the ISO Tariffs. If Developer wishes to receive or supply such products or services, the Developer must make application to do so under the applicable provisions of the ISO Tariffs, ISO Related Agreements, and ISO Procedures.

3.12. Tax Status

Each Party shall cooperate with the other Party to maintain each Party's tax status to the extent the Party's tax status is impacted by this Agreement. Nothing in this agreement is intended to affect the tax status of any Party.

ARTICLE 4. COORDINATION WITH THIRD PARTIES

4.1. Interconnection Requirements for Transmission Project

The Developer shall satisfy all requirements set forth in the Transmission Interconnection Procedures in Attachment P of the OATT applicable to a "Transmission Project" to interconnect the Transmission Project to the New York State Transmission System by the Required Project In-Service Date, including, but not limited to, submitting a Transmission Interconnection Application; participating in all necessary studies; executing, and/or requesting the NYISO to file for FERC acceptance, a Transmission Project Interconnection Agreement; and constructing, or arranging for the construction of, all required Network Upgrade Facilities; *provided, however*, if the Developer began the interconnection process in Attachment X of the OATT or the transmission expansion process in Sections 3.7 or 4.5 of the OATT prior to the effective date of the Transmission Interconnection Procedures, the Developer shall satisfy the requirements of the Transmission Interconnection Procedures in accordance with the transition rules in Section 22.3.3 of Attachment P of the OATT.

If the NYISO determines that the proposed interconnection of a "Transmission Project" under Attachment P could affect the Transmission Project under this Agreement, the Developer shall participate in the Transmission Interconnection Procedures as an Affected System Operator in accordance with the requirements set forth in Section 22.4.4 of Attachment P. If the NYISO determines that the proposed interconnection of a "Large Generating Facility," "Small Generating Facility," or "Class Year Transmission Project" under Attachments X or Z of the OATT could affect the Transmission Project, the Developer shall participate in the interconnection process as an Affected System Operator in accordance with the requirements set

forth in Section 30.3.5 of Attachment X of the OATT. If the NYISO determines that a proposed transmission expansion under Sections 3.7 and 4.5 of the OATT could affect the Transmission Project, the Developer shall participate in the transmission expansion process as an affected Transmission Owner in accordance with the requirements set forth in Sections 3.7 and 4.5 of the OATT.

4.2. Interconnection with Affected System

If part of the Transmission Project will affect the facilities of an Affected System as determined in Attachment P of the OATT, the Developer shall satisfy the requirements of the Affected System Operator for the interconnection of the Transmission Project.

4.3. Coordination of Interregional Transmission Project

If the Transmission Project is or seeks to become an Interregional Transmission Project selected by the NYISO and by the transmission provider in one or more neighboring transmission planning region(s) to address an identified Public Policy Transmission Need, the Developer shall coordinate its development and construction of the Transmission Project in New York with its responsibilities in the relevant neighboring transmission planning region(s) and must satisfy the applicable planning requirements of the relevant transmission planning region(s).

ARTICLE 5. OPERATION REQUIREMENTS FOR THE TRANSMISSION PROJECT

If the Developer is a Transmission Owner, the Developer shall comply with the operating requirements set forth in the ISO/TO Agreement. If the Developer is not a Transmission Owner, the Developer shall: (i) execute, and/or obtain a FERC accepted, interconnection agreement for the Transmission Project in accordance with the requirements in Attachment P of the OATT; (ii) satisfy the applicable requirements set forth in the interconnection agreement and ISO Procedures for the safe and reliable operation of the Transmission Project consistent with the Project Description set forth in Appendix A by the In-Service Date, including satisfying all applicable testing, metering, communication, system protection, switching, start-up, and synchronization requirements; (iii) enter into required operating protocols as determined by the NYISO; (iv) register with NERC as a Transmission Owner, be certified as a Transmission Operator unless otherwise agreed by the Parties, and comply with all NERC Reliability Standards and Applicable Reliability Requirements applicable to Transmission Owners and Transmission Operators; and (v) prior to energizing the Transmission Project, execute an operating agreement with the NYISO.

ARTICLE 6. INSURANCE

The Developer shall, at its own expense, maintain in force throughout the period of this Agreement, and until released by the NYISO, the following minimum insurance coverages, with insurers authorized to do business in the state of New York and rated “A- (minus) VII” or better by A.M. Best & Co. (or if not rated by A.M. Best & Co., a rating entity acceptable to the NYISO):

- 6.1** Workers' Compensation and Employers' Liability Insurance providing statutory benefits in accordance with the laws and regulations of New York State under NCCI Coverage Form No. WC 00 00 00, as amended or supplemented from time to time, or an equivalent form acceptable to the NYISO; *provided, however*, if the Transmission Project will be located in part outside of New York State, Developer shall maintain such Employers' Liability Insurance coverage with a minimum limit of One Million Dollars (\$1,000,000).
- 6.2** Commercial General Liability Insurance – under ISO Coverage Form No. CG 00 01 (04/13), as amended or supplemented from time to time, or an equivalent form acceptable to the NYISO – with minimum limits of Two Million Dollars (\$2,000,000) per occurrence/Four Million Dollars (\$4,000,000) aggregate combined single limit for personal injury, bodily injury, including death and property damage.
- 6.3** Commercial Business Automobile Liability Insurance – under ISO Coverage Form No. CA 00 01 10 13, as amended or supplemented from time to time, or an equivalent form acceptable to the NYISO – for coverage of owned and non-owned and hired vehicles, trailers or semi-trailers designed for travel on public roads, with a minimum, combined single limit of One Million Dollars (\$1,000,000) per occurrence for bodily injury, including death, and property damage.
- 6.4** Umbrella/Excess Liability Insurance over and above the Employers' Liability, Commercial General Liability, and Commercial Business Automobile Liability Insurance coverage, with a minimum combined single limit of Twenty-Five Million Dollars (\$25,000,000) per occurrence/Twenty-Five Million Dollars (\$25,000,000) aggregate.
- 6.5** Builder's Risk Insurance in a reasonably prudent amount consistent with Good Utility Practice.
- 6.6** The Commercial General Liability Insurance, Commercial Business Automobile Liability Insurance and Umbrella/Excess Liability Insurance policies of the Developer shall name the NYISO and its respective directors, officers, agents, servants and employees ("NYISO Parties") as additional insureds. For Commercial General Liability Insurance, the Developer shall name the NYISO Parties as additional insureds under the following ISO form numbers, as amended or supplemented from time to time, or an equivalent form acceptable to the NYISO: (i) ISO Coverage Form No. CG 20 37 04 13 ("Additional Insured – Owners, Lessees or Contractors – Completed Operations") and (ii) (A) ISO Coverage Form No. CG 20 10 04 13 ("Additional Insured – Owner, Lessees or Contractors – Scheduled Person or Organization"), or (B) ISO Coverage Form No. CG 20 26 04 13 ("Additional Insured – Designated Person or Organization"). For Commercial Business Automobile Liability Insurance, the Developer shall name the NYISO Parties as additional insureds under ISO Coverage Form No. CA 20 48 10 13 ("Designated Insured for Covered Autos Liability Coverage"), as amended or supplemented from time to time, or an equivalent form acceptable to the NYISO.

- 6.7** All policies shall contain provisions whereby the insurers waive all rights of subrogation in accordance with the provisions of this Agreement against the NYISO Parties and provide thirty (30) Calendar days advance written notice to the NYISO Parties prior to non-renewal, cancellation or any material change in coverage or condition.
- 6.8** The Commercial General Liability Insurance, Commercial Business Automobile Liability Insurance and Umbrella/Excess Liability Insurance policies shall contain provisions that specify that the policies are primary and shall apply to such extent without consideration for other policies separately carried and shall state that each insured is provided coverage as though a separate policy had been issued to each, except the insurer's liability shall not be increased beyond the amount for which the insurer would have been liable had only one insured been covered. The Developer shall be responsible for its respective deductibles or retentions.
- 6.9** The Commercial General Liability Insurance, Commercial Business Automobile Liability Insurance and Umbrella/Excess Liability Insurance policies, if written on a Claims First Made Basis in a form acceptable to the NYISO, shall be maintained in full force and effect for two (2) years after termination of this Agreement, which coverage may be in the form of an extended reporting period (ERP) or a separate policy, if agreed by the Developer and the NYISO.
- 6.10** The requirements contained herein as to the types and limits of all insurance to be maintained by the Developer are not intended to and shall not in any manner, limit or qualify the liabilities and obligations assumed by the Developer under this Agreement.
- 6.11** The Developer shall provide certification of all insurance required in this Agreement, executed by each insurer or by an authorized representative of each insurer: (A) within ten (10) days following: (i) execution of this Agreement, or (ii) the NYISO's date of filing this Agreement if it is filed unexecuted with FERC, and (B) as soon as practicable after the end of each fiscal year or at the renewal of the insurance policy and in any event within thirty (30) days thereafter.
- 6.12** Notwithstanding the foregoing, the Developer may self-insure to meet the minimum insurance requirements of Articles 6.2 through 6.10 to the extent it maintains a self-insurance program; *provided that*, the Developer's senior debt is rated at investment grade, or better, by Standard & Poor's and that its self-insurance program meets the minimum insurance requirements of Articles 6.2 through 6.10. For any period of time that the Developer's senior debt is unrated by Standard & Poor's or is rated at less than investment grade by Standard & Poor's, the Developer shall comply with the insurance requirements applicable to it under Articles 6.2 through 6.11. In the event that the Developer is permitted to self-insure pursuant to this Article 6.12, it shall notify the NYISO that it meets the requirements to self-insure and that its self-insurance program meets the minimum insurance requirements in a manner consistent with that specified in Article 6.11.

- 6.13** The Developer and the NYISO agree to report to each other in writing as soon as practical all accidents or occurrences resulting in injuries to any person, including death, and any property damage arising out of this Agreement.
- 6.14** Notwithstanding the minimum insurance coverage types and amounts described in this Article 6, the Developer: (i) shall also maintain any additional insurance coverage types and amounts required under Applicable Laws and Regulations, including New York State law, and under Good Utility Practice for the work performed by the Developer and its subcontractors under this Agreement, and (ii) shall satisfy the requirements set forth in Articles 6.6 through 6.13 with regard to the additional insurance coverages, including naming the NYISO Parties as additional insureds under these policies.

ARTICLE 7. BREACH AND DEFAULT

7.1. Breach

A Breach of this Agreement shall occur when: (i) the Developer notifies the NYISO in writing that it will not proceed to develop the Transmission Project for reasons other than those set forth in Articles 8.1(i) through (iv); (ii) the Developer fails to meet a Critical Path Milestone, as the milestone may be extended with the agreement of the NYISO under Article 3.3.4 of this Agreement, set forth in the Development Schedule in Appendix C to this Agreement; (iii) the Developer makes a Significant Modification to the Transmission Project without the prior written consent of the NYISO; (iv) the Developer fails to pay a monthly invoice within the timeframe set forth in Article 3.6; (v) the Developer misrepresents a material fact of its representations and warranties set forth in Article 12; (vi) a Party assigns this Agreement in a manner inconsistent with the terms of Article 10 of this Agreement; (vii) the Developer fails to file with the Commission any Cost Cap the Developer submitted to the NYISO with its Public Policy Transmission Project and agreed to in this Agreement or seeks to recover through its transmission rates for the Transmission Project or through any other means costs for the Included Capital Costs (as defined in Section 31.4.5.1.8.1 of the ISO OATT) above its Cost Cap, except as permitted for excusing conditions in Section 6.10.6.2 of the ISO OATT and Article 15.3 of this Agreement; (viii) the Developer fails to comply with any other material term or condition of this Agreement; (ix) a custodian, receiver, trustee or liquidator of the Developer, or of all or substantially all of the assets of the Developer, is appointed in any proceeding brought by the Developer; or (x) any such custodian, receiver, trustee, or liquidator is appointed in any proceeding brought against the Developer that is not discharged within ninety (90) Days after such appointment, or if the Developer consents to or acquiesces in such appointment. A Breach shall not occur as a result of a Force Majeure event in accordance with Article 15.5. A Breach shall also not occur as a result of a delay caused by a Connecting Transmission Owner or an Affected System Operator.

7.2. Default

Upon a Breach, the non-Breaching Party shall give written notice of the Breach to the Breaching Party describing in reasonable detail the nature of the Breach and, where known and applicable, the steps necessary to cure such Breach, including whether and what such steps must

be accomplished to complete the Transmission Project by the Required Project In-Service Date. The Breaching Party shall have thirty (30) Calendar Days from receipt of the Breach notice to cure the Breach, or such other period of time as may be agreed upon by the Parties, which agreement the NYISO will not unreasonably withhold, condition, or delay if it determines a longer cure period will not threaten the Developer's ability to complete the Transmission Project by the Required Project In-Service Date; *provided, however*, that if the Breach is the result of a Developer's inability or failure to meet a Critical Path Milestone, the Developer may only cure the Breach if either: (i) it meets the Critical Path Milestone within the cure period and demonstrates to the NYISO's satisfaction that, notwithstanding its failure to timely meet the Critical Path Milestone, the Transmission Project will achieve its In-Service Date no later than the Required Project In-Service Date, or (ii) the Developer requests in writing within the cure period, and the NYISO consents to, a change to the missed Critical Path Milestone in accordance with Article 3.3.4. If the Breach is cured within such timeframe, the Breach specified in the notice shall cease to exist. If the Breaching Party does not cure its Breach within this timeframe or cannot cure the Breach in a manner that provides for the Transmission Project to be completed by the Required Project In-Service Date, the non-Breaching Party shall have the right to declare a Default and terminate this Agreement pursuant to Article 8.1.

7.3. Remedies

Upon the occurrence of an event of Default, the non-defaulting Party shall be entitled: (i) to commence an action to require the defaulting Party to remedy such Default and specifically perform its duties and obligations hereunder in accordance with the terms and conditions hereof; and (ii) to exercise such other rights and remedies as it may have in equity or at law; *provided, however*, the defaulting Party's liability under this Agreement shall be limited to the extent set forth in Article 9.1. No remedy conferred by any provision of this Agreement is intended to be exclusive of any other remedy and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. The election of any one or more remedies shall not constitute a waiver of the right to pursue other available remedies. This Article 7.3 shall survive the termination, expiration, or cancellation of this Agreement.

ARTICLE 8. TERMINATION

8.1. Termination by the NYISO

The NYISO may terminate this Agreement by providing written notice of termination to the Developer in the event that: (i) the Developer notifies the NYISO that it is unable to or has not received the required approvals or authorizations by Governmental Authorities required to develop, construct, and operate the Transmission Project by the Required Project In-Service Date; (ii) the Developer notifies the NYISO that its required approvals or authorizations by Governmental Authorities have been withdrawn by the Governmental Authorities; (iii) the Developer cannot complete the Transmission Project by the Required Project In-Service Date for any reason: (A) including the occurrence of a Force Majeure event that will prevent the Developer from completing the Transmission Project by the Required Project In-Service Date, but (B) excluding a delay caused by a Connecting Transmission Owner or an Affected System Operator; or (iv) the NYISO declares a default pursuant to Article 7.2 of this Agreement.

If the NYISO identifies grounds for termination under Articles 8.1(iii) or (iv) or receives notice from the Developer under Articles 8.1(i) or (ii), the NYISO may, prior to providing a written notice of termination, take action in accordance with Section 31.4.12.3.1.3 of Attachment Y of the OATT to address the Public Policy Transmission Need and, notwithstanding the confidentiality provisions in Article 11.2, may disclose information regarding the Transmission Project to Governmental Authorities as needed to implement such action. If the NYISO decides to terminate this Agreement under Article 8.1(i), (ii), (iii), or (iv), it will provide written notice of termination to the Developer, which notice will specify the date of termination. If the Agreement was filed and accepted by FERC pursuant to Section 31.4.12.2 of Attachment Y of the OATT, the NYISO will, following its provision of a notice of termination to the Developer, promptly file with FERC for its acceptance a notice of termination of this Agreement.

In the event of termination under Articles 8.1 (i) or (ii), the Developer may be eligible for cost recovery under the OATT in the manner set forth in Attachment Y and Schedule 10 of the OATT. In the event of termination under Articles 8.1(iii) or (iv), cost recovery may be permitted as determined by FERC. In the event of termination for any reason under this Article 8.1, the Developer shall use commercially reasonable efforts to mitigate the costs, damages, and charges arising as a consequence of termination and any transfer or winding up of the Transmission Project.

8.2. Reporting of Inability to Comply with Provisions of Agreement

Notwithstanding the notification requirements in Article 3 and this Article 8 of this Agreement, each Party shall notify the other Party promptly upon the notifying Party becoming aware of its inability to comply with any provision of this Agreement. The Parties agree to cooperate with each other and provide necessary information regarding such inability to comply, including the date, duration, reason for inability to comply, and corrective actions taken or planned to be taken with respect to such inability to comply.

8.3. Transmission Project Transfer Rights Upon Termination

If the NYISO terminates this Agreement pursuant to Article 8.1, the NYISO shall have the right, but shall not be required, to request an entity other than the Developer to complete the Transmission Project. The NYISO may exercise this right by providing the Developer with written notice within sixty (60) days after the date on which this Agreement is terminated. If the NYISO exercises its right under this Article 8.3 and Section 31.4.12.3.1.3 of Attachment Y of the OATT, the Developer shall work cooperatively with the NYISO's designee pursuant to the requirements set forth in Section 31.4.12.3.1.4 of Attachment Y of the OATT to implement the transition, including entering into good faith negotiations with the NYISO's designee to transfer the Transmission Project to the NYISO's designee. All liabilities under this Agreement existing prior to such transfer shall remain with the Developer, unless otherwise agreed upon by the Developer and the NYISO's designee as part of their good faith negotiations regarding the transfer. This Article 8.3 shall survive the termination, expiration, or cancellation of this Agreement.

ARTICLE 9. LIABILITY AND INDEMNIFICATION

9.1. Liability

Notwithstanding any other provision in the NYISO's tariffs and agreements to the contrary, neither Party shall be liable, whether based on contract, indemnification, warranty, equity, tort, strict liability, or otherwise, to the Other Party or any Transmission Owner, NYISO Market Participant, third party or any other person for any damages whatsoever, including, without limitation, direct, incidental, consequential (including, without limitation, attorneys' fees and litigation costs), punitive, special, multiple, exemplary, or indirect damages arising or resulting from any act or omission under this Agreement, except in the event the Party is found liable for gross negligence or intentional misconduct in the performance of its obligations under this Agreement, in which case the Party's liability for damages shall be limited only to direct actual damages. This Article 9.1 shall survive the termination, expiration, or cancellation of this Agreement.

9.2. Indemnity

Notwithstanding any other provision in the NYISO's tariffs and agreements to the contrary, each Party shall at all times indemnify and save harmless, as applicable, the other Party, its directors, officers, employees, trustees, and agents or each of them from any and all damages (including, without limitation, any consequential, incidental, direct, special, indirect, exemplary or punitive damages and economic costs), losses, claims, including claims and actions relating to injury to or death of any person or damage to property, liabilities, judgments, demands, suits, recoveries, costs and expenses, court costs, attorney and expert fees, and all other obligations by or to third parties, arising out of, or in any way resulting from this Agreement, *provided, however*, that the Developer shall not have any indemnification obligation under this Article 9.2 with respect to any loss to the extent the loss results from the gross negligence or intentional misconduct of the NYISO; *provided, further*, that the NYISO shall only have an indemnification obligation under this Article 9.2 with respect to any loss resulting from its gross negligence or intentional misconduct to the same extent as provided in Section 2.11.3(b) of the ISO OATT. This Article 9.2 shall survive the termination, expiration, or cancellation of this Agreement.

ARTICLE 10. ASSIGNMENT

This Agreement may be assigned by a Party only with the prior written consent of the other Party; *provided that*:

- (i) any Change of Control shall be considered an assignment under this Article 10 and shall require the other Party's prior written consent;
- (ii) an assignment by the Developer shall be contingent upon the Developer or assignee demonstrating to the satisfaction of the NYISO prior to the effective date of the assignment that: (A) the assignee has the technical competence, financial ability, and materials, equipment, and plans to comply with the requirements of this Agreement and to construct and place in service the Transmission Project by the Required Project In-Service Date consistent with the assignor's cost estimates

for the Transmission Project; and (B) the assignee satisfies the requirements for a qualified developer pursuant to Section 31.4.4 of Attachment Y of the OATT; and

- (iii) the Developer shall have the right to assign this Agreement, without the consent of the NYISO, for collateral security purposes to aid in providing financing for the Transmission Project and shall promptly notify the NYISO of any such assignment; *provided, however*, that such assignment shall be subject to the following: (i) prior to or upon the exercise of the secured creditor's, trustee's, or mortgagee's assignment rights pursuant to said arrangement, the secured creditor, the trustee, or the mortgagee will notify the NYISO of the date and particulars of any such exercise of assignment right(s), and (ii) the secured creditor, trustee, or mortgagee must demonstrate to the satisfaction of the NYISO that any entity that it proposes to complete the Transmission Project meets the requirements for the assignee of a Developer described in Article 10(ii).

For all assignments by any Party, the assignee must assume in a writing, to be provided to the other Party, all rights, duties, and obligations of the assignor arising under this Agreement, including the insurance requirements in Article 6 of this Agreement. Any assignment under this Agreement shall not relieve a Party of its obligations, nor shall a Party's obligations be enlarged, in whole or in part, by reasons thereof, absent the written consent of the other Party. Where required, consent to assignment will not be unreasonably withheld, conditioned, or delayed. Any attempted assignment that violates this Article 10 is void and ineffective, is a Breach of this Agreement under Article 7.1 and may result in the termination of this Agreement under Articles 8.1 and 7.2.

ARTICLE 11. INFORMATION EXCHANGE AND CONFIDENTIALITY

11.1. Information Access

Subject to Applicable Laws and Regulations, each Party shall make available to the other Party information necessary to carry out obligations and responsibilities under this Agreement and Attachment Y of the OATT. The Parties shall not use such information for purposes other than to carry out their obligations or enforce their rights under this Agreement or Attachment Y of the OATT.

11.2. Confidentiality

- 11.2.1. Confidential Information shall mean: (i) all detailed price information and vendor contracts; (ii) any confidential and/or proprietary information provided by one Party to the other Party that is clearly marked or otherwise designated "Confidential Information"; and (iii) information designated as Confidential Information by the NYISO Code of Conduct contained in Attachment F of the OATT; *provided, however*, that Confidential Information does not include information: (i) in the public domain or that has been previously publicly disclosed; (ii) required by an order of a Governmental Authority to be publicly submitted or divulged (after notice to the other Party); or (iii) necessary to be divulged in an action to enforce this Agreement.

11.2.2. The NYISO shall treat any Confidential Information it receives in accordance with the requirements of the NYISO Code of Conduct contained in Attachment F of the OATT. If the Developer receives Confidential Information, it shall hold such information in confidence, employing at least the same standard of care to protect the Confidential Information obtained from the NYISO as it employs to protect its own Confidential Information. Each Party shall not disclose the other Party's Confidential Information to any third party or to the public without the prior written authorization of the Party providing the information, except: (i) to the extent required for the Parties to perform their obligations under this Agreement, the ISO Tariffs, ISO Related Agreements, or ISO Procedures, or (ii) to fulfill legal or regulatory requirements, provided that if the Party must submit the information to a Governmental Authority in response to a request by the Governmental Authority on a confidential basis, the Party required to disclose the information shall request under applicable rules and regulations that the information be treated as confidential and non-public by the Governmental Authority.

ARTICLE 12. REPRESENTATIONS, WARRANTIES AND COVENANTS

12.1. General

The Developer makes the following representations, warranties, and covenants, which are effective as to the Developer during the full time this Agreement is effective:

12.2. Good Standing

The Developer is duly organized, validly existing and in good standing under the laws of the state in which it is organized, formed, or incorporated, as applicable. The Developer is qualified to do business in the state or states in which the Transmission Project is located. The Developer has the corporate power and authority to own its properties, to carry on its business as now being conducted and to enter into this Agreement and carry out the transactions contemplated hereby and to perform and carry out covenants and obligations on its part under and pursuant to this Agreement.

12.3. Authority

The Developer has the right, power, and authority to enter into this Agreement, to become a Party hereto, and to perform its obligations hereunder. This Agreement is a legal, valid, and binding obligation of the Developer, enforceable against the Developer in accordance with its terms, except as the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization, or other similar laws affecting creditors' rights generally and by general equitable principles (regardless of whether enforceability is sought in a proceeding in equity or at law).

12.4. No Conflict

The execution, delivery and performance of this Agreement does not violate or conflict with the organizational or formation documents, or bylaws or operating agreement, of the Developer, or any judgment, license, permit, order, material agreement or instrument applicable to or binding upon the Developer or any of its assets.

12.5. Consent and Approval

The Developer has sought or obtained, or, in accordance with this Agreement will seek or obtain, such consent, approval, authorization, order, or acceptance by any Governmental Authority in connection with the execution, delivery and performance of this Agreement, and it will provide to any Governmental Authority notice of any actions under this Agreement that are required by Applicable Laws and Regulations.

12.6. Compliance with All Applicable Laws and Regulations

The Developer will comply with all Applicable Laws and Regulations, including all approvals, authorizations, orders, and permits issued by any Governmental Authority; all Applicable Reliability Requirements, and all applicable Transmission Owner Technical Standards in the performance of its obligations under this Agreement.

ARTICLE 13. DISPUTE RESOLUTION

If a dispute arises under this Agreement, the Parties shall use the dispute resolution process described in Article 11 of the NYISO's Services Tariff, as such process may be amended from time to time. Notwithstanding the process described in Article 11 of the NYISO's Services Tariff, the NYISO may terminate this Agreement in accordance with Article 8 of this Agreement.

ARTICLE 14. SURVIVAL

The rights and obligations of the Parties in this Agreement shall survive the termination, expiration, or cancellation of this Agreement to the extent necessary to provide for the determination and enforcement of said obligations arising from acts or events that occurred while this Agreement was in effect. The remedies and rights and obligation upon termination provisions in Articles 7.3 and 8.3 of this Agreement, the liability and indemnity provisions in Article 9, the cost recovery provisions in Article 15.3 and Appendix D, and the billing and payment provisions in Article 3.6 of this Agreement shall survive termination, expiration, or cancellation of this Agreement.

ARTICLE 15. MISCELLANEOUS

15.1. Notices

Any notice or request made to or by any Party regarding this Agreement shall be made to the Parties, as indicated below:

NYISO:

[Insert contact information.]

Developer:

[Insert contact information.]

15.2. Entire Agreement

Except as described below in this Section 15.2, this Agreement, including all Appendices attached hereto, constitutes the entire agreement between the Parties with reference to the subject matter hereof, and supersedes all prior and contemporaneous understandings of agreements, oral or written, between the Parties with respect to the subject matter of this Agreement. There are no other agreements, representations, warranties, or covenants that constitute any part of the consideration for, or any condition to, either Party's compliance with its obligation under this Agreement.

Notwithstanding the foregoing, this Agreement is in addition to, and does not supersede or limit the Developer's and NYISO's rights and responsibilities, under any interconnection agreement(s) entered into by and among the NYISO, Developer, and Connecting Transmission Owner(s) for the Transmission Project to interconnect to the New York State Transmission System, as such interconnection agreements may be amended, supplemented, or modified from time to time.

15.3. Cost Recovery

The Developer may recover the costs of the Transmission Project in accordance with the cost recovery requirements in the ISO Tariffs. If the Developer submitted a Cost Cap for the Included Capital Costs (as defined in Section 31.4.5.1.8.1 of the ISO OATT) of the Transmission Project pursuant to Section 31.4.5.1 of the ISO OATT, the Developer's Cost Cap for the Included Capital Costs shall be detailed in Appendix D of this Agreement, which description shall include the Cost Cap in the Developer's project proposal. Developer agrees to file this Cost Cap for Included Capital Costs with the Commission in accordance with the requirements in Rate Schedule 10 of the ISO OATT. If the Cost Cap is a soft Cost Cap, Developer agrees to implement the Cost Cap in accordance with Section 6.10.6.3 of Rate Schedule 10. The Developer further agrees in accordance with Rate Schedule 10 of the OATT that it shall not seek to recover through its transmission rates for the Transmission Project or through any other means costs for the Included Capital Cost above its agreed-upon Cost Cap; *provided, however*, the Developer may recover costs above its agreed-upon Cost Cap resulting from one of the following excusing conditions, but only to the extent the costs arise from the excusing condition:

- A. Transmission Project changes, delays, or additional costs that are due to the actions or omissions of the ISO, Connecting Transmission Owner(s), Interconnecting Transmission Owner(s), or Affected Transmission Owner(s);
- B. A Force Majeure event as defined in this Agreement and subject to the Force Majeure requirements in Section 15.5 of this Agreement;
- C. Changes in laws or regulations, including but not limited to applicable taxes;
- D. Material modifications to scope or routing arising from siting processes under Public Service Law Article VII or applicable local laws as determined by the New York State Public Service Commission or local governments respectively; and
- E. Actions or inactions of regulatory or governmental entities, and court orders.

The provisions of this Section 15.3 and the Developer's Cost Cap for the Included Capital Costs detailed in Appendix D shall not be subject to change through application to the Federal Energy Regulatory Commission pursuant to the provisions of Section 205 of the Federal Power Act absent the agreement of all Parties to the Agreement. In any proceeding conducted pursuant to Section 206 of the Federal Power Act, the standard of review for any change to this Section 15.3 and the Developer's Cost Cap for the Included Capital Costs detailed in Appendix D shall be the "public interest" application of the just and reasonable standard set forth in *United Gas Pipe Line Co. v. Mobile Gas Serv. Corp.*, 350 U.S. 332 (1956), and *Fed. Power Comm'n v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956), as clarified in *Morgan Stanley Capital Grp., Inc. v. Pub. Util. Dist. No. 1 of Snohomish Cnty., Wash.*, 554 U.S. 527 (2008), and refined in *NRG Power Mktg. v. Maine Pub. Utils. Comm'n*, 558 U.S. 165 (2010).

15.4. Binding Effect

This Agreement, and the rights and obligations hereof, shall be binding upon and shall inure to the benefit of the successors and permitted assigns of the Parties hereto.

15.5. Force Majeure

A Party that is unable to carry out an obligation imposed on it by this Agreement due to Force Majeure shall notify the other Party in writing as soon as reasonably practicable after the occurrence of the Force Majeure event and no later than the timeframe set forth in Article 3.3.3(i) if the Force Majeure event will result in a potential delay for the Developer to meet a Critical Path Milestone. If the notifying Party is the Developer, it shall indicate in its notice whether the occurrence of a Force Majeure event has the potential to delay its meeting one or more Critical Path Milestones and/or completing the Transmission Project by the Required Project In-Service Date. If the Force Majeure will delay the Developer's ability to meet one or more Critical Path Milestones, the Developer shall request with its notice a change to the impacted milestones in accordance with the requirements in Section 3.3.4 and must satisfy the requirements in Section 3.3.4 to change any Critical Path Milestones. A Party shall not be responsible for any non-performance or considered in Breach or Default under this Agreement, for any failure to perform any obligation under this Agreement to the extent that such failure is due to Force Majeure and will not delay the Developer's ability to complete the Transmission Project by the Required Project In-Service Date. A Party shall be excused from whatever performance is affected only for the duration of the Force Majeure and while the Party exercises reasonable efforts to alleviate such situation. As soon as the nonperforming Party is able to resume performance of its obligations excused because of the occurrence of Force Majeure, such Party shall resume performance and give prompt notice thereof to the other Party. In the event that Developer will not be able to complete the Transmission Project by the Required Project In-Service Date because of the occurrence of Force Majeure, the NYISO may terminate this Agreement in accordance with Section 8.1 of this Agreement.

15.6. Disclaimer

Except as provided in this Agreement, the Parties make no other representations, warranties, covenants, guarantees, agreements or promises regarding the subject matter of this Agreement.

15.7. No NYISO Liability for Review or Approval of Developer Materials

No review or approval by the NYISO or its subcontractor(s) of any agreement, document, instrument, drawing, specifications, or design proposed by the Developer nor any inspection carried out by the NYISO or its subcontractor(s) pursuant to this Agreement shall relieve the Developer from any liability for any negligence in its preparation of such agreement, document, instrument, drawing, specification, or design, or its carrying out of such works; or for its failure to comply with the Applicable Laws and Regulations, Applicable Reliability Requirements, and Transmission Owner Technical Standards with respect thereto, nor shall the NYISO be liable to the Developer or any other person by reason of its or its subcontractor's review or approval of an agreement, document, instrument, drawing, specification, or design or such inspection.

15.8. Amendment

The Parties may by mutual agreement amend this Agreement, including the Appendices to this Agreement, by a written instrument duly executed by both of the Parties. If the Agreement was filed and accepted by FERC pursuant to Section 31.4.12.2 of Attachment Y of the OATT, the NYISO shall promptly file the amended Agreement for acceptance with FERC.

15.9. No Third Party Beneficiaries

With the exception of the indemnification rights of the NYISO's directors, officers, employees, trustees, and agents under Article 9.2, this Agreement is not intended to and does not create rights, remedies, or benefits of any character whatsoever in favor of any persons, corporations, associations, or entities other than the Parties, and the obligations herein assumed are solely for the use and benefit of the Parties, their successors in interest and their permitted assigns.

15.10. Waiver

The failure of a Party to this Agreement to insist, on any occasion, upon strict performance of any provision of this Agreement will not be considered a waiver of any obligation, right, or duty of, or imposed upon, such Party. Any waiver at any time by either Party of its rights with respect to this Agreement shall not be deemed a continuing waiver or a waiver with respect to any other failure to comply with any other obligation, right, or duty of this Agreement. Any waiver of this Agreement shall, if requested, be provided in writing.

15.11. Rules of Interpretation

This Agreement, unless a clear contrary intention appears, shall be construed and interpreted as follows: (1) the singular number includes the plural number and vice versa; (2) reference to any person includes such person's successors and assigns but, in the case of a Party, only if such successors and assigns are permitted by this Agreement, and reference to a person in a particular capacity excludes such person in any other capacity or individually; (3) reference to any agreement (including this Agreement), document, instrument or tariff means such agreement, document, instrument, or tariff as amended or modified and in effect from time to time in accordance with the terms thereof and, if applicable, the terms hereof; (4) reference to any Applicable Laws and Regulations means such Applicable Laws and Regulations as

amended, modified, codified, or reenacted, in whole or in part, and in effect from time to time, including, if applicable, rules and regulations promulgated thereunder; (5) unless expressly stated otherwise, reference to any Article, Section or Appendix means such Article of this Agreement, such Appendix to this Agreement, or such Section of this Agreement, as the case may be; (6) “hereunder”, “hereof”, “herein”, “hereto” and words of similar import shall be deemed references to this Agreement as a whole and not to any particular Article or other provision hereof or thereof; (7) “including” (and with correlative meaning “include”) means including without limiting the generality of any description preceding such term; and (8) relative to the determination of any period of time, “from” means “from and including”, “to” means “to but excluding” and “through” means “through and including”.

15.12. Severability

Each provision of this Agreement shall be considered severable and if, for any reason, any provision is determined by a court or regulatory authority of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions of this Agreement shall continue in full force and effect and shall in no way be affected, impaired, or invalidated, and such invalid, void, or unenforceable provision should be replaced with valid and enforceable provision or provisions that otherwise give effect to the original intent of the invalid, void, or unenforceable provision.

15.13. Multiple Counterparts

This Agreement may be executed in two or more counterparts, each of which is deemed an original, but all constitute one and the same instrument.

15.14. No Partnership

This Agreement shall not be interpreted or construed to create an association, joint venture, agency relationship, or partnership among the Parties or to impose any partnership obligation or partnership liability upon any Party. No Party shall have any right, power, or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or otherwise bind, any other Party.

15.15. Headings

The descriptive headings of the various Articles and Sections of this Agreement have been inserted for convenience of reference only and are of no significance in the interpretation or construction of this Agreement.

15.16. Governing Law

This Agreement shall be governed, as applicable, by: (i) the Federal Power Act, and (ii) the substantive law of the State of New York, without regard to any conflicts of laws provisions thereof (except to the extent applicable, Sections 5-1401 and 5-1402 of the New York General Obligations Law).

15.17. Jurisdiction and Venue

Any legal action or judicial proceeding regarding a dispute arising out of or relating to this Agreement or any performance by either Party pursuant thereto that: (i) is within the primary or exclusive jurisdiction of FERC shall be brought in the first instance at FERC, or (ii) is not within the primary or exclusive jurisdiction of FERC shall be brought in, and fully and finally resolved in, either, as applicable, the courts of the State of New York situated in Albany County, New York or the United States District Court of the Northern District of New York situated in Albany, New York.

IN WITNESS WHEREFORE, the Parties have executed this Agreement in duplicate originals, each of which shall constitute an original Agreement between the Parties.

NYISO

By: _____

Title: _____

Date: _____

[Insert name of Developer]

By: _____

Title: _____

Date: _____

Appendix A – Project Description

Appendix B – Scope of Work

Appendix C – Development Schedule

[To be prepared by Developer consistent with the Developer's project information submission, pursuant to Attachment C of the Public Policy Transmission Planning Process Manual, and subject to acceptance by the NYISO, as required by Article 3.3 of this Agreement.]

The Developer shall demonstrate to the NYISO that it timely meets the following Critical Path Milestones and Advisory Milestones and that such milestones remain in good standing.

Critical Path Milestones: [To be developed with consideration of each of the work plan requirements submitted by the Developer pursuant to Attachment C to the Public Policy Transmission Planning Process Manual and presented herein according to the sequence of the critical path. The NYISO anticipates that the Developer's critical path schedule will include many of the example milestones set forth below and that most of the other example milestones will be included as Advisory Milestones. The composition and sequence of the Critical Path Milestones will differ depending on the Developer's Transmission Project and schedule.]

Advisory Milestones: [To include in Development Schedule other milestones (e.g., periodic project review meetings) that are not determined to be on the critical path, but that will be monitored by the Developer and reported to NYISO.]

[Example Milestones:

- Interconnection studies (e.g. Optional Feasibility Study, System Impact Study, Facilities Study)
- Siting activities (e.g. locating line routing, access roads, and substation site location options)
- Environmental impact studies (relative to siting options)
- Engineering (initial)
- Permitting and regulatory activities (e.g. Certificate of Environmental Compatibility and Public Need)
- Public outreach plan
- Initiation of negotiation of key contracts and financing
- Acquisition of all necessary approvals and authorizations of Governmental Authorities, including identification of all required regulatory approvals
- Closing of project financing
- Completion of key contracts
- Engineering (detailed)
- Procurement of major equipment and materials
- Environmental management & construction plan (for Article VII certification)
- Acquisition of [all or %] required rights of way and property / demonstration of site control
- Surveying and geotechnical assessment (relative to line and station layouts)
- Execution, or filing of unexecuted version, of interconnection agreement
- Engineering (completed)
- Delivery of major electrical equipment

- Line and substation site work including milestones for foundations, towers, conductor stringing, equipment delivery and installation, substation controls and communication, security, etc.
- Construction outage and restoration coordination plan
- Completion, verification and testing
- Operating and maintenance agreements and instructions
- In-Service Date
- Required Project In-Service Date]

Appendix D – Cost Cap

FORM OF OPERATING AGREEMENT

Table of Contents

ARTICLE 1.0: DEFINITIONS

1.01 Capitalized Terms

ARTICLE 2.0: RESPONSIBILITIES OF THE NTO

2.01 Transmission Facilities

2.02 Transmission System Operation

2.03 Local Area Transmission System Facilities

2.04 Safe Operations

2.05 Local Control Center, Metering and Telemetry

2.06 Security Constrained Unit Commitment Adjustments

2.07 Design, Maintenance and Rating Capabilities

2.08 Maintenance Scheduling

2.09 NERC Registration

2.10 Investigations and Restoration

2.11 Information and Support

2.12 Performance of Obligation by Third Parties

2.13 Comprehensive Planning Process for Reliability Needs

ARTICLE 3.0: RESPONSIBILITIES OF THE ISO

3.01 Operation and Coordination

3.02 Tariff Administration and Performance of Responsibilities Under ISO Related Agreements

3.03 Granting of Authority

3.04 Collection and Billing

3.05 Proposed Material Modifications to the NYS Power System

3.06 OASIS

3.07 NERC Registration

3.08 NTO's Reserved Rights

3.09 Retention of Non-Transferred Obligations

ARTICLE 4.0: ASSIGNMENT

4.01 Assignments by the NTO or the ISO

ARTICLE 5.0: LIMITATION OF LIABILITY AND INDEMNIFICATION

- 5.01** Limitations of Liability
- 5.02** Additional Limitations of Liability
- 5.03** Indemnification
- 5.04** Force Majeure
- 5.05** Claims by Employees and Insurance
- 5.06** Survival

ARTICLE 6.0: OTHER PROVISIONS

- 6.01** Term and Termination for Cause
- 6.02** Termination by Election
- 6.03** Obligations after Termination
- 6.04** Winding Up
- 6.05** Confidentiality
- 6.06** Governing Law; Jurisdiction
- 6.07** Headings
- 6.08** Mutual Agreement
- 6.09** Contract Supremacy
- 6.10** Additional Remedies
- 6.11** No Third Party Rights
- 6.12** Not Partners
- 6.13** Waiver
- 6.14** Modification
- 6.15** Counterparts

OPERATING AGREEMENT

THIS OPERATING AGREEMENT (“Agreement”) is made and entered into this ____ day of _____ 20__, by and between _____, a non-incumbent transmission owner organized and existing as a [corporate description] under the laws of the State/Commonwealth of _____ (“NTO”), and the New York Independent System Operator, Inc., a not-for-profit corporation organized and existing under the laws of the State of New York (“ISO”). The NTO and the ISO each may be referred to as a “Party” or collectively referred to as the “Parties.”

WITNESSETH:

WHEREAS, the ISO is an independent system operator that is responsible under its Open Access Transmission Tariff (“ISO OATT”) and its Market Administration and Control Area Services Tariff (“ISO Services Tariff”) as they may be amended from time to time (collectively, “ISO Tariffs”), and the ISO Related Agreements, filed with and accepted by the Federal Energy Regulatory Commission (“Commission”), for providing non-discriminatory, open access transmission service, maintaining reliability, performing system planning, and administering competitive wholesale markets for energy, capacity, and ancillary services in New York State;

WHEREAS, the NTO is the owner of certain transmission facilities specified herein that are integrated with the NYS Transmission System and the NTO has fiduciary responsibilities to its investors to assure, among other things, the receipt of adequate revenues to maintain its transmission facilities, a reasonable rate of return on its transmission facilities, and to provide for recovery of the capital invested in its transmission facilities;

WHEREAS, the NTO has executed, along with this Agreement, the Independent System Operator Agreement (“ISO Agreement”) and has executed a Service Agreement(s) as a Transmission Owner for purposes of the ISO Tariffs;

WHEREAS, the ISO will exercise ISO Operational Control over certain of the NTO’s transmission facilities classified as “NTO Transmission Facilities Under ISO Operational Control”;

WHEREAS, the NTO and ISO have agreed to enter into this Agreement for the purpose of the NTO authorizing the ISO to exercise, and the ISO assuming, ISO Operational Control over the NTO Transmission Facilities Under ISO Operational Control in accordance with the requirements set forth in this Agreement, the ISO Tariffs, and the ISO Related Agreements, as applicable;

WHEREAS, the NTO will continue to own and be responsible for the physical operation, modification and maintenance of its NTO Transmission Facilities Under ISO Operational Control; and

WHEREAS, the ISO OATT will provide for the payment by Transmission Customers for Transmission Service at rates designed to enable the NTO to recover its revenue requirement to the extent allowed, accepted, or approved by FERC;

WHEREAS, the ISO has a comprehensive planning process for reliability needs that includes the Reliability Planning Process and the Short-Term Reliability Process, and each Transmission Owner, including the NTO, will participate in this planning process as described in the ISO OATT;

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements set forth herein, the Parties do hereby agree with each other, for themselves and their successors and assigns, as follows:

ARTICLE 1.0: DEFINITIONS

1.01 Capitalized Terms

Capitalized terms that are not otherwise defined herein shall have the meaning set forth in the definitions contained in Article 1 of the ISO Agreement, as it existed on the date this Agreement is signed by the Parties. Those definitions contained in Article 1 of the ISO Agreement are hereby incorporated by reference in their entirety into this Agreement; *provided, however*, that an NTO shall be a Transmission Owner for purposes of the ISO Tariffs and this Agreement notwithstanding the definition of Transmission Owner contained in the ISO Agreement related to the ownership of 100 circuit miles of transmission in New York State and becoming a signatory to the ISO/TO Agreement. Modifications to such definitions in the ISO Agreement shall apply to this Agreement only if the Parties to this Agreement agree in writing pursuant to Section 6.14 below.

ARTICLE 2.0: RESPONSIBILITIES OF THE NTO

2.01 Transmission Facilities

The NTO owns certain transmission facilities over which the ISO will have day-to-day operational control to maintain these facilities in a reliable state, as defined by the Reliability Rules and all other applicable reliability rules, standards and criteria, and in accordance with the ISO Tariffs, ISO Related Agreements and ISO Procedures (“ISO Operational Control”). These NTO facilities shall be classified as “NTO Transmission Facilities Under ISO Operational Control,” and are listed in Appendix A-1 of this Agreement. The NTO also will be responsible for providing notification to the ISO with respect to actions related to certain other transmission facilities. These facilities shall be classified as “NTO Transmission Facilities Requiring ISO Notification,” and are listed in Appendix A-2 of this Agreement. Transmission facilities may be added to, or deleted from, the lists of facilities provided in Appendices A-1 and A-2 herein by mutual written agreement of the ISO and the NTO owning and controlling such facilities. Currently listed facilities will be posted on the ISO’s OASIS.

2.02 Transmission System Operation

The NTO shall be responsible for ensuring that all actions related to the operation, maintenance and modification of its facilities that are designated as NTO Transmission Facilities Under ISO Operational Control and NTO Transmission Facilities Requiring ISO Notification are performed in accordance with the terms of this Agreement, all Reliability Rules and all other applicable reliability rules, standards and criteria, all operating instructions, ISO Tariffs, and ISO Procedures.

2.03 Local Area Transmission System Facilities

Transmission system facilities not designated as NTO Transmission Facilities Under ISO Operational Control or as NTO Transmission Facilities Requiring ISO Notification shall be

collectively known as “Local Area Transmission System Facilities” and are listed in Appendix A-3 of this Agreement. Transmission facilities may be added to, or deleted from, the list of facilities provided in Appendix A-3 herein by mutual written agreement of the ISO and the NTO owning and controlling such facilities. The NTO shall have sole responsibility for the operation of its Local Area Transmission System Facilities, provided, however, that such operation shall comply with all Reliability Rules and ISO Tariffs as applicable, and all other applicable reliability rules, standards and criteria, and shall not compromise the reliable and secure operation of the NYS Transmission System. The NTO shall promptly comply to the extent practicable with a request from the ISO, or from the Transmission Owner(s) to which its facilities are interconnected (“Interconnecting Transmission Owner(s)” or “ITO(s)”), to take action with respect to coordination of the operation of its Local Area Transmission System Facilities.

2.04 Safe Operations

Notwithstanding any other provision of this Agreement, an NTO may take, or cause to be taken, such action with respect to the operation of its facilities as it deems necessary to maintain Safe Operations. To ensure Safe Operations, the local operating rules of the ITO(s) shall govern the connection and disconnection of generation with NTO transmission facilities. Safe Operations include the application and enforcement of rules, procedures and protocols that are intended to ensure the safety of personnel operating or performing work or tests on transmission facilities.

2.05 Local Control Center, Metering and Telemetry

The NTO shall operate, pursuant to ISO Tariffs, ISO Procedures, Reliability Rules and all other applicable reliability rules, standards and criteria on a twenty-four (24) hour basis, a suitable local control center(s) with all equipment and facilities reasonably required for the ISO

to exercise ISO Operational Control over NTO Transmission Facilities Under ISO Operational Control, and for the NTO to fulfill its responsibilities under this Agreement. Operation of the NYS Power System is a cooperative effort coordinated by the ISO control center in conjunction with local control centers and will require the exchange of all reasonably necessary information. The NTO shall provide the ISO with Supervisory Control and Data Acquisition (“SCADA”) information on facilities listed in Appendices A-1 and A-2 herein as well as on generation and merchant transmission resources interconnected to the NTO’s transmission facilities pursuant to the ISO OATT.

The NTO shall provide metering data for its transmission facilities to the ISO, unless other parties are authorized by the appropriate regulatory authority to provide metering data. The NTO shall collect and submit to the ISO billing quality metering data and any other information for its transmission facilities required by the ISO for billing purposes. The NTO shall provide to the ISO the telemetry and other operating data from generation and merchant transmission resources interconnected to its transmission facilities that the ISO requires for the operation of the NYS Power System. The NTO will establish and maintain a strict code of conduct to prevent such information from reaching any unauthorized person or entity.

2.06 Security Constrained Unit Commitment Adjustments

The NTO shall coordinate with its ITO(s) as applicable regarding any request for commitment of additional Generators. If, following coordination among the NTO and its ITO(s), an additional resource(s) needs to be committed to ensure local area reliability, the NTO, or the ITO(s) at the NTO’s request, may request commitment of additional Generators (including specific output level(s)). The ISO will use Supplemental Resource Evaluation (“SRE”), pursuant to ISO Tariffs and ISO Procedures, to fulfill a request from the NTO or ITO(s), as appropriate, for additional units.

2.07 Design, Maintenance and Rating Capabilities

The NTO shall comply with the provisions of this Agreement, all Reliability Rules and all other applicable reliability rules, standards and criteria, ISO Procedures, and Good Utility Practice with respect to the design, maintenance and rating the capabilities of NYS Transmission System facilities.

2.08 Maintenance Scheduling

The NTO shall schedule maintenance of its facilities designated as NTO Transmission Facilities Under ISO Operational Control and schedule any outages (other than forced transmission outages) of said transmission system facilities in accordance with outage schedules approved by the ISO. The NTO shall comply with maintenance schedules coordinated by the ISO, pursuant to this Agreement, for NTO Transmission Facilities Under ISO Operational Control. The NTO shall be responsible for providing notification of maintenance schedules to the ISO for NTO Transmission Facilities Requiring ISO Notification. The NTO shall provide notification of maintenance schedules to affected Transmission Owners for NTO Transmission Facilities Requiring ISO Notification and Local Area Transmission Facilities pursuant to Section 3.5.3 of the ISO Services Tariff.

2.09 NERC Registration

The NTO shall register or enter into agreement with a NERC registered entity for all required NERC functions applicable to the NTO, that may include, without limitation, those functions designated by NERC to be: “Transmission Owner” and “Transmission Planner” and “Transmission Operator.” The Parties agree to negotiate in good faith the compliance obligations for the NERC functions applicable to, and to be performed by, each Party with respect to the NTO’s facilities. Notwithstanding the foregoing, the ISO shall register for the

“Transmission Operator” function for all NTO Transmission Facilities under ISO Operational Control identified in Appendix A-1 of this Agreement.

2.10 Investigations and Restoration

The NTO shall promptly conduct investigations of equipment malfunctions and failures and forced transmission outages in a manner consistent with applicable FERC, PSC, NRC, NERC, NPCC and NYSRC rules, principles, guidelines, standards and requirements, ISO Procedures and Good Utility Practice. The NTO shall supply the results of such investigations to the NYSRC, the ISO, and, pursuant to Section 3.5.3 of the ISO Services Tariff, the other Transmission Owners. Following a total or partial system interruption, restoration shall be coordinated between the ISO control center and local control centers. The local control centers shall have the authority, in coordination with the ISO, to restore the system and to re-establish service if doing so would minimize the period of service interruption. The NTO shall determine the level of resources to be applied to restore facilities to service following a failure, malfunction, or forced transmission outage.

2.11 Information and Support

The NTO shall obtain from the ISO, and the ISO shall provide to the NTO, the necessary information and support services to comply with their obligations under this Article.

2.12 Performance of Obligation by Third Parties

The NTO may arrange for one or more third parties to perform its responsibilities under this Agreement; *provided, however*, that the NTO shall require each such third party to agree in writing to comply with all applicable terms and conditions of this Agreement; *provided, further*, that in all cases the NTO shall be responsible for the acts and omissions of each such third party to the same extent as if such acts and omissions were made by the NTO or its employees, and such use of a third party shall not relieve the NTO of its responsibilities under this Agreement.

Notwithstanding the foregoing, the NTO shall have the right to assign this entire Agreement pursuant to the terms of Article 4.0 hereof.

2.13 Comprehensive Planning Process for Reliability Needs

- a. Notwithstanding any provision, including Section 3.08(e) contained in this Agreement, the NTO acknowledges its obligations described in the ISO's Reliability Planning Process set forth in Attachment Y of the ISO OATT and in the Short-Term Reliability Process set forth in Attachment FF of the ISO OATT, that arise when the ISO designates the NTO as a "Responsible Transmission Owner," pursuant to Section 31.2.4.3 of the ISO OATT or Attachment FF of the ISO OATT, to address a reliability need(s) related to the transmission facilities that the NTO owns and that are subject to this Agreement.
- b. The NTO's obligations described in Section 2.13(a) above shall be subject to the full recovery in wholesale rates on a current basis by the NTO, in accordance with the rate mechanism set forth in Section 6.10 of the ISO OATT (Rate Schedule 10) or Section 6.16 of the ISO OATT (Rate Schedule 16), of all reasonably incurred costs, including a reasonable return on investment and any applicable regulatory incentives, related to the preparation of a proposal for, and the development, construction, operation, and maintenance of, regulated transmission projects undertaken, or caused to be undertaken, by the NTO to meet a reliability need identified in the ISO's Reliability Planning Process or Short-Term Reliability Process as a result of being designated as the Responsible Transmission Owner, including those regulated transmission projects that were subsequently determined by the ISO not to be necessary to meet a reliability need or that cannot be

completed because of the failure to obtain necessary federal, state, or local authorizations or for any other circumstance beyond the NTO's reasonable control;

c. The NTO's obligations described in Section 2.13(a) above shall be further conditioned on:

1. The recovery of transmission-related costs in rates, as provided for in Section 2.13(b) above, will include, but not be limited to, all reasonable costs related to (i) obtaining or attempting to obtain all federal, state and local authorizations necessary for completion of the project included in the Comprehensive Reliability Plan and (ii) acquiring or attempting to acquire all necessary real property rights for such project;
2. The receipt by the NTO of all federal, state, and local authorizations necessary for completion of the regulated transmission project and acquisition by the NTO of all necessary property rights; and
3. The right of the NTO to request any incentives available under regulatory policies related to investments in transmission projects as part of any filing under rates as provided for in Section 2.13(b) above.

d. Nothing contained in Section 2.13 of this Agreement shall limit the right of the NTO to protest, comment on, or engage in litigation before FERC, the New York Public Service Commission, or any court with respect to proposed changes to the Reliability Planning Process.

ARTICLE 3.0: RESPONSIBILITIES OF THE ISO

3.01 Operation and Coordination

The ISO shall direct the operation of, coordinate the maintenance scheduling of, and coordinate the planning of certain facilities of the NYS Power System, including coordination with the control center(s) maintained by or on behalf of the NTO, in accordance with the Reliability Rules and all other applicable reliability rules, standards and criteria, as follows:

- a. Administering Control Area operations of the NYS Power System;
- b. Performing balancing of Generation and Load while ensuring the safe, reliable and efficient operation of the NYS Power System;
- c. Exercising ISO Operational Control over certain facilities of the NYS Power System under normal operating conditions and system Emergencies to maintain system reliability;
- d. Coordinating the NYS Power System equipment outages and maintenance and maintaining the safety and short term reliability of the NYS Power System; and
- e. Conducting the Reliability Planning Process in accordance with Attachment Y of the ISO OATT and the Short-Term Reliability Process in accordance with Attachment FF of the ISO OATT.

3.02 Tariff Administration and Performance of Responsibilities Under ISO Related Agreements

The ISO shall (a) administer the ISO OATT, the ISO Services Tariff and the ISO Agreement in accordance with their provisions as they may be amended from time to time, and (b) shall comply with the provisions of this Agreement, the ISO/TO Agreement, the NYSRC Agreement and the ISO/NYSRC Agreement.

3.03 Granting of Authority

The ISO responsibilities set forth in Article 3 of this Agreement, are granted by the NTO to the ISO only so long as each of the conditions set forth below is met and continues to be met throughout the term of this Agreement:

- a. The ISO fully implements all Reliability Rules and all other applicable reliability rules, standards and criteria including, without limitation, using all reasonable efforts to require all Market Participants to maintain applicable levels of Installed Capacity and Operating Capacity, consistent with the ISO OATT, the ISO Services Tariff, all Reliability Rules and all other applicable reliability rules, standards and criteria;
- b. The ISO has a FERC-accepted transmission tariff(s) and rate schedules which provide(s) for full recovery of the transmission revenue requirement of the NTO to the extent allowed, accepted or approved by FERC;
- c. The ISO does not act in violation of lawful PSC or FERC Orders;
- d. The ISO does not have a financial interest in any commercial transaction involving the use of the NYS Power System or any other electrical system except to the limited extent required for the ISO to be the single counterparty to market transactions in accordance with the credit requirements for organized wholesale electric markets set forth in Commission Order Nos. 741 and 741-A as codified in 18 C.F.R. § 35.47 (2011) or successor provisions;
- e. The ISO distributes revenues from the collection of transmission charges to the NTO in a timely manner; and
- f. The ISO enforces and complies with the creditworthiness and collection standards of the ISO Procedures, the ISO OATT and the ISO Services Tariff.

3.04 Collection and Billing

The ISO shall facilitate and/or perform the billing and collection of revenues related to services provided by the ISO pursuant to the terms of the ISO OATT and the ISO Services Tariff.

3.05 Proposed Material Modifications to the NYS Power System

Pursuant to the requirements of applicable provisions of the ISO OATT, ISO Related Agreements and ISO Procedures, the ISO shall evaluate the impact of any proposed material modification to the NYS Power System. Any proposed material modification to the NTO's facilities must satisfy the requirements of applicable provisions of the ISO OATT, NYSRC and ISO/NYSRC Agreements, ISO Procedures, and this Agreement. In the event of a dispute regarding the impact of the proposed modification, the ISO or the NTO may refer the issue for resolution pursuant to procedures set forth in Article 11 of the ISO Services Tariff, as such procedures may be amended from time to time.

3.06 OASIS

The ISO shall maintain the OASIS for the New York Control Area.

3.07 NERC Registration

If and to the extent any of the NTO's facilities are NERC jurisdictional facilities, the ISO will register for certain NERC functions applicable to those NTO facilities. Such functions may include, without limitation, those functions designated by NERC to be "Reliability Coordinator" and "Balancing Authority" and "Transmission Planner" and "Planning Coordinator." The Parties agree to negotiate in good faith the compliance obligations for the NERC functions applicable to, and to be performed by, each Party with respect to the NTO's facilities. Notwithstanding the foregoing, the ISO shall register for the "Transmission Operator" function

for all NTO Transmission Facilities under ISO Operational Control identified in Appendix A-1 of this Agreement.

3.08 NTO's Reserved Rights

Notwithstanding any other provision of this Agreement with the exception of Section 2.13 above, the NTO shall retain all of the rights set forth in this Section; provided, however, that such rights shall be exercised in a manner consistent with the NTO's rights and obligations under the Federal Power Act and the Commission's rules and regulations thereunder. This Section is not intended to reduce or limit any other rights of the NTO as a signatory to this Agreement or any of the ISO Related Agreements or under an ISO Tariff.

- a. The NTO shall have the right at any time unilaterally to file pursuant to Section 205 of the Federal Power Act to change the ISO OATT, a Service Agreement under the ISO OATT, or the ISO Agreement to the extent necessary: (i) to recover all of its reasonably incurred costs, plus a reasonable return on investment related to services under the ISO OATT and (ii) to accommodate implementation of, and changes to, an NTO's retail access program.
- b. Nothing in this Agreement shall restrict any rights, to the extent such rights exist: (i) of the NTO that is a party to a merger, acquisition or other restructuring transaction to make filings under Section 205 of the Federal Power Act with respect to the reallocation or redistribution of revenues among Transmission Owners or the assignment of its rights or obligations, to the extent the Federal Power Act requires such filings; or (ii) of the NTO to terminate its participation in the ISO pursuant to Section 3.02 of the ISO Agreement or Article 6 of this Agreement, notwithstanding any effect its withdrawal from the ISO may have on the distribution of transmission revenues among other Transmission Owners.

- c. The NTO retains all rights that it otherwise has incident to its ownership of its assets, including, without limitation, its transmission facilities including, without limitation, the right to build, acquire, sell, merge, dispose of, retire, use as security, or otherwise transfer or convey all or any part of its assets, including, without limitation, the right to amend or terminate the NTO's relationship with the ISO in connection with the creation of an alternative arrangement for the ownership and/or operation of its transmission facilities on an unbundled basis (e.g., a transmission company), subject to necessary regulatory approvals and to any approvals required under applicable provisions of this Agreement.
- d. The obligation of the NTO to expand or modify its transmission facilities in accordance with the ISO OATT shall be subject to the NTO's right to recover, pursuant to appropriate financial arrangements contained in Commission-accepted tariffs or agreements, all reasonably incurred costs, plus a reasonable return on investment, associated with constructing and owning or financing such expansions or modifications to its facilities.
- e. Except as provided in Section 2.13 above, the responsibilities granted to the ISO under this Agreement shall not expand or diminish the responsibilities of the NTO to modify or expand its transmission system, nor confer upon the ISO the authority to direct the NTO to modify or expand its transmission system.
- f. The NTO shall have the right to construct (or cause to be constructed), invest in, and own any regulated transmission facilities that the ISO determines are required to meet a reliability need identified by the Reliability Planning Process or the Short-Term Reliability Process, so long as the appropriate

regulatory agency(ies) has granted its approval. The costs associated with any such transmission facilities shall be recovered in rates as provided for in Section 2.13(b) above and the ISO OATT.

- g. The NTO shall have the right to adopt and implement procedures it deems necessary to protect its electric facilities from physical damage or to prevent injury or damage to persons or property.
- h. The NTO retains the right to take whatever actions it deems necessary to fulfill its obligations under local, state or federal law.
- i. Nothing in this Agreement shall be construed as limiting in any way the rights of the NTO to make any filing with the PSC.
- j. Notwithstanding anything to the contrary in this Agreement, no amendment to any provision of this Section may be adopted without the agreement of the NTO.

3.09 Retention of Non-Transferred Obligations

Any and all other rights and responsibilities of the NTO related to the ownership or operation of its transmission assets or to its rights to withdraw its assets from ISO control, that have not been specifically transferred to the ISO under this Agreement or otherwise addressed under this Agreement, will remain with the NTO.

ARTICLE 4.0: ASSIGNMENT

4.01 Assignments by the NTO or the ISO.

This Agreement cannot be assigned by the ISO. This Agreement may be assigned by the NTO including, without limitation, to any entity(ies) in connection with a merger, consolidation, reorganization or change in the organizational structure of the assigning Party, provided that the surviving entity(ies) agree, in writing, to be bound by the terms of this Agreement.

ARTICLE 5.0: LIMITATION OF LIABILITY AND INDEMNIFICATION

5.01 Limitations of Liability

Except as otherwise provided under the ISO OATT, the NTO shall not be liable (whether based on contract, indemnification, warranty, tort, strict liability or otherwise) to the ISO, any Market Participant, any third party or other party for any damages whatsoever, including without limitation, special, indirect, incidental, consequential, punitive, exemplary or direct damages resulting from any act or omission in any way associated with this Agreement, except to the extent the NTO is found liable for gross negligence or intentional misconduct, in which case the NTO shall not be liable for any special, indirect, incidental, consequential, punitive or exemplary damages. Nothing in this Section will excuse an NTO from an obligation to pay for services provided to the NTO by the ISO or to pay any deficiency payments, penalties, or sanctions imposed by the ISO under the ISO OATT or the ISO Services Tariff. The ISO shall not be liable to the NTO or any other party for any damages resulting from any act or omission in any way associated with this Agreement, except to the extent provided for under the ISO OATT.

5.02 Additional Limitations of Liability

Except as otherwise provided under the ISO OATT, the NTO shall not be liable for any indirect, consequential, exemplary, special, incidental or punitive damages including, without limitation, lost revenues or profits, the cost of replacement power or the cost of capital, even if such damages are foreseeable or the damaged party has been advised of the possibility of such damages and regardless of whether any such damages are deemed to result from the failure or inadequacy of any exclusive or other remedy. The ISO shall not be liable to the NTO or any other party for any damages resulting from any act or omission in any way associated with this Agreement, except to the extent provided for under the ISO OATT.

5.03 Indemnification

Each Party shall at all times indemnify, save harmless and defend the other Party, including their directors, officers, employees, trustees, and agents, or each of them, from and against all claims, demands, losses, liabilities, judgments, damages (including, without limitation, any consequential, incidental, direct, special, indirect, exemplary or punitive damages and economic costs), and related costs and expenses (including, without limitation, reasonable attorney and expert fees, and disbursements incurred by the Party in any actions or proceedings between the Party and a Market Participant, or any other third party) arising out of or related to the ISO's or the NTO's acts or omissions related in any way to the NTO's ownership or operation of its transmission facilities when such acts or omissions are either (1) pursuant to or consistent with ISO Procedures or direction; or (2) in any way related to the NTO's or the ISO's performance under the ISO OATT, the ISO Services Tariff, the ISO Agreement, the ISO/NYSRC Agreement, NYSRC Agreement, or this Agreement; *provided, however*, that the NTO shall not have any indemnification obligation under this Section 5.02 with respect to any loss to the extent the loss results from the gross negligence or intentional misconduct of the ISO; *provided, further*, that the ISO shall not have any indemnification obligation under this Section 5.02 with respect to any loss except to the extent the loss results from the gross negligence or intentional misconduct of the ISO.

5.04 Force Majeure

Each Party shall not be considered to be in default or breach under this Agreement, and shall be excused from performance or liability for damages to any other party, if and to the extent it shall be delayed in or prevented from performing or carrying out any of the provisions of this Agreement, except the obligation to pay any amount when due, arising out of or from any act, omission, or circumstance occasioned by or in consequence of any act of God, labor disturbance,

failure of contractors or suppliers of materials, act of the public enemy, war, invasion, insurrection, riot, fire, storm, flood, ice, explosion, breakage or accident to machinery or equipment or by any other cause or causes beyond such Party's reasonable control, including any curtailment, order, regulation, or restriction imposed by governmental, military or lawfully established civilian authorities, or by the making of repairs necessitated by an emergency circumstance not limited to those listed above upon the property or equipment of the ISO or any party to the ISO Agreement. Nothing contained in this Article shall relieve any entity of the obligations to make payments when due hereunder or pursuant to a Service Agreement. Any party claiming a force majeure event shall use reasonable diligence to remove the condition that prevents performance, except the settlement of any labor disturbance shall be in the sole judgment of the affected party.

5.05 Claims by Employees and Insurance

Each Party shall be solely responsible for and shall bear all of the costs of claims by its own employees, contractors, or agents arising under and covered by, any workers' compensation law. Each Party shall furnish, at its sole expense, such insurance coverage and such evidence thereof, or evidence of self-insurance, as is reasonably necessary to meet its obligations under this Agreement.

5.06 Survival

The provisions of this Article, "Limitations of Liability and Indemnification" shall survive the termination or expiration of this Agreement or the ISO Tariffs.

ARTICLE 6.0: OTHER PROVISIONS

6.01 Term and Termination for Cause

This Agreement shall become effective upon the execution of this Agreement by the NTO and the ISO and on the later of: (i) the date on which FERC, the PSC and any other regulatory agency having jurisdiction accepts this agreement without condition or material modification and grants all approvals needed to place the NTO's facilities in service, including, without limitation, any approvals required under Section 70 of the Public Service Law and Section 203 of the FPA; or (ii) on such later date specified by FERC. Without waiving or limiting any of its other rights under this Article, if the NTO determines that any of the conditions set forth in Section 3.03 hereof is not being met or ceases to be in full force and effect the NTO may terminate this Agreement, withdraw from the ISO Agreement and the ISO Tariffs, and withdraw its assets from the ISO's control and administration on ninety (90) days prior written notice to the ISO and FERC. Such notice shall identify the condition or conditions set forth in Section 3.03 that have not been met or no longer are in full force and effect; provided, however, that prior to the filing of such notice, the ISO shall be advised of the specific condition or conditions that are no longer in full force and effect, and the ISO shall have the opportunity to restore the effectiveness of the condition or conditions identified within a thirty (30) day period. If the effectiveness of the condition or conditions is not restored within thirty (30) days, the NTO may file a notice of termination with the ISO and FERC; provided, however, that if the ISO demonstrates that it has made a good faith effort but has been unable to restore the effectiveness of the condition or conditions within the thirty (30) day period, the ISO shall be provided an additional thirty (30) day period to restore the effectiveness of the condition or conditions and the NTO may not file the notice of termination until the expiration of the second thirty (30) day period. The NTO's termination of this Agreement under this Section shall be effective ninety

(90) days after the filing of the notice of termination unless FERC finds that such termination of the NTO is contrary to the public interest, as that standard has been judicially construed under the Mobile-Sierra doctrine. However, the NTO may withdraw the notice or extend the termination date. Nothing in this section shall be construed as a voluntary undertaking by the NTO to remain a Party to this Agreement after the expiration of its notice of termination.

6.02 Termination by Election

The NTO may terminate this Agreement, withdraw from the ISO Agreement and the ISO Tariffs, and withdraw its assets from the ISO control and administration upon ninety (90) days written notice to the ISO Board and FERC. Such termination and withdrawal shall be effective unless FERC finds that such termination and withdrawal is contrary to the public interest, as that standard has been judicially construed under the Mobile-Sierra doctrine. Any modification to this Article shall provide the NTO with the right to terminate this Agreement pursuant to the unmodified provisions of this Article, within ninety (90) days of the effective date of such modification.

6.03 Obligations after Termination

- a. Following termination of this Agreement, a Party shall remain liable for all obligations arising hereunder prior to the effective date of termination, including all obligations accrued prior to the effective date, imposed on the Party by this Agreement or the ISO Tariffs or other ISO Related Agreements.
- b. Termination of this Agreement shall not relieve the NTO of any continuing obligation it may have under the ISO Tariffs and ISO Related Agreements, unless the NTO also withdraws from the ISO Tariffs or ISO Related Agreements.

6.04 Winding Up

Any provision of this Agreement that expressly or by implication comes into or remains in force following the termination of this Agreement shall survive such termination. The surviving provisions shall include, but shall not be limited to: (i) those provisions necessary to permit the orderly conclusion, or continuation pursuant to another agreement, of transactions entered into prior to the termination of this Agreement, (ii) those provisions necessary to conduct final billing, collection, and accounting with respect to all matters arising hereunder, and (iii) the indemnification and limitation of liability provisions as applicable to periods prior to such termination. The ISO and the terminating NTO shall have an obligation to make a good faith effort to agree upon a mutually satisfactory termination plan. Such plan shall have among its objectives an orderly termination. The plan shall address, to the extent necessary, the allocation of any costs directly related to the termination by the NTO.

6.05 Confidentiality

- A. Party Access. Each Party shall supply information to the other Party as required by this Agreement. Information shall be treated as Confidential Information under this Agreement if (i) it has been clearly marked or otherwise designated as “Confidential information” by the Party supplying the information, or (ii) it is information designated as Confidential Information by applicable provisions of the ISO Tariffs; *provided, however*, Confidential Information does not include information: (i) in the public domain or that has been previously publicly disclosed without violation of this Agreement, (ii) required by law to be publicly submitted or disclosed (with notice to the other Party), or (iii) necessary to be divulged in an action to enforce this Agreement.

Notwithstanding anything in this Section to the contrary, the NTO shall not have a right hereunder to receive or review any documents, data or other information of another Market Participant or the ISO, including documents, data or other information provided to the ISO, to the extent such documents, data or information have been designated as confidential pursuant to the procedures specified in the ISO Tariffs or to the extent that they have been designated as confidential by such other Market Participant; *provided, however*, that the NTO may receive and review any composite documents, data and other information that may be developed based on such confidential documents, data or information if the composite does not disclose any individual Market Participant's confidential data or information.

- B. Required Disclosure. The ISO shall treat any Confidential Information it receives from the NTO in accordance with applicable provisions of the ISO Tariffs. If the NTO receives Confidential Information from the ISO, it shall hold such information in confidence, employing at least the same standard of care to protect the Confidential Information obtained from the ISO as it employs to protect its own Confidential Information. Each Party shall not disclose the other Party's Confidential Information to any third party or to the public without prior written authorization of the Party providing the information; *provided, however*, if the ISO is required by applicable law, or in the course of administrative or judicial proceedings, or subpoena, to disclose information that is otherwise required to be maintained in confidence pursuant to this Section, the ISO will do so in accordance with applicable provisions of the ISO Tariffs. And if the NTO is required by applicable law, or in the course of administrative or judicial proceedings, or subpoena, to disclose information that is otherwise required to be

maintained in confidence pursuant to this Section, the NTO may make disclosure of such information; *provided, however*, that as soon as the NTO learns of the disclosure requirement and prior to making such disclosure, the NTO shall notify the ISO of the requirement and the terms thereof and the ISO may, at its sole discretion and cost, assert any challenge to or defense against the disclosure requirement and the NTO shall cooperate with the ISO to the maximum extent practicable to minimize the disclosure of the information consistent with applicable law. Each Party shall cooperate with the Other Party to obtain proprietary or confidential treatment of such information by the person to whom such information is disclosed prior to any such disclosure.

6.06 Governing Law; Jurisdiction

The interpretation and performance of this Agreement shall be in accordance with and shall be controlled by the laws of the State of New York as though this Agreement is made and performed entirely in New York. With respect to any claim or controversy arising from this Agreement or performance hereunder within the subject matter jurisdiction of the Federal or State courts of the State of New York, the Parties consent to the exclusive jurisdiction and venue of said courts.

6.07 Headings

The section headings herein are for convenience and reference only and in no way define or limit the scope of this Agreement or in any way affect its provisions. Whenever the terms hereto, hereunder, herein or hereof are used in this Agreement, they shall be construed as referring to this entire Agreement, rather than to any individual section, subsection or sentence.

6.08 Mutual Agreement

Nothing in this Agreement is intended to limit the Parties' ability to mutually agree upon taking a course of action different than that provided for herein; provided that doing so will not adversely affect any other Parties' rights under this Agreement.

6.09 Contract Supremacy

In the case of a conflict between the express terms of this Agreement and the terms of the ISO Agreement, the express terms of this Agreement shall prevail.

6.10 Additional Remedies

The Parties agree that remedies at law will be inadequate to protect the interests of the NTO and that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed by the ISO in accordance with their specific terms or were otherwise breached. Accordingly, it is agreed that the NTO shall be entitled to an injunction or injunctions to prevent breaches of this Agreement or an ISO Tariff by the ISO, and specific performance to enforce specifically the terms and provisions thereof in any court of the United States or any state having jurisdiction, this being in addition to any other remedy to which the NTO is entitled at law or in equity.

6.11 No Third Party Rights

Nothing in this Agreement, express or implied, is intended to confer on any person, other than the Parties hereto, any rights or remedies under or by reason of this Agreement.

6.12 Not Partners

Nothing contained in this Agreement shall be construed to make the Parties partners or joint venturers or to render either Party liable for the debts or obligations of the other Party.

6.13 Waiver

Any waiver at any time of the rights of either Party as to any default or failure to require strict adherence to any of the terms herein, on the part of the other Party to this Agreement or as to any other matters arising hereunder shall not be deemed a waiver as to any default or other matter subsequently occurring.

6.14 Modification

This Agreement is subject to change under Section 205 of the Federal Power Act, as that section may be amended or superseded, upon the mutual written agreement of the Parties.

Absent mutual agreement of the Parties, it is the intent of this Section 6.14 that, to the maximum extent permitted by law, the terms and conditions set forth in Sections 2.01, 2.13, 3.03, 3.08, 3.09, 4.01, 5.01, 5.02, 5.03, 5.04, 5.05, 5.06, 6.01, 6.02, 6.09 and 6.14 of this Agreement shall not be subject to change, regardless of whether such change is sought (a) by the Commission acting sua sponte on behalf of either Party or third party, (b) by a Party, (c) by a third party, or (d) in any other manner; subject only to an express finding by the Commission that such change is required under the public interest standard under the Mobile-Sierra doctrine. Any other provision of this Agreement may be changed pursuant to a filing with FERC under Section 206 of the Federal Power Act and a finding by the Commission that such change is just and reasonable.

6.15 Counterparts

This Agreement may be executed in counterparts, neither one of which needs to be executed by both Parties, and this Agreement shall be binding upon both Parties with the same force and effect as if both Parties had signed the same document, and each such signed counterpart shall constitute an original of this Agreement.

IN WITNESS WHEREOF, each of the Parties hereto has caused this Agreement to be executed in its corporate name by its proper officers as of the date first written above.

New York Independent System Operator, Inc.

By: _____

Title: _____

Date: _____

[Insert name of NTO]

By: _____

Title: _____

Date: _____

APPENDIX A-1

LISTING OF NTO TRANSMISSION FACILITIES UNDER ISO OPERATIONAL CONTROL

APPENDIX A-2

LISTING OF NTO TRANSMISSION FACILITIES REQUIRING ISO NOTIFICATION

APPENDIX A-3

LISTING OF NTO LOCAL AREA TRANSMISSION SYSTEM FACILITIES

38.1 Definitions

Whenever used in the **Short-Term Reliability Process** requirements in this Section 38 with initial capitalization, the following terms shall have the meaning specified in this Section

38.1. Terms used in this Section 38 with initial capitalization that are not defined in this Section

38.1 shall have the meanings specified in Section 31.1.1 of Attachment Y of the ISO OATT or, if not defined therein, in Section 1 of the ISO OATT or Section 2 of the ISO Services Tariff.

Developer: A person or entity, including a Transmission Owner, sponsoring or proposing a solution to a Short-Term Reliability Process Need pursuant to this Attachment FF.

Generator Deactivation Assessment: The ISO's analysis, in coordination with the Responsible Transmission Owner(s), of whether a Generator Deactivation Reliability Need will result from a Generator becoming Retired, entering into a Mothball Outage, or being unavailable due to an ICAP Ineligible Forced Outage. Except when the ISO elects to assess the reliability impacts of a Generator's ICAP Ineligible Forced Outage outside the quarterly STAR, a Generator Deactivation Assessment will be a component of a STAR.

Short-Term Assessment of Reliability Start Date: The date on which the ISO next commences a STAR after the ISO issues a written notice to a Market Participant pursuant to Section 38.3.1.4 indicating that the Generator Deactivation Notice for its Generator is complete. If a Market Participant's Generator enters into an ICAP Ineligible Forced Outage pursuant to Section 5.18.2.1 of the ISO Services Tariff, then the Short-Term Assessment of Reliability Start Date is the date on which the ISO next commences a STAR; except (i) when the ISO determines that it should commence a stand alone Generator Deactivation Assessment based on the potential for an immediate reliability need to arise (*see* Section 38.3.4), or (ii) when the ISO is able to and elects to add a Generator that is in an ICAP Ineligible Forced Outage to a STAR that has already begun. Under either exception [(i) or (ii)], the Short-Term Assessment of Reliability Start Date is the date on which the Generator entered an ICAP Ineligible Forced Outage.

Generator Deactivation Notice: The form set forth in Section 38.24 (Appendix A) of this Attachment FF.

Generator Deactivation Reliability Need: A condition identified by the ISO in a STAR or a Generator Deactivation Assessment as a violation or potential violation of one or more Reliability Criteria and applicable local criteria. Violations and potential violations identified in a STAR are only Generator Deactivation Reliability Needs if the need can be resolved, in whole or in part, by the continued availability or operation of an Initiating Generator. A Generator Deactivation Reliability Need is a type of Short-Term Reliability Process Need.

Generator Owner: (a) the entity or entities that have executed an RMR Agreement and assumed ultimate responsibility for the operation of an RMR Generator and its participation in the ISO Administered Markets; (b) the entity or entities that have indicated their willingness to execute an RMR Agreement and assume ultimate responsibility for the operation of an RMR Generator and its participation in the ISO Administered Markets by submitting a filing to FERC proposing a rate for providing RMR service or seeking to recover the cost of Capital Expenditures; or (c) the entity or entities that possess ultimate responsibility for the operation of an Interim Service Provider and its participation in the ISO Administered Markets. The Generator Owner may be a Market Party and/or a Market Participant, may include one or more Market Parties and/or Market Participants, or may participate in the ISO Administered Markets by and through one or more Market Parties and/or Market Participants.

Initiating Generator: A Generator with a nameplate rating that exceeds 1 MW that submits a Generator Deactivation Notice for purposes of becoming Retired or entering into a Mothball Outage or that has entered into an ICAP Ineligible Forced Outage pursuant to Section 5.18.2.1 of the ISO Services Tariff, which action is being evaluated by the ISO in accordance with its Short-Term Reliability Process requirements in this Section 38 of the ISO OATT.

Interim Service Provider: A Generator that must remain in service during the 365 days that follow the Short-Term Assessment of Reliability Start Date beyond the latest of (a) the 181st day after the ISO issues a written notice to a Market Participant pursuant to Section 38.3.1.4 indicating that the Generator Deactivation Notice for its Generator is complete, or (b) ten days after the posting of a STAR that assessed the Generator's deactivation, or (c) the Generator's requested deactivation date. A Generator that submitted a Generator Deactivation Notice to be Retired is an Interim Service Provider even if the ISO authorizes the Generator to be deactivated, if the ISO or a Responsible Transmission Owner requires the step-up transformer(s) and/or other system protection equipment to remain in service during the 365 days that follow the Short-Term Assessment of Reliability Start Date beyond the latest of (a) the 181st day after the ISO issues a written notice to a Market Participant pursuant to Section 38.3.1.4 indicating that the Generator Deactivation Notice for its Generator is complete, or (b) ten days after the posting of a STAR that assessed the Generator's deactivation, or (c) the Generator's requested deactivation date, or (d) the date on which the generating unit(s) deactivate. Interim Service Providers are compensated in accordance with Rate Schedule 8 to the ISO Services Tariff.

Market Party: Any person or entity that is, or proposes or plans (including any participant therein,) a project that would be, a buyer or a seller in, or that makes bids or offers to buy or sell in, or that schedules or seeks to schedule Transactions with the ISO in or affecting any of the ISO Administered Markets, or any combination of the foregoing.

Near-Term Reliability Need: A Generator Deactivation Reliability Need that the ISO determines will arise within three years of the conclusion of the 365 days that follow the Short-Term Assessment of Reliability Start Date; or a Short-Term Reliability Process Need that is not a Generator Deactivation Reliability Need that the ISO determines will arise within three years of the posting of the STAR in which the need is identified.

New York State Bulk Power Transmission Facilities ("BPTFs"): Defined in Section 31.1.1 of the OATT.

Reliability Need: Defined in Section 31.1.1 of the OATT.

Reliability Planning Process: The term shall have the meaning set forth in Section 31.1.1 of Attachment Y of the ISO OATT.

Responsible Transmission Owner: The Transmission Owner or Transmission Owners designated by the ISO pursuant to this Attachment FF: (i) to conduct the necessary reliability studies to review the impact of a Generator's proposed deactivation on the reliability of the non-BPTFs that are part of the New York State Transmission System, (ii) to prepare a Short-Term Reliability Process Solution and, if required, a conceptual permanent solution to address a Short-Term Reliability Process Need, and (iii) to proceed with a Short-Term Reliability Process Solution if directed to do so by the ISO. The Responsible Transmission Owner will normally be the Transmission Owner in whose Transmission District the ISO identifies a Short-Term Reliability Process Need and/or that owns a transmission facility on which a Reliability Need arises.

RMR Service Offer: An offer submitted to the ISO by a Generator to provide RMR service.

RMR Start Date: The date an RMR Generator begins participating, offering, and operating in the ISO Administered Markets pursuant to the ISO Tariff rules that apply to RMR Generators and the terms of an RMR Agreement.

Short-Term Assessment of Reliability (STAR): The ISO's assessment, in coordination with the Responsible Transmission Owner(s), of whether a Short-Term Reliability Process Need will result from a Generator becoming Retired, entering into a Mothball Outage, a Generator being unavailable due to an ICAP Ineligible Forced Outage, or from other changes to the availability of Resources or to the New York State Transmission System. The ISO performs STARs on a quarterly basis, commencing on the dates specified in ISO Procedures.

Short-Term Reliability Process Need: A Generator Deactivation Reliability Need or a condition identified by the ISO in a STAR as a violation or potential violation of one or more Reliability Criteria on the BPTF.

Short-Term Reliability Process: The process set forth in this Attachment FF by which the ISO evaluates and addresses the reliability impacts resulting from both: (i) Generator Deactivation Reliability Need(s), and/or (ii) other Reliability Needs on the BPTFs that are identified in a STAR.

Short-Term Reliability Process Solution: A solution to address a Short-Term Reliability Process Need, which may include (i) an Initiating Generator, (ii) a solution proposed pursuant to Section 38.4, or (iii) a Generator identified by the ISO pursuant to Section 38.5.

Viable and Sufficient: Term that describes a proposed Short-Term Reliability Process Solution that the ISO has determined in accordance with Section 38.6 to be viable and sufficient to satisfy the identified Short-Term Reliability Process Need individually or in conjunction with other solutions.

38.2 Scope of Short-Term Reliability Process

The Short-Term Reliability Process includes within its scope the ISO's review of Generator deactivations to address any identified Generator Deactivation Reliability Needs and the ability for the ISO to address other Reliability Needs on the BPTF that are identified in a STAR. The STAR will use the most recent base case from the Reliability Planning Process, updated in accordance with ISO Procedures for the Reliability Planning Process, and the ISO will review key study assumptions with its stakeholders.

The Short-Term Reliability Process set forth in this Attachment FF establishes the process by which the ISO will address a Generator Deactivation Reliability Need that results from a Generator that has a nameplate rating that exceeds 1 MW becoming Retired, entering into a Mothball Outage, or being unavailable due to an ICAP Ineligible Forced Outage. Pursuant to this process, the ISO will first determine through a STAR (or possibly a Generator Deactivation Assessment for Generators in an ICAP Ineligible Forced Outage) whether a Generator Deactivation Reliability Need would result from a Generator's deactivation. If the STAR or Generator Deactivation Assessment identifies a Generator Deactivation Reliability Need that arises three years or less after the conclusion of the 365 day prior notice period set forth in Section 38.3.1 below, then the ISO will solicit and evaluate market-based and regulated Short-Term Reliability Process Solutions to address the need, including, but not limited to, entering into an RMR Agreement with the Initiating Generator. Generator Deactivation Reliability Needs that arise more than three years after the conclusion of the 365 day prior notice period will only be addressed using this Short-Term Reliability Process if the identified needs cannot timely be addressed through the ISO's Reliability Planning Process. Rules addressing cost allocation for Short-Term Reliability Process Solutions are set forth in Section 38.22. Rules addressing cost

recovery for Short-Term Reliability Process Solutions are set forth in Section 38.23, Rate Schedules 14 and 16 to the ISO OATT, and Rate Schedule 8 to the ISO Services Tariff.

The Short-Term Reliability Process enables the ISO to perform STARs to assess reliability concerns that should not wait for the next Reliability Needs Assessment to be conducted, and to procure solutions to identified Short-Term Reliability Process Needs. In addition to evaluating the reliability impacts of Generator deactivations, the ISO can assess the reliability impacts of other changes to the availability of Resources and to the New York State Transmission System in a STAR. STARs are performed on a quarterly basis. Each STAR looks out five years from its start date. Each STAR will use the most recent base cases from the Reliability Planning Process (year 1 through year 5), updated in accordance with ISO Procedures for the Reliability Planning Process, and the ISO will review key study assumptions with its stakeholders.

Short-Term Reliability Process Needs that arise within three years of the later of (a) the conclusion of the 365 day prior notice period for Generator Deactivation Reliability Needs, or (b) the posting of a completed STAR for other Reliability Needs on the BPTF, will be addressed using this Short-Term Reliability Process. Short-Term Reliability Process Needs that arise more than three years after the later of (x) the conclusion of the 365 day prior notice period for Generator Deactivation Reliability Needs, or (y) the posting of a completed STAR for other Reliability Needs on the BPTF, will only be addressed using this Short-Term Reliability Process if an identified Reliability Need cannot timely be addressed through the ISO's Reliability Planning Process.

If the Market Participant that administers a Generator's participation in the ISO Administered Markets is a different entity than the entity that possesses the ultimate decision-

making authority concerning the deactivation, retirement and/or outage or repair of a Generator that has a nameplate rating that exceeds 1 MW, then (i) the entity with ultimate decision-making authority regarding the deactivation, retirement and/or outage or repair of the Generator must agree, as part of the registration of the Generator with the ISO for participation in the ISO Administered Markets, that it will be subject to and comply with the requirements of this Attachment FF, and (ii) the entity with ultimate decision-making authority regarding the deactivation, retirement and/or repair of the Generator shall, along with the Market Participant, be subject to all of the requirements in this Attachment FF that apply to a Market Participant, Market Party, Generator Owner or a Generator.

38.3 Generator Deactivation Requirements

38.3.1 Requirements for Initiating Generator Seeking to Be Retired or Enter into Mothball Outage

- 38.3.1.1 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 by the ISO, as explained in Section 38.3.1.4 below) before its Generator that has a nameplate rating that exceeds 1 MW 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.
- 38.3.1.2 The Market Participant shall provide this notice to the ISO by submitting a Generator Deactivation Notice in the form set forth in Appendix A to this Attachment FF, 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 38.25.2, and 38.25.5 through 38.25.7 of Appendix B of this Attachment FF.
- 38.3.1.3 The Market Participant must specify in the Generator Deactivation Notice its proposed date for its Generator that has a nameplate rating that exceeds 1 MW to be Retired or enter into a Mothball Outage.
- 38.3.1.4 The 365-day notice period applicable to a Generator proposing to be Retired or enter into a Mothball Outage will begin to run on the date the ISO commences the next STAR after it issues 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

Attachment FF, “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 FF, to review as required by Sections 38.7 and 38.8 the information provided in accordance with Appendix B of this Attachment FF, and to assess market impacts under Section 23 of Attachment H of the ISO Services Tariff.

38.3.1.5 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, and the Generator’s deactivation will be included in the next STAR that the ISO commences.

38.3.2 Requirements for Initiating Generator that Has Entered into ICAP Ineligible Forced Outage and Generator Deactivation Assessment

Within 20 days of a Market Participant’s Generator that has a nameplate rating that exceeds 1 MW entering into an ICAP Ineligible Forced Outage, the Market Participant shall

submit the information required for an Initiating Generator in accordance with Sections 38.25.2 and 38.25.5 through 38.25.7 of Appendix B of this Attachment FF. It shall also provide the information required by Section 38.25.4 of Appendix B of this Attachment FF.

Distinct from the Initiating Generator's obligation to timely submit required information to the ISO that is set forth above, when a Generator that has a nameplate rating that exceeds 1 MW enters an ICAP Ineligible Forced Outage the ISO shall determine whether it will (a) immediately commence a Generator Deactivation Assessment to review the deactivation of the Initiating Generator, or (b) if practicable, add the Initiating Generator to a STAR that is already in progress, or (c) include the Initiating Generator in the next STAR it commences. The ISO will make its determination based on the expected likelihood of identifying a Generator Deactivation Reliability Need, and the expected immediacy of any need that may arise. The ISO shall consult with the Responsible Transmission Owner(s) to the extent feasible before reaching its determination. The ISO will notify the Initiating Generator and post a notice on its website specifying whether it will immediately commence a Generator Deactivation Assessment to review the deactivation of the Initiating Generator, add the Initiating Generator to a STAR that is already in progress, or include the Initiating Generator in the next STAR it commences.

38.3.3 Continuing Obligation for Market Participants and Market Parties to Respond to ISO Information Requests

Following the submission of a complete Generator Deactivation Notice or the entry of its Generator into an ICAP Ineligible Forced Outage, the Market Participant (which is also a Market Party) is subject to a continuing obligation to promptly submit any additional information requested by the ISO in connection with the ISO's evaluation under this Attachment FF or to assess market impacts under Section 23 of Attachment H of the ISO Services Tariff.

The Market Participant shall provide the ISO with any requested additional information, and the ISO will promptly review the information it receives to determine whether the information provided is sufficient to permit the ISO to perform its duties under this Attachment FF (including but not limited to the calculation of an Interim Service Provider rate and/or an Availability and Performance Rate), and to assess market impacts under Section 23 of Attachment H of the ISO Services Tariff. Within ten (10) business days of the ISO receiving all of the additional information it requested, the ISO will inform the Market Participant whether its submission is sufficient, or whether further information is needed.

38.3.4 Immediate Reliability Need

The ISO may take immediate action to implement an interim solution to maintain reliability if the ISO determines that a Short-Term Reliability Process Need may not be timely addressed through the normal Short-Term Reliability Process. To maintain reliability in such circumstances, the ISO may abbreviate, as necessary, the time periods and requirements set forth in this Attachment FF and make any necessary filings with the Commission.

To address an immediate Short-Term Reliability Process Need the ISO may pay the demonstrated costs in excess of \$100,000 that a Market Party or Generator Owner incurs to repair or replace a damaged step-up transformer and/or other system protection equipment. Such costs may be recovered as Capital Expenditures in accordance with the requirements of Sections 38.17.3 and 38.17.4 of this Attachment FF to the ISO OATT even if the Generator is not eligible to be an Interim Service Provider because it is in an ICAP Ineligible Forced Outage. If the cost of returning a damaged step-up transformer and/or other system protection equipment is not expected to exceed \$100,000, then the Generator Owner shall promptly return the step-up

transformer and/or other system protection equipment designated by the ISO to service without additional recompense.

38.3.5 Performance of STAR or Generator Deactivation Assessment

38.3.5.1 The ISO performs STARs on a quarterly basis, commencing on the dates specified in ISO Procedures. Following the quarterly Short-Term Assessment of Reliability Start Date, the ISO will perform, in coordination with the Responsible Transmission Owner(s) identified by the ISO, a Generator Deactivation Assessment concerning the Initiating Generator(s) that have complete Generator Deactivation Notices (*see* Section 38.3.1.4 above). Except when the ISO is assessing a potential immediate reliability need, one or more Generator Deactivation Assessment(s) will be performed together as components of a STAR. The ISO will conduct the necessary reliability studies to review the impact on the reliability of the BPTFs that would result from the Generator that has a nameplate rating that exceeds 1 MW 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.

In addition to reviewing Generator deactivations, STARs will also (or alternatively) assess the potential BPTF reliability impacts of other changes to the availability of Resources or to the New York State Transmission System in accordance with ISO Procedures for the Reliability Planning Process. The ISO will conduct the necessary reliability studies to review the impact on the

reliability of the BPTFs, which may include assistance from the Responsible Transmission Owner(s).

For the STAR or Generator Deactivation Assessment, the ISO will use the most recent base case from the Reliability Planning Process, updated in accordance with ISO Procedures for the Reliability Planning Process. The study period for a stand-alone Generator Deactivation Assessment will be the four years following the conclusion of the 365-day notice period. The study period for a STAR will be the five years following the Short-Term Assessment of Reliability Start Date. For both types of assessments, the ISO will review key study assumptions with its stakeholders.

38.3.5.2 As part of the assessment, the ISO shall review whether any potential Short-Term Reliability Process Need 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.

38.3.5.3 Within ninety days of the Short-Term Assessment of Reliability Start Date, the ISO shall concurrently notify the Initiating Generator(s) and post on its website the results of the STAR or Generator Deactivation Assessment. The assessment will specify: (i) whether one or more Short-Term Reliability Process Need(s) would arise, and (ii) whether the retention of one or more Initiating Generator(s) would resolve, in whole or in part, one or more Short-Term

Reliability Process Need(s), and (iii) whether the ISO has determined that any Short-Term Reliability Process Need can be timely addressed in the current or next planning cycle of the biennial Reliability Planning Process, or must be addressed using this Short-Term Reliability Process. The Short-Term Reliability Process will conclude if the STAR or Generator Deactivation Assessment: (i) does not identify a Short-Term Reliability Process Need, or (ii) states that a Short-Term Reliability Process Need identified in the assessment will be addressed in the Reliability Planning Process. The STAR or Generator Deactivation Assessment will also state whether a Generator Deactivation Reliability Need is only a reliability need on non-BPTFs for which solely the Responsible Transmission Owner may propose a regulated transmission Short-Term Reliability Process Solution. Any Generator that the ISO determines is Viable and Sufficient may participate as a Short-Term Reliability Process Solution to part or all of a Short-Term Reliability Process Need, including a Generator Deactivation Reliability Need arising only on the non-BPTFs.

38.3.5.4 If a Short-Term Reliability Process Need is identified in a STAR that could be resolved by two or more Initiating Generators that each seek to deactivate prior to the conclusion of the 365 day notice period, then the ISO shall temporarily retain as Interim Service Providers the Initiating Generator(s) necessary to resolve the Short-Term Reliability Process Need. The ISO shall determine which Initiating Generators to retain as Interim Service Providers based on the date on which each Initiating Generator's Generator Deactivation Notice was determined to be complete by the ISO; retaining the necessary Generator(s)

that completed their Generator Deactivation Notice last. However, the ISO shall not retain more Initiating Generators as Interim Service Providers than are necessary to resolve a Short-Term Reliability Process Need.

38.3.6 Near-Term Reliability Needs

38.3.6.1 As part of the STAR or Generator Deactivation Assessment, the ISO will determine whether any Short-Term Reliability Process Need identified in the assessment is a Near-Term Reliability Need. Any Generator that the ISO determines is Viable and Sufficient may participate as a Short-Term Reliability Process Solution to part or all of a Near-Term Reliability Need, including a Generator Deactivation Reliability Need arising only on non-BPTFs.

38.3.6.2 If the ISO determines that a Short-Term Reliability Process Need is a Near-Term Reliability Need, the ISO shall:

38.3.6.2.1 Include an explanation in the STAR or Generator Deactivation Assessment of the Near-Term Reliability Need in sufficient detail, including the reliability criteria violations and system conditions, to allow stakeholders to understand the need and why it is time sensitive.

38.3.6.2.2 Provide to stakeholders and post on its website a full and supported written explanation of the ISO's decision to solicit a regulated, non-generation Short-Term Reliability Process Solution solely from a Responsible Transmission Owner, including an explanation of the other transmission and non-transmission options that the ISO considered, but concluded would not sufficiently address the Near-Term Reliability Need, the circumstances that generated the need, and an explanation of why the need was not identified earlier.

38.3.6.2.3 Provide the appropriate stakeholder working group a reasonable opportunity to provide comments to the ISO on the written explanation and publicly post any written comments that the ISO receives on its web site.

38.3.6.3 The ISO shall maintain and post on its website a list of all transmission solutions selected by the ISO in prior years to be built in response to Near-Term Reliability Needs for which the ISO designated solely the Responsible Transmission Owner to propose a regulated Short-Term Reliability Process Solution. The list must include the Near-Term Reliability Need, the identity of the designated Responsible Transmission Owner, the transmission solution selected by the ISO, its in-service date, and the date on which the Responsible Transmission Owner energized or otherwise implemented the transmission solution. The ISO shall file the list with the Commission as an informational filing in January of each year covering the designations of the prior calendar year, if the ISO selected a Responsible Transmission Owner's regulated transmission solution to a Near-Term Reliability Need in the prior year.

38.3.7 Deactivation Prior to the Expiration of the 365-Day Notice Period

If: (i) the ISO determines in a STAR or Generator Deactivation Assessment either that a Short-Term Reliability Process Need would not be resolved, in whole or in part, by the continued availability or operation of an Initiating Generator, or that the need can be timely addressed in the ISO's Reliability Planning Process, 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, then the ISO will notify the Market Participant when its Generator has completed all required ISO administrative processes and procedures, and may be Retired or enter

into a Mothball Outage, which deactivation date shall be no earlier than 91 days after the Short-Term Assessment of Reliability Start Date. The ISO's issuance of a final physical withholding determination shall occur in accordance with Section 23.4.5.6 of Attachment H of the ISO Services Tariff.

38.4 Solicitation of Short-Term Reliability Process Solutions to a Short-Term Reliability Process Need

38.4.1 If the ISO determines in its STAR or Generator Deactivation Assessment that a Short-Term Reliability Process Need should be addressed in the Short-Term Reliability Process, the ISO shall solicit Short-Term Reliability Process Solutions to address the need. The ISO shall issue one solicitation seeking solutions to all of the Short-Term Reliability Process Needs identified in a STAR. A Developer must submit a proposed Short-Term Reliability Process Solution within sixty (60) days of the ISO's request.

The solicitation process set forth in this Section 38.4 is not the process for offering a Market Participant's Generator that is in a Mothball Outage, an ICAP Ineligible Forced Outage, or has been mothballed since before May 1, 2015 as a proposed Short-Term Reliability Process Solution. Such Generator may be offered as a Short-Term Reliability Process Solution by submitting a statement of intent to participate as a proposed Short-Term Reliability Process Solution in accordance with Section 38.5 and satisfying the other requirements of that Section.

38.4.2 In response to the ISO's solicitation of proposed Short-Term Reliability Process Solutions:

38.4.2.1 The Responsible Transmission Owner must submit a proposed Short-Term Reliability Process Solution. The proposed solution must, to the extent practicable, completely address the Short-Term Reliability Process Need and satisfy the project information requirements in Sections 31.2.4.4.1, 31.2.4.4.2, and 31.2.6.5.1.1 of Attachment Y of the ISO OATT. The Responsible Transmission

Owner's proposed Short-Term Reliability Process Solution may include transmission, demand response, or generation resources; *provided, however*, only the ISO may enter into an RMR Agreement with a Generator to address the Short-Term Reliability Process Need. The Responsible Transmission Owner may only allocate and recover under the ISO OATT the costs of a transmission solution in accordance with the requirements in Sections 38.22 and 38.23. If a Generator Deactivation Reliability Need is only a reliability need on non-BPTFs, then the Responsible Transmission Owner must submit a permanent Short-Term Reliability Process Solution. If the ISO determines, after considering input from the Responsible Transmission Owner, that the Responsible Transmission Owner's proposed Short-Term Reliability Process Solution is an interim solution, then the Responsible Transmission Owner must also submit a conceptual permanent solution to address the Short-Term Reliability Process Need.

38.4.2.2 Any Developer may submit a proposed market-based Short-Term Reliability Process Solution. A market-based Short-Term Reliability Process Solution may include generation, transmission, or demand response solutions and must satisfy the project information requirements in Section 31.2.4.6 of Attachment Y of the ISO OATT. Market-based solutions are not eligible for cost recovery under Rate Schedule 8 to the ISO Services Tariff, or Rate Schedules 14 or 16 to the ISO OATT.

38.4.2.3 Any Developer may submit a proposed new Generator that requires an RMR Agreement to operate as a temporary Short-Term Reliability Process Solution. A proposed new Generator that requires an RMR Agreement must

satisfy the project information requirements in Sections 31.2.4.8.1 and 31.2.4.8.2 of Attachment Y of the ISO OATT.

38.4.2.4 Any Developer that has been determined to be qualified under Section 31.2.4.1.1.2 of Attachment Y to the ISO OATT may submit a proposed regulated transmission Short-Term Reliability Process Solution, unless: (i) the Short-Term Reliability Process Need is a Near-Term Reliability Need, or (ii) the Generator Deactivation Reliability Need is only a reliability need on non-BPTFs as stated by the ISO in the STAR or Generator Deactivation Assessment pursuant to Section 38.3.5.3. The proposed regulated transmission solution must satisfy the project information requirements in Sections 31.2.4.8.1, 31.2.4.8.2, and 31.2.6.5.1.1 of Attachment Y of the ISO OATT.

38.4.2.5 If a Short-Term Reliability Process Need is not a Generator Deactivation Reliability Need or a Near Term Reliability Need, and the ISO addresses the need in the Short-Term Reliability Process, then for purposes of Sections 38.4.2.1, 38.4.2.2, and 38.4.2.4 of this Attachment FF, an Interregional Transmission Project (as defined in Section 31.1.1 of the ISO OATT), may be proposed as a Short-Term Reliability Process Solution. Interregional Transmission Projects proposed as Short-term Reliability Process Solutions shall be: (i) evaluated by the ISO in accordance with the applicable requirements of this Attachment FF, and (ii) jointly evaluated by the ISO and the relevant adjacent transmission planning region(s) in accordance with Section 7.3 of the Interregional Planning Protocol (defined in Section 31.1.1 of the OATT).

38.4.3 As part of its submission of its proposed Short-Term Reliability Process Solution, a Developer shall provide the information required for each proposed Short-Term Reliability Process Solution in accordance with Sections 38.25.3, and 38.25.5 through 38.25.7 of Appendix B of this Attachment FF. It shall also provide the information required by Section 38.25.4 of Appendix B of this Attachment FF.

38.4.4 Short-Term Reliability Process Solutions proposed under this Section 38.4 shall strive to be compatible with permanent market-based solutions and regulated solutions identified in the CSPP, as applicable. A permanent regulated solution may proceed in parallel with an interim solution selected in this Attachment FF.

38.4.5 The ISO may disclose to Market Participants and other interested parties the Short-Term Reliability Process Solution and plans proposed pursuant to this Section 38.4; *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, general geographic location, 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 of Attachment Y to the ISO OATT, and (iii) any non-public financial qualification information submitted in accordance with Section 31.2.4.1.1.1.3 of Attachment Y of the ISO OATT.

38.4.6 Application Fee and Study Deposit

38.4.6.1 When the ISO performs a selection process among regulated transmission solutions, any Developer that proposes a regulated transmission Short-Term

Reliability Process Solution to address the Short-Term Reliability Process Need shall submit to the ISO, at the same time it provides the project information required pursuant to Section 38.4.2, a non-refundable application fee of \$10,000 and a study deposit of \$100,000, which shall be applied to study costs and subject to refund as described in this Section 38.4.6.

38.4.6.2 If the ISO performs a selection process among regulated transmission solutions, the ISO shall charge, and a Developer proposing a regulated transmission Short-Term Reliability Process Solution shall pay, the actual costs of the ISO's evaluation of the Developer's proposed transmission solution for purposes of the ISO's selection among transmission solutions to address the Short-Term Reliability Process Need, including costs associated with the ISO's use of subcontractors. The ISO will track its staff and administrative costs, including any costs associated with using subcontractors, that it incurs in performing the evaluation of a Developer's proposed transmission solution and any supplemental evaluation or re-evaluation of the proposed transmission solution. If the ISO or its subcontractors perform study work for multiple proposed transmission solutions on a combined basis, the ISO will allocate the costs of the combined study work equally among the applicable Developers.

38.4.6.3 The ISO shall invoice the Developer monthly for study costs incurred by the ISO in evaluating the Developer's proposed transmission solution as described above. Such invoice shall include a description and an accounting of the study costs incurred by the ISO and estimated subcontractor costs. The Developer shall pay the invoiced amount within thirty (30) calendar days of the ISO's issuance of

the monthly invoice. The ISO shall continue to hold the full amount of the study deposit until settlement of the final monthly invoice; *provided, however*, if a Developer: (i) does not pay its monthly invoice within the timeframe described above, or (ii) does not pay a disputed amount into an independent escrow account as described below, the ISO may draw upon the study deposit to recover the owed amount. If the ISO must draw on the study deposit, the ISO shall provide notice to the Developer, and the Developer shall within thirty (30) calendar days of such notice make payments to the ISO to restore the full study deposit amount. If the Developer fails to make such payments, the ISO may halt its evaluation of the Developer's proposed transmission solution and may disqualify the Developer's proposed transmission solution from further consideration. After the conclusion of the ISO's evaluation of the Developer's proposed transmission solution or if the Developer: (i) withdraws its proposed transmission solution or (ii) fails to pay an invoiced amount and the ISO halts its evaluation of the proposed transmission solution, the ISO shall issue a final invoice and refund to the Developer any portion of the Developer's study deposit submitted to the ISO under this Section 38.4.6 that exceeds outstanding amounts that the ISO has incurred in evaluating that Developer's proposed transmission solution, including interest on the refunded amount calculated in accordance with Section 35.19a(a)(2) of FERC's regulations. The ISO shall refund the remaining portion within sixty (60) days of the ISO's receipt of all final invoices from its subcontractors and involved Transmission Owners.

38.4.6.4 In the event of a Developer's dispute over invoiced amounts, the Developer shall: (i) timely pay any undisputed amounts to the ISO, and (ii) pay into an independent escrow account the portion of the invoice in dispute, pending resolution of such dispute. If the Developer fails to meet these two requirements, then the ISO shall not be obligated to perform or continue to perform its evaluation of the Developer's proposed transmission solution. Disputes arising under this section shall be addressed through the Dispute Resolution Procedures set forth in Section 2.16 of the ISO OATT and Section 11 of the ISO Services Tariff. Within thirty (30) Calendar Days after resolution of the dispute, the Developer will pay the ISO any amounts due with interest calculated in accordance with Section 35.19a(a)(2) of FERC's regulations.

38.4.7 Including Identified Short Term Reliability Process Solutions in Subsequent STARs and Generator Deactivation Assessments

38.4.7.1 Short-Term Reliability Process Needs that have been identified in a STAR or a Generator Deactivation Assessment and that are in the process of being resolved shall continue to be included in subsequent STARs to identify possible changes in the scope, scale or nature of the need.

38.4.7.2 Solutions to Short-Term Reliability Process Needs will be included in subsequent STARs and Generator Deactivation Assessments when they satisfy the Reliability Planning Process base case development and inclusion rules set forth in ISO Procedures.

38.4.8 Change in Scope, Scale or Nature of Short-Term Reliability Process Need After Solicitation Issued

38.4.8.1 If the ISO determines that the scope, scale or nature of a Short-Term Reliability Process Need for which it has already solicited Short-Term Reliability Process Solutions in accordance with Sections 38.4 and 38.5 of this Attachment FF changed in a subsequent STAR, Generator Deactivation Assessment or Reliability Needs Assessment, then the ISO may:

- (a) select one or more of the proposed Short-Term Reliability Process Solution(s) that address the changed scope, scale or nature of the Short-Term Reliability Process Need that the ISO identified from the solutions that the ISO received in response to its solicitation; or
- (b) reject all of the proposals it received, withdraw the solicitation it issued, return all fees and deposits it received to Developers except for monies the ISO owes to third-party contractors for their assistance in assessing a proposal or proposals, and issue a new solicitation in accordance with Sections 38.4 and 38.5 of this Attachment FF that reflects the updated Short-Term Reliability Process Need; or
- (c) select one or more of the proposed Short-Term Reliability Process Solution(s) that partially address the changed scope, scale or nature of the Short-Term Reliability Process Need, and issue a new, additional solicitation covering only the unaddressed, incremental Short-Term Reliability Process Need that is not expected to be resolved by the Short-Term Reliability Process Solution(s) that the ISO has already selected.

38.5 Review and Notification of Generator(s) Currently in an Outage State

If the ISO determines that a Market Participant's 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 a Short-Term Reliability Process Need, the ISO will notify the Market Participant that its Generator is under review to determine whether it can satisfy the Short-Term Reliability Process Need as a possible Short-Term Reliability Process Solution. Within ten (10) days of the ISO's issuance of a written notification (including an email), a Market Participant that is interested in offering its Generator as a Short-Term Reliability Process Solution to address the identified Reliability Need shall inform the ISO in writing whether it intends to offer its Generator as a Short-Term Reliability Process Solution. A Market Participant that submits a statement of intent to offer its Generator shall provide to the NYISO within twenty (20) days of submitting its statement of intent the information required for a Generator identified under this Section 38.5 in accordance with Sections 38.25.3.1, 38.25.3.2, and 38.25.5 through 38.25.7 of Appendix B of this Attachment FF if it has not previously provided such information to the ISO. If the Market Participant has previously provided such information for the relevant Generator, then it shall update all such information, including, but not limited to, the updates required by Section 38.25.4 of Appendix B of this Attachment FF.

Notwithstanding whether a Market Participant submitted a statement of intent to offer its Generator as a Short-Term Reliability Process Solution, the ISO may request at any time that a Market Participant submit the information required for a Generator identified under this Section 38.5 in accordance with Sections 38.25.3.1, 38.25.3.2, and 38.25.5 through 38.25.7 of Appendix B of this Attachment FF or any updates to previously submitted information addressing its Generator, which information must be submitted within twenty (20) days of the NYISO's request.

When the return to service of a Generator in a Mothball Outage or an ICAP Ineligible Forced Outage is the Short-Term Reliability Process Solution, the return to service procedures set forth in Section 5.18.4 of the ISO Services Tariff shall apply.

38.6 Viability and Sufficiency Evaluation of Proposed Short-Term Reliability Process Solutions and Monitoring of Selected Short-Term Reliability Process Solutions

- 38.6.1 The ISO shall evaluate all proposed Short-Term Reliability Process Solutions and, if applicable, shall evaluate the conceptual permanent solution provided by the Responsible Transmission Owner pursuant to Section 38.4.2.1 to determine whether each is viable and sufficient to satisfy individually, or in conjunction with other solutions, the Short-Term Reliability Process Need. 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 Attachment Y of the ISO OATT. The ISO shall coordinate with the Responsible Transmission Owner(s), as necessary, in performing its evaluation.
- 38.6.2 If the ISO determines that there are adequate Viable and Sufficient market-based or demand response Short-Term Reliability Process Solutions to satisfy completely the identified Short-Term Reliability Process Need, the ISO will conclude the Short-Term Reliability Process under this Attachment FF. As part of its final Short-Term Reliability Process report, the ISO shall present the results of its viability and sufficiency assessment to interested parties if the Short-Term Reliability Process has been concluded because there are adequate market-based or demand response Short-Term Reliability Process Solutions to satisfy completely the Short-Term Reliability Process Need.
- 38.6.3 Monitoring of Selected Short-Term Reliability Process Solutions**—the ISO will monitor the development of all Short-Term Reliability Process Solutions, including market-based and demand response solutions, to confirm that

they continue to develop consistent with the conditions, actions, or schedules for the projects in accordance with ISO Procedures.

38.7 ISO Review of Information

38.7.1 Cost, Revenue and System Impact Information. The ISO shall review, verify and/or validate to the extent necessary the information provided in accordance with Sections 38.3, 38.4, and 38.5 and Appendix B of this Attachment FF. 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 or the Generator Owner (as appropriate).

38.7.2 The ISO may reject, and may require a Market Party or Generator Owner to re-submit, or substantiate information (including estimates) that the ISO determines is not adequately supported or otherwise verifiable. The Market Party or the Generator Owner 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 38.25.4 of Appendix B of this Attachment FF. Upon the ISO's prior notice, the Market Party or the Generator Owner shall make qualified representatives available to answer the ISO's question(s) and otherwise facilitate the ISO's review of the information. The NYISO may terminate its consideration of a proposed Short-Term Reliability Process Solution if a Market Party or Generator Owner fails to provide requested information.

38.7.3 Market Power Information. The Market Participant or the Generator Owner shall provide the ISO with any information that the ISO determines it requires in order to assess market impacts under Section 23 of Attachment H of the ISO Services Tariff. The primary focus of the NYISO's review will be

Sections 23.4.5.6 (physical withholding) and/or 23.6 (energy market participation rules) of Attachment H of the ISO Services Tariff.

38.7.4 **ISO Notification to Market Participant or Generator Owner.** The ISO shall notify the Market Participant or the Generator Owner, in writing, when the ISO has received all of the data and information it requires to perform its duties under both (a) this Attachment FF and (b) Section 23 of Attachment H of the ISO Services Tariff.

38.7.4.1 The notice that the ISO provides to a Market Participant (which is also a Market Party) or to the Generator Owner that it has received all of the data and information it requires to perform its obligations under this Attachment FF and under Section 23 of Attachment H of the ISO Services Tariff does not absolve the Market Party or the Generator Owner of its affirmative and continuing obligation under Section 38.25.4 of Appendix B to this Attachment FF to supplement and update information and data it has submitted to the ISO when a material change in facts or circumstances occurs that makes the previously submitted information insufficient or inaccurate.

38.7.4.2 The notice that the ISO provides to a Market Participant or Generator Owner that it has received all of the data and information it requires to perform its obligations under this Attachment FF and under Section 23 of Attachment H of the ISO Services Tariff does not bar the ISO from asking additional questions of the Market Participant or the Generator Owner, nor does it excuse the Market Participant or the Generator Owner from its continuing obligation to promptly

respond to ISO requests for information or data in accordance with Sections 38.3.3 and 38.7 of this Attachment FF.

38.8 Determining RMR Avoidable Costs

38.8.1 Determinations pursuant to this section are solely for purposes of determining the RMR Avoidable Cost of Initiating Generators and Generators that are determined to be a Viable and Sufficient Short-Term Reliability Process Solution to a Short-Term Reliability Process Need. The ISO shall determine the cost (net of estimated revenues, as applicable) of each Initiating Generator and of each Viable and Sufficient Short-Term Reliability Process Solution to a Short-Term Reliability Process Need that responds to the ISO's request for Short-Term Reliability Process Solutions in accordance with Sections 38.4 and 38.5. The ISO may also determine the costs of Viable and Sufficient Short-Term Reliability Process Solutions that do not respond to the ISO's request for Short-Term Reliability Process Solutions. The ISO's 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 38.3, 38.4, 38.5, 38.7, 38.8 and Appendix B of this Attachment FF 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 or Generator Owner, 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 Short-Term Reliability Process Need identified by the ISO in its request for Short-Term Reliability Process Solutions, and (ii) the period identified by the ISO that an Initiating Generator or Viable and Sufficient Short-Term Reliability Process Solution can satisfy the Short-Term Reliability Process Need.

38.8.1.1 Cost savings due to an Initiating Generator's continuation of service.

Costs submitted in accordance with Sections 38.3, 38.4, 38.5, 38.7, 38.8, or Appendix B of this Attachment FF 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 Short-Term Reliability Process 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 Short-Term Reliability Process Solution.

38.8.1.2 For each transmission project that is proposed in accordance with this Attachment FF, 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 Short-Term Reliability Process Solutions, considering any costs the Developer otherwise had a contractual or regulatory obligation to incur.

38.8.1.3 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 Short-Term Reliability Process Solution to provide service to satisfy, in whole or in part, the Short-Term Reliability Process Need identified in the ISO's request for Short-Term Reliability Process 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 Short-Term Reliability Process Solution.

38.8.1.4 Revenue Calculation. As a component to the ISO's calculation of the total net cost of each Initiating Generator and Viable and Sufficient Short-Term Reliability Process Solution, the ISO shall calculate the estimated revenues thereof.

38.8.1.4.1 If an Initiating Generator or other Generator that has been determined to be a Viable and Sufficient Short-Term Reliability Process 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.

38.8.2 The ISO shall seek comment from the Market Monitoring Unit on matters relating to the inputs and the calculations performed pursuant to Section 38.8. The responsibilities of the Market Monitoring Unit that are addressed in this Section are also addressed in Section 38.18.1 of this Attachment FF and in Section 30.4.6.8.6 of Attachment O to the ISO Services Tariff.

38.9 RMR Service Offers

38.9.1 If: (i) there is only one Generator that is a Viable and Sufficient Short-Term Reliability Process Solution to a Short-Term Reliability Process Need, or (ii) there are multiple Generators that are a Viable and Sufficient Short-Term Reliability Process Solutions to a Short-Term Reliability Process Need that are all owned or controlled by the same Generator Owner, then the ISO shall provide to that individual Generator or Generator Owner, as applicable, its RMR Avoidable Cost and an opportunity for it to enter into the Form of Reliability Must Run Agreement set forth in Appendix C of this Attachment FF to the ISO OATT. If there is more than one Generator that is a Viable and Sufficient Short-Term Reliability Process Solution for a Reliability Need and the Generators are not all owned or controlled by the same Generator Owner, the ISO shall notify each such Generator that responded to the ISO's request for Short-Term Reliability Process Solutions that it has been determined to be a Viable and Sufficient Short-Term Reliability Process Solution that the ISO is requesting RMR Service Offers to provide service pursuant to an RMR Agreement.

38.9.2 The ISO shall concurrently post on its website that it has issued a request for RMR Service Offers.

38.9.3 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 38.8, 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 Short-Term Reliability Process 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.

38.9.4 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) an Owner Developed Rate for which the Generator would be seeking approval from the Commission, (B) separately state the anticipated timing and cost of each Capital Expenditure that is included in the offer, (C) if any provision of the Form of Reliability Must Run Agreement set forth in Appendix C of Attachment FF to 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 or Generator Owner 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.

38.10 ISO Selection of Solution to Address Short-Term Reliability Process Need

38.10.1 An Initiating Generator and other Viable and Sufficient Short-Term Reliability Process Solutions are eligible for selection by the ISO to address a Short-Term Reliability Process Need. In selecting a solution to address a Short-Term Reliability Process Need the ISO will first consider the expected impact of any Viable and Sufficient market-based or demand response Short-Term Reliability Process Solutions it identifies on the scope of the need. Prior to the ISO making its selection pursuant to this Section 38.10, the ISO may enter into an RMR Agreement with one or more Generators, if necessary, to provide the ISO sufficient time to complete the selection process.

A Viable and Sufficient transmission solution selected by the ISO shall be eligible for cost allocation in accordance with Section 38.22 and cost recovery in accordance with Section 38.23. An Initiating Generator or another Viable and Sufficient generation solution selected by the ISO shall be eligible to enter into an RMR Agreement with the ISO in accordance with Section 38.11.

38.10.1.1 If the ISO determines that there is a Viable and Sufficient permanent transmission solution that completely satisfies the Short-Term Reliability Process Need, the ISO may select that solution.

38.10.1.2 If the Generator Deactivation Reliability Need is only a reliability need on non-BPTFs, in addition to selecting any interim solution it determines is necessary, the ISO will select a Viable and Sufficient permanent transmission Short-Term Reliability Process Solution.

If a Generator Deactivation Reliability Need arises on non-BPTFs, it shall be resolved in the Short-Term Reliability Process. Other reliability needs that arise on non-BPTFs may be reported in a STAR for informational purposes.

38.10.1.3 If, following completion of the identification of solutions pursuant to Sections 38.10.1 and 38.10.1.1 or 38.10.1.2, there remains a Short-Term Reliability Process Need, then the ISO shall perform the selection process set forth in Sections 38.10.2 through 38.10.5.

38.10.2 Selection Process if a Viable and Sufficient Transmission Solution Is Available

38.10.2.1 This solution selection process is designed to ensure that executing an RMR Agreement with a Generator is a last resort to addressing a Short-Term Reliability Process Need. The ISO will select a Viable and Sufficient transmission solution to address the Short-Term Reliability Process Need if: (i) there are one or more Viable and Sufficient transmission solutions, and (ii) none of the Viable and Sufficient generation solutions have a “distinctly higher net present value” than a transmission solution. If the ISO is selecting between and among Viable and Sufficient transmission solutions, the ISO will perform its selection based on the degree to which each transmission solution satisfies the metrics set forth in Section 38.10.4.

38.10.2.1.1 If a Short-Term Reliability Process Need is not a Generator Deactivation Reliability Need or a Near Term Reliability Need, and the ISO addresses the need in the Short-Term Reliability Process, then the ISO shall, in performing its evaluation of transmission solutions that are proposed as Short-Term Reliability Process Solution, do so consistent with the following tariff requirements from

Attachment Y of the ISO OATT: Sections 31.2.2.7 (Consequences for Other Regions), 31.2.6.3 (Evaluation of System Impact of Proposed Regulated Transmission Solution), and 31.2.6.4 (Evaluation of Regional Transmission Solutions to Address Local and Regional Reliability Needs More Efficiently or More Cost Effectively than Local Transmission Solutions).

When the ISO addresses a Short-Term Reliability Process Need that is not a Generator Deactivation Reliability Need or a Near Term Reliability Need in the Short-Term Reliability Process, interested parties may invoke the Dispute Resolution Procedure set forth in Section 11 of the ISO Services Tariff to resolve any disputes.

38.10.2.1.2 When the ISO addresses a Short-Term Reliability Process Need that is not a Generator Deactivation Reliability Need or a Near Term Reliability Need in the Short-Term Reliability Process, and the ISO is selecting among proposed transmission solutions to address the need, the ISO shall prepare and present to stakeholders a draft Short-Term Reliability Process Report for review and comment. The draft report shall describe the transmission Short-Term Reliability Process Solution(s) the ISO proposes to select and explain the reasons supporting the ISO's proposed selection(s). The ISO shall review stakeholder comments on the draft report prior to finalizing its selection of Short-Term Reliability Process Solution(s) in the final Short-Term Reliability Process Report it issues in accordance with Section 38.10.5 of this Attachment FF.

38.10.2.2 Determining if a Solution has a “Distinctly” Higher Net Present Value

A Short-Term Reliability Process Solution has a “distinctly” higher net present value if it is the Viable and Sufficient solution with the lowest reasonably calculated net cost to consumers to meet the identified Reliability Need until the permanent solution can be implemented. A generation solution has a “distinctly” higher net present value than a transmission solution if, after accounting for the accuracy range of each transmission project cost estimate and generation revenue estimate using the confidence interval the ISO selects, the ISO determines that the range of net present values of the generation solution is higher than the range of the net present values of the transmission solution. If there is an overlap between the ranges of net present values between a generation solution and a transmission solution, then the generation solution does not have a distinctly higher net present value than the transmission solution. If the ISO determines that a generation solution has a distinctly higher net present value than a transmission solution, then both solutions will be considered in accordance with Section 38.10.2.4 of this solution selection process.

The net present value of a generation solution is the present value of the difference between the generation solution’s offered service cost and its expected market revenues for the expected duration of an RMR Agreement. The net present value of a transmission solution is the present value of the difference between the transmission solution’s estimated costs and its expected market revenues (if any).

To account for the accuracy of cost estimates in comparing the net present values of Viable and Sufficient generation and transmission solutions, the NYISO will:

1. Undertake reasonable efforts to validate the information submitted in the time available; and

2. Determine an accuracy range for each solution's estimated, submitted and verified costs, including the assumptions used to develop the cost estimate based on (i) the age, operating status and technology type of each generation or transmission solution, (ii) the assumptions used to develop each cost estimate, and (iii) data from credible independent resources, including but not limited to consultants hired by the ISO.

38.10.2.3 Multi-Element Solutions

If there are no Viable and Sufficient generation solutions that have a distinctly higher net present value than a Viable and Sufficient transmission solution, but the transmission solution or combination of transmission solutions selected by the ISO only partially satisfy the duration or the size of the Short-Term Reliability Process Need, then the ISO may supplement the partial transmission solution with one or more Viable and Sufficient generation solutions that will be eligible to enter into an RMR Agreement with the ISO. The ISO will select the supplemental Generator or Generators primarily based on which RMR Service Offer, or set of RMR Service Offers from more than one Generator, results in the highest net present value solution to the Short-Term Reliability Process Need. The ISO shall also consider any blacklined modifications to the Form of Reliability Must Run Agreement set forth in Appendix C of this Attachment FF of the ISO OATT when selecting a generation solution. If these two criteria do not provide for a clear delineation between two or more RMR Service Offers, the ISO shall also consider the operational, performance, and market impacts and the size of the Generators when selecting the generation component of a multi-element solution.

Alternatively, the ISO may select a Viable and Sufficient generation solution in place of a multi-element solution that includes transmission if it determines that the generation solution has

a distinctly higher net present value than the combination of partial transmission and generation solutions the ISO might otherwise select under this Section 38.10.2.3. The ISO shall choose between a multi-element solution that includes transmission and a generation solution that has a distinctly higher net present value than the multi-element solution using the selection criteria specified in Section 38.10.2.4.

38.10.2.4 Viable and Sufficient generation solutions that have a distinctly higher net present value than a Viable and Sufficient transmission solution will be considered when the ISO selects the solution or combination of solutions to address the Short-Term Reliability Process Need based on: (i) the net present value of each solution calculated in accordance with Section 38.8 and 38.9, and (ii) the degree to which each solution satisfies the metrics set forth in Section 38.10.4.

38.10.3 Selection Process if a Viable and Sufficient Transmission Solution Is Not Available

If there is not a Viable and Sufficient transmission solution, the ISO will select among the Viable and Sufficient generation solutions as follows. The ISO will select the Generator or Generators primarily based on which RMR Service Offer, or set of RMR Service Offers from more than one Generator, results in the highest net present value solution to the Short-Term Reliability Process Need. The ISO shall also consider any blacklined modifications to the Form of Reliability Must Run Agreement set forth in Appendix C of this Attachment FF of the ISO OATT. If these two criteria do not provide for a clear delineation between two or more RMR Service Offers, the ISO shall also consider the operational, performance and market impacts, and the size of the Generators.

38.10.4 Metrics for Evaluating Solution to Address Short-Term Reliability Process Need

The ISO will consider the following metrics in its evaluation of each Viable and Sufficient solution, as applicable:

- 38.10.4.1 The capital cost estimates for the proposed transmission Short-Term Reliability Process Solution or the cost information submitted by the Initiating Generator or the generation Short-Term Reliability Process Solution, including the accuracy of the proposed estimates.
- 38.10.4.2 The cost per MW ratio of the proposed transmission Short-Term Reliability Process Solution or the RMR Service Offers of the Initiating Generator or the generation Short-Term Reliability Process Solution. For this evaluation, the ISO will first determine the present worth, in dollars, of the total capital cost of the proposed solution in current year dollars. The ISO will then determine the MW value of the solution by summing the Short-Term Reliability Process Need, in MW, with the additional improvement, in MW, that the proposed solution offers beyond serving the Short-Term Reliability Process Need. The ISO will then determine the cost per MW ratio by dividing the present worth of the total capital cost by the MW value.
- 38.10.4.3 The expandability of the proposed solution. The ISO will consider the impact of the proposed solution on future construction. The ISO will also consider the extent to which any subsequent expansion will continue to use this proposed solution within the context of system expansion.
- 38.10.4.4 The operability of the proposed solution. The ISO will consider how the proposed solution may affect additional flexibility in operating the system, such

as dispatch of generation, access to operating reserves, access to ancillary services, or ability to remove transmission for maintenance. The ISO will also consider how the proposed solution may affect the cost of operating the system, such as how it may affect the need for operating generation out of merit for reliability needs, reducing the need to cycle generation, or providing more balance in the system to respond to system conditions that are more severe than design conditions.

38.10.4.5 The performance of the proposed solution. The ISO will consider how the proposed solution may affect the utilization of the system (e.g. interface flows, percent loading of facilities).

38.10.4.6 The extent to which the Developer of a proposed transmission Short-Term Reliability Process Solution or each generation Short-Term Reliability Process Solution has the property rights, or ability to obtain the property rights, required to implement the solution. The ISO will consider, as applicable, whether the Developer or Market Participant: (i) already possesses property rights or the rights of way necessary to implement the solution; (ii) has completed a transmission routing study or Generator siting study, which (a) identifies, for transmission, a specific routing plan with alternatives, (b) includes a schedule indicating the timing for obtaining siting and permitting, and (c) provides specific attention to sensitive areas (*e.g.*, wetlands, river crossings, protected areas, and schools); or (iii) has specified a plan or approach for determining routing or siting and for acquiring property rights.

38.10.4.7 The potential issues associated with delay in constructing the proposed transmission Short-Term Reliability Process Solution or in entering or in returning to service the Initiating Generator or a generation Short-Term Reliability Process Solution, consistent with the major milestone schedule and the schedule for obtaining any permits and other certifications as required to timely meet the need.

38.10.4.8 The impact on other pending Short-Term Reliability Process Needs, other system reliability needs, and pending solutions to those needs.

38.10.5 Short-Term Reliability Process Report

If the ISO selects a transmission solution proposed by a Responsible Transmission Owner in response to a Near-Term Reliability Need, then: (i) the ISO shall post on its website and present to stakeholders a preliminary written determination indicating its proposed selection of a solution or combination of solutions, along with a reasoned explanation regarding why the particular generator and/or transmission solutions were selected; (ii) the ISO will provide stakeholders an opportunity to submit written comments, which will be posted on the ISO's website, and (iii) the ISO will consider stakeholder comments before making its final selection in the Short-Term Reliability Process Report.

Otherwise, the ISO shall post on its website a written determination indicating its selection of a solution or combination of solutions, along with a reasoned explanation regarding why particular generation and/or transmission solutions were selected. The ISO will review the results of its determination with stakeholders.

Finally, the ISO shall post on its website a list of all Developers that have undertaken a commitment to the ISO to build a project (which may be a regulated backstop solution, market-based

response or alternative regulated response) that was selected as a Short-Term Reliability Process Solution.

38.11 Entry into RMR Agreements

38.11.1 The ISO may enter into an RMR Agreement for service from one or more of the Generators that the ISO selected in accordance with Section 38.10 that can individually, or in conjunction with other Viable and Sufficient Short-Term Reliability Process 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 selected pursuant to Section 38.10, provided that the RMR Service 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 RMR Service Offer does 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 RMR Service Offer satisfies the stated requirements, but the amount of Capital Expenditures in any given year included in the RMR Service Offer exceeds the applicable limit in the preceding sentence, then the ISO may accept the RMR Service Offer conditioned upon the Commission approving the Capital Expenditure amount. If the RMR Service 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 C of this Attachment FF, then the ISO will identify the Generator, and the ISO and the Generator Owner will submit filings to the Commission in accordance with Section 38.11.5. If a Generator's RMR Service Offer is lower than the other

RMR Service 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 best offer or offers pursuant to Section 38.10.3.

38.11.2 The ISO will tender to the Generator Owner(s) of the selected Generator(s) the *Form of Reliability Must Run Agreement* set forth in Appendix C of this Attachment FF. 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 38.4.2.1, and (ii) any modifications to the scope and timing of the Short-Term Reliability Process Need resulting from circumstances including information provided by the NYPSC (or other agency or authority with jurisdiction over the implementation or siting of non-generation Short-Term Reliability Process Solutions), information provided by the Responsible Transmission Owner, the ISO's identification of market-based solutions, and RMR Agreements entered into between the ISO and other Generators. If the Short-Term Reliability Process Need is identified pursuant to a STAR or a Generator Deactivation Assessment, the effective date of the RMR Agreement shall be no earlier than the completion of the applicable 365-day notice period, except as provided in Section 38.3.4 of this Attachment FF.

38.11.3 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 Generator Owner agree on the terms and conditions of the RMR Agreement, Generator Owner accepts the Availability and Performance Rate calculated by the ISO for its Generator, and the ISO and Generator 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 Generator Owner have mutually agreed to.

38.11.4 Filing of Unexecuted RMR Agreement by ISO and Capital Expenditures in Excess of Annual Limit by Generator 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 Generator Owner agree on the terms and conditions of the RMR Agreement and Generator 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 Generator Owner have mutually agreed to. Generator 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 38.11.1, 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.

38.11.5 Filing of Unexecuted RMR Agreement and Generator Owner Developed Rate

If the ISO and Generator Owner agree on the terms and conditions of the RMR Agreement, but Generator 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 Generator Owner have mutually agreed to. Generator 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.

38.11.6 As part of its submission of an executed RMR Agreement pursuant to 38.11.3 or an unexecuted RMR Agreement pursuant to Sections 38.11.4 or 38.11.5, the ISO will include: (i) a description of the methodology and results of the reliability studies that identified a Short-Term Reliability Process Need requiring a Short-Term Reliability Process 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.

38.12 Developer's Responsibility Following Selection of Its Transmission Solution

38.12.1 Responsible Transmission Owner's Obligation to Develop and Construct a Short-Term Reliability Process Solution

The Responsible Transmission Owner must develop and construct its proposed Short-Term Reliability Process Solution if it is selected by the ISO pursuant to Section 38.10. The Responsible Transmission Owner shall be entitled to the full recovery of all reasonably incurred costs, including a reasonable return on investment and any applicable incentives, related to the development, construction, operation, and maintenance of the selected transmission Short-Term Reliability Process Solution, as set forth in Section 38.23.

38.12.2 Developer's Responsibility to Obtain Necessary Approvals and Authorizations

38.12.2.1 Upon the selection of a Developer's transmission Short-Term Reliability Process Solution pursuant to Section 38.10, the ISO will inform the Developer that it should submit the selected Short-Term Reliability Process Solution to the appropriate governmental agency(ies) and/or authority(ies) to begin the necessary approval process to the site, construct, and operate the project, if such approvals are required. In response to the ISO's request, the Developer shall make such a submission to the appropriate governmental agency(ies) and/or authority(ies) to the extent such authorization has not already been requested or obtained.

38.12.2.2 If the appropriate federal, state or local agency(ies) either rejects a necessary authorization, or approves and later withdraws its authorization of the selected transmission Short-Term Reliability Process Solution, the Developer may recover all of the necessary and reasonable costs it 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, to the extent permitted by the Commission in accordance with its regulations on abandoned plant recovery. The ISO shall allocate these costs among Load Serving Entities in accordance with Section 38.22 the ISO OATT, except as otherwise determined by the Commission. The ISO shall recover such costs in accordance with Section 38.23.

38.12.3 Development Agreement

As soon as reasonably practicable following the ISO's selection of a transmission Short-Term Reliability Process Solution, the ISO shall tender to the Developer that proposed the selected transmission Short-Term Reliability Process Solution a draft Development Agreement, with draft appendices 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 for its Reliability Planning Process, which is in Appendix C in Section 31.7 of Attachment Y of the ISO OATT, as amended by the ISO to reflect the Short-Term Reliability Process.

The ISO and the Developer shall finalize the Development Agreement and appendices as soon as reasonably practicable after the ISO's tendering of the draft Development Agreement. 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 STAR or Generator Deactivation Assessment, 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.

If 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 is executed by both parties, the ISO shall file the agreement with the Commission for its acceptance within ten (10) 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 ten (10) 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. Upon the ISO's and the Developer's execution of the Development Agreement or the ISO's filing of an unexecuted Development Agreement with the Commission, the ISO and the Developer shall perform their respective obligations in accordance with the terms of the Development Agreement that are not in dispute, subject to modification 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 transmission Short-Term Reliability Process 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.

38.12.4 Process for Addressing Inability of Developer to Complete Selected Transmission Short-Term Reliability Process Solution

- 38.12.4.1 The ISO may take the action set forth in this Section 38.12.4 if: (i) the ISO has selected a regulated transmission Short-Term Reliability Process Solution, and (ii) one of the following events occur: (A) the Developer that proposed the transmission solution does not execute the Development Agreement or does not request that it be filed unexecuted with the Commission as described in Section 38.12.3, or (B) an effective Development Agreement is terminated under the terms of the agreement prior to the completion of the term of the agreement.
- 38.12.4.2 If the Development Agreement has been filed with and accepted by the Commission, the ISO shall, upon terminating the Development Agreement under the terms of the agreement, file a notice of termination with the Commission.
- 38.12.4.3 If the ISO determines that it must identify a solution to the Short-Term Reliability Process Need prior to the next planning cycle of the biennial Reliability Planning Process, the ISO may take one or more of the following actions to address a Short-Term Reliability Process Need based on the particular circumstances: (i) address the Short-Term Reliability Process Need in the next Short-Term Reliability Process, (ii) address the Short-Term Reliability Process Need as an immediate reliability need pursuant to Section 38.3.4, (iii) direct the Developer to continue with the development of its Short-Term Reliability Process Solution for completion beyond the in-service date required to address the Short-Term Reliability Process Need, or (iv) request that the Responsible Transmission

Owner complete the selected Short-Term Reliability Process Solution if it is an alternative transmission Short-Term Reliability Process Solution.

38.12.4.4 If the Responsible Transmission Owner agrees to complete the selected alternative transmission Short-Term Reliability Process Solution, the Responsible Transmission Owner and the Developer that proposed the selected 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 law, conveyance, or contract, 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.

38.13 Interim Service Providers

38.13.1 At the time the ISO issues its STAR, the ISO shall inform an Initiating Generator that requested a deactivation date prior to the conclusion of the 365 days that follow the Short-Term Assessment of Reliability Start Date (a) whether the Initiating Generator will be permitted to deactivate or will need to remain in service for the 365 day notice period that follows the Short-Term Assessment of Reliability Start Date; and if an Initiating Generator that submitted a Generator Deactivation Notice to retire ~~is~~ permitted to deactivate prior to the conclusion of the 365 days that follow the Short-Term Assessment of Reliability Start Date, (b) whether the step-up transformer(s) and/or other system protection equipment will be required to remain in service for the 365 day notice period that follow the Short-Term Assessment of Reliability Start Date.

38.13.2 If the NYISO does not authorize an Initiating Generator to deactivate by the latest of: (a) the 181st day after the ISO issues a written notice to a Market Participant pursuant to Section 38.3.1.4 indicating that the Generator Deactivation Notice for its Generator is complete, or (b) ten days after the posting of a STAR that assessed the Generator's deactivation, or (c) the date on which the Initiating Generator indicated it wanted to deactivate in its Generator Deactivation Notice, then for the remainder of the 365 day notice period that follow the Short-Term Assessment of Reliability Start Date, the Initiating Generator shall be an Interim Service Provider, subject to the following rules and exceptions.

An Initiating Generator that submitted a Generator Deactivation Notice to be Retired shall be an Interim Service Provider, even if the ISO authorized the generating unit(s) to be deactivated, if the ISO or a Responsible Transmission

Owner requires the step-up transformer(s) and/or other system protection equipment to remain in service during the 365 days that follow the Short-Term Assessment of Reliability Start Date beyond the latest of (a) the 181st day after the ISO issues a written notice to a Market Participant pursuant to Section 38.3.1.4 indicating that the Generator Deactivation Notice for its Generator is complete, or (b) ten days after the posting of a STAR that assessed the Generator's deactivation, or (c) the Generator's requested deactivation date, or (d) the date on which the generating unit(s) deactivate. Under this alternative, after the generating unit(s) deactivate the Initiating Generator will be an Interim Service Provider to the extent its step-up transformer(s) and/or other system protection equipment that the ISO designates are required to remain in service for the 365 days that follow the Short-Term Assessment of Reliability Start Date, subject to the following rules and exceptions.

38.13.2.1 Interim Service Providers shall be compensated in accordance with Rate Schedule 8 to the ISO Services Tariff.

38.13.2.1.1 Rate Schedule 8 to the Services Tariff sets forth rules to calculate Interim Service Provider compensation for Initiating Generators that are required to remain in-service, or for the continued operation of step-up transformer(s) and/or other system protection equipment following the deactivation of a Generator that submitted a Generator Deactivation Notice to be Retired. The ISO shall use the costs, revenues, and other information submitted in accordance with Sections 38.3, 38.4, 38.5, 38.7, 38.8 and Appendix B of this Attachment FF that it verifies and/or validates, as applicable to calculate an Interim Service Provider's rate. 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.

38.13.2.1.1.1 Interim Service Providers that deactivate their Generator but are required to keep their step-up transformer(s) and/or other system protection equipment that the ISO designates in-service for the 365 days that follow the Short-Term Assessment of Reliability Start Date will be compensated for the demonstrated *RMRAvoidCost* of maintaining the designated facilities in-service in accordance with Section 15.8.6 of Rate Schedule 8 to the Services Tariff.

38.13.2.2 Generators are not eligible to be Interim Service Providers while they are in an ICAP Ineligible Forced Outage. Generators in an ICAP Ineligible Forced Outage are required to keep their step-up transformer(s) and other system protection equipment in service unless or until (i) they are given permission, in writing, to deactivate the facilities by the ISO, or (ii) the step-up transformer(s) and/or other system protection equipment is damaged and would require either an expenditure of more than \$100,000, or more than 365 days, to repair and return to service, or (iii) the Generator becomes Retired.

38.13.2.3 Generators in a Mothball Outage are required to keep their step-up transformer(s) and other system protection equipment in service for the duration of the Mothball Outage unless they are given permission, in writing, by the ISO to deactivate the facilities for the duration of the Mothball Outage. Generators are not eligible for compensation as an Interim Service Provider to keep their step-up transformer(s) and other system protection equipment in service during a Mothball Outage.

38.13.2.4 The ISO may allow a Generator or its step-up transformer(s) and system protection facilities that the ISO determined needed to remain in service as an Interim Service Provider to deactivate prior to the conclusion of the 365 day notice period if the ISO provides at least 60 days prior notice that the Generator may deactivate, or that the Generator's step-up transformer(s) and system protection facilities may be deactivated. After the conclusion of this notice period, the Generator or its step-up transformer(s) and system protection facilities will be permitted to deactivate, and the Generator will no longer be an Interim Service Provider.

38.13.2.5 The ISO may allow a Generator or its step-up transformer(s) and system protection facilities that the ISO determined needed to remain in service as an Interim Service Provider to deactivate prior to the conclusion of the 365 day notice period if the Generator or the Generator's step-up transformer(s) and protection facilities experience a Forced Outage of ten days or greater duration, and the ISO provides at least 30 days prior notice that the Generator or its step-up transformer(s) and system protection facilities may deactivate. After the conclusion of this notice period, the Generator or its step-up transformer(s) and system protection facilities will be permitted to deactivate, and the Generator will not be an Interim Service Provider.

38.13.2.6 Generators that remain in service to operate as Interim Service Providers must comply with the RMR Generator Energy and Ancillary Service Market Participation Rules that are set forth in Section 23.6 of the ISO Services Tariff.

38.13.2.7 Generators that remain in service to operate as Interim Service Providers that have Capacity Resource Interconnection Rights, pursuant to the applicable provisions of Attachment X, Attachment S and Attachment Z to the ISO OATT, must take all required actions to qualify as an Installed Capacity Supplier pursuant to Section 5.12 of the ISO Services Tariff. Generators that remain in service to operate as Interim Service Providers must also comply with the rules that are set forth in Sections 5.14.1.1 and 15.8.6 of the ISO Services Tariff.

38.13.2.8 A Generator that was an Interim Service Provider that has deactivated and that wants to return to participating in any of the ISO Administered Markets while it is eligible to receive market-based rates must give the ISO at least 60 days advance notice of its desire to return to the ISO Administered Markets in order to permit the ISO to determine a repayment obligation (if any) in accordance with Services Tariff Rate Schedule 8, and an associated credit requirement in accordance with Sections 26.4 and 26.5 of the ISO Services Tariff.

38.13.2.9 A Generator that is an Interim Service Provider that wants to continue participating in the ISO Administered Markets while it is eligible to receive market-based rates (after it is no longer an Interim Service Provider and when it is not operating pursuant to an RMR Agreement) must give the ISO at least 30 days advance notice of its desire to continue participating in the ISO Administered Markets in order to permit the ISO to determine and impose a repayment obligation (if any) in accordance with Services Tariff Rate Schedule 8, and an associated credit requirement in accordance with Sections 26.4 and 26.5 of the ISO Services Tariff.

38.14 Initiating Generator's Failure to Timely Deactivate

- 38.14.1 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 days that follow the Short-Term Assessment of Reliability Start Date, 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 Sections 38.3.1 before the Generator may be Retired or enter into a Mothball Outage.
- 38.14.2 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 38.14.1 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 38 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 38.3.5, the ISO will not thereafter post the results of said assessment.

38.14.2.1 ISO and Responsible Transmission Owner(s) study costs shall be charged to Market Participants that fail to timely deactivate a Generator or that rescind a Generator Deactivation Notice as follows:

ISO Short-Term Reliability Process Costs—the total, actual costs incurred by the ISO to perform its responsibilities under this Section 38, including but not limited to the ISO's cost of using contractors, shall be assigned in equally divided portions to the ISO and to each Initiating Generator that had the reliability impacts of its deactivation studied in the relevant STAR. Each Market Participant that failed to timely deactivate a Generator or that rescinded a Generator Deactivation Notice will be charged the portion of the total ISO costs assigned to the relevant Generator.

Responsible Transmission Owner(s) Short-Term Reliability Process Costs—the total, actual costs incurred by each Responsible Transmission Owner to perform its responsibilities under this Section 38, including but not limited to that Transmission Owner's cost of using contractors, shall be assigned in equally divided portions to each Initiating Generator that had the reliability impacts of its deactivation studied by that Transmission Owner in the relevant STAR. Each Market Participant that failed to timely deactivate a Generator or that rescinded a Generator Deactivation Notice will be charged the portion of the Transmission Owner's costs assigned to the relevant Generator.

Generator-Specific Assessment—the costs incurred by the ISO and by the Responsible Transmission Owner(s) to perform their responsibilities under this Section 38 in response to the Market Participant's submission of a Generator

Deactivation Notice shall be assigned to the Generator that is the subject of a Generator Deactivation Assessment that is not performed as a component of a STAR.

38.14.3 If the Initiating Generator was an Interim Service Provider and (i) it rescinds its Generator Deactivation Notice, or (ii) it has not Retired or entered into a Mothball Outage within the timeframes described in Section 38.14.1 and is not operating under an RMR Agreement, then the Initiating Generator may also be subject to a repayment obligation pursuant to Section 15.8.7 of Rate Schedule 8 to the ISO Services Tariff.

38.15 Halting of Regulated Transmission Short-Term Reliability Process Solution

38.15.1 The ISO may determine to halt a regulated transmission Short-Term Reliability Process Solution that the ISO has selected pursuant to Section 38.10 to address a Short-Term Reliability Process Need if: (a) a Market Participant rescinds the Generator Deactivation Notice that resulted in the Generator Deactivation Reliability Need, (b) the Market Participant's Generator has not Retired or entered into a Mothball Outage within the timeframes described in Section 38.14.1 and is not operating under an RMR Agreement, (c) the Short-Term Reliability Process Need has been otherwise addressed or eliminated (*e.g.*, a market-based solution that satisfies the Short-Term Reliability Process Need has commenced operation), or (d) the scope, scale or nature of the Short-Term Reliability Process Need has changed. In making its determination whether to halt a transmission Short-Term Reliability Process Solution under this Section 38.15.1, the ISO will consider, among other things: (i) whether the Developer has executed a Development Agreement or requested that it be filed unexecuted with the Commission; (ii) the status of the Developer's progress against the milestones in the Development Agreement (*e.g.*, completion of engineering design, procurement of major equipment and materials, execution of key contracts, completion of project financing, obtaining Site Control, commencing physical construction, including excavation and pouring for foundations or the installation or erection of improvements); (iii) the status of Developer's obtaining required permits or authorizations; (iv) whether the Short-Term Reliability Process Solution is an interim or permanent project; and (v) the operational and performance benefits of the Short-Term Reliability Process Solution. If the ISO

determines to halt a regulated transmission Short-Term Reliability Process Solution, it will notify the Developer of the project and post the notice on its website. If a selected regulated transmission Short-Term Reliability Process Solution is halted by the ISO, all of the costs incurred and commitments made by the Developer up to that point, including reasonable and necessary expenses incurred to implement an orderly termination of the project, will be recoverable by the Developer in accordance with Section 38.23 and the cost recovery mechanism in Rate Schedule 16 of the ISO OATT.

38.15.2 Notwithstanding Section 38.15.1, the ISO shall not halt a regulated transmission Short-Term Reliability Process Solution once the Developer: (i) has received its Article VII certification or other applicable siting permits or authorizations under New York State law or (ii) if permitting or regulatory approval is not required, has commenced physical construction of the Short-Term Reliability Process Solution, including excavation and pouring for foundations or the installation or erection of improvements.

38.16 RMR Generator Additional Costs

38.16.1 Proposed Additional Costs

During the performance of an RMR Agreement, the Generator 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 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”).

If the NYISO informs an Initiating Generator that submitted a Generator Deactivation Notice that the Generator or its step-up transformer(s) and/or other system protection equipment will need to remain in service as an Interim Service Provider for the 365 day period that follow the Short-Term Assessment of Reliability Start Date, the Generator Owner of the Initiating Generator shall promptly notify the ISO of an event (a) that occurred after the Generator Deactivation Notice was submitted, but prior to the conclusion of the 365 day notice period, and (b) that could not reasonably have been foreseen at the time the Generator Deactivation Notice was submitted; where (i) Generator Owner reasonably expects it will be required to incur unanticipated costs that, in the aggregate, will exceed \$100,000 to operate for the remainder of the 365 day notice period, and (ii) incurring the costs is necessary for the Generator to be able to

perform or continue to perform as an Interim Service Provider after the event (also a “Notice of Event of Proposed Additional Cost”).

Following its submission of the required Notice of Event of Proposed Additional Cost, the Generator 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 or Interim Service Provider’s ability to perform its obligations 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 Generator Owner’s past similar actions and protocols, (viii) whether each cost is associated solely with the RMR Generator or Interim Service Provider, or are for services or functions shared with other units or businesses; and if a shared cost, the Generator 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.

38.16.1.1 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 Generator Owner shall promptly return the RMR Generator to service without additional recompense.

38.16.1.2 If the cost of returning an Interim Service Provider to service (which may be the cost of repairing and returning step-up transformer(s) and/or other system protection equipment if the generating unit(s) were permitted to deactivate) is not

expected to exceed \$100,000, then the Generator Owner shall promptly return the Generator to service without additional recompense.

38.16.1.3 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 38.16.1 have been met, and the information required by Subsections (i) through (viii) has been provided, it shall be a “Proposed Additional Cost.”

38.16.2 Proposed Additional Cost Eligibility for Recovery

38.16.2.1 The ISO shall review, verify, and/or validate the information provided by the Generator Owner for a Proposed Additional Cost. The ISO may require the Generator 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 Generator Owner, provided that (a) the Generator Owner demonstrates it took measures to minimize the expense, or if the ISO determines that the Generator Owner did not demonstrate it took such steps, such amount estimated by the ISO that would be the expense had the RMR Generator or Interim Service Provider taken measures to reduce it, and (b) it is or was necessary for the Generator Owner to incur these costs for the RMR Generator to perform its obligations under the RMR Agreement or for the Interim Service Provider to be able to operate all required facilities during the 365 day period that follows the Short-Term Assessment of

Reliability Start Date; provided the ISO has not issued a notice of shut-down (or similar notice) to Generator Owner for the RMR Generator pursuant to the RMR Agreement or to Generator Owner of the Interim Service Provider pursuant to Section 38.13.2.4 or 38.13.2.5 of this Attachment FF. If the cost information provided by the Generator 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 38.8.1.3. The ISO shall notify the Generator Owner of its determination regarding whether Proposed Additional Costs are Substantiated Additional Costs.

38.16.2.2 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 38.18.1 of this Attachment FF and in Section 30.4.6.8.6 of Attachment O of the ISO Services Tariff.

38.16.3 ISO's Authority to Recover and Pay Substantiated Additional Costs that Are Capital Expenditures to RMR Generators with Availability and Performance Rates

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 Generator Owner in accordance with (a) the rules in Section 38.17 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.

38.16.4 ISO's Authority to Recover and Pay Substantiated Additional Costs that are Capital Expenditures to Interim Service Providers

This Section shall apply only to Interim Service Providers. If a Substantiated Additional Cost is determined by the ISO to be a Capital Expenditure and it does not exceed 1,000,000 U.S. Dollars, 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 Generator Owner in accordance with (a) the rules in Section 38.17 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.

38.16.5 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 38.16.1.2 and 38.16.2.1 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 or Interim Service Provider 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 38.17 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.

38.17 Payment of Capital Expenditures to RMR Generators and Interim Service Providers

- 38.17.1 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 38.17, 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.
- 38.17.2 Capital Expenditures that are Proposed Additional Costs or Substantiated Additional Costs are eligible for recovery in accordance with the rules set forth in Sections 38.16 and 38.17 of the ISO OATT, 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.
- 38.17.3 The ISO may agree to permit an Interim Service Provider to recover the cost of Capital Expenditures during the 365 day period that follows the Short-Term Assessment of Reliability Start Date if (a) recovery is authorized as an Additional Cost under Section 38.16 of the ISO OATT, or (b) the Capital Expenditure is necessary to permit the Interim Service Provider to address the Reliability Need, and Generator Owner enters into a written agreement with the ISO in which the Generator Owner commits that the Capital Expenditure will be completed and placed in-service by a specified date or within a range of dates that fall within the 365 day period that follows the Short-Term Assessment of Reliability Start Date.

38.17.4 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 Short-Term Reliability Process Need, then the ISO may authorize the Generator 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 Generator Owner in accordance with (i) the rules in this Section 38.17, and (ii) Rate Schedule 8 to the ISO Services Tariff. If the Commission issues an order rejecting the proposed Capital Expenditure, then the Generator 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 38.17.7 below. Allowed wind-down costs shall be reimbursed as additional Avoidable Costs that are not Capital Expenditures. ISO review pursuant to Section 38.17.7 shall include consideration of whether the Generator Owner timely ceased developing a Capital Expenditure and made reasonable efforts to minimize its wind-down costs.

For an Interim Service Provider, if the ISO determines that (x) the requirements of Section 38.17.3 have been satisfied, and (y) the Capital Expenditure does not exceed 1,000,000 U.S. Dollars on the basis of the total expenditure needed, then the ISO may recover the Capital

Expenditure pursuant to OATT Rate Schedule 14 and pay that amount to Generator Owner in accordance with (a) the rules in this Section 38.17 that address the ISO's payment of Capital Expenditures, and (b) Rate Schedule 8 to the ISO Services Tariff. The ISO shall submit an informational filing to the Commission identifying any Capital Expenditures it is paying to an Interim Service Provider pursuant to the authority granted in this section.

38.17.5 Early Termination of RMR Agreement

If the Generator 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 Short-Term Reliability Process 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 Generator Owner default under the RMR Agreement or the RMR Generator failing to satisfy one or more of the operating standards described in Sections 38.19.4(A) and (B) below, and if Generator 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 Generator 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 Generator Owner in accordance with (a) the rules in this Section 38.17, 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 38.17.7 below shall include consideration of whether the Generator Owner timely ceased developing a Capital Expenditure and made reasonable efforts to minimize its wind-down costs.

38.17.6 The ISO shall not reimburse Interim Service Providers for Capital Expenditures that are not completed and placed in service during the 365 day period that follows the Short-Term Assessment of Reliability Start Date. The ISO shall not pay wind-down costs to Interim Service Providers. Subject to the foregoing requirements, the ISO's obligation to pay for Capital Expenditures that are not timely completed in accordance with the written agreement between the Generator Owner and the ISO that is described in Section 38.17.3 shall be addressed in that agreement. Even if a Capital Expenditure by an Interim Service Provider or potential Interim Service Provider is not eligible for compensation under Sections 38.17.3 or 38.17.6, the ISO may agree to pay Capital Expenditure costs that were incurred during the 365 day period that follows the Short-Term Assessment of Reliability Start Date in an RMR Agreement.

38.17.7 ISO Review of Actual Costs Incurred Prior to Commencing Payment

After the Generator Owner expends money for an allowed or accepted Capital Expenditure, including expenditures that may be eligible for recovery under Sections 38.17.4 and 38.17.5 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 Generator 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 38.11.1, in an Owner Developed Rate, or in a request by the Generator 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 Generator 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 Generator Owner. The ISO may require the Generator 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 Generator 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 Generator Owner submits its Capital Expenditure to the Commission and the Commission determines the amount to be paid.

38.17.7.1 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 Generator Owner to recover the actual amount verified and validated by the ISO, up to the limit(s) specified in the Commission order.

38.17.8 ISO Payment and Recovery of Authorized or Accepted Capital Expenditures

38.17.8.1 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 38.17.7, or is determined by the Commission.

38.17.8.2 The ISO shall implement a repayment schedule in accordance with the formula specified in Section 38.17.8.2.1 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 C of this Attachment FF or by the equivalent date specified in an RMR Agreement that is not a *Form of Reliability Must Run Agreement*, or by the conclusion of the 365 day notice period if the ISO is repaying an allowed Capital Expenditure to an Interim Service Provider. 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 Generator Owner remains eligible to receive until that end date.

38.17.8.2.1 Repayment Schedule for Capital Expenditures

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

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

Where:

Verified CapEx_{g,k} = 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 , or the conclusion of the 365 day notice period for an Interim Service Provider.

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

- 38.17.8.3 The ISO shall pay the Generator Owner amounts due for Capital Expenditures as a component of RMR Avoidable Costs (for an RMR Agreement with an Availability and Performance Rate or an Interim Service Provider) or RMR Cost (for an RMR Agreement with 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.
- 38.17.8.4 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 ISO Services Tariff prohibits it from paying, even if the Capital Expenditures might otherwise be payable under the rules specified in this Attachment FF.
- 38.17.8.5 A Generator 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 or Interim Service Provider at or for which the Capital Expenditure was incurred is permitted to be offered into or scheduled in the ISO Administered Markets. *See* Section 15.8.7 of Rate Schedule 8 to the Services Tariff.

38.18 Market Monitoring Unit Review of Determinations

- 38.18.1 The ISO shall seek comments from the Market Monitoring Unit on matters relating to the inputs and the calculations the ISO performed pursuant to Section 38.8 of this Attachment FF.
- 38.18.2 The ISO shall seek comments from the Market Monitoring Unit on its review of Proposed Additional Costs and its determinations of Substantiated Additional Costs under Section 38.16 of this Attachment FF.
- 38.18.3 Concurrent with the ISO or a Generator filing with the Commission an RMR Agreement pursuant to Sections 38.11.3, 38.11.4 or 38.11.5, the Market Monitoring Unit shall publish a report. The report shall review the ISO's determination of the highest net present value offer (or more than one offer) to provide RMR service in accordance with Sections 38.8, 38.9 and 38.10. In the event that cost alone did not provide for a clear delineation between two or more RMR Service Offers, the report shall also review the ISO's consideration of the Generator Owner's proposed changes to the *Form of Reliability Must Run Agreement* and the operational, performance and market impacts, and the size of the Generators. If the RMR Agreement contains RMR Avoidable Costs and an Availability and Performance Rate, the report shall also review the inputs to, and ISO's calculation of, the RMR Avoidable Costs and the Availability and Performance Rate.
- 38.18.4 The responsibilities of the Market Monitoring Unit that are addressed in this Section 38.18 are also addressed in Section 30.4.6.8.6 of Attachment O of the ISO Services Tariff.

38.19 Terminating RMR Agreements

- 38.19.1 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.
- 38.19.2 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.
- 38.19.3 The ISO shall timely terminate an RMR Agreement for an RMR Generator when that RMR Generator is no longer needed to address identified Short-Term Reliability Process Need(s).
- 38.19.4 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 Short-Term Reliability Process 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 Short-Term Reliability Process Need(s) that the RMR Generator is being retained to address; or (D) if significant Additional Costs arise (*see* Section 38.16) that make the RMR Generator more expensive than other solutions to the identified Short-Term Reliability Process Need(s).

38.20 – Reserved

38.21 Reserved

38.22 Cost Allocation Methodology for Short-Term Reliability Process

The cost allocation mechanism under this Section 38.22 sets forth the basis for allocating costs associated with: (i) a Responsible Transmission Owner's transmission Short-Term Reliability Process Solution proposed in accordance with Section 38.4 and, if applicable, its conceptual permanent transmission Short-Term Reliability Process Solution, (ii) a Developer's transmission Short-Term Reliability Process Solution selected by the ISO to address a Short-Term Reliability Process Need pursuant to Section 38.10, or (iii) a Generator operating under an RMR Agreement to address a Short-Term Reliability Process Need. The ISO shall implement the specific cost allocation methodology set forth in this Section 38.22 of this Attachment FF in accordance with the Order No. 1000 Regional Cost Allocation Principles as set forth in Section 31.5.2.1 of Attachment Y.

The formula is applicable to the ISO's share of the costs of an Interregional Transmission Project proposed as a regulated transmission solution to an identified Short Term Reliability Process Need in accordance with Section 38.4.2.5 of Attachment FF. The formula is not applicable to that portion of the cost of a regulated transmission reliability project that is, pursuant to Section 25.7.12 of Attachment S to the ISO OATT, paid for with funds (1) previously committed by or collected from Developers through their acceptance of a Project Cost Allocation for System Deliverability Upgrades required for the interconnection of generation projects or Class Year Transmission Projects, or (2) funds collected as a Highway Facilities Charge pursuant to Rate Schedule 12 of the ISO OATT.

This Section 38.22 establishes the allocation of the costs related to resolving Short-Term Reliability Process Needs resulting from resource adequacy, BPTF thermal transmission security, local transmission security for a Generator Deactivation Reliability Need, dynamic

stability, and short circuit issues. Costs will be allocated in accordance with the following hierarchy: (i) resource adequacy pursuant to Section 38.22.1, (ii) BPTF thermal transmission security pursuant to Section 38.22.2, (iii) BPTF voltage security pursuant to Section 38.22.3, (iv) local transmission security for a Generator Deactivation Reliability Need pursuant to Section 38.22.4, (v) dynamic stability pursuant to Section 38.22.5, and (vi) short circuit pursuant to Section 38.22.6.

38.22.1 Resource Adequacy Reliability Solution Cost Allocation Formula

For purposes of solutions eligible for cost allocation under this Section 38.22, this section sets forth the cost allocation methodology applicable to that portion of the costs of the solution attributable to resolving resource adequacy. The same cost allocation formula is applied regardless of the project or sets of projects being triggered; however, the nature of the solution set may lead to some terms equaling zero, thereby dropping out of the equation. To ensure that appropriate allocation to the LCR and non-LCR zones occurs, the zonal allocation percentages are developed through a series of steps that first identify responsibility for LCR deficiencies, followed by responsibility for remaining need. The following formula shall apply to the allocation of the costs of the solution attributable to resource adequacy:

$$\text{Resource Adequacy Cost Allocation}_i = \frac{\text{LCRdef}_i}{\text{Soln Size}} + \frac{\frac{\text{Coincident Peak}_i * (1 + \text{IRM} - \text{LCR}_i)}{\sum_{k=1}^n \frac{\text{Coincident Peak}_k}{(1 + \text{IRM} - \text{LCR}_k)}} * \frac{\text{Soln STWdef}}{\text{Soln Size}}}{+ \frac{\frac{\text{Coincident Peak}_i * (1 + \text{IRM} - \text{LCR}_i)}{\sum_{l=1}^m \frac{\text{Coincident Peak}_l}{(1 + \text{IRM} - \text{LCR}_l)}} * \frac{\text{Soln Cldef}}{\text{Soln Size}}} * 100\%$$

Where i is for each applicable zone, n represent the total zones in NYCA, m represents the zones isolated by the binding interfaces, IRM is the statewide reserve margin, and where

LCR is defined as the locational capacity requirement in terms of percentage and is equal to zero for those zones without an LCR requirement, LCR_{def_i} is the applicable zonal LCR deficiency, $Soln_{STW_{def}}$ is the STW_{def} for each applicable project, $Soln_{CI_{def}}$ is the CI_{def} for each applicable project, and $Soln_Size$ represents the total compensatory MW addressed by each applicable project for all reliability cost allocation steps in this Section 38.22.

Three step cost allocation methodology for regulated reliability solutions:

38.22.1.1 Step 1 - LCR Deficiency

38.22.1.1.1 Any deficiencies in meeting the LCRs for the Target Year will be referred to as the LCR_{def} . If the reliability criterion is met once the LCR deficiencies have been addressed, that is $LOLE \leq 0.1$ for the Target Year is achieved, then the only costs allocated will be those related to the LCR_{def} MW. Cost responsibility for the LCR_{def} MW will be borne by each deficient locational zone(s), to the extent each is individually deficient.

For a single solution that addresses only an LCR deficiency in the applicable LCR zone, the equation would reduce to:

$$Allocation_i = \frac{LCR_{def_i}}{Soln_Size} * 100\%$$

Where i is for each applicable LCR zone, LCR_{def_i} represents the applicable zonal LCR deficiency, and $Soln_Size$ represents the total compensatory MW addressed by the applicable project.

38.22.1.1.2 Prior to the LOLE calculation, voltage constrained interfaces will be recalculated to determine the resulting transfer limits when the LCR_{def} MW are added.

38.22.1.2 Step 2 - Statewide Resource Deficiency. If the reliability criterion is not met after the LCRdef has been addressed, that is an LOLE > 0.1, then a NYCA Free Flow Test will be conducted to determine if NYCA has sufficient resources to meet an LOLE of 0.1.

38.22.1.2.1 If NYCA is found to be resource limited, the ISO, using the transfer limits and resources determined in Step 1, will determine the optimal distribution of additional resources to achieve a reduction in the NYCA LOLE to 0.1.

38.22.1.2.2 Cost allocation for compensatory MW added for cost allocation purposes to achieve an LOLE of 0.1, defined as a Statewide MW deficiency (STWdef), will be prorated to all NYCA zones, based on the NYCA coincident peak load. The allocation to locational zones will take into account their locational requirements. For a single solution that addresses only a statewide deficiency, the equation would reduce to:

$$\text{Allocation}_i = \frac{\text{Coincident Peak}_i * (1 + \text{IRM} - \text{LCR}_i)}{\sum_{k=1}^n \text{Coincident Peak}_k * (1 + \text{IRM} - \text{LCR}_k)} * \frac{\text{Soln STWdef}}{\text{Soln Size}} * 100\%$$

Where i is for each applicable zone, n is for the total zones in NYCA, IRM is the statewide reserve margin, and LCR is defined as the locational capacity requirement in terms of percentage and is equal to zero for those zones without an LCR requirement, Soln STWdef is the STWdef for the applicable project, and Soln_Size represents the total compensatory MW addressed by the applicable project.

38.22.1.3 Step 3 - Constrained Interface Deficiency. If the NYCA is not resource limited as determined by the NYCA Free Flow Test, then the ISO will examine constrained transmission interfaces, using the Binding Interface Test.

38.22.1.3.1 The ISO will provide output results of the reliability simulation program utilized for the RNA that indicate the hours that each interface is at limit in each flow direction, as well as the hours that coincide with a loss of load event. These values will be used as an initial indicator to determine the binding interfaces that are impacting LOLE within the NYCA.

38.22.1.3.2 The ISO will review the output of the reliability simulation program utilized for the RNA along with other applicable information that may be available to make the determination of the binding interfaces.

38.22.1.3.3 Bounded Regions are assigned cost responsibility for the compensatory MW, defined as C_{ldef}, needed to reach an LOLE of 0.1.

38.22.1.3.4 If one or more Bounded Regions are isolated as a result of binding interfaces identified through the Binding Interface Test, the ISO will determine the optimal distribution of compensatory MW to achieve a NYCA LOLE of 0.1. Compensatory MW will be added until the required NYCA LOLE is achieved.

38.22.1.3.5 The Bounded Regions will be identified by the ISO's Binding Interface Test, which identifies the bounded interface limits that can be relieved and have the greatest impact on NYCA LOLE. The Bounded Region that will have the greatest benefit to NYCA LOLE will be the area to be first allocated costs in this step. The ISO will determine if after the first addition of compensating MWs the Bounded Region with the greatest impact on LOLE has changed. During this

iterative process, the Binding Interface Test will look across the state to identify the appropriate Bounded Region. Specifically, the Binding Interface Test will be applied starting from the interface that has the greatest benefit to LOLE (the greatest LOLE reduction per interface compensatory MW addition), and then extended to subsequent interfaces until a NYCA LOLE of 0.1 is achieved.

38.22.1.3.6 The CIdéf MW are allocated to the applicable Bounded Region isolated as a result of the constrained interface limits, based on their NYCA coincident peaks. Allocation to locational zones will take into account their locational requirements. For a single solution that addresses only a binding interface deficiency, the equation would reduce to:

$$\text{Allocation}_i = \frac{\text{Coincident Peak}_i * (1 + \text{IRM} - \text{LCR}_i)}{\sum_{l=1}^m \text{Coincident Peak}_l * (1 + \text{IRM} - \text{LCR}_l)} * \frac{\text{SolnCIdéf}}{\text{Soln Size}} * 100\%$$

Where i is for each applicable zone, m is for the zones isolated by the binding interfaces, IRM is the statewide reserve margin, and where LCR is defined as the locational capacity requirement in terms of percentage and is equal to zero for those zones without an LCR requirement, SolnCIdéf is the CIdéf for the applicable project and Soln_Size represents the total compensatory MW addressed by the applicable project.

38.22.2 BPTF Thermal Transmission Security Cost Allocation Formula

For purposes of solutions eligible for cost allocation under this Section 38.22, this section sets forth the cost allocation methodology applicable to that portion of the costs of the solution attributable to resolving BPTF thermal transmission security issues. If, after consideration of the compensatory MW identified in the resource adequacy reliability solution cost allocation in

accordance with Section 38.22.1, there remains a BPTF thermal transmission security issue, the ISO will allocate the costs of the portion of the solution attributable to resolving the BPTF thermal transmission security issue(s) to the Subzones that contribute to the BPTF thermal transmission security issue(s) in the following manner.

38.22.2.1 Calculation of Nodal Distribution Factors

The ISO will calculate the nodal distribution factor for each load bus modeled in the power flow case utilizing the output of the reliability simulation program that identified the Short-Term Reliability Process Need, including the NYCA generation dispatch and NYCA coincident peak Load. The nodal distribution factor represents the percentage of the Load that flows across the facility subject to the Short-Term Reliability Process Need. The sign (positive or negative) of the nodal distribution factor represents the direction of flow.

38.22.2.2 Calculation of Nodal Flow

The ISO will calculate the nodal megawatt flow, defined as Nodal Flow, for each load bus modeled in the power flow case by multiplying the amount of Load in megawatts for the bus, defined as Nodal Load, by the nodal distribution factor for the bus. Nodal Flow represents the number of megawatts that flow across the facility subject to the Short-Term Reliability Process Need due to the Load.

38.22.2.3 Calculation of Contributing Load and Contributing Flow

The Nodal Load for a load bus with a positive nodal distribution factor is a contributing Load, defined as CLoad, and the Nodal Flow for that Load is contributing flow, defined as CFlow. To identify contributing Loads that have a material impact on the Short-Term Reliability

Process Need, the ISO will calculate a contributing materiality threshold, defined as CMT, as follows:

$$CMT = \frac{\sum_{k=1}^m \sum_{Lk=1}^n CFlow_{Lk}}{\sum_{k=1}^m \sum_{Lk=1}^n CLoad_{Lk}}$$

Where m is for the total number of Subzones and n is for the total number of load buses in a given Subzone.

38.22.2.4 Calculation of Helping Load and Helping Flow

The Nodal Load for a load bus with a negative or zero nodal distribution factor is a helping Load, defined as HLoad, and the Nodal Flow for that Load is helping flow, defined as HFlow. To identify helping Loads that have a material impact on the Short-Term Reliability Process Need, the ISO will calculate a helping materiality threshold, defined as HMT, as follows:

$$HMT = \frac{\sum_{k=1}^m \sum_{Lk=1}^n HFlow_{Lk}}{\sum_{k=1}^m \sum_{Lk=1}^n HLoad_{Lk}}$$

Where m is for the total number of Subzones and n is for the total number of load buses in a given Subzone.

38.22.2.5 Calculation of Net Material Flow for Each Subzone

The ISO will identify material Nodal Flow for each Subzone and calculate the net material flow for each Subzone. For each load bus, the Nodal Flow will be identified as material flow, defined as MFlow, if the nodal distribution factor is (i) greater than or equal to CMT, or (ii) less than or equal to HMT. The net material flow for each Subzone, defined as SZ_NetFlow, is calculated as follows:

$$SZ_NetFlow_j = \sum_{Lj=1}^n MFlow_{Lj}$$

Where j is for each Subzone and n is for the total number of load buses in a given Subzone.

38.22.2.6 Identification of Allocated Flow for Each Subzone

The ISO will identify the allocated flow for each Subzone and verify that sufficient contributing flow is being allocated costs. For each Subzone, if the $SZ_NetFlow$ is greater than zero, that Subzone has a net material contribution to the Short-Term Reliability Process Need and the $SZ_NetFlow$ is identified as allocated flow, defined as $SZ_AllocFlow$. If the $SZ_NetFlow$ is less than or equal to zero, that Subzone does not have a net material contribution to the Generator Deactivation Reliability Need and the $SZ_AllocFlow$ is zero for that Subzone. If the total $SZ_AllocFlow$ for all Subzones is less than 60% of the total $CFlow$ for all Subzones, then the CMT will be reduced and $SZ_NetFlow$ recalculated until the total $SZ_AllocFlow$ for all Subzones is at least 60% of the total $CFlow$ for all Subzones.

38.22.2.7 Cost Allocation for a Single BPTF Thermal Transmission Security Issue

For a single solution that addresses only a BPTF thermal transmission security issue, the equation for cost allocation would reduce to:

$$BPTF\ Thermal\ Cost\ Allocation_j = \frac{SZ_AllocFlow_j}{\sum_{k=1}^m SZ_AllocFlow_k} \times \frac{SolnBTSdef}{Soln_Size}$$

Where j is for each Subzone; m is for the total number of Subzones; $SZ_AllocFlow$ is the allocated flow for each Subzone; $SolnBTSdef$ is the number of compensatory MW for the BPTF thermal transmission security issue for the applicable project; and $Soln_Size$ represents the total compensatory MW addressed by the applicable project.

38.22.2.8 Cost Allocation for Multiple BPTF Thermal Transmission Security Issues

If a single solution addresses multiple BPTF thermal transmission security issues, the ISO will calculate weighting factors based on the ratio of the present value of the estimated costs for individual solutions to each BPTF thermal transmission security issue. The present values of the estimated costs for the individual solutions shall be based on a common base date that will be the beginning of the calendar month in which the cost allocation analysis is performed (the “Base Date”). The ISO will apply the weighting factors to the cost allocation calculated for each Subzone for each individual BPTF thermal transmission security issue. The following example illustrates the cost allocation for such a solution:

- A cost allocation analysis for the selected solution is to be performed during a given month establishing the beginning of that month as the Base Date.
- The ISO has identified two BPTF thermal transmission security issues, Overload X and Overload Y, and the ISO has selected a single solution (Project Z) to address both BPTF thermal transmission security issues.
- The cost of a solution to address only Overload X (Project X) is $\text{Cost}(X)$, provided in a given year's dollars. The number of years from the Base Date to the year associated with the cost estimate of Project (X) is $N(X)$.
- The cost of a solution to address only Overload Y (Project Y) is $\text{Cost}(Y)$, provided in a given year's dollars. The number of years from the Base Date to the year associated with the cost estimate of Project Y is $N(Y)$.
- The discount rate, D , to be used for the present value analysis shall be the current after-tax weighted average cost of capital for the Transmission Owners.
- Based on the foregoing assumptions, the following formulas will be used:

- Present Value of Cost (X) = PV Cost (X) = Cost (X) / (1+D)^{N(X)}
 - Present Value of Cost (Y) = PV Cost (Y) = Cost (Y) / (1+D)^{N(Y)}
 - Overload X weighting factor = PV Cost (X)/[PV Cost (X) + PV Cost (Y)]
 - Overload Y weighting factor = PV Cost (Y)/[PV Cost (X) + PV Cost (Y)]
- Applying those formulas, if:

Cost (X) = \$100 Million and N(X) = 6.25 years

Cost (Y) = \$25 Million and N(Y) = 4.75 years

D = 7.5% per year

Then:

PV Cost (X) = 100/(1+0.075)^{6.25} = 63.635 Million

PV Cost (Y) = 25/(1+0.075)^{4.75} = 17.732 Million

Overload X weighting factor = 63.635 / (63.635 + 17.732) = 78.21%

Overload Y weighting factor = 17.732 / (63.635 + 17.732) = 21.79%

- Applying those weighing factors, if:

Subzone A cost allocation for Overload X is 15%

Subzone A cost allocation for Overload Y is 70%

Then:

Subzone A cost allocation % for Project Z =

(15% * 78.21%) + (70% * 21.79%) = 26.99%

38.22.2.9 Exclusion of Subzone(s) Based on *De Minimis* Impact

If a Subzone is assigned a BPTF thermal transmission security cost allocation less than a *de minimis* dollar threshold of the total project costs, that Subzone will not be allocated costs; *provided however*, that the total *de minimis* Subzones may not exceed 10% of the total BPTF

thermal transmission security cost allocation. The *de minimis* threshold is initially \$10,000. If the total allocation percentage of all *de minimis* Subzones is greater than 10%, then the *de minimis* threshold will be reduced until the total allocation percentage of all *de minimis* Subzones is less than or equal to 10%.

38.22.3 BPTF Voltage Security Cost Allocation

If, after consideration of the compensatory MW identified in the resource adequacy cost allocation in accordance with Section 38.22.1 and BPTF thermal transmission security cost allocation in accordance with Section 38.22.2, there remains a BPTF voltage security issue, the ISO will allocate the costs of the portion of the solution attributable to resolving the BPTF voltage security issue(s) to the Subzones that contribute to the BPTF voltage security issue(s). The cost responsibility for the portion (MW or MVar) of the solution attributable to resolving the BPTF voltage security issue(s), defined as SolnBVSdef, will be allocated on a Load-ratio share to each Subzone to which each bus with a voltage issue is connected, as follows:

$$BPTF\ Voltage\ Cost\ Allocation_j = \frac{Coincident\ Peak_j}{\sum_{k=1}^m Coincident\ Peak_k} \times \frac{SolnBVSdef}{Soln_Size}$$

Where j is for each Subzone; m is for the total number of Subzones that are subject to BPTF voltage cost allocation; Coincident Peak is for the total peak Load for each Subzone; SolnBVSdef is for the portion of the solution necessary to resolve the BPTF voltage security issue(s); and Soln_Size represents the total compensatory MW addressed by the applicable project.

38.22.4 Local Transmission Security Cost Allocation

If, after consideration of the compensatory MW identified in the resource adequacy cost allocation in accordance with Section 38.22.1, the BPTF thermal transmission security cost

allocation in accordance with Section 38.22.2, and BPTF voltage security cost allocation in accordance with Section 38.22.3, there remains a non-BPTF thermal security issue or a non-BPTF voltage security issue, the ISO will allocate the costs of resolving the local security issue(s) to the Subzones that contribute to the local security issue(s). This local transmission security step will only apply for the allocation of the costs of a Short-Term Reliability Process Solution to a Generator Deactivation Reliability Need.

38.22.4.1 The Subzone in which the receiving terminal of the non-BPTF facility is located is assigned cost responsibility for the megawatt portion of the solution needed to eliminate the non-BPTF thermal issue(s), defined as LocalThermalMW. If multiple non-BPTF thermal issues in multiple Subzones are addressed by the solution, the LocalThermalMW will be allocated on a Load-ratio share to each identified Subzone as follows:

$$Local\ Thermal\ Cost\ Allocation_j = \frac{Coincident\ Peak_j}{\sum_{k=1}^m Coincident\ Peak_k} \times \frac{LocalThermalMW}{Soln_Size}$$

Where j is for each Subzone; m is for the total number of Subzones that are subject to local thermal cost allocation; Coincident Peak is for the total peak load for each Subzone; LocalThermalMW is for the megawatt portion of the solution needed to eliminate the non-BPTF thermal issue(s); and Soln_Size represents the total compensatory MW addressed by the solution.

38.22.4.2 If there remains a voltage issue after consideration of LocalThermalMW, then the cost responsibility for the megawatt portion of the solution necessary to resolve the voltage issue(s), defined as LocalVoltageMW, will be allocated on a Load-ratio share to each Subzone to which each bus with a voltage issue is connected, as follows:

$$Local\ Voltage\ Cost\ Allocation_j = \frac{Coincident\ Peak_j}{\sum_{k=1}^m Coincident\ Peak_k} \times \frac{LocalVoltageMW}{Soln_Size}$$

Where j is for each Subzone; m is for the total number of Subzones that are subject to local voltage cost allocation; Coincident Peak is for the total peak Load for each Subzone; LocalVoltageMW is for the megawatt portion of the RMR Agreement necessary to resolve the voltage issue(s); and Soln_Size represents the total compensatory MW addressed by the solution.

38.22.5 Dynamic Stability Cost Allocation

If, after consideration of the compensatory MW identified in the resource adequacy cost allocation in accordance with Section 38.22.1, BPTF thermal transmission security cost allocation in accordance with Section 38.22.2, BPTF voltage security cost allocation in accordance with Section 38.22.3, and local transmission security cost allocation for a Generator Deactivation Reliability Need in accordance with Section 38.22.4, there remains a dynamic stability issue, the ISO will allocate the costs of the portion of the solution attributable to resolving the dynamic stability issue(s) to all Subzones in the NYCA on a Load-ratio share basis, as follows:

$$Dynamic\ Stability\ Cost\ Allocation_j = \frac{Coincident\ Peak_j}{\sum_{k=1}^m Coincident\ Peak_k} \times \frac{DynamicMW}{Soln_Size}$$

Where j is for each Subzone; m is for the total number of Subzones; Coincident Peak is for the total peak Load for each Subzone; DynamicMW is for the megawatt portion of the solution necessary to resolve the dynamic stability issue(s) for the applicable project; and Soln_Size represents the total compensatory MW addressed by the applicable project.

38.22.6 Short Circuit Issues

If, after the completion of the prior reliability cost allocation steps, there remains a short circuit issue, the short circuit issue will be deemed a local issue and related costs will not be allocated under this process.

38.23 Cost Recovery for Short-Term Reliability Process

38.23.1 The Responsible Transmission Owner or the Developer that proposes a transmission Short-Term Reliability Process Solution that is selected by the ISO pursuant to Section 38.10 to address a Short-Term Reliability Process Need shall be entitled to full recovery of all reasonably incurred costs, including a reasonable return on investment and any applicable incentives, related to the development, construction, operation and maintenance of the transmission Short-Term Reliability Process Solution. The Responsible Transmission Owner shall also be entitled to recover its costs for developing its proposed transmission Short-Term Reliability Process Solution and, if applicable, its conceptual permanent Short-Term Reliability Process Solution, whether or not such solutions were selected by the ISO. The Responsible Transmission Owner or Developer will recover its costs in accordance with Schedule 16 of this ISO OATT, or as determined by the Commission. The period for cost recovery will be determined by the Commission and will begin if and when the Short-Term Reliability Process Solution is completed or halted, or as otherwise determined by the Commission. The NYISO does not provide cost recovery related to projects undertaken by Transmission Owners through their Local Transmission Owner Planning Processes pursuant to Sections 31.1.3 and 31.2.1 of Attachment Y of the ISO OATT.

38.23.2. If a selected regulated transmission Short-Term Reliability Process Solution is halted by the ISO, all of the costs incurred and commitments made by the Developer up to that point, including reasonable and necessary expenses incurred to implement an orderly termination of the project, will be recoverable by the Developer in accordance with Schedule 16 of the ISO OATT.

- 38.23.3 If the appropriate federal, state or local agency(ies) either rejects a necessary authorization, or approves and later withdraws authorization, for the selected transmission Short-Term Reliability Process Solution, the Developer may recover 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, to the extent permitted by the Commission in accordance with its regulations. The ISO shall recover such costs in accordance with Schedule 16 of the ISO OATT.
- 38.23.4 If a Market Participant's Generator is operating under an RMR Agreement pursuant to Section 38.11 to address a Short-Term Reliability Process Need, the Market Participant will be paid in accordance with Rate Schedule 8 of the ISO Services Tariff. The ISO will recover costs related to RMR Agreements from LSEs in accordance with Schedule 14 of the ISO OATT.
- 38.23.5 With the exception of a Generator operating under an RMR Agreement, costs related to non-transmission regulated Short-Term Reliability Process Solutions to Short-Term Reliability Process Needs will be recovered by Responsible Transmission Owners or Developers in accordance with the provisions of New York Public Service Law, New York Public Authorities Law, or other applicable state law.

38.24 Appendix A – Generator Deactivation Notice Form

38.24.1 Instructions

38.24.1.1 Before a Generator with a nameplate rating that exceeds 1 MW may be Retired or enter into a Mothball Outage, the Market Participant must satisfy the requirements set forth in Attachment FF to the OATT, including submitting to the NYISO a completed Generator Deactivation Notice using the form set forth in this Appendix A of Attachment FF to the OATT, and providing the information required by Appendix B of Attachment FF to the OATT.

38.24.1.2 In accordance with the requirements set forth in Section 38.3.1 of Attachment FF to the OATT and ISO Procedures, the Market Participant shall submit to the NYISO via electronic mail (a) the Generator Deactivation Notice form to generator_retirement@nyiso.com and (b) all information required by Appendix B of Attachment FF to NYISO Stakeholder Services, to the attention of the Director of Market Mitigation and Analysis.

38.24.1.3 The NYISO will review the information received pursuant to Section 38.3.1.5 of the OATT to determine whether it is complete. The NYISO will notify the Market Participant to provide any additional information that is required in order for the Generator Deactivation Notice to be determined to be complete.

38.24.1.4 The 365 day notice period applicable to a Generator(s) proposing to be Retired or enter into a Mothball Outage will begin to run on the date of the next quarterly Short-Term Assessment of Reliability (STAR) that commences at least one day after the date on which NYISO issues a written notice to the Market Participant indicating that the Generator Deactivation Notice (including the information received and supporting certification) are complete.

38.24.1.5 The Market Participant has a continuing obligation to timely submit additional information pursuant to Section 38.25.4 of Appendix B, under Attachment FF to the NYISO OATT, and as otherwise required under the ISO Tariffs. All such information shall be sent to NYISO Stakeholder Services, to the attention of the Director of Market Mitigation and Analysis.

38.24.2 Submitting Entity's Information

38.24.2.1 Name of entity submitting notice:

_____ (“submitting entity”)

38.24.2.2 Submitting entity's interest in and relationship with Generator(s) (check all that apply):

[] Owner (and if part owner, percent) of Generator(s)

- ☐ Operator of Generator(s)
☐ Market Participant
☐ Other _____

If the submitting entity is not both the owner and operator, provide the following information for (a) the owner, (b) the operator, (c) Market Participant, and (d) the submitting entity:

38.24.2.3 State of organization or incorporation:

38.24.2.4 Contact information

Name of contact person and alternate contact person, title, relationship to the submitting entity, mailing address, e-mail address, office phone number, and cell phone number:

38.24.3 Identity of Generator(s) Subject to Generator Deactivation Notice

Location:

Unit Name: _____ PTID _____ Nameplate Rating in MW: _____

Unit Name: _____ PTID _____ Nameplate Rating in MW: _____

Unit Name: _____ PTID _____ Nameplate Rating in MW: _____

Unit Name: _____ PTID _____ Nameplate Rating in MW: _____

Revenue Meter Location(s) (Use PTIDs):

38.24.4 Proposed Generator Deactivation

38.24.4.1 The Generator Deactivation Notice is for the Generator(s) (check one):

- ☐ to be Retired
☐ to enter into a Mothball Outage.

38.24.4.2 If the submitting entity is proposing to enter the Generator(s) into a Mothball Outage, please check the box below to acknowledge that the Generator(s) is able to return to service within 180 days.

☐ Generator(s) is able to return to service within 180 days

Please note: If the submitting entity believes that there is good cause for why a Generator will not be able to return to service within 180 days, the

submitting entity must separately provide for each such Generator the proposed number of days for return and supporting information to the NYISO for review. The NYISO will determine whether the information provided satisfies the requirements of Section 5.18.3.2 of the ISO Services Tariff. If the Generator Deactivation Notice is for more than one Generator, and the response to this subsection 38.24.4.2 is not the same for all Generators, specify by Unit Name and PTID which Generators are able and which are not able to return to service within 180 days.

38.24.4.3 If the submitting entity is proposing to enter the Generator(s) into a Mothball Outage, please check the box below to acknowledge that the step-up transformer(s) and other system protection equipment will continue to be operational during the Mothball Outage.

☐ The step-up transformer(s) and other system protection equipment will continue to be operational during the Mothball Outage.

38.24.4.4 If the submitting entity is proposing for the Generator(s) to be Retired on a date other than 365 days after the Generator Deactivation Assessment Start Date (as that term is defined in Section 38.1 of Attachment FF to the NYISO OATT), the desired retirement date is: [day] of [month] of [year].

38.24.4.5 If the submitting entity is proposing for the Generator(s) to enter into a Mothball Outage on a date other than 365 days after the Generator Deactivation Assessment Start Date, the desired date to enter into a Mothball Outage is: [day] of [month] of [year]. The submitting entity proposes to resume operation and participation in the ISO Administered Markets on: [day] of [month] of [year].

38.24.5 Acknowledgments

By submitting the Generator Deactivation Notice, the submitting entity acknowledges:

- After the NYISO determines that the Generator Deactivation Notice is complete, the NYISO will post a notice of that determination (and will notify the submitting entity.)
- If the submitting entity rescinds this Generator Deactivation Notice after the NYISO determines it to be complete, the submitting entity must reimburse the NYISO and the relevant New York Transmission Owner(s) in accordance with Section 38.14.2 of Attachment FF of the NYISO OATT the actual costs that each incurred in performing their responsibilities under Attachment FF of the NYISO OATT and Section 23.4.5.6 of the ISO Services Tariff in response to the submitting entity's submission of this Generator Deactivation Notice, including any costs associated with using contractors.

38.24.6 Submitted By:

Certification

The undersigned certifies that he or she is an officer of the submitting entity, that he or she is authorized to execute this Certification and submit this Generator Deactivation Notice on behalf of the submitting entity, and that the information and statements contained herein (including any and all attachments, and information required by Appendix B of Attachment FF to the NYISO OATT submitted herewith,) and in this certification are true and correct to the best of his or her information, knowledge and belief, having conducted due diligence.

Signature

Name: _____ Title: _____

Date: _____

38.25 Appendix B – Short-Term Reliability Process Cost, Revenue, and Other Information Requirements

38.25.1 Overview of Information Requirements

This Appendix B governs the information that must be received by the ISO from Market Parties for Short-Term Reliability Process Solutions, including Initiating Generators, Short-Term Reliability Process Solutions proposed pursuant to Section 38.4 of Attachment FF, and Generators that have submitted a statement of intent or are otherwise required by the ISO to submit this information pursuant to 38.5 of this Attachment FF. The term “information” as used in this Appendix B and in Attachment FF includes all sources and types of information and data. The information required by this Appendix shall be separately stated from and is in addition to the information requirements for Generators in certain outages set forth in Section 5.18 of the ISO Services Tariff, the information required by the ISO pursuant to Section 23.4.5.6 of the ISO Services Tariff, and the Short-Term Reliability Process project information requirements set forth in Section 38.4 of this Attachment FF. If the information required by this Appendix does not exist on the date due to the ISO, the Market Party shall promptly provide it to the ISO if and when it does exist in whole or in part.

38.25.2 Information Requirements Applicable to Initiating Generators

38.25.2.1 The Market Party for an Initiating Generator must submit the information specified below, and any other information specified by the ISO on the section of its website identified for RMR Information Requirements, in the form and manner directed by the ISO. The items and their costs identified for (a) through (d), and (e) in this Section shall include only those costs necessary for the Initiating Generator to operate in

accordance with Good Utility Practice for the duration of the relevant information period (as set forth in Section 38.25.8).

- (a) Capital expenses, including those necessary to comply with federal or state environmental or safety laws, rules, regulations, and requirements, separately stating the financing cost (*e.g.*, interest and fees) for each item;
- (b) Fixed operating and maintenance costs;
- (c) Variable operating and maintenance costs, such as fuel, emissions, and start up costs, and other costs identified by the ISO in accordance with ISO Procedures; and if there is any difference between the submitted information and the information in the ISO's Reference Level System at the time of the submission, and an explanation of the reason for the difference;
- (d) The quantity of specific items of inventory necessary to be maintained, and costs thereof;
- (e) The cost of expenditures other than those identified in (a) through (d) of this section that are necessary for the Generator to operate;
- (f) All information pertaining to the capital structure of the Generator and its financing structure, the sources of capital, financing agreements, and dividend payout schedules;
- (g) If the Generator Deactivation Notice is for the Generator to be Retired, (a) all existing agreements and proposals pertaining to the cost of opportunities that would be foregone if the Generator is not retired, such agreements being for the reuse, repurposing, or distribution of the real property of or on which the unit is located, its personal property or appurtenances; and (b) all agreements that contain a cost, premium, or fee for termination of all or a portion thereof;
- (h) If the Generator is in an ICAP Ineligible Forced Outage or is Mothballed, and the Generator Deactivation Notice is for a retirement prior to the expiration of the period set forth in Section 5.18 of the ISO Services Tariff, the costs that are necessary to enable the Generator to return to service; and
- (i) All sources of revenue, and the amount of, and terms and conditions associated with each source of revenues related to the construction of, investment in, upgrade to, or operation of the Generator.

38.25.2.2 For each item of cost or revenue, the Market Party shall specify whether it can be avoided, in whole or in part or diminished, if the Generator (a) ceases operations in the manner specified in its Generator Deactivation Notice, or (b) does not resume service

from an ICAP Ineligible Forced Outage or Mothball Outage state. For each cost that can be avoided, the Market Party shall specify how it plans to do so and the potentially viable options examined to minimize the cost.

38.25.3 Information Requirements Applicable to Short-Term Reliability Process Solutions Proposed Pursuant to Section 38.4 and Generators that Submit Statements of Intent or that Are Otherwise Required to Provide Information Pursuant to Section 38.5

38.25.3.1 The Market Party for a Short-Term Reliability Process Solution proposed pursuant to Section 38.4, or for a Generator that submitted a statement of intent or that is otherwise required by the ISO to provide the information in Appendix B pursuant to Section 38.5, shall submit the information identified below, and any other information specified by the ISO on the ISO's website, in the form and manner directed by the ISO.

38.25.3.2 If a Market Party has submitted a statement of intent to offer its Generator, or if the ISO otherwise requires the Market Party to provide the information in Appendix B regarding the Generator pursuant to Section 38.5, then the Market Party shall submit the information set forth in Section 38.25.2.1 and 38.25.2.2.

38.25.3.3 If a proposed Short-Term Reliability Process Solution is a new Generator, the Market Party shall submit those costs necessary for the Generator to be sited, permitted, and constructed, and the information below. The items and their costs identified for (a) through (d) in this Section shall include only those costs necessary for the Generator to operate in accordance with Good Utility Practice for the duration of the relevant information period.

- (a) Capital expenses, including those necessary to comply with federal or state environmental or safety laws, rules, regulations, and requirements, separately stating the financing cost (*e.g.*, interest and fees) for each item;
- (b) Fixed operating and maintenance costs;

- (c) Variable operating and maintenance costs;
- (d) The quantity of specific items of inventory necessary to be maintained, and costs thereof;
- (e) All information pertaining to the capital structure of the Generator and its financing structure, including the sources of capital, financing agreements, and dividend payout schedules;
- (f) All existing agreements and proposals pertaining to opportunity costs that would be foregone if the Generator served as a Short-Term Reliability Process Solution; and
- (g) All sources of revenue, and the amount of, and terms and conditions associated with each source of revenues related to the construction of, investment in, upgrade to, or operation of the proposed Short-Term Reliability Process Solution or Generator.

38.25.3.4 If a proposed Short-Term Reliability Process Solution is a transmission project, the Market Party shall provide:

- (a) Capital expenses, including the following elements:
 - (i) Capital expenses necessary to comply with federal or state environmental or safety requirements, separately stating the financing cost (*e.g.*, interest and fees) for each item;
 - (ii) Worksheets setting forth all relevant material and labor cost assumptions. These assumptions should be itemized, and should include the following elements:
 - (A) equipment, including, to the extent applicable and available, sub-itemized estimates for equipment associated with each of the following categories: (i) the proposed project; (ii) interconnection facilities (including Attachment Facilities and Direct Assignment Facilities); and (iii) System Upgrade Facilities, System Deliverability Upgrades, Network Upgrades, and Distribution Upgrades
 - (B) engineering and design work
 - (C) permitting
 - (D) site acquisition
 - (E) procurement
 - (F) construction work

- (G) other commissioning work;
- (iii) For each category or sub-category of cost estimate, a quantification of cost variance, including an assumed plus/minus range around the capital cost estimate.
- (b) Fixed operating and maintenance costs;
- (c) Variable operating and maintenance costs;
- (d) The quantity of specific items of inventory necessary to be maintained, and costs thereof;
- (e) The cost of expenditures other than those identified in (a) through (d) of this Section that are necessary to enable the project to operate, including any costs to obtain right of way, siting, and other federal, state and local permits;
- (f) All information pertaining to the capital structure of the project and its financing structure, including the sources of capital, financing agreements, and dividend payout schedules;
- (g) All existing agreements and proposals pertaining to opportunity costs that would be foregone if the project served as a Short-Term Reliability Process Solution; and
- (h) All sources of revenue, and the amount of, and terms and conditions associated with each source of revenue related to the construction of, investment in, upgrade to, or operation of the project.

38.25.4 Obligation to Submit Further Information

Market Parties for Short-Term Reliability Process Solutions, including Initiating Generators, Short-Term Reliability Process Solutions proposed pursuant to Section 38.4, Generators that submitted a statement of intent pursuant to Section 38.5, and Generators otherwise required to provide the information in Appendix B pursuant to Section 38.5, shall provide any new information, and shall update and revise information previously submitted to the ISO in accordance with Sections 38.25.2 or 38.25.3, (i) no more than fifteen days after (a) a material change (or a series of changes that results in a material change) in (I) the physical condition of a proposed or potential Short-Term Reliability Process Solution or any aspect of its proposal, or (II) the information previously submitted, (b) an event occurring that makes any

element of the information submitted materially inaccurate, (c) actual cost information becoming available where estimated information had been provided, (d) changes to costs based on physical events or regulatory developments that might reasonably be expected to impact planned operations, and also (ii) promptly upon the request of the ISO for any other information. The obligation to provide information pursuant to this Section 38.25.4 shall cease (a) for any proposed or potential Short-Term Reliability Process Solution (other than an Initiating Generator) on the earlier of the date (x) the ISO provides notice that a Short-Term Reliability Process Solution is not needed, (y) the request for Short-Term Reliability Process Solutions is withdrawn, or (z) that the ISO determines a Short-Term Reliability Process Solution other than it is expected to satisfy the Short-Term Reliability Process Need, and (b) for any Initiating Generator, upon the earlier of the date that (x) it withdraws its Generator Deactivation Notice if it stated it was a notice of retirement, or (y) it permanently retires.

38.25.5 The Market Party shall provide the ISO the actual costs and revenues for each item in Sections 38.25.2 through 38.25.4 to the greatest extent practicable. If actual costs and revenues are not available, the Market Party shall provide estimated costs and revenues along with a description of how the estimates were prepared. The Market Party must identify and describe the accounting protocols used to identify or determine all actual and estimated costs and revenues.

38.25.6 For each cost identified under Subsections (a), (b), (d) and (e) of Sections 38.25.2.1, 38.25.3.1, 38.25.3.4, or 38.25.3.5, or Subsections (a), (b) and (d) of Section 38.25.3.3, the Market Party shall provide a detailed plan specifying the schedule and timing of the planned action and expenditure, and if it is an existing Resource, an explanation and supporting documentation of how that plan compares to the Market

Party's past similar expenditures, actions, and protocols. The Market Party shall also specify the terms in any contracts associated with (a) avoidable capital expenses, normal maintenance, extraordinary maintenance and repairs, or variable costs that contain a cost, premium, and/or fee for termination of the agreement in whole or for a portion thereof, and shall provide a copy of the contract and documents pertinent to the calculation of the early termination premium, cost, and fee, and (b) revenues, and shall provide a copy of the contract and documents pertinent to the calculation of the revenues, and the historic revenues.

38.25.7 The Market Party shall specify whether each cost is associated solely with the individual unit(s) of the Generator, or a component of the transmission project, or whether the cost is for services or functions shared with other units or businesses. If a cost is a shared cost, the Market Party shall identify the other entities with which the cost is shared, the entity that allocates the cost to it; and the accounting protocols and methodology used in the allocation of the costs, and across which units and business the cost is allocated.

38.25.8 Information Periods

38.25.8.1 Information provided under Sections 38.25.2.1 and 38.25.2.2 shall encompass one year periods, for the five (5) years prior to and (a) if by an Initiating Generator or a Generator that submits a statement of intent pursuant to Section 38.5 for six (6) years from the date of the initial provision of information, and each annual update thereto, and (b) if by a Generator that did not provide a statement of intent, but is required to provide information by the ISO pursuant to 38.5, for the number of years identified by the ISO in the notification provided pursuant to 38.5 of Attachment FF.

38.25.8.2 Information provided by proposed Short-Term Reliability Process Solutions, other than an Initiating Generator or a Generator that has submitted a statement of intent or is otherwise required to provide information in Appendix B pursuant to Section 38.5, shall encompass one year periods, from the date of the initial provision of information for the period identified in the request for Short-Term Reliability Process Solutions.

38.25.8.3 For the financing cost of any mandatory capital expense, the Market Party shall provide information and data for: (a) the one-year period beginning on the estimated date of expenditure for the item of capital expense; and in addition (b) the period beginning on the estimated date of expenditure for the item of capital expense and ending, respectively, (i) if an Initiating Generator or a Generator that submitted a statement of intent pursuant to Section 38.5 two years, three years, four years, five years, and six years, from the date of the Generator Deactivation Notice or statement of intent (but excluding data and information beyond the date that is six years from the Generator Deactivation Notice or statement of intent); (ii) if a Generator that did not provide a statement of intent, but is required to provide information by the ISO pursuant to Section 38.5, for the number of years identified by the ISO in the notification provided pursuant to Section 38.5, from the date of its initial submission of information in accordance with Section 38.25.3, and (iii) if a proposed Short-Term Reliability Process Solution (other than an Initiating Generator or a Generator that has submitted a statement of intent or is otherwise required by the ISO to provide information pursuant to Section 38.5), for the duration of the Short-Term Reliability Process Need identified by the ISO in its request for Short-Term Reliability Process Solutions.

38.26 Appendix C - Form of Reliability Must Run Agreement

FORM OF RELIABILITY MUST RUN AGREEMENT

Table of Contents

RELIABILITY MUST RUN AGREEMENT RECITALS

ARTICLE 1 - DEFINITIONS AND RULES OF INTERPRETATION

- 1.1 Definitions.
- 1.2 Interpretation.
- 1.3 Construction.

ARTICLE 2 – TERM

- 2.1 Start Date, FERC Effective Date and Term.
- 2.2 Termination.
- 2.3 Survival.

ARTICLE 3 - RIGHTS AND OBLIGATIONS

- 3.1 In General.
- 3.2 Insurance.
- 3.3 Contracts, Permits and Orders.
- 3.4 Testing.
- 3.5 Energy Market Participation.
- 3.6 RMR Generator Reference Levels.
- 3.7 Capacity Market Participation.
- 3.8 Restoration Services and Voltage Support Services.
- 3.9 Self-Scheduling.

ARTICLE 4 - COMPENSATION AND SETTLEMENT

- 4.1 In General.
- 4.2 Recovery of Variable Costs.
- 4.3 Recovery of RMR Avoidable Costs.
- 4.4 Availability Incentive.
- 4.5 Performance Incentive.
- 4.6 Owner Developed Rate.
- 4.7 Penalties.
- 4.8 Wind-Down Costs.

ARTICLE 5 - MARKET MONITORING

- 5.1 Market Power Mitigation.

ARTICLE 6 - REPORTING AND AUDIT

- 6.1 Information Access.
- 6.2 Books and Records; Audit Rights.

ARTICLE 7 - RESOURCE OPERATION AND MAINTENANCE

- 7.1 Planned Outages.
- 7.2 Forced Outages.
- 7.3 Minimum Operating Standards.
- 7.3.3 Operation to Address the Reliability Need Standard.

ARTICLE 8 - FORCE MAJEURE EVENTS

- 8.1 Definition of Force Majeure Event.
- 8.2 Notice of Force Majeure Event.
- 8.3 Effect of Force Majeure Event.
- 8.4 Remedial Efforts.

ARTICLE 9 - DISPUTE RESOLUTION AND REMEDIES

- 9.1 Dispute Resolution.
- 9.2 Liability and Indemnification.
- 9.3 Specific Performance.
- 9.4 Termination for Default.
- 9.5 Waiver.
- 9.6 No Third-Party Beneficiaries.
- 9.7 Remedies Cumulative.

ARTICLE 10 - COVENANTS OF THE PARTIES

- 10.1 ISO represents and warrants to Owner as follows:
- 10.2 Owner represents and warrants to ISO as follows:

ARTICLE 11 - MISCELLANEOUS PROVISIONS

- 11.1 Assignment.
- 11.2 Notices.
- 11.3 Parties' Representatives.
- 11.4 Effect of Invalidation, Modification, or Condition.
- 11.5 Amendments.
- 11.6 Governing Law.
- 11.7 Entire Agreement.
- 11.8 Independent Contractors.
- 11.9 Counterparts.
- 11.10 Confidentiality.
- 11.11 Further Assurances.
- 11.12 Submittal to the Commission.

EXHIBIT A - OWNER'S REPRESENTATIVES

EXHIBIT B - ISO'S REPRESENTATIVES

SCHEDULE 1 Description of Reliability Need

SCHEDULE 2 Planned Outage Schedule for First Year of Operation as an RMR Generator, CONTAINS CONFIDENTIAL INFORMATION

RELIABILITY MUST RUN AGREEMENT

This RELIABILITY MUST RUN AGREEMENT (“Agreement”) is made as of the _____ day of _____, 20__, among ____ {fill in names and types of legal entity or entities} (collectively, “Owner”), and the New York Independent System Operator, Inc., a New York not-for-profit corporation (“ISO”).

RECITALS

Owner owns and has operational control over _____ (PTID No. _____), a ____ MW electrical Generator together with appurtenant facilities and structures, located at _____ (a/the “RMR Generator”). {If the station is comprised of more than one unit, describe all units at the station, including their MW and PTIDs, and then identify each unit or sets of units that is a distinct “RMR Generator” under this Agreement}.

The ISO is the Independent System Operator for New York and is responsible for the operation of the New York Control Area (“NYCA”) to ensure reliability and for the administration of the ISO Administered Markets.

Owner submitted a Generator Deactivation Notice [to mothball or to retire] each RMR Generator, which the ISO determined was complete on [ISO to fill-in date]. The 365 Day Notice Period concludes or concluded on [date one year from the Short-Term Assessment of Reliability Start Date].

The ISO has concluded that the RMR Generator[s] will be needed for reliability purposes during the Term of this Agreement. Schedule 1 to this Agreement contains a description of the Short-Term Reliability Process Need (for purposes of this Agreement, a “Reliability Need”) that the RMR Generator[s] are being kept in service to address.

The Parties have agreed: [ALT. 1, IF OWNER AND ISO AGREE ON TERMS AND CONDITIONS, OWNER ACCEPTS THE APR, AND THE PARTIES EXECUTE THE AGREEMENT (i) that the ISO shall submit this executed Agreement, including the proposed Availability and Performance Rate (“APR”), to the Federal Energy Regulatory Commission (“FERC”) in a Federal Power Act (“FPA”) Section 205 filing on the Parties’ behalf;] [ALT. 2, IF OWNER AND ISO AGREE ON TERMS AND CONDITIONS, OWNER ACCEPTS THE APR, BUT THERE ARE CAPITAL EXPENDITURES THAT REQUIRE FERC APPROVAL (i) that the ISO shall submit this Agreement to the Federal Energy Regulatory Commission (“FERC”), including the agreed-to components of a proposed Availability and Performance Rate (“APR”), in a Federal Power Act (“FPA”) Section 205 filing on the Parties’ behalf, and that Owner shall submit a separate FPA Section 205 filing that is consistent with the terms and conditions of service proposed in this Agreement, and that tracks the format of this Agreement, proposing the inclusion of the cost of certain Capital Expenditures in the APR;] [ALT. 3, IF OWNER AND ISO AGREE ON TERMS AND CONDITIONS BUT OWNER REJECTS THE APR AND SUBMITS AN OWNER DEVELOPED RATE (i) that the ISO shall submit this unexecuted Agreement that sets forth the Parties’ agreed-upon terms and conditions of service to the Federal Energy Regulatory Commission (“FERC”), in a Federal Power Act (“FPA”) Section

205 filing on the Parties' behalf, and that Owner shall submit a separate FPA Section 205 filing proposing an Owner Developed Rate that is consistent with the terms and conditions of service proposed in this Agreement, and that tracks the format of this Agreement;] and (ii) to enter into this Agreement to establish the terms and conditions under which each RMR Generator shall be obligated to offer and provide Energy, Ancillary Services and Unforced Capacity to the ISO Administered Markets; and (iii) [to set certain components of the Availability and Performance Rate ("APR") that determines the payments by which Owner shall recover the avoidable and variable costs of each RMR Generator, and makes available possible monthly and seasonal incentive payments based on each RMR Generator's availability to operate and its performance when scheduled to operate] OR [to incorporate the Owner Developed Rate that is ultimately accepted by FERC].

NOW THEREFORE, in consideration of the agreements and covenants set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound by this Agreement as of its Start Date, the Parties covenant and agree as follows:

ARTICLE 1 - DEFINITIONS AND RULES OF INTERPRETATION

1.1 Definitions.

Except for the terms defined below and in the attached schedules, capitalized terms shall be as defined in the ISO Tariffs. The definitions set forth below are only intended for use in this Agreement and shall not be relied upon to interpret the ISO's Tariffs.

1.1.1 "365 Day Notice Period" means the 365 days that follow the Short-Term Assessment of Reliability ("STAR") Start Date.

1.1.2 "Additional Costs" has the meaning set forth in Section 4.3.3 of this Agreement.

1.1.3 "Affiliate" has the meaning set forth in Section 2.1 of the Services Tariff.

1.1.4 "Ancillary Services" means services necessary to support the transmission of Energy from Generators to Loads, while maintaining reliable operation of the NYS Power System in accordance with Good Utility Practice and Reliability Rules. Ancillary Services that RMR Generators may be able to provide include Voltage Support Service, Regulation Service, Operating Reserve Service (including Spinning Reserve, 10-Minute Non-Synchronized Reserves and 30-Minute Reserves), and Restoration Services (black start).

1.1.5 "Availability & Performance Rate" or "APR" means the compensation that an RMR Generator is eligible to receive in accordance with Sections 15.8.1, 15.8.2, 15.8.3 and 15.8.4 of Rate Schedule 8 to the ISO's Services Tariff during the Term of this Agreement. The APR consists of a daily calculation that is developed to permit an RMR Generator to recover its avoidable costs and variable costs, plus the opportunity to periodically earn financial incentives for availability to the markets and for performing consistent with the ISO's dispatch when scheduled.

- 1.1.6 “Capital Expenditures” has the meaning set forth in Section 38.8.1.3 of the OATT.
- 1.1.7 “Contract” means any agreement, commitment, policy, document or similar instrument creating mutual obligations among two or more parties.
- 1.1.8 “FERC Effective Date” has the meaning set forth in Section 2.1 of this Agreement.
- 1.1.9 “Force Majeure Event” has the meaning set forth in Section 8.1 of this Agreement.
- 1.1.10 “Forced Outage” has the meaning set forth in Section 2.6 of the Services Tariff.
- 1.1.11 “FPA” means the Federal Power Act (16 U.S.C. § 791a).
- 1.1.12 “Generator Deactivation Notice” has the meaning set forth in Section 38.1 of the OATT.
- 1.1.13 “Short-Term Assessment of Reliability Start Date” has the meaning set forth in Section 38.1 of the OATT.
- 1.1.14 “Governmental Authority” means the government of any nation, state or other political subdivision thereof, including any entity lawfully exercising executive, military, legislative, judicial, regulatory, or administrative functions of or pertaining to a government.
- 1.1.15 “ISO Procedures” has the meaning set forth in Section 2.9 of the Services Tariff.
- 1.1.16 “ISO Tariffs” means the ISO’s Market Administration and Control Area Services Tariff (“Services Tariff”) and the ISO’s Open Access Transmission Tariff (“OATT”) collectively.
- 1.1.17 “Law” means any law, treaty, code, rule, regulation, or order or determination of an arbitrator, court or other Governmental Authority, or any license, permit, certificate, authorization, qualification, or approval granted by a Governmental Authority, each as amended,

modified, supplemented or replaced from time to time, to the extent binding on a Party or any of its property.

1.1.18 “Market Mitigation and Analysis Department” or “MMA” has the meaning set forth in Section 30.2 of the Services Tariff.

1.1.19 “Market Monitoring Unit” or “MMU” has the meaning set forth in Section 30.2 of the Services Tariff.

1.1.20 “Month” means the period beginning at hour beginning zero on the first day of the calendar month and ending at hour beginning zero of the first day of the next succeeding calendar month.

1.1.21 “Notice of Forced Outage” has the meaning set forth in Section 7.2.3 of this Agreement.

1.1.22 “Notice of Event of Proposed Additional Cost” has the meaning set forth in Section 38.16.1 of the OATT.

1.1.23 “Notice of Shut-down” has the meaning set forth in Section 7.2.5 of this Agreement.

1.1.24 “Order” means any determination, command, mandate or similar directive made by a Governmental Authority.

1.1.25 “Owner” has the meaning set forth in the preamble of this Agreement and, where applicable and appropriate, includes Owner’s agent, assignee and/or designee.

1.1.26 “Owner-Developed Rate” means a rate that Owner filed with the Federal Energy Regulatory Commission (“FERC”) under Section 205 of the Federal Power Act, including any modifications required by FERC in its Order accepting the rate for filing. An Owner Developed Rate is different from the ISO-developed Availability & Performance Rate. The charges that the

ISO pays pursuant to an Owner Developed Rate are represented by the “RMRCost” term that is used in Rate Schedule 8 to the Services Tariff.

1.1.27 “Party” means either the ISO or Owner, as the context requires. “Parties” means ISO and Owner.

1.1.28 “Permit” means any license, certificate, authorization, qualification, or similar approval granted by a Governmental Authority empowering the grantee to do some act.

1.1.29 “Planned Outage” means a planned interruption, in whole or in part, to the availability of a Generator to permit Owner to perform maintenance and repair of the Generator.

1.1.30 “Reference Level” means the ISO’s best estimate of an RMR Generator’s incremental marginal costs, and of an RMR Generator’s physical capabilities. The ISO determines Reference Levels in accordance with the requirements of its Market Power Mitigation Measures that are set forth in Section 23 of its Services Tariff. This term does not include UCAP Offer Reference Levels.

1.1.31 “RMR Avoidable Costs” has the meaning set forth in Section 1.18 of the OATT.

1.1.32 “RMR Generator” has the meaning set forth in Section 1.18 of the OATT.

1.1.33 “Shut-down Date” has the meaning set forth in Section 7.2.9 of this Agreement.

1.1.34 “Start Date” has the meaning set forth in Section 2.1 of this Agreement.

1.1.35 “Substantiated Additional Cost” has the meaning set forth in Section 38.16.2.1 of the OATT.

1.1.36 “Term” has the meaning set forth in Section 2.1 of this Agreement.

1.2 Interpretation.

In this Agreement, unless otherwise indicated or otherwise required by the context, the following rules of interpretation shall apply:

1.2.1 Reference to and the definition of any document (including this Agreement, an ISO Tariff or the ISO Procedures) shall be deemed a reference to such document as it may be amended, supplemented, revised or modified from time to time, and to any document that is a successor thereto but only to the extent the amendment or other modification is not prohibited by this Agreement or the ISO's Tariffs.

1.2.2 The table of contents, article and section headings, and other captions in this Agreement are for the purpose of reference only and do not limit or affect its meaning.

1.2.3 Defined terms in the singular shall include the plural and vice versa, and the masculine, feminine or neuter gender shall include all genders.

1.2.4 The terms "include," "includes," or "including" when used herein shall not be considered limitations.

1.3 Construction.

1.3.1 The Parties shall comply with the ISO's Tariffs, as they may be amended from time to time.

1.3.2 This Agreement has been drafted by the Parties hereto and shall not be construed against any Party as the sole drafter.

ARTICLE 2 – TERM

2.1 Start Date, FERC Effective Date and Term.

2.1.1 This Agreement shall become effective at the beginning of the hour beginning zero, on [the first day of a month] (the “Start Date”) and shall terminate at the end of the operating hour beginning 23 as of the date of the termination of the [last] RMR Generator as provided in Section 2.2 (“Term”). The [Parties or filing Party] request[s] that FERC set the date that this Agreement shall become legally effective under the FPA (the “FERC Effective Date”) to be consistent with the Start Date.

2.1.2 Following the ISO’s submission to FERC of an executed or unexecuted Agreement: (a) commencing on the proposed Start Date the Parties shall implement and comply with the Agreement, subject to any condition or modification directed by FERC, and (b) if the Parties agree, then Owner may begin incurring costs for Capital Expenditures that are included in the Agreement for recovery pending FERC action.

2.2 Termination.

This Agreement may be terminated as follows:

2.2.1 Conclusion of Reliability Need. ISO may unilaterally terminate this Agreement as to [the/an] RMR Generator effective upon ninety (90) days written notice to Owner if ISO determines that [the/an] RMR Generator is no longer or will no longer be needed to meet a Reliability Need. The ninety (90) day notice may be issued by ISO at any time. If two or more RMR Generators are subject to this Agreement, the Agreement shall be terminated with respect to one or more individual RMR Generators that are no longer needed to meet a Reliability Need. Concurrent with the ISO’s notice to [the/an] RMR Generator, the ISO shall inform the New

York Public Service Commission that the RMR Generator will not be needed to meet a Reliability Need after the conclusion of the ninety (90) day notice period.

2.2.2 Termination for cause. ISO may unilaterally terminate this Agreement as to [the/an] RMR Generator effective upon thirty (30) days written notice to Owner if [the/an] RMR Generator does not satisfy the Minimum Availability Standard set forth in Section 7.3.1 of this Agreement, or if [the/an] RMR Generator fails to satisfy the Minimum Performance Standard set forth in Section 7.3.2 of this Agreement, or if [the/an] RMR Generator fails to satisfy the Operation to Address the Reliability Need Standard set forth in Section 7.3.3 of this Agreement. If two or more RMR Generators are subject to this Agreement, the Agreement may be terminated with respect to one or more individual RMR Generators that have failed to satisfy a Minimum Operating Standard. The consequences of termination for cause are addressed in Section 2.2.7 of this Agreement and in Section 23.6.5 of the Services Tariff.

2.2.3 This Agreement may also be terminated for an RMR Generator as provided in Section 7.2.9 (Forced Outages), and Section 9.4 (Termination for Default).

2.2.4 This Agreement terminates as of the date that there are no longer any RMR Generators that are subject to the Agreement.

2.2.5 If this Agreement is not terminated earlier, except as set forth in Section 2.3 hereof, it shall terminate at the end of hour beginning 23 on [the End Date, which shall be the last day of a month], unless the Parties agree in writing to extend the Term because the Reliability Need has not been resolved yet.

2.2.6 Events upon termination or expiration of this Agreement. Events that will occur upon the termination or expiration of this Agreement include the following: (a) the ISO will cease

paying the APR or Owner Developed Rate (however, in some limited circumstances, the ISO may continue paying Owner for Capital Expenditures, *see* Section 4.3.2 below, or may pay wind-down costs in accordance with Section 4.8 below), (b) the RMR Generator will not be prohibited by the ISO Tariffs or this Agreement from entering a Mothball Outage or becoming Retired, consistent with the status that was indicated in a Generator Deactivation Notice and used to determine the RMR Generator's RMR Avoidable Costs or Owner Developed Rate, although such action may be subject to an audit and review, and a penalty under Sections 23.2.4.1.1, 23.3.1.1 and 23.4.5.6 of the Services Tariff; (c) where appropriate, the ISO will inform the New York State Public Service Commission that the RMR Generator will no longer be needed to meet a Reliability Need; and (d) if Owner wants an RMR Generator to continue participating in the ISO Administered Markets following the conclusion of an RMR Agreement, then Owner must provide notice to the ISO in accordance with Section 2.2.9 below and timely post adequate credit, including any additional credit that may be required in accordance with Sections 26.4 and 26.5 of the Services Tariff.

2.2.6.1 If the status that was indicated in a Generator Deactivation Notice and used to determine the RMR Generator's RMR Avoidable Costs or Owner Developed Rate is Retired, then Owner may elect to temporarily enter an Inactive Reserves state for up to sixty (60) days following the conclusion of an RMR Agreement before it must Retire or elect to continue participating in the ISO Administered Markets by submitting a Notice of Intent to Continue Participating in the ISO Administered Markets at Market-Based Rates in accordance with Section 2.2.9 of this Agreement, timely posting adequate credit, including any additional credit that may be required in accordance with Sections 26.4 and 26.5 of the Services Tariff and repaying the cost of any Capital Expenditures and other above market revenues in accordance

with the requirements of Rate Schedule 8 to the ISO's Services Tariff that are due. This provision does not excuse the twenty-one (21) day prior notice requirement that applies to all Notices of Intent to Continue Participating in the ISO Administered Markets at Market-Based Rates.

2.2.6.2 Owner shall decide whether a Generator that returned from a mothball or ICAP Ineligible Forced Outage to become an RMR Generator will enter a Mothball Outage or become Retired at the conclusion of its participation in the RMR Agreement. Alternatively, Owner may elect to have such a Generator continue participating in the ISO Administered Markets by submitting a Notice of Intent to Continue Participating in the ISO Administered Markets at Market-Based Rates in accordance with Section 2.2.9 of this Agreement and timely posting adequate credit, including any additional credit that may be required in accordance with Sections 26.4 and 26.5 of the Services Tariff. This provision does not excuse the twenty-one (21) day prior notice requirement that applies to all Notices of Intent to Continue Participating in the ISO Administered Markets at Market-Based Rates.

2.2.7 Consequence of termination of this Agreement (a) by the ISO "for cause" (*see* Section 2.2.2), or (b) due to a default by Owner (*see* Section 9.4). If the ISO terminates this Agreement for cause, or if this Agreement is terminated due to the default of Owner, following the termination date, consistent with Section 23.6.5.2 of the Services Tariff the ISO shall not be obligated by this Agreement to, and shall not continue to pay for, any Capital Expenditure that was incurred at or for a terminated RMR Generator. This includes Capital Expenditures that were included in the RMR Avoidable Cost component of an RMR Generator's APR or in an Owner Developed Rate, that were authorized for recovery as Substantiated Additional Costs by the ISO, or that were otherwise reviewed and accepted by FERC.

2.2.8 Providing notice of cancellation to FERC. The ISO shall file all required notices of cancellation with FERC, and shall seek to make such cancellations effective on the date of termination under this Agreement.

2.2.9 Notice of Intent to Continue Participating in the ISO Administered Markets at Market-Based Rates following the conclusion of this Agreement. Owner shall provide the ISO with notice at least twenty-one (21) days in advance of the date this Agreement will terminate for an RMR Generator, identifying the RMR Generator(s) that Owner intends will continue participating in the ISO Administered Markets following the conclusion of this Agreement. If Owner intends to reduce the scope of a (former) RMR Generator's participation in the ISO Administered Markets following the conclusion of this Agreement, it may so inform the ISO in its notice. Following the conclusion of this Agreement, the ISO shall not permit Energy, Ancillary Services or Unforced Capacity to be offered into or scheduled in the ISO Administered Markets from a former RMR Generator unless and until (a) adequate credit, including any additional credit that may be required in accordance with Sections 26.4 and 26.5 of the Services Tariff is timely posted, and (b) all obligations under Rate Schedule 8 to the Services Tariff to repay Capital Expenditures and other above market revenues are being complied with.

2.3 Survival.

Notwithstanding the termination of this Agreement, the Parties shall continue to be bound by the provisions of this Agreement which by their nature are intended to, and shall, survive such termination, including Sections 3.2.4 (Refund of Insurance Proceeds), 3.3.7 (Inform Subsequent Purchaser of Repayment Obligations), 4.3.4 (Obligation to Repay Capital Expenditures and Other Above Market Revenues), 4.7 (Penalties), 4.8 (Wind-Down Costs), 6.2 (Books and Records, Audit Rights), 7.2.8 (Refund of Insurance Proceeds), 9.2.1 and 9.2.2 (Liability),

9.2.3 (Indemnification), and 11.10 (Confidentiality). The ISO shall continue to apply Services Tariff Rate Schedule 8 and OATT Rate Schedule 14 when addressing any remaining charges, payments, credits or revenues earned or owed pursuant to this Agreement.

ARTICLE 3 - RIGHTS AND OBLIGATIONS

3.1 In General.

3.1.1 During the Term, the Owner shall operate, maintain, offer and administer each RMR Generator in accordance with (a) the ISO Tariffs, (b) this Agreement, and (c) the ISO Procedures. If Owner identifies an apparent conflict between the rules it is expected to follow, it should promptly contact the ISO to resolve the concern.

3.1.2 Except as otherwise limited by this Agreement, including Section 11.1 hereof, Owner may designate one or more agents to perform its obligations under this Agreement. Actions taken by Owner's agents are considered actions by Owner. Owner shall require its agents to comply with the terms and conditions of this Agreement, and Owner shall remain primarily liable for the performance of its agents. Owner hereby ratifies and confirms all actions undertaken by its agents on behalf of Owner.

3.1.3 Owner is responsible for performing all billing obligations for each RMR Generator irrespective of whether or not it is the registered billing organization for each RMR Generator. Owner may designate or change the registered billing organization Owner relies on to fulfill these obligations in accordance with ISO Procedures.

3.2 Insurance.

3.2.1. At all times during the Term, Owner shall maintain insurance, written for amounts and by insurance companies acceptable to the ISO. Owner's insurance shall include (a) All Risk Property Insurance against "all risks" of physical loss or damage to the RMR Generator(s), (b) Commercial General Liability Insurance for personal injury, bodily injury, including death and property damage, and (c) Umbrella Liability Insurance.

3.2.2. Owner shall cause its insurance providers to issue endorsements (a) waiving all rights of subrogation in favor of ISO, its directors, officers, agents and employees, and (b) naming ISO as a cancellation notice recipient for all coverages.

3.2.3 Prior to the Start Date, Owner shall provide certificates of insurance for all insurance required in this Agreement. Owner shall also provide ISO with written notice of renewals, or any material changes in, or cancellation of, any required insurance policy or endorsement, no later than ten (10) days prior to the effective date thereof, including a revised certificate of insurance with evidence providing details sufficient to demonstrate Owner's continuous and uninterrupted coverage.

3.2.4 If Owner receives insurance proceeds from an insurance policy that Owner identified as an avoidable cost, and if Owner does not use those insurance proceeds to repair or improve the RMR Generator, then Owner shall make a reconciliation ("true-up") filing with the FERC and pay all such insurance proceeds to ISO that exceed the amount actually expended by the Owner to repair or improve the RMR Generator. The ISO shall distribute any insurance proceeds it receives pursuant to the requirements of this Section 3.2.4 consistent with Section 6.14.6.1 of Rate Schedule 14 to the ISO OATT.

3.3 Contracts, Permits and Orders.

3.3.1 Providing Contracts and Permits affecting each RMR Generator when requested by the ISO. Owner shall promptly provide a complete, up-to-date copy of any Contract, Permit or Order the ISO requests that: (a) addresses the ownership or control of an RMR Generator, (b) is relevant to determining the costs and revenues of an RMR Generator (including the cost of a repair, addition or modification), (c) addresses the operation of an RMR Generator, or (d) could impact the availability, production or sale of Energy, Unforced Capacity, or Ancillary Services

from an RMR Generator. If a Contract, Permit or Order that the ISO requests is in the process of being renewed, extended, modified or re-negotiated, Owner shall so inform the ISO when it provides the requested Contract, Permit or Order to the ISO.

3.3.2 Consistent with Section 5.12.4(c) of the Services Tariff, Owner shall not enter into any Contracts during the Term of this Agreement that would impair or otherwise diminish the ability of an RMR Generator to perform the requirements of this Agreement or of the ISO's Tariffs or Procedures, nor will Owner cause or authorize other entities to enter into a Contract that would prevent an RMR Generator from operating consistent with the requirements of this Agreement or of the ISO's Tariffs or Procedures.

3.3.3 Consistent with Sections 5.12.7, 5.12.8, 23.4.5.8 and 23.6.1.1 of the Services Tariff and Sections 3.5 and 3.7 of this Agreement, during the Term of this Agreement Owner shall offer all of the Energy and Ancillary Services that each RMR Generator is capable of producing directly to the ISO Administered Markets, and shall offer all of each RMR Generator's Unforced Capacity in each ICAP Spot Market Auction, unless Owner is precluded from doing so by a Contract that was in effect before Owner executed this Agreement, but only to the extent and for the duration of the obligation under such Contract.

3.3.4 Owner shall submit a summary of the key terms and conditions of all Contracts (1) that were executed prior to the execution of this Agreement, and (2) that prevent all or any portion of the Energy or Ancillary Services that one or more RMR Generator(s) are capable of producing, or prevent all or any portion of one or more RMR Generator(s) Unforced Capacity, from being offered directly to the ISO Administered Markets to FERC, along with this Agreement as part of the Federal Power Act Section 205 filing that includes this Agreement and

an APR or an Owner Developed Rate. Owner's submission must list all of the parties to each Contract and specifically identify all Affiliates with which it executed Contracts.

3.3.4.1 The following RMR Generators are subject to Contracts that predate the execution of this Agreement that affect the quantity of Energy, Ancillary Services or Unforced Capacity that will be offered directly to the ISO Administered Markets by each identified RMR Generator:

[OWNER TO ADD/PROVIDE ONE OR MORE TABLES THAT INCLUDE THE INFORMATION REQUIRED IN THE COLUMNS BELOW, SPECIFICALLY IDENTIFYING ANY AFFILIATES.]

RMR Generator Description of Contract Obligation Date Contract was Executed or Last
Renewed End Date of Contract Other Parties to Contract

3.3.5 During the Term of this Agreement, Owner shall not enter into, modify, extend or renew any Contract to sell Energy, Ancillary Services or Unforced Capacity from an RMR Generator in a manner that is inconsistent with Owner's obligation to offer all of the Energy, Ancillary Services each RMR Generator is capable of producing, and to offer all of each RMR Generator's Unforced Capacity, directly to the ISO Administered Markets. The prohibition applies to the renewal of Contracts that are temporarily accommodated under Section 3.3.3 of this Agreement.

3.3.6 Transfer of ownership or control during the Term. [The/An] RMR Generator that is the subject of this Agreement may not be sold or leased, and control over [the/an] RMR Generator may not be transferred to a different entity during the Term of this Agreement unless:

(a) the sale or lease receives any necessary regulatory approvals, including FERC approval under Section 203 of the FPA; (b) Owner and the entity that is purchasing or leasing the RMR

Generator fully comply with all ISO Procedures that address the transfer of Generators; (c) the purchaser or lessee satisfies the ISO's credit requirements, (d) the purchaser or lessee becomes an ISO Customer, and (e) the purchaser or lessee agrees, in writing, to assume all of Owner's obligations under this Agreement. If the transfer is temporary, or does not include the full capability of the RMR Generator owned or controlled by Owner, then Owner shall retain all of its obligations under this Agreement and the ISO Tariffs, and the purchaser or lessee shall become subject to Owner's obligations under this Agreement and the ISO Tariffs.

3.3.7 Obligation to inform subsequent purchaser of an RMR Generator of obligation to repay cost of Capital Expenditures and other above market revenues, less depreciation, prior to re-entering ISO Administered Markets. If Owner sells an RMR Generator or an interest in an RMR Generator, during or following the Term of this Agreement, then Owner shall inform any and all purchasers of any Capital Expenditures and other above market revenues that must be repaid in accordance with Rate Schedule 8 to the ISO's Services Tariff in order for the ISO to permit Energy, Ancillary Services or Unforced Capacity to be offered into, or to be scheduled in, the ISO Administered Markets from the (former) RMR Generator following the conclusion of this Agreement with regard to that Generator.

3.4 Testing.

3.4.1. RMR Generators shall timely comply with all ISO requirements that are necessary for an RMR Generator to provide a product or service it is required to provide under the ISO's Tariffs or this Agreement. When necessary, Owner shall arrange in advance with the ISO, in accordance with the ISO's Outage Scheduling Manual, to self-schedule an RMR Generator in order to perform a required test.

3.4.2. If, prior to or during the 365 Day Notice Period, an RMR Generator that is required to

provide Voltage Support Services under Section 3.8 of this Agreement did not perform all testing that would be required to permit the RMR Generator to provide Voltage Support in the ISO Administered Markets during the Term of this Agreement, then the ISO shall require the RMR Generator to promptly test and shall permit the RMR Generator to provide Voltage Support in the ISO Administered Markets during the Term of this Agreement, consistent with Section 15.2 of the Services Tariff.

3.5 Energy Market Participation.

In accordance with Sections 23.6.1.1 through 23.6.1.5 of the Services Tariff, Owner shall offer for sale into the Day-Ahead and Real-Time Markets all of the Energy and Ancillary Services each RMR Generator is capable of providing by submitting ISO-committed flexible Bids (offers) at or below (equally or less restrictive than for physical parameters) the Reference Levels that are currently on-file with the ISO and approved for use by the ISO's MMA. RMR Generators that are not Installed Capacity Suppliers, or that have not sold all of their Unforced Capacity, must still be offered into the Energy and Ancillary Services markets consistent with this obligation.

See also Services Tariff Sections 5.12.7 and 5.12.8.

Consistent with Section 23.6.1.1 of the Services Tariff, Owner shall offer Energy, Operating Reserves and Regulation at prices that are equal to or less than each RMR Generator's ISO-approved Reference Levels. Consistent with Sections 23.6.3.1 through 23.6.3.3 of its Services Tariff, the ISO will mitigate dollar-denominated Bids that exceed an RMR Generator's currently effective Reference Levels and will perform all other Tariff-authorized mitigation.

Consistent with Sections 23.3.1.4.6.1 and 23.6.2.5 of the Services Tariff, Owner shall timely submit fuel price updates and fuel type updates to the ISO so that they can be incorporated to develop accurate Reference Levels for each RMR Generator. Submission of an inaccurate fuel

price update or fuel type update may require the ISO to assess a financial penalty in accordance with Section 23.4.3.3.3 of the Services Tariff, or may result in the ISO's referral of Owner's failure to submit accurate fuel cost information to its Market Monitoring Unit for possible referral to FERC's Office of Enforcement.

Owner is not required to submit hourly offers in the Real-Time Market for an RMR Generator that is not capable of being committed by the ISO's Real-Time Commitment ("RTC") if the RMR Generator was not committed Day-Ahead. If such an RMR Generator was committed Day-Ahead, Owner shall offer the RMR Generator into the Real-Time Market for the hours of its Day-Ahead schedule and for additional real-time hours consistent with the RMR Generator's operating capabilities. Owner is required to timely respond to a Supplemental Resource Evaluation ("SRE") or an Out-of-Merit ("OOM") commitment request issued by the ISO or by a Transmission Owner for an RMR Generator. *See Services Tariff Sections 23.6.1.1.4 and 23.6.1.1.5.*

If and to the extent an RMR Generator is not available, or is not fully available, Owner shall timely notify the ISO of the outage or derate in accordance with ISO Procedures and accurately reflect each RMR Generator's availability in its Bids. If an RMR Generator's Variable Costs change as a result of the derate, then Owner must contact the ISO's MMA Department to request changes to the RMR Generator's Reference Levels. *See Services Tariff Sections 23.6.1.1.6.*

3.6 RMR Generator Reference Levels.

3.6.1 In advance of the execution of this Agreement the ISO, Owner and the ISO's External Market Monitoring Unit performed a thorough review of each RMR Generator's Reference Levels consistent with Section 23.6.2.3 of the Services Tariff. Before it executed this Agreement, Owner reviewed and is aware of the Reference Levels that the ISO determined for

each RMR Generator that is subject to this Agreement. During the Term of this Agreement changes to an RMR Generator's Reference Levels shall only be made consistent with Section 23.6.2 of the Services Tariff.

3.6.2 Changes to an RMR Generator's variable costs for purposes of providing Energy, Reserves and Regulation shall be addressed via modifications to the RMR Generator's Reference Levels using the adjustment process set forth in Section 23 of the Services Tariff. Owner is responsible for ensuring that an RMR Generator's fuel costs and Reference Levels remain accurate and up-to-date. If Owner fails to provide updated information to the ISO on a timely basis mitigation, including financial penalties, may be applied in accordance with Section 23 of the Services Tariff. Failure to timely update RMR Generator information could also violate FERC's regulations. *See* 18 CFR § 1c.2(a)(2).

3.7 Capacity Market Participation.

3.7.1 Each RMR Generator shall perform all obligations that an Installed Capacity Supplier of its resource type is required to perform under the Services Tariff and in accordance therewith.

3.7.2 Except as set forth in Section 3.3.3 above, during the Term of this Agreement Owner shall offer all of an RMR Generator's Unforced Capacity directly into each ICAP Spot Market Auction at \$0.00/KwMonth.

[ALTERNATE LANGUAGE If the RMR Generator has a pre-existing bilateral contract that satisfies the requirements of Section 3.3.3 of this Agreement, add to Section 3.7.2: For the Obligation Procurement Period of months [] through [] (the "bilateral period"), the RMR Generator shall offer {insert UCAP MW obligation and offer price consistent with the bilateral agreement}, and (a) for any Unforced Capacity in excess of such

amount and for any Obligation Procurement Period beyond the bilateral period, the Unforced Capacity shall be offered at a price of \$0.00/KwMonth.]

3.8 Restoration Services and Voltage Support Services.

3.8.1 Each RMR Generator that provided Restoration Services (including black start service) at any time during the most recent previous twelve (12) months that it participated in the ISO Administered Markets must provide Restoration Services during the Term of this Agreement unless Owner demonstrates to the ISO that an RMR Generator is not presently capable of providing Restoration Services.

[State whether each RMR Generator will provide Restoration Services or identify the RMR Generators that will provide Restoration Services.]

3.8.2 Each RMR Generator that provided Voltage Support Service at any time during the most recent previous twelve (12) months that it participated in the ISO Administered Markets must provide Voltage Support Service during the Term of this Agreement unless Owner demonstrates to the ISO that an RMR Generator is not presently capable of providing the service.

[State whether each RMR Generator will provide Voltage Support or identify the RMR Generators that will provide Voltage Support.]

3.9 Self-Scheduling.

Owner is expected to offer each RMR Generator into the NYISO's Energy and Ancillary Service markets using the ISO-committed flexible bid mode at its Reference Levels for economic scheduling. However, Owner may request permission to self-schedule an RMR Generator for operational and maintenance considerations, including required testing or for fuel management purposes. The ISO may accept or reject the requested self-schedule in its sole discretion.

Variable Costs during ISO-approved self schedules will be the self-scheduled RMR Generator's Reference Levels.

ARTICLE 4 - COMPENSATION AND SETTLEMENT

4.1 In General.

In lieu of receiving market compensation Owner shall receive the APR that FERC accepted for filing, [*or* Owner shall receive an Owner Developed Rate that Owner submitted to FERC under Section 205 of the Federal Power Act and that FERC accepted for filing,] including any modifications required by FERC.

[ALTERNATIVE LANGUAGE IS INCLUDED SO THAT THE *PRO FORMA* AGREEMENT CAN BE USED FOR AN AVAILABILITY AND PERFORMANCE RATE OR FOR AN OWNER DEVELOPED RATE.]

There are four components to the APR: RMR Avoidable Costs, Variable Costs, the Availability Incentive and the Performance Incentive. Each component of the APR is explained below and a rate is set forth for each component below.

The ISO will pay the APR in accordance with Rate Schedule 8 to its Services Tariff. RMR Avoidable Costs and Variable Costs are calculated daily and paid on a weekly basis. The Performance Incentive (if any) is paid on a monthly basis. The Availability Incentive (if any) is paid on a seasonal basis. When necessary, Penalties are assessed on monthly invoices.

[OWNER DEVELOPED RATE ALTERNATIVE LANGUAGE. THERE ARE TWO COMPONENTS TO AN OWNER DEVELOPED RATE. THE FIRST COMPONENT IS VARIABLE COSTS, WHICH IS DETERMINED IN THE SAME MANNER AS VARIABLE COSTS ARE DETERMINED UNDER THE APR. THE SECOND COMPONENT IS THE FERC AUTHORIZED COMPONENT. THE FERC AUTHORIZED COMPONENT EFFECTIVELY REPLACES THE RMR AVOIDABLE COST COMPONENT OF THE APR WITH THE COSTS THAT FERC AUTHORIZES FOR RECOVERY IN AN ORDER ISSUED

PURSUANT TO SECTION 205 OF THE FEDERAL POWER ACT. BECAUSE AN OWNER DEVELOPED RATE IS EXPECTED TO EXCEED AN RMR GENERATORS RMR AVOIDABLE COSTS, NO AVAILABILITY OR PERFORMANCE INCENTIVES ARE AVAILABLE.

THE ISO WILL PAY AN OWNER DEVELOPED RATE IN ACCORDANCE WITH RATE SCHEDULE 8 TO ITS SERVICES TARIFF. FERC AUTHORIZED COSTS AND VARIABLE COSTS SHALL BE CALCULATED DAILY AND PAID ON A WEEKLY BASIS.]

In addition to setting forth the APR for each RMR Generator, this Agreement sets forth the obligation, or references the obligation in the ISO Tariffs, of RMR Generators that are subject to an APR to pay penalties prescribed by the ISO's Tariffs, each RMR Generator's obligation to repay the cost of Capital Expenditures and other above market revenues that were paid for under an APR or under an Owner Developed Rate, if and when the RMR Generator returns to the ISO-Administered Markets following the conclusion of this Agreement, the circumstances under which the ISO will continue to repay Capital Expenditures after an RMR Generator's obligation to provide service under this Agreement ends and the RMR Generator becomes Retired or enters a Mothball Outage, and the circumstances under which the ISO will pay wind-down costs to RMR Generators whose RMR Agreements are terminated early by the ISO due to the conclusion of the Reliability Need.

4.2 Recovery of Variable Costs.

Variable Costs are the incremental costs an available RMR Generator incurs to produce Energy or Ancillary Services. Variable Costs may change frequently; for example, when fuel prices change.

4.2.1. Cost of Providing Energy, Operating Reserves and Regulation

Consistent with Rate Schedule 8 to the Services Tariff, Owner shall be compensated on a weekly basis for providing Energy, Operating Reserves and Regulation based on the lesser of (a) the Bids that were submitted for an RMR Generator, or (b) the Reference Levels that are in place for an RMR Generator. The ISO will not compensate an RMR Generator for unscheduled overproduction that exceeds Compensable Overgeneration, as defined in the Services Tariff.

The ISO develops Reference Levels in accordance with Section 23 of its Services Tariff. The process the ISO uses to develop Reference Levels for each RMR Generator is described in Section 3.6 of this Agreement. The rules for changing a Reference Level that applies to an RMR Generator are set forth in Sections 23.3.1.4 and 23.6.2 of the Services Tariff.

4.2.2 Costs of Providing Voltage Support and Restoration Services

Voltage Support and Restoration Services (black start) are components of an RMR Generator's Variable Costs. Consistent with Rate Schedule 8 to the Services Tariff, Owner shall be compensated on a weekly basis for providing Voltage Support and/or Restoration Services.

When determining the compensation an RMR Generator is eligible to receive for Voltage Support and/or Restoration Services the ISO shall treat each RMR Generator's cost of providing either service as being equal to the Tariff-authorized compensation that the ISO pays Generators for providing the service. RMR Generators that require additional or different compensation to provide Voltage Support or Restoration Services must file at FERC and obtain a different rate from FERC for providing these services.

4.3 Recovery of RMR Avoidable Costs.

RMR Avoidable Costs are the fixed costs that would be avoided if an RMR Generator were to exit the ISO Administered Markets in the manner described in the Generator Deactivation Notice (to enter a Mothball Outage or become Retired), including, but not limited to, mandatory capital expenditures, fixed operating and maintenance costs, and forgone opportunity costs, determined by the ISO in accordance with Rate Schedule 8 to the Services Tariff and Section 38.8 of Attachment FF to the OATT, but not including variable costs and any other cost that may be included in the RMR Generator's Reference Level.

The RMR Generator-specific rates set forth below identify when each RMR Generator's RMR Avoidable Costs will change, and the amount of each change, or the expected amount of the change for Capital Expenditures. The RMR Avoidable Cost component of RMR Generator's APR may change on specific dates, or when specified milestones are met, such as the entry into service of a Capital Expenditure. In addition to the expected changes in RMR Avoidable Costs specified below, an RMR Generator's RMR Avoidable Costs may change due to the need for unexpected extraordinary maintenance or repairs (Additional Expenses) during the Term of this Agreement.

4.3.1 Generator-Specific RMR Avoidable Costs.

The RMR Avoidable Costs each RMR Generator that is providing service under an APR is authorized to recover are set forth in the table(s) below. However, the Capital Expenditures identified in the table(s) below are only estimates. The ISO will instead use the actual costs incurred for each Capital Expenditure to determine the APR, in accordance with Section 38.17 of Attachment FF to the OATT, as explained in Section 4.3.2 of this Agreement.

[FOR EACH RMR GENERATOR, ADD A TABLE SPECIFYING (1) THE INITIAL RMR AVOIDABLE COST (IDENTIFYING THE SIGNIFICANT COST COMPONENTS), (2) DATES WHEN, AND/OR SPECIFIC MILESTONES WHEN AVOIDABLE COSTS WILL CHANGE, SPECIFYING HOW MUCH THE COSTS WILL CHANGE (OR ARE EXPECTED TO CHANGE, WHEN THE MILESTONE IS THE IN-SERVICE DATE OF A CAPITAL EXPENDITURE) ON EACH DATE/AT EACH MILESTONE AND BRIEFLY STATING THE REASON FOR EACH CHANGE.]

[ADDITIONAL COSTS THAT ARE FILED FOR FERC REVIEW/ACCEPTANCE SHOULD BE ADDED TO THESE TABLES.]

4.3.2 Capital Expenditures.

Capital Expenditures are purchases, non-operational leases of or modifications to real property and/or assets (including, but not limited to, land, buildings and equipment) that (a) are required for the continued operation of one or more RMR Generator(s) during the term of an RMR Agreement, (b) have a useful life greater than one year, and (c) are not otherwise included in the NYISO's calculation of RMR Avoidable Costs. Consistent with Section 38.17.1 of Attachment FF to the OATT, each Capital Expenditure must be distinctly identified in the tables set forth in Section 4.3.1 of this Agreement for RMR Generators that are receiving an APR, or in Section 4.6 of this Agreement for RMR Generators that are being compensated pursuant to an Owner Developed Rate. An expected cost and an expected in-service or completion date must be specified for each Capital Expenditure.

4.3.2.1 Submission of Capital Expenditures in initial FERC filing(s) by ISO and/or Owner. Consistent with Section 38.11 of Attachment FF to the OATT, Capital Expenditures of \$10 million per year or less (or \$25 million per year or less for nuclear-powered RMR Generators)

(hereafter, the “10/25 *per annum* limit”) may be included in an executed RMR agreement with an APR that is filed by the ISO for FERC’s review. If Capital Expenditures that exceed the 10/25 *per annum* limit are necessary in any year of the Term of this Agreement, then Owner must file separately at FERC to recover any Capital Expenditure costs that exceed the 10/25 *per annum* limit. Owner Developed Rates must separately delineate Capital Expenditures so that the cost of Capital Expenditures can be recovered in accordance with the rules set forth in Section 38.17 of Attachment FF to the OATT.

4.3.2.2 ISO review of Capital Expenditures prior to commencing reimbursement. In accordance with Section 38.17.7 of the OATT the ISO is required to verify and validate Owner’s actual expenditures. If the actual cost of a Capital Expenditure exceeds the estimate set forth in Section 4.3.1 of this Agreement by more than five (5) percent, or exceeds the Substantiated Additional Cost that was verified and validated by the ISO or the Proposed Additional Cost that was approved by FERC by more than five (5) percent, then the ISO must also review the reasonableness of the expenditure. To the extent the ISO is not able to verify and validate an expense, or if the ISO is not able to determine that the actual cost of an expenditure that exceeded the estimate presented to the ISO or to the Commission by more than five (5) percent was reasonable, then Owner must present its Capital Expenditure costs to FERC for recovery.

4.3.2.3 Reimbursement of Capital Expenditures. Consistent with Section 38.17.8.1 of the OATT, the ISO will not provide initial financing for Capital Expenditures. When an authorized or accepted Capital Expenditure enters service or is otherwise integrated into an RMR Generator, the ISO will commence reimbursing Owner for the actual, demonstrated cost of the Capital Expenditure following completion of the review process described below. Consistent with Sections 38.17.8.2 and 38.17.8.2.1 of the OATT, the ISO will reimburse Owner for each Capital

Expenditure on an accelerated basis, repaying the cost of Capital Expenditures by the End Date specified in Section 2.2.5 of this Agreement.

4.3.2.4 Development of Capital Expenditures on an expedited basis. In accordance with the requirements of Section 38.16.3 of the OATT (addressing Substantiated Additional Costs incurred during the Term of this Agreement) and Section 38.17.4 of the OATT (addressing development of a Capital Expenditure in advance of FERC action on Owner's or ISO's initial filing), when it is necessary to commence development of one or more Capital Expenditures before FERC has issued a ruling on Owner's authority to recover the cost of that or those Capital Expenditure(s), the ISO has authority to reimburse Owner for the actual costs that Owner demonstrated that it reasonably incurred constructing the Capital Expenditures up to limits of \$10 million or less (or \$25 million or less for nuclear-powered RMR Generators). Capital Expenditure costs that are authorized by the ISO pursuant to Section 38.16.3 of the OATT count toward the 10/25 *per annum* limit described in Section 4.3.2.1 above. Capital Expenditure costs that are authorized by the ISO pursuant to Section 38.17.4 of the OATT are not subject to the 10/25 *per annum* limit. Instead, the ISO may authorize additional expenditures of up to \$10 million (or \$25 million for nuclear-powered RMR Generators) each time an extraordinary event requires Owner to incur Substantiated Additional Costs. *See* Section 4.3.3 below.

4.3.2.5 ISO Approval to commence development of Capital Expenditures. In order to improve coordination between ISO and Owner, and to reduce the potential for Owner to incur costs developing a Capital Expenditure that is not needed, Owner shall obtain written approval from the ISO before it commences development of a Capital Expenditure that is scheduled to enter service more than one year after the Start Date specified in Section 2.1 of this Agreement.

4.3.2.6 Reimbursement of costs of Capital Expenditures that are not completed. If FERC issues an Order rejecting recovery of the cost of one or more Capital Expenditure(s), or if the ISO instructs Owner to cease work on a Capital Expenditure, then consistent with Sections 38.17.4, 38.17.5 and 38.17.7 of the OATT, Owner shall promptly cease its efforts and take reasonable steps to minimize any additional costs it incurs. If this Agreement is terminated early for an RMR Generator for reasons other than Owner's default or the RMR Generator's failure to satisfy one of the Minimum Operating Standards set forth in Section 7.3 of this Agreement, then the ISO shall reimburse the cost of Capital Expenditures that Owner was working to complete, subject to the requirements of Sections 38.17.5 and 38.17.7 of the OATT.

4.3.3 Additional Costs.

During the Term of this Agreement an RMR Generator that is providing service under an APR or an Owner Developed Rate may require additional Capital Expenditures or other RMR Avoidable Costs that could not have been reasonably anticipated, and are not included in or scheduled to be recovered as components of an RMR Generators RMR Avoidable Costs, or its Owner Developed Rate or its Variable Costs (hereafter, "Additional Costs").

Before it may permit recovery of Additional Costs, the ISO must first determine that (1) the Additional Costs could not have been reasonably anticipated by Owner and included in this RMR Agreement, and (2) the Additional Costs are necessary for the RMR Generator to continue to provide reliable service during the Term. The complete set of rules the ISO must follow when administering Proposed Additional Costs and Substantiated Additional Costs are set forth under Section 38.16 of the OATT.

For an RMR Generator that is providing service under an APR, the ISO is authorized by Section 38.16.3 of the OATT to allow up to \$10 million (or up to \$25 million for nuclear-powered RMR

Generators) per event in actual, incurred and verified additional Capital Expenditures to be recovered as Substantiated Additional Costs. As with any Capital Expenditure, the ISO must limit recovery of such Substantiated Additional Costs to the actual, demonstrated costs incurred and may not begin repaying the Substantiated Additional Costs until the necessary addition, maintenance or repair is completed or enters service. The ISO shall submit an informational filing to FERC informing FERC of any Substantiated Additional Costs it includes in an RMR Generator's APR.

Consistent with Section 38.16.5 of the OATT, Additional Costs (a) that involve RMR Avoidable Costs that are not Capital Expenditures, or (b) that exceed the ISO's authority to authorize, or (c) that the ISO is not able to verify or validate, or (d) that exceeded the cost estimate provided to the ISO or to FERC by more than 5 percent, and where the ISO is not able to determine that Owner made reasonable efforts to expend the least amount necessary, or (e) any Substantiated Additional Costs that an RMR Generator that is subject to an Owner Developed Rate must incur, are not eligible for recovery under this Agreement unless and until they are filed with and accepted by FERC.

4.3.4 Requirement to Repay Capital Expenditures and Other Above Market Revenues in Accordance with Services Tariff Rate Schedule 8 in Order for the ISO to Permit a Former RMR Generator to Produce Energy, Ancillary Services or Unforced Capacity, and Associated Credit Obligations.

If, pursuant to the terms of an RMR agreement, the ISO reimbursed all or a portion of the cost of a Capital Expenditure that was incurred to permit an RMR Generator to provide service during the Term of the RMR Agreement, and the Generator is no longer the subject of this RMR Agreement or any other RMR Agreement, and is not an Interim Service Provider, then in order for the ISO to permit the Generator to be offered into or be scheduled in the ISO Administered

Markets, the cost of all Capital Expenditures that the ISO paid to enable the RMR Generator to provide service under an RMR Agreement, less depreciation, may be required to be repaid to the ISO, over time, in accordance with the rules set forth in Rate Schedule 8 to the Services Tariff.

If, pursuant to the terms of an RMR Agreement, the ISO paid an RMR Generator a rate that provided revenues in excess of the revenues the Generator would have earned if it had been participating in the ISO Administered Markets at market-based rates (using the market participation, commitment, scheduling and dispatch that occurred in the ISO Administered Markets during the Term of the RMR Agreement to perform the comparison), and the Generator is no longer the subject of this RMR Agreement or any other RMR Agreement, and is not an Interim Service Provider, then in order for the ISO to permit the Generator to be offered into or be scheduled in the ISO Administered Markets, the difference between the revenues the RMR Generator received under an RMR Agreement (including money provided to reimburse Capital Expenditures) and the revenues the Generator would have earned if it had been participating in the ISO Administered Markets at market-based rates (taking into account applicable depreciation and the time value of money) may be required to be repaid to the ISO, over time, in accordance with the rules set forth in Rate Schedule 8 to the Services Tariff.

The ISO shall only allow a former RMR Generator to participate in the ISO Administered Markets if it is meeting all of its credit and repayment obligation(s), or has fully satisfied its repayment obligation(s). Otherwise, the ISO shall not permit Energy, Ancillary Services or Unforced Capacity to be offered into or scheduled in the ISO Administered Markets from the former RMR Generator.

The repayment obligation applies when a former RMR Generator is participating in the ISO Administered Markets while it is eligible to receive market-based rates, until the obligation has

been fully repaid. The repayment obligation is not imposed while a former RMR Generator or former Interim Service Provider is in a Mothball Outage or ICAP Ineligible Forced Outage, or is Retired. If a former RMR Generator or former Interim Service Provider returns from being Retired, or from being in a Mothball Outage or ICAP Ineligible Forced Outage, to participate in the ISO Administered Markets while it is eligible to receive market-based rates, then the ISO will recalculate and reinstate an updated repayment obligation in accordance with Rate Schedule 8 to its Services Tariff.

A former RMR Generator that returns to participating in the ISO Administered Markets at market-based rates must re-complete the Short-Term Reliability Process before it will be permitted to exit the ISO Administered Markets. Until the former RMR Generator enters a Mothball Outage or becomes Retired, it may continue to accrue repayment obligations in accordance with Rate Schedule 8 to the Services Tariff.

If Owner notices an RMR Generator's return to the ISO Administered Markets consistent with Section 2.2.9 of this Agreement, but it has not timely posted adequate credit, including any additional credit that may be required in accordance with Sections 26.4 and 26.5 of the Services Tariff, then the ISO shall not permit the Generator to submit offers or receive schedules and shall place the unit in Inactive Reserve for up to sixty (60) days. If Owner has not met its obligation to post adequate credit, including any additional credit that may be required in accordance with Sections 26.4 and 26.5 of the Services Tariff at the end of the sixty (60) days, then the ISO shall place the Generator in the state that it originally noticed (mothballed or retired). If the Generator returned from a mothball to provide RMR service, then the ISO shall return the Generator to a Mothball Outage. If the Generator returned from an ICAP Ineligible Forced Outage to provide RMR service, then the ISO shall place the Generator in a Mothballed Outage or Retired state, at

Owner's election.

4.4 Availability Incentive.

The baseline used to calculate the Availability Incentive each RMR Generator that is being compensated under an APR is eligible to recover is set forth in the table below. The incentive shall be calculated in accordance with Rate Schedule 8 to the Services Tariff. The ISO shall use each RMR Generator's actual availability and the baseline specified in the table below to determine the incentive (if any) it shall pay for availability over a six-month Capability Period.

[ADD TABLE SPECIFYING THE AVAILABILITY BASELINE FOR EACH RMR GENERATOR.]

4.5 Performance Incentive.

The baseline used to calculate the Performance Incentive each RMR Generator that is being compensated under an APR is eligible to recover is set forth in the table below. The incentive shall be calculated in accordance with Rate Schedule 8 to the Services Tariff. The ISO shall use each RMR Generator's actual performance and the baseline specified in the table below to determine the incentive (if any) it shall pay for performance each month.

[ADD TABLE SPECIFYING THE PERFORMANCE BASELINE FOR EACH RMR GENERATOR.]

4.6 Owner Developed Rate.

Owner Developed Rates may not exceed an RMR Generator's full cost of service. Owner must separately file its Owner Developed Rate for FERC review and acceptance.

If Owner has agreed to follow, and the ISO has separately filed the *pro forma* terms and conditions of service, then the ISO shall incorporate the accepted Owner Developed Rate,

including any modifications instructed by FERC, into this Agreement after FERC issues an Order accepting the Owner Developed Rate.

The costs each RMR Generator is authorized to recover under an Owner Developed Rate are explained below (using the explanation(s) provided by Owner) and set forth in the table(s) below. The table(s) below must distinctly identify and set forth the estimated cost of each Capital Expenditure, and the date on which each Capital Expenditure is expected to enter service.

The rules for recovering the cost of Capital Expenditures under an Owner Developed Rate, including the rules that apply if an RMR Generator continues to, or returns to participate in the ISO-Administered Markets following the conclusion of this Agreement, are the same rules that apply to Generators that are compensated pursuant to an APR. *See* Section 4.3.2 of this Agreement.

RMR Generators that are compensated pursuant to an Owner Developed Rate are not eligible to receive an Availability Incentive or a Performance Incentive. RMR Generators that are compensated pursuant to an Owner Developed Rate must obtain FERC approval to recover Substantiated Additional Costs.

[OWNER TO ADD EXPLANATION OF PROPOSED OWNER-DEVELOPED RATE THAT IS CONSISTENT WITH THE REQUIREMENTS OF THIS AGREEMENT AND THE ISO'S TARIFFS, INCLUDING BUT NOT LIMITED TO THE RULES FOR IMPLEMENTING RMR RATES THAT ARE SET FORTH IN RATE SCHEDULE 8 TO THE SERVICES TARIFF AND THE RULES IN SECTION 38.17 OF THE OATT ADDRESSING THE RECOVERY OF CAPITAL EXPENDITURES. OWNER SHALL INCLUDE ONE OR MORE TABLES THAT SPECIFY THE RATE THAT WILL APPLY TO EACH RMR GENERATOR.]

4.7 Penalties.

Each RMR Generator that is providing service under an APR is subject to all of the potential penalties, sanctions, deficiency charges and any similar charges, except for under-generation penalties (collectively, for purposes of this paragraph, “penalties”), that may apply to Generators under the ISO Tariffs. *Provided, however*, that the total amount of penalties that can be assessed to an RMR Generator that is providing service under an APR shall be capped at the total, cumulative amount of Performance Incentive payments and Availability Incentive payments computed by the ISO to be due to that RMR Generator through the end of the month in which one or more penalties are charged.

RMR Generators that are compensated pursuant to an Owner Developed Rate are subject to all of the potential penalties, sanctions, deficiency charges and any similar charges, including under-generation penalties, that may be assessed to Generators under the ISO Tariffs, without limitation.

4.8 Wind-Down Costs.

If the ISO terminates this Agreement early due to the conclusion of the Reliability Need prior to the end of the Term of this Agreement (*see* Section 2.2.1 above), then the ISO shall pay any demonstrated, actual additional wind-down costs that Owner must incur to place an RMR Generator in a Mothballed Outage or Retired state at the conclusion of this Agreement because the ISO terminated the Agreement early, in accordance with Sections 38.17.5 and 38.17.7 of the OATT. The ISO shall not pay such costs if a (former) RMR Generator continues to participate in the ISO Administered Markets following the conclusion of this Agreement. If Owner does not agree with the ISO’s determination of the actual additional costs it had to incur due to the ISO’s early termination of this Agreement, then Owner may submit a filing to FERC under Section 205

of the FPA seeking recovery of additional costs it will incur due to the ISO's early termination of this Agreement. The ISO may pay wind-down fees after the termination of this Agreement pursuant to Services Tariff Rate Schedule 8 and recover them from the (former) RMR LSEs under OATT Rate Schedule 14.

ARTICLE 5 - MARKET MONITORING

5.1 Market Power Mitigation.

Although this Agreement requires the submission of Energy and Ancillary Service Bids for the RMR Generator(s) at fuel-adjusted Reference Levels, nothing herein shall preclude the ISO from applying any provision of its Market Power Mitigation Measures (Section 23 of the Services Tariff) to Owner, any Affiliate of Owner, the RMR Generator, or any other resources of Owner or of any Affiliate of Owner, including (a) the mitigation of Bids submitted for RMR Generators that are covered by this Agreement, and (b) conducting audits and reviews and imposing penalties pursuant to Sections 23.2.4.1.1, 23.3.1.1 and 23.4.5.6 of the Services Tariff.

The ISO's assessment of financial penalties, sanctions, deficiency charges and the like, for failure to comply with the Market Power Mitigation Measures or other provisions of the ISO's Tariffs, are addressed in Section 4.7 of this Agreement.

ARTICLE 6 - REPORTING AND AUDIT

6.1 Information Access.

Owner shall maintain and shall promptly make available to ISO upon request, any books, records, documents or information in its possession or control that are necessary for ISO to:

(a) audit, determine, substantiate or verify any of the costs that Owner has incurred, or that Owner is permitted to recover under this Agreement and the ISO Tariffs, and (b) carry out its responsibilities under this Agreement and its Tariffs.

6.2 Books and Records; Audit Rights.

6.2.1 During the Term and for six (6) years thereafter (or for a longer term, if necessary to permit the ISO to repay the cost of a Capital Expenditure and other above market revenues that a former RMR Generator is required to repay under Rate Schedule 8 to the ISO's Services Tariff), Owner shall keep detailed and accurate books and records, together with any supporting documents, pertaining to (a) the performance of its obligations under this Agreement, (b) the operation of each RMR Generator, including its availability, performance and Variable Costs, and (c) all components that went into developing the APR or the Owner-Developed Rate, including all adjustments thereto, Capital Expenditures and Substantiated Additional Costs.

6.2.2 Subject to the confidentiality requirements in Section 11.10 of this Agreement, Owner shall provide or make such books and records (including copies and extracts) available to ISO for inspection and audit at any time, upon reasonable notice.

ARTICLE 7 - RESOURCE OPERATION AND MAINTENANCE

7.1 Planned Outages.

7.1.1 First year of RMR operation. The ISO and Owner have developed a planned outage schedule covering the first year of each RMR Generator's operation under this Agreement. The agreed upon schedule is included as Confidential Schedule 2 to this Agreement. The ISO will accommodate limited, reasonable changes to the agreed planned outage schedule requested by Owner, so long as such changes will not interfere with the ability of the RMR Generator to meet the Reliability Need. Planned outage schedules for subsequent years will be developed in accordance with this Article 7.

7.1.2 Owner shall be entitled to take the RMR Generator out of operation or reduce the net capability of the RMR Generator during ISO-approved Planned Outages, in accordance with the schedule for Planned Outages as established and implemented pursuant to the ISO's Outage Scheduling Manual. The ISO may amend or cancel ISO-approved Planned Outages if necessary to protect system reliability. Consistent with Section 4.4 of this Agreement and Section 15.8.3 of Rate Schedule 8 to the Services Tariff, Planned Outages may reduce the Availability Incentive (if any) paid to an RMR Generator. Performance Incentives can be earned when an RMR Generator is scheduled in real-time.

7.1.3 The ISO and the MMU shall monitor deviations from each RMR Generator's historic planned outage schedules. Owner shall promptly respond to ISO and MMU requests for explanations, information and data regarding or supporting outage schedules.

7.2 Forced Outages.

7.2.1 Generally. Owner shall be entitled to take the RMR Generator out of operation or reduce the net capability of the RMR Generator upon the occurrence of a Forced Outage.

Consistent with Section 4.4 of this Agreement and Section 15.8.3 of Rate Schedule 8 to the Services Tariff, Forced Outages may reduce the Availability Incentive (if any) paid to an RMR Generator. Performance Incentives can be earned when an RMR Generator is scheduled in real-time.

7.2.2 The ISO and the MMU shall monitor deviations from each RMR Generator's historic forced outage rate. Owner shall promptly respond to ISO and MMU requests for explanations, information and data regarding or supporting forced outages, including the time required to return from a Forced Outage.

7.2.3 Notice of Forced Outage. In the event of a Forced Outage that is anticipated to last for more than ten (10) days, in addition to any other notification obligation arising under the ISO Tariffs and Procedures, Owner shall promptly notify the ISO, in accordance with the Outage Scheduling Manual, in writing that a Forced Outage has occurred and estimate its duration (a "Notice of Forced Outage").

7.2.4 Notice of Proposed Additional Costs. Owner shall also submit a Notice of Proposed Additional Costs to the ISO if it expects that costs that exceed the lesser of (a) \$250,000, or (b) five (5) percent of annual RMR Avoidable Costs (excluding Capital Expenditures), will need to be incurred to return the RMR Generator to service, and if it satisfies the other requirements of Section 38.16.1 of the OATT. If the cost of returning an RMR Generator to service does not exceed the lesser of (a) \$250,000, or (b) five (5) percent of annual RMR Avoidable Costs,

excluding Capital Expenditures, then Owner shall promptly return the RMR Generator to service without additional recompense, consistent with Section 38.16.1.1 of the OATT.

7.2.5 Notice of Shut-down. As soon as reasonably practicable after the date of a Notice of Forced Outage but in no event greater than thirty (30) days from the start of such Forced Outage, either Party may, after assessing the nature, expected duration, and expected incurrence of Proposed Additional Costs or Substantiated Additional Costs, notify the other in writing of its determination that the RMR Generator shall, subject to the provisions of Section 7.2.9 of this Agreement, be Shut-down (a “Notice of Shut-down”) and if such notice applies to the entire RMR Generator that this Agreement should be terminated with regard to the affected RMR Generator.

7.2.6 In the event that an RMR Generator is Shut-down, Owner shall only be entitled to receive the APR or Owner Developed Rate through the Shut-down Date for that RMR Generator. However, the ISO may continue to repay the cost of Capital Expenditures incurred at the shut-down Generator in accordance with Section 4.3.2 of this Agreement and Section 38.17.5 of the OATT. With respect to a Shut-down applying only to some of the units that together comprise an RMR Generator, this Agreement shall remain in full force and effect with respect to the remaining unit(s).

7.2.7 Restoration following Owner Notice of Shut-down. With respect to a Notice of Shut-down made by Owner, if within thirty (30) days of receipt of Owner’s Notice of Shut-down ISO provides written notice to Owner that it is willing to allow or support (as appropriate) recovery of any Substantiated Additional Costs that may be required to recover from such Forced Outage in accordance with Section 4.3.3 of this Agreement and Sections 38.16.2.1, 38.16.3, 38.16.5 and 38.17.2 of the OATT, Owner agrees that it will, with reasonable dispatch, take the action

requested by ISO, *i.e.*, not Shut-down the RMR Generator, take all actions necessary to obtain any required FERC approval, and incur the costs necessary to return the RMR Generator to service from such Forced Outage, subject to reimbursement by the ISO in accordance with Section 4.3.3 of this Agreement and Sections 38.17.7 and 38.17.8 of the OATT.

7.2.8 Owner is obligated to use its best efforts to minimize any costs it must incur, and the Substantiated Additional Costs that the ISO reimburses Owner for will be subject to offset by any proceeds from any and all third-party sources, including insurance proceeds, paid to Owner to return the RMR Generator from the Forced Outage. If Owner receives insurance proceeds or other compensation after the ISO pays Owner's Substantiated Additional Costs, then Owner shall make a subsequent reconciliation ("true-up") filing with the FERC and refund any payments to ISO for Substantiated Additional Costs that exceed the amount actually expended by the Owner, after offsets. The ISO shall distribute any insurance proceeds or other compensation it receives pursuant to the requirements of this Section 7.2.8 consistent with Section 6.14.6.1 of Rate Schedule 14 to the OATT.

7.2.9 Shut-down Date. With respect to a Notice of Shut-down issued by ISO pursuant to Section 7.2.5, the "Shut-down Date" shall be the end of hour beginning 23 at the end of the month that includes the date that is the later of (a) ten (10) days after the receipt of such Notice of Shut-down by the Owner, or (b) sixty (60) days after the Forced Outage began. With respect to a Notice of Shut-down issued by Owner pursuant to Section 7.2.5, the Shut-down Date shall be the end of the month that includes the date that is the later of (x) thirty (30) days after the receipt of such Notice of Shutdown by ISO, or (y) sixty (60) days after the Forced Outage began, unless ISO has agreed to pay Owner's Substantiated Additional Costs in accordance with Section 7.2.7, in which case no Shut-down Date will have occurred with respect to such Notice of Shut-down.

As of the Shut-down Date, Owner may place the former RMR Generator in an ICAP Ineligible Forced Outage or reclassify the former RMR Generator's status to Retired.

7.3 Minimum Operating Standards.

The requirements set forth below specify the Minimum Availability, Minimum Performance and Operation to Address the Reliability Need Standards that each RMR Generator is expected to achieve in order to continue to be entitled to compensation under this Agreement, including recovery of the cost of Capital Expenditures and Additional Costs.

7.3.1 Minimum Availability Standards.

The ISO developed the Minimum Availability Standard(s) set forth below for each RMR Generator based on (a) the RMR Generator's historical performance, (b) any deferred maintenance, repair or capital expenditure costs that are included in RMR Avoidable Costs for an RMR Generator that can reasonably be expected to improve the RMR Generator's availability, and (c) other factors that are specific to the particular RMR Generator for which the Minimum Availability Standard was developed.

[ADD TABLE WITH THE MINIMUM AVAILABILITY STANDARD THAT THE ISO WILL APPLY TO EACH RMR GENERATOR THAT IS SUBJECT TO THE RMR AGREEMENT.]

7.3.2 Minimum Performance Standards.

The ISO developed the Minimum Performance Standard(s) set forth below for each RMR Generator based on (a) the RMR Generator's historical performance when scheduled to operate in real-time by the ISO, (b) any deferred maintenance, repair or capital expenditure costs that are included in RMR Avoidable Costs for an RMR Generator that can reasonably be expected to improve the RMR Generator's performance, and (c) other factors that are specific to the particular RMR Generator for which the Minimum Performance Standard was developed.

[ADD TABLE WITH THE MINIMUM PERFORMANCE STANDARD THAT THE ISO WILL APPLY TO EACH RMR GENERATOR THAT IS SUBJECT TO THE RMR AGREEMENT.]

7.3.3 Operation to Address the Reliability Need Standard.

If an RMR Generator fails to operate as requested when it is called upon by the ISO or by a Transmission Owner to address the Reliability Need that is described in Schedule 1 to this Agreement on three or more occasions over the Term of this Agreement, then the ISO may terminate this Agreement as to that RMR Generator.

ARTICLE 8 - FORCE MAJEURE EVENTS

8.1 Definition of Force Majeure Event.

“Force Majeure Event” shall mean a cause or occurrence preventing a Party from performing its obligations under this Agreement, which cause or occurrence is beyond the reasonable control of the Party affected, not reasonably foreseeable by such Party, not due to an act or omission of the Party affected, and which could not have been avoided by the exercise of reasonable diligence.

A Force Majeure Event shall not include any economic hardship, the cost of or inability to procure fuel, or changes in market conditions that affect the price of energy or transmission.

8.2 Notice of Force Majeure Event.

If any Party is unable to perform its obligations under this Agreement due to a Force Majeure Event, the Party that is unable to perform shall promptly notify the other Party of this occurrence, the effect on its performance, the nature of any corrective action needed, its efforts to remedy its inability to perform, and when it estimates it will be able to resume performance. Thereafter the nonperforming Party shall update that information as reasonably necessary.

8.3 Effect of Force Majeure Event.

If a Force Majeure event results in a Forced Outage then Sections 7.2.1. through 7.2.9 of this Agreement shall apply. If a Force Majeure Event prevents a Party from complying with any one or more obligations under this Agreement, that inability to comply will not constitute a default if (a) that Party uses reasonable efforts to remediate the Force Majeure Event in accordance with Section 8.4, and (b) that Party complies with its notice obligations under Section 8.2.

8.4 Remedial Efforts.

If a Force Majeure Event occurs, the Party unable to perform by reason of that Force Majeure Event shall use reasonable efforts to resume its performance under this Agreement as soon as practicable, to mitigate the consequences of the Force Majeure Event, and to limit damages to the other Party; provided that no Party shall be required to settle any strike, walkout, lockout, or other labor dispute on terms which, in the Party's sole discretion, are contrary to its interests.

ARTICLE 9 - DISPUTE RESOLUTION AND REMEDIES

9.1 Dispute Resolution.

The Parties shall make reasonable efforts to settle any dispute arising out of or in connection with this Agreement. The process and timeframe for Owner to challenge invoices related to this Agreement is set forth in Section 7.4 of the Services Tariff. For all other disputes, the Parties shall designate officers or other senior representatives to confer and attempt to resolve a dispute on an informal basis within two (2) calendar days after receiving written notice of a dispute. If the Parties are unable to resolve the dispute by mutual agreement within ten (10) business days after receiving written notice of a dispute (such period may be extended by the mutual, written agreement of the Parties), then the dispute may be referred to FERC's Dispute Resolution Division by either Party.

9.2 Liability and Indemnification.

9.2.1 Liability of ISO. The ISO shall not be liable, whether based on contract, indemnification, warranty, equity, tort, strict liability or otherwise, to Owner or any third party or other person for any damages whatsoever arising or resulting from any actions or omissions by ISO in performing its obligations under this Agreement, except to the extent ISO is found liable for gross negligence or willful misconduct, in which case ISO will only be liable for direct damages.

9.2.2 Liability of Owner. Except as set forth in Section 4.7 (Penalties) of this Agreement, or as set forth in the ISO's Tariffs, in no event shall Owner be liable to ISO for any incidental, consequential, multiple or punitive damages, loss of revenues or profits, attorneys fees or costs arising out of, or connected in any way with the performance or non-performance of this Agreement except to the extent Owner is found liable for gross negligence or willful misconduct.

9.2.3 Indemnification. Owner shall indemnify, defend and save harmless the ISO and its directors, officers, employees and agents from any and all damages, losses, claims and liabilities by or to third parties arising out of or resulting from the performance by ISO under this Agreement or the actions or omissions of Owner in connection with this Agreement, except in cases of gross negligence or willful misconduct by the ISO or its directors, officers, employees or agents.

9.3 Specific Performance.

The Parties agree that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms and that monetary damages alone, even if available, would not be an adequate remedy. It is accordingly agreed that the Parties shall be entitled to specific performance of the terms hereof, this being in addition to any other remedy to which they are entitled at Law or in equity.

9.4 Termination for Default.

If any Party shall fail to perform any material obligation imposed on it by this Agreement and that obligation has not been suspended pursuant to this Agreement, the other Party, at its option, may terminate this Agreement by giving the Party in default written notice setting out specifically the circumstances constituting the default and declaring its intention to terminate this Agreement. If the Party receiving the notice does not within ten (10) days after receiving the notice, remedy the default, the Party not in default shall be entitled by a further written notice to terminate this Agreement. The Party not in default shall have a duty to mitigate damages. Termination of this Agreement pursuant to this Section 9.4 shall be without prejudice to the right of any Party to collect any amounts due to it under this Agreement.

9.5 Waiver.

The failure to exercise any remedy or to enforce any right provided in this Agreement or applicable Law shall not constitute a waiver of such remedy or right or of any other remedy or right. A Party shall be considered to have waived any remedies or rights only if the waiver is in writing. A waiver given by a Party will be applicable only to the specific instance for which it is given.

9.6 No Third-Party Beneficiaries.

Except as is specifically set forth in this Agreement, nothing in this Agreement, whether express or implied, confers any rights or remedies under, or by reason of, this Agreement on any persons other than the Parties and their respective successors and permitted assigns, nor is anything in this Agreement intended to relieve or discharge the obligations or liability of any third party, nor give any third person any rights of subrogation or action against any Party.

9.7 Remedies Cumulative.

The rights and remedies of the Parties are cumulative and not alternative.

ARTICLE 10 - COVENANTS OF THE PARTIES

10.1 ISO represents and warrants to Owner as follows:

10.1.1 The ISO is a validly existing corporation with full authority to enter into this Agreement.

10.1.2 The ISO has full power and authority to enter into this Agreement and perform all of the ISO's obligations, representations, warranties, and covenants under this Agreement.

10.1.3 The ISO has taken all necessary measures to have the execution and delivery of this Agreement authorized, and upon the execution and delivery of this Agreement, this Agreement shall be a legally binding obligation of the ISO.

10.1.4 The ISO has all regulatory authorizations necessary for it to perform its obligations under this Agreement.

10.1.5 The execution, delivery, and performance of this Agreement are within ISO's powers and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party, or any Law applicable to it.

10.2 Owner represents and warrants to ISO as follows:

10.2.1 Owner is duly organized, validly existing and in good standing under the Laws of the jurisdiction under which it is organized, and is authorized to do business in New York.

10.2.2 Owner has full power and authority to enter into this Agreement and to perform (directly, or through its agents and assigns that are authorized pursuant to Section 11.1 of this Agreement) all of Owner's duties, obligations, representations, warranties, and covenants under this Agreement, including the power to offer Energy, Unforced Capacity, and Ancillary Services

from each RMR Generator, and to operate, maintain, and administer each RMR Generator, all in accordance with (a) the ISO Tariffs, (b) this Agreement, and (c) the ISO Procedures.

10.2.3 Owner has taken all necessary measures to have the execution and delivery of this Agreement authorized, and upon the execution and delivery of this Agreement, this Agreement shall be a legally binding obligation of Owner.

10.2.4 Owner possesses, or has applied for, all regulatory authorizations, necessary for it to perform its obligations under this Agreement.

10.2.5 The execution, delivery, and performance of this Agreement are within the Owner's powers and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party, or any Law applicable to it.

10.2.6 Owner is not in violation of any Laws, ordinances, or governmental rules, regulations or Order of any Governmental Authority or arbitration board materially affecting the performance of this Agreement.

10.2.7 Owner is not bankrupt, does not contemplate becoming bankrupt nor, to its knowledge, will become bankrupt.

10.2.8 Owner is an ISO Customer [and an ISO Transmission Customer,] and acknowledges that it has reviewed and is familiar with the ISO Tariffs.

10.2.9 Owner acknowledges and affirms that the foregoing representations, warranties, and covenants are continuing in nature throughout the Term of this Agreement. For purposes of this Section, "materially affecting performance" means resulting in a materially adverse effect on Owner's performance of its obligations under this Agreement.

ARTICLE 11 - MISCELLANEOUS PROVISIONS

11.1 Assignment.

A Party shall not assign its rights or delegate its duties under this Agreement without the prior written consent of the other Party. Any such assignment or delegation made without such written consent shall be null and void. Upon any assignment made in compliance with this Section 11.1, this Agreement shall inure to and be binding upon the successors and assigns for the assigning Party.

11.2 Notices.

Except as otherwise expressly provided in this Agreement or required by Law, all notices, consents, requests, demands, approvals, authorizations and other communications provided for in this Agreement shall be in writing and shall be sent by personal delivery, certified mail, return receipt requested, facsimile transmission, electronic mail, or by recognized overnight courier service, to the intended Party at such Party's address set forth below. All such notices shall be deemed to have been duly given and to have become effective: (a) upon receipt if delivered in person, by facsimile, or by electronic mail; (b) two days after having been delivered to an air courier for overnight delivery; or (c) seven days after having been deposited in the United States mail as certified or registered mail, return receipt requested, all fees pre-paid, addressed to the applicable addresses set forth below. Each Party's address for notices shall be as follows (subject to change by notice in accordance with the provisions of this Section 11.2):

If to Owner:

[OFFICER NAME]

[OFFICER TITLE]

[STREET ADDRESS]

[CITY, STATE, ZIP]

[PHONE NUMBER]

[FAX NUMBER]

[E-MAIL ADDRESS]

If to ISO:

[OFFICER NAME]

[OFFICER TITLE]

10 Krey Boulevard

Rensselaer, New York 12144

[PHONE NUMBER]

[FAX NUMBER]

[E-MAIL ADDRESS]

With a copy to:

[INSERT LEGAL CONTACT]

The persons designated to receive Notice for a Party may be modified by providing Notice to the other Party of a change.

11.3 Parties' Representatives.

Owner and the ISO shall ensure that throughout the Term of this Agreement, duly appointed representatives are available for communications between the Parties. The representatives shall have full authority to deal with all day-to-day matters arising under this Agreement. Acts and omissions of representatives shall be deemed to be acts and omissions of the Party. Owner and ISO shall be entitled to assume that the representatives of the other Party are at all times acting within the limits of the authority given by the representatives' Party. Owner's representatives shall be identified on Exhibit A. The ISO's representatives shall be identified on Exhibit B. The Parties may at any time replace their representatives by sending the other Party a revision to its respective Exhibit.

11.4 Effect of Invalidation, Modification, or Condition.

Each covenant, condition, restriction, and other term of this Agreement is intended to be, and shall be construed as, independent and severable from each other covenant, condition, restriction, and other term. If any covenant, condition, restriction, or other term of this Agreement is held to be invalid or otherwise modified or conditioned by any Governmental Authority, the invalidity, modification, or condition of such covenant, condition, restriction, or other term shall not affect the validity of the remaining covenants, conditions, restrictions, or other terms hereof. If an invalidity, modification, or condition has a material impact on the rights and obligations of the Parties, the Parties shall make a good faith effort to renegotiate and restore the benefits and

burdens of this Agreement as they existed prior to the determination of the invalidity, modification, or condition.

11.5 Amendments.

Amendments or modifications of this Agreement may be made only by a written instrument duly executed by all Parties, or through a filing with FERC under Section 206 of the FPA. Mutually agreed to amendments or modifications shall become effective only after the Parties have received any authorizations required from FERC. The Parties agree to negotiate in good faith any amendments to this Agreement that are needed to reflect the intent of the Parties as expressed herein and to reflect any changes to the design of the ISO Administered Markets that are approved by the Commission from time to time. Alternatively, either Party shall have the right to make a unilateral filing with FERC to modify this Agreement pursuant to Section 206 of the FPA and FERC's rules and regulations thereunder. The Parties agree that any such filing shall not be subject to the "public interest" application of the just and reasonable standard of review as clarified in *Morgan Stanley Capital Group, Inc. v. Public Util. Dist. No. 1 of Snohomish County, Washington*, 554 U.S. 527 (2008) and refined in *NRG Power Mktg. v. Maine Pub. Utils. Comm'n*, 130 S. Ct. 693, 700 (2010). Each Party shall have the right to protest any such filing by another Party and to participate fully in any proceeding before FERC in which such modifications may be considered.

Nothing in this Section 11.5 shall be interpreted to require the ISO's concurrence before Owner may submit a filing under Section 205 of the FPA to propose an initial rate to FERC, or to recover costs that Owner (or an RMR Generator) is specifically authorized to submit or to seek to recover under Sections 38.1 to 38.17 of the OATT. Nothing in this Section 11.5 shall be interpreted to require Owner's concurrence before the ISO may submit a filing under Section 205

of the FPA to comply with the requirements of its Tariffs, or to submit a filing in accordance with Sections 2.2.8 or 4.6 of this Agreement.

11.6 Governing Law.

This Agreement shall be governed by and construed under the Laws of the State of New York without regard to conflicts of laws principles.

11.7 Entire Agreement.

This Agreement, as well as any appendices, schedules, exhibits or other attachments hereto, which are incorporated by reference herein and made a part hereof, constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior negotiations, undertakings, agreements and understandings.

11.8 Independent Contractors.

Owner and ISO acknowledge that as between Owner and ISO there is an independent contractor relationship, and that nothing in this Agreement shall create any association, joint venture, partnership, or principal/agent relationship between the Parties. Neither Owner nor ISO shall have any right, power, or authority to enter into any agreement or commitment, act on behalf of, or otherwise bind the other Party in any way.

11.9 Counterparts.

This Agreement may be executed in one or more counterparts each of which shall be deemed an original and all of which shall be deemed one and the same agreement.

11.10 Confidentiality.

Confidential Information or Protected Information identified as such by a Party and provided to the other Party pursuant to this Agreement shall be governed by the confidentiality provisions in

the Code of Conduct, contained in Attachment F of the OATT, and the confidentiality provisions in the Market Monitoring Plan, contained in Attachment O of the Services Tariff, subject to the following:

11.10.1 Nothing herein or therein shall limit the right of a Party to file a copy of this Agreement with the Commission, without redaction, to the extent that Law, regulation, or agency Order makes such filing necessary or appropriate.

11.10.2 Notwithstanding anything in this Agreement to the contrary, if during the course of an investigation or otherwise, the Commission requests that a Party (the “responding Party”) provide to it information that has been designated by the other Party to be treated as confidential under this Agreement, the responding Party shall provide the requested information to the FERC or its staff within the time provided for in the request for information. The responding Party shall, consistent with 18 CFR § 388.112, request that the information be treated as confidential and non-public by the FERC and its staff and that the information be withheld from public disclosure.

11.11 Further Assurances.

The Parties agree to do such further acts and things and to execute and deliver such additional agreements and instruments as may be reasonably necessary to carry out the provisions and purposes of this Agreement.

11.12 Submittal to the Commission.

The Parties acknowledge and agree [ALT. 1, IF OWNER AND ISO AGREE ON TERMS AND CONDITIONS AND OWNER ACCEPTS THE APR that the ISO shall submit the executed Agreement to the FERC, including the proposed APR, in a FPA Section 205 filing on the Parties’ behalf;] [ALT. 2, IF OWNER AND ISO AGREE ON TERMS AND CONDITIONS, OWNER

ACCEPTS THE APR, BUT THERE ARE CAPITAL EXPENDITURES THAT REQUIRE FERC APPROVAL (i) that the ISO shall submit this Agreement to the FERC, including the agreed-to components of the proposed APR, in a FPA Section 205 filing on the Parties' behalf, and that Owner will submit a separate FPA Section 205 filing that is consistent with the terms and conditions of service proposed in this Agreement, and that tracks the format of this Agreement, proposing the inclusion of the cost of certain Capital Expenditures in the APR;]

[ALT. 3, IF OWNER AND ISO AGREE ON TERMS AND CONDITIONS BUT OWNER REJECTS THE APR AND SUBMITS AN OWNER DEVELOPED RATE that the ISO shall submit the Parties' agreed-upon terms and conditions of service to the FERC, in a FPA Section 205 filing on the Parties' behalf, and that Owner will submit a separate FPA Section 205 filing proposing an Owner Developed Rate that is consistent with the terms and conditions of service proposed in this Agreement and that tracks the format of this Agreement.]

Following the ISO's submission to FERC of an executed or unexecuted Agreement, the Parties will implement and comply with this Agreement in accordance with Section 2.1.2 hereof.

IN WITNESS WHEREOF, this Agreement has been executed as of the date first above written.

[OWNER NAME]

By: _____

Name:

Title:

NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.

By: _____

Name:

Title:

EXHIBIT A - OWNER'S REPRESENTATIVES

[OWNER TO PROVIDE]

EXHIBIT B - ISO'S REPRESENTATIVES

[NAME OF NYISO OFFICER WITH AUTHORITY TO EXECUTE AN RMR AGREEMENT]

[OFFICER TITLE] New York Independent System Operator, Inc.

10 Krey Boulevard

Rensselaer, New York 12144

38.27 Appendix D – Responsible Generator Party Certification

RESPONSIBLE GENERATOR PARTY CERTIFICATION

Date (“Effective Date”)	
Responsible Generator Party (“RGP”)	
Capitalized terms used and not otherwise defined herein shall have the meaning ascribed in the NYISO’s Open Access Transmission Tariff (“ OATT ”) or its Market Administration and Control Area Services Tariff (“ Services Tariff ”), as context requires, (together “ NYISO Tariffs ”).	

WHEREAS, the RGP is the entity that is ultimately responsible for making determinations concerning outages affecting and the repair of and/or the deactivation or retirement of one or more generating facilities seeking to participate in or participating in the ISO Administered Markets (“**Outage and/or Deactivation Authority**”);

WHEREAS, Section 5.18 of the Services Tariff (Generator Outages and Generator Obligations While in These Outages) and Section 38 (Short-Term Reliability Process) of the OATT (or any successor provisions), and related NYISO Tariff rules implementing the NYISO’s outage state and generator deactivation requirements, establish certain requirements concerning outages affecting, the repair of, and the deactivation or retirement of generating facilities participating in the ISO Administered Markets;

WHEREAS, the RGP seeks to register or to renew its registration of a generating facility or generating facilities for which it has Outage and/or Deactivation Authority to participate in the ISO Administered Markets.

NOW, THEREFORE, in consideration of the foregoing, I, the undersigned, in my capacity as a duly authorized representative of the RGP named above, hereby certify, acknowledge, and agree, understanding that the NYISO is relying on these representations and agreements, that the RGP shall comply with the following requirements (“**Certification**”).

1. Generator. “Generator” shall mean the generating facility or facilities for which the RGP has Outage and/or Deactivation Authority and that are seeking to participate or are participating in the ISO Administered Markets. The generating facility or facilities shall be identified by the RGP in Schedule A to this Certification. The RGP shall specify in Schedule A for each Generator: the Generator Name, Generator PTID, the nameplate rating of the Generator, and whether the RGP’s Outage and/or Deactivation Authority concerns (i) outages affecting and the repair of the Generator, (ii) the deactivation or retirement of the Generator, or (iii) both.

2. Effective Date. This Certification shall take effect on the Effective Date indicated above, and shall last until terminated in accordance with the terms of this Certification (“**Term**”).

3. RGP Outage State Obligations. As of the Effective Date, and for the Term of this Certification, the RGP assumes the obligation to comply with the requirements of Section 5.18 of the Services Tariff, or any successor provisions, for the Generator(s) identified in Schedule A for which it is responsible. The RGP assumes the obligation to comply with the requirements of

Section 5.18 of the Services Tariff that apply to any of a Market Participant, Market Party, Generator Owner, and/or a Generator, including, but not limited to, the requirements that address providing prior notice and information to the NYISO.

- (a) However, if a Generator identified in Schedule A is only participating in the ISO-Administered Markets as a facility in an Aggregation then, for so long as the Generator is only participating in the ISO-Administered Markets as a facility in an Aggregation, the RGP is not required to comply with the requirements of Section 5.18 of the Services Tariff for that Generator.

4. RGP Generator Deactivation Obligations. As of the Effective Date, and for the Term of this Certification, the RGP assumes the obligation to comply with the requirements of Section 38 of the OATT, or any successor provisions, for the Generator(s) identified in Schedule A that have a nameplate rating greater than 1 MW for which it is responsible. The RGP assumes the obligation to comply with the requirements of Section 38 of the OATT that apply to any of a Market Participant, Market Party, Generator Owner, and/or a Generator, including, but not limited to, the requirements that address providing prior notice and information to the NYISO.

5. Representations and Warranties. RGP represents and warrants to the NYISO that (i) it possesses the Outage and/or Deactivation Authority specified in Schedule A for each of the listed Generators, (ii) it is duly organized, validly existing, and in good standing under the laws of its jurisdiction of formation, (iii) it has the legal power to execute and deliver this Certification and to perform in accordance with its terms, (iv) all necessary actions have been taken to authorize the execution and delivery of this Certification and performance in accordance with its terms, (vi) this Certification is a legal, valid, and binding obligation, and (vii) there is no action or proceeding pending or, to its knowledge, threatened before any court, arbitrator, or governmental agency that may materially adversely affect its ability to perform its obligations under this Certification.

6. Changes to RGP's Outage and/or Deactivation Authority. If the RGP no longer has the Outage and/or Deactivation Authority for a Generator as identified in Schedule A, the RGP shall notify the NYISO within ten (10) days of such change by submitting an update to Schedule A and shall provide the NYISO with the name of the entity that now possesses Outage and/or Deactivation Authority for the Generator. If the RGP acquires Outage and/or Deactivation Authority for a new or additional Generator the RGP shall provide the NYISO with an updated Schedule A within ten (10) days of obtaining such authority that identifies the additional Generator(s) and provides the information required in Section 1 above. Upon the NYISO's request, the RGP shall review and provide any updates necessary to correct the information in its Schedule A within ten (10) days.

7. Default. In the event the RGP does not timely comply with the requirements of Section 5.18 of the Services Tariff or Section 38 of the OATT, as applicable, the NYISO may submit one or more public filings informing the Federal Energy Regulatory Commission ("FERC") and/or the New York Public Service Commission ("NYPSC") of the default and asking the appropriate agenc(ies) to exercise their authority to require the RGP to promptly remedy the default.

8. Termination.

(i) This Certification may be terminated by the mutual agreement, in writing, of the NYISO and the RGP.

(ii) This Certification may be unilaterally terminated by RGP submitting a notice of termination, in writing, to the NYISO after RGP accurately notifies the NYISO under Section 6 that it no longer has the Outage and/or Deactivation Authority for any New York Control Area Generator.

9. Communications. Notices and other communications given pursuant to this Certification shall be in writing, shall be deemed effective when received, and shall be delivered by hand, facsimile or email (in each case, with confirmation of receipt of delivery) or by certified mail to the following addresses:

a. If to the NYISO:

The New York Independent System Operator, Inc.
10 Krey Boulevard
Rensselaer, NY 12144
Attention: Registration Coordinator

E-mail: Customer_Registration@nyiso.com

b. If to RGP:

[RGP to insert contact information.]

10. Amendment and Waiver. The terms and provisions of this Certification may not be amended or waived without the prior written consent of both the NYISO and the RGP.

11. Severability. Should any provision of this Certification be determined by a court of competent jurisdiction to be unenforceable, all of the other provisions shall remain effective.

12. Governing Law. This Certification shall be governed by the laws of the State of New York without regard to conflict of laws principles (other than Section 5-1401 of the New York General Obligations Law).

13. Execution. A signed copy of this Certification delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Certification.

[Remainder of page intentionally left blank; Signature page follows]

IN WITNESS WHEREOF, the undersigned has executed this Certification as of the date written above.

RESPONSIBLE GENERATOR PARTY

Signature:

Print Name:

Title:

SCHEDULE A

GENERATORS SUBJECT TO RESPONSIBLE GENERATOR PARTY CERTIFICATION

Generator Name	Generator PTID	Nameplate Rating of Generator	RGP Has Ultimate Responsibility Concerning Outages Affecting and Repair of Generator (Yes/No)	RGP Has Ultimate Responsibility Concerning Deactivation or Retirement of Generator (Yes/No)

Schedule A Submission Date: