

# Attachment IV

## 2.3 Definitions - C

**Capability Period:** Six-month periods which are established as follows: (i) from May 1 through October 31 of each year (“Summer Capability Period”); and (ii) from November 1 of each year through April 30 of the following year (“Winter Capability Period”).

**Capability Period Auction:** An auction conducted no later than thirty (30) days prior to the start of each Capability Period in which Unforced Capacity may be purchased and sold in a six-month strip.

**Capability Period SCR Load Zone Peak Hours:** The top forty (40) coincident peak hours that, prior to the Summer 2014 Capability Period include hour beginning thirteen through hour beginning eighteen and beginning with the Summer 2014 Capability Period include hour beginning eleven through hour beginning nineteen. The Capability Period SCR Load Zone Peak Hours shall be determined by the NYISO from the Prior Equivalent Capability Period and shall be used by RIPs to report ACL values for the purpose of SCR enrollment. For a SCR enrolled with a Provisional ACL that requires verification data to be reported at the end of the Capability Period in which the SCR was enrolled, the Capability Period SCR Load Zone Peak Hours shall be determined from the Capability Period in which the SCR was enrolled. Such hours shall not include (i) hours in which Special Case Resources located in the specific Load Zone were called by the ISO to respond to a reliability event or test and (ii) hours for which the Emergency Demand Response Program resources were deployed by the ISO in each specific Load Zone. In addition, beginning with the Summer 2014 Capability Period, the NYISO shall not include, in descending rank order of NYCA Load up to a maximum of eight hours per Capability Period, a) the hour before the start time of a reliability event or performance test, in which SCRs located in the specific Load Zone were called by the ISO to respond to a reliability event or performance test, or b) the hour immediately following the end time of such reliability event or performance test.

**Capability Year:** A Summer Capability Period, followed by a Winter Capability Period (*i.e.*, May 1 through April 30).

**Capacity:** The capability to generate or transmit electrical power, or the ability to control demand at the direction of the ISO, measured in megawatts (“MW”).

**Capacity Limited Resource:** A Resource that is constrained in its ability to supply Energy above its Normal Upper Operating Limit by operational or plant configuration characteristics. Capacity Limited Resources must register their Capacity limiting characteristics with, and justify them to, the ISO consistent with ISO Procedures. Capacity Limited Resources may submit a schedule indicating that their Normal Upper Operating Limit is a function depending on one or more variables, such as temperature or pondage levels, in which case the Normal Upper Operating Limit applicable at any time shall be determined by reference to that schedule.

**Capacity Reservation Cap:** As defined in the ISO OATT.

**CARL Data:** Control Area Resource and Load (“CARL”) data submitted by Control Area System Resources to the ISO.

**Centralized Transmission Congestion Contracts (“TCC”) Auction (“Auction”):** As defined in the ISO OATT.

**Co-located Storage Resources (“CSR”):** A wind or solar Intermittent Power Resource and an Energy Storage Resource that: (a) are both located behind a single Point of Injection (as defined in Section 1.16 of the OATT); (b) participate in the ISO Administered Markets as two distinct Generators; and (c) share a set of CSR Scheduling Limits. Resources that serve a Host Load may not participate in the ISO-Administered Markets as components of a CSR.

**Code of Conduct:** The rules, procedures and restrictions concerning the conduct of the ISO directors and employees, contained in Attachment F to the ISO Open Access Transmission Tariff.

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

**Commission (“FERC”):** The Federal Energy Regulatory Commission, or any successor agency.

**Compensable Overgeneration:** A quantity of Energy injected over a given RTD interval in which a Supplier has offered Energy that exceeds the Real-Time Scheduled Energy Injection established by the ISO for that Supplier and for which the Supplier may be paid pursuant to this Section and ISO Procedures.

For Suppliers not covered by other provisions of this Section and Intermittent Power Resources depending on wind or solar energy as their fuel for which the ISO has imposed a Wind and Solar Output Limit in the given RTD interval, Compensable Overgeneration shall initially equal three percent ( 3%) of the Supplier’s Normal Upper Operating Limit which may be modified by the ISO if necessary to maintain good Control Performance.

For a Generator: (i) which is operating in Start-Up or Shutdown Periods, or Testing Periods; or (ii) which is a Limited Control Run of River Hydro Resource that has offered its Energy to the ISO in a given interval not using the ISO-committed Flexible or Self-Committed Flexible bid mode; or (iii) which is an Intermittent Power Resource that depends on landfill gas for its fuel and has offered its Energy to the ISO in a given interval not using the ISO-committed Flexible or Self-Committed Flexible bid mode; or (iv) which is an Intermittent Power Resource that depends on wind or solar energy for its fuel, Compensable Overgeneration shall mean all Energy actually injected by the Generator that exceeds the Real-Time Scheduled Energy Injection established by the ISO for that Generator; provided however, this definition of Compensable Overgeneration shall not apply to an Intermittent Power Resource depending on wind or solar energy as its fuel for any interval for which the ISO has imposed a Wind and Solar Output Limit. For a Generator operating in intervals when it has been designated as operating Out of Merit at the request of a Transmission Owner or the ISO, Compensable Overgeneration shall mean all Energy actually injected by the Generator that exceeds the Real-Time

Scheduled Energy Injection up to the Energy level directed by the Transmission Owner or the ISO.

For a Generator comprised of a group of generating units at a single location, which grouped generating units are separately committed and dispatched by the ISO, and for which Energy injections are measured at a single location, Compensable Overgeneration shall mean that quantity of Energy injected by the Generator, during the period when one of its grouped generating units is operating in a Start-Up or Shutdown Period, that exceeds the Real-Time Scheduled Energy Injection established by the ISO for that period, for that Generator, and for which the Generator may be paid pursuant to ISO Procedures.

**Completed Application:** An Application that satisfies all of the information and other requirements for service under the ISO Services Tariff.

**Confidential Information:** Information and/or data that has been designated by a Customer to be proprietary and confidential, provided that such designation is consistent with the ISO Procedures, the ISO Services Tariff, and the ISO Code of Conduct.

**Congestion:** A characteristic of the transmission system produced by a constraint on the optimum economic operation of the power system, such that the marginal price of Energy to serve the next increment of Load, exclusive of losses, at different locations on the transmission system is unequal.

**Congestion Component:** The component of the LBMP measured at a location or the Transmission Usage Charge between two locations that is attributable to the cost of transmission Congestion as is more completely defined in Attachment B of the Services Tariff.

**Congestion Rent:** As defined in the ISO OATT.

**Congestion Rent Shortfall:** As defined in the ISO OATT.

**Constraint:** An upper or lower limit placed on a variable or set of variables that are used by the ISO in its SCUC, RTC, or RTD programs to control and/or facilitate the operation of the NYS Transmission System.

**Contingency:** An actual or potential unexpected failure or outage of a system component, such as a Generator, transmission line, circuit breaker, switch or other electrical element. A Contingency also may include multiple components, which are related by situations leading to simultaneous component outages.

**Control Area:** An electric system or combination of electric power systems to which a common Automatic Generation Control scheme is applied in order to: (1) match, at all times, the power output of the Generators within the electric power system(s) and Capacity and Energy purchased from entities outside the electric power system(s), with the Load within the electric power system(s); (2) maintain scheduled interchange with other Control Areas, within the limits of Good Utility Practice; (3) maintain the frequency of the electric power system(s) within

reasonable limits in accordance with Good Utility Practice; and (4) provide sufficient Capacity to maintain Operating Reserves in accordance with Good Utility Practice.

**Control Area System Resource:** A set of Resources owned or controlled by an entity within a Control Area that also is the operator of such Control Area. Entities supplying Unforced Capacity using Control Area System Resources will not designate particular Resources as the suppliers of Unforced Capacity.

**Control Performance:** A standard for measuring the degree to which a Control Area is providing Regulation Service in conformance with NERC requirements.

**Controllable Transmission:** Any Transmission facility over which power-flow can be directly controlled by power-flow control devices without having to re-dispatch generation.

**Credible Repair Plan:** A Repair Plan that meets the requirements described in Section 5.18.1.4 of this Services Tariff and in ISO Procedures.

**Credit Assessment:** An assessment of a Customer's creditworthiness, conducted by the ISO in accordance with Section 26.5.3 of Attachment K to this Services Tariff.

**Cross-Sound Scheduled Line:** A transmission facility that interconnects the NYCA to the New England Control Area at Shoreham, New York and terminates near New Haven, Connecticut.

**CSR Scheduling Limits:** The CSR injection Scheduling Limit sets the maximum, combined Regulation Capacity, Operating Reserve and Energy injection schedules for, and the maximum net injection by a CSR's Generators. The CSR withdrawal Scheduling Limit sets the maximum, combined Regulation Capacity and Energy withdrawal schedules for, and the maximum net withdrawal by a CSR's Generators.

The Market Participant that is responsible for submitting Bids for a set of CSR Generators shall submit a CSR injection Scheduling Limit and a CSR withdrawal Scheduling Limit with the hourly Day-Ahead and Real-Time Market Bids it submits for each of the CSR Generators. The CSR Scheduling Limit values that the Market Participant submits must reflect the physical capability to inject or withdraw Energy at the Point of Injection/Point of Withdrawal.

To address the real-time variability of Energy deliveries from wind and solar Intermittent Power Resources that participate as Co-located Storage Resources, when the participating Energy Storage Resource has a non-zero Regulation and/or Operating Reserves schedule or is dispatched to inject Energy, and the sum of the participating Energy Storage Resource's and the participating wind or solar Intermittent Power Resource's Energy, Regulation Service and Operating Reserves Schedules is greater than or equal to a specified percentage of the CSR injection Scheduling Limit, then the ISO will issue a Wind and Solar Output Limit to the Intermittent Power Resource to not exceed its Base Point Signal. The specified percentage that is ordinarily used will be posted on the ISO's website.

**CTS Enabled Interface:** An External Interface at which the ISO has authorized the use of Coordinated Transaction Scheduling ("CTS") market rules and which includes a CTS Enabled

Proxy Generator Bus for New York and a CTS Enabled Proxy Generator Bus for the neighboring Control Area.

**CTS Enabled Proxy Generator Bus:** A Proxy Generator Bus at which the ISO either requires or permits the use of CTS Interface Bids for Import and Export Transactions in the Real-Time Market and requires the use of Decremental Bids for Wheels Through in the Real-Time Market. A CTS Enabled Proxy Generator Bus at which the ISO permits CTS Interface Bids will also permit Decremental and Sink Price Cap Bids.

**CTS Interface Bid:** A Real-Time Bid provided by an entity engaged in an External Transaction at a CTS Enabled Interface. CTS Interface Bids shall include a MW amount, a direction indicating whether the proposed Transaction is to Import Energy to, or Export Energy from, the New York Control Area, and a Bid Price.

**CTS Sink:** Representation of the location(s) within a Control Area where energy associated with a CTS Interface Bid is withdrawn. The NYCA CTS Sinks are Proxy Generator Buses.

**CTS Sink Price:** The price at a CTS Sink.

**CTS Source:** Representation of the location(s) within a Control Area where energy associated with a CTS Interface Bid is injected. The NYCA CTS Sources are Proxy Generator Buses.

**CTS Source Price:** The price at a CTS Source.

**Curtailement or Curtail:** A reduction in Transmission Service in response to a transmission Capacity shortage as a result of system reliability conditions.

**Curtailement Customer Aggregator:** A Curtailement Services Provider that produces real-time verified reductions in NYCA load of at least 100 kW through contracts with retail end-users. The procedure for qualifying as a Curtailement Customer Aggregator is set forth in ISO procedures.

**Curtailement Initiation Cost:** The fixed payment, separate from a variable Demand Reduction Bid, required by a qualified Demand Reduction Provider in order to cover the cost of reducing demand.

**Curtailement Services Provider:** A qualified entity that can produce real-time, verified reductions in NYCA Load of at least 100 kW in a single Load Zone, pursuant to the Emergency Demand Response Program and related ISO procedures. The procedure for qualifying as a Curtailement Services Provider is set forth in Section 3 below and in ISO Procedures.

**Curtailement Services Provider Capacity:** Capacity from a Demand Side Resource nominated by a Curtailement Services Provider for participation in the Emergency Demand Response Program.

**Customer:** An entity which has complied with the requirements contained in the ISO Services Tariff, including having signed a Service Agreement, and is qualified to utilize the Market Services and the Control Area Services provided by the ISO under the ISO Services Tariff;

provided, however, that a party taking services under the Tariff pursuant to an unsigned Service Agreement filed with the Commission by the ISO shall be deemed a Customer.

## 23.2 Conduct Warranting Mitigation

### 23.2.1 Definitions

The following definitions are applicable to this Attachment H:

For purposes of Section 23.4.5 of this Attachment H, “**Additional CRIS MW**” shall mean the MW of Capacity for which CRIS was requested for an Examined Facility pursuant to the provisions in ISO OATT Sections 25, 30, or 32 (OATT Attachments S, X, or Z), including either: (i) all, or a portion, of the MW of Capacity of that Examined Facility for which CRIS had not been obtained in prior Class Years through a prior Class Year process or through a transfer completed in accordance with OATT Section 25 (OATT Attachment S); and/or (ii) all, or a portion, of an increase in the Capacity of that Examined Facility. Additional CRIS MW does not include any MW quantity of CRIS that is exempt from an Offer Floor pursuant to Section 23.4.5.7.7(a) or (b), Section 23.4.5.7.8, or an increase of 2 MW or less in an Examined Facility’s MW quantity of CRIS obtained pursuant to Section 30.3.2.6 of Attachment X to the OATT.

“**Additional SDU Study**” shall mean a deliverability study that a Developer may elect to pursue as that term is defined in OATT Section 25 (OATT Attachment S).

For purposes of Section 23.4.5 of this Attachment H, “**Affiliated Entity**” shall mean, with respect to a person or Entity:

- i) all persons or Entities that directly or indirectly control such person or Entity;
- ii) all persons or Entities that are directly or indirectly controlled by or under common control with such person or Entity, and (1) are authorized under ISO Procedures to participate in a market for Capacity administered by the ISO, or (2) possess, directly or indirectly, an ownership, voting or equivalent interest of ten percent or more in a Mitigated Capacity Zone Installed Capacity Supplier;
- iii) all persons or Entities that provide services to such person or Entity, or for which such person or Entity provides services, if such services relate to the determination or submission of offers for Unforced Capacity in a market administered by the ISO or offers of capacity from a Generator electrically located in a MCZ Import Constrained Locality; or
- iv) all persons or Entities, except if for ISP UCAP MW or an RMR Generator, with which such person or Entity has any form of agreement under which such person or Entity has retained or has conferred rights of (i) Control of Unforced Capacity or (ii) the ability to determine the quantity or price of offers to supply capacity from a Generator that has Capacity Resource Interconnection Service, pursuant to the applicable provisions of Attachment X, Attachment S and Attachment Z and is electrically located in an MCZ Import Constrained Locality, even if such capacity does not meet the requirements to be Unforced Capacity.



In the foregoing definition, “**control**” means the possession, directly or indirectly, of the power to direct the management or policies of a person or Entity, and shall be rebuttably presumed from an ownership, voting or equivalent interest of ten percent or more.

**Catastrophic Failure:** shall mean a Forced Outage initially suffered by a Generator which would have reasonably required a repair time of at least 270 days, from the date of the event resulting in the Forced Outage, had it, or a comparable Forced Outage been suffered at a generating facility that is reasonably the same as or similar to the Generator’s, the owner of which is intending to return it to service. Repair time includes the reasonable number of days for initial clean up, safety inspections, engineering assessment; damage assessment, cost estimates; site prep and clean up, equipment orders, and actual repair, provided the foregoing are necessitated by the Catastrophic Failure. The determination that a Generator has suffered a Catastrophic Failure shall be based on a technical/engineering evaluation, shall be made by the ISO, and may be made at any time following the event that caused the Forced Outage provided that adequate information is provided to the ISO to support such determination.

“**Class Year Study**” means a Class Year Interconnection Facilities Study as that term is defined in OATT Section 25 (OATT Attachment S).

“**Cleared UCAP**” means the amount of MW (rounded down to the nearest tenth of a MW) that had been subject to an Offer Floor but has cleared in accordance with Section 23.4.5.7.

“**Commenced Construction**” shall mean (a) all of the following site preparation work is completed: ingress and egress routes exist; the site on which the Project will be located is cleared and graded; there is power service to the site; footings are prepared; and foundations have been poured consistent with purchased equipment specifications and project design; or (b) the following financial commitments have been made: (i) (A) an engineering, procurement, and construction contract (“EPC”) has been executed by all parties and is effective; or (B) contracts (collectively, “EPC Equivalents”) for all of the following have been executed by all parties and is effective: (1) project engineering, (2) procurement of all major equipment, and (3) construction of the Project, and (ii) the cumulative payments made by the Developer under the EPC or EPC Equivalents to the counterparties to those respective agreements is equal to at least thirty (30) percent of the total costs of the EPC or EPC Equivalents.

“**Competitive and Non-Discriminatory Hedging Contract**” shall mean a contract to hedge a risk associated with a product offered in the ISO Administered Markets between a Non-Qualifying Entry Sponsor and the Developer, Owner or Operator of an Examined Facility with a term that shall not exceed three years (inclusive of all options to extend and extensions) and that the ISO determines has been executed pursuant to a procurement process that satisfies the requirements enumerated below. Competitive and Non-Discriminatory Hedging Contracts shall not be deemed to be a non-qualifying contractual relationship that would prevent an Examined Facility from obtaining a Competitive Entry Exemption pursuant to 23.4.5.7.9 of Attachment H of this Services Tariff. The ISO shall determine that a contract is a Competitive and Non-Discriminatory Hedging Contract only if it concludes, and the Non-Qualifying Entry Sponsor executes a certification confirming that, the contract was executed through a procurement process that met all of the following requirements: (A) both new and existing resources satisfy the requirements of the procurement; (B) the requirements of the procurement were fully

objective and transparent ; (C) the contract was awarded based on the lowest cost offers of qualified bidders that responded to the solicitation; (D) the procurement terms did not restrict the type of capacity resources that may participate in, and satisfy the requirements of, the procurement; (E) the procurement terms did not include selection criteria that could otherwise give preference to new resources; and (F) the procurement terms did not use indirect means to discriminate against existing resources, including, but not limited to, by imposing geographic constraints, unit fuel requirements, maximum unit heat-rate requirements or requirements for new construction.

“**Constrained Area**” shall mean: (a) the In-City area, including any areas subject to transmission constraints within the In-City area that give rise to significant locational market power; and (b) any other area in the New York Control Area that has been identified by the ISO as subject to transmission constraints that give rise to significant locational market power, and that has been approved by the Commission for designation as a Constrained Area.

For purposes of Section 23.4.5 of this Attachment H, “**Control**” with respect to Unforced Capacity shall mean the ability to determine the quantity or price of offers to supply Unforced Capacity from a Mitigated Capacity Zone Installed Capacity Supplier submitted into an ICAP Spot Market Auction; but excluding ISP UCAP MW or UCAP from an RMR Generator.

For purposes of Section 23.4.5.7 “**CRIS MW**” shall mean the MW of Capacity for which CRIS was assigned to a Generator or UDR project pursuant to ISO OATT Sections 25, 30, or 32 (OATT Attachments S, X, or Z).

“**Developer**” shall have the meaning specified in the ISO’s Open Access Transmission Tariff.

“**Electric Facility**” shall mean a Generator or an electric transmission facility.

For purposes of Section 23.4.5 of this Attachment H, “**Entity**” shall mean a corporation, partnership, limited liability corporation or partnership, firm, joint venture, association, joint-stock company, trust, unincorporated organization or other form of legal or juridical organization or entity.

“**Examined Facility**” shall mean (I) each proposed new Generator and proposed new UDR project, and each existing Generator that has ERIS only and no CRIS, that is a member of the Class Year Study, Additional SDU Study or Expedited Deliverability Study that requested CRIS, or that requested an evaluation of the transfer of CRIS rights from another location in the Class Year Facilities Study commencing in the calendar year in which the Class Year Facility Study determination is being made (the Capability Periods of expected entry as further described below in this Section, the “Mitigation Study Period”), and (II) each (i) existing Generator that did not have CRIS rights, and (ii) proposed new Generator and proposed new UDR project, provided such Generator under Subsection (i) or (ii) is an expected recipient of transferred CRIS rights at the same location regarding which the ISO has been notified by the transferor or the transferee of a transfer pursuant to OATT Attachment S Section 25.9.4 that will be effective on a date within the Mitigation Study Period (“Expected CRIS Transferee”). In the case of Co-located Storage Resources, the Intermittent Power Resource and the co-located Energy Storage Resource will each be a separate Examined Facility for purposes of the Buyer Side Mitigation Measures

enumerated in Section 23.4.5.7 *et al.* of the Services Tariff. The term “Examined Facilities” does not include any facility exempt from an Offer Floor pursuant to the provisions of Section 23.4.5.7.7.

**Exceptional Circumstances:** shall mean one or more unavoidable circumstances, as determined by the ISO, that individually or collectively render as unavailable the data necessary for the ISO to perform an audit and review of a Market Party, pursuant to Section 23.4.5.6.2 of this Services Tariff. Exceptional Circumstances may include, but are not limited to: the inaccessibility of the physical facility; the inaccessibility of necessary documentation or other data; and the unavailability of information regarding the regulatory obligations with which the Market Party will be required to comply in order to return its Generator to service which regulatory obligations are not yet known but which will be made known by the applicable regulatory authority under existing laws and regulations provided that none of the above described circumstances are the result of delay or inaction by the Market Party. The magnitude of the repair cost, alone, shall not be an Exceptional Circumstance.

**“Exempt Renewable Technology”** shall mean, in all Mitigated Capacity Zones, an Intermittent Power Resource solely powered by wind or solar energy.

**“Expedited Deliverability Study”** shall mean a deliverability study that an eligible Developer may elect to pursue as that term is defined in OATT Section 25 (OATT Attachment S) that may determine the extent to which an existing or proposed facility satisfies the NYISO Deliverability Interconnection Standard at its requested CRIS level without the need for System Deliverability Upgrades. The schedule and scope of the study is defined in Sections 25.5.9.2.1 and 25.7.1.2 of this Attachment S.

**“Final Decision Round”** shall have the meaning specified in Section 25 (Attachment S) of the ISO’s Open Access Transmission Tariff.

For purposes of Section 23.4.5 of this Attachment H, **“Going-Forward Costs”** shall mean: either (a) the costs, including but not limited to mandatory capital expenditures necessary to comply with federal or state environmental, safety or reliability requirements that must be met in order to supply Installed Capacity, net of anticipated energy and ancillary services revenues, as determined by the ISO as specified in Section 23.4.5.3, for each of the following instances, as applicable, of supplying Installed Capacity that could be avoided if an Installed Capacity Supplier otherwise capable of supplying Installed Capacity were either (1) to cease supplying Installed Capacity and Energy for a period of one year or more while retaining the ability to re-enter such markets, or (2) to retire permanently from supplying Installed Capacity and Energy; or (b) the opportunity costs of foregone sales outside of a Mitigated Capacity Zone, net of costs that would have been incurred as a result of the foregone sale if it had taken place.

For purposes of Section 23.4.5 of this Attachment H, **“Indicative Mitigation Net CONE”** shall mean the capacity price calculated by the NYISO for informational purposes only if there is not an effective ICAP Demand Curve and the Commission (i) has accepted an ICAP Demand Curve for the Mitigated Capacity Zone that will become effective when the Mitigated Capacity Zone is first effective, in which case, the Indicative Mitigation Net CONE shall be the capacity price on such ICAP Demand Curve for the Mitigated Capacity Zone corresponding to the average amount

of excess capacity above the Indicative NCZ Locational Minimum Installed Capacity Requirement, as applicable, expressed as a percentage of that requirement that formed the basis for the ICAP Demand Curve accepted by the Commission; or, (ii) has not accepted an ICAP Demand Curve for the Mitigated Capacity Zone, but the ISO has filed an ICAP Demand Curve for the Mitigated Capacity Zone pursuant to Services Tariff Section 5.14.1.2.2.4.11, in which case the Indicative Mitigation Net CONE shall be the capacity price on such ICAP Demand Curve corresponding to the average amount of excess capacity above the Indicative NCZ Locational Minimum Installed Capacity Requirement, expressed as a percentage of that requirement, that formed the basis for such ICAP Demand Curve.

**“Incremental Regulatory Retirement”** shall mean, for purposes of Section 23.4.5 of this Attachment H, the loss of ICAP Supply MW identified by the ISO in accordance with Section 23.4.5.7.13.5.3 in Class Year 2019, and subsequent Class Year Studies, Additional SDU Studies, and Expedited Deliverability Studies that start after July 1, 2020 and will be used in the ISO’s calculation of the Renewable Exemption Limit.

**“Initial Decision Period”** shall have the meaning specified in Section 25 (Attachment S) of the ISO’s Open Access Transmission Tariff.

**“Interconnection Customer”** shall have the meaning specified in Section 32 (Attachment Z) of the ISO’s Open Access Transmission Tariff.

**“Interconnection Facilities Study Agreement”** shall have the meaning specified in Section 30 (Attachment X) of the ISO’s Open Access Transmission Tariff.

**“Market Monitoring Unit”** shall have the same meaning in these Mitigation Measures as it has in Attachment O.

**“Market Party”** shall mean any person or entity that is, or for purposes of the determinations to be made pursuant to Section 23.4.5.7 of this Attachment H proposes or plans a Project that would be, a buyer and/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 including through the submission of bids or offers into any External Control Area, or any combination of the foregoing.

**“Minimum Renewable Exemption Limit”** shall mean, for purposes of Section 23.4.5 of this Attachment H, the UCAP value calculated by the ISO in Class Year 2019 and subsequent Class Year Studies in accordance with Section 23.4.5.7.13.5.1 to be used in the ISO’s calculation of the Renewable Exemption Limit.

**“Mitigation Study Period”** shall mean the duration of time extending six consecutive Capability Periods and beginning with the Starting Capability Period associated with a Class Year Study, Additional SDU Study, and/or Expedited Deliverability Study.

For purposes of Section 23.4.5 of this Attachment H, **“Mitigated UCAP”** shall mean one or more megawatts of Unforced Capacity that are subject to Control by a Market Party that has been identified by the ISO as a Pivotal Supplier.

For purposes of Section 23.4.5 of this Attachment H, “**Mitigation Net CONE**” shall mean the capacity price on the currently effective ICAP Demand Curve for the Mitigated Capacity Zone corresponding to the average amount of excess capacity above the Mitigated Capacity Zone Installed Capacity requirement, expressed as a percentage of that requirement, that formed the basis for the ICAP Demand Curve approved by the Commission.

“**NCZ Examined Project**” shall mean any Generator or UDR project that is not exempt pursuant to 23.4.5.7.8 and either (i) is in a Class Year on the date the Commission accepts the first ICAP Demand Curve to apply to a Mitigated Capacity Zone or (ii) meets the criteria specified in 23.4.5.7.3(II). An NCZ Examined Project may be at any phase of development or in operation or an Installed Capacity Supplier.

For purposes of Section 23.4.5 of this Attachment H, “**Net CONE**” shall mean the localized levelized embedded costs of a peaking unit in a Mitigated Capacity Zone, net of the likely projected annual Energy and Ancillary Services revenues of such unit, as determined in connection with establishing the Demand Curve for a Mitigated Capacity Zone pursuant to Section 5.14.1.2 of the Services Tariff, or as escalated as specified in Section 23.4.5.7 of Attachment H.

“**New Capacity**” shall mean a new Generator, a substantial addition to the capacity of an existing Generator, or the reactivation of all or a portion of a Generator that has been out of service for five years or more that commences commercial service after the effective date of this definition.

For purposes of Section 23.4.5 of this Attachment H, “**Offer Floor**” for a Mitigated Capacity Zone Installed Capacity Supplier that is not a Special Case Resource shall mean the lesser of (i) a numerical value equal to 75% of the Mitigation Net CONE translated into a seasonally adjusted monthly UCAP value (“Mitigation Net CONE Offer Floor”), or (ii) the numerical value that is the first year value of the Unit Net CONE determined as specified in Section 23.4.5.7, translated into a seasonally adjusted monthly UCAP value using an appropriate class outage rate, (“Unit Net CONE Offer Floor”). The Offer Floor for a Mitigated Capacity Zone Installed Capacity Supplier that is a Special Case Resource shall mean a numerical value determined as specified in Section 23.4.5.7.5. The Offer Floor for Additional CRIS MW shall mean a numerical value determined as specified in Section 23.4.5.7.6.

For the purposes of Section 23.4.5 of this Attachment H, “**Non-Qualifying Entry Sponsors**” shall mean a Transmission Owner, Public Power Entity, or any other entity with a Transmission District in the NYCA, or an agency or instrumentality of New York State or a political subdivision thereof.

“**Owner**” shall have the meaning specified in Section 31.1.1 of the ISO’s Open Access Transmission Tariff.

For purposes of Section 23.4.5 of this Attachment H, “**Pivotal Supplier**” shall mean (i) for the New York City Locality, a Market Party that, together with any of its Affiliated Entities, (a) Controls 500 MW or more of Unforced Capacity, and (b) Controls Unforced Capacity some portion of which is necessary to meet the New York City Locality Locational Minimum Installed

Capacity Requirement in an ICAP Spot Market Auction; (ii) for the G-J Locality, a Market Party that, together with any of its Affiliated Entities, (a) Controls 650 MW or more of Unforced Capacity; and (b) Controls Unforced Capacity some portion of which is necessary to meet the G-J Locality Locational Minimum Installed Capacity Requirement in an ICAP Spot Market Auction; and (iii) for each Mitigated Capacity Zone except the New York City Locality and the G-J Locality, if any, a Market Party that Controls at least the quantity of MW of Unforced Capacity specified for the Mitigated Capacity Zone and accepted by the Commission. Unforced Capacity that are MW of an External Sale of Capacity shall not be included in the foregoing calculations

“**Project Cost Allocation**” shall have the meaning specified in Section 25 (Attachment S) of the ISO’s Open Access Transmission Tariff.

“**Project**” shall have the meaning specified in Section 30.1 of the ISO’s Open Access Transmission Tariff.

For purposes of Section 23.4.5 of this Attachment H, “**Responsible Market Party**” shall mean the Market Party that is authorized, in accordance with ISO Procedures, to submit offers in an ICAP Spot Market Auction to sell Unforced Capacity from a specified Installed Capacity Supplier.

“**Qualified Renewable Exemption Applicant**” shall mean a Renewable Exemption Applicant that the ISO has determined met the requirements to receive a Renewable Exemption as specified in Section 23.4.5.7.13.1.1 and may be awarded a Renewable Exemption as part of Class Year 2019, and any subsequent Class Year Studies, Additional SDU Studies or Expedited Deliverability Studies subject to the Renewable Exemption Limit calculated and implemented by the ISO as described in Sections 23.4.5.7.13.5 and 23.4.5.7.13.6 of this Attachment H to the Services Tariff.

“**Renewable Exemption Applicant**” shall mean, for purposes of Section 23.4.5 of this Attachment H, a Developer of an Examined Facility in Class Year 2019, and any subsequent Class Year Studies, Additional SDU Studies or Expedited Deliverability Studies that has requested that the ISO evaluate the Examined Facility for a Renewable Exemption. A UDR project may not be a Renewable Exemption Applicant, however, the Intermittent Power Resource that participates in a CSR may be a Renewable Exemption Applicant and Qualified Renewable Exemption Applicant.

“**Renewable Exemption Bank**” shall mean the amount of UCAP MW calculated separately for each Mitigated Capacity Zone by the ISO to remain available as described in Section 23.4.5.7.13.5.5 from the most recently completed Class Year Study, Additional SDU Study or Expedited Deliverability Study after deducting the UCAP equivalent MW of awarded Renewable Exemptions in that most recent study from the Renewable Exemption Limit.

“**Renewable Exemption Limit**” shall mean the maximum amount of UCAP MW calculated by the ISO in accordance with Section 23.4.5.7.13.5.5 in Class Year 2019 and any subsequent Class Year Studies, Additional SDU Studies, and Expedited Deliverability Studies that start after July

1, 2020 that is available for Qualified Renewable Exemption Applicants to receive Renewable Exemptions pursuant to section 23.4.5.7.13.

**“Revised Project Cost Allocation”** shall have the meaning specified in Section 25 (Attachment S) of the ISO’s Open Access Transmission Tariff.

**“Self Supply LSE”** shall mean a Load Serving Entity in one or more Mitigated Capacity Zones that operates under a long-standing business model to meet more than fifty percent of its Load obligations through its own generation and that is (i) a municipally owned electric system that owns or controls distribution facilities and provides electric service, (ii) a cooperatively owned electric system that owns or controls distribution facilities and provides electric service,, (iii) a “Single Customer Entity,” or (iv) a “Vertically Integrated Utility.” A Self Supply LSE cannot be an entity that is a public authority or corporate municipal instrumentality, including a subsidiary thereof, created by the State of New York that owns or operates generation or transmission and that is authorized to produce, transmit or distribute electricity for the benefit of the public. For purposes of this definition only: “Vertically Integrated Utility” means a utility that owns generation, includes such generation in a non-bypassable charge in its regulated rates, earns a regulated return on its investment in such generation, and that as of the date of its request for a Self Supply Exemption, has not divested more than seventy-five percent of its generation assets owned on May 20, 1996; and “Single Customer Entity” means an LSE that serves at retail only customers that are under common control with such LSE, where such control means holding 51% or more of the voting securities or voting interests of the LSE and all its retail customers.

**“Starting Capability Period”** is the Summer Capability Period that will commence three years from the start of the year of the Class Year Study and shall be the start of the Mitigation Study Period for any Examined Facility in a Class Year Study, as well as any Additional SDU Studies and Expedited Deliverability Studies and that are completed while the Class Year Study is ongoing. If no Class Year Study is ongoing when an Expedited Deliverability Study or Additional SDU Study arrives at the Decision Period, the Starting Capability Period used for the purposes of Section 23.4.5 of this Attachment H shall be the Starting Capability Period that applied to the most recently completed Class Year Study.

**“Subsequent Decision Period”** shall have the meaning specified in Section 25 (Attachment S) of the ISO’s Open Access Transmission Tariff.

For purposes of Section 23.4.5 of this Attachment H, **“Surplus Capacity”** shall mean the amount of Installed Capacity, in MW, available in a Mitigated Capacity Zone in excess of the Locational Minimum Installed Capacity Requirement for such Mitigated Capacity Zone.

**“Total Evaluated CRIS MW”** shall mean the Additional CRIS MW requested plus either (i) if the Installed Capacity Supplier previously received an exemption under Sections 23.4.5.7.2(b), 23.4.5.7.6(b), 23.4.5.7.7 or 23.4.5.7.8, all prior Additional CRIS MW since the facility was last exempted under Sections 23.4.5.7.2(b), 23.4.5.7.6(b), or 23.4.5.7.8, or (ii) for all other Installed Capacity Suppliers, all MW of Capacity for which an Examined Facility obtained CRIS pursuant to the provisions in ISO OATT Sections 25, 30, or 32 (OATT Attachments S, X, or Z).

For purposes of Section 23.4.5 of this Attachment H, “**UCAP Offer Reference Level**” shall mean a dollar value equal to the projected clearing price for each ICAP Spot Market Auction determined by the ISO on the basis of the applicable ICAP Demand Curve and the total quantity of Unforced Capacity from all Installed Capacity Suppliers in a Mitigated Capacity Zone for the period covered by the applicable ICAP Spot Market Auction.

For purposes of Section 23.4.5 of this Attachment H, “**Unit Net CONE**” shall mean localized levelized embedded costs of a specified Installed Capacity Supplier, including interconnection costs, and for an Installed Capacity Supplier located outside a Mitigated Capacity Zone including embedded costs of transmission service, in either case net of likely projected annual Energy and Ancillary Services revenues, and revenues associated with other energy products (such as energy services and renewable energy credits, as determined by the ISO, translated into a seasonally adjusted monthly UCAP value using an appropriate class outage rate. The Unit Net CONE of an Installed Capacity Supplier that has functions beyond the generation or transmission of power shall include only the embedded costs allocated to the production and transmission of power, and shall not net the revenues from functions other than the generation or transmission of power.

“**Unforced Capacity Reserve Margin**” or “**URM**” shall mean the megawatt value calculated by the ISO when converting the (a) the Installed capacity Reserve Margin (IRM) for the NYCA or (b) the Locational Minimum Installed Capacity Requirement (LCR) for a given Locality within the NYCA into UCAP terms using ICAP to UCAP conversion factors consistent with the corresponding resource adequacy study.

### **23.2.2 Conduct Subject to Mitigation**

Mitigation Measures may be applied: (i) to the bidding, scheduling or operation of an “Electric Facility”; or (ii) as specified in Section 23.2.4.2.

### **23.2.3 Conditions for the Imposition of Mitigation Measures**

23.2.3.1 To achieve the foregoing purpose and objectives, Mitigation Measures should only be imposed to remedy conduct that would substantially distort or impair the competitiveness of any of the ISO Administered Markets.

Accordingly, the ISO shall seek to impose Mitigation Measures only to remedy conduct that:

23.2.3.1.1 is significantly inconsistent with competitive conduct; and



23.2.3.1.2 would result in a material change in one or more prices in an ISO Administered Market or production cost guarantee payments (“guarantee payments”) to a Market Party.

23.2.3.2 In general, the ISO shall consider a Market Party's or its Affiliates' conduct to be inconsistent with competitive conduct if the conduct would not be in the economic interest of the Market Party or its Affiliates in the absence of market power. The categories of conduct that are inconsistent with competitive conduct include, but may not be limited to, the three categories of conduct specified in Section 23.2.4 below.

#### **23.2.4 Categories of Conduct that May Warrant Mitigation**

23.2.4.1 The following categories of conduct, whether by a single firm or by multiple firms acting in concert, may cause a material effect on prices or guarantee payments in an ISO Administered Market if exercised from a position of market power. Accordingly, the ISO shall monitor the ISO Administered Markets for the following categories of conduct, and shall impose appropriate Mitigation Measures if such conduct is detected and the other applicable conditions for the imposition of Mitigation Measures are met:

23.2.4.1.1 Physical withholding of an Electric Facility, that is, not offering to sell or schedule the output of or services provided by an Electric Facility capable of serving an ISO Administered Market. Such withholding may include, but not be limited to, (i) falsely declaring that an Electric Facility has been forced out of service or otherwise become unavailable, (ii) refusing to offer Bids or schedules for an Electric Facility when such conduct would not be in the economic interest

of the Market Party or its Affiliates in the absence of market power (includes refusing to offer Bids or schedules to withdraw Energy for a Generator that must withdraw Energy in order to be able to later inject Energy); (iii); making an unjustifiable change to one or more operating parameters of a Generator that reduces its ability to provide Energy or Ancillary Services or (iv) operating a Generator in real-time at a lower output level than the Generator would have been expected to produce had the Generator followed the ISO's dispatch instructions, in a manner that is not attributable to the Generator's verifiable physical operating capabilities and that would not be in the economic interest of the Market Party or its Affiliates in the absence of market power.

For purposes of this Section and Section 23.4.3.2, the term "unjustifiable change" shall mean a change in an Electric Facility's operating parameters that is: (a) not attributable to the Electric Facility's verifiable physical operating capabilities, and (b) is not a rational competitive response to economic factors other than market power.

23.2.4.1.2 Economic withholding of an Electric Facility, that is, submitting Bids for an Electric Facility that are unjustifiably high so that (i) the Electric Facility is not or will not be dispatched or scheduled, or (ii) the Bids will set a market clearing price; or submitting Bids for a Withdrawal-Eligible Generator to withdraw Energy that are unjustifiably high, so that (i) the Electric Facility is or will be dispatched or scheduled to withdraw Energy, or (ii) the Bids will set a market clearing price.

- 23.2.4.1.3 Uneconomic production from an Electric Facility, that is, increasing the output of an Electric Facility to levels that would otherwise be uneconomic in order to cause, and obtain benefits from, a transmission constraint.
- 23.2.4.2 Mitigation Measures may also be imposed, subject to FERC's approval, to mitigate the market effects of a rule, standard, procedure or design feature of an ISO Administered Market that allows a Market Party or its Affiliate to manipulate market prices or otherwise impair the efficient operation of that market, pending the revision of such rule, standard, procedure or design feature to preclude such manipulation of prices or impairment of efficiency.
- 23.2.4.3 Taking advantage of opportunities to sell at a higher price or buy at a lower price in a market other than an ISO Administered Market shall not be deemed a form of withholding or otherwise inconsistent with competitive conduct.
- 23.2.4.4 The ISO and the Market Monitoring Unit shall monitor the ISO Administered Markets for other categories of conduct, whether by a single firm or by multiple firms acting in concert, that have material effects on prices or guarantee payments in an ISO Administered Market. The ISO shall: (i) seek to amend the foregoing list as may be appropriate, in accordance with the procedures and requirements for amending the Plan, to include any such conduct that would substantially distort or impair the competitiveness of any of the ISO Administered Markets; and (ii) seek such other authorization to mitigate the effects of such conduct from the FERC as may be appropriate. The responsibilities of the Market

Monitoring Unit that are addressed in this section of the Mitigation Measures are also addressed in Section 30.4.6.2.2 of Attachment O.

## **23.3 Criteria for Imposing Mitigation Measures**

### **23.3.1 Identification of Conduct Inconsistent with Competition**

Conduct that may potentially warrant the imposition of a mitigation measure includes the categories described in Section 23.2.4 above, which shall be detected through the use of indices and screens developed, adopted and made available as specified in Attachment O. The thresholds listed in Sections 23.3.1.1 to 23.3.1.3 below shall be used to identify substantial departures from competitive conduct indicative of an absence of workable competition.

#### **23.3.1.1 Thresholds for Identifying Physical Withholding**

23.3.1.1.1 The following initial thresholds will be employed by the ISO to identify physical withholding of a Generator or generation by a Market Party and its Affiliates:

23.3.1.1.1.1 Except for conduct addressed in Section 23.3.1.1.1.2: Withholding that exceeds (i) 10 percent of a Generator's capability, or (ii) 100 MW of a Generator's capability, or (iii) 5 percent of the total capability of a Market Party and its Affiliates, or (iv) 200 MW of the total capability of a Market Party and its Affiliates.

For a Generator or a Market Party in a Constrained Area for intervals in which an interface or facility into the area in which the Generator or generation is located has a Shadow Price greater than \$0.04/MWh, indicating an active constraint, withholding that exceeds (i) 10 percent of a Generator's capability, or (ii) 50 MW of a Generator's capability, or (iii) 5 percent of the total capability of a Market Party and its Affiliates, or (iv) 100 MW of the total capability of a Market Party and its Affiliates.

23.3.1.1.1.2 Operating a Generator or generation in real-time at a lower output level than would have been expected had the Market Party's and its Affiliate's Generator or generation followed the ISO's dispatch instructions, resulting in a difference in output that exceeds (i) 15 minutes times a Generator's stated response rate per minute at the output level that would have been expected had the Generator followed the ISO's dispatch instructions, or (ii) 100 MW for a Generator, or (iii) 200 MW of the total capability of a Market Party and its Affiliates. For a Generator or a Market Party in a Constrained Area for intervals in which an interface or facility into the area in which the generation is located has a Shadow Price greater than \$0.04/MWh, indicating an active constraint, operating a Generator or generation in real-time at a lower output level than would have been expected had the Market Party's and its Affiliate's Generator or generation followed the ISO's dispatch instructions, resulting in a difference in output that exceeds (i) 15 minutes times a Generator's stated response rate per minute at the output level that would have been expected had the Generator followed the ISO's dispatch instructions, or (ii) 50 MW of a Generator's capability, or (iii) 100 MW of the total capability of a Market Party and its Affiliates.

23.3.1.1.2 The amounts of generating capacity considered withheld for purposes of applying the thresholds in this Section 23.3.1.1 shall include unjustified deratings, and the portions of a Generator's output that is not Bid or subject to economic withholding. The amounts deemed withheld shall not include (i) generating output that is subject to a forced outage, subject to verification by the ISO as may

be appropriate that an outage was forced, (ii) capacity that is out of service for maintenance in accordance with an ISO maintenance schedule, or (iii) generating capacity that is not Bid in the Real-Time Market, because and to the extent it would have to use unauthorized natural gas to operate, subject to verification by the ISO as may be appropriate that operation would require the use of unauthorized natural gas. See Section 23.3.1.4.6.2.1.1 below.

23.3.1.1.3 A transmission facility shall be deemed physically withheld if it is not operated in accordance with ISO instructions and such failure to conform to ISO instructions causes or contributes to transmission congestion. A transmission facility shall not be deemed withheld if it is subject to a forced outage or is out of service for maintenance in accordance with an ISO maintenance schedule.

### **23.3.1.2 Thresholds for Identifying Economic Withholding**

23.3.1.2.1 The following thresholds shall be employed by the ISO to identify economic withholding that may warrant the mitigation of a Generator in an area that is not a Constrained Area, or in a Constrained Area during periods not subject to transmission constraints affecting the Constrained Area, and shall be determined with respect to a reference level determined as specified in Section 23.3.1.4:

23.3.1.2.1.1 Incremental Energy and Minimum Generation Bids: An increase exceeding 300 percent or \$100 per MWh, whichever is lower; provided, however, that Incremental Energy or Minimum Generation Bids below \$25 per MWh shall be deemed not to constitute economic withholding when evaluating Bids to produce Energy.

23.3.1.2.1.1.1 Threshold for Bids to withdraw Incremental Energy: an increase exceeding 300 percent or \$100 per MWh, whichever is lower. However, the threshold for Bids to withdraw Incremental Energy that have an associated reference level that is between -\$25 and \$25 per MWh (inclusive) is, instead, \$75 per MWh.

23.3.1.2.1.1.2 Additional Thresholds used to assess Bids for Generators that the ISO evaluates as a price spread for purposes of scheduling and dispatch.

The following hourly and daily thresholds will be employed to evaluate the spread between the minimum and maximum dollar values included in a Withdrawal-Eligible Generator's multi-step incremental Energy Bid. The time periods over which the comparisons are performed are specified below.

(a) Hourly Threshold (applies to both the Day-Ahead and Real-Time Markets)—the Incremental Energy Bid spread is compared to the Incremental Energy reference level spread for the same market hour. The Bid spread is determined by subtracting the least Incremental Energy Bid price from the greatest Incremental Energy Bid price. This value is compared to the reference level spread, which is determined by subtracting the Incremental Energy reference level price that corresponds to the least Incremental Energy Bid price from the Incremental Energy reference level price that corresponds to the greatest Incremental Energy Bid price. A Bid spread that exceeds the reference level spread by more than 300 percent or by more than \$100 per MWh, whichever is lower, exceeds the conduct threshold.



(b) Daily Threshold (only applies to the Day-Ahead Market)—the Incremental Energy Bid spread across the Day-Ahead market day is compared to the Incremental Energy reference level spread. The Bid spread is determined by subtracting the least Incremental Energy Bid price submitted for any hour of the Day-Ahead market day (“Hour X”) from the greatest Incremental Energy Bid price submitted for any hour of the same market-day (“Hour Y”). Hour X and Hour Y can be the same market hour. This value is compared to the reference level spread, which is determined by subtracting the Incremental Energy reference level price Bid that corresponds to the least Incremental Energy Bid price in Hour X from the Incremental Energy reference level price that corresponds to the greatest Incremental Energy Bid price in Hour Y. A Bid spread that exceeds the reference level spread by more than 300 percent or by more than \$100 per MWh, whichever is lower, exceeds the conduct threshold.

23.3.1.2.1.2 Operating Reserves and Regulation Service Bids:

23.3.1.2.1.2.1 Operating Reserves and Regulation Capacity Bids: A 300 percent increase or an increase of \$50 per MW, whichever is lower; provided, however, that such Bids below \$5 per MW shall be deemed not to constitute economic withholding.

23.3.1.2.1.2.2 Regulation Movement Bids: A 300 percent increase.

23.3.1.2.1.3 Start-Up Bids: A 200 percent increase.

23.3.1.2.1.4 Time-based Bid parameters: An increase of 3 hours, or an increase of 6 hours in total for multiple time-based Bid parameters. Time-based Bid parameters include, but are not limited to, start-up times, minimum run times,

minimum down times, and temporal minimum and maximum parameters related to the withdrawal and injection of Energy by Withdrawal-Eligible Generators.

23.3.1.2.1.5 Bid parameters expressed in units other than time or dollars, including the MW component of a Minimum Generation Bid (also referred to as the “minimum operating level”): A 100 percent increase for parameters that are minimum values, or a 50 percent decrease for parameters that are maximum values (including but not limited to ramp rates, maximum stops, and operating parameters related to the withdrawal and injection of Energy by Withdrawal-Eligible Generators).

23.3.1.2.2 The following thresholds shall be employed by the ISO to identify economic withholding that may warrant the mitigation of a Generator in an area that is a Constrained Area, and shall be determined with respect to a reference level determined as specified in Section 23.3.1.4:

23.3.1.2.2.1 For Energy and Minimum Generation Bids for the Real-Time Market: for intervals in which an interface or facility into the area in which a Generator is located has a Shadow Price greater than \$0.04/MWh, indicating an active constraint, the lower of the thresholds specified for areas that are not Constrained Areas or a threshold determined in accordance with the following formula:

$$\text{Threshold} = \frac{2\% * \text{Average Price} * 8760}{\text{Constrained Hours}}$$

where:

*Average Price* = the average price in the Real-Time Market in the Constrained Area over the past 12 months, adjusted for fuel price changes, and adjusted for Out-of-Merit Generation dispatch as feasible and appropriate; and

*Constrained Hours* = the total number of minutes over the prior 12 months, converted to hours (retaining fractions of hours), in which the real-time Shadow

Price has been greater than \$0.04/MWh, indicating an active constraint, on any interface or facility leading into the Constrained Area in which the Generator is located. For the In-City area, “Constrained Hours” shall also include the number of minutes that a Storm Watch is in effect. Determination of the number of Constrained Hours shall be subject to adjustment by the ISO to account for significant changes in system conditions.

23.3.1.2.2.2 For so long as the In-City area is a Constrained Area, the thresholds specified in subsection 23.3.1.2.2.1 shall also apply: (a) in intervals in which the transmission capacity serving the In-City area is subject to Storm Watch limitations; (b) to an In-City Generator that is operating as Out-of-Merit Generation; and (c) to a Generator dispatched as a result of a Supplemental Resource Evaluation.

23.3.1.2.2.3 For Energy and Minimum Generation Bids for the Day-Ahead Market: for all Constrained Hours for the Generator being Bid, a threshold determined in accordance with the formula specified in subsection 23.3.1.2.2.1 above, but where Average Price shall mean the average price in the Day-Ahead Market in the Constrained Area over the past twelve months, adjusted for fuel price changes, and where Constrained Hours shall mean the total number of hours over the prior 12 months in which the Shadow Price in the Day-Ahead Market has been greater than \$0.04/MWh, indicating an active constraint, on any interface or facility leading into the Constrained Area in which the Generator is located. Determination of the number of Constrained Hours shall be subject to adjustment by the ISO to account for significant changes in system conditions.

23.3.1.2.2.4 For Start-Up Bids; a 50% increase.

23.3.1.2.2.5 The thresholds listed in Sections 23.3.1.2.1.2 and 23.3.1.2.1.4 through 23.3.1.2.1.5.

23.3.1.2.2.6 For intervals in which an interface or facility into the area in which a Generator is located has a Shadow Price greater than \$0.04/MWh, indicating an active constraint in the Day-Ahead Market or in the Real-Time Market, the additional thresholds used to assess Bids for Generators that the ISO evaluates as a price spread for purposes of scheduling and dispatch are set forth below. The evaluation method is described in Section 23.3.1.2.1.1.2 of these Mitigation Measures.

(a) Hourly Threshold (applies to both the Day-Ahead and Real-Time Markets)—the Incremental Energy Bid spread is compared to the Incremental Energy reference level spread for the same market hour. The Bid spread is determined by subtracting the least Incremental Energy Bid price from the greatest Incremental Energy Bid price. This value is compared to the reference level spread, which is determined by subtracting the Incremental Energy reference level price that corresponds to the least Incremental Energy Bid price from the Incremental Energy reference level price that corresponds to the greatest Incremental Energy Bid price. A Bid spread that exceeds the reference level spread by more than the lower of the threshold specified for areas that are not Constrained Areas, or a threshold determined in accordance with the formulae set forth in Section 23.3.1.2.2.1 (real-time) or Section 23.3.1.2.2.3 (Day-Ahead) of these Mitigation Measures, exceeds the conduct threshold.

(b) Daily Threshold (only applies to the Day-Ahead Market)—the Incremental Energy Bid spread across the Day-Ahead market day is compared to the Incremental Energy reference level spread. The Bid spread is determined by

subtracting the least Incremental Energy Bid price submitted for any hour of the Day-Ahead market day (“Hour X”) from the greatest Incremental Energy Bid price submitted for any hour of the same market-day (“Hour Y”). Hour X and Hour Y can be the same market hour. This value is compared to the reference level spread, which is determined by subtracting the Incremental Energy reference level price Bid that corresponds to the least Incremental Energy Bid price in Hour X from the Incremental Energy reference level price that corresponds to the greatest Incremental Energy Bid price in Hour Y. A Bid spread that exceeds the reference level spread by more than the lower of the threshold specified for areas that are not Constrained Areas, or a threshold determined in accordance with the formula set forth in Section 23.3.1.2.2.3 (Day-Ahead) of these Mitigation Measures, exceeds the conduct threshold.

23.3.1.2.3 The following thresholds shall be employed by the ISO to identify economic withholding that requires the mitigation of a Generator that is committed outside the ISO’s economic evaluation process to protect NYCA or local area reliability in an area that is not a designated Constrained Area. Whether the thresholds specified in Sections 23.3.1.2.3.3(i) through 23.3.1.2.3.3(vi) below have been exceeded shall be determined with respect to a reference level determined as specified in Section 23.3.1.4 of these Mitigation Measures.

If provisions 23.3.1.2.3.1 and 23.3.1.2.3.2 below are met for a Generator in the New York Control Area that is not located in a designated Constrained Area, the ISO shall substitute a reference level for each Bid, or component of a Bid, for

which the applicable threshold specified in provisions 23.3.1.2.3.3(i) through 23.3.1.2.3.3(vi) below is exceeded. Where mitigation is determined to be appropriate, the mitigated results will be used in all aspects of the NYISO's settlement process.

23.3.1.2.3.1 The Generator was committed outside the ISO's economic merit order selection process to protect or maintain New York Control Area or local system reliability as a Day-Ahead Reliability Unit ("DARU") or via a Supplemental Resource Evaluation ("SRE"), or was committed as a DARU or via SRE and was also dispatched Out-of-Merit above its minimum generation level to protect or maintain New York Control Area or local system reliability; and

23.3.1.2.3.2 One of the following three (i) – (iii) conditions in this Section 23.3.1.2.3.2 must be satisfied in order for mitigation to be applied:

- i the Market Party (including its Affiliates) that owns or offers the Generator is the only Market Party that could effectively solve the reliability need for which the Generator was committed or dispatched, or
- ii when evaluating an SRE that was issued to address a reliability need that multiple Market Parties' Generators are capable of solving, the NYISO only received Bids from one Market Party (including its Affiliates), or
- iii when evaluating a DARU, if the Market Party was notified of the need for the reliability commitment of its Generator prior to the close of the Day-Ahead Market.

23.3.1.2.3.3 The Bids or Bid components submitted for the Generator that were accepted outside the economic evaluation process to protect or maintain New York Control Area or local system reliability:

- i exceeded the Generator's Minimum Generation Bid reference level by the greater of 10% or \$10/MWh, or
- ii. exceeded the Generator's Incremental Energy Bid reference level by the greater of 10% or \$10/MWh, or
- iii. exceeded the Generator's Start-Up Bid reference level by 10%, or
- iv. exceeded the Generator's minimum run time, start-up time, and minimum down time reference levels by more than one hour in aggregate, or
- v. exceeded the Generator's minimum generation MW reference level by more than 10%, or
- vi. decreased the Generator's maximum number of stops per day below the Generator's reference level by more than one stop per day, or to one stop per day.

23.3.1.2.4 For In-City Generators committed in the Day-Ahead Market for local reliability, additional Mitigation Measures are specified in Section 23.5.2.1.

### **23.3.1.3 Thresholds for Identifying Uneconomic Production and Uneconomic Withdrawal of Energy**

23.3.1.3.1 The following thresholds will be employed by the ISO to identify uneconomic production that may warrant the imposition of a mitigation measure:

23.3.1.3.1.1 Energy scheduled at an LBMP that is less than 20 percent of the applicable reference level and causes or contributes to transmission congestion; or

23.3.1.3.1.2 Real-time output from a Generator or generation resulting in real-time operation at a higher output level than would have been expected had the Market

Party's and the Affiliate's Generator or generation followed the ISO's dispatch instructions, if such failure to follow ISO dispatch instructions in real-time causes or contributes to transmission congestion, and it results in an output difference that exceeds (i) 15 minutes times a Generator's stated response rate per minute at the output level that would have been expected had the Generator followed the ISO's dispatch instructions, or (ii) 100 MW for a Generator, or (iii) 200 MW of the total capability of a Market Party and its Affiliates.

23.3.1.3.2 The following thresholds will be employed by the ISO to identify uneconomic withdrawals of Energy by Withdrawal-Eligible Generators that may warrant the imposition of a mitigation measure:

23.3.1.3.2.1 Energy withdrawn at an LBMP that is at least 300 percent or \$75/MWh, whichever is greater, more than the Withdrawal-Eligible Generator's applicable reference level and that causes or contributes to transmission congestion; provided, however, that schedules to withdraw Energy that are determined by the ISO based on the economics of an offer to withdraw Energy, including the Incremental Energy Bid spread of a Withdrawal-Eligible Generator, shall not be considered uneconomic withdrawals under this Section 23.3.1.3.2.1; or

23.3.1.3.2.2 Real-time withdrawals by a Withdrawal-Eligible Generator resulting in different real-time operation than would have been expected had the Market Party's and the Affiliate's Generator or generation followed the ISO's dispatch instructions, if such failure to follow ISO dispatch instructions in real-time causes or contributes to transmission congestion, and it results in an output difference that exceeds (i) 15 minutes times a Generator's stated response rate per minute at



the output level that would have been expected had the Generator followed the ISO's dispatch instructions, or (ii) 100 MW for a Generator, or (iii) 200 MW of the total capability of a Market Party and its Affiliates.

#### **23.3.1.4 Reference Levels**

23.3.1.4.1 Except as provided in Sections 23.3.1.4.3 – 23.3.1.4.6 below, a reference level for each component of a Generator's Bid to produce Energy shall be calculated on the basis of the following methods, listed in the order of preference subject to the existence of sufficient data.

A reference level for each component of a Withdrawal-Eligible Generator's Bid to produce or withdraw Energy shall be calculated consistent with Sections 23.3.1.4.1.3 or 23.3.1.4.2 below, subject to the existence of sufficient data.

23.3.1.4.1.1 The lower of the mean or the median of a Generator's accepted Bids or Bid components, in hour beginning 6 to hour beginning 21 but excluding weekend and designated holiday hours, in competitive periods over the most recent 90 day period for which the necessary input data are available to the ISO's reference level calculation systems, adjusted for changes in fuel prices consistent with Section 23.3.1.4.6, below. To maintain appropriate reference levels (i) the ISO shall exclude all Incremental Energy and Minimum Generation Bids below \$15/MWh from its development of Bid-based reference levels, (ii) the ISO shall exclude Minimum Generation Bids submitted for a Generator that was committed on the day prior to the Dispatch Day for the hours during the Dispatch Day that the Generator needs to operate in order to complete the minimum run time specified in the Bid it submitted for the hour in which it was committed, and (iii)

the ISO may exclude other Bids that would cause a reference level to deviate substantially from a Generator's marginal cost when developing Bid-based reference levels;

23.3.1.4.1.2 Calculate incremental energy and minimum generation reference levels for a Generator using the mean of the LBMP at the Generator's location during the lowest-priced 50 percent of the hours that the Generator was dispatched over the most recent 90 day period for which the necessary LBMP data are available to the ISO's reference level calculation systems, adjusted for changes in fuel prices consistent with Section 23.3.1.4.6, below. To maintain appropriate reference levels (i) the ISO shall exclude all LBMPs below \$15/MWh from its development of LBMP-based reference levels, (ii) the ISO shall exclude LBMPs during hours when a Generator was scheduled as a Day-Ahead Reliability Unit or via a Supplemental Resource Evaluation or was Out-of-Merit Generation, from its development of that Generator's LBMP-based reference levels, (iii) for a Generator that was committed on the day prior to the Dispatch Day, the ISO shall exclude LBMPs for the hours during the Dispatch Day that the Generator needs to operate in order to complete the minimum run time specified in the Bid it submitted for the hour in which the Generator was committed from the ISO's development of that Generator's LBMP-based reference levels, and (iv) the ISO may exclude LBMPs that would cause a reference level to deviate substantially below a Generator's marginal cost when developing LBMP-based reference levels; or

23.3.1.4.1.3 A level determined in consultation with the Market Party submitting the Bid or Bids at issue, provided such consultation has occurred prior to the occurrence of the conduct being examined by the ISO, and provided the Market Party has provided data on a Generator's operating costs in accordance with specifications provided by the ISO.

The reference level for a Generator's Energy and Ancillary Service Bids are intended to reflect the Generator's marginal costs. The ISO's determination of a Generator's Energy marginal costs shall include an assessment of the Generator's incremental operating costs in accordance with the following formula:

$$\begin{aligned} & (\text{heat rate} * \text{fuel costs}) + (\text{emissions rate} * \text{emissions allowance price}) \\ & \quad + (\text{other variable operating and maintenance costs}) \\ & \quad + \text{opportunity costs} \end{aligned}$$

Opportunity cost is the cost, in dollars, representing (a) the total net revenue in the future time periods that is expected to be forgone by being dispatched by the ISO in the current time period, or (b) the total net cost in future time periods that is expected to be avoided by being dispatched by the ISO in the current time period.

Opportunity costs are limited to costs that the ISO reasonably determines to be appropriate based on such data as may be furnished by the Market Party or otherwise available to the ISO. Reference levels shall also include such other factors or adjustments as the ISO shall reasonably determine to be appropriate based on such data as may be furnished by the Market Party or otherwise available to the ISO.

23.3.1.4.2 If sufficient data do not exist to calculate a reference level on the basis of either of the first two methods, or if the ISO determines that none of the three

methods are applicable to a particular type of Bid component, or an attempt to determine a reference level in consultation with a Market Party has not been successful, or if the reference level produced does not reasonably approximate a Generator's marginal cost, the ISO shall determine a reference level on the basis of:

- 23.3.1.4.2.1 the ISO's estimate of the costs or physical parameters of an Electric Facility, taking into account available operating costs data, appropriate input from the Market Party, and the best information available to the ISO; or
- 23.3.1.4.2.2 an appropriate average of competitive bids of one or more similar Electric Facilities.
- 23.3.1.4.3 Notwithstanding the foregoing provisions, the reference level for Incremental Energy Bids for New Capacity, excluding Energy Storage Resources, for the three year and six month period following the New Capacity's first production of Energy while synchronously interconnected to the New York State Transmission System shall be the higher of (i) the amount determined in accordance with the provision of Section 23.3.1.4.1 or 23.3.1.4.2, or (ii) the average of the fuel price-adjusted peak LBMPs over the twelve months prior to the New Capacity's first production of Energy while synchronously interconnected to the New York State Transmission System of the New Capacity in the Load Zone in which the New Capacity is located during hours when Generators with operating characteristics similar to the New Capacity would be expected to run. For entities owning or otherwise controlling the output of capacity in the New York Control Area other than New Capacity, the provisions

of this Section 23.3.1.4.3 shall apply only to net additions of capacity during the applicable three year and six month period.

23.3.1.4.4 Notwithstanding the foregoing provisions, a reference level for a Generator's start-up costs Bid shall be calculated on the basis of the following methods, listed in the order of preference subject to the existence of sufficient data:

23.3.1.4.4.1 If sufficient bidding histories under the applicable bidding rules for a given Generator's start-up costs Bids have been accumulated, the lower of the mean or the median of the Generator's accepted start-up costs Bids in competitive periods over the previous 90 days for similar down times, adjusted for changes in fuel prices consistent with Section 23.3.1.4.6 below. However, accepted Start-Up Bids that incorporate anticipated costs of operating on the day after the Dispatch Day in which the Generator is committed in order to permit the Generator to satisfy its minimum run time shall not be used to develop Bid-based start-up reference levels;

23.3.1.4.4.2 A level determined in consultation with the Market Party submitting the Bid or Bids at issue and intended to reflect the costs incurred for a Generator to achieve its specified minimum operating level from an offline state, provided such consultation has occurred prior to the occurrence of the conduct being examined by the ISO, and provided the Market Party has provided data on the Generator's operating costs in accordance with specifications provided by the ISO; or

23.3.1.4.4.3 Generators committed in the Day-Ahead Market or via Supplemental Resource Evaluation that are not able to complete their minimum run time within

the Dispatch Day in which they are committed are eligible to include in their Start-Up Bid expected net costs of operating on the day following the dispatch day at the minimum operating level (in MW) specified in the Generator's Bid for the commitment hour, for the hours necessary to complete the Generator's minimum run time. The NYISO will calculate a start-up reference level that incorporates the net costs the Generator is expected to incur on the day following the Dispatch Day as follows:

23.3.1.4.4.3.1 Calculation of a start-up reference level that includes expected net costs of operating on the day following the Dispatch Day

The NYISO will use the following calculation to develop a reference level that incorporates the costs that a Generator is expected to incur on the day following the Dispatch Day.

$$LateDayAdjusted_{g,i} = StrtUpRef_g + \max\left(0, MinGenRef_{g,i} * BidMinGen_{g,i} * \sum_{h=0}^{Z_{g,i}-1} SR_{g,h,i}\right)$$

Where:

$LateDayAdjusted_{g,i}$  = calculated start-up reference level for Generator g for hour i in \$ (reflects the applicable start-up reference level ( $StrtUpRef_g$ ), plus the expected net cost of operating on the day following the Dispatch Day)

$StrtUpRef_g$  = the start-up reference level for Generator g in \$ that is in effect at the time the calculation is performed (does not include the expected net cost of operating on the day following the Dispatch Day)

$MinGenRef_{g,i}$  = the minimum generation cost reference level for Generator g for hour i in \$/MW that is in effect at the time the calculation is performed

$BidMinGen_{g,i}$  = Generator g's Day-Ahead minimum operating level for hour i, in MW

$Z_{g,i}$  = the number of hours the Generator must operate during the day following the Dispatch Day in order to complete its minimum run time if it starts in hour i

$SR_{g,h,i}$  = shortfall ratio for Generator g that is bidding to start in hour i which must run during hour h in order to complete its minimum run time, calculated in accordance with Section 23.3.3.4.4.3.2, below

23.3.1.4.4.3.2 Calculation of the shortfall ratio for use in Section 23.3.1.4.4.3.1, above

$SR_{g,h,i}$  = the shortfall ratio calculated for Generator g that is bidding to start in hour i, and that must run during hour h to complete its minimum run time.

In all cases in which Generator g's Day-Ahead minimum operating level deviates from the average of the previous seven days' Day-Ahead minimum operating levels for the same hour by less than 5 MW (i.e., if  $|AvgBidMinGen_{g,h,i} - BidMinGen_{g,i}| < 5MW$ ) or by less than 10% (i.e., if both  $BidMinGen_{g,i} < 1.1 * AvgBidMinGen_{g,h,i}$  and  $BidMinGen_{g,i} > 0.9 * AvgBidMinGen_{g,h,i}$ ),

Where:

$AvgBidMinGen_{g,h,i}$  = The average minimum operating level submitted in the Day-Ahead Market for hour h on the seven days preceding the day containing hour i, in MW, excluding any days for which a minimum operating level was not submitted in the Day-Ahead Market for Generator g, for hour h; and

$BidMinGen_{g,i}$  = The minimum operating level submitted in the Day-Ahead Market for Generator g for hour i, in MW

and in all cases in which  $AvgBidMinGen_{g,h,i}$  cannot be calculated because minimum operating levels were not submitted for Generator g in the Day-Ahead Market for hour h on any of the seven days preceding the day containing hour i, the  $SR_{g,h,i}$  value will be calculated using the primary method. Otherwise, the  $SR_{g,h,i}$  value will be calculated using the alternative method.

***Primary Method of Calculating the Shortfall Ratio***

$$SR_{g,h,i} = 1 - \frac{1}{7} * \sum_{d=1}^7 \frac{LBMP_{g,h,i,d}}{MinGenRef_{g,h,i,d}}$$

Where:

$LBMP_{g,h,i,d}$  = Day ahead LBMP at the location of Generator g in hour h of the Day-Ahead Market for the Dispatch Day that precedes the day containing hour i by d days, and

$MinGenRef_{g,h,i,d}$  = minimum generation cost reference level for Generator  $g$  in hour  $h$  of the Day-Ahead Market for the Dispatch Day that precedes the day containing hour  $i$  by  $d$  days

***Alternative Method of Calculating the Shortfall Ratio***

$$SR_{g,h,i} = 1 - \frac{AvgLBMP_{g,h,i}}{\left( AvgRefRate_{g,h,i} * \frac{RefRate2_{g,i}}{RefRate1_{g,h,i}} \right)}$$

Where:

$AvgLBMP_{g,h,i}$  = The average of the Day-Ahead LBMPs at the location of Generator  $g$  for hour  $h$  on the seven days preceding the day containing hour  $i$ , in \$/MWh, excluding any days for which a minimum operating level was not submitted in the Day-Ahead Market for Generator  $g$  for hour  $h$

$AvgRefRate_{g,h,i}$  = The average of the minimum generation reference levels for Generator  $g$  in hour  $h$  on the seven days preceding the day containing hour  $i$ , in \$/MWh, excluding any days for which a minimum operating level was not submitted in the Day-Ahead Market for Generator  $g$  for hour  $h$

$RefRate1_{g,h,i}$  = The minimum generation cost reference level in \$/MWh for Generator  $g$  for hour  $i$ , calculated using the most current reference data, and assuming that the minimum operating level submitted in the Day-Ahead Market for Generator  $g$  in hour  $i$  corresponds to the MWs reflected in the  $AvgBidMinGen_{g,h,i}$

$RefRate2_{g,i}$  = The minimum generation cost reference level in \$/MWh for Generator  $g$  for hour  $i$ , calculated using the most current reference data, and incorporating the minimum operating level submitted in the Day-Ahead Market for Generator  $g$  in hour  $i$  that corresponds to the MWs reflected in the  $BidMinGen_{g,i}$

Notwithstanding the above, in all cases where the denominator of the equation for calculating  $SR_{g,h,i}$  is not greater than zero,  $SR_{g,h,i}$  shall be set to zero, under both the primary and alternative methods.

23.3.1.4.4.4 The methods specified in Section 23.3.1.4.2.

23.3.1.4.5 The ISO is not required to calculate real-time reference levels for the three Operating Reserve products (Spinning Reserve, 10-Minute Non-Synchronized Reserves and 30-Minute Reserves) because Generators that are capable of providing these products and that are submitting Bids into the Real-Time Market



are automatically assigned a real-time Operating Reserves Availability Bid of zero for the amount of Operating Reserves they are capable of providing.

The ISO shall calculate real-time reference levels for Regulation Capacity in accordance with Sections 23.3.1.4.1.1, 23.3.1.4.1.3 or 23.3.1.4.2 of these Mitigation Measures. The ISO shall calculate real-time reference levels for Regulation Movement in accordance with Sections 23.3.1.4.1.3 or 23.3.1.4.2.1 of these Mitigation Measures and shall not calculate real-time Reference levels for Regulation Movement in accordance with Section 23.3.1.4.1.1.

The ISO shall calculate Day-Ahead reference levels for the three Operating Reserves products in accordance with Sections 23.3.1.4.1.1, 23.3.1.4.1.3 or 23.3.1.4.2 of these Mitigation Measures. The ISO shall calculate Day-Ahead reference levels for Regulation Capacity in accordance with Sections 23.3.1.4.1.1, 23.3.1.4.1.3 or 23.3.1.4.2 of these Mitigation Measures. The ISO shall calculate Day-Ahead reference levels for Regulation Movement in accordance with Sections 23.3.1.4.1.3 or 23.3.1.4.2.1 of these Mitigation Measures and shall not calculate Day-Ahead Reference levels for Regulation Movement in accordance with Section 23.3.1.4.1.1.

23.3.1.4.6 Reflecting Fuel Costs in Reference Levels. The ISO shall use the best fuel cost information available to it to adjust reference levels to reflect appropriate fuel costs.

23.3.1.4.6.1 ISO Reporting Obligation. If the ISO did not utilize the best fuel cost information available to it when it adjusted reference levels to reflect appropriate fuel costs, and the ISO's failure to utilize the best fuel cost information available

to it affected market clearing prices or had an impact on guarantee payments that cannot be corrected, then the ISO shall report any market clearing price and uncorrected guarantee payment impacts to FERC staff and to its Market Participants. The ISO is not required to report, or to otherwise act, if no market impact is identified.

23.3.1.4.6.2 Market Parties shall monitor Generator reference levels and shall endeavor to timely (as that term is defined in Section 23.3.1.4.6.8 below) contact the ISO to request an adjustment to a Generator's reference level(s) when the Generator's fuel type or fuel price change.

23.3.1.4.6.2.1 Subject to the exceptions set forth in Section 23.3.1.4.6.2.1.2 below, the ISO shall not permit charges for unauthorized natural gas use to be included as a component in the development of a Generator's reference levels and Market Parties shall not be eligible to recover costs associated with unauthorized natural gas use.

23.3.1.4.6.2.1.1 What constitutes "unauthorized" natural gas use is specified in each natural gas pipeline's or local distribution company's ("LDC's") applicable tariff, rate schedule or customer contract. Unauthorized natural gas use may result from, but is not limited to, the following circumstances: (i) consumption of natural gas in violation of the terms of an Operational Flow Order ("OFO") issued by the relevant natural gas LDC or pipeline; (ii) violation of instructions issued by the relevant natural gas LDC or pipeline restricting consumption of natural gas or use of natural gas imbalance service, when such instructions are issued consistent with the LDC's or pipeline's authority under a tariff, rate schedule or contract;

(iii) consumption of natural gas during a period of authorized interruption of service by the relevant natural gas LDC or pipeline, determined in accordance with the terms of the applicable tariff, rate schedule or contract; or (iv) use of natural gas balancing services that are explicitly identified in the relevant natural gas LDC's or pipeline's applicable tariff, rate schedule or contract as unauthorized use or penalty gas.

23.3.1.4.6.2.1.2 If and to the extent a Market Party has obtained specific authorization from the relevant natural gas LDC or pipeline to use gas that would otherwise be unauthorized, such use shall not be considered unauthorized use by the ISO. Market Parties shall make every effort to clearly document authorization they obtain from the LDC or pipeline. Documentation obtained after the fact will be considered.

23.3.1.4.6.3 Screening of fuel type and fuel price information. The ISO may use automated processes and/or require manual review of fuel type and fuel price information submitted by Market Parties to test the accuracy of the information submitted in order to prevent market clearing prices and guarantee payments from being incorrectly calculated.

23.3.1.4.6.4 Consistent with the rules specified in this Section 23.3.1.4.6 of the Mitigation Measures and the procedures that the ISO develops to implement these rules, Market Parties shall notify the ISO of changes in fuel type or fuel price by (i) submitting revised fuel type or fuel price information to the ISO's Market Information System along with the Generator's Bid(s), or (ii) by directly contacting the ISO to request a reference level update consistent with ISO

procedures, or (iii) by utilizing both of the available notification methods.

Revised fuel type or fuel price information that exceeds, or is rejected based upon, the thresholds that the ISO uses to automatically screen fuel type or fuel price information that is submitted to the ISO's Market Information System along with a Generator's Bid(s) shall be submitted by directly contacting the ISO to request a reference level update, consistent with ISO procedures.

23.3.1.4.6.4.1 Exception—changes in fuel price or fuel type that are offered to support Incremental Energy or Minimum Generation Bids that exceed \$1,000/MWh must be submitted in accordance with Section 23.7.3 (for a Generator) or Section 23.7.4 (for a Demand Side Resource) of these Mitigation Measures.

23.3.1.4.6.5 Following the completion of the ISO's automated and/or manual screening processes, the ISO shall use fuel type and fuel price information that Market Parties or their representatives submit to develop Generator reference levels unless (i) the information submitted is inaccurate, or (ii) the information was not timely submitted, and the Market Party's failure to timely submit the information is not excused by the ISO in accordance with Section 23.3.1.4.6.8 below, or (iii) consistent with Section 23.3.1.4.6.9 below.

23.3.1.4.6.6 The ISO may not always have sufficient time to complete its screening of proposed fuel type or fuel price changes prior to the relevant Day-Ahead Market day or Real-Time Market hour. *If* fuel type or fuel price information (i) is timely submitted or, where untimely, the submission of fuel type or fuel price information is excused in accordance with Section 23.3.1.4.6.8 below, and (ii) the fuel type or fuel price information that the Market Party submitted is proven to

have been accurate or to have understated the actual cost incurred for that component, and (iii) the Bid(s) were tested using reference levels that reflected outdated fuel type and/or fuel price information and the Bid(s) were mitigated or a sanction was imposed pursuant to Section 23.4.3 of these Mitigation Measures, *then* the ISO shall (a) re-perform any test(s) that resulted in a sanction being imposed pursuant to Section 23.4.3 of these Mitigation Measures, using the accurate fuel type and/or fuel price information and use the revised results to calculate the appropriate sanction (if any), and (b) determine if the Bids for the Generator would have failed the relevant conduct test(s) if accurate fuel type and/or fuel price information had been used to develop reference levels. The ISO shall then restore any original (as-submitted) Bid(s) that would not have failed the relevant conduct test(s) if accurate fuel type and/or fuel price information had been used to develop the Generator's reference levels, and use the restored Bid(s) to determine a settlement. Otherwise the ISO shall use the Generator's correct or corrected reference level(s) to determine a settlement.

23.3.1.4.6.7 The ISO shall publicly post the thresholds it employs to automatically screen fuel type and fuel price information that is submitted to the ISO's Market Information System for potentially inaccurate fuel type and fuel price data inputs.

23.3.1.4.6.8 For purposes of this Section 23.3.1.4.6, "timely" notice or submission to the Real-Time Market shall mean the submission of fuel type and/or fuel price information using the methods specified in Section 23.3.1.4.6.4 of these Mitigation Measures prior to market close for the relevant Real-Time Market hour. For purposes of this Section 23.3.1.4.6, "timely" notice or submission to

the Day-Ahead Market shall mean the submission of fuel type and/or fuel price information using the methods specified in Section 23.3.1.4.6.4 of these Mitigation Measures at least 15 minutes prior to the close of the Day-Ahead Market (*i.e.*, by 4:45 a.m.). Market Parties are not expected to submit invoices or other supporting data with their Day-Ahead Market or Real-Time Market fuel type and fuel price information, but are expected to retain invoices and other supporting data consistent with the data retention requirements set forth in the Plan, and to be able to produce such information within a reasonable timeframe when asked to do so by the ISO or by its Market Monitoring Unit.

It may not always be possible for a Market Party to timely update a Generator's fuel type or fuel price to reflect unexpected real-time changes or events in advance of the first affected market-hour. Upon a showing of extraordinary circumstances, the ISO may retroactively reflect in Real-Time Market reference levels fuel type or fuel price information that was not timely submitted by a Market Party. While it should ordinarily be possible for a Market Party to timely submit updated fuel type and fuel price information for use in developing a Generator's Day-Ahead Market reference levels, the ISO may retroactively accept and utilize late-submitted Day-Ahead Market fuel type or fuel price information upon a showing of extraordinary circumstances.

23.3.1.4.6.8.1 Exception—changes in fuel price or fuel type that are offered to support Incremental Energy or Minimum Generation Bids that exceed \$1,000/MWh must be submitted in accordance with the submission deadlines specified in Section

23.7.3 (for a Generator) or Section 23.7.4 (for a Demand Side Resource) of these Mitigation Measures.

23.3.1.4.6.9 If (i) the ISO determines, following consultation with the Market Party and review by the Market Monitoring Unit, that the Market Party or its representative has submitted inaccurate fuel type or fuel price information that was biased in the Market Party's favor, or (ii) if a Market Party is subject to a penalty or sanction under Section 23.4.3.3.3 of these Mitigation Measures for submitting inaccurate fuel price or fuel type information, *then* the ISO shall cease using the fuel type and fuel price information submitted to the ISO's Market Information System along with the Generator's Bid(s) to develop reference levels for the affected Generator(s) in the relevant (Day-Ahead or real-time) market for the duration(s) set forth below, unless the Market Party demonstrates to the ISO that the questioned conduct is consistent with competitive behavior.

23.3.1.4.6.9.1 The first time the ISO ceases using the fuel type and fuel price information submitted to the ISO's Market Information System along with the Bid(s) for a Generator to develop Day-Ahead or real-time reference levels for that Generator, it shall do so for 30 days. The 30-day period shall start two business days after the date that the ISO provides written notice of its determination that the application of mitigation is required.

23.3.1.4.6.9.2 Subject to Section 23.3.1.4.6.9.3 below, the second time the ISO ceases using the fuel type and fuel price information submitted to the ISO's Market Information System along with the Bid(s) for a Generator to develop Day-Ahead or real-time reference levels for that Generator, it shall do so for 60 days. The 60-

day period shall start two business days after the date that the ISO provides written notice of its determination that the application of mitigation is required. Subject to Section 23.3.1.4.6.9.3 below, any subsequent time the ISO ceases using the fuel type and fuel price information submitted to the ISO's Market Information System along with the Bid(s) for a Generator to develop Day-Ahead or real-time reference levels for that Generator, it shall do so for 120 days. The 120-day period shall start two business days after the date that the ISO provides written notice of its determination that the application of mitigation is required.

23.3.1.4.6.9.3 If the bidders of a Generator that has previously been mitigated under this Section 23.3.1.4.6.9 becomes and remains continuously eligible to submit fuel type and fuel price information in the Day-Ahead or Real-Time Market (as appropriate) for a period of one year or more, then the ISO shall apply the mitigation measure set forth in Section 23.3.1.4.6.9 of the Mitigation Measures as if the Generator had not previously been subject to the mitigation measure.

23.3.1.4.6.9.4 Market Parties that transfer, sell, assign, or grant to another Market Party the right or ability to Bid a Generator that is subject to the mitigation measure described in this Section 23.3.1.4.6.9 are required to inform the new Market Party that the Generator has been mitigated under this measure, and to inform the new Market Party of the expected duration of such mitigation.

23.3.1.4.6.9.5 For purposes of this Section 23.3.1.4.6.9, submitted fuel type information shall be considered biased in a Market Party's favor if (a) the Market Party submitted revised fuel type information for a Generator for at least 100 hours during the previous 90 days, and (b) for at least one hour the fuel type that a



Market Party submits for the Generator is not the most economic fuel type available to the Generator, taking into consideration fuel availability, operating conditions, and relevant regulatory or reliability requirements, and (c) as a result of the change(s) in fuel type, the fuel prices that the ISO uses to develop reference levels for a Generator exceeded the fuel price that the ISO would have used to develop reference levels for that Generator by greater than the higher of 10% or \$0.50/MMBtu, on average, over the previous 90 days. For purposes of calculating the average, only hours in which the Market Party changed the Generator's fuel type to a more expensive fuel type will be considered. The Day-Ahead and Real-Time Markets shall be considered separately for purposes of this analysis.

23.3.1.4.6.9.6 For purposes of this Section 23.3.1.4.6.9, submitted fuel price information shall be considered biased in a Market Party's favor if (a) the Market Party submitted revised fuel price information for a Generator for at least 100 hours during the previous 90 days, and (b) the fuel price that the Market Party submitted to the ISO's Market Information System for use in developing reference levels for a Generator exceeded the greater of the actual fuel price (as substantiated by supplier quotes or invoices) or the ISO's indexed fuel price, by greater than the higher of 10% or \$0.50/MMBtu, on average, over the previous 90 days. For purposes of calculating the average, only hours in which the fuel price submitted exceeds the ISO's indexed fuel price will be considered. The Day-Ahead and Real-Time Markets shall be considered separately for purposes of this analysis.

23.3.1.4.6.9.7 The responsibilities of the Market Monitoring Unit that are addressed in Section 23.3.1.4.6.9 of the Mitigation Measures are also addressed in Section 30.4.6.2.3 of the Plan.

23.3.1.4.6.10 In order to adjust (i) Bid-based incremental energy, minimum generation and start-up reference levels, and (ii) LBMP-based incremental energy and minimum generation reference levels to more accurately reflect fuel costs, the ISO may calculate distinct Bid- and LBMP-based reference levels for each fuel type or blend of fuel types that a Generator is capable of burning, and shall fuel index each of the distinct Bid- or LBMP-based reference levels that it calculates for fuel types that are amenable to fuel indexing. Where a Generator can draw on multiple natural gas sources that each have distinct, posted, market clearing prices, the ISO may calculate distinct Bid-Based or LBMP-based reference levels for each such available supply source.

23.3.1.4.7 Except as otherwise authorized in accordance with Section 23.3.1.4.6.8 above, Market Parties shall timely report significant changes to the cost components used to develop their Generator's reference levels to the ISO in order to permit the revised costs to be timely reflected in the Generator reference levels. However, if the ISO uses published index prices to fuel index a Generator's reference level when that Generator is burning a fuel type that is amenable to fuel indexing (which may include a blend of two indexed fuel types), the Market Party is not required to report fuel prices that are less than the published index price that the ISO relies on.

23.3.1.4.8 Reflecting opportunity costs in Reference Levels. The ISO shall use the information available to it to adjust reference levels to reflect appropriate opportunity costs.

23.3.1.4.8.1 Prohibition of duplicative and evasive cost submissions and Bids. Costs that are submitted or Bid as fuel costs shall not also be submitted or Bid as opportunity costs. A cost shall not be submitted or Bid in two parts, as both a fuel costs and an opportunity cost, in order to evade applicable screening thresholds. Fossil generators shall not submit or Bid fuel costs, including but not limited to balancing costs, as opportunity costs. Energy Storage Resources shall not submit or Bid the cost they expect to incur to withdraw Energy as a fuel cost.

If the ISO identifies a potentially duplicative or evasive Bid or cost submission that appears to violate this prohibition, it shall inform the Market Monitoring Unit of the potential Market Violation.

23.3.1.4.8.2 ISO Reporting Obligation. If the ISO did not adjust reference levels to reflect timely (as that term is defined in Section 23.3.1.4.8.9 below) submitted, appropriate opportunity costs, and the ISO's failure to adjust reference levels to reflect such opportunity costs affected market clearing prices or had an impact on guarantee payments that cannot be corrected, then the ISO shall report any market clearing price and uncorrected guarantee payment impacts to FERC staff and to its Market Participants. The ISO is not required to report, or to otherwise act, if no market impact is identified.

23.3.1.4.8.3 Market Parties shall monitor Generator reference levels and shall endeavor to timely (as that term is defined in Section 23.3.1.4.8.9 below) contact the ISO to

request an adjustment to a Generator's reference level(s) when changes in opportunity costs are expected to impact the Generator's reference levels.

23.3.1.4.8.4 Screening of opportunity cost submissions. The ISO may use automated processes and/or require manual review of opportunity cost submissions by Market Parties in order to prevent market clearing prices and guarantee payments from being incorrectly calculated.

23.3.1.4.8.5 Consistent with the rules specified in this Section 23.3.1.4.8 of the Mitigation Measures and the procedures that the ISO develops to implement these rules, Market Parties shall notify the ISO of changes in opportunity costs by (i) submitting revised opportunity cost information to the ISO's Market Information System along with the Generator's Bid(s), or (ii) by directly contacting the ISO to request a reference level update consistent with ISO procedures, or (iii) by utilizing both of the available notification methods. Revised opportunity cost information that exceeds, or is rejected based upon, the thresholds that the ISO uses to automatically screen opportunity cost information that is submitted to the ISO's Market Information System along with a Generator's Bid(s) shall be submitted by directly contacting the ISO to request a reference level update, consistent with ISO procedures.

23.3.1.4.8.6 Following the completion of the ISO's automated and/or manual screening processes, the ISO shall use opportunity cost information that Market Parties or their representatives submit to develop Generator reference levels unless (i) the information submitted is inaccurate, or (ii) the information was not timely

submitted, and the Market Party's failure to timely submit the information is not excused by the ISO in accordance with Section 23.3.1.4.8.9 below.

23.3.1.4.8.7 The ISO may not always have sufficient time to complete its screening of proposed opportunity cost changes prior to the relevant Day-Ahead Market day or Real-Time Market hour. *If* opportunity cost information (i) is timely submitted or, where untimely, the submission is excused in accordance with Section 23.3.1.4.8.9 below, and (ii) the opportunity cost information that the Market Party submitted is proven to have been accurate or to have understated the actual cost incurred for that component, and (iii) the Bid(s) were tested using reference levels that reflected outdated opportunity cost information and the Bid(s) were mitigated or a sanction was imposed pursuant to Section 23.4.3 of these Mitigation Measures, *then* the ISO shall (a) re-perform any test(s) that resulted in a sanction being imposed pursuant to Section 23.4.3 of these Mitigation Measures, using the accurate opportunity cost information and use the revised results to calculate the appropriate sanction (if any), and (b) determine if the Bids for the Generator would have failed the relevant conduct test(s) if accurate opportunity cost information had been used to develop reference levels. The ISO shall then restore any original (as-submitted) Bid(s) that would not have failed the relevant conduct test(s) if accurate opportunity cost information had been used to develop the Generator's reference levels, and use the restored Bid(s) to determine a settlement. Otherwise the ISO shall use the Generator's correct or corrected reference level(s) to determine a settlement.

23.3.1.4.8.8 The ISO shall publicly post the thresholds it employs to automatically screen opportunity cost information that is submitted to the ISO's Market Information System for inputs that require manual review before they can be permitted to take effect.

23.3.1.4.8.9 For purposes of this Section 23.3.1.4.8, "timely" notice or submission to the Real-Time Market shall mean the submission of opportunity cost information using the methods specified in Section 23.3.1.4.8.5 of these Mitigation Measures prior to market close for the relevant Real-Time Market hour. For purposes of this Section 23.3.1.4.8, "timely" notice or submission to the Day-Ahead Market shall mean the submission of opportunity cost information using the methods specified in Section 23.3.1.4.8.5 of these Mitigation Measures prior to the close of the Day-Ahead Market. Market Parties are not expected to submit supporting data with their Bids that include revised opportunity cost information, but are expected to retain a record of how the submitted opportunity cost was determined and other supporting data consistent with the data retention requirements set forth in the Plan, and to be able to produce such information within a reasonable timeframe when asked to do so by the ISO or by its Market Monitoring Unit.

It may not always be possible for a Market Party to timely update a Generator's opportunity cost to reflect unexpected real-time changes or events in advance of the first affected market-hour. Upon a showing of extraordinary circumstances, the ISO may retroactively reflect in Real-Time Market reference levels opportunity cost information that was not timely submitted by a Market Party. While it should ordinarily be possible for a Market Party to timely submit

updated opportunity cost information for use in developing a Generator's Day-Ahead Market reference levels, the ISO may retroactively accept and utilize late-submitted Day-Ahead Market opportunity cost information upon a showing of extraordinary circumstances.

## **23.3.2 Material Price Effects or Changes in Guarantee Payments**

### **23.3.2.1 Market Impact Thresholds**

In order to avoid unnecessary intervention in the ISO Administered Markets, Mitigation Measures shall not be imposed unless conduct identified as specified above (i) causes or contributes to a material change in one or more prices in an ISO Administered Market, or (ii) substantially increases guarantee payments to participants in the New York Electric Market. Initially, the thresholds to be used by the ISO to determine a material price effect or change in guarantee payments shall be:

23.3.2.1.1 an increase of 200 percent or \$100 per MWh, whichever is lower, in the hourly Day-Ahead or Real-Time Energy LBMP at any location, or of any other price in an ISO Administered Market; or

23.3.2.1.2 an increase of 200 percent, or 50 percent for Generators in a Constrained Area in Bid Production Cost guarantee payments to a Market Party for a Generator for a day; or

23.3.2.1.3 for a Constrained Area Generator subject to either a Real-Time Market or Day-Ahead Market conduct threshold, as specified above in Sections 23.3.1.1.1, 23.3.1.2.2.1, or 23.3.1.2.2.3: for all Constrained Hours (as defined in Section 23.3.1.2.2.1 for the Real-Time Market and in Section 23.3.1.2.2.3 for the Day-Ahead Market) for the unit being Bid, a threshold determined in accordance

with the formula specified in Section 23.3.1.2.2.1 for the Real-Time Market or Section 23.3.1.2.2.3 for the Day-Ahead Market.

### **23.3.2.2 Price Impact Analysis**

23.3.2.2.1 When it has the capability to do so, the ISO shall determine the effect on prices or guarantee payments of questioned conduct through the use of sensitivity analyses performed using the ISO's SCUC, RTC and RTD computer models, and such other computer modeling or analytic methods as the ISO shall deem appropriate following consultation with its Market Monitoring Unit. The responsibilities of the Market Monitoring Unit that are addressed in this section of the Mitigation Measures are also addressed in Section 30.4.6.2.4 of Attachment O.

23.3.2.2.2 Pending development of the capability to use automated market models, the ISO, following consultation with its Market Monitoring Unit, shall determine the effect on prices or guarantee payments of questioned conduct using the best available data and such models and methods as they shall deem appropriate. The responsibilities of the Market Monitoring Unit that are addressed in this section of the Mitigation Measures are also addressed in Section 30.4.6.2.5 of Attachment O.

23.3.2.2.3 The ISO shall implement automated procedures within the SCUC for Constrained Areas, and within RTC for Constrained Areas. Such automated procedures will: (i) determine whether any Day-Ahead or Real-Time Energy Bids, including start-up costs Bids and Minimum Generation Bids but excluding Ancillary Services Bids and Bids that only violate the conduct thresholds



specified in Sections 23.3.1.2.1.1.2(b) or 23.3.1.2.2.6(b) of these Mitigation Measures, that have not been adequately justified to the ISO exceed the thresholds for economic withholding specified in Section 23.3.1.2 above; and, if so, (ii) determine whether such Bids would cause material price effects or changes in guarantee payments as specified in Section 23.3.2.1.

23.3.2.2.4 The ISO shall forgo performance of the additional SCUC and RTC passes necessary for automated mitigation of Bids in a given Day-Ahead Market or Real-Time Market if evaluation of unmitigated Bids results in prices at levels at which it is unlikely that the thresholds for Bid mitigation will be triggered.

### **23.3.2.3 Section 205 Filings**

The ISO shall make a filing under § 205 with the Commission seeking authorization to apply an appropriate mitigation measure to conduct that departs significantly from the conduct that would be expected under competitive market conditions but does not rise to the thresholds specified in Sections 23.3.1.1 through 23.3.1.3 above if that conduct has a significant effect on market prices or guarantee payments as specified below, unless the ISO determines, from information provided by the Market Party or Parties (which may include a Demand Side Resource participating in the Operating Reserves or Regulation Service Markets) that would be subject to mitigation, or from other information available to the ISO that the conduct and associated price or guarantee payment effect(s) are attributable to legitimate competitive market forces or incentives. For purposes of this section, conduct shall be deemed to have an effect on market prices or guarantee payments that is significant if it exceeds one of the following thresholds:

23.3.2.3.1 an increase of 100 percent in the hourly day-ahead or real-time energy LBMP at any location, or of any other price in an ISO Administered Market; or

23.3.2.3.2 an increase of 100 percent in Bid Production Cost guarantee payments to a Market Party for a Generator for a day, or an increase of 100 percent in any other guarantee payment over the time period used by the ISO to calculate the guarantee payment.

### **23.3.3 Consultation with a Market Party**

#### **23.3.3.1 Consultation Process**

23.3.3.1.1 *Consultation initiated by the ISO to determine if mitigation is appropriate:*

Applies to Market-Party-specific and/or Generator-specific mitigation, but not to mitigation that is applied pursuant to Sections 23.3.1.2.3, 23.3.2.2.3, or 23.5.2 of these mitigation measures. If through the application of an appropriate index or screen or other monitoring of market conditions, conduct is identified that (i) exceeds an applicable threshold, and (ii) has a material effect, as specified above, on one or more prices or guarantee payments in an ISO Administered Market, the ISO shall, as and to the extent specified in Attachment O or in Section 23.3.3.2 of these Mitigation Measures, contact the Market Party engaging in the identified conduct to request an explanation of the conduct.

23.3.3.1.2 *Consultation initiated by a Market Party when it anticipates that its Generator's marginal costs or other Bid parameters may exceed the Generator's reference level(s) by more than the relevant threshold(s).* If a Market Party anticipates submitting Bids in a market administered by the ISO that will exceed the thresholds specified in Section 23.3.1 above for identifying conduct inconsistent with competition, the Market Party may contact the

ISO to provide an explanation of any legitimate basis for any such changes in the Market Party's Bids.

23.3.3.1.3 *Results of consultation process addressing Bids.* If a Market Party's explanation of the reasons for its bidding indicates to the satisfaction of the ISO that the questioned conduct is consistent with competitive behavior, no further action will be taken. A preliminary determination by the ISO shall be provided to the Market Monitoring Unit for its review and comment.

23.3.3.1.4 *Consultation initiated by a Market Party regarding reference levels.* Upon request, the ISO shall consult with a Market Party or its representative with respect to the information and analysis used to determine reference levels under Section 23.3.1.4 for that Market Party's Generator(s). If cost data or other information submitted by a Market Party's Generator(s) indicates to the satisfaction of the ISO that the reference levels for that Market Party should be changed, revised reference levels shall be proposed by the ISO, communicated to the Market Monitoring Unit for its review and comment and, following the ISO's consideration of any recommendations that the Market Monitoring Unit is able to timely provide, communicated to the Market Party, and implemented by the ISO as soon as practicable. Changes to the reference levels addressed pursuant to the terms of this Section 23.3.3.1.4 shall be implemented on a going-forward basis commencing no earlier than the date that the Market Party's consultation request is received. The responsibilities of the Market Monitoring Unit that are addressed in this section of the Mitigation Measures are also addressed in Section 30.4.6.2.6 of Attachment O.

23.3.3.1.5 *Information required to support consultation regarding Bids and reference levels.* Market Parties shall ensure that the information they submit to the ISO,

including but not limited to fuel price and fuel type information, is accurate. Except as set forth in Section 23.3.1.4.6.8, the ISO may not retroactively revise a reference level to reflect additional fuel costs if a Market Party or its representative did not timely submit accurate fuel cost information. Unsupported speculation by a Market Party does not present a valid basis for the ISO to determine that Bids that a Market Party submitted are consistent with competitive behavior, or to determine that submitted costs are appropriate for inclusion in the ISO's development of reference levels. Consistent with Sections 30.6.2.2 and 30.6.3.2 of the Plan, the Market Party shall retain the documents and information supporting its Bids and the costs it proposes to include in reference levels.

### **23.3.3.2 Consultation Requirements**

23.3.3.2.1 The ISO shall make a reasonable attempt to contact and consult with the relevant Market Party about the Market Party's reference level(s) before imposing conduct and impact mitigation, other than conduct and impact mitigation imposed through the automated procedures described in Section 23.3.2.2.3 of these Mitigation Measures. The ISO shall keep records documenting its efforts to contact and consult with the Market Party.

23.3.3.2.2 Consultation regarding both real-time guarantee payment mitigation and mitigation of Generators committed outside the economic evaluation process in the Day-Ahead or Real-Time Markets to protect or preserve system reliability in accordance with Section 23.3.1.2.3 of these Mitigation Measures is addressed in Section 23.3.3.3, below. Consultation regarding Day-Ahead guarantee payment mitigation of Generators, other than mitigation imposed through the automated procedures described in Section 23.3.2.2.3 of these Mitigation Measures, shall be

conducted in accordance with Sections 23.3.3.1 and 23.3.3.2 of these Mitigation Measures.

### **23.3.3.3 Consultation Rules for Real-Time Guarantee Payment Mitigation**

#### **23.3.3.3.1 Real-Time Guarantee Payment Consultation Process**

23.3.3.3.1.1 For real-time guarantee payment mitigation determined pursuant to

Sections 23.3.1.2.1 or 23.3.1.2.2, and 23.3.2.1.2 of these Mitigation Measures, the ISO shall electronically post settlement results informing Market Parties of Bid(s) that failed the real-time guarantee payment impact test. The settlement results posting shall include the adjustment to the guarantee payment and the mitigated Bid(s). The initial posting of settlement results ordinarily occurs two days after the relevant real-time market day.

23.3.3.3.1.2 For real-time guarantee payment mitigation determined pursuant to

Sections 23.3.1.2.1 or 23.3.1.2.2, and 23.3.2.1.2 of these Mitigation Measures, no more than two business days after new or revised real-time guarantee payment impact test settlement results are posted, the ISO will send an e-mail or other notification to all potentially impacted Market Parties that comply with Section 23.3.3.3.1.2.2 of these Mitigation Measures.

23.3.3.3.1.2.1 Although the ISO is authorized to take up to two business days to

provide notification to all potentially impacted Market Parties that comply with Section 23.3.3.3.1.2.2 of these Mitigation Measures, the ISO shall undertake reasonable efforts to provide notification to such Market Parties within one business day after new or revised real-time guarantee payment impact test settlement results are posted.

23.3.3.3.1.2.2 A Market Party that desires to receive notification from the ISO must provide one e-mail address to the ISO for real-time guarantee payment mitigation notices. Each Market Party is responsible for maintaining and monitoring the e-mail address it provides, and informing the ISO of any change(s) to that e-mail address in order to continue to receive e-mail notification. E-mail will be the ISOs primary method of providing notice to Market Parties.

23.3.3.3.1.2.3 Regardless of whether a Market Party chooses to receive notification from the ISO, each Market Party is responsible for reviewing its posted real-time guarantee payment impact test settlement results and for contacting the ISO to request a consultation if and when appropriate.

23.3.3.3.1.3 The following notice rules apply to guarantee payment mitigation determined pursuant to Section 23.3.1.2.3 of these Mitigation Measures.

23.3.3.3.1.3.1 For mitigation of a Generator's Minimum Generation Bid, Start-Up Bid or Incremental Energy Bid resulting from its DARU or SRE commitment, the ISO shall send an e-mail or other notification to potentially impacted Market Parties that comply with Section 23.3.3.3.1.2.2 of these Mitigation Measures within ten business days after the relevant market day, and shall undertake reasonable efforts to provide notification to such Market Parties within two business days after the relevant market day. The e-mail shall identify the date of the proposed mitigation and the Bid(s) or Bid components that the NYISO proposes to mitigate for all or part of the relevant market day.

As soon as it is able to do so, the NYISO will commence electronically posting settlement results informing Market Parties of Bid(s) that failed the Section

23.3.1.2.3 test and sending an e-mail or other notification to potentially impacted Market Parties that comply with Section 23.3.3.1.2.2 of these Mitigation Measures. The settlement results posting shall include the mitigated bid(s). The posting of settlement results ordinarily occurs two days after the relevant real-time market day.

23.3.3.1.3.2 For mitigation of a Generator's Minimum Generation Bid, Start-Up Bid or Incremental Energy Bid resulting from an Out-of-Merit dispatch above the Generator's DARU or SRE commitment, the ISO shall send an e-mail or other notification to potentially impacted Market Parties that comply with Section 23.3.3.1.2.2 of these Mitigation Measures within 10 business days after the relevant market day. The e-mail shall identify the date of the proposed mitigation and the bid(s) or bid components that the NYISO proposes to mitigate for all or part of the relevant market day.

23.3.3.1.3.3 For mitigation based on a Generator's minimum run time, start-up time, minimum down time, minimum generation MWs, or maximum number of stops per day, or for mitigation based on temporal or operating parameters related to the withdrawal and injection of Energy by Withdrawal-Eligible Generators, the ISO shall send an e-mail or other notification to potentially impacted Market Parties that comply with Section 23.3.3.1.2.2 of these Mitigation Measures within 10 business days after the relevant market day. The e-mail shall identify the date of the proposed mitigation and the conduct failing Bid(s) or Bid components.

23.3.3.3.1.4 Market Parties that want to consult with the ISO regarding real-time guarantee payment impact test results, or regarding mitigation applied in accordance with Section 23.3.1.2.3 of these Mitigation Measures, for a particular market day must submit a written request to initiate the consultation process that specifies the market day and Bid(s) for which consultation is being requested (for purposes of this Section 23.3.3.3.1, a “Consultation Request”).

23.3.3.3.1.4.1 Consultation Requests must be received by the ISO’s customer relations department within 15 business days after the ISO (i) posts new or revised real-time guarantee payment impact test settlement results, or (ii) either posts new or revised real-time guarantee payment impact test settlement results or sends an e-mail informing a Market Party of the results of a test performed pursuant to Section 23.3.1.2.3 of these Mitigation Measures for the relevant market day. Consultation Requests received outside the 15 business day period shall be rejected by the ISO.

23.3.3.3.1.4.2 The ISO may send more than one notice informing a Market Party of the same instance of mitigation. Notices that identify real-time guarantee payment impact test or Section 23.3.1.2.3 mitigation settlement results that are not new (for which the Market Party has already received a notice from the ISO) and that do not reflect revised mitigation (for which the dollar impact of the real-time guarantee payment mitigation has not changed) shall not present an additional opportunity, or temporally extend the opportunity, for the Market Party to initiate consultation.



23.3.3.3.1.4.3 If consultation was timely requested and completed addressing a particular set of real-time guarantee payment impact test results, or addressing a particular instance of mitigation applied in accordance with Section 23.3.1.2.3 of these Mitigation Measures, a Market Party may not again request consultation regarding the same real-time guarantee payment impact test results, or the same application of Section 23.3.1.2.3 mitigation, unless revised settlement results, that are not due to the previously completed consultation and that change the dollar impact of the relevant instance of mitigation, are posted.

23.3.3.3.1.5 The Consultation Request may include: (i) an explanation of the reason(s) why the Market Party believes some or all of the reference levels used by the ISO for the market day(s) in question are inappropriate, or why some or all of the Market Party's Bids on the market day(s) in question were otherwise consistent with competitive behavior; and (ii) supporting documents, data and other relevant information (collectively, for purposes of this Section 23.3.3.3.1, "Data"), including proof of any cost(s) claimed.

23.3.3.3.1.5.1 Market Parties shall ensure that the information they submit to the ISO, including but not limited to fuel price and fuel type information, is accurate. Except as set forth in Section 23.3.1.4.6.8, the ISO may not retroactively revise a reference level to reflect additional fuel costs if a Market Party or its representative did not timely submit accurate fuel cost information. Except as set forth in Section 23.3.1.4.8.9, the ISO may not retroactively revise a reference level to reflect additional opportunity costs if a Market Party or its representative did not timely submit accurate opportunity cost information.

23.3.3.3.1.6 If the Market Party is not able to provide (i) an explanation of the reason(s) why the Market Party believes some or all of the reference levels used by the ISO for the market day(s) in question are inappropriate, or why some or all of the Market Party's Bids on the market day(s) in question were otherwise consistent with competitive behavior, or (ii) all supporting Data, at the time a Consultation Request is submitted, the Market Party should specifically identify any additional explanation or Data it intends to submit in support of its Consultation Request and provide an estimate of the date by which it will provide the additional explanation or Data to the ISO.

23.3.3.3.1.7 Following the submission of a Consultation Request that satisfies the timing and Bid identification requirements of Section 23.3.3.3.1.4, above, consultation shall be performed in accordance with Section 23.3.3.1 of these Mitigation Measures, as supplemented by the following rules:

23.3.3.3.1.7.1 The ISO shall consult with the Market Party to determine whether the information available to the ISO presents an appropriate basis for (i) modifying the reference levels used to perform real-time guarantee payment mitigation for the market day in question, or (ii) determining that the Market Party's Bid(s) on the market day in question were consistent with competitive behavior. The ISO shall only modify the reference levels used to perform mitigation, or determine that the Market Party's Bid(s) on the market day that is the subject of the Consultation Request were consistent with competitive behavior, if the ISO has in its possession Data that is sufficient to support such a decision.

23.3.3.3.1.7.2 A preliminary determination by the ISO shall be provided to the Market Monitoring Unit for its review and comment, and the ISO shall consider the Market Monitoring Unit's recommendations in reaching its decision. The ISO shall inform the Market Party of its decision, in writing, as soon as reasonably practicable, but in no event later than (i) 50 business days after the new or revised real-time guarantee payment impact test settlement results for the relevant market day were posted, or (ii) 50 business days after the earlier of the posting of new or revised Section 23.3.1.2.3 mitigation settlement results for the relevant market day, or the issuance of an e-mail in accordance with Section 23.3.3.3.1.3, above. If the ISO does not affirmatively determine that it is appropriate to modify the Bid(s) that are the subject of the Consultation Request within 50 business days, the Bid(s) shall remain mitigated. The responsibilities of the Market Monitoring Unit that are addressed in this section of the Mitigation Measures are also addressed in Section 30.4.6.2.7 of Attachment O.

23.3.3.3.1.7.3 The ISO may, as soon as practicable, but at any time within the consultation period, request Data from the Market Party. The Market Party is expected to undertake all reasonable efforts to provide the requested Data as promptly as possible, to inform the ISO of the date by which it expects to provide requested Data, and to promptly inform the ISO if the Market Party does not intend to, or cannot, provide Data that has been requested by the ISO.

23.3.3.3.1.8 This Section 23.3.3.3.1 addresses Consultation Requests. It is not intended to limit, alter or modify a Market Party's ability to submit or proceed

with a billing dispute pursuant to Section 7.4 of the ISO Services Tariff or Section 2.7.4.1 of the ISO OATT.

**23.3.3.3.2 Revising Reference Levels of Certain Generators Committed Out-of-Merit or via Supplemental Resource Evaluation for Conducting Real-Time Guarantee Payment Conduct and Impact Tests and Applying Mitigation in Accordance with Section 23.3.1.2.3 of these Mitigation Measures**

23.3.3.3.2.1 Consistent with and subject to all of the requirements of Section 23.3.3.3.1 of these Mitigation Measures, Generators that (i) are committed Out-of-Merit or via a Supplemental Resource Evaluation after the DAM has posted, and (ii) for which the NYISO has posted real-time guarantee payment impact test settlement results, or identified possible mitigation under Section 23.3.1.2.3 of these Mitigation Measures may contact the ISO within 15 business days after new or revised impact test settlement results are posted, or possible mitigation under Section 23.3.1.2.3 of these Mitigation Measures is identified, to request that the reference levels used to perform the testing and mitigation be adjusted to include any of the following verifiable costs:

23.3.3.3.2.1.1 procuring fuel at prices that exceed the index prices used to calculate the Generator's reference level;

23.3.3.3.2.1.2 burning a type of fuel or blend of fuels that is not reflected in the Generator's reference level;

23.3.3.3.2.1.3 permitted gas balancing charges;

23.3.3.3.2.1.4 compliance with operational flow orders;

23.3.3.3.2.1.5 purchasing additional emissions allowances that are necessary to satisfy the Generator's Supplemental Resource Evaluation or Out-of-Merit schedule; and

23.3.3.3.2.1.6 demonstrated opportunity costs that differ from the opportunity cost used in calculating the Generator's reference level.

23.3.3.3.2.2 The six categories of verifiable costs specified above shall be used to modify the requesting Generator's reference level(s) subject to the following prerequisites:

23.3.3.3.2.2.1 the Generator must specifically and accurately identify and document the extraordinary costs it has incurred to operate during the hours of its Supplemental Resource Evaluation or Out-of-Merit commitment; and

23.3.3.3.2.2.2 the costs must not already be reflected in the Generator's reference levels or be recovered from the ISO through other means.

As soon as practicable after the Market Party demonstrates to the ISO's reasonable satisfaction that one or more of the five categories of extraordinary costs have been incurred, but in no event later than the deadline set forth in Section 23.3.3.3.1.7.2 of these Mitigation Measures, the ISO shall adjust the affected Generator's reference levels and re-perform the real-time guarantee payment conduct and impact tests, or the Section 23.3.1.2.3 test, as appropriate, for the affected day. Only the reference levels used to perform real-time guarantee payment mitigation and/or mitigation pursuant to Section 23.3.1.2.3 of these Mitigation Measures, will be adjusted.

23.3.3.3.2.3 If, at some point prior to the issuance of a Close-Out Settlement for the relevant service month, the ISO or the Commission determine that some or all of the costs claimed by the Market Party during the consultation process described above were not, in fact, incurred over the course of the Out-of-Merit or Supplemental Resource Evaluation commitment, or were recovered from the ISO

through other means, the ISO shall re-perform the appropriate test(s) using reference levels that reflect the verifiable costs that the Generator incurred and shall apply mitigation if the Generator's Bids fail conduct and impact, or the Section 23.3.1.2.3 test, at the corrected reference levels.

23.3.3.3.2.4 Generators may contact the ISO to request the inclusion of costs other than the six types identified above in their reference levels. The ISO shall consider such requests in accordance with Sections 23.3.1.4, or 23.3.3.3.1 of these Mitigation Measures, as appropriate.

#### **23.4.5.7 Buyer-Side Market Power Mitigation Measures for Installed Capacity**

Unless exempt as specified below, offers to supply Unforced Capacity from a Mitigated Capacity Zone Installed Capacity Supplier: (i) shall equal or exceed the applicable Offer Floor; and (ii) can only be offered in the ICAP Spot Market Auctions. Except for Offer Floors applied pursuant to Section 23.4.5.7.9.5.2 (*i.e.*, after the revocation of a Competitive Entry Exemption,) Section 23.4.5.7.13.3 (*i.e.*, after the revocation of a Renewable Exemption) or Section 23.4.5.7.14.5 (*i.e.*, after the revocation of Self Supply Exemption), the ISP UCAP MW, or when the Installed Capacity Supplier is an RMR Generator, the Offer Floor shall apply to offers for Unforced Capacity from the Installed Capacity Supplier, if it is not a Special Case Resource, starting with the Capability Period for which the Installed Capacity Supplier first offers to supply UCAP. Offer Floors applied pursuant to Section 23.4.5.7.9.5.2 shall apply to offers for Unforced Capacity from an Installed Capacity Supplier starting with all ICAP auction activity subsequent to the date of the revocation. The same exemption determination or Offer Floor shall apply to the 2 MW or less that an existing Generator or UDR project with CRIS requests and receives under Section 30.3.2.6 (Attachment X) or Section 32.4.11.1 (Attachment Z) of the ISO OATT. Offer Floors shall cease to apply:

- (A) to that portion of an Examined Facility's UCAP (rounded down to the nearest tenth of a MW) that has cleared for any twelve, not-necessarily-consecutive, months (such cleared amount, "Cleared UCAP") in which the resource's MW were not ISP UCAP MW or MW of an RMR Generator: and
- (B) for the period an Installed Capacity Supplier is an Interim Service Provider if its generating unit(s) are required to remain in-service but only in the amount of its ISP UCAP MW, or an RMR Generator in which case the Installed Capacity

Supplier's offers of UCAP shall be as set forth in Section 23.4.5.7.12. Offer Floors shall be adjusted annually using the most recent inflation rate that is the twelve month percentage change in the index for the general component of the escalation factor ("Inflation Rate") that is the most recent of (a) the Inflation Rate identified in the index accepted by the Commission after a periodic review in an ICAP Demand Curve Reset Filing Year, as of October 1 of the ICAP Demand Curve Reset Filing Year, and (b) the Inflation Rate in the Annual Update of the relevant effective ICAP Demand Curves published under Section 5.14.1.2.2.



23.4.5.7.2 An Examined Facility in a Mitigated Capacity Zone for which the Commission has accepted an ICAP Demand Curve shall be exempt from an Offer Floor if: (a) the price that is equal to the (x) average of the ICAP Spot Market Auction price for each month in the two Capability Periods, beginning with the Starting Capability Period, is projected by the ISO, in accordance with Section 23.4.5.7.15, to be higher than (y) the numerical value equal to 75 percent of the Mitigation Net CONE that would be applicable in the same two (2) Capability Periods (utilized to compute (x)), (b) the price that is equal to the average of the ICAP Spot Market Auction prices in the Mitigation Study Period is projected by the ISO, in accordance with Section 23.4.5.7.15, to be higher than the reasonably anticipated Unit Net CONE of the Examined Facility, (c) it has been determined to be exempt pursuant to Section 23.4.5.7.9 (the “Competitive Entry Exemption”), (d) it has been determined, and in the quantity of MW for which it has been determined, to be exempt pursuant to Section 23.4.5.7.13 (the “Renewable Exemption”), or (e) for an Examined Facility that participated in either a Class Year Study or an Additional SDU Study, it has been determined, and in the quantity of MW for which it has been determined, to be exempt pursuant to Section 23.4.5.7.14 (the “Self Supply Exemption”). For purposes of the determinations pursuant to (a) and (b) of this section, the ISO shall identify Unit Net CONE and the projected ICAP Spot Market Auction prices in accordance with Section 23.4.5.7.15, for each Examined Facility promptly after it (i) has accepted its Project Cost Allocation (as defined below) and deliverable MW, if any, from the Final Decision Round, or in the case of when there are two

Examined Facilities that comprise a single Project as Co-located Storage Resources in a Class Year Study, Additional SDU Study, or Expedited Deliverability Study, both Examined Facilities have accepted their Project Cost Allocation and deliverable CRIS MW and (ii) along with all other remaining members, has posted any associated Security pursuant to OATT Section 25 (OATT Attachment S) (for purposes of Section 23.4, a Project that “remains a member of the completed Class Year Study, Additional SDU Study, or Expedited Deliverability Study”), and it shall do so concurrently for an Expected CRIS Transferee (as defined in 23.4.5.7.3).

For purposes of Section 23.4.5.7 *et seq*, “Project Cost Allocation” shall mean the singular Project Cost Allocation or two Project Cost Allocations (*i.e.*, one for System Deliverability Upgrades (“SDUs”) and one for System Upgrade Facilities (SUFs”), for the Project, which in the case of Co-located Storage Resources may include up to two separate allocations for System Deliverability Upgrades, one for each Examined Facility that comprises the Co-located Storage Resources, as applicable, from the Final Decision Round.

The first year value of an Examined Facility’s Unit Net CONE calculated pursuant to Section 23.4.5.7 and Section 23.4.5.7.3.2, will be established in accordance with Section 23.4.5.7.3.7 at the time such Examined Facility first offers UCAP, and will be used by the ISO in subsequent mitigation exemption or Offer Floor determinations for Additional CRIS MW. A Unit Net CONE determination received pursuant to Sections 23.4.5.7.2, 23.4.5.7.6 or 23.4.5.7.7 shall only be final for the relevant Examined Facility, or in the case of a Co-

located Storage Resource Project, the Examined Facilities, if the Project accepts its Project Cost Allocation or deliverable MW requested by the Project, and the Project remains a member of the completed Class Year Study, Additional SDU Study, or Expedited Deliverability Study on the date the ISO issues a notice to stakeholders that the Class Year Study, Additional SDU Study, Expedited Deliverability Study decisional process of which the Project is a member has been completed, and as specified in the ISO's notice to the Project of the final exemption and Offer Floor determinations for the quantity of CRIS MW accepted by the applicable Examined Facility or Examined Facilities in such Class Year Study, Additional SDU Study, or Expedited Deliverability Study at the time of its completion (or transferred CRIS if an Expected CRIS Transferee).

23.4.5.7.2.1 Promptly after Commission acceptance of the first ICAP Demand Curve to apply to a Mitigated Capacity Zone, the ISO shall make an exemption and Offer Floor determination for any NCZ Examined Project that has requested CRIS and remains a member of the completed Class Year Study, Additional SDU Study, or Expedited Deliverability Study, or was an Expected CRIS Transferee and could have been evaluated concurrently with a Class Year Study, and has received CRIS, unless exempt pursuant to section 23.4.5.7.6 or 23.4.5.7.8.

23.4.5.7.2.2 The ISO shall make an "Indicative Buyer-Side Mitigation Exemption Determination" for any NCZ Examined Project if (i) the Commission has accepted an ICAP Demand Curve for the Mitigated Capacity Zone that will become effective when the Mitigated Capacity Zone is first effective, or (ii) if the Commission has not accepted the first ICAP Demand Curve to apply specifically

to the Mitigated Capacity Zone in which the NCZ Examined Project is located, provided the ISO has filed an ICAP Demand Curve pursuant to Services Tariff Section 5.14.1.2.2.4.11. The Indicative Buyer-Side Mitigation Exemption Determination shall be computed using such ICAP Demand Curve for the Mitigated Capacity Zone concurrent with the determinations the ISO makes for Examined Facilities pursuant to Sections 23.4.5.7.3.2 and 23.4.5.7.3.3. The ISO shall recompute the Indicative Buyer-Side Mitigation Exemption Determination promptly after Commission acceptance of the first ICAP Demand Curve for the applicable Locality provided that such NCZ Examined Project (i) received CRIS if the Class Year completed at the time the Commission accepts the Demand Curve, or (ii) has not been removed from the Class Year Deliverability Study if the Class Year is not completed. The Indicative Buyer-Side Mitigation Exemption Determination is for informational purposes only. The exemption or Offer Floor for an NCZ Examined Project to which this Section applies shall be determined for such projects receiving CRIS using the Commission-accepted Locality ICAP Demand Curve.

23.4.5.7.2.3 Any NCZ Examined Project not exempt pursuant to 23.4.5.7.8 shall provide data and information requested by the ISO by the date specified by the ISO, in accordance with the ISO Procedures.

23.4.5.7.2.3.1 The ISO shall compute the reasonably anticipated ICAP Spot Market Auction forecast in accordance with Section 23.4.5.7.15.

23.4.5.7.2.4 When the ISO is evaluating more than one NCZ Examined Project concurrently, the ISO shall recognize in its computation of the anticipated ICAP

Spot Market Auction forecast price that Generators or UDR projects will clear from lowest to highest, using for each NCZ Examined Project the lower of (i) the first year value of its Unit Net CONE, or (ii) the numerical value equal to 75 percent of the Mitigation Net Cone, then inflated in accordance with 23.4.5.7 for each of the year two and year three of the Mitigation Study Period. However, if a NCZ Examined Project elects to pursue an Additional SDU Study or an Expedited Deliverability Study and that study is not completed prior to the completion of the current Class Year Study then the NCZ Examined Project shall not be included in the BSM Forecast for the current Class Year Study. If a NCZ Examined Project completes its Additional SDU Study after the completion of the Class Year Study that it originally entered but before the time the ISO completes a subsequent Class Year's Annual Transmission Baseline Assessment study cases then that NCZ Examined Project shall have a separate decisional process utilizing the Mitigation Study Period from the most recently completed Class Year Study.

23.4.5.7.2.5 When evaluating NCZ Examined Projects pursuant to Sections 23.4.5.7.2.1 or 23.4.5.7.2.2, the ISO shall seek comment from the Market Monitoring Unit on matters relating to the determination of price projections and cost calculations. The ISO shall inform the NCZ Examined Project of the Offer Floor and/or Offer Floor exemption determinations or Indicative Buyer-Side Mitigation Exemption Determinations promptly. The responsibilities of the Market Monitoring Unit that are addressed in this Section 23.4.5.7.2.5 are also addressed in Section 30.4.6.2.13 of Attachment O *to this Services Tariff*.

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

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

23.4.5.7.3 The ISO shall make such exemption and Unit Net CONE determination for each Examined Facility that comprises a Project.

**23.4.5.7.3.1 [Reserved for future use]**

23.4.5.7.3.2 The ISO shall compute the reasonably anticipated ICAP Spot Market Auction forecast price for any Mitigated Capacity Zone in accordance with Section 23.4.5.7.15.

When the ISO is evaluating more than one Examined Facility concurrently in either a Class Year Study, Additional SDU Study or Expedited Deliverability Study, the ISO shall recognize in its computation of the anticipated ICAP Spot Market Auction forecast price that Generators or UDR projects will clear from lowest to highest, using for each Examined Facility the lower of (i) the first year value of its Unit Net CONE, or (ii) the numerical value equal to 75 percent of the Mitigation Net Cone, then inflated in accordance with 23.4.5.7 for each of the year two and year three of the Mitigation Study Period. However, if an Examined Facility has accepted its determination from a Class Year Study, Additional SDU Study, or Expedited Deliverability Study, then the Examined Facility shall also be included in the BSM Forecast for any subsequently completed Class Year Study, Additional SDU Study or Expedited Deliverability Study that utilized the same Mitigation Study Period that was used to evaluate the Examined Facility. If an Examined Facility completes its Additional SDU Study after the completion of the Class Year Study that it originally entered but before the time the ISO completes a subsequent Class Year's Annual Transmission Baseline Assessment study cases then that Examined Facility shall have a separate decisional process

utilizing the Mitigation Study Period from the most recently completed Class Year Study.

#### **23.4.5.7.3.3 [Intentionally Left Blank]**

All Developers, Interconnection Customers, and Installed Capacity Suppliers for any Examined Facility that do not request CRIS shall provide data and information requested by the ISO by the date specified by the ISO, in accordance with the ISO Procedures. For any such Examined Facility that is in a Class Year Study, Additional SDU Study or Expedited Deliverability Study on the date the ISO issues a notice to stakeholders that the decisional period of which the Examined Facility is a member has been completed but that only has ERIS rights, the ISO shall utilize the data first provided in its analysis of the Unit Net CONE in its review of the project in any future Class Year Study, Additional SDU Study, or Expedited Deliverability Study in which the Generator or UDR project requests CRIS. The ISO shall determine the reasonably anticipated Unit Net CONE with the costs to be determined in the Project Cost Allocation, as applicable, prior to or contemporaneous with the commencement of the Initial Decision Period, and shall provide to the Examined Facility the ISO's initial determination of an exemption or the Offer Floor.

The ISO shall provide to each Project its price forecast and an initial determination (incorporating its revised Project Cost Allocation) prior to or contemporaneous with the commencement of the Initial Decision Period for the Class Year Study, Additional SDU Study, and the Expedited Deliverability Study and for each Subsequent Decision Period for the Class Year Study and Additional SDU Study no later than the ISO's issuance of a Revised Project Cost Allocation for the Class Year Study and Additional SDU Study.



If a Project remains a member of the completed Class Year Study, Additional SDU Study, or Expedited Deliverability Study, the ISO shall inform the Project of the final Offer Floor determination(s) or the Offer Floor exemption(s) that will apply to the Project as soon as practicable after the date the ISO issues a notice to stakeholders that the decisional period has been completed, in accordance with methods and procedures specified in ISO Procedures.

When evaluating Examined Facilities pursuant to this Section 23.4.5.7, the ISO shall seek comment from the Market Monitoring Unit on matters relating to the determination of price projections and cost calculations. The responsibilities of the Market Monitoring Unit that are addressed in this section of the Mitigation Measures are also addressed in Section 30.4.6.2.13 of Attachment O to this Services Tariff.

23.4.5.7.3.4 If a Generator or UDR Project that would be an Examined Facility under the criteria provided in (II) of the Examined Facility definition in Section 23.2.1 has not provided written notice to the ISO on or before the Class Year Start Date for the Class Year Study or the Expedited Deliverability Study Start Date for the expedited Delivery Study with which it was eligible to be examined, or any Examined Facility required to be reviewed does not provide all of the requested data by the date specified by the ISO, the proposed Capacity shall be subject to the Mitigation Net CONE Offer Floor for the period determined by the ISO in accordance with Section 23.4.5.7. In the case of the Examined Facilities that comprise a Project seeking to participate as a Co-located Storage Resource all data and information required to be provided to the ISO for both Examined Facilities that comprise the Project must be provided by the ISO specified date or

the Project's Examined Facilities will be subject to the Mitigation Net CONE Offer Floor in accordance with section 23.4.5.7.

23.4.5.7.3.5 Except as specified in Section 23.4.5.7.6 with respect to Additional CRIS MW, an Examined Facility for which an exemption or Offer Floor determination has been rendered may only be reevaluated for an exemption or Offer Floor determination if it meets the criteria provided in (I) of the Examined Facility definition in Section 23.2.1 and was not previously in a Class Year Study, Additional SDU Study, or Expedited Deliverability Study at the time of their completion and the Examined Facility either (a) enters a new Class Year and requests CRIS or (b) intends to receive transferred CRIS rights at the same location. An Expected CRIS Transferee that received CRIS will be bound by the determination rendered and will not be reevaluated. An Examined Facility under the criteria that had been set forth in Section 23.4.5.7.3 (III) prior to May 19, 2016, will not be reevaluated.

23.4.5.7.3.6 In order to become an Examined Facility in an Expedited Deliverability Study an eligible Project must (1) provide a written request to the ISO's Market Mitigation and Analysis Department; and (2) satisfy all of the applicable data requirements in accordance with ISO Procedures prior to the start of the Expedited Deliverability Study. Once the data submission is deemed complete by the ISO the eligible Project will be notified by the ISO that it has satisfied the data requirements to enter an Expedited Deliverability Study.

23.4.5.7.3.7 If the Installed Capacity Supplier first offers UCAP prior to the first Capability Year of the Mitigation Study Period for which it was evaluated, its

Offer Floor shall be reduced using the same numerical value for the inflation index that was used in the final determination issued under Section 23.4.5.7.4 (*i.e.*, when the Examined Facility remains a member of the completed Class Year as identified in Section 23.4.5.7.4. If the Installed Capacity Supplier first offers UCAP after the first Capability Year of the Mitigation Study Period for which it was evaluated, its Offer Floor shall be increased using the inflation rate identified in 23.4.5.7.

#### **23.4.5.7.3.8 Net Energy and Ancillary Services Revenue Projections for UDR Projects**

For the purposes of making an exemption determination or Unit Net CONE determination pursuant to Section 23.4.5.7 for a UDR project, the ISO will determine the likely projected net Energy and Ancillary Services revenues utilizing a methodology that reflects, as applicable, but is not limited to, the guiding principles set forth in Section 23.4.5.7.3.8.1. The ISO will implement this Section 23.4.5.7.3.8 in accordance with Section 23.4.5.7.3.8.2.

23.4.5.7.3.8.1 The methodology used for a specific UDR project shall reflect the following guiding principles, where applicable:

- (a) The design and characteristics of the UDR project as proposed in the Class Year, including whether it is proposed to be uni-directional or bi-directional.
- (b) The market structure, scheduling rules, price formation rules, and other relevant characteristics and rules of the Control Area at each terminus of the UDR project.
- (c) The reasonably projected effects of transactions utilizing the UDR project on NYCA and External Control Areas prices, including proxy bus prices.
- (d) The reasonably projected cost to purchase energy, capacity, and ancillary services that would be transmitted into, and if the UDR project is proposed in the Class

Year to be bi-directional also from, the Mitigated Capacity Zone, utilizing the UDR project at the rate determined by: (i) market-based clearing price mechanisms to the extent that the External Control Area uses them, or ISO market prices if an internal UDR project; (ii) a reasonable substitute, in the ISO's judgment, to the extent that the External Control Area does not use market-based clearing price mechanisms to determine prices. The costs to purchase energy and capacity, and any other products associated therewith, shall not be based on advantages or sources of revenue that would not reflect arm's-length transactions, or that are not in ordinary course of business for a competitive energy market participant.

- (e) The reasonably anticipated fees for transmitting the ISO-projected energy, capacity, and ancillary services transactions utilizing the UDR project. These fees shall include any export fees, transmission services charges, ancillary services fees, scheduling fees, and other fees and costs.
- (f) The reasonably projected opportunity costs (including fees) of selling energy, capacity, and any other products associated with the sale of energy, into an External Control Area in lieu of a sale transaction into the Mitigated Capacity Zone.
- (g) The reasonably projected revenues from the sale of energy and ancillary services that would be transmitted into, and if the UDR project is proposed in the Class Year Study or Additional SDU Study to be bi-directional also from, the Mitigated Capacity Zone, utilizing the UDR project at the rate determined by: (i) market-based clearing price mechanisms to the extent that the External Control Areas

uses them, or ISO market prices if an internal UDR project; (ii) a reasonable substitute, in the ISO's judgment, to the extent that the External Control Area does not use market-based clearing price mechanisms to determine prices. The revenues from the sale of energy, capacity, and any other products associated with the sale thereof, into an External Control Area shall not be based on advantages or sources of revenue that do not reflect arm's-length transactions, or that are not in ordinary course of business for a competitive energy market participant.

- (h) The effect of scheduling uncertainty and imperfect arbitrage on the projected costs and revenues from the purchase and sale of energy and ancillary services that are reasonably projected to be transmitted into, and if the UDR project is proposed in the Class Year Study or Additional SDU Study to be bi-directional also from, the Mitigated Capacity Zone, utilizing the UDR project.

#### **23.4.5.7.3.8.2 Implementation**

- (a) The ISO shall seek comment from the Market Monitoring Unit on the methodology the ISO will use to project net Energy and Ancillary Services for each UDR project, and the inputs used to perform the calculation. The responsibilities of the Market Monitoring Unit that are addressed in this section are also addressed in Section 30.4.6.2.13 of Attachment O.
- (b) The ISO shall post on its website a description of the methodology used for each UDR project, subject to any restrictions on the disclosure of Confidential Information or Critical Energy Infrastructure Information.
- (c) If a Project withdraws from a Class Year Study or Additional SDU Study and then enters another Class Year (regardless of whether it has the same or a

different interconnection queue position,) the ISO may utilize a different methodology than it previously used, provided it reflects, where applicable, the guiding principles set forth in Section 23.4.5.7.3.8.1 and implemented in accordance with Section 23.4.5.7.3.8.2(a) and (b).

#### **23.4.5.7.6 Exemption and Offer Floor Determinations for Additional CRIS MW:**

All requests for Additional CRIS MW for an Examined Facility located in a Mitigated Capacity Zone, in a Class Year Study, Additional SDU Study, Expedited Deliverability Study or through a transfer, shall be evaluated for a buyer-side mitigation exemption or Offer Floor in accordance with this Section 23.4.5.7.6 and with respect to requests for Competitive Entry Exemption in accordance with Section 23.4.5.7.9.6 and the applicable provisions of Section 23.4.5.7.9. Additional CRIS MW obtained in a Class Year Study, Additional SDU Study, Expedited Deliverability Study or obtained through a transfer at the same location shall be exempt from an Offer Floor (a) if the price that is equal to (x) the average of the ICAP Spot Market Auction price for each month in the two Capability Periods, beginning with the Summer Capability Period commencing three years from the start of the Starting Capability Period is projected by the ISO, in accordance with Section 23.4.5.7.15, to be higher than (y) the highest Offer Floor based on the Mitigation Net CONE that would be applicable to such Additional CRIS MW in the same two (2) Capability Periods (utilized to compute (x)); (b) if the price that is equal to the average of the ICAP Spot Market Auction prices in the Mitigation Study Period is projected by the ISO, in accordance with Section 23.4.5.7.15, to be higher than the reasonably anticipated Unit Net CONE computed in accordance with (i) and (ii) of Section 23.4.5.7.6.1 for the Installed Capacity Supplier's Additional CRIS MW, or (c) for the quantity of MW determined to be exempt pursuant to Section 23.4.5.7.13 or 23.4.5.7.14 (i.e., a Self Supply Exemption can be received for some Additional CRIS MW and a

Renewable Exemption for other Additional CRIS MW that comprise all or part of the same request for Additional CRIS MW in a given Class Year Study, Additional SDU Study and Expedited Deliverability Study (except that Self Supply Exemptions are not available for projects evaluated as part of the Expedited Deliverability Study).

23.4.5.7.6.1 For Additional CRIS MW requested by an Examined Facility, when an exemption or Offer Floor is determined pursuant to this Section 23.4.5.7.6, the ISO shall compute Unit Net CONE as follows:

(i) Unit Net CONE for the Additional CRIS MW shall be based on the Additional CRIS MW and the costs and revenues of and associated with the Additional CRIS MW if:

(a) the prior final determination(s) concluded that the Installed Capacity for which the Examined Facility accepted CRIS was exempt from the Offer Floor pursuant to Section 23.4.5.7.2(b), 23.4.5.7.6(b), 23.4.5.7.7, or 23.4.5.7.8; or

(b) at the time of an Examined Facility's request for Additional CRIS MW: (1) it has accepted CRIS MW equal to, or greater than, 95 percent of the Examined Facility's maximum MW of electrical capability, net of auxiliary load, at an ambient temperature of 93° F as determined in accordance with ISO Procedures and (2) the amount of Cleared UCAP is greater than or equal to the amount of UCAP calculated pursuant to Section 23.4.5.7.6.3; or

(c) the Examined Facility's Total Evaluated CRIS MW includes exempted CRIS MW for which the Examined Facility did not receive a Unit Net CONE determination and thus did not provide data to the ISO because the determination



for the exempt CRIS MW received was not based on Unit Net CONE and was made prior to November 27, 2010.

(ii) or in all other cases, Unit Net CONE, shall be the greater of two values, one based on the Total Evaluated CRIS MW for the Examined Facility, and the costs and revenues of the Total Evaluated CRIS MW, and one based on the Additional CRIS MW, and the costs and revenues of the Additional CRIS MW.

23.4.5.7.6.2 When calculating the Unit Net CONE of the Total Evaluated CRIS MW for an Examined Facility, the ISO shall utilize the Examined Facility's first year Unit Net CONE determined pursuant to Section 23.4.5.7 and Section 23.4.5.7.3.2, adjusted to the year's dollars at the time of an Examined Facility's request for Additional CRIS MW using: (i) the relevant value from the price index for non-farm business output published in the Survey of Current Business by the Department of Commerce's Bureau of Economic Analysis ("BEA Non-Farm Price Index"), or its successor; or (ii) the most recent inflation rate determined pursuant to Section 5.14.1.2.2.4.11 for any future year which is beyond the published BEA Non-Farm Price Index, or its successor.

23.4.5.7.6.3 For purposes of making the determination pursuant to Section 23.4.5.7.6.1(i)(b)(2), the amount of Cleared UCAP shall be compared to an amount of UCAP calculated as the product of the CRIS MW held by the Examined Facility immediately prior to its request for Additional CRIS MW and (1-EFORd). Except as specified in the next paragraph, for purposes of this calculation, if the Examined Facility is a Generator, its EFORd shall be derived using the data in the 5-year average NERC-GADS Generating Availability

Report, or its successor, for the main class of the unit (hereinafter the “Class Average EFORd”) that is current at the time of the request for Additional CRIS MW, when available. If the Examined Facility is an Intermittent Power Resource or Limited Control Run-of-River Hydro Resource, the ISO shall apply a 5-year average derating factor based on ISO data to establish the EFORd to be utilized in the calculation pursuant to this paragraph. In all other cases, the ISO will apply the 5-year average derating factor from the ICAP/UCAP translation, for the smallest Mitigated Capacity Zone in which the resource is located at the time of the request. The EFORd applied by the ISO at the time that the Examined Facility first offers or certifies UCAP in an Installed Capacity auction (“Initial Entry EFORd”) shall be used instead of Class Average EFORd when it is higher (*i.e.*, a greater outage rate) than the Class Average EFORd calculated at the time of the Examined Facility’s request for Additional CRIS MW.

23.4.5.7.6.4 Additional CRIS MW shall be subject to the Mitigation Net CONE Offer Floor for the period specified in Section 23.4.5.7, for any Examined Facility whose Total Evaluated CRIS MW includes CRIS MW that are or have ever been subject to the Mitigation Net CONE Offer Floor, pursuant to Section 23.4.5.7.3.4.

23.4.5.7.6.5 The Offer Floor for Additional CRIS MW shall be equal to the lesser of:  
(a) the Unit Net CONE for the Additional CRIS MW; or (b) a numerical value equal to 75 percent of the Mitigation Net CONE translated into a seasonally adjusted monthly UCAP value for the Additional CRIS MW.

23.4.5.7.6.6 The results of this exemption determination shall apply only to the Additional CRIS MW and shall not alter or affect any prior exemption or Offer

Floor determination for the Examined Facility. The Additional CRIS MW for which CRIS is received shall be bound by the determination rendered and will not be reevaluated unless the Examined Facility enters a new Class Year for the Additional CRIS MW.

23.4.5.7.6.7 When the ISO makes a mitigation exemption or Offer Floor determination for an Examined Facility's Additional CRIS MW for an Installed Capacity Supplier other than that to which the Unit Net CONE determination for the Examined Facility was rendered, the ISO shall provide such Installed Capacity Supplier with the Examined Facility's first year Unit Net CONE value if the Installed Capacity Supplier (a) requests that information, and (b) represents that it: (i) will use that information solely for purposes of considering a request for Additional CRIS MW for the Examined Facility, and (ii) will not share that information with or make it available to any other person except those that are assisting it in considering a request for Additional CRIS MW.

23.4.5.7.6.8 The ISO shall post on its website the determination of whether the project is exempt or non-exempt from an Offer Floor as soon as the determination is final. Concurrent with the ISO's posting, the Market Monitoring Unit shall publish a report on the ISO's determination, as further specified in Section 30.4.6.2.13 of Attachment O to this Services Tariff.

23.4.5.7.6.9 For Additional CRIS MW requested by an Examined Facility, the ISO may consider any shared costs when determining the methodology for calculating the Unit Net CONE for Additional CRIS MW in accordance with Section 23.4.5.7.6.1 above.

23.4.5.7.6.10 Examined Facilities that are not currently part of a CSR, but are proposing to participate in a CSR will not be evaluated as Additional CRIS MW, and instead be evaluated as part of 23.4.5.7.2.

23.4.5.7.10 The ISO shall post on its website the identity of the Project in a Mitigated Capacity Zone and the determination of either exempt or non-exempt as soon as the determination is final. Concurrent with the ISO's posting, the Market Monitoring Unit shall publish a report on the ISO's determinations, as further specified in Section 30.4.6.2.13 of Attachment O to this Services Tariff.

### **23.4.5.7.13 Renewable Exemption**

#### **23.4.5.7.13.1 Eligibility**

23.4.5.7.13.1.1 A Renewable Exemption Applicant, may request to be evaluated for a Renewable Exemption in the amount of its CRIS MW requested in the Class Year Study or Expedited Deliverability Study or which it expects to receive through a transfer of CRIS at the same location. For purposes of this Section 23.4.5.7.13, references to a Renewable Exemption Applicant's CRIS MW shall be understood to encompass Additional CRIS MW in cases where the Renewable Exemption Applicant is an existing Generator seeking a Renewable Exemption for Additional CRIS MW. An Examined Facility or an NCZ Examined Project that is a member of a Class Year Study or Expedited Deliverability Study may not request a Renewable Exemption in the same Class Year Study or Expedited Deliverability Study that it requests a Competitive Entry Exemption, and an Examined Facility or an NCZ Examined Project that is the expected transferee of CRIS being considered with a Class Year Study or Expedited Deliverability Study may not request a Renewable Exemption in respect of the same Class Year Study or Expedited Deliverability Study that it requests a Competitive Entry Exemption, except that a Project that is a Co-located Storage Resource may request a Renewable Exemption for the Examined Facility that is comprised of an Intermittent Power Resource at the same time the co-located Energy Storage Resource may request a Competitive Entry Exemption. The ISO shall evaluate requests for a Renewable Exemption from (y) members of a Class Year Study or Expedited Deliverability Study for Class Year 2019, subsequent Class Year

Studies, Additional SDU Studies and Expedited Deliverability Studies that start after July 1, 2020, provided that the CRIS rights are received no later than the deadline by which the facility must notify the ISO of its election to enter the Class Year, such date as set forth in Section 25.5.9 of OATT Attachment S, and (z) expected recipients of transferred CRIS rights at the same location from which the ISO has been notified, by the transferor or the transferee, of a transfer pursuant to OATT Attachment S Section 25.9.4 that will be effective on a date within the Mitigation Study Period for the Class Year Study or Expedited Deliverability Study, provided that they are received no later than the Class Year Study Start Date for such Class Year Study and the Expedited Deliverability Study Start Date for such Expedited Deliverability Study. If the ISO does not receive requests from Examined Facilities and NCZ Examined Projects by these deadlines it will not evaluate them for a Renewable Exemption. If the Examined Facility or NCZ Examined Project also submits a request for a Competitive Entry Exemption prohibited by this paragraph it will not be evaluated for a Renewable Exemption.

A Generator that remains a member of a completed Class Year, if such Class Year is Class Year 2017 or a prior Class Year, shall not be eligible for a Renewable Exemption, except for Additional CRIS MW. Renewable Exemption Applicants must be “Qualified Renewable Exemption Applicants,” as described in (i) and (ii) below, in order to receive a Renewable Exemption subject to the applicable Renewable Exemption Limit determined pursuant to Sections 23.4.5.7.13.5 and 23.4.5.7.13.6. Qualified Renewable Exemption Applicants must also remain in the completed Class Year Study, Additional SDU Study or Expedited Deliverability Study (or if the transferee does not notify the ISO that it no longer expects to be the recipient of

the transferred CRIS on or before the date the Class Year Study, Additional SDU Study or Expedited Deliverability Study is completed).

The Qualified Renewable Exemption Applicant must:

- (i) have, for its Interconnection Queue position, a proposed design that is a Generator to be powered solely by a device that can qualify as an Intermittent Power Resource, or must be a Limited Control Run-of-River Resource, as such terms are (A) defined on the date by which the ISO must receive the request for a Renewable Exemption in accordance with this Section 23.4.5.7.13.1.1, or (B) in the ISO's judgment, are reasonably expected to be defined at the time that the Generator is first qualified as an Installed Capacity Supplier; and
- (ii) (A) be proposed in a Class Year Study or an Expedited Deliverability Study and be powered solely by a technology that is identified in the Tariff at the time of the start of the Class Year Study or Expedited Deliverability Study to be an Exempt Renewable Technology as defined in Section 23.2 of the Services Tariff; or (B) be proposed in a Class Year Study and be determined by the ISO, in accordance with ISO Procedures, to have (1) high development costs, and (2) a low capacity factor such that there would be limited or no incentive and ability to develop the Generator in order to artificially suppress capacity prices. The ISO shall make this determination only for a Renewable Exemption Applicant participating in a Class Year Study or within an Additional SDU Study. The ISO's determination will be based upon its evaluation of pertinent factors, including whether the reasonably projected costs of new entry and operation of the facility, net of the likely projected revenues from the sale of Capacity, Energy



and Ancillary Services, and any other generally available revenues associated with the production of those products, are greater than the reasonably estimated cost savings to Loads due to a reduction in ICAP Market-Clearing Prices projected to result from the entry of the Renewable Exemption Applicant's requested CRIS MW (or CRIS MW to be transferred at the same location).

#### **23.4.5.7.13.2 Periodic Review and Determination of Exempt Renewable Technologies**

23.4.5.7.13.2.1 In each ICAP Demand Curve Reset Filing Year after 2016, the ISO shall conduct a periodic review, in accordance with this Section and ISO Procedures, to determine the technology types that should be Exempt Renewable Technologies for Class Years with a Class Year Start Date during the Capability Years covered by the ICAP Demand Curve periodic review conducted for the relevant ICAP Demand Curve Reset Filing Year.

- (a) The ISO's periodic review will identify, by Mitigated Capacity Zone, the technologies that, at the time of the periodic review, are technically feasible in the ISO Administered Markets (whether as a single unit, or a plant comprised of more than one unit) and that could qualify as either Intermittent Power Resources or Limited Control Run-of-River Hydro Resources ("candidate intermittent renewable technologies").
- (b): For each candidate intermittent renewable technology, the ISO's periodic review will reasonably project:
  - (i) the costs of new entry and operation;

- (ii) the revenues from the sale of Capacity, Energy and Ancillary Services, and any other generally available revenues associated with the production of those products by it; and
- (iii) the cost savings to Loads due to a reduction in ICAP Market-Clearing Prices from the new entry of the candidate intermittent renewable technology.

23.4.5.7.13.2.2 The ISO will utilize pertinent factors including results of the computation in accordance with Section 23.4.5.7.13.2.1(b) to determine, for each Mitigated Capacity Zone, which candidate intermittent renewable technologies have (a) high development costs and (b) a low capacity factor, such that considering (a) and (b) there is limited or no incentive and ability to develop the candidate intermittent renewable technology in order to artificially suppress capacity prices.

**23.4.5.7.13.2.3 The ISO's periodic review shall provide for:**

- (a) The ISO's preliminary identification of candidate intermittent renewable technologies for stakeholder review and comment;
- (b) The ISO's issuance of a draft list of recommended Exempt Renewable Technologies and the basis for the recommendation, for stakeholder and Market Monitoring Unit review and comment; (The responsibilities of the Market Monitoring Unit that are addressed in this section of the Services Tariff are also addressed in Section 30.4.6.2.13 of Attachment O to this Services Tariff.)

23.4.5.7.13.2.4 On or before the 60th day subsequent to the Commission issuance of an order accepting ICAP Demand Curves based on the ICAP Demand Curve periodic review, the ISO shall file with the Commission the results of its Exempt

Renewable Technology periodic review and determination pursuant to Section 23.4.5.7.13.2.2. If the ISO's determination of technology types that satisfy the provisions of Section 23.4.5.7.13.2.2 for any Mitigated Capacity Zone is different than the then-current definition of Exempt Renewable Technology, the ISO shall propose in the filing, for Commission review, a revised definition that is in accordance with its periodic determination, to be effective for Class Years with a Class Year Start Date during the Capability Years covered by the ICAP Demand Curve periodic review conducted for the relevant ICAP Demand Curve Reset Filing Year. The ISO's filing shall describe the basis for the ISO's determination.

### **23.4.5.7.13.3. Revocation**

23.4.5.7.13.3.1 A Generator that met the requirements of a Qualified Renewable Exemption Applicant and received a Renewable Exemption for any amount of CRIS MW shall notify the ISO in writing within five (5) business days if (a) at the time it first qualifies as an Installed Capacity Supplier, or at any time thereafter, it is not solely powered by the same technology based on which it was evaluated for a Renewable Exemption, or (b) at the time it first qualifies as an Installed Capacity Supplier it is not solely powered by a technology that is defined as an Intermittent Power Resource or Limited Control Run-of-River Hydro Resource, even if the Generator was determined to be a Qualified Renewable Exemption Applicant because, at the time it was evaluated, the ISO expected the technology would become defined as an Intermittent Power Resource or Limited Control Run-of-River Hydro Resource. A Generator that received a Renewable Exemption and subsequently participates in the ISO-Administered Markets as part

of a Co-located Storage Resource shall continue to be deemed to be solely powered by Exempt Renewable Technology. Upon notification, the ISO shall revoke the Renewable Exemption unless the Generator provides documentation with its notice in accordance with the prior sentence that demonstrates, to the ISO's satisfaction, that after the change it will be solely powered by an Exempt Renewable Technology as such term is defined on the date that the Generator first transmits energy using the different technology. The ISO shall provide written notice of its intent to revoke the Generator's Renewable Exemption that specifies its findings that support revocation within 10 business days of its receipt of the notification from the Generator described above. The ISO will provide an opportunity for the Owner and/or Operator of the Generator to schedule a meeting with the ISO within 20 business days from the date of its notice of intent to revoke the Renewable Exemption. The purpose of the meeting will be to allow the Owner/Operator of the Generator to submit additional documentation and other facts that could rebut the findings of the ISO that were identified in its notice of intent to revoke the Renewable Exemption. The ISO shall determine within 10 business days of the meeting with the Owner/Operator of the Generator whether the revocation of the Renewable Exemption shall be finalized and post on its website its determination to revoke the Renewable Exemption. Upon revocation, the ISO shall apply the Mitigation Net CONE Offer Floor (such value calculated by the ISO based on the date that the Generator (or Additional CRIS MW) first offers UCAP, in accordance with Section 23.4.5.7.3.7, and adjusted annually in accordance with Section 23.4.5.7 of the Services Tariff) to all offers

of UCAP by the Generator or Additional CRIS MW subsequent to the deadline for Unforced Capacity certification prior to an ICAP Spot Market Auction (such date in accordance with ISO Procedures) next following revocation. Nothing in this paragraph shall relieve a Generator from or alter any obligation it may have under the ISO Tariffs or any other tariff, agreement, or regulation to obtain permissions, authorizations provide notifications, or take any other action in advance of changing the technology which powers it (in whole or in part).

23.4.5.7.13.3.2           The failure to provide the ISO written notice in accordance with Section 23.4.5.7.13.3.1 shall constitute a violation of the Services Tariff. Such violation shall be reported by the ISO to the Market Monitoring Unit and to the Commission's Office of Enforcement (or any successor to its responsibilities).

23.4.5.7.13.3.3           If a Generator has not provided notice in accordance with Section 23.4.5.7.13.3.1 and the ISO determines that the Generator is not solely powered by a technology as described Section 23.4.5.7.13.3.1, the ISO shall notify the Generator that its Renewable Exemption may be revoked in writing. The written notice shall provide to the Owner/Operator of the Generator an opportunity to submit documentation to the ISO and meet with the ISO to rebut the ISO's findings within 30 days from the date of the ISO's written notice. The ISO shall determine within 10 business days of the meeting with the Owner/Operator of the Generator whether the revocation of the Renewable Exemption shall be finalized and post on its website its determination to revoke the Renewable Exemption. In the event of a revocation, the Mitigation Net CONE Offer Floor such value calculated by the ISO based on the date that the Generator or Additional CRIS

MW) first offers UCAP, in accordance with Section 23.4.5.7.3.7, and adjusted annually in accordance with Section 23.4.5.7 of the Services Tariff) shall apply to all offers of UCAP subsequent to the deadline for Unforced Capacity certification prior to an ICAP Spot Market Auction (such date in accordance with ISO Procedures) next following revocation. Prior to the revocation of a Renewable Exemption, the ISO shall provide the Generator an opportunity to respond to the ISO's determination. The ISO cannot revoke the Renewable Exemption until after the 30 days written notice period has expired, unless ordered to do so by the Commission.

#### **23.4.5.7.13.4 Timing of Requests for a Renewable Exemption, Required Submittals, and Determinations**

23.4.5.7.13.4.1 Requests for a Renewable Exemption must be received by the ISO no later than the deadline specified in Section 23.4.5.7.13.1. If any Examined Facility or NCZ Examined Project submits both a request for a Renewable Exemption and a Competitive Entry Exemption (*i.e.*, seeking to be considered for both exemptions at the same time,) the ISO shall not consider the request for a Renewable Exemption. The ISO may request additional information and updated information at any time regarding eligibility and continued eligibility. The Renewable Exemption Applicant (if after entry, the Generator) shall timely provide the information.

23.4.5.7.13.4.2 The ISO shall determine whether a Renewable Exemption Applicant is eligible for a Renewable Exemption under Section 23.4.5.7.13.1, and whether it is eligible for an exemption pursuant to Section 23.4.5.7.2(a) and (b) or Section 23.4.5.7.14, prior to the Initial Decision Period for a Class Year Study,

Additional SDU Study, or Expedited Deliverability Study. The CRIS MW of Renewable Exemptions awarded in a Class Year Study, Additional SDU Studies and any Expedited Deliverability Studies will be subject to the Renewable Exemption Limit calculated by the ISO for that study in accordance with Section 23.4.5.7.13.5. In order to subject the requested CRIS MW to the Renewable Exemption Limit, the ISO will convert the requested CRIS MW or Additional CRIS MW for each Qualified Renewable Exemption Applicant to its UCAP equivalent MW in accordance with Section 23.4.5.7.13.6 and ISO Procedures. If at the time of the ISO's completion of the Class Year Study, Additional SDU Study or Expedited Deliverability Study, the total amount of these UCAP equivalent MW associated with the CRIS MW requests from Qualified Renewable Exemption Applicants exceeds the applicable Renewable Exemption Limit calculated in accordance with Section 23.4.5.7.13.5, the ISO shall (i) first, exclude UCAP equivalent of the CRIS MW of any Examined Facility or NCZ Examined Project that was determined to be exempt pursuant to Sections 23.4.5.7.2 (a), or (b) or Section 23.4.5.7.14, and (ii) second, issue an initial determination (prior to the Initial Decision Period or at the time of any Subsequent Decision Period) or a final determination (if a member of the completed Class Year Study, Additional SDU Study or Expedited Deliverability Study, or if a transfer of CRIS rights at the same location unless the transferee has notified the ISO, on or before the date the Class Year Study, Additional SDU Study or Expedited Deliverability Study is completed, that it no longer expects to be the recipient of the transferred CRIS) of the CRIS MW that will be exempt

from an Offer Floor, equal to the proportion of the UCAP equivalent MW for the requested CRIS MW each Qualified Renewable Exemption Applicant as determined in accordance with Section 23.4.5.7.13.6.

23.4.5.7.13.4.3 Determinations made pursuant to Section 23.4.5.7.13.4.2 shall be provided to the Renewable Exemption Applicants and Qualified Renewable Exemption Applicants (other than NCZ Examined Projects) concurrent with the issuance of determinations in accordance with Section 23.4.5.7.3.3, and for an NCZ Examined Project at the time of the ISO's determination pursuant to Section 23.4.5.7.2.1.

23.4.5.7.13.4.4 The ISO shall post on its website its determination of whether the Renewable Exemption Applicant has been determined to be a Qualified Renewable Exemption Applicant and the quantity of the CRIS MW and UCAP equivalent MW for which the Qualified Renewable Exemption Applicant was determined to be exempt, from an Offer Floor as soon as the determination is final. Concurrent with the ISO's posting, the Market Monitoring Unit shall publish a report on the ISO's determination, as further specified in Section 30.4.6.2.13 of Attachment O to this Services Tariff.

#### **23.4.5.7.13.5 Renewable Exemption Limit for Mitigated Capacity Zones**

For Class Year 2019 and subsequent Class Year Studies, Additional SDU Studies, and Expedited Deliverability Studies commencing after July 1, 2020, a Renewable Exemption Limit will be calculated by the ISO as a UCAP MW value for each Mitigated Capacity Zone. The Renewable Exemption Limit will identify the maximum amount of Renewable Exemption MW that can be granted in each Mitigated Capacity Zone to Qualified Renewable Exemption



Applicants that accept their exemption determinations. The Renewable Exemption Limit will be calculated separately for each Mitigated Capacity Zone in UCAP MW, as further specified below, as the greater of (a) the UCAP MW associated with the ISO's calculation of the Minimum Renewable Exemption Limit as described in Section 23.4.5.7.13.5.1 that will lower the market price forecast for the Mitigated Capacity Zone by \$0.50/kW-month or (b) the sum of (i) the UCAP MW associated with the change in forecasted peak Load calculated by the ISO in accordance with Section 23.4.5.7.13.5.2, (ii) the UCAP MW value identified by the ISO associated with the Incremental Regulatory Retirements calculated by the ISO in accordance with Section 23.4.5.7.13.5.3, (iii) the URM impact of the Qualified Renewable Exemption Applicants in the Class Year Study, Additional SDU Study, or Expedited Deliverability Study calculated by the ISO in accordance with Section 23.4.5.7.13.5.4, and (iv) the UCAP MW in the Renewable Exemption Bank for each Mitigated Capacity Zone calculated by the ISO in accordance with Section 23.4.5.7.13.5.5. For purposes of the Renewable Exemption Limit calculated for Class Year 2019 the Renewable Exemption Bank for the Mitigated Capacity Zone will be zero.

The ISO will post on its website the assumptions and calculations made for the Renewable Exemption Limit available in each Class Year Study, Additional SDU Study, and Expedited Deliverability Study with its posting of the BSM Forecast inputs in accordance with Section 23.4.5.7.15 of this Services Tariff, subject to any restrictions on the disclosure of Confidential Information or Critical Energy Infrastructure Information.

#### **23.4.5.7.13.5.1 Minimum Renewable Exemption Limit**

The Minimum Renewable Exemption Limit is calculated by the ISO in each Class Year Study beginning with Class Year 2019. The Minimum Renewable Exemption Limit equals the

equivalent UCAP MW that is forecasted to cause a price decrease to the Installed Capacity Spot Auction Results of \$0.50/kW-Month. The Minimum Renewable Exemption Limit calculated in the preceding Class Year Study carries forward to subsequent Additional SDU Studies and Expedited Deliverability Studies that are completed prior to the start of the Initial Decision Period for the following Class Year Study. Between Class Year Studies, the Minimum Renewable Exemption Limit will be reduced if Qualified Renewable Exemption Applicants are awarded Renewable Exemptions when the Minimum Renewable Exemption Limit is in effect as the Renewable Exemption Limit (*i.e.*, is the larger value in the Renewable Exemption Limit formula described above.) The Minimum Renewable Exemption Limit that will be applicable to the following Additional SDU Study or Expedited Deliverability Study is reduced by the UCAP equivalent MW of each Qualified Renewable Exemption Applicant awarded a Renewable Exemption.

#### **23.4.5.7.13.5.2 Change in Forecasted Peak Load**

The change in forecasted peak Load used in the Renewable Exemption Limit shall be calculated in each Class Year Study, Additional SDU Study, and Expedited Deliverability Study. For Class Year 2019 the change in forecasted peak Load used in the Renewable Exemption Limit shall be calculated as the UCAP MW change associated with the difference between the 2020 peak Load forecast published in the ISO's 2020 Load and Capacity Report and the forecasted peak Load for the last year of the applicable Mitigation Study Period used to evaluate Examined Facilities in Class Year 2019 pursuant to Section 23.4.5.7.2(b) of this Services Tariff that is identified from the ISO's most recently published Load and Capacity Report. The change in forecasted peak Load used in the Renewable Exemption Limit for all subsequent studies shall be the calculated as the difference between the forecasted peak Load for last year of the

applicable Mitigation Study Period used to evaluate Examined Facilities pursuant to Section 23.4.5.7.2(b) of this Services Tariff in the immediately preceding Class Year Study, Additional SDU Study, or Expedited Deliverability Study and the forecasted peak Load that applies to the last year of the Mitigation Study Period used to evaluate Examined Facilities pursuant to Section 23.4.5.7.2(b) of this Services Tariff in the ongoing study that is identified from the ISO's most recently published Load and Capacity Report.

### **23.4.5.7.13.5.3 UCAP MW of Incremental Regulatory Retirements**

Incremental Regulatory Retirements to be used in the calculation of the Renewable Exemption Limit described above shall include the incrementally new MW of Generator Retirements forecasted in accordance with Sections 23.4.5.7.15.6 and 23.4.5.7.15.7 of the Services Tariff that have retired, or are planning to permanently cease operation in order to comply with or in response to new or amended regulations or statutes, or other regulatory or related action, including but not limited to those that impact (i) Generator emissions, (ii) inability to renew or modify the necessary operating permits, (iii) availability of fuel supply, (iv) assessment of property taxes, and (v) compensation or other incentive outside of the ISO markets received by a Generator that is contingent upon its permanently ceasing operation. In order for the ISO to identify UCAP MW of Incremental Regulatory Retirements such regulatory action must be a significant factor in the retirement of the Generator (*i.e.*, a factor that contributes materially to the retirement). When identifying such UCAP MW of Incremental Regulatory Retirements the ISO shall consult with the Market Monitoring Unit when evaluating whether newly enacted or amended regulatory action plays a significant role in the retirement of the Generator. Prior to the ISO making a determination to include or exclude a Generator retirement in this component of the Renewable Exemption Limit calculation, the Market Monitoring Unit

shall provide the ISO a written opinion and recommendation. The Market Monitoring Unit shall also include its assessment in its report issued pursuant to Section 23.4.5.7.6.8 of Attachment H to this Services Tariff and as further specified in Section 30.4.6.2.13 of Attachment O to this Services Tariff.

#### **23.4.5.7.13.5.4 URM Impact of Qualified Renewable Exemption Applicants**

The ISO shall calculate the URM impact of the CRIS MW requested by the Qualified Renewable Exemption Applicants in each Class Year Study, Additional SDU Study, and Expedited Deliverability Study. A URM impact shall be calculated separately for each Mitigated Capacity Zone. If there are no Qualified Renewable Exemption Applicants participating in the study, the URM impact of Qualified Renewable Exemption Applicants shall be zero—otherwise the ISO shall calculate the incremental URM impact for each Mitigated Capacity Zone associated with the Qualified Renewable Exemption Applicants in the study.

#### **23.4.5.7.13.5.5 Renewable Exemption Bank**

The amount of UCAP MW in the Renewable Exemption Bank shall be calculated separately for each Mitigated Capacity Zone as a running total of UCAP MW determined to be available in the calculation of a Renewable Exemption Limit as described above for the most recently completed Class Year Study that was not awarded to a Qualified Renewable Exemption Applicant as part of that Class Year Study or in subsequent Additional SDU Studies and Expedited Deliverability Studies that are completed prior to the start of the Initial Decision Period of the next Class Year Study. The UCAP equivalent MW of CRIS MW that receive exemptions pursuant to Section 23.4.5.7.2(a) shall be deducted from the Renewable Exemption Bank. Renewable Exemptions awarded in a Mitigated Capacity Zone during a Class Year Study, Additional SDU Study or Expedited Deliverability Study pursuant to the Minimum Renewable

Exemption Limit for that Mitigated Capacity Zone shall not be subtracted from the Renewable Exemption Bank for that Mitigated Capacity Zone. The Renewable Exemption Bank will further be modified for each Study such that 1) any UCAP MWs from Incremental Regulatory Retirement previously forecast pursuant to Section 23.4.5.7.13.5.3 which did not remove capacity consistent with the forecast or did not retire would be deducted from the Renewable Exemption Bank and 2) any UCAP MWs previously found exempt under Section 23.4.5.7.13.4.2 or Section 23.4.5.7.2(a) which do not meet the criteria per Section 23.4.5.7.15 to be included into the NYISO forecast shall be added back to the Renewable Exemption Bank.

#### **23.4.5.7.13.5.5.1 Renewable Exemption Bank for the New York City Locality**

The Renewable Exemption Bank for the New York City Locality used in the calculation of the Renewable Exemption Limit for the New York City Locality in accordance with Section 23.4.5.7.13.5 will be a rolling calculation of UCAP MW calculated using the sum of (i) the UCAP MW associated with the Change in Forecasted Peak Load calculated by the ISO in accordance with Section 23.4.5.7.13.5.2, (ii) the UCAP MW value of the Incremental Regulatory Retirements calculated by the ISO in accordance with Section 23.4.5.7.13.5.3, (iii) the URM impact of the Qualified Renewable Exemption Applicants calculated by the ISO in accordance with Section 23.4.5.7.13.5.4, and (iv) the UCAP MW in the Renewable Exemption Bank for the New York City Locality that carried forward from the immediately prior Class Year Study, Additional SDU Study, or Expedited Deliverability Study, less (v) the UCAP equivalent MW associated with the exempted CRIS MW received by Qualified Renewable Exemption Applicants pursuant to this Section 23.4.5.7.13 of the Services Tariff in the current study in the New York City Locality. When calculating the initial Renewable Exemption Limit applicable for

Class Year 2019 the ISO will use a Renewable Exemption Bank for the New York City Locality of zero.

#### **23.4.5.7.13.5.5.2 Renewable Exemption Bank for the G-J Locality**

The Renewable Exemption Bank for the G-J Locality used in the calculation of the Renewable Exemption Limit for the G-J Locality in accordance with Section 23.4.5.7.13.5 will be a rolling calculation of UCAP MW, calculated using the sum of (i) the UCAP MW associated with the Change in Forecasted Peak Load calculated by the ISO in accordance with Section 23.4.5.7.13.5.2, (ii) the UCAP MW value of the Incremental Regulatory Retirements calculated by the ISO in accordance with Section 23.4.5.7.13.5.3, (iii) the URM impact of the Qualified Renewable Exemption Applicants calculated by the ISO in accordance with Section 23.4.5.7.13.5.4, and (iv) the UCAP MW in the Renewable Exemption Bank for the G-J Locality that carried forward from the immediately prior Class Year Study, Additional SDU Study, or Expedited Deliverability Study, less the sum of (a) the UCAP equivalent MW associated with the exempted CRIS MW received by Qualified Renewable Exemption Applicants pursuant to this Section 23.4.5.7.13 of the Services Tariff in the current study in both the New York City and the G-J Localities and (b) any positive UCAP MW remaining in the Renewable Exemption Bank for the New York City Locality. When calculating the initial Renewable Exemption Limit applicable for Class Year 2019, the ISO will use a Renewable Exemption Bank for the G-J Locality of zero.

#### **23.4.5.7.13.6 Awarding UCAP MW of Renewable Exemptions Pursuant to Renewable Exemption Limit**

The ISO shall convert the CRIS MW requested for each Qualified Renewable Exemption Applicant in a Class Year Study, Additional SDU Study or Expedited Deliverability Study to a

UCAP MW equivalent value in accordance with applicable UCAP Deration Factor (“UCDF”) and in accordance with ISO Procedures. The UCDF shall be based on the specific type of Exempt Renewable Technology being proposed by the Qualified Renewable Exemption Applicant.

The ISO shall award Renewable Exemptions to Qualified Renewable Exemption Applicants in each Mitigated Capacity Zone up to but not to exceed the UCAP MW value calculated by the ISO in the Class Year Study, Additional SDU Study or Expedited Deliverability Study to be the Renewable Exemption Limit for the Mitigated Capacity Zone as provided in Section 23.4.5.7.13.5 of the Services Tariff. If the UCAP MW equivalent value of the total requested CRIS MW received from Qualified Renewable Exemption Applicants in a given Class Year Study, Additional SDU Study or Expedited Deliverability Study exceeds the UCAP MW Renewable Exemption Limit calculated by the ISO for that Class Year Study, Additional SDU Study or Expedited Deliverability, then the ISO shall award Renewable Exemptions on a pro rata basis using the UCAP MW equivalent value it calculated for the requested CRIS MW of each Qualified Renewable Exemption Applicant that remains in that study.

#### **23.4.5.7.14 Self Supply Exemption**

##### **23.4.5.7.14.1 Eligibility**

23.4.5.7.14.1.1 In order to be evaluated for a Self Supply Exemption the Generator or UDR project must be a member of a Class Year Study, or Additional SDU Study, cannot participate in an Expedited Deliverability Study, and each of the following requirements must be satisfied, by the deadline, in the required form, and with the required information in accordance with ISO Procedures. If one or more of the requirements is not satisfied, the ISO shall not evaluate the request for a Self Supply Exemption.

- (a) A Developer or Owner of an Examined Facility, NCZ Examined Project, or Additional CRIS MW, (for purposes of this Section 23.4.5.7.14 an “SSE Applicant”) may request to be evaluated for a Self Supply Exemption for a specified quantity of MW up to the amount of the CRIS MW requested in the Class Year or, of which it is the expected recipient of transferred CRIS rights at the same location, in accordance with ISO Procedures. The ISO will evaluate the request if the SSE Applicant is a member of a Class Year after Class Year 2019 and its request is received no later than the deadline by which a facility must notify the ISO of its election to enter the Class Year, such date as set forth in Section 25.5.9 OATT Attachment S, or (iii) an expected recipient of transferred CRIS rights at the same location and the ISO has been notified, by the transferor or the transferee, of a transfer pursuant to OATT Attachment S Section 25.9.4 that will be effective on a date within the Mitigation Study Period for the Class Year, provided that the request is received no later than the Class Year Start Date for such Class Year. An Examined Facility or an NCZ Examined Project that is a member of a Class Year may not request a Self Supply Exemption in the same Class Year that it requests a



Competitive Entry Exemption, and an Examined Facility or an NCZ Examined Project that is the expected transferee of CRIS being considered with a Class Year may not request a Self Supply Exemption in respect of the same Class Year that it requests a Competitive Entry Exemption, except that a Developer of Co-located Storage Resources may request a Self Supply Exemption for one of its Examined Facilities and at the same time request a Competitive Entry Exemption for its other Examined Facility.

A proposed new Generator or UDR project that remained a member of Class Year 2012 or a prior Class Year at the time of the completion of such Class Year, shall not be eligible to request or receive a Self Supply Exemption except in relation to a request for Additional CRIS MW.

- (b) If the SSE Applicant is not the wholly owned property of the Self Supply LSE(s), or the wholly owned property of an entity that is wholly owned by the Self Supply LSE(s) or that wholly owns the Self Supply LSE(s), it must have a Long Term Contract (in accordance with Subsection (1) of this Section 23.4.5.7.14.1.1(b)(1) with the Self Supply LSE(s) that shall obligate the SSE Applicant to provide the capacity forming the basis for its eligibility for a Self Supply Exemption. Such an SSE Applicant must make its Self Supply Exemption request jointly, in a single request, with the Self Supply LSE(s) with which it has a Long Term Contract. If the proposed SSE Applicant is the wholly owned property of the Self Supply LSE(s), or the wholly owned property of an entity that is wholly owned by the Self Supply LSE(s) or that wholly owns the Self Supply LSE(s), then the SSE Applicant must provide documentation at the time it requests the exemption that demonstrates to the reasonable satisfaction of the ISO that it has a statutory,

regulatory, or organizational obligation to provide Energy and Capacity to meet the Self Supply LSE's (or Self Supply LSEs') ICAP Obligation(s).

- (1) Long Term Contract: For the purposes of a Self Supply Exemption, a “Long Term Contract” shall mean (i) a fully executed contract between the SSE Applicant that is a proposed new or existing Generator and a Self Supply LSE that is joining it in requesting the exemption, pursuant to which the SSE Applicant is currently obligated to provide to the Self Supply LSE (or LSEs if more than one Self Supply LSE,) for a minimum of 10 years at the time it requests the Self Supply Exemption, Installed Capacity in an amount greater than or equal to the CRIS MW for which the Self Supply Exemption is requested; or (ii) a fully executed contract between a Self Supply Applicant that is a proposed new or existing UDR project and a Self Supply LSE (or LSEs if more than one Self Supply LSE,) that is joining it in requesting the exemption, pursuant to which the Self Supply LSE(s) will have all rights to the UDRs and the use of the facility, for a minimum of 10 years, in the amount greater than or equal to the CRIS MW for which the Self Supply Exemption is requested.
- (c) The Self Supply Applicant's request for a Self Supply Exemption must specify the total quantity of CRIS MW for which it is requesting a Self Supply Exemption, and such quantity shall not exceed the MW of CRIS requested by it in the Class Year, or the quantity of the transferred CRIS rights at the same location it expects to receive. If there is more than one Self Supply LSE associated with the request for a Self Supply Exemption received from an SSE Applicant then: (i) the request shall identify the quantity of MW associated with each Self Supply LSE, and (ii) the total quantity of MW

associated with the Self Supply LSEs shall not exceed the total MW for which the SSE Applicant requests a Self Supply Exemption.

- (d) All Certification and Acknowledgement(s) required by Section 23.4.5.7.14.2 must be received at the same time as the request for a Self Supply Exemption, in accordance with ISO Procedures, along with other data and information requested by the ISO.

23.4.5.7.14.1.2           The lesser of (i) the quantity of CRIS MW for which the Self Supply Exemption was requested and (ii) the quantity determined in accordance with Section 23.4.5.7.14.3 shall be exempt from an Offer Floor if the SSE Applicant is a member of the Class Year at the time of its completion and the ISO determines that the request satisfies all of the following requirements:

- (a) The proposed Generator or UDR project terminus will be, or the existing Generator or UDR project terminus is, electrically located in the same Mitigated Capacity Zone in which the Self-Supply LSE has Projected ICAP Requirements (as such term is defined in Section 23.4.5.7.14.3),
- (b) The SSE Applicant and the Developer are not and will not be owned, in whole or in part, by an LSE or an Affiliate of an LSE unless such entity is a Self Supply LSE.
- (c) The SSE Applicant provides the completed Certification and Acknowledgement form set forth in Section 23.4.5.7.14.2.1 or 23.4.5.7.14.2.3, as applicable to it and its request for a Self Supply Exemption, and satisfies each requirement stated therein. If the SSE Applicant is not the wholly owned property of the Self Supply LSE(s), or the wholly owned property of an entity that is either wholly owned by the Self Supply LSE(s), or that wholly owns the Self Supply LSE(s), then both the SSE Applicant and the Self Supply LSE(s) provide the applicable completed Certification and Acknowledgement

form set forth in Section 23.4.5.7.14.2 and satisfy each requirement stated therein. The ISO must receive the required completed Certification and Acknowledgement forms, in accordance with ISO Procedures, no later than the deadline by which the SSE Applicant must notify the ISO of its election to enter the Class Year Study, such date as set forth in Section 25.5.9 of OATT Attachment S, or (iii) if the Self Supply LSE is an expected recipient of transferred CRIS rights at the same location that will be effective on a date within the Mitigation Study Period for the Class Year, no later than the Class Year Start Date of such Class Year Study. All other information requested by the ISO must also be timely received.

- (d) The ISO determines that the Self Supply LSE satisfies both the Net Short Threshold set forth in Section 23.4.5.7.14.3.1 and the Net Long Threshold set forth in Section 23.4.5.7.14.3.2 for a specified quantity of CRIS MW.
- (e) The SSE Applicant certifies that it does not have any contract, agreement, arrangement, or relationship (for purposes of this Section 23.4.5.7.14.1.2(e), and the Certification and Acknowledgment in Section 23.4.5.7.14.2, a “contract”) for any material (in whole or in aggregate) payments, concessions, rebates, or subsidies, connected to or contingent on the SSE Applicant’s: (i) construction or operation, except as expressly permitted in Subsection (A) or (B) of this Section, or (ii) clearing in the ISO’s Installed Capacity market except as expressly permitted in Subsection (B).

(A) An SSE Applicant will not be ineligible for a Self Supply Exemption if it has an executed contract, is associated with a contract, or there is a contract associated with it, that is listed in (I) through (VIII) of this Section that provides for a material payment, concession, rebate or subsidy, and either (i) is not irregular or anomalous, and only

reflects arms-length transactions, or (ii) is consistent with the overall objectives of the Self Supply Exemption.

**Listed contracts:**

- (I) an Interconnection Agreement;
- (II) an agreement for the construction or use of interconnection facilities or transmission or distribution facilities, or directly connected joint use transmission or distribution facilities (including contracts required for compliance with Articles VII or 10 of the New York State Public Service Law or orders issued pursuant to Articles VII or 10);
- (III) a grant of permission by any department, agency, instrumentality, or political subdivision of New York State to bury, lay, erect or construct wires, cables or other conductors, with the necessary poles, pipes or other fixtures in, on, over or under public property;
- (IV) a contract for the sale or lease of real property at or above fair market value as of the date of the agreement was executed, such value demonstrated by an independent appraisal at the time of execution prepared by an accountant or appraiser with specific experience in such valuations;
- (V) an easement or license to use real property;
- (VI) a contract, with any department, agency, instrumentality, or political subdivision of New York State providing for a payment-in-lieu of taxes (i.e., a “PILOT” agreement) or industrial or commercial siting incentives, such as tax abatements or financing incentives, provided the PILOT agreement or incentives are generally available to industrial or commercial entities;
- (VII) a service agreement for natural gas entered into under a tariff accepted by a regulatory body with jurisdiction over that service; or

(VIII) a service agreement entered into under a tariff accepted by a regulatory body with jurisdiction over that service at a regulated rate for electric Station Power, or steam service, excluding an agreement for a rate that is a negotiated rate pursuant to any such regulated electric, or steam tariff.

(B) An SSE Applicant that requests a Self Supply Exemption with only one Self Supply LSE will not be ineligible for a Self Supply Exemption if the contract(s) that otherwise would render it ineligible under any clause of Section 23.4.5.7.14.2 is (or are) with its Self Supply LSE.

(C) Contract Review Opportunity

(i) (1) A proposed new Generator or UDR project or an existing Generator or UDR project for Additional CRIS that is reasonably expected to be eligible to enter the immediately following Class Year or be the recipient of transferred CRIS rights at the same location on a date within the Mitigation Study Period of such Class Year, and that in connection with its own Load or for the Load of one or more Self Supply LSE(s) is planning on requesting a Self Supply Exemption; (2) an SSE Applicant that is in a Class Year that is not completed (in accordance with Section 25.5.9 of the OATT; or (3) an SSE Applicant that received a Self Supply Exemption, may request that the ISO inform it whether, in the ISO's view, any specific executed contract, unexecuted but substantially developed contract, or any pending request that if approved, granted, or otherwise conferred, would constitute a contract pursuant to Subsection 23.4.5.7.14.1.2 (e)(i) and (e)(ii) would make it ineligible to obtain or (if previously granted) retain a Self Supply Exemption. Any such request must satisfy all of the following requirements:

- (a) The SSE Applicant (unless it is for its own Load) must make any such request jointly with any Self Supply LSE(s) with which it has executed or has an unexecuted but substantially developed Long Term Contract. Any such Self Supply LSE(s) must make any such request jointly with the SSE Applicant, or proposed new or existing Generator or UDR project, with which it would seek, or has sought, a Self Supply Exemption.
- (b) As part of the submission of the request for a determination pursuant to Subsection (a) of this Section, the SSE Applicant, or proposed new or existing Generator or UDR project, and any relevant Self Supply LSE(s) as applicable, must provide the ISO with all information regarding the contract or pending request regarding which it is requesting the ISO's view, and if the request is made jointly with a Self Supply LSE, the executed or unexecuted and substantially developed Long Term Contract that would form the basis of a Self Supply Exemption Request, including copies of original documentation. In addition and at the time of the submission of the request, the SSE Applicant, or proposed new or existing Generator or UDR project, and any relevant Self Supply LSE shall also provide any other information identified by the ISO in accordance with ISO Procedures. They also must timely provide any further information that is requested by the ISO.
- (c) Such requests can only be submitted to the ISO on or after the date established by the ISO in accordance with ISO Procedures, such date to be at least 60 days prior to the date that the ISO anticipates will be the deadline by which facilities must

notify the ISO of their election to enter a Class Year (such Class Year deadline pursuant to Section 25.5.9 of OATT Attachment S.)

- (ii) Provided that the ISO has timely received all of the information it needs to make a determination, the ISO shall state its view in response to such requests within 60 days.
- (iii) When evaluating any such request, the ISO shall consult with the Market Monitoring Unit. (The responsibilities of the Market Monitoring Unit that are addressed in this section of the Mitigation Measures are also addressed in Section 30.4.6.2.13 of Attachment O to this Services Tariff.)

#### **23.4.5.7.14.2 Certifications and Acknowledgements**

23.4.5.7.14.2.1 An SSE Applicant that is not the wholly owned property of the Self Supply LSE(s), or the wholly owned property of an entity that is either wholly owned by the Self Supply LSE(s), or that wholly owns the Self Supply LSE(s), and that is requesting a Self Supply Exemption shall submit the following completed Certification and Acknowledgment form. The submission must be received by the ISO by the deadline pursuant to Section 23.4.5.7.14.1.2(c), and thereafter upon the request of the ISO, in accordance with ISO Procedures. The Self Supply Applicant shall be legally bound by the Certification and Acknowledgement form which must be executed by a duly authorized officer:

#### **CERTIFICATION AND ACKNOWLEDGMENT**

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

1. I am an officer whose responsibilities include the development of the [EXAMINED FACILITY, NCZ EXAMINED PROJECT or ADDITIONAL CRIS MW], New York



Independent System Operator, Inc.'s ("NYISO") Interconnection queue position Number [INSERT NUMBER] (the "Project").

2. I am duly authorized to make representations concerning the Project, including each of the certifications and acknowledgements that I have made in this document.
3. I hereby [REQUEST ON BEHALF OF] the Developer, a Self Supply Exemption for [MW REQUESTED FOR THE SELF SUPPLY EXEMPTION] for the Project in connection with [LOAD SERVING ENTITY THAT IS THE SELF SUPPLY LSE].
4. I have reviewed and I understand the requirements established under the NYISO Market Administration and Control Area Services Tariff ("Services Tariff") related to a "Self Supply Exemption" pursuant to Section 23.4.5.7.14.
5. I have personal knowledge of the facts and circumstances supporting the Project's request and eligibility for a Self Supply Exemption as of the date of this Certification and Acknowledgment, including all data and other information submitted by the Project to the NYISO.
6. [NAME OF DEVELOPER] is not owned in whole or in part by, and is not an Affiliate (as Affiliate is defined in Section 2.1 of the Services Tariff) of, a Load Serving Entity [OTHER THAN THE LOAD SERVING ENTITY THAT IS THE SELF SUPPLY LSE].
7. [NAME OF PROJECT] has a Long Term Contract (as such term is defined in Services Tariff Section 23.4.5.7.14.1.1 (b)(1)) with the Self Supply LSE[s], that is [are] the subject of the request for a Self Supply Exemption.
8. To the best of my knowledge and having conducted due diligence that is current as of the date of this Certification there is no contract, arrangement, arrangement, or relationship (for purposes of Section 23.4.5.7.14. 2(e) of the Services Tariff, and this Certification and Acknowledgment, a "contract") for any material (in whole or in aggregate) payments, concessions, rebates or subsidies connected to or contingent on the [PROJECT'S]: (i) construction or operation, except as expressly permitted in Subsection (A) or (B) of Section 23.4.5.7.14.1. 2(e) of the Services Tariff, or (ii) clearing in the NYISO's Installed Capacity market except as expressly permitted in Subsection (B) of Section 23.4.5.7.14. 1.2(e).
9. I have listed in Schedule 1 to this Certification all contracts that involve payments, concessions, rebates, or subsidies connected to or contingent upon the [PROJECT'S] construction or operation that are not material or that are otherwise expressly permissible under Subsection (A) or (B) of Section 23.4.5.7.14.1.2(e).
10. The Project shall provide any information or cooperation requested by the NYISO in connection with the Project's request for a Self Supply Exemption.

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

- a. The submission of false, misleading, or inaccurate information, or the failure to submit information requested by the NYISO related to the Project's request for a Self Supply Exemption, including but not limited to information contained or submitted in this Certification and Acknowledgement on behalf of the Project, shall constitute a violation of Section 4.1.7 of the Services Tariff, and subject to the Commission's review, a violation of the Commission's regulations and Section 316A of the Federal Power Act.
- b. If the Project submits false, misleading, or inaccurate information, or fails to submit requested information to the NYISO, including but not limited to information contained or submitted in this Certification and Acknowledgement on behalf of the Project, it shall cease to be eligible for a Self Supply Exemption and, if the Project has already received a Self Supply Exemption, that exemption shall be subject to revocation by the NYISO or the Commission after which the Project shall be subject to an Offer Floor set at the Mitigation Net CONE Offer Floor (such value calculated based on the date it first Offers UCAP, in accordance with Section 23.4.5.7.3.7, and adjusted annually in accordance with Section 23.4.5.7 of the Services Tariff,) starting with the next following deadline for Unforced Capacity certification prior to an ICAP Spot Market Auction subsequent to the date of revocation (such date in accordance with ISO Procedures) pursuant to Section 23.4.5.7.9.5 of the Services Tariff.
- c. If the Project submits false, misleading, or inaccurate information, or fails to submit requested information to the NYISO, including but not limited to information contained or submitted in the Certification and Acknowledgement on behalf of the Project, it may be subject to civil penalties that may be imposed by the Commission for violations of Section 4.1.7 of Services Tariff, the Commission's rules, and/or Section 316A of the Federal Power Act.

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[PRINT NAME]  
[DATE]

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

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Notary Public

My commission expires:\_\_\_\_\_

23.4.5.7.14.2.2 A Self Supply LSE that has a Long Term Contract (as such term is defined in Section 23.4.5.14.1(b)(1)) with an SSE Applicant shall submit to the ISO the following completed Certification and Acknowledgement Form as part of the SSE Applicant's request for a Self Supply Exemption and thereafter upon the request of the ISO, in accordance with ISO Procedures. The Self Supply LSE shall be legally bound by the completed Certification and Acknowledgement form which must be executed by a duly authorized officer:

### **CERTIFICATION AND ACKNOWLEDGMENT**

I [NAME & TITLE] hereby certify on behalf of myself and [NAME OF SELF SUPPLY LSE] (the "LSE") that each of the following statements is true and correct:

1. I am an officer whose responsibilities include overseeing the capacity supply portfolio and obligations, and addressing Load requirements of the [LSE], and LSE's Long Term Contract (as such term is defined in Services Tariff Section 23.4.5.7.14.1.1 (b)(1))with [EXAMINED FACILITY, NCZ EXAMINED PROJECT, or ADDITIONAL CRIS MW], New York Independent System Operator, Inc.'s ("NYISO") Interconnection queue position Number [INSERT NUMBER] (the "Project").
2. I am duly authorized to make representations concerning the capacity supply portfolio, and obligations, Load requirements of [the LSE], and LSE's Long Term Contract with the Project (the "Subject Long Term Contract"), including each of the certifications and acknowledgements that I have made in this document.
3. I hereby [REQUEST ON BEHALF OF] the LSE, a Self Supply Exemption for [MW REQUESTED FOR THE SELF SUPPLY EXEMPTION] for the Project associated with the Subject Long Term Contract.
4. I have reviewed and I understand the requirements established under the NYISO Market Administration and Control Area Services Tariff ("Services Tariff") related to a "Self Supply Exemption" pursuant to Section 23.4.5.7.14.
5. I have personal knowledge of the facts and circumstances supporting the Subject Long Term Contract and LSE's Load Obligations and supply obligations related to the Project's request and eligibility for a Self Supply Exemption as of the date of this Certification and Acknowledgment, including all data and other information submitted by LSE to the NYISO.

6. The LSE is a Self Supply LSE [INSERT SUBSECTION OF DEFINITION BY WHICH THE LSE MEETS THE REQUIREMENTS OF THAT TERM] of that term.
7. [NAME OF DEVELOPER] [is // is not] owned in part by, and [is // is not] an Affiliate (as Affiliate is defined in Section 2.1 of the Services Tariff) of, LSE. Appendix A to this Certification and Acknowledgement fully and completely sets forth and describes the organizational relationship between or among LSE, Developer and the Project, or any Affiliate of the foregoing entities in relation to the project; and any ownership or investment interest of LSE, Developer, and the Project, in either of the other entities, or any of the Affiliates thereof in relation to the Project.
8. [NAME OF PROJECT] and LSE are parties to the Subject Long Term Contract.
9. To the best of my knowledge and having conducted due diligence that is current as of the date of this Certification there are no arrangements for any payments or subsidies, that are directly or indirectly tied to the Unforced Capacity from the Project clearing in the NYISO's Installed Capacity market other than those between the [NAME OF DEVELOPER],[PROJECT] and [SELF SUPPLY LSE] that is provided to the ISO with this Certification and Acknowledgement [and other than agreements between [NAME OF DEVELOPER], [PROJECT] and [NAME OF OTHER SELF SUPPLY LSE(S) ASSOCIATED WITH THE SELF SUPPLY APPLICANT'S REQUEST FOR A SELF SUPPLY EXEMPTION]].
10. I have listed in Schedule 1 to this Certification all contracts that involve payments, concessions, rebates, or subsidies connected to or contingent upon the [PROJECT'S] construction or operation that are not material or that are otherwise expressly permissible under Subsection (A) or (B) of Section 23.4.5.7.14.1.2(e).
11. LSE shall provide any information or cooperation requested by the NYISO in connection with the LSE and the Project's request for a Self Supply Exemption.

I hereby acknowledge on behalf of myself and LSE that:

- a. The submission of false, misleading, or inaccurate information, or the failure to submit information requested by the NYISO related to the LSE's and the Project's request for a Self Supply Exemption, including but not limited to information contained or submitted in this Certification and Acknowledgement on behalf of the Project, shall constitute a violation of Section 4.1.7 of the Services Tariff, and subject to the Commission's review, a violation of the Commission's regulations and Section 316A of the Federal Power Act.
- b. If the LSE or the Project submits false, misleading, or inaccurate information, or fails to submit requested information to the NYISO, including but not limited to information contained or submitted in this Certification and Acknowledgement on behalf of the LSE, the Project shall cease to be eligible for a Self Supply Exemption in respect of Subject Long Term Contract and, if the Project has already received a Self Supply Exemption, that exemption shall be subject to revocation by the NYISO or the Commission after which the Project shall be subject to an Offer Floor set at the Mitigation Net CONE Offer Floor (such value calculated based on the date it first Offers UCAP, in accordance with

Section 23.4.5.7.3.7, and adjusted annually in accordance with Section 23.4.5.7 of the Services Tariff,) starting with the next following deadline for Unforced Capacity certification prior to an ICAP Spot Market Auction subsequent to the date of revocation (such date in accordance with ISO Procedures) pursuant to Section 23.4.5.7.9.5 of the Services Tariff.

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

\_\_\_\_\_  
[PRINT NAME]  
[DATE]

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

\_\_\_\_\_  
Notary Public

My commission expires:\_\_\_\_\_

23.4.5.7.14.2.3            An SSE Applicant that is the wholly owned property of the Self Supply LSE, or the wholly owned property of an entity that is either wholly owned by the Self Supply LSE, or that wholly owns the Self Supply LSE, and that is requesting a Self Supply Exemption shall submit the following completed Certification and Acknowledgment Form. The submission must be received by the ISO by the deadline pursuant to Section 23.4.5.7.14.1.2(c), and thereafter upon the request of the ISO, in accordance with ISO Procedures. The Self Supply

Applicant shall be legally bound by the following Certification and

Acknowledgement form which must be executed by a duly authorized officer:

### **CERTIFICATION AND ACKNOWLEDGMENT**

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

1. I am an officer whose responsibilities include; (i) the development of the [EXAMINED FACILITY, NCZ EXAMINED PROJECT, or ADDITIONAL CRIS MW], New York Independent System Operator, Inc.'s ("NYISO") Interconnection queue position Number [INSERT NUMBER] (the "Project"); and (ii) overseeing the capacity supply portfolio and obligations, and addressing Load Obligations of the Self Supply LSE and its obligations to serve retail customers.
2. I am duly authorized to make representations concerning the Project and the capacity supply portfolio, and obligations, Load requirements of [the DEVELOPER/LSE], including, if applicable the Long Term Contract between the Project and any entity performing the Self Supply LSE function (the "Subject Long Term Contract"), and also including each of the certifications and acknowledgements that I have made in this document.
3. I hereby [REQUEST ON BEHALF OF] the [DEVELOPER/LSE], a Self Supply Exemption for [MW REQUESTED FOR THE SELF SUPPLY EXEMPTION] for the Project associated with [DEVELOPER/LSE'S] self supply arrangements, including, if applicable, any Subject Long Term Contract.
4. I have reviewed and I understand the requirements established under the NYISO Market Administration and Control Area Services Tariff ("Services Tariff") related to a "Self Supply Exemption" pursuant to Section 23.4.5.7.14.
5. I have personal knowledge of the facts and circumstances supporting: (i) the Project's request and eligibility for a Self Supply Exemption; and (ii) the Load Obligations and supply obligations related to the Project's request and eligibility for a Self Supply Exemption, as of the date of this Certification and Acknowledgment, including all data and other information submitted by the Project and by [DEVELOPER/LSE] to the NYISO.
6. The LSE is a Self Supply LSE pursuant to Section [INSERT SUBSECTION OF DEFINITION BY WHICH THE LSE MEETS THE REQUIREMENTS OF THAT TERM] of that term.
7. [NAME OF DEVELOPER/LSE] is not owned in whole or in part by, and is not an Affiliate (as Affiliate is defined in Section 2.1 of the Services Tariff) of, any other Load Serving Entity. Appendix A to this Certification and Acknowledgment fully and completely sets forth and describes the organizational relationship between

[DEVELOPER/LSE's] Self Supply LSE and Developer functions or affiliates and the Project.

8. To the best of my knowledge and having conducted due diligence that is current as of the date of this Certification there is not any contract, agreement, arrangement, or relationship (for purposes of Section 23.4.5.7.14.1. 2(e), and this Certification and Acknowledgment, a "contract") for any material (in whole or in aggregate) payments, concessions, rebates, or subsidies, connected to or contingent on the [PROJECT's]: (i) construction or operation, except as expressly permitted in Subsection (A) or (B) of Section 23.4.5.7.14.1.2(e) of the Services Tariff, or (ii) clearing in the NYISO's ICAP market except as expressly permitted in Subsection (B) of Section 23.4.5.7.14.1.2(e).
9. I have listed in Schedule 1 to this Certification all contracts that involve payments, concessions, rebates, or subsidies connected to or contingent upon the [PROJECT'S] construction or operation that are not material or that are otherwise expressly permissible under Subsection (A) or (B) of Section 23.4.5.7.14.1.2(e).
10. The Project and [DEVELOPER/LSE] shall provide any information or cooperation requested by the NYISO in connection with the Project's request for a Self Supply Exemption.

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

- a. The submission of false, misleading, or inaccurate information, or the failure to submit information requested by the NYISO related to the Project's and [DEVELOPER/LSE's] request for a Self Supply Exemption, including but not limited to information contained or submitted in this Certification and Acknowledgement on behalf of the Project, shall constitute a violation of Section 4.1.7 of the Services Tariff, and subject to the Commission's review, a violation of the Commission's regulations and Section 316A of the Federal Power Act.
- b. If the DEVELOPER/LSE or the Project submits false, misleading, or inaccurate information, or fails to submit requested information to the NYISO, including but not limited to information contained or submitted in this Certification and Acknowledgement on behalf of the Project, it shall cease to be eligible for a Self Supply Exemption and, if the Project has already received a Self Supply Exemption, that exemption shall be subject to revocation by the NYISO or the Commission after which the Project shall be subject to an Offer Floor set at the Mitigation Net CONE Offer Floor (such value calculated based on the date it first Offers UCAP, in accordance with Section 23.4.5.7.3.7, and adjusted annually in accordance with Section 23.4.5.7 of the Services Tariff,) starting with the next following deadline for Unforced Capacity certification prior to an ICAP Spot Market Auction subsequent to the date of revocation (such date in accordance with ISO Procedures) pursuant to Section 23.4.5.7.9.5 of the Services Tariff.
- c. If the DEVELOPER/LSE or the Project submits false, misleading, or inaccurate information, or fails to submit requested information to the NYISO, including but not

limited to information contained or submitted in the Certification and Acknowledgement on behalf of the Project, it may be subject to civil penalties that may be imposed by the Commission for violations of Section 4.1.7 of Services Tariff, the Commission's rules, and/or Section 316A of the Federal Power Act.

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[PRINT NAME]  
[DATE]

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

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Notary Public

My commission expires: \_\_\_\_\_

### **23.4.5.7.14.3 Net Short Threshold and Net Long Threshold**

For the purposes of Section 23.4.5.7.14.3, "SSE Evaluated ICAP" shall mean the quantity of MW of CRIS for which a Self Supply Exemption is requested by an individual Self Supply LSE (or by an SSE Applicant in respect of its own Load) in accordance with Section 23.4.5.7.14.1.1(c), unless reduced as follows: If (i) following a notice that an additional System Deliverability Upgrade study(ies) will be conducted in accordance with Section 25.7.7.1 of the OATT, an SSE Applicant elects to keep its CRIS request but with no System Deliverability Upgrade identified to make the project fully deliverable (as provided for in Section 25.7.7.1(3),) and (ii) the total quantity of MW of CRIS for which the Self Supply Exemption is requested exceeds the total amount of Deliverable MW, as specified in the next Class Year Interconnection



Facilities Study report, the ISO shall reduce the total quantity of MW of CRIS for which a Self Supply Exemption is requested to the total amount of Deliverable MW identified in such Interconnection Facilities Study Report. If there is more than one LSE associated with the SSE Applicant, the ISO shall reduce the quantity of MW of CRIS for each Self Supply LSE by the ratio of Deliverable MW to the total MW of CRIS for which Self Supply exemptions were initially requested.

The ISO shall compute the Net Short Threshold and Net Long Threshold, and determine whether each is satisfied, based on its computation of each of the values specified in this Section. If there is more than one Self Supply LSE associated with the SSE Applicant's request for a Self Supply Exemption, the MW associated with each Self Supply LSE shall be considered separately.

If the Self Supply LSE or its Affiliates are associated with more than one request for a Self Supply Exemption in the Class Year (including any associated with a transfer of CRIS at the same location,) and the Self Supply LSE and its Affiliates satisfy the Net Long Threshold in a non-zero amount that is greater than the "Cumulative Affiliated Quantity" (as defined in Section 23.4.5.7.14.3,) then remaining in the Class Year, the ISO shall reduce the quantity of MW for which they are eligible to receive a Self Supply Exemption by the ratio of (a) the quantity of MW by which the Self Supply LSE and its Affiliates satisfy the Net Long Threshold, to (b) the Cumulative Affiliated Quantity associated with SSE Applicant(s) then remaining in the Class Year or associated with a transfer of CRIS at the same location (provided the transferee does not notify the ISO, on or before the date the Class Year is completed, that it no longer expects to be the recipient of the transferred CRIS.)

For the purposes of Section 23.4.5.7.14.3, “Projected ICAP Requirements” is the amount of ICAP MW reasonably projected by the ISO that reflects the expected obligations of the Self Supply LSE, and all its Affiliates, to satisfy the ICAP Requirements of its long term customers. This amount will equal the sum of the total amounts projected by the ISO that will be required to be purchased in each Locality and the NYCA for its long term customers. Such projection shall be based on the Self Supply LSE’s and all its Affiliates’ share(s) of the Locational Minimum Unforced Capacity Requirements and the NYCA Minimum Unforced Capacity Requirement, as applicable and in accordance with ISO Procedures, over the ten most recently completed Capability Years preceding the Class Year Start Date and any incremental long term customers that have entered contracts with the Self Supply LSE or its Affiliates with a term of 10 years or more prior to the Class Year Study’s Initial Decision Period. Such projection shall also reflect that ICAP MW purchased in a Locality may be used to meet capacity requirements for each Locality in which they are contained, as well as for the NYCA.

When calculating the Self Supply LSE’s and all its Affiliates’ Projected ICAP Requirements, each of their shares of the Locational Minimum Unforced Capacity Requirements and the NYCA Minimum Unforced Capacity Requirement over these ten Capability Years shall be translated to their ICAP MW equivalent(s) using the derating factor that was applied to translate the Installed Capacity Requirement into the Unforced Capacity Requirement in the same Capability Period and Locality, or the NYCA if applicable, in which the purchase was made.

For the purposes of Section 23.4.5.7.14.3, “Excess Award Percentage” is the reasonably projected amount of excess capacity that the Self Supply LSE and all its Affiliates will be required to purchase in each Locality, and the NYCA, expressed as a percentage of its “Projected

ICAP Requirements”, Such projection shall be based on the total excess UCAP MW awarded in each ICAP Spot Market Auction, divided by the Locational Minimum Unforced Capacity Requirement, or the NYCA Minimum Unforced Capacity Requirement, for the same Capability Period and Locality (or the NYCA) in which the award was made, over the three most recently completed Capability Years preceding the Class Year Start Date.

For the purposes of Section 23.4.5.7.14.3, “Capacity Obligations without Entry”, calculated for each Locality and the NYCA, is the product of (a) Projected ICAP Requirements and (b) one plus the Excess Award Percentage.

For the purposes of Section 23.4.5.7.14.3, “Capacity Obligations with Entry”, calculated for each Locality and the NYCA, is the product of (a) Projected ICAP Requirements and (b) one plus the Excess Award Percentage, adjusted to reflect the projected increase in excess that the Self Supply LSE would be obligated to purchase as a result of the entry of the SSE Applicant.

For the purposes of Section 23.4.5.7.14.3, “Self Supply Capacity” for a given Locality (or the NYCA,) is (a) the full amount of ICAP MW associated with each Generator or UDR project that the Self Supply LSE or any of its Affiliates own directly or indirectly, in at least a 50.01% interest (in the aggregate) as of the Class Year Start Date, or have the power to direct the management or policies of, excluding any whose CRIS MW are projected by the ISO to be expired on or before the date that marks the end of Mitigation Study Period, based on a demonstration by the Self Supply LSE, and (b) the ICAP MW that the Self Supply LSE and all its Affiliates are reasonably projected by the ISO to receive, including ICAP MW which they have a call option to receive, either by way of ownership or under “Existing Long Term Commitments” in that Locality (or the NYCA), and that are associated with a Generator or UDR project that the Self Supply LSE or any of its Affiliates do not own directly or indirectly, at least

a 50.01% interest (in the aggregate) as of the Class Year Start Date, and that they do not have the power to direct the management or policies of, excluding those that are associated with any Generator or UDR project identified in Excluded Capacity pursuant to Section 23.4.5.7.15. For purposes of Self Supply Capacity, “Existing Long Term Commitments” is the amount of Capacity that the Self Supply LSE or any of its Affiliates are projected by the ISO to receive, which shall include ICAP which they have a call option to receive, under a written agreement (whether stated in ICAP or otherwise,) with a minimum term of ten years obligation remaining thereon on the Class Year Start Date. When calculating the term and remaining term of a written agreement for the purposes of this section, the ISO, using its independent judgment and at its sole discretion, will determine whether to reflect in its calculation any potential extension to the current term of a written agreement that may reasonably result from renewal provisions.

For the purposes of Section 23.4.5.7.14.3, “Additional Self Supply Capacity,” for a given Locality (or the NYCA,) is the ICAP MW of a Generator or UDR project that were granted a Self Supply Exemption at the time of the completed Class Year based on the Self Supply LSE or any of its Affiliates’ being a Self Supply LSE for such Generator or UDR project, in the 10 year period immediately preceding the Class Year Start Date of the Class Year, in that Locality (or the NYCA), excluding: (i) any ICAP MW that are included in Self Supply Capacity, (ii) any ICAP MW associated with a Generator or UDR project that the Self Supply LSE and any of its Affiliates own directly or indirectly, at least a 50.01% interest(in the aggregate) as of the Class Year Start Date, or have the power to direct the management or policies of, and that the CRIS of which is projected by the ISO to be expired on or before the date that marks the end of Mitigation Study Period, based on a demonstration by the Self Supply LSE; and (iii) any ICAP MW of a Generator or UDR project that neither the Self Supply LSE nor any of its Affiliates

own directly or indirectly, at least a 50.01% interest (in the aggregate) as of the Class Year Start Date, or have the power to direct the management or policies of, and that is a Generator or UDR project identified in Excluded Capacity pursuant to Section 23.4.5.7.15.

#### **23.4.5.7.14.3.1 Net Short Threshold**

The Net Short Threshold will be satisfied for the “SSE Evaluated ICAP” if the ISO determines that, summed over all Localities and the NYCA, the Self Supply LSE’s and all of its Affiliates’ “Total Capacity Costs without Entry” are expected to be less than the Self Supply LSE’s and all of its Affiliates’ “Total Capacity Costs with Entry” when accounting for the nested structure of the Self Supply LSE’s ICAP Requirements.

23.4.5.7.14.3.1.1 The ISO will calculate the estimated “Total Capacity Costs without Entry” as the sum over all Localities, and the NYCA, of the product of (a) the “ICAP Spot Auction Price without Entry” and (b) the “Capacity Exposed to Market Prices without Entry”.

- (a) “ICAP Spot Market Auction Price without Entry” shall be based on the ICAP Spot Market Auction prices for each Locality and the NYCA, averaged over the three most recently completed Capability Years preceding the Class Year Start Date.
- (b) “Capacity Exposed to Market Prices without Entry” is calculated for each Locality and the NYCA as:  
“Capacity Obligations without Entry” for each Locality and the NYCA, translated from ICAP MW into UCAP MW using the average derating factor for each Locality and the NYCA corresponding to the ICAP Spot Market Auctions used to determine the ICAP Spot Market Auction Price without Entry;

minus

“Self Supply Capacity” for each Locality and the NYCA, translated from ICAP MW into UCAP MW using a derating factor, as determined by the ISO, that is reasonably anticipated to be associated with ICAP Suppliers included in this Self Supply Capacity;

minus

“Additional Self Supply Capacity” for each Locality and the NYCA, translated from ICAP MW into UCAP MW using a derating factor, as determined by the ISO, that is reasonably anticipated to be associated with ICAP Suppliers included in this Additional Self Supply Capacity;

minus

“Previously Included Capacity Exposed to Market Prices without Entry,” which shall be determined as follows: When calculating “Capacity Exposed to Market Prices Without Entry” for the New York City or Long Island Localities, “Previously Included Capacity Exposed to Market Prices without Entry” shall be zero. When calculating “Capacity Exposed to Market Prices without Entry” for the G-J Locality, “Previously Included Capacity Exposed to Market Prices without Entry” shall be set equal to “Capacity Exposed to Market Prices without Entry” calculated for the New York City Locality. When calculating “Capacity Exposed to Market Prices without Entry” for the NYCA, “Previously Included Capacity Exposed to Market Prices without Entry” shall be set equal to the sum of “Capacity Exposed to Market Prices without Entry” calculated for the G-J, New York City, and Long Island Localities.

23.4.5.7.14.3.1.2 The ISO will calculate “Total Capacity Costs with Entry” as the sum of “Proportional Entry Costs” and the sum over all Localities, and the NYCA, of the product of (a) “ICAP Spot Market Auction Price With Entry” and (b) “Capacity Exposed to Market Prices With Entry”.

“Proportional Entry Costs” is the percentage of the Unit Net CONE (expressed in dollars) of the SSE Applicant (calculated in accordance with Section 23.4.5.7.3 if an Examined Facility, or in accordance with Section 23.4.5.7.2.1 if an NCZ Examined Project, or in accordance with Section 23.4.5.7.6.1 if Additional CRIS MW) that is equal to the SSE Evaluated ICAP divided by the total MW of CRIS requested by the SSE Applicant in the Class Year.

(a) The “ICAP Spot Market Auction Price with Entry” shall be based on the ICAP Spot Market Auction prices calculated for each Locality and the NYCA, averaged over the three most recently completed Capability Years preceding the Class Year Start Date, and adjusted to reflect the entry of the SSE Applicant.

(b) the “Capacity Exposed to Market Prices with Entry” is calculated for each Locality and the NYCA as:  
“Capacity Obligations with Entry” for each Locality and the NYCA, translated from ICAP MW into UCAP MW using the average derating factor for each Locality and the NYCA corresponding to the ICAP Spot Market Auctions used to determine the ICAP Spot Market Auction Price with Entry;

Minus

“Self Supply Capacity” for each Locality and the NYCA, translated from ICAP MW into UCAP MW using a derating factor, as determined by the ISO, that is

reasonably anticipated to be associated with ICAP Suppliers included in this Self Supply Capacity;

minus

“Additional Self Supply Capacity” for each Locality and the NYCA, translated from ICAP MW into UCAP MW using a derating factor, as determined by the ISO, that is reasonably anticipated to be associated with ICAP Suppliers included in this Additional Self Supply Capacity;

minus

“SSE Evaluated ICAP”, translated from ICAP MW into UCAP MW using a derating factor, as determined by the ISO that is reasonably anticipated to be associated with the SSE Applicant;

minus

“Previously Included Capacity Exposed to Market Prices with Entry,” which shall be determined as follows: When calculating “Capacity Exposed to Market Prices With Entry” for the New York City or Long Island Localities, “Previously Included Capacity Exposed to Market Prices with Entry” shall be zero. When calculating “Capacity Exposed to Market Prices with Entry” for the G-J Locality, “Previously Included Capacity Exposed to Market Prices with Entry” shall be set equal to “Capacity Exposed to Market Prices with Entry” calculated for the New York City Locality. When calculating “Capacity Exposed to Market Prices with Entry” for the NYCA, “Previously Included Capacity Exposed to Market Prices with Entry” shall be set equal to the sum of “Capacity Exposed to Market Prices with Entry” calculated for the G-J, New York City, and Long Island Localities.



#### **23.4.5.7.14.3.2 Net Long Threshold**

If the Self Supply LSE and any of its Affiliates are associated with more than one Self Supply Exemption Request in the Class Year, the Net Long Threshold determination will be made based on the sum of the Self Supply LSE's and all of its Affiliates' SSE Evaluated ICAP ("Cumulative Affiliated Quantity") prior to the Initial Decision Period. The ISO shall recalculate the Cumulative Affiliated Quantity prior to the ISO's issuance of a Revised Project Cost Allocation Subsequent Decision Period if any SSE Applicant with which it is associated is no longer in the Class Year.

For each Mitigated Capacity Zone containing the location of the SSE Applicant, the ISO will determine the largest amount of SSE Evaluated ICAP MW that is (a) less than or equal to the sum of the Self Supply LSE's and all of its Affiliates' "SSE Evaluated ICAP" and (b) for which the Self Supply LSE's and all of its Affiliates' "Total Self Supply Capacity" is less than or equal to the "Future Capacity Obligation." The Net Long Threshold will be satisfied for the smallest of these determined amounts of SSE Evaluated ICAP MW, and will be considered not satisfied if the smallest of these amounts is less than or equal to zero.

- (i) The "Total Self Supply Capacity" is the sum, in each Mitigated Capacity Zone, of ICAP MW of (A) Self Supply Capacity, (B) Additional Self-Supply Capacity, and (C) the cumulative quantity of the Self Supply LSE's and all of its Affiliates' SSE Evaluated ICAP.
- (ii) the "Future Capacity Obligation" is the product of (A) ICAP MW of Capacity Obligations without Entry, and (B) the higher of (x) one plus the "10 year growth rate of peak demand" and (y) one plus one percent. The "10 year growth rate of peak demand" shall be determined based on the longest available NYSO Baseline forecast of non-coincident peak demand for the corresponding Mitigated Capacity

Zone found in the “Baseline Forecast of Non-Coincident Peak Demand” table, or its successor in the most current Gold Book, published by the Class Year Start Date of the Class Year, for each Mitigated Capacity Zone.

#### **23.4.5.7.14.4 Timing of Determinations**

##### **23.4.5.7.14.4.1 Determinations.**

- (a) Prior to the Initial Decision Period, the ISO shall determine whether all or a portion of the MW specified in the request for a Self Supply Exemption is eligible for a Self Supply Exemption in accordance with Section 23.4.5.7.14.1.2. If the ISO determines that all or a portion of the CRIS MW for which a Self Supply Exemption was requested is not eligible for a Self Supply Exemption, the ISO shall make a determination in accordance with Section 23.4.5.7.3.2 prior to the commencement of the Initial Decision Period, and prior to the ISO’s issuance of a Revised Project Cost Allocation. When evaluating eligibility for a Self Supply Exemption, the ISO shall consult with the Market Monitoring Unit. The responsibilities of the Market Monitoring Unit that are addressed in this section of the Mitigation Measures are also addressed in Section 30.4.6.2.13 of Attachment O to this Services Tariff.
- (b) Determinations made pursuant to Section 23.4.5.7.14.4 shall be provided to the SSE Applicant concurrent with the issuance of determinations in accordance with Section 23.4.5.7.3.3, and to an NCZ Examined Project at the time of the ISO’s determination pursuant to Section 23.4.5.7.2.1.
- (c) The ISO shall post on its web site and concurrently notify the Self Supply LSE of the ISO’s determination of exempt, and if exempt the quantity of MW exempted,

or non-exempt, from an Offer Floor as soon as the determination is final.

Concurrent with the ISO's posting, the Market Monitoring Unit shall publish a report on the ISO's determination, as further specified in Sections 30.4.6.2.13 of Attachment O to this Services Tariff.

#### **23.4.5.7.14.5 Revocation of a Self Supply Exemption**

- (a) If, at the time prior to the SSE Applicant first producing or transmitting, Energy it or the Self Supply LSE no longer satisfies the requirements of Section 23.4.5.7.14.1(b) or no longer meets the requirements of the Acknowledgement and Certification, the SSE Applicant and the Self Supply LSE shall notify each other and the ISO in writing within 3 business days of the event or basis for the failure to meet the requirements for a Self Supply Exemption. Within 10 business days of its receipt of this notification, the ISO shall provide written notice of its intent to revoke the Self Supply Exemption that specifies its findings. The ISO will provide an opportunity for the SSE Applicant or Self Supply LSE to schedule a joint meeting with the ISO within 20 business days from the date of its notice of intent to revoke the Self Supply Exemption. The purpose of the meeting will be to allow the submittal of additional documentation and other facts that could rebut the findings of the ISO that were identified in its notice of intent to revoke the Self Supply Exemption. The ISO shall determine within 10 business days of this joint meeting whether the revocation of the Self Supply Exemption shall be finalized and then shall post on its website its determination to revoke the Self Supply Exemption. If the ISO revokes the Self Supply Exemption, the Generator will be subject to the Mitigation Net CONE Offer Floor (such value calculated

based on the date it first offers UCAP, in accordance with Section 23.4.5.7.3.7, and adjusted annually in accordance with Section 23.4.5.7 of this Services Tariff.)

- (b) The failure to provide the ISO written notice in accordance with Section 23.4.5.7.14.5(a) shall constitute a violation of the Services Tariff. Such violation shall be reported by the ISO to the Market Monitoring Unit and to the Commission's Office of Enforcement (or any successor to its responsibilities.)
- (c) Where the ISO reasonably believes that a request for a Self Supply Exemption was granted based on (i) false, misleading, or inaccurate information, or (ii) the Self Supply LSE's inclusion within "Self Supply Capacity" (as that term is used in Section 23.4.5.7.14.3) of a Generator or UDR project's capacity that was identified by the Self Supply LSE whose CRIS was projected to expire before the end of the Mitigation Study Period but has not expired on or before the date that marked the end of the Mitigation Study Period, the ISO shall notify the SSE Applicant or the Owner/Operator of the Generator or UDR, and the Self Supply LSE that the Self Supply Exemption may be revoked in writing. The written notice shall provide to the Self Supply Applicant, or the Owner/Operator of the Generator or UDR, and the Self Supply LSE an opportunity to submit documentation to the ISO and meet jointly with the ISO to rebut the ISO's findings within 30 days from the date of the ISO's written notice. The ISO shall determine within 10 business days of this meeting whether the revocation of the Self Supply Exemption shall be finalized and post on its website its determination to revoke the Self Supply Exemption. Where the ISO revokes the Self Supply Exemption the Generator or UDR shall be subject to the Mitigation Net CONE

Offer Floor (such value calculated based on the date the SSE Applicant first offers UCAP, in accordance with Section 23.4.5.7.3.7, and adjusted annually in accordance with Section 23.4.5.7 of this Services Tariff.) Prior to the revocation of a Self Supply Exemption and the submission of a report to the Commission's Office of Enforcement (or any successor to its responsibilities,) the ISO shall provide the SSE Applicant an opportunity to explain any statement, information, or action, and if a statement information or action of the Self Supply LSE, it shall also provide an opportunity to that entity. The ISO cannot revoke the Self Supply Exemption until after the 30 days written notice period has expired, unless ordered to do so by the Commission.