38.1 Definitions

Whenever used in the **Short-Term Reliability Process** requirements in this Section 38 with initial capitalization, the following terms shall have the meaning specified in this Section 38.1. Terms used in this Section 38 with initial capitalization that are not defined in this Section 38.1 shall have the meanings specified in Section 31.1.1 of Attachment Y of the ISO OATT or, if not defined therein, in Section 1 of the ISO OATT or Section 2 of the ISO Services Tariff.

Developer: A person or entity, including a Transmission Owner, sponsoring or proposing a solution to a Short-Term Reliability Process Need pursuant to this Attachment FF.

Generator Deactivation Assessment: The ISO's analysis, in coordination with the Responsible Transmission Owner(s), of whether a Generator Deactivation Reliability Need will result from a Generator becoming Retired, entering into a Mothball Outage, or being unavailable due to an ICAP Ineligible Forced Outage. Except when the ISO elects to assess the reliability impacts of a Generator's ICAP Ineligible Forced Outage outside the quarterly STAR, a Generator Deactivation Assessment will be a component of a STAR.

Short-Term Assessment of Reliability Start Date: The date on which the ISO next commences a STAR after the ISO issues a written notice to a Market Participant pursuant to Section 38.3.1.4 indicating that the Generator Deactivation Notice for its Generator is complete. If a Market Participant's Generator enters into an ICAP Ineligible Forced Outage pursuant to Section 5.18.2.1 of the ISO Services Tariff, then the Short-Term Assessment of Reliability Start Date is the date on which the ISO next commences a STAR; except (i) when the ISO determines that it should commence a stand alone Generator Deactivation Assessment based on the potential for an immediate reliability need to arise (*see* Section 38.3.4), or (ii) when the ISO is able to and elects to add a Generator that is in an ICAP Ineligible Forced Outage to a STAR that has already begun. Under either exception [(i) or (ii)], the Short-Term Assessment of Reliability Start Date is the date on which the Generator entered an ICAP Ineligible Forced Outage.

Generator Deactivation Notice: The form set forth in Section 38.24 (Appendix A) of this Attachment FF.

Generator Deactivation Reliability Need: A condition identified by the ISO in a STAR or a Generator Deactivation Assessment as a violation or potential violation of one or more Reliability Criteria and applicable local criteria. Violations and potential violations identified in a STAR are only Generator Deactivation Reliability Needs if the need can be resolved, in whole or in part, by the continued availability or operation of an Initiating Generator. A Generator Deactivation Reliability Need is a type of Short-Term Reliability Process Need.

Generator Owner: (a) the entity or entities that have executed an RMR Agreement and assumed ultimate responsibility for the operation of an RMR Generator and its participation in the ISO

Administered Markets; (b) the entity or entities that have indicated their willingness to execute an RMR Agreement and assume ultimate responsibility for the operation of an RMR Generator and its participation in the ISO Administered Markets by submitting a filing to FERC proposing a rate for providing RMR service or seeking to recover the cost of Capital Expenditures; or (c) the entity or entities that possess ultimate responsibility for the operation of an Interim Service Provider and its participation in the ISO Administered Markets. The Generator Owner may be a Market Party and/or a Market Participant, may include one or more Market Parties and/or Market Participants, or may participate in the ISO Administered Markets by and through one or more Market Parties and/or Market Participants.

Initiating Generator: A Generator with a nameplate rating that exceeds 1 MW that submits a Generator Deactivation Notice for purposes of becoming Retired or entering into a Mothball Outage or that has entered into an ICAP Ineligible Forced Outage pursuant to Section 5.18.2.1 of the ISO Services Tariff, which action is being evaluated by the ISO in accordance with its Short-Term Reliability Process requirements in this Section 38 of the ISO OATT.

Interim Service Provider: A Generator that must remain in service during the 365 days that follow the Short-Term Assessment of Reliability Start Date beyond the latest of (a) the 181st day after the ISO issues a written notice to a Market Participant pursuant to Section 38.3.1.4 indicating that the Generator Deactivation Notice for its Generator is complete, or (b) ten days after the posting of a STAR that assessed the Generator's deactivation, or (c) the Generator's requested deactivation date. A Generator that submitted a Generator Deactivation Notice to be Retired is an Interim Service Provider even if the ISO authorizes the Generator to be deactivated, if the ISO or a Responsible Transmission Owner requires the step-up transformer(s) and/or other system protection equipment to remain in service during the 365 days that follow the Short-Term Assessment of Reliability Start Date beyond the latest of (a) the 181st day after the ISO issues a written notice to a Market Participant pursuant to Section 38.3.1.4 indicating that the Generator Deactivation Notice for its Generator is complete, or (b) ten days after the posting of a STAR that assessed the Generator's deactivation, or (c) the Generator's requested deactivation date, or (d) the date on which the generating unit(s) deactivate. Interim Service Providers are compensated in accordance with Rate Schedule 8 to the ISO Services Tariff.

Market Party: Any person or entity that is, or proposes or plans (including any participant therein,) a project that would be, a buyer or a seller in, or that makes bids or offers to buy or sell in, or that schedules or seeks to schedule Transactions with the ISO in or affecting any of the ISO Administered Markets, or any combination of the foregoing.

Near-Term Reliability Need: A Generator Deactivation Reliability Need that the ISO determines will arise within three years of the conclusion of the 365 days that follow the Short-Term Assessment of Reliability Start Date; or a Short-Term Reliability Process Need that is not a Generator Deactivation Reliability Need that the ISO determines will arise within three years of the posting of the STAR in which the need is identified.

New York State Bulk Power Transmission Facilities ("BPTFs"): Defined in Section 31.1.1 of the OATT.

Reliability Need: Defined in Section 31.1.1 of the OATT.

Reliability Planning Process: The term shall have the meaning set forth in Section 31.1.1 of Attachment Y of the ISO OATT.

Responsible Transmission Owner: The Transmission Owner or Transmission Owners designated by the ISO pursuant to this Attachment FF: (i) to conduct the necessary reliability studies to review the impact of a Generator's proposed deactivation on the reliability of the non-BPTFs that are part of the New York State Transmission System, (ii) to prepare a Short-Term Reliability Process Solution and, if required, a conceptual permanent solution to address a Short-Term Reliability Process Need, and (iii) to proceed with a Short-Term Reliability Process Solution if directed to do so by the ISO. The Responsible Transmission Owner will normally be the Transmission Owner in whose Transmission District the ISO identifies a Short-Term Reliability Process Need and/or that owns a transmission facility on which a Reliability Need arises.

RMR Service Offer: An offer submitted to the ISO by a Generator to provide RMR service.

RMR Start Date: The date an RMR Generator begins participating, offering, and operating in the ISO Administered Markets pursuant to the ISO Tariff rules that apply to RMR Generators and the terms of an RMR Agreement.

Short-Term Assessment of Reliability (STAR): The ISO's assessment, in coordination with the Responsible Transmission Owner(s), of whether a Short-Term Reliability Process Need will result from a Generator becoming Retired, entering into a Mothball Outage, a Generator being unavailable due to an ICAP Ineligible Forced Outage, or from other changes to the availability of Resources or to the New York State Transmission System. The ISO performs STARs on a quarterly basis, commencing on the dates specified in ISO Procedures.

Short-Term Reliability Process Need: A Generator Deactivation Reliability Need or a condition identified by the ISO in a STAR as a violation or potential violation of one or more Reliability Criteria on the BPTF.

Short-Term Reliability Process: The process set forth in this Attachment FF by which the ISO evaluates and addresses the reliability impacts resulting from both: (i) Generator Deactivation Reliability Need(s), and/or (ii) other Reliability Needs on the BPTFs that are identified in a STAR.

Short-Term Reliability Process Solution: A solution to address a Short-Term Reliability Process Need, which may include (i) an Initiating Generator, (ii) a solution proposed pursuant to Section 38.4, or (iii) a Generator identified by the ISO pursuant to Section 38.5.

Viable and Sufficient: Term that describes a proposed Short-Term Reliability Process Solution that the ISO has determined in accordance with Section 38.6 to be viable and sufficient to satisfy the identified Short-Term Reliability Process Need individually or in conjunction with other solutions.

38.2 Scope of Short-Term Reliability Process

The Short-Term Reliability Process includes within its scope the ISO's review of Generator deactivations to address any identified Generator Deactivation Reliability Needs and the ability for the ISO to address other Reliability Needs on the BPTF that are identified in a STAR. The STAR will use the most recent base case from the Reliability Planning Process, updated in accordance with ISO Procedures for the Reliability Planning Process, and the ISO will review key study assumptions with its stakeholders.

The Short-Term Reliability Process set forth in this Attachment FF establishes the process by which the ISO will address a Generator Deactivation Reliability Need that results from a Generator that has a nameplate rating that exceeds 1 MW becoming Retired, entering into a Mothball Outage, or being unavailable due to an ICAP Ineligible Forced Outage. Pursuant to this process, the ISO will first determine through a STAR (or possibly a Generator Deactivation Assessment for Generators in an ICAP Ineligible Forced Outage) whether a Generator Deactivation Reliability Need would result from a Generator's deactivation. If the STAR or Generator Deactivation Assessment identifies a Generator Deactivation Reliability Need that arises three years or less after the conclusion of the 365 day prior notice period set forth in Section 38.3.1 below, then the ISO will solicit and evaluate market-based and regulated Short-Term Reliability Process Solutions to address the need, including, but not limited to, entering into an RMR Agreement with the Initiating Generator. Generator Deactivation Reliability Needs that arise more than three years after the conclusion of the 365 day prior notice period will only be addressed using this Short-Term Reliability Process if the identified needs cannot timely be addressed through the ISO's Reliability Planning Process. Rules addressing cost allocation for Short-Term Reliability Process Solutions are set forth in Section 38.22. Rules addressing cost

recovery for Short-Term Reliability Process Solutions are set forth in Section 38.23, Rate Schedules 14 and 16 to the ISO OATT, and Rate Schedule 8 to the ISO Services Tariff.

The Short-Term Reliability Process enables the ISO to perform STARs to assess reliability concerns that should not wait for the next Reliability Needs Assessment to be conducted, and to procure solutions to identified Short-Term Reliability Process Needs. In addition to evaluating the reliability impacts of Generator deactivations, the ISO can assess the reliability impacts of other changes to the availability of Resources and to the New York State Transmission System in a STAR. STARs are performed on a quarterly basis. Each STAR looks out five years from its start date. Each STAR will use the most recent base cases from the Reliability Planning Process (year 1 through year 5), updated in accordance with ISO Procedures for the Reliability Planning Process, and the ISO will review key study assumptions with its stakeholders.

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

If the Market Participant that administers a Generator's participation in the ISO Administered Markets is a different entity than the entity that possesses the ultimate decision-

making authority concerning the deactivation, retirement and/or outage or repair of a Generator that has a nameplate rating that exceeds 1 MW, then (i) the entity with ultimate decision-making authority regarding the deactivation, retirement and/or outage or repair of the Generator must agree, as part of the registration of the Generator with the ISO for participation in the ISO Administered Markets, that it will be subject to and comply with the requirements of this Attachment FF, and (ii) the entity with ultimate decision-making authority regarding the deactivation, retirement and/or repair of the Generator shall, along with the Market Participant, be subject to all of the requirements in this Attachment FF that apply to a Market Participant, Market Party, Generator Owner or a Generator.

38.3 Generator Deactivation Requirements

38.3.1 Requirements for Initiating Generator Seeking to Be Retired or Enter into Mothball Outage

38.3.1.1 A Market Participant must provide the ISO with a minimum of 365 days prior notice (such period beginning after its Generator Deactivation Notice has been determined to be complete by the ISO, as explained in Section 38.3.1.4 below) before its Generator that has a nameplate rating that exceeds 1 MW may be Retired or enter into a Mothball Outage; except for Generators reclassified as Retired pursuant to Sections 5.18.2.3.1 or 5.18.3.3.1 of the ISO Services Tariff, or as provided for an RMR Generator under an RMR Agreement.

38.3.1.2 The Market Participant shall provide this notice to the ISO by submitting a Generator Deactivation Notice in the form set forth in Appendix A to this Attachment FF, along with all information required by that form, the supporting certification from a duly authorized officer, and the information required for an Initiating Generator in accordance with Sections 38.25.2, and 38.25.5 through 38.25.7 of Appendix B of this Attachment FF.

38.3.1.3 The Market Participant must specify in the Generator Deactivation Notice its proposed date for its Generator that has a nameplate rating that exceeds 1 MW to be Retired or enter into a Mothball Outage.

38.3.1.4 The 365-day notice period applicable to a Generator proposing to be Retired or enter into a Mothball Outage will begin to run on the date the ISO commences the next STAR after it issues a written notice to the Market Participant indicating that the Generator Deactivation Notice, including the supporting information and certification, is complete. For purposes of this

Attachment FF, "complete" shall mean sufficiently complete for the ISO to begin its review of the reliability impacts that would result from a Generator being Retired or entering into a Mothball Outage under this Attachment FF, to review as required by Sections 38.7 and 38.8 the information provided in accordance with Appendix B of this Attachment FF, and to assess market impacts under Section 23 of Attachment H of the ISO Services Tariff.

38.3.1.5 Within ten (10) business days of receiving a Generator Deactivation Notice, the ISO shall review the notice form, along with the supporting information and affidavit submitted with it, and will inform the Market Participant whether its submission is complete or whether additional information is required. The Market Participant shall provide the ISO with any requested additional information, and the ISO will promptly review the information to determine whether the Market Participant's notice is complete. Within ten (10) business days of the ISO receiving all additional information it requested, the ISO will inform the Market Participant whether its submission is complete, or whether further information is needed. Upon its determination that a submitted Generator Deactivation Notice is complete, the ISO will concurrently notify the Generator and post a notice on its website that the Generator Deactivation Notice has been determined to be complete, and the Generator's deactivation will be included in the next STAR that the ISO commences.

38.3.1.6 If one of the two Generators in a CSR enters a Mothball Outage but the other CSR Generator continues operating, the remaining Generator may continue

to participate as a Generator in a CSR unless or until the Generator in the Mothball Outage becomes Retired.

38.3.2 Requirements for Initiating Generator that Has Entered into ICAP Ineligible Forced Outage and Generator Deactivation Assessment

Within 20 days of a Market Participant's Generator that has a nameplate rating that exceeds 1 MW entering into an ICAP Ineligible Forced Outage, the Market Participant shall submit the information required for an Initiating Generator in accordance with Sections 38.25.2 and 38.25.5 through 38.25.7 of Appendix B of this Attachment FF. It shall also provide the information required by Section 38.25.4 of Appendix B of this Attachment FF.

Distinct from the Initiating Generator's obligation to timely submit required information to the ISO that is set forth above, when a Generator that has a nameplate rating that exceeds 1 MW enters an ICAP Ineligible Forced Outage the ISO shall determine whether it will (a) immediately commence a Generator Deactivation Assessment to review the deactivation of the Initiating Generator, or (b) if practicable, add the Initiating Generator to a STAR that is already in progress, or (c) include the Initiating Generator in the next STAR it commences. The ISO will make its determination based on the expected likelihood of identifying a Generator Deactivation Reliability Need, and the expected immediacy of any need that may arise. The ISO shall consult with the Responsible Transmission Owner(s) to the extent feasible before reaching its determination. The ISO will notify the Initiating Generator and post a notice on its website specifying whether it will immediately commence a Generator Deactivation Assessment to review the deactivation of the Initiating Generator, add the Initiating Generator to a STAR that is already in progress, or include the Initiating Generator in the next STAR it commences.

If one of the two Generators in a CSR enters an ICAP Ineligible Forced Outage but the other CSR Generator continues operating, the remaining Generator may continue to participate

as a Generator in a CSR unless or until the Generator in the ICAP Ineligible Forced Outage becomes Retired.

38.3.3 Continuing Obligation for Market Participants and Market Parties to Respond to ISO Information Requests

Following the submission of a complete Generator Deactivation Notice or the entry of its Generator into an ICAP Ineligible Forced Outage, the Market Participant (which is also a Market Party) is subject to a continuing obligation to promptly submit any additional information requested by the ISO in connection with the ISO's evaluation under this Attachment FF or to assess market impacts under Section 23 of Attachment H of the ISO Services Tariff.

The Market Participant shall provide the ISO with any requested additional information, and the ISO will promptly review the information it receives to determine whether the information provided is sufficient to permit the ISO to perform its duties under this Attachment FF (including but not limited to the calculation of an Interim Service Provider rate and/or an Availability and Performance Rate), and to assess market impacts under Section 23 of Attachment H of the ISO Services Tariff. Within ten (10) business days of the ISO receiving all of the additional information it requested, the ISO will inform the Market Participant whether its submission is sufficient, or whether further information is needed.

38.3.4 Immediate Reliability Need

The ISO may take immediate action to implement an interim solution to maintain reliability if the ISO determines that a Short-Term Reliability Process Need may not be timely addressed through the normal Short-Term Reliability Process. To maintain reliability in such circumstances, the ISO may abbreviate, as necessary, the time periods and requirements set forth in this Attachment FF and make any necessary filings with the Commission.

To address an immediate Short-Term Reliability Process Need the ISO may pay the demonstrated costs in excess of $100,000 that a Market Party or Generator Owner incurs to repair or replace a damaged step-up transformer and/or other system protection equipment. Such costs may be recovered as Capital Expenditures in accordance with the requirements of Sections 38.17.3 and 38.17.4 of this Attachment FF to the ISO OATT even if the Generator is not eligible to be an Interim Service Provider because it is in an ICAP Ineligible Forced Outage. If the cost of returning a damaged step-up transformer and/or other system protection equipment is not expected to exceed $100,000, then the Generator Owner shall promptly return the step-up transformer and/or other system protection equipment designated by the ISO to service without additional recompense.

38.3.5 Performance of STAR or Generator Deactivation Assessment

38.3.5.1 The ISO performs STARs on a quarterly basis, commencing on the dates specified in ISO Procedures. Following the quarterly Short-Term Assessment of Reliability Start Date, the ISO will perform, in coordination with the Responsible Transmission Owner(s) identified by the ISO, a Generator Deactivation Assessment concerning the Initiating Generator(s) that have complete Generator Deactivation Notices (*see* Section 38.3.1.4 above). Except when the ISO is assessing a potential immediate reliability need, one or more Generator Deactivation Assessment(s) will be performed together as components of a STAR. The ISO will conduct the necessary reliability studies to review the impact on the reliability of the BPTFs that would result from the Generator that has a nameplate rating that exceeds 1 MW being Retired, entering into a Mothball Outage, or being unavailable due to an ICAP Ineligible Forced Outage. The

Responsible Transmission Owner(s) will conduct the necessary reliability studies to review the impact on the reliability of the non-BPTFs that are part of the New York State Transmission System, which studies the ISO will review and verify.

In addition to reviewing Generator deactivations, STARs will also (or alternatively) assess the potential BPTF reliability impacts of other changes to the availability of Resources or to the New York State Transmission System in accordance with ISO Procedures for the Reliability Planning Process. The ISO will conduct the necessary reliability studies to review the impact on the reliability of the BPTFs, which may include assistance from the Responsible Transmission Owner(s).

For the STAR or Generator Deactivation Assessment, the ISO will use the most recent base case from the Reliability Planning Process, updated in accordance with ISO Procedures for the Reliability Planning Process. The study period for a stand-alone Generator Deactivation Assessment will be the four years following the conclusion of the 365-day notice period. The study period for a STAR will be the five years following the Short-Term Assessment of Reliability Start Date. For both types of assessments, the ISO will review key study assumptions with its stakeholders.

38.3.5.2 As part of the assessment, the ISO shall review whether any potential Short-Term Reliability Process Need can be addressed through the adoption of alternative ISO or Transmission Owner operating procedures or by updates to Local Transmission Owner Plans, other than an agreement with the Generator addressed in the Generator Deactivation Notice or a Generator already in a

Mothball Outage, an ICAP Ineligible Forced Outage, or that has been mothballed since before May 1, 2015.

38.3.5.3 Within ninety days of the Short-Term Assessment of Reliability Start Date, the ISO shall concurrently notify the Initiating Generator(s) and post on its website the results of the STAR or Generator Deactivation Assessment. The assessment will specify: (i) whether one or more Short-Term Reliability Process Need(s) would arise, and (ii) whether the retention of one or more Initiating Generator(s) would resolve, in whole or in part, one or more Short-Term Reliability Process Need(s), and (iii) whether the ISO has determined that any Short-Term Reliability Process Need can be timely addressed in the current or next planning cycle of the biennial Reliability Planning Process, or must be addressed using this Short-Term Reliability Process. The Short-Term Reliability Process will conclude if the STAR or Generator Deactivation Assessment: (i) does not identify a Short-Term Reliability Process Need, or (ii) states that a Short-Term Reliability Process Need identified in the assessment will be addressed in the Reliability Planning Process. The STAR or Generator Deactivation Assessment will also state whether a Generator Deactivation Reliability Need is only a reliability need on non-BPTFs for which solely the Responsible Transmission Owner may propose a regulated transmission Short-Term Reliability Process Solution. Any Generator that the ISO determines is Viable and Sufficient may participate as a Short-Term Reliability Process Solution to part or all of a Short-Term Reliability Process Need, including a Generator Deactivation Reliability Need arising only on the non-BPTFs.

38.3.5.4 If a Short-Term Reliability Process Need is identified in a STAR that could be resolved by two or more Initiating Generators that each seek to deactivate prior to the conclusion of the 365 day notice period, then the ISO shall temporarily retain as Interim Service Providers the Initiating Generator(s) necessary to resolve the Short-Term Reliability Process Need. The ISO shall determine which Initiating Generators to retain as Interim Service Providers based on the date on which each Initiating Generator's Generator Deactivation Notice was determined to be complete by the ISO; retaining the necessary Generator(s) that completed their Generator Deactivation Notice last. However, the ISO shall not retain more Initiating Generators as Interim Service Providers than are necessary to resolve a Short-Term Reliability Process Need.

38.3.6 Near-Term Reliability Needs

38.3.6.1 As part of the STAR or Generator Deactivation Assessment, the ISO will determine whether any Short-Term Reliability Process Need identified in the assessment is a Near-Term Reliability Need. Any Generator that the ISO determines is Viable and Sufficient may participate as a Short-Term Reliability Process Solution to part or all of a Near-Term Reliability Need, including a Generator Deactivation Reliability Need arising only on non-BPTFs.

38.3.6.2 If the ISO determines that a Short-Term Reliability Process Need is a Near-Term Reliability Need, the ISO shall:

38.3.6.2.1 Include an explanation in the STAR or Generator Deactivation Assessment of the Near-Term Reliability Need in sufficient detail, including the

reliability criteria violations and system conditions, to allow stakeholders to understand the need and why it is time sensitive.

38.3.6.2.2 Provide to stakeholders and post on its website a full and supported written explanation of the ISO's decision to solicit a regulated, non-generation Short-Term Reliability Process Solution solely from a Responsible Transmission Owner, including an explanation of the other transmission and non-transmission options that the ISO considered, but concluded would not sufficiently address the Near-Term Reliability Need, the circumstances that generated the need, and an explanation of why the need was not identified earlier.

38.3.6.2.3 Provide the appropriate stakeholder working group a reasonable opportunity to provide comments to the ISO on the written explanation and publicly post any written comments that the ISO receives on its web site.

38.3.6.3 The ISO shall maintain and post on its website a list of all transmission solutions selected by the ISO in prior years to be built in response to Near-Term Reliability Needs for which the ISO designated solely the Responsible Transmission Owner to propose a regulated Short-Term Reliability Process Solution. The list must include the Near-Term Reliability Need, the identity of the designated Responsible Transmission Owner, the transmission solution selected by the ISO, its in-service date, and the date on which the Responsible Transmission Owner energized or otherwise implemented the transmission solution. The ISO shall file the list with the Commission as an informational filing in January of each year covering the designations of the prior calendar year,

if the ISO selected a Responsible Transmission Owner's regulated transmission solution to a Near-Term Reliability Need in the prior year.

38.3.7 Deactivation Prior to the Expiration of the 365-Day Notice Period

If: (i) the ISO determines in a STAR or Generator Deactivation Assessment either that a Short-Term Reliability Process Need would not be resolved, in whole or in part, by the continued availability or operation of an Initiating Generator, or that the need can be timely addressed in the ISO's Reliability Planning Process, and (ii) the Market Participant indicated in the Generator Deactivation Notice an interest in deactivating its Generator earlier than the completion of the 365-day notice period, then the ISO will notify the Market Participant when its Generator has completed all required ISO administrative processes and procedures, and may be Retired or enter into a Mothball Outage, which deactivation date shall be no earlier than 91 days after the Short-Term Assessment of Reliability Start Date. The ISO's issuance of a final physical withholding determination shall occur in accordance with Section 23.4.5.6 of Attachment H of the ISO Services Tariff.

38.4 Solicitation of Short-Term Reliability Process Solutions to a Short-Term Reliability Process Need

38.4.1 If the ISO determines in its STAR or Generator Deactivation Assessment that a Short-Term Reliability Process Need should be addressed in the Short-Term Reliability Process, the ISO shall solicit Short-Term Reliability Process Solutions to address the need. The ISO shall issue one solicitation seeking solutions to all of the Short-Term Reliability Process Needs identified in a STAR. A Developer must submit a proposed Short-Term Reliability Process Solution within sixty (60) days of the ISO's request.

The solicitation process set forth in this Section 38.4 is not the process for offering a Market Participant's Generator that is in a Mothball Outage, an ICAP Ineligible Forced Outage, or has been mothballed since before May 1, 2015 as a proposed Short-Term Reliability Process Solution. Such Generator may be offered as a Short-Term Reliability Process Solution by submitting a statement of intent to participate as a proposed Short-Term Reliability Process Solution in accordance with Section 38.5 and satisfying the other requirements of that Section.

38.4.2 In response to the ISO's solicitation of proposed Short-Term Reliability Process Solutions:

38.4.2.1 The Responsible Transmission Owner must submit a proposed Short-Term Reliability Process Solution. The proposed solution must, to the extent practicable, completely address the Short-Term Reliability Process Need and satisfy the project information requirements in Sections 31.2.4.4.1, 31.2.4.4.2, and 31.2.6.5.1.1 of Attachment Y of the ISO OATT. The Responsible Transmission

Owner's proposed Short-Term Reliability Process Solution may include transmission, demand response, or generation resources; *provided, however*, only the ISO may enter into an RMR Agreement with a Generator to address the Short-Term Reliability Process Need. The Responsible Transmission Owner may only allocate and recover under the ISO OATT the costs of a transmission solution in accordance with the requirements in Sections 38.22 and 38.23. If a Generator Deactivation Reliability Need is only a reliability need on non-BPTFs, then the Responsible Transmission Owner must submit a permanent Short-Term Reliability Process Solution. If the ISO determines, after considering input from the Responsible Transmission Owner, that the Responsible Transmission Owner's proposed Short-Term Reliability Process Solution is an interim solution, then the Responsible Transmission Owner must also submit a conceptual permanent solution to address the Short-Term Reliability Process Need.

38.4.2.2 Any Developer may submit a proposed market-based Short-Term Reliability Process Solution. A market-based Short-Term Reliability Process Solution may include generation, transmission, or demand response solutions and must satisfy the project information requirements in Section 31.2.4.6 of Attachment Y of the ISO OATT. Market-based solutions are not eligible for cost recovery under Rate Schedule 8 to the ISO Services Tariff, or Rate Schedules 14 or 16 to the ISO OATT.

38.4.2.3 Any Developer may submit a proposed new Generator that requires an RMR Agreement to operate as a temporary Short-Term Reliability Process Solution. A proposed new Generator that requires an RMR Agreement must

satisfy the project information requirements in Sections 31.2.4.8.1 and 31.2.4.8.2 of Attachment Y of the ISO OATT.

38.4.2.4 Any Developer that has been determined to be qualified under Section 31.2.4.1.1.2 of Attachment Y to the ISO OATT may submit a proposed regulated transmission Short-Term Reliability Process Solution, unless: (i) the Short-Term Reliability Process Need is a Near-Term Reliability Need, or (ii) the Generator Deactivation Reliability Need is only a reliability need on non-BPTFs as stated by the ISO in the STAR or Generator Deactivation Assessment pursuant to Section 38.3.5.3. The proposed regulated transmission solution must satisfy the project information requirements in Sections 31.2.4.8.1, 31.2.4.8.2, and 31.2.6.5.1.1 of Attachment Y of the ISO OATT.

38.4.2.5 If a Short-Term Reliability Process Need is not a Generator Deactivation Reliability Need or a Near Term Reliability Need, and the ISO addresses the need in the Short-Term Reliability Process, then for purposes of Sections 38.4.2.1, 38.4.2.2, and 38.4.2.4 of this Attachment FF, an Interregional Transmission Project (as defined in Section 31.1.1 of the ISO OATT), may be proposed as a Short-Term Reliability Process Solution. Interregional Transmission Projects proposed as Short-term Reliability Process Solutions shall be: (i) evaluated by the ISO in accordance with the applicable requirements of this Attachment FF, and (ii) jointly evaluated by the ISO and the relevant adjacent transmission planning region(s) in accordance with Section 7.3 of the Interregional Planning Protocol (defined in Section 31.1.1 of the OATT).

38.4.3 As part of its submission of its proposed Short-Term Reliability Process Solution, a Developer shall provide the information required for each proposed Short-Term Reliability Process Solution in accordance with Sections 38.25.3, and 38.25.5 through 38.25.7 of Appendix B of this Attachment FF. It shall also provide the information required by Section 38.25.4 of Appendix B of this Attachment FF.

38.4.4 Short-Term Reliability Process Solutions proposed under this Section 38.4 shall strive to be compatible with permanent market-based solutions and regulated solutions identified in the CSPP, as applicable. A permanent regulated solution may proceed in parallel with an interim solution selected in this Attachment FF.

38.4.5 The ISO may disclose to Market Participants and other interested parties the Short-Term Reliability Process Solution and plans proposed pursuant to this Section 38.4; *provided, however,* that the ISO will maintain as confidential the following information if designated as "Confidential Information": (i) a Responsible Transmission Owner's conceptual permanent solution, except for its proposed project type, general geographic location, and in-service date; (ii) the information required to be maintained as confidential for a market-based solution pursuant to Sections 31.2.12.4 and 31.2.12.5 of Attachment Y to the ISO OATT, and (iii) any non-public financial qualification information submitted in accordance with Section 31.2.4.1.1.1.3 of Attachment Y of the ISO OATT.

38.4.6 Application Fee and Study Deposit

38.4.6.1 When the ISO performs a selection process among regulated transmission solutions, any Developer that proposes a regulated transmission Short-Term

Reliability Process Solution to address the Short-Term Reliability Process Need shall submit to the ISO, at the same time it provides the project information required pursuant to Section 38.4.2, a non-refundable application fee of $10,000 and a study deposit of $100,000, which shall be applied to study costs and subject to refund as described in this Section 38.4.6.

38.4.6.2 If the ISO performs a selection process among regulated transmission solutions, the ISO shall charge, and a Developer proposing a regulated transmission Short-Term Reliability Process Solution shall pay, the actual costs of the ISO's evaluation of the Developer's proposed transmission solution for purposes of the ISO's selection among transmission solutions to address the Short-Term Reliability Process Need, including costs associated with the ISO's use of subcontractors. The ISO will track its staff and administrative costs, including any costs associated with using subcontractors, that it incurs in performing the evaluation of a Developer's proposed transmission solution and any supplemental evaluation or re-evaluation of the proposed transmission solution. If the ISO or its subcontractors perform study work for multiple proposed transmission solutions on a combined basis, the ISO will allocate the costs of the combined study work equally among the applicable Developers.

38.4.6.3 The ISO shall invoice the Developer monthly for study costs incurred by the ISO in evaluating the Developer's proposed transmission solution as described above. Such invoice shall include a description and an accounting of the study costs incurred by the ISO and estimated subcontractor costs. The Developer shall pay the invoiced amount within thirty (30) calendar days of the ISO's issuance of

the monthly invoice. The ISO shall continue to hold the full amount of the study deposit until settlement of the final monthly invoice; *provided, however,* if a Developer: (i) does not pay its monthly invoice within the timeframe described above, or (ii) does not pay a disputed amount into an independent escrow account as described below, the ISO may draw upon the study deposit to recover the owed amount. If the ISO must draw on the study deposit, the ISO shall provide notice to the Developer, and the Developer shall within thirty (30) calendar days of such notice make payments to the ISO to restore the full study deposit amount. If the Developer fails to make such payments, the ISO may halt its evaluation of the Developer's proposed transmission solution and may disqualify the Developer's proposed transmission solution from further consideration. After the conclusion of the ISO's evaluation of the Developer's proposed transmission solution or if the Developer: (i) withdraws its proposed transmission solution or (ii) fails to pay an invoiced amount and the ISO halts its evaluation of the proposed transmission solution, the ISO shall issue a final invoice and refund to the Developer any portion of the Developer's study deposit submitted to the ISO under this Section 38.4.6 that exceeds outstanding amounts that the ISO has incurred in evaluating that Developer's proposed transmission solution, including interest on the refunded amount calculated in accordance with Section 35.19a(a)(2) of FERC's regulations. The ISO shall refund the remaining portion within sixty (60) days of the ISO's receipt of all final invoices from its subcontractors and involved Transmission Owners.

38.4.6.4 In the event of a Developer's dispute over invoiced amounts, the Developer shall: (i) timely pay any undisputed amounts to the ISO, and (ii) pay into an independent escrow account the portion of the invoice in dispute, pending resolution of such dispute. If the Developer fails to meet these two requirements, then the ISO shall not be obligated to perform or continue to perform its evaluation of the Developer's proposed transmission solution. Disputes arising under this section shall be addressed through the Dispute Resolution Procedures set forth in Section 2.16 of the ISO OATT and Section 11 of the ISO Services Tariff. Within thirty (30) Calendar Days after resolution of the dispute, the Developer will pay the ISO any amounts due with interest calculated in accordance with Section 35.19a(a)(2) of FERC's regulations.

38.4.7 Including Identified Short Term Reliability Process Solutions in Subsequent STARs and Generator Deactivation Assessments

38.4.7.1 Short-Term Reliability Process Needs that have been identified in a STAR or a Generator Deactivation Assessment and that are in the process of being resolved shall continue to be included in subsequent STARs to identify possible changes in the scope, scale or nature of the need.

38.4.7.2 Solutions to Short-Term Reliability Process Needs will be included in subsequent STARs and Generator Deactivation Assessments when they satisfy the Reliability Planning Process base case development and inclusion rules set forth in ISO Procedures.

38.4.8 Change in Scope, Scale or Nature of Short-Term Reliability Process Need After Solicitation Issued

38.4.8.1 If the ISO determines that the scope, scale or nature of a Short-Term Reliability Process Need for which it has already solicited Short-Term Reliability Process Solutions in accordance with Sections 38.4 and 38.5 of this Attachment FF changed in a subsequent STAR, Generator Deactivation Assessment or Reliability Needs Assessment, then the ISO may:

(a) select one or more of the proposed Short-Term Reliability Process Solution(s) that address the changed scope, scale or nature of the Short-Term Reliability Process Need that the ISO identified from the solutions that the ISO received in response to its solicitation; or

(b) reject all of the proposals it received, withdraw the solicitation it issued, return all fees and deposits it received to Developers except for monies the ISO owes to third-party contractors for their assistance in assessing a proposal or proposals, and issue a new solicitation in accordance with Sections 38.4 and 38.5 of this Attachment FF that reflects the updated Short-Term Reliability Process Need; or

(c) select one or more of the proposed Short-Term Reliability Process Solution(s) that partially address the changed scope, scale or nature of the Short-Term Reliability Process Need, and issue a new, additional solicitation covering only the unaddressed, incremental Short-Term Reliability Process Need that is not expected to be resolved by the Short-Term Reliability Process Solution(s) that the ISO has already selected.

38.5 Review and Notification of Generator(s) Currently in an Outage State

If the ISO determines that a Market Participant's Generator that is in a Mothball Outage, an ICAP Ineligible Forced Outage, or has been mothballed since before May 1, 2015, may be capable of satisfying in whole or in part a Short-Term Reliability Process Need, the ISO will notify the Market Participant that its Generator is under review to determine whether it can satisfy the Short-Term Reliability Process Need as a possible Short-Term Reliability Process Solution. Within ten (10) days of the ISO's issuance of a written notification (including an email), a Market Participant that is interested in offering its Generator as a Short-Term Reliability Process Solution to address the identified Reliability Need shall inform the ISO in writing whether it intends to offer its Generator as a Short-Term Reliability Process Solution. A Market Participant that submits a statement of intent to offer its Generator shall provide to the NYISO within twenty (20) days of submitting its statement of intent the information required for a Generator identified under this Section 38.5 in accordance with Sections 38.25.3.1, 38.25.3.2, and 38.25.5 through 38.25.7 of Appendix B of this Attachment FF if it has not previously provided such information to the ISO. If the Market Participant has previously provided such information for the relevant Generator, then it shall update all such information, including, but not limited to, the updates required by Section 38.25.4 of Appendix B of this Attachment FF.

Notwithstanding whether a Market Participant submitted a statement of intent to offer its Generator as a Short-Term Reliability Process Solution, the ISO may request at any time that a Market Participant submit the information required for a Generator identified under this Section 38.5 in accordance with Sections 38.25.3.1, 38.25.3.2, and 38.25.5 through 38.25.7 of Appendix B of this Attachment FF or any updates to previously submitted information addressing its

Generator, which information must be submitted within twenty (20) days of the NYISO's request.

When the return to service of a Generator in a Mothball Outage or an ICAP Ineligible Forced Outage is the Short-Term Reliability Process Solution, the return to service procedures set forth in Section 5.18.4 of the ISO Services Tariff shall apply.

38.6 Viability and Sufficiency Evaluation of Proposed Short-Term Reliability Process Solutions and Monitoring of Selected Short-Term Reliability Process Solutions

38.6.1 The ISO shall evaluate all proposed Short-Term Reliability Process Solutions and, if applicable, shall evaluate the conceptual permanent solution provided by the Responsible Transmission Owner pursuant to Section 38.4.2.1 to determine whether each is viable and sufficient to satisfy individually, or in conjunction with other solutions, the Short-Term Reliability Process Need. The ISO shall perform this viability and sufficiency evaluation consistent with the requirements set forth in Sections 31.2.5.3 and 31.2.5.4 of Attachment Y of the ISO OATT. The ISO shall coordinate with the Responsible Transmission Owner(s), as necessary, in performing its evaluation.

38.6.2 If the ISO determines that there are adequate Viable and Sufficient market-based or demand response Short-Term Reliability Process Solutions to satisfy completely the identified Short-Term Reliability Process Need, the ISO will conclude the Short-Term Reliability Process under this Attachment FF. As part of its final Short-Term Reliability Process report, the ISO shall present the results of its viability and sufficiency assessment to interested parties if the Short-Term Reliability Process has been concluded because there are adequate market-based or demand response Short-Term Reliability Process Solutions to satisfy completely the Short-Term Reliability Process Need.

38.6.3 Monitoring of Selected Short-Term Reliability Process Solutions—the ISO will monitor the development of all Short-Term Reliability Process Solutions, including market-based and demand response solutions, to confirm that

they continue to develop consistent with the conditions, actions, or schedules for the projects in accordance with ISO Procedures.

38.7 ISO Review of Information

38.7.1 **Cost, Revenue and System Impact Information.** The ISO shall review, verify and/or validate to the extent necessary the information provided in accordance with Sections 38.3, 38.4, and 38.5 and Appendix B of this Attachment FF. The ISO's review, verification and/or validation, as applicable, of the financing cost of each capital expense that the ISO determines is necessary in accordance with Good Utility Practice shall consider the market interest rate available to the Market Party or the Generator Owner (as appropriate).

38.7.2 The ISO may reject, and may require a Market Party or Generator Owner to re-submit, or substantiate information (including estimates) that the ISO determines is not adequately supported or otherwise verifiable. The Market Party or the Generator Owner shall promptly provide any additional information that the ISO may request, and update and revise information previously provided, and provide new information as set forth in Section 38.25.4 of Appendix B of this Attachment FF. Upon the ISO's prior notice, the Market Party or the Generator Owner shall make qualified representatives available to answer the ISO's question(s) and otherwise facilitate the ISO's review of the information. The NYISO may terminate its consideration of a proposed Short-Term Reliability Process Solution if a Market Party or Generator Owner fails to provide requested information.

38.7.3 **Market Power Information.** The Market Participant or the Generator Owner shall provide the ISO with any information that the ISO determines it requires in order to assess market impacts under Section 23 of Attachment H of

the ISO Services Tariff. The primary focus of the NYISO's review will be Sections 23.4.5.6 (physical withholding) and/or 23.6 (energy market participation rules) of Attachment H of the ISO Services Tariff.

38.7.4 **ISO Notification to Market Participant or Generator Owner.** The ISO shall notify the Market Participant or the Generator Owner, in writing, when the ISO has received all of the data and information it requires to perform its duties under both (a) this Attachment FF and (b) Section 23 of Attachment H of the ISO Services Tariff.

38.7.4.1 The notice that the ISO provides to a Market Participant (which is also a Market Party) or to the Generator Owner that it has received all of the data and information it requires to perform its obligations under this Attachment FF and under Section 23 of Attachment H of the ISO Services Tariff does not absolve the Market Party or the Generator Owner of its affirmative and continuing obligation under Section 38.25.4 of Appendix B to this Attachment FF to supplement and update information and data it has submitted to the ISO when a material change in facts or circumstances occurs that makes the previously submitted information insufficient or inaccurate.

38.7.4.2 The notice that the ISO provides to a Market Participant or Generator Owner that it has received all of the data and information it requires to perform its obligations under this Attachment FF and under Section 23 of Attachment H of the ISO Services Tariff does not bar the ISO from asking additional questions of the Market Participant or the Generator Owner, nor does it excuse the Market Participant or the Generator Owner from its continuing obligation to promptly

respond to ISO requests for information or data in accordance with Sections 38.3.3 and 38.7 of this Attachment FF.

38.8 Determining RMR Avoidable Costs

38.8.1 Determinations pursuant to this section are solely for purposes of determining the RMR Avoidable Cost of Initiating Generators and Generators that are determined to be a Viable and Sufficient Short-Term Reliability Process Solution to a Short-Term Reliability Process Need. The ISO shall determine the cost (net of estimated revenues, as applicable) of each Initiating Generator and of each Viable and Sufficient Short-Term Reliability Process Solution to a Short-Term Reliability Process Need that responds to the ISO's request for Short-Term Reliability Process Solutions in accordance with Sections 38.4 and 38.5. The ISO may also determine the costs of Viable and Sufficient Short-Term Reliability Process Solutions that do not respond to the ISO's request for Short-Term Reliability Process Solutions. The ISO's determination for a Generator shall be its "RMR Avoidable Costs." The ISO shall use the costs, revenues, and other information submitted in accordance with Sections 38.3, 38.4, 38.5, 38.7, 38.8 and Appendix B of this Attachment FF that it verifies and/or validates, as applicable. If the ISO cannot verify and/or validate, as applicable, a cost or revenue submitted by a Market Party or Generator Owner, the ISO shall substitute an estimated value. The ISO's cost determinations pursuant to this Section shall be for the shorter of (i) the duration of the Short-Term Reliability Process Need identified by the ISO in its request for Short-Term Reliability Process Solutions, and (ii) the period identified by the ISO that an Initiating Generator or Viable and Sufficient Short-Term Reliability Process Solution can satisfy the Short-Term Reliability Process Need.

38.8.1.1 Cost savings due to an Initiating Generator's continuation of service. Costs submitted in accordance with Sections 38.3, 38.4, 38.5, 38.7, 38.8, or Appendix B of this Attachment FF that arise out of an agreement that contains a cost, premium, or fee to terminate the agreement in whole or in part prior to the anticipated RMR Start Date, or commencement of service as a Short-Term Reliability Process Solution, shall be reduced by the cost, premium or fee that would have been incurred had the Generator ceased operations on a date identified in the Generator Deactivation Notice, or such other date associated with performing service as a Short-Term Reliability Process Solution.

38.8.1.2 For each transmission project that is proposed in accordance with this Attachment FF, the ISO shall calculate the net costs that would be incurred to provide the service identified in the Developer's response to the ISO's request for Short-Term Reliability Process Solutions, considering any costs the Developer otherwise had a contractual or regulatory obligation to incur.

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

placed into service, or otherwise integrated into the Short-Term Reliability Process Solution.

38.8.1.4 Revenue Calculation. As a component to the ISO's calculation of the total net cost of each Initiating Generator and Viable and Sufficient Short-Term Reliability Process Solution, the ISO shall calculate the estimated revenues thereof.

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

38.8.2 The ISO shall seek comment from the Market Monitoring Unit on matters relating to the inputs and the calculations performed pursuant to Section 38.8. The responsibilities of the Market Monitoring Unit that are addressed in this Section are also addressed in Section 38.18.1 of this Attachment FF and in Section 30.4.6.8.6 of Attachment O to the ISO Services Tariff.

38.9 RMR Service Offers

38.9.1 If: (i) there is only one Generator that is a Viable and Sufficient Short-Term Reliability Process Solution to a Short-Term Reliability Process Need, or (ii) there are multiple Generators that are a Viable and Sufficient Short-Term Reliability Process Solutions to a Short-Term Reliability Process Need that are all owned or controlled by the same Generator Owner, then the ISO shall provide to that individual Generator or Generator Owner, as applicable, its RMR Avoidable Cost and an opportunity for it to enter into the Form of Reliability Must Run Agreement set forth in Appendix C of this Attachment FF to the ISO OATT. If there is more than one Generator that is a Viable and Sufficient Short-Term Reliability Process Solution for a Reliability Need and the Generators are not all owned or controlled by the same Generator Owner, the ISO shall notify each such Generator that responded to the ISO's request for Short-Term Reliability Process Solutions that it has been determined to be a Viable and Sufficient Short-Term Reliability Process Solution that the ISO is requesting RMR Service Offers to provide service pursuant to an RMR Agreement.

38.9.2 The ISO shall concurrently post on its website that it has issued a request for RMR Service Offers.

38.9.3 The ISO's notice to each Generator of a request for RMR Service Offers shall include (a) the Generator's RMR Avoidable Costs determined pursuant to Section 38.8, and separately identify the Capital Expenditure amount that is included in the RMR Avoidable Costs and the reasonably anticipated date the Capital Expenditure will be placed into service, or otherwise integrated into the

Generator, (b) the duration of the period for which the ISO determined the Generator was viable and sufficient to meet (in whole or in part) the Short-Term Reliability Process Need, (c) the deadline by which offers must be received by the ISO, and (d) any other information that must be provided in the Generator's response in accordance with ISO Procedures.

38.9.4 Offers in response to a request for RMR Service Offers shall (A) state the price at which the Generator is willing to enter into an RMR Agreement with (i) an Availability and Performance Rate or (ii) an Owner Developed Rate for which the Generator would be seeking approval from the Commission, (B) separately state the anticipated timing and cost of each Capital Expenditure that is included in the offer, (C) if any provision of the Form of Reliability Must Run Agreement set forth in Appendix C of Attachment FF to the ISO OATT is incompatible with the Generator's ability to provide service absent a modification to a term or condition, provide a blackline marking any and all changes that are necessary to permit the Generator to provide RMR service, and explain why, absent such changes, the Generator would be unable to provide RMR service, (D) state the duration for which the Generator is being made available to provide the RMR service (which shall be no longer than the duration the ISO determined the Generator is a viable and sufficient solution,) and specify whether the offer would be the same for any shorter period of time, and (E) state whether the offer is for less than or equal to the generator's full cost of service. The offer must be executed by a duly authorized officer with authority to bind the Market Party or Generator Owner to an RMR Agreement. The ISO will not consider offers that

indicate they are for an amount greater than the Generator's full cost of service. The ISO shall exclude from consideration offers that are received after the deadline.

38.10 ISO Selection of Solution to Address Short-Term Reliability Process Need

38.10.1 An Initiating Generator and other Viable and Sufficient Short-Term Reliability Process Solutions are eligible for selection by the ISO to address a Short-Term Reliability Process Need. In selecting a solution to address a Short-Term Reliability Process Need the ISO will first consider the expected impact of any Viable and Sufficient market-based or demand response Short-Term Reliability Process Solutions it identifies on the scope of the need. Prior to the ISO making its selection pursuant to this Section 38.10, the ISO may enter into an RMR Agreement with one or more Generators, if necessary, to provide the ISO sufficient time to complete the selection process.

A Viable and Sufficient transmission solution selected by the ISO shall be eligible for cost allocation in accordance with Section 38.22 and cost recovery in accordance with Section 38.23. An Initiating Generator or another Viable and Sufficient generation solution selected by the ISO shall be eligible to enter into an RMR Agreement with the ISO in accordance with Section 38.11.

38.10.1.1 If the ISO determines that there is a Viable and Sufficient permanent transmission solution that completely satisfies the Short-Term Reliability Process Need, the ISO may select that solution.

38.10.1.2 If the Generator Deactivation Reliability Need is only a reliability need on non-BPTFs, in addition to selecting any interim solution it determines is necessary, the ISO will select a Viable and Sufficient permanent transmission Short-Term Reliability Process Solution.

If a Generator Deactivation Reliability Need arises on non-BPTFs, it shall be resolved in the Short-Term Reliability Process. Other reliability needs that arise on non-BPTFs may be reported in a STAR for informational purposes.

38.10.1.3 If, following completion of the identification of solutions pursuant to Sections 38.10.1 and 38.10.1.1 or 38.10.1.2, there remains a Short-Term Reliability Process Need, then the ISO shall perform the selection process set forth in Sections 38.10.2 through 38.10.5.

38.10.2 Selection Process if a Viable and Sufficient Transmission Solution Is Available

38.10.2.1 This solution selection process is designed to ensure that executing an RMR Agreement with a Generator is a last resort to addressing a Short-Term Reliability Process Need. The ISO will select a Viable and Sufficient transmission solution to address the Short-Term Reliability Process Need if: (i) there are one or more Viable and Sufficient transmission solutions, and (ii) none of the Viable and Sufficient generation solutions have a "distinctly higher net present value" than a transmission solution. If the ISO is selecting between and among Viable and Sufficient transmission solutions, the ISO will perform its selection based on the degree to which each transmission solution satisfies the metrics set forth in Section 38.10.4.

38.10.2.1.1 If a Short-Term Reliability Process Need is not a Generator Deactivation Reliability Need or a Near Term Reliability Need, and the ISO addresses the need in the Short-Term Reliability Process, then the ISO shall, in performing its evaluation of transmission solutions that are proposed as Short-Term Reliability Process Solution, do so consistent with the following tariff requirements from

Attachment Y of the ISO OATT: Sections 31.2.2.7 (Consequences for Other Regions), 31.2.6.3 (Evaluation of System Impact of Proposed Regulated Transmission Solution), and 31.2.6.4 (Evaluation of Regional Transmission Solutions to Address Local and Regional Reliability Needs More Efficiently or More Cost Effectively than Local Transmission Solutions).

When the ISO addresses a Short-Term Reliability Process Need that is not a Generator Deactivation Reliability Need or a Near Term Reliability Need in the Short-Term Reliability Process, interested parties may invoke the Dispute Resolution Procedure set forth in Section 11 of the ISO Services Tariff to resolve any disputes.

38.10.2.1.2 When the ISO addresses a Short-Term Reliability Process Need that is not a Generator Deactivation Reliability Need or a Near Term Reliability Need in the Short-Term Reliability Process, and the ISO is selecting among proposed transmission solutions to address the need, the ISO shall prepare and present to stakeholders a draft Short-Term Reliability Process Report for review and comment. The draft report shall describe the transmission Short-Term Reliability Process Solution(s) the ISO proposes to select and explain the reasons supporting the ISO's proposed selection(s). The ISO shall review stakeholder comments on the draft report prior to finalizing its selection of Short-Term Reliability Process Solution(s) in the final Short-Term Reliability Process Report it issues in accordance with Section 38.10.5 of this Attachment FF.

38.10.2.2 Determining if a Solution has a "Distinctly" Higher Net Present Value

A Short-Term Reliability Process Solution has a "distinctly" higher net present value if it is the Viable and Sufficient solution with the lowest reasonably calculated net cost to consumers to meet the identified Reliability Need until the permanent solution can be implemented. A generation solution has a "distinctly" higher net present value than a transmission solution if, after accounting for the accuracy range of each transmission project cost estimate and generation revenue estimate using the confidence interval the ISO selects, the ISO determines that the range of net present values of the generation solution is higher than the range of the net present values of the transmission solution. If there is an overlap between the ranges of net present values between a generation solution and a transmission solution, then the generation solution does not have a distinctly higher net present value than the transmission solution. If the ISO determines that a generation solution has a distinctly higher net present value than a transmission solution, then both solutions will be considered in accordance with Section 38.10.2.4 of this solution selection process.

The net present value of a generation solution is the present value of the difference between the generation solution's offered service cost and its expected market revenues for the expected duration of an RMR Agreement. The net present value of a transmission solution is the present value of the difference between the transmission solution's estimated costs and its expected market revenues (if any).

To account for the accuracy of cost estimates in comparing the net present values of Viable and Sufficient generation and transmission solutions, the NYISO will:

1. Undertake reasonable efforts to validate the information submitted in the time available; and

2. Determine an accuracy range for each solution's estimated, submitted and verified costs, including the assumptions used to develop the cost estimate based on (i) the age, operating status and technology type of each generation or transmission solution, (ii) the assumptions used to develop each cost estimate, and (iii) data from credible independent resources, including but not limited to consultants hired by the ISO.

38.10.2.3 Multi-Element Solutions

If there are no Viable and Sufficient generation solutions that have a distinctly higher net present value than a Viable and Sufficient transmission solution, but the transmission solution or combination of transmission solutions selected by the ISO only partially satisfy the duration or the size of the Short-Term Reliability Process Need, then the ISO may supplement the partial transmission solution with one or more Viable and Sufficient generation solutions that will be eligible to enter into an RMR Agreement with the ISO. The ISO will select the supplemental Generator or Generators primarily based on which RMR Service Offer, or set of RMR Service Offers from more than one Generator, results in the highest net present value solution to the Short-Term Reliability Process Need. The ISO shall also consider any blacklined modifications to the Form of Reliability Must Run Agreement set forth in Appendix C of this Attachment FF of the ISO OATT when selecting a generation solution. If these two criteria do not provide for a clear delineation between two or more RMR Service Offers, the ISO shall also consider the operational, performance, and market impacts and the size of the Generators when selecting the generation component of a multi-element solution.

Alternatively, the ISO may select a Viable and Sufficient generation solution in place of a multi-element solution that includes transmission if it determines that the generation solution has

a distinctly higher net present value than the combination of partial transmission and generation solutions the ISO might otherwise select under this Section 38.10.2.3. The ISO shall choose between a multi-element solution that includes transmission and a generation solution that has a distinctly higher net present value than the multi-element solution using the selection criteria specified in Section 38.10.2.4.

38.10.2.4 Viable and Sufficient generation solutions that have a distinctly higher net present value than a Viable and Sufficient transmission solution will be considered when the ISO selects the solution or combination of solutions to address the Short-Term Reliability Process Need based on: (i) the net present value of each solution calculated in accordance with Section 38.8 and 38.9, and (ii) the degree to which each solution satisfies the metrics set forth in Section 38.10.4.

38.10.3 Selection Process if a Viable and Sufficient Transmission Solution Is Not Available

If there is not a Viable and Sufficient transmission solution, the ISO will select among the Viable and Sufficient generation solutions as follows. The ISO will select the Generator or Generators primarily based on which RMR Service Offer, or set of RMR Service Offers from more than one Generator, results in the highest net present value solution to the Short-Term Reliability Process Need. The ISO shall also consider any blacklined modifications to the Form of Reliability Must Run Agreement set forth in Appendix C of this Attachment FF of the ISO OATT. If these two criteria do not provide for a clear delineation between two or more RMR Service Offers, the ISO shall also consider the operational, performance and market impacts, and the size of the Generators.

38.10.4 Metrics for Evaluating Solution to Address Short-Term Reliability Process Need

The ISO will consider the following metrics in its evaluation of each Viable and Sufficient solution, as applicable:

38.10.4.1 The capital cost estimates for the proposed transmission Short-Term Reliability Process Solution or the cost information submitted by the Initiating Generator or the generation Short-Term Reliability Process Solution, including the accuracy of the proposed estimates.

38.10.4.2 The cost per MW ratio of the proposed transmission Short-Term Reliability Process Solution or the RMR Service Offers of the Initiating Generator or the generation Short-Term Reliability Process Solution. For this evaluation, the ISO will first determine the present worth, in dollars, of the total capital cost of the proposed solution in current year dollars. The ISO will then determine the MW value of the solution by summing the Short-Term Reliability Process Need, in MW, with the additional improvement, in MW, that the proposed solution offers beyond serving the Short-Term Reliability Process Need. The ISO will then determine the cost per MW ratio by dividing the present worth of the total capital cost by the MW value.

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

38.10.4.4 The operability of the proposed solution. The ISO will consider how the proposed solution may affect additional flexibility in operating the system, such

as dispatch of generation, access to operating reserves, access to ancillary services, or ability to remove transmission for maintenance. The ISO will also consider how the proposed solution may affect the cost of operating the system, such as how it may affect the need for operating generation out of merit for reliability needs, reducing the need to cycle generation, or providing more balance in the system to respond to system conditions that are more severe than design conditions.

38.10.4.5 The performance of the proposed solution. The ISO will consider how the proposed solution may affect the utilization of the system (e.g. interface flows, percent loading of facilities).

38.10.4.6 The extent to which the Developer of a proposed transmission Short-Term Reliability Process Solution or each generation Short-Term Reliability Process Solution has the property rights, or ability to obtain the property rights, required to implement the solution. The ISO will consider, as applicable, whether the Developer or Market Participant: (i) already possesses property rights or the rights of way necessary to implement the solution; (ii) has completed a transmission routing study or Generator siting study, which (a) identifies, for transmission, a specific routing plan with alternatives, (b) includes a schedule indicating the timing for obtaining siting and permitting, and (c) provides specific attention to sensitive areas (*e.g.*, wetlands, river crossings, protected areas, and schools); or (iii) has specified a plan or approach for determining routing or siting and for acquiring property rights.

38.10.4.7 The potential issues associated with delay in constructing the proposed transmission Short-Term Reliability Process Solution or in entering or in returning to service the Initiating Generator or a generation Short-Term Reliability Process Solution, consistent with the major milestone schedule and the schedule for obtaining any permits and other certifications as required to timely meet the need.

38.10.4.8 The impact on other pending Short-Term Reliability Process Needs, other system reliability needs, and pending solutions to those needs.

38.10.5 Short-Term Reliability Process Report

If the ISO selects a transmission solution proposed by a Responsible Transmission Owner in response to a Near-Term Reliability Need, then: (i) the ISO shall post on its website and present to stakeholders a preliminary written determination indicating its proposed selection of a solution or combination of solutions, along with a reasoned explanation regarding why the particular generator and/or transmission solutions were selected; (ii) the ISO will provide stakeholders an opportunity to submit written comments, which will be posted on the ISO's website, and (iii) the ISO will consider stakeholder comments before making its final selection in the Short-Term Reliability Process Report.

Otherwise, the ISO shall post on its website a written determination indicating its selection of a solution or combination of solutions, along with a reasoned explanation regarding why particular generation and/or transmission solutions were selected. The ISO will review the results of its determination with stakeholders.

Finally, the ISO shall post on its website a list of all Developers that have undertaken a commitment to the ISO to build a project (which may be a regulated backstop solution, market-based

response or alternative regulated response) that was selected as a Short-Term Reliability Process Solution.

38.11 Entry into RMR Agreements

38.11.1 The ISO may enter into an RMR Agreement for service from one or more of the Generators that the ISO selected in accordance with Section 38.10 that can individually, or in conjunction with other Viable and Sufficient Short-Term Reliability Process Solutions, satisfy the identified Reliability Need. If multiple Generators are capable of satisfying in whole or in part the identified Reliability Need, the ISO may execute an RMR Agreement with the Generator, or more than one Generator that the ISO selected pursuant to Section 38.10, provided that the RMR Service Offer accepts the Availability and Performance Rate, does not exceed the RMR Avoidable Costs determined by the ISO, and that the amount of Capital Expenditures in any given year included in the RMR Service Offer does not exceed 10,000,000 U.S. Dollars if a non-nuclear Generator, and 25,000,000 U.S. Dollars if a nuclear Generator. If the RMR Service Offer satisfies the stated requirements, but the amount of Capital Expenditures in any given year included in the RMR Service Offer exceeds the applicable limit in the preceding sentence, then the ISO may accept the RMR Service Offer conditioned upon the Commission approving the Capital Expenditure amount. If the RMR Service Offer exceeds the RMR Avoidable Costs determined by the ISO, and if there are no modifications, or only modifications which the ISO has determined are reasonable, to the *Form of Reliability Must Run Agreement* set forth in Appendix C of this Attachment FF, then the ISO will identify the Generator, and the ISO and the Generator Owner will submit filings to the Commission in accordance with Section 38.11.5. If a Generator's RMR Service Offer is lower than the other

RMR Service Offers but the Generator's proposed revisions to the *Form of Reliability Must Run Agreement* are not acceptable to the ISO, then the ISO may proceed to enter into an RMR Agreement, in accordance with this section, with one or more Generator(s) that submitted the next best offer or offers pursuant to Section 38.10.3.

38.11.2 The ISO will tender to the Generator Owner(s) of the selected Generator(s) the *Form of Reliability Must Run Agreement* set forth in Appendix C of this Attachment FF. The term of the RMR Agreement will be determined by the ISO based on: (i) the in-service date of the conceptual permanent solution to the identified Reliability Need submitted by the Responsible Transmission Owner(s) pursuant to Section 38.4.2.1, and (ii) any modifications to the scope and timing of the Short-Term Reliability Process Need resulting from circumstances including information provided by the NYPSC (or other agency or authority with jurisdiction over the implementation or siting of non-generation Short-Term Reliability Process Solutions), information provided by the Responsible Transmission Owner, the ISO's identification of market-based solutions, and RMR Agreements entered into between the ISO and other Generators. If the Short-Term Reliability Process Need is identified pursuant to a STAR or a Generator Deactivation Assessment, the effective date of the RMR Agreement shall be no earlier than the completion of the applicable 365-day notice period, except as provided in Section 38.3.4 of this Attachment FF.

38.11.3 Filing of Executed RMR Agreement

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

38.11.4 Filing of Unexecuted RMR Agreement by ISO and Capital Expenditures in Excess of Annual Limit by Generator Owner

The ISO will submit an RMR Agreement, including a proposed Availability and Performance Rate, to the Commission pursuant to Section 205 of the Federal Power Act if the ISO and Generator Owner agree on the terms and conditions of the RMR Agreement and Generator Owner accepts the Availability and Performance Rate calculated by the ISO for its Generator. The ISO's filing shall specifically identify and explain any changes to the *Form of Reliability Must Run Agreement* terms and conditions that ISO and Generator Owner have mutually agreed to. Generator Owner shall submit a filing pursuant to Section 205 of the Federal Power Act in addition to the ISO's filing of the RMR Agreement that proposes the inclusion of the costs of certain Capital Expenditures in the Availability and Performance Rate that exceed the U.S. Dollar limits specified in Section 38.11.1, which filing shall be consistent with the terms and conditions of service proposed in the RMR Agreement that the ISO submits, and shall track the format of the RMR Agreement that the ISO submits.

38.11.5 Filing of Unexecuted RMR Agreement and Generator Owner Developed Rate

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

38.11.6 As part of its submission of an executed RMR Agreement pursuant to 38.11.3 or an unexecuted RMR Agreement pursuant to Sections 38.11.4 or 38.11.5, the ISO will include: (i) a description of the methodology and results of the reliability studies that identified a Short-Term Reliability Process Need requiring a Short-Term Reliability Process Solution, which description will specify identified violations of Reliability Criteria and local criteria and describe the impacted criteria, and (ii) a description of the alternative solutions evaluated by the ISO and why the term of the RMR Agreement is appropriate in light of these alternative solutions.

38.12 Developer's Responsibility Following Selection of Its Transmission Solution

38.12.1 Responsible Transmission Owner's Obligation to Develop and Construct a Short-Term Reliability Process Solution

The Responsible Transmission Owner must develop and construct its proposed Short-Term Reliability Process Solution if it is selected by the ISO pursuant to Section 38.10. The Responsible Transmission Owner shall be entitled to the full recovery of all reasonably incurred costs, including a reasonable return on investment and any applicable incentives, related to the development, construction, operation, and maintenance of the selected transmission Short-Term Reliability Process Solution, as set forth in Section 38.23.

38.12.2 Developer's Responsibility to Obtain Necessary Approvals and Authorizations

38.12.2.1 Upon the selection of a Developer's transmission Short-Term Reliability Process Solution pursuant to Section 38.10, the ISO will inform the Developer that it should submit the selected Short-Term Reliability Process Solution to the appropriate governmental agency(ies) and/or authority(ies) to begin the necessary approval process to the site, construct, and operate the project, if such approvals are required. In response to the ISO's request, the Developer shall make such a submission to the appropriate governmental agency(ies) and/or authority(ies) to the extent such authorization has not already been requested or obtained.

38.12.2.2 If the appropriate federal, state or local agency(ies) either rejects a necessary authorization, or approves and later withdraws its authorization of the selected transmission Short-Term Reliability Process Solution, the Developer may recover all of the necessary and reasonable costs it incurred and commitments made up to the final federal, state or local regulatory decision, including

reasonable and necessary expenses incurred to implement an orderly termination of the project, to the extent permitted by the Commission in accordance with its regulations on abandoned plant recovery. The ISO shall allocate these costs among Load Serving Entities in accordance with Section 38.22 the ISO OATT, except as otherwise determined by the Commission. The ISO shall recover such costs in accordance with Section 38.23.

38.12.3 Development Agreement

As soon as reasonably practicable following the ISO's selection of a transmission Short-Term Reliability Process Solution, the ISO shall tender to the Developer that proposed the selected transmission Short-Term Reliability Process Solution a draft Development Agreement, with draft appendices completed by the ISO to the extent practicable, for review and completion by the Developer. The draft Development Agreement shall be in the form of the ISO's Commission-approved Development Agreement for its Reliability Planning Process, which is in Appendix C in Section 31.7 of Attachment Y of the ISO OATT, as amended by the ISO to reflect the Short-Term Reliability Process.

The ISO and the Developer shall finalize the Development Agreement and appendices as soon as reasonably practicable after the ISO's tendering of the draft Development Agreement. For purposes of finalizing the Development Agreement, the ISO and Developer shall develop the description and dates for the milestones necessary to develop and construct the selected project by the required in-service date identified in the STAR or Generator Deactivation Assessment, including the milestones for obtaining all necessary authorizations. Any milestone that requires action by a Connecting Transmission Owner or Affected System Operator identified pursuant to

Attachment P of the ISO OATT to complete must be included as an Advisory Milestone, as that term is defined in the Development Agreement.

If the ISO or the Developer determines that negotiations are at an impasse, the ISO may file the Development Agreement in unexecuted form with the Commission on its own, or following the Developer's request in writing that the agreement be filed unexecuted. If the Development Agreement is executed by both parties, the ISO shall file the agreement with the Commission for its acceptance within ten (10) Business Days after the execution of the Development Agreement by both parties. If the Developer requests that the Development Agreement be filed unexecuted, the ISO shall file the agreement at the Commission within ten (10) Business Days of receipt of the request from the Developer. The ISO will draft, to the extent practicable, the portions of the Development Agreement and appendices that are in dispute and will provide an explanation to the Commission of any matters as to which the parties disagree. The Developer will provide in a separate filing any comments that it has on the unexecuted agreement, including any alternative positions it may have with respect to the disputed provisions. Upon the ISO's and the Developer's execution of the Development Agreement or the ISO's filing of an unexecuted Development Agreement with the Commission, the ISO and the Developer shall perform their respective obligations in accordance with the terms of the Development Agreement that are not in dispute, subject to modification by the Commission. The Connecting Transmission Owner(s) and Affected System Operator(s) that are identified in Attachment P of the ISO OATT in connection with the selected transmission Short-Term Reliability Process Solution shall act in good faith in timely performing their obligations that are required for the Developer to satisfy its obligations under the Development Agreement.

38.12.4 Process for Addressing Inability of Developer to Complete Selected Transmission Short-Term Reliability Process Solution

38.12.4.1 The ISO may take the action set forth in this Section 38.12.4 if: (i) the ISO has selected a regulated transmission Short-Term Reliability Process Solution, and (ii) one of the following events occur: (A) the Developer that proposed the transmission solution does not execute the Development Agreement or does not request that it be filed unexecuted with the Commission as described in Section 38.12.3, or (B) an effective Development Agreement is terminated under the terms of the agreement prior to the completion of the term of the agreement.

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

38.12.4.3 If the ISO determines that it must identify a solution to the Short-Term Reliability Process Need prior to the next planning cycle of the biennial Reliability Planning Process, the ISO may take one or more of the following actions to address a Short-Term Reliability Process Need based on the particular circumstances: (i) address the Short-Term Reliability Process Need in the next Short-Term Reliability Process, (ii) address the Short-Term Reliability Process Need as an immediate reliability need pursuant to Section 38.3.4, (iii) direct the Developer to continue with the development of its Short-Term Reliability Process Solution for completion beyond the in-service date required to address the Short-Term Reliability Process Need, or (iv) request that the Responsible Transmission

Owner complete the selected Short-Term Reliability Process Solution if it is an alternative transmission Short-Term Reliability Process Solution.

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

38.13 Interim Service Providers

38.13.1 At the time the ISO issues its STAR, the ISO shall inform an Initiating Generator that requested a deactivation date prior to the conclusion of the 365 days that follow the Short-Term Assessment of Reliability Start Date (a) whether the Initiating Generator will be permitted to deactivate or will need to remain in service for the 365 day notice period that follows the Short-Term Assessment of Reliability Start Date; and if an Initiating Generator that submitted a Generator Deactivation Notice to retire ***is*** permitted to deactivate prior to the conclusion of the 365 days that follow the Short-Term Assessment of Reliability Start Date, (b) whether the step-up transformer(s) and/or other system protection equipment will be required to remain in service for the 365 day notice period that follow the Short-Term Assessment of Reliability Start Date.

38.13.2 If the NYISO does not authorize an Initiating Generator to deactivate by the latest of: (a) the 181st day after the ISO issues a written notice to a Market Participant pursuant to Section 38.3.1.4 indicating that the Generator Deactivation Notice for its Generator is complete, or (b) ten days after the posting of a STAR that assessed the Generator's deactivation, or (c) the date on which the Initiating Generator indicated it wanted to deactivate in its Generator Deactivation Notice, then for the remainder of the 365 day notice period that follow the Short-Term Assessment of Reliability Start Date, the Initiating Generator shall be an Interim Service Provider, subject to the following rules and exceptions.

An Initiating Generator that submitted a Generator Deactivation Notice to be Retired shall be an Interim Service Provider, even if the ISO authorized the

generating unit(s) to be deactivated, if the ISO or a Responsible Transmission Owner requires the step-up transformer(s) and/or other system protection equipment to remain in service during the 365 days that follow the Short-Term Assessment of Reliability Start Date beyond the latest of (a) the 181st day after the ISO issues a written notice to a Market Participant pursuant to Section 38.3.1.4 indicating that the Generator Deactivation Notice for its Generator is complete, or (b) ten days after the posting of a STAR that assessed the Generator's deactivation, or (c) the Generator's requested deactivation date, or (d) the date on which the generating unit(s) deactivate. Under this alternative, after the generating unit(s) deactivate the Initiating Generator will be an Interim Service Provider to the extent its step-up transformer(s) and/or other system protection equipment that the ISO designates are required to remain in service for the 365 days that follow the Short-Term Assessment of Reliability Start Date, subject to the following rules and exceptions.

38.13.2.1 Interim Service Providers shall be compensated in accordance with Rate Schedule 8 to the ISO Services Tariff.

38.13.2.1.1 Rate Schedule 8 to the Services Tariff sets forth rules to calculate Interim Service Provider compensation for Initiating Generators that are required to remain in-service, or for the continued operation of step-up transformer(s) and/or other system protection equipment following the deactivation of a Generator that submitted a Generator Deactivation Notice to be Retired. The ISO shall use the costs, revenues, and other information submitted in accordance with Sections 38.3, 38.4, 38.5, 38.7, 38.8 and Appendix B of this Attachment FF that it verifies and/or validates, as applicable to calculate an Interim Service Provider's rate. If

the ISO cannot verify and/or validate, as applicable, a cost or revenue submitted by a Market Party, the ISO shall substitute an estimated value.

38.13.2.1.1.1 Interim Service Providers that deactivate their Generator but are required to keep their step-up transformer(s) and/or other system protection equipment that the ISO designates in-service for the 365 days that follow the Short-Term Assessment of Reliability Start Date will be compensated for the demonstrated *RMRAvoidCost* of maintaining the designated facilities in-service in accordance with Section 15.8.6 of Rate Schedule 8 to the Services Tariff.

38.13.2.2 Generators are not eligible to be Interim Service Providers while they are in an ICAP Ineligible Forced Outage. Generators in an ICAP Ineligible Forced Outage are required to keep their step-up transformer(s) and other system protection equipment in service unless or until (i) they are given permission, in writing, to deactivate the facilities by the ISO, or (ii) the step-up transformer(s) and/or other system protection equipment is damaged and would require either an expenditure of more than $100,000, or more than 365 days, to repair and return to service, or (iii) the Generator becomes Retired.

38.13.2.3 Generators in a Mothball Outage are required to keep their step-up transformer(s) and other system protection equipment in service for the duration of the Mothball Outage unless they are given permission, in writing, by the ISO to deactivate the facilities for the duration of the Mothball Outage. Generators are not eligible for compensation as an Interim Service Provider to keep their step-up transformer(s) and other system protection equipment in service during a Mothball Outage.

38.13.2.4 The ISO may allow a Generator or its step-up transformer(s) and system protection facilities that the ISO determined needed to remain in service as an Interim Service Provider to deactivate prior to the conclusion of the 365 day notice period if the ISO provides at least 60 days prior notice that the Generator may deactivate, or that the Generator's step-up transformer(s) and system protection facilities may be deactivated. After the conclusion of this notice period, the Generator or its step-up transformer(s) and system protection facilities will be permitted to deactivate, and the Generator will no longer be an Interim Service Provider.

38.13.2.5 The ISO may allow a Generator or its step-up transformer(s) and system protection facilities that the ISO determined needed to remain in service as an Interim Service Provider to deactivate prior to the conclusion of the 365 day notice period if the Generator or the Generator's step-up transformer(s) and protection facilities experience a Forced Outage of ten days or greater duration, and the ISO provides at least 30 days prior notice that the Generator or its step-up transformer(s) and system protection facilities may deactivate. After the conclusion of this notice period, the Generator or its step-up transformer(s) and system protection facilities will be permitted to deactivate, and the Generator will not be an Interim Service Provider.

38.13.2.6 Generators that remain in service to operate as Interim Service Providers must comply with the RMR Generator Energy and Ancillary Service Market Participation Rules that are set forth in Section 23.6 of the ISO Services Tariff.

38.13.2.7 Generators that remain in service to operate as Interim Service Providers that have Capacity Resource Interconnection Rights, pursuant to the applicable provisions of Attachment X, Attachment S and Attachment Z to the ISO OATT, must take all required actions to qualify as an Installed Capacity Supplier pursuant to Section 5.12 of the ISO Services Tariff. Generators that remain in service to operate as Interim Service Providers must also comply with the rules that are set forth in Sections 5.14.1.1 and 15.8.6 of the ISO Services Tariff.

38.13.2.8 A Generator that was an Interim Service Provider that has deactivated and that wants to return to participating in any of the ISO Administered Markets while it is eligible to receive market-based rates must give the ISO at least 60 days advance notice of its desire to return to the ISO Administered Markets in order to permit the ISO to determine a repayment obligation (if any) in accordance with Services Tariff Rate Schedule 8, and an associated credit requirement in accordance with Sections 26.4 and 26.5 of the ISO Services Tariff.

38.13.2.9 A Generator that is an Interim Service Provider that wants to continue participating in the ISO Administered Markets while it is eligible to receive market-based rates (after it is no longer an Interim Service Provider and when it is not operating pursuant to an RMR Agreement) must give the ISO at least 30 days advance notice of its desire to continue participating in the ISO Administered Markets in order to permit the ISO to determine and impose a repayment obligation (if any) in accordance with Services Tariff Rate Schedule 8, and an associated credit requirement in accordance with Sections 26.4 and 26.5 of the ISO Services Tariff.

38.14 Initiating Generator's Failure to Timely Deactivate

38.14.1 A Market Participant's Generator that satisfies the requirements to be Retired or enter into a Mothball Outage may be Retired or enter into a Mothball Outage, as applicable, within 365 days of: (i) the conclusion of the 365 days that follow the Short-Term Assessment of Reliability Start Date, or (ii) the date specified in the Generator Deactivation Notice for the Generator to be Retired or enter into a Mothball Outage if the Market Participant provided greater than 365 days prior notice. If the Generator is not Retired or does not enter into a Mothball Outage within this time period, the Market Participant must submit a new Generator Deactivation Notice and satisfy anew the requirements of Sections 38.3.1 before the Generator may be Retired or enter into a Mothball Outage.

38.14.2 If (i) a Market Participant rescinds its Generator Deactivation Notice, or (ii) a Market Participant's Generator has not Retired or entered into a Mothball Outage within the timeframes described in Section 38.14.1 and is not operating under an RMR Agreement, the Market Participant must reimburse the ISO and the Responsible Transmission Owner(s) the actual costs that each incurred in performing their responsibilities under this Section 38 in response to the Market Participant's submission of a Generator Deactivation Notice, including any costs associated with using contractors. In the event that a Market Participant rescinds its Generator Deactivation Notice before the ISO posts the results of the Generator Deactivation Assessment conducted under Section 38.3.5, the ISO will not thereafter post the results of said assessment.

38.14.2.1 ISO and Responsible Transmission Owner(s) study costs shall be charged to Market Participants that fail to timely deactivate a Generator or that rescind a Generator Deactivation Notice as follows:

ISO Short-Term Reliability Process Costs—the total, actual costs incurred by the ISO to perform its responsibilities under this Section 38, including but not limited to the ISO's cost of using contractors, shall be assigned in equally divided portions to the ISO and to each Initiating Generator that had the reliability impacts of its deactivation studied in the relevant STAR. Each Market Participant that failed to timely deactivate a Generator or that rescinded a Generator Deactivation Notice will be charged the portion of the total ISO costs assigned to the relevant Generator.

Responsible Transmission Owner(s) Short-Term Reliability Process Costs—the total, actual costs incurred by each Responsible Transmission Owner to perform its responsibilities under this Section 38, including but not limited to that Transmission Owner's cost of using contractors, shall be assigned in equally divided portions to each Initiating Generator that had the reliability impacts of its deactivation studied by that Transmission Owner in the relevant STAR. Each Market Participant that failed to timely deactivate a Generator or that rescinded a Generator Deactivation Notice will be charged the portion of the Transmission Owner's costs assigned to the relevant Generator.

Generator-Specific Assessment—the costs incurred by the ISO and by the Responsible Transmission Owner(s) to perform their responsibilities under this Section 38 in response to the Market Participant's submission of a Generator

Deactivation Notice shall be assigned to the Generator that is the subject of a Generator Deactivation Assessment that is not performed as a component of a STAR.

38.14.3 If the Initiating Generator was an Interim Service Provider and (i) it rescinds its Generator Deactivation Notice, or (ii) it has not Retired or entered into a Mothball Outage within the timeframes described in Section 38.14.1 and is not operating under an RMR Agreement, then the Initiating Generator may also be subject to a repayment obligation pursuant to Section 15.8.7 of Rate Schedule 8 to the ISO Services Tariff.

38.15 Halting of Regulated Transmission Short-Term Reliability Process Solution

38.15.1 The ISO may determine to halt a regulated transmission Short-Term Reliability Process Solution that the ISO has selected pursuant to Section 38.10 to address a Short-Term Reliability Process Need if: (a) a Market Participant rescinds the Generator Deactivation Notice that resulted in the Generator Deactivation Reliability Need, (b) the Market Participant's Generator has not Retired or entered into a Mothball Outage within the timeframes described in Section 38.14.1 and is not operating under an RMR Agreement, (c) the Short-Term Reliability Process Need has been otherwise addressed or eliminated (*e.g.*, a market-based solution that satisfies the Short-Term Reliability Process Need has commenced operation), or (d) the scope, scale or nature of the Short-Term Reliability Process Need has changed. In making its determination whether to halt a transmission Short-Term Reliability Process Solution under this Section 38.15.1, the ISO will consider, among other things: (i) whether the Developer has executed a Development Agreement or requested that it be filed unexecuted with the Commission; (ii) the status of the Developer's progress against the milestones in the Development Agreement (*e.g.*, completion of engineering design, procurement of major equipment and materials, execution of key contracts, completion of project financing, obtaining Site Control, commencing physical construction, including excavation and pouring for foundations or the installation or erection of improvements); (iii) the status of Developer's obtaining required permits or authorizations; (iv) whether the Short-Term Reliability Process Solution is an interim or permanent project; and (v) the operational and

performance benefits of the Short-Term Reliability Process Solution. If the ISO determines to halt a regulated transmission Short-Term Reliability Process Solution, it will notify the Developer of the project and post the notice on its website. If a selected regulated transmission Short-Term Reliability Process Solution is halted by the ISO, all of the costs incurred and commitments made by the Developer up to that point, including reasonable and necessary expenses incurred to implement an orderly termination of the project, will be recoverable by the Developer in accordance with Section 38.23 and the cost recovery mechanism in Rate Schedule 16 of the ISO OATT.

38.15.2 Notwithstanding Section 38.15.1, the ISO shall not halt a regulated transmission Short-Term Reliability Process Solution once the Developer: (i) has received its Article VII certification or other applicable siting permits or authorizations under New York State law or (ii) if permitting or regulatory approval is not required, has commenced physical construction of the Short-Term Reliability Process Solution, including excavation and pouring for foundations or the installation or erection of improvements.

38.16 RMR Generator Additional Costs

38.16.1 Proposed Additional Costs

During the performance of an RMR Agreement, the Generator Owner of one or more RMR Generators shall promptly notify the ISO of an event that (a) could not reasonably have been foreseen at the time the rate in the RMR Agreement was executed, and that (b) it reasonably expects may require it to incur costs that in the aggregate exceed the lesser of (x) $250,000, and (y) five (5) percent of the annual RMR Avoidable Costs excluding the cost of Capital Expenditures, that (i) it can reasonably demonstrate was not among the costs (A) submitted to the ISO prior to the execution of an RMR Agreement with an Availability and Performance Rate, or (B) within the categories of costs submitted to the Commission in a petition for an Owner Developed Rate, and (ii) are necessary to incur in order for the RMR Generator to be able to continue to perform its obligations under the RMR Agreement after the event (a "Notice of Event of Proposed Additional Cost").

If the NYISO informs an Initiating Generator that submitted a Generator Deactivation Notice that the Generator or its step-up transformer(s) and/or other system protection equipment will need to remain in service as an Interim Service Provider for the 365 day period that follow the Short-Term Assessment of Reliability Start Date, the Generator Owner of the Initiating Generator shall promptly notify the ISO of an event (a) that occurred after the Generator Deactivation Notice was submitted, but prior to the conclusion of the 365 day notice period, and (b) that could not reasonably have been foreseen at the time the Generator Deactivation Notice was submitted; where (i) Generator Owner reasonably expects it will be required to incur unanticipated costs that, in the aggregate, will exceed $100,000 to operate for the remainder of the 365 day notice period, and (ii) incurring the costs is necessary for the Generator to be able to

perform or continue to perform as an Interim Service Provider after the event (also a "Notice of Event of Proposed Additional Cost").

Following its submission of the required Notice of Event of Proposed Additional Cost, the Generator Owner shall promptly notify the ISO of, and provide updates addressing the following: (i) the reason(s) why the expense was or must be incurred, (ii) viable alternatives to incurring the expense, (iii) actions examined or taken to avoid the need to incur the expense, and to minimize the expense, (iv) the potential impact on the RMR Generator's or Interim Service Provider's ability to perform its obligations if the expense is not incurred, (v) the estimated and actual costs of the proposed expense, (vi) the plan specifying the schedule and timing of any planned action or expenditure, (vii) an explanation and supporting documentation of how that plan compares with the Generator Owner's past similar actions and protocols, (viii) whether each cost is associated solely with the RMR Generator or Interim Service Provider, or are for services or functions shared with other units or businesses; and if a shared cost, the Generator Owner shall identify the other entities with which the cost is shared, the entity that allocates the cost to it, and accounting protocols and methodology used to allocate the units and businesses across which the cost is allocated.

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

38.16.1.2 If the cost of returning an Interim Service Provider to service (which may be the cost of repairing and returning step-up transformer(s) and/or other system protection equipment if the generating unit(s) were permitted to deactivate) is not

expected to exceed $100,000, then the Generator Owner shall promptly return the Generator to service without additional recompense.

38.16.1.3 ISO Identification of Proposed Additional Costs

If the ISO determines that the Notice of Event of Proposed Additional Cost was timely provided and each of the requirements in Subsections (a) and (b) of Section 38.16.1 have been met, and the information required by Subsections (i) through (viii) has been provided, it shall be a "Proposed Additional Cost."

38.16.2 Proposed Additional Cost Eligibility for Recovery

38.16.2.1 The ISO shall review, verify, and/or validate the information provided by the Generator Owner for a Proposed Additional Cost. The ISO may require the Generator Owner to re-submit or to submit additional information to support statements and costs that the ISO determines are not adequately supported or otherwise verifiable. A "Substantiated Additional Cost" shall mean a Proposed Additional Cost that the ISO has either verified is the actual cost, or verified and validated the estimated cost information received from the Generator Owner, provided that (a) the Generator Owner demonstrates it took measures to minimize the expense, or if the ISO determines that the Generator Owner did not demonstrate it took such steps, such amount estimated by the ISO that would be the expense had the RMR Generator or Interim Service Provider taken measures to reduce it, and (b) it is or was necessary for the Generator Owner to incur these costs for the RMR Generator to perform its obligations under the RMR Agreement or for the Interim Service Provider to be able to operate all required facilities during the 365 day period that follows the Short-Term Assessment of

Reliability Start Date; provided the ISO has not issued a notice of shut-down (or similar notice) to Generator Owner for the RMR Generator pursuant to the RMR Agreement or to Generator Owner of the Interim Service Provider pursuant to Section 38.13.2.4 or 38.13.2.5 of this Attachment FF. If the cost information provided by the Generator Owner cannot be verified and validated by the ISO, the ISO shall substitute the amount it reasonably determines. The ISO shall also identify if the Substantiated Additional Costs, or a component thereof, is a Capital Expenditure by using the applicable criteria set forth in Section 38.8.1.3. The ISO shall notify the Generator Owner of its determination regarding whether Proposed Additional Costs are Substantiated Additional Costs.

38.16.2.2 The ISO shall seek comment from the Market Monitoring Unit on its review of Proposed Additional Costs and determinations of Substantiated Additional Costs. The responsibilities of the Market Monitoring Unit that are addressed in this Section are also addressed in Section 38.18.1 of this Attachment FF and in Section 30.4.6.8.6 of Attachment O of the ISO Services Tariff.

38.16.3 ISO's Authority to Recover and Pay Substantiated Additional Costs that Are Capital Expenditures to RMR Generators with Availability and Performance Rates

This Section shall apply only to RMR Agreements with an Availability and Performance Rate. If a Substantiated Additional Cost is determined by the ISO to be a Capital Expenditure and it does not exceed 10,000,000 U.S. Dollars if a non-nuclear Generator, or 25,000,000 U.S. Dollars if a nuclear Generator, on the basis of the total expenditure needed to address the event that resulted in the Notice of Event of Proposed Additional Cost, then the ISO may recover the Substantiated Additional Cost that is a Capital Expenditure pursuant to OATT Rate Schedule 14

and pay that amount to Generator Owner in accordance with (a) the rules in Section 38.17 that address the ISO's payment of Capital Expenditures, and (b) Rate Schedule 8 to the Services Tariff. The ISO shall submit an informational filing to the Commission identifying any Capital Expenditures it is paying pursuant to the authority granted in this section.

38.16.4 ISO's Authority to Recover and Pay Substantiated Additional Costs that are Capital Expenditures to Interim Service Providers

This Section shall apply only to Interim Service Providers. If a Substantiated Additional Cost is determined by the ISO to be a Capital Expenditure and it does not exceed 1,000,000 U.S. Dollars, on the basis of the total expenditure needed to address the event that resulted in the Notice of Event of Proposed Additional Cost, then the ISO may recover the Substantiated Additional Cost that is a Capital Expenditure pursuant to OATT Rate Schedule 14 and pay that amount to Generator Owner in accordance with (a) the rules in Section 38.17 that address the ISO's payment of Capital Expenditures, and (b) Rate Schedule 8 to the Services Tariff. The ISO shall submit an informational filing to the Commission identifying any Capital Expenditures it is paying pursuant to the authority granted in this section.

38.16.5 Owner May Request Commission Approval for Recovery of Additional Costs

If the Owner makes such a filing, it shall also submit the ISO's determinations pursuant to Sections 38.16.1.2 and 38.16.2.1 with its filing, or promptly after receipt of either determination. The ISO shall only be obligated to pay the Owner under this section if (a) the Commission determines that the cost filed for the RMR Generator or Interim Service Provider is eligible for recovery as a Proposed or Substantiated Additional Cost, and (b) the Commission approves the specific amount and authorizes its recovery. If the Proposed or Substantiated Additional Cost that the Commission authorizes payment of is for a Capital Expenditure, the ISO

will pay in accordance with (a) the rules in Section 38.17 that address the ISO's payment of Capital Expenditures, and (b) Rate Schedule 8 to the Services Tariff. If the Proposed or Substantiated Additional Cost that the Commission authorizes payment of is an Avoidable Cost that is not a Capital Expenditure, then payment directed by a Commission order shall be made in accordance with Rate Schedule 8 to the ISO Services Tariff.

38.17 Payment of Capital Expenditures to RMR Generators and Interim Service Providers

38.17.1 Capital Expenditures that are specifically identified (including an estimated cost and estimated in-service date) in a Commission-accepted Availability and Performance Rate or in a Commission-accepted Owner Developed Rate are eligible for recovery in accordance with the rules set forth in Section 38.17, Section 23.6.5 of the ISO Services Tariff, Rate Schedule 8 of the ISO Services Tariff, Schedule 14 of the ISO OATT, and any relevant Commission order.

38.17.2 Capital Expenditures that are Proposed Additional Costs or Substantiated Additional Costs are eligible for recovery in accordance with the rules set forth in Sections 38.16 and 38.17 of the ISO OATT, Section 23.6.5 of the ISO Services Tariff, Rate Schedule 8 of the ISO Services Tariff, Schedule 14 of the ISO OATT, and any relevant Commission order.

38.17.3 The ISO may agree to permit an Interim Service Provider to recover the cost of Capital Expenditures during the 365 day period that follows the Short-Term Assessment of Reliability Start Date if (a) recovery is authorized as an Additional Cost under Section 38.16 of the ISO OATT, or (b) the Capital Expenditure is necessary to permit the Interim Service Provider to address the Reliability Need, and Generator Owner enters into a written agreement with the ISO in which the Generator Owner commits that the Capital Expenditure will be completed and placed in-service by a specified date or within a range of dates that fall within the 365 day period that follows the Short-Term Assessment of Reliability Start Date.

38.17.4 ISO Authority to Authorize Capital Expenditures

If the ISO determines that (a) Capital Expenditures are necessary for a Generator to provide service under an RMR Agreement, and (b) work on one or more of the Capital Expenditures must commence in advance of Commission action in order to timely, or more timely, address a Short-Term Reliability Process Need, then the ISO may authorize the Generator Owner to spend up to 10,000,000 U.S. Dollars if a non-nuclear Generator, or 25,000,000 U.S. Dollars if a nuclear Generator, in total, to develop the Capital Expenditure(s) in advance of receiving an order from the Commission. The ISO shall submit an informational filing to the Commission identifying any Capital Expenditures it is authorizing pursuant to the authority granted in this Section. The ISO may recover the cost of such a Capital Expenditure pursuant to Schedule 14 of the ISO OATT and pay the Generator Owner in accordance with (i) the rules in this Section 38.17, and (ii) Rate Schedule 8 to the ISO Services Tariff. If the Commission issues an order rejecting the proposed Capital Expenditure, then the Generator Owner shall cease work on the Capital Expenditure and take reasonable efforts to minimize the costs it incurs. Reimbursement of a rejected Capital Expenditure shall be limited to actual costs incurred, including reasonable wind-down costs, shall be subject to the dollar limits set forth in this section, and shall be reviewed in accordance with Section 38.17.7 below. Allowed wind-down costs shall be reimbursed as additional Avoidable Costs that are not Capital Expenditures. ISO review pursuant to Section 38.17.7 shall include consideration of whether the Generator Owner timely ceased developing a Capital Expenditure and made reasonable efforts to minimize its wind-down costs.

For an Interim Service Provider, if the ISO determines that (x) the requirements of Section 38.17.3 have been satisfied, and (y) the Capital Expenditure does not exceed 1,000,000 U.S. Dollars on the basis of the total expenditure needed, then the ISO may recover the Capital

Expenditure pursuant to OATT Rate Schedule 14 and pay that amount to Generator Owner in accordance with (a) the rules in this Section 38.17 that address the ISO's payment of Capital Expenditures, and (b) Rate Schedule 8 to the ISO Services Tariff. The ISO shall submit an informational filing to the Commission identifying any Capital Expenditures it is paying to an Interim Service Provider pursuant to the authority granted in this section.

38.17.5 Early Termination of RMR Agreement

If the Generator Owner is working to complete a Capital Expenditure consistent with an accepted RMR Agreement or consistent with an approved or accepted Proposed Additional Cost or Substantiated Additional Cost and the RMR Agreement is terminated early because (x) the Short-Term Reliability Process Need is resolved sooner than expected, or (y) the RMR Generator suffers a forced outage that would require significant costs to repair, or (z) for any other reason that does not involve an uncured Generator Owner default under the RMR Agreement or the RMR Generator failing to satisfy one or more of the operating standards described in Sections 38.19.4(A) and (B) below, and if Generator Owner ceased work on the Capital Expenditure and made reasonable efforts to minimize the costs it incurred, then, following review, the ISO shall recover the actual costs the Generator Owner incurred to construct the Capital Expenditure and to wind-down its work on the Capital Expenditure pursuant to Schedule 14 of the ISO OATT and pay Generator Owner in accordance with (a) the rules in this Section 38.17, and (b) Rate Schedule 8 to the ISO Services Tariff. Allowed wind-down costs shall be reimbursed as additional Avoidable Costs that are not Capital Expenditures. ISO review pursuant to Section 38.17.7 below shall include consideration of whether the Generator Owner timely ceased developing a Capital Expenditure and made reasonable efforts to minimize its wind-down costs.

38.17.6 The ISO shall not reimburse Interim Service Providers for Capital Expenditures that are not completed and placed in service during the 365 day period that follows the Short-Term Assessment of Reliability Start Date. The ISO shall not pay wind-down costs to Interim Service Providers. Subject to the foregoing requirements, the ISO's obligation to pay for Capital Expenditures that are not timely completed in accordance with the written agreement between the Generator Owner and the ISO that is described in Section 38.17.3 shall be addressed in that agreement. Even if a Capital Expenditure by an Interim Service Provider or potential Interim Service Provider is not eligible for compensation under Sections 38.17.3 or 38.17.6, the ISO may agree to pay Capital Expenditure costs that were incurred during the 365 day period that follows the Short-Term Assessment of Reliability Start Date in an RMR Agreement.

38.17.7 ISO Review of Actual Costs Incurred Prior to Commencing Payment

After the Generator Owner expends money for an allowed or accepted Capital Expenditure, including expenditures that may be eligible for recovery under Sections 38.17.4 and 38.17.5 above, it shall submit to the ISO copies of original documentation of the expenditure (including the financing costs) and an explanation of any difference between the estimated amount and the actual expenditure. If Generator Owner submits an actual total amount for a Capital Expenditure that is five (5) percent or more above (a) the estimate that was used by the ISO to develop an Availability and Performance Rate or to authorize recovery of a Substantiated Additional Cost; or (b) the estimate that was presented to the Commission to recover Capital Expenditure costs that exceed the dollar thresholds specified in Section 38.11.1, in an Owner Developed Rate, or in a request by the Generator Owner to recover a Proposed or Substantiated

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

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

38.17.8 ISO Payment and Recovery of Authorized or Accepted Capital Expenditures

38.17.8.1 The ISO shall commence paying for Capital Expenditures as soon as practicable after (i) the capital asset that is a Capital Expenditure (a) has been placed into service, or otherwise integrated into the Generator, or (b) was not placed into service solely due to the ISO instructing the RMR Generator to halt implementation of the Capital Expenditure, or issuing a Notice of Shut-down or terminating the RMR Agreement after costs had already been incurred; and

(ii) the amount paid by the Owner is verified and /or validated, as applicable, by the ISO as described in Section 38.17.7, or is determined by the Commission.

38.17.8.2 The ISO shall implement a repayment schedule in accordance with the formula specified in Section 38.17.8.2.1 below for each Capital Expenditure that will permit the Capital Expenditure to be completely repaid by the end date specified in Section 2.2.5 of the *Form of Reliability Must Run Agreement* set forth in Appendix C of this Attachment FF or by the equivalent date specified in an RMR Agreement that is not a *Form of Reliability Must Run Agreement*, or by the conclusion of the 365 day notice period if the ISO is repaying an allowed Capital Expenditure to an Interim Service Provider. If an RMR Agreement terminates prior to the end date that is specified in the RMR Agreement, then the ISO may continue repaying any Capital Expenditures the Generator Owner remains eligible to receive until that end date.

38.17.8.2.1 Repayment Schedule for Capital Expenditures

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

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

Where:

$Verified\ CapEx_{g,k}$ = the amount due for a Capital Expenditure, verified and validated by the ISO as an actual expenditure for Generator *g*.

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

Month *E* is the month that includes the end date specified in Section 2.2.5 in the *Form of Reliability Must Run Agreement* or by the equivalent date specified in an RMR

Agreement that is not a *Form of Reliability Must Run Agreement* for Generator *g*, or the conclusion of the 365 day notice period for an Interim Service Provider.

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

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

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

38.17.8.5 A Generator Owner that recovers the cost of Capital Expenditures may be required to repay to the ISO the depreciated value of the Capital Expenditure costs it recovered before the RMR Generator or Interim Service Provider at or for which the Capital Expenditure was incurred is permitted to be offered into or scheduled in the ISO Administered Markets. *See* Section 15.8.7 of Rate Schedule 8 to the Services Tariff.

38.18 Market Monitoring Unit Review of Determinations

38.18.1 The ISO shall seek comments from the Market Monitoring Unit on matters relating to the inputs and the calculations the ISO performed pursuant to Section 38.8 of this Attachment FF.

38.18.2 The ISO shall seek comments from the Market Monitoring Unit on its review of Proposed Additional Costs and its determinations of Substantiated Additional Costs under Section 38.16 of this Attachment FF.

38.18.3 Concurrent with the ISO or a Generator filing with the Commission an RMR Agreement pursuant to Sections 38.11.3, 38.11.4 or 38.11.5, the Market Monitoring Unit shall publish a report. The report shall review the ISO's determination of the highest net present value offer (or more than one offer) to provide RMR service in accordance with Sections 38.8, 38.9 and 38.10. In the event that cost alone did not provide for a clear delineation between two or more RMR Service Offers, the report shall also review the ISO's consideration of the Generator Owner's proposed changes to the *Form of Reliability Must Run Agreement* and the operational, performance and market impacts, and the size of the Generators. If the RMR Agreement contains RMR Avoidable Costs and an Availability and Performance Rate, the report shall also review the inputs to, and ISO's calculation of, the RMR Avoidable Costs and the Availability and Performance Rate.

38.18.4 The responsibilities of the Market Monitoring Unit that are addressed in this Section 38.18 are also addressed in Section 30.4.6.8.6 of Attachment O of the ISO Services Tariff.

38.19 Terminating RMR Agreements

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

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

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

38.19.4 The ISO may terminate an RMR Agreement for an RMR Generator under any of the following circumstances: (A) if the RMR Generator fails to satisfy any of the minimum operating standards specified in the RMR Agreement; (B) if the RMR Generator repeatedly fails to operate as requested when it is called upon by the ISO or by a Transmission Owner to address one or more of the identified Short-Term Reliability Process Need(s) the RMR Generator is being retained to address; (C) when the RMR Generator suffers a forced outage that will prevent it from being available for 180 or more days to address the identified Short-Term Reliability Process Need(s) that the RMR Generator is being retained to address; or (D) if significant Additional Costs arise (*see* Section 38.16) that make the RMR Generator more expensive than other solutions to the identified Short-Term Reliability Process Need(s).

38.20 Reserved

38.21 Reserved