# 25 Attachment S – Rules To Allocate Responsibility for the Cost of New Interconnection Facilities

25.1 Introduction

25.1.1 Purpose of the Rules

The purpose of these rules is (1) to allocate responsibility among Developers and Transmission Owners and Load Serving Entities (“LSEs”), as described herein, for the cost of the new interconnection facilities that are required for the reliable interconnection of Projects to the New York State Transmission System and to the Distribution System in compliance with the requirements of the type of interconnection service elected by the Developer; and (2) allocate responsibility for the cost of interconnection facilities required for Capacity Resource Interconnection service (“CRIS”) and interconnection in compliance with the NYISO Deliverability Interconnection Standard. Section 25.6 of this Attachment S describes the rules to estimate and allocate responsibility for the cost of the interconnection facilities required for Energy Resource Interconnection Service (“ERIS”) and interconnection in compliance with the NYISO Minimum Interconnection Standard. Section 25.7 of this Attachment S describes the rules to estimate and allocate responsibility for the cost of interconnection facilities required for CRIS and interconnection in compliance with the NYISO Deliverability Interconnection Standard. Every Developer is responsible for the cost of the new interconnection facilities required for the reliable interconnection of its Project in compliance with the NYISO Minimum Interconnection Standard, as that responsibility is determined by these rules. In addition, every Developer electing CRIS is also responsible for the cost of the interconnection facilities required pursuant to the NYISO Deliverability Interconnection Standard, as that responsibility is determined by these rules.

The rules in this Attachment S to the ISO OATT cover (i) Large Facilities greater than 20 MW subject to the Large Facility Interconnection Procedures set out in Attachment X to the ISO OATT (“LFIP”), (ii) Small Generating Facilities no larger than 20 MW subject to the Small Generator Interconnection Procedures set out in Attachment Z to the ISO OATT (“SGIP”) that are required to enter a Class Year Study pursuant to Section 32.3.5.3.2 of the SGIP, and facilities greater than 2 MW that seek to obtain or increase CRIS beyond the levels permitted by this Attachment S, Section 30.3.2.6 of the LFIP and Section 32.4.11.1 of the SGIP, as applicable (each a “Project” and collectively, “Projects” for purposes of this Attachment S).

As described herein, the intent is that each Developer be held responsible for the net impact of the interconnection of its Project on the reliability of the New York State Transmission System. A Developer is held responsible for the cost of the interconnection facilities that are required by its Project, facilities that would not be required but for its Project. However, a Developer is not responsible for the cost of facilities that are, without considering the impact of its Project, required to maintain the reliability of the New York State Transmission System. Transmission Owners are, in accordance with the ISO OATT and FERC precedent, responsible for the cost of the facilities that are, without considering the impact of the Developer’s Project, required to maintain the reliability of the New York State Transmission System.

25.1.2 Definitions

Unless defined here in Section 25.1.2 of this Attachment S, the definition of each defined term used in this Attachment S shall be the same as the definition for that term set forth in Section 1 of the ISO Open Access Transmission Tariff (“OATT”), Section 30.1 of Attachment X to the ISO OATT, Attachment Z to the ISO OATT, or Section 2 of the ISO Services Tariff.

**Acceptance Notice:** The notice by which a Developer communicates to the ISO its decision to accept a Project Cost Allocation or Revised Project Cost Allocation.

**Additional SDU Study:** A study that a Developer may elect to pursue if the Class Year Deliverability Study identifies the need for a new System Deliverability Upgrade (*i.e.*, a System Deliverability Upgrade not previously identified and cost allocated in a Class Year Study and not substantially similar to a System Deliverability Upgrade previously identified and cost allocated in a Class Year Study) that requires additional study.

**Affected System:** An electric system other than the transmission system owned, controlled or operated by the Connecting Transmission Owner that may be affected by the proposed interconnection.

**Affected System Operator:** The entity that operates an Affected System.

**Affected Transmission Owner:** The New York public utility or authority (or its designated agent) other than the Connecting Transmission Owner that (i) owns facilities used for the transmission of Energy in interstate commerce and provides Transmission Service under the Tariff, and (ii) owns, leases or otherwise possesses an interest in a portion of the New York State Transmission System where System Deliverability Upgrades, System Upgrade Facilities, or Network Upgrade Facilities are or will be installed pursuant to Attachment P, Attachment X, Attachment S or Attachment Z to the OATT.

**Annual Transmission Baseline Assessment (“ATBA”):** An assessment conducted by the ISO staff in cooperation with Market Participants, to identify the System Upgrade Facilities that Transmission Owners are expected to need during the time period covered by the Assessment to comply with Applicable Reliability Requirements, and reliably meet the load growth and changes in load pattern projected for the New York Control Area.

**Annual Transmission Reliability Assessment (“ATRA”):** An assessment, conducted by the ISO staff in cooperation with Market Participants, to determine the System Upgrade Facilities required for each Project included in this Assessment to interconnect to the New York State Transmission System in compliance with Applicable Reliability Requirements and the NYISO Minimum Interconnection Standard.

**Applicable Reliability Requirements:** The NYSRC Reliability Rules and other criteria, standards and procedures, as described in Section 25.6.1.1.1.1 of this Attachment S, applied when conducting the Annual Transmission Baseline Assessment and the Annual Transmission Reliability Assessment to determine the System Upgrade Facilities needed to maintain the reliability of the New York State Transmission System. The Applicable Reliability Requirements applied are those in effect when the particular assessment is commenced.

**Article VII Certificate:** The certificate of environmental compatibility and public need required under Article VII of the New York State Public Service Law for the siting and construction of any new transmission facility of a size and type specified in the statute.

**Article 10 Certificate:** The certificate of environmental compatibility and public need required under Article 10 of the New York State Public Service Law for the siting and construction of electric generating facilities with greater than 25 megawatts of capacity.

**Attachment Facilities:** The Connecting Transmission Owner’s Attachment Facilities and the Developer’s Attachment Facilities. Collectively, Attachment Facilities include all facilities and equipment between the Large Generating Facility or Class Year Transmission Project and the Point of Interconnection, including any modification, additions or upgrades that are necessary to physically and electrically interconnect the Large Facility to the New York State Transmission System. Attachment Facilities are sole use facilities and shall not include Stand Alone System Upgrade Facilities, Distribution Upgrades, System Upgrade Facilities or System Deliverability Upgrades.

**Byway:** All transmission facilities comprising the New York State Transmission System that are neither Highways nor Other Interfaces. All transmission facilities in Zone J and Zone K are Byways.

**Capacity Region:** One of four subsets of the Installed Capacity statewide markets comprised of: (1) Rest of State (*i.e.,* Load Zones A through F); (2) Lower Hudson Valley (*i.e.,* Load Zones G, H and I); (3) New York City (*i.e.,* Load Zone J); and (4) Long Island (*i.e.,* Zone K), except for Class Year Interconnection Facility Studies conducted prior to Class Year 2012, for which “Capacity Region” shall be defined as set forth in Section 25.7.3 of this Attachment S.

**Capacity Resource Interconnection Service (“CRIS”):** The service provided by the ISO to Developers that satisfy the NYISO Deliverability Interconnection Standard or that are otherwise eligible to receive CRIS in accordance with this Attachment S; such service being one of the eligibility requirements for participation as an ISO Installed Capacity Supplier.

**Class Year:** The group of Projects included in any particular Class Year Interconnection Facilities Study (Annual Transmission Reliability Assessment and Class Year Deliverability Study), in accordance with the criteria specified in this Attachment S and in Attachment Z for including such Projects.

**Class Year CRIS Project:** A Class Year Project with an executed Class Year Interconnection Facilities Study Agreement entering a Class Year Study for a CRIS evaluation, that thereby becomes one of the group of Class Year Projects included in the Class Year Deliverability Study. A Class Year CRIS Project may be a “CRIS-only” Project that is entering a Class Year Study only for a CRIS evaluation, or it may be a Project seeking both ERIS and CRIS.

**Class Year Deliverability Study:** An assessment, conducted by the ISO staff in cooperation with Market Participants, to determine whether System Deliverability Upgrades are required for Class Year CRIS Projects under the NYISO Deliverability Interconnection Standard.

**Class Year Interconnection Facilities Study (“Class Year Study”)** shall mean a study conducted by the ISO or a third party consultant for the Developer to determine a list of facilities (including Connecting Transmission Owner’s Attachment Facilities, Distribution Upgrades, System Upgrade Facilities and System Deliverability Upgrades as identified in the Interconnection System Reliability Impact Study), the cost of those facilities, and the time required to interconnect the Large Generating Facility or Class Year Transmission Project with the New York State Transmission System or with the Distribution System. The scope of the study is defined in Section 30.8 of the Large Facility Interconnection Procedures in Attachment X to the ISO OATT.

**Class Year Interconnection Facilities Study Agreement (“Class Year Study Agreement”)**  shall mean the form of agreement contained in Appendix 2 of the Large Facility Interconnection Procedures in Attachment X to the ISO OATT for conducting the Class Year Interconnection Facilities Study.

**Class Year Project:** An Eligible Class Year Project with an executed Class Year Interconnection Facilities Study Agreement that thereby becomes one of the group of Projects included in any particular Class Year Interconnection Facilities Study (Annual Transmission Reliability Assessment and/or Class Year Deliverability Study), in accordance with the criteria specified in this Attachment S and in Attachment Z for including such Projects.

**Class Year Start Date:** The deadline for Eligible Class Year Projects to enter a Class Year Interconnection Facilities Study, determined in accordance with Section 25.5.9 of this Attachment S.

**Class Year Transmission Project** shall mean a Developer’s proposed new transmission facility that will interconnect to the New York State Transmission System or a proposed upgrade—an improvement to, addition to, or replacement of a part of an existing transmission facility—to the New York State Transmission System, for which (1) the Developer is eligible to request and does request Capacity Resource Interconnection Service, subject to the eligibility requirements set forth in the ISO Procedures; or (2) the Developer requests only Energy Resource Interconnection Service and the transmission facility for which it requests Energy Resource Interconnection Service is a transmission facility over which power flow can be directly controlled by power flow control devices directly connected to the Class Year Transmission Project without having to re-dispatch generation. Class Year Transmission Projects shall not include Attachment Facilities, Network Upgrade Facilities, System Upgrade Facilities or System Deliverability Upgrades.

**Connecting Transmission Owner:** The New York public utility or authority (or its designated agent) that (i) owns facilities used for the transmission of Energy in interstate commerce and provides Transmission Service under the Tariff, (ii) owns, leases or otherwise possesses an interest in the portion of the New York State Transmission System or Distribution System at the Point of Interconnection, and (iii) is a Party to the Standard Large Generator Interconnection Agreement.

**Contingent Facilities** shall mean those Attachment Facilities and System Upgrade Facilities and/or System Deliverability Upgrades associated with Class Year Projects upon which the Large Facility’s Class Year Project Cost Allocations are dependent, and if delayed or not built, could impact the actual costs and timing of the Large Facility’s Project Cost Allocation for System Upgrade Facilities or System Deliverability Upgrades.

**Contribution Percentage:** The ratio of aProject’s measured impact or pro rata contribution to a System Upgrade Facility identified in the Annual Transmission Reliability Assessment, to the sum of the measured impacts or pro rata contributions of all the Projects in the same Class Year that have at least a *de minimus* impact or contribution to the System Upgrade Facility.

**Developer:** For purposes of this Attachment S, references to Developer(s) include any of the following: (i) Developer(s) of Large Facilities, (ii) Interconnection Customers of Small Generating Facilities subject to the Rules in this Attachment S pursuant to Section 32.1.1.7 and/or Section 32.3.5.3.2 of Attachment Z to the OATT; and (iii) developers of existing facilities (*i.e.,* facilities that have completed the applicable interconnection studies and have an effective interconnection agreement) seeking to obtain or increase CRIS as permitted by this Attachment S.

**Distribution System:** The Transmission Owner’s facilities and equipment used to distribute electricity that are subject to FERC jurisdiction, and are subject to the ISO’s Large Facility Interconnection Procedures in Attachment X to the ISO OATT or Small Generator Interconnection Procedures in Attachment Z to the ISO OATT under FERC Order Nos. 2003 and/or 2006. The term Distribution System shall not include LIPA’s distribution facilities.

**Distribution Upgrades:** The modifications or additions to the existing Distribution System at or beyond the Point of Interconnection that are required for the proposed Project to connect reliably to the system in a manner that meets the NYISO Minimum Interconnection Standard. Distribution Upgrades do not include Interconnection Facilities, System Upgrade Facilities, or System Deliverability Upgrades.

**Eligible Class Year Project:** Any Developer or Interconnection Customer that (i) satisfies the criteria for inclusion in the next Class Year Interconnection Facilities Study, as those criteria are specified in Sections 25.5.9 and 25.6.2.3.1 of this Attachment S, Section 32.1.1.7 of Attachment Z to the OATT and/or Section 32.3.5.3.2 of Attachment Z to the OATT; or (ii) that seeks evaluation in a Class Year Study to obtain or increase CRIS as permitted by this Attachment S and satisfies the criteria for inclusion in the next Class Year Interconnection Facilities Study specified in Section 25.5.9 of this Attachment S.

**Energy Resource Interconnection Service (“ERIS”):** The service provided by the ISO to interconnect the Developer’s Large Generating Facility, Class Year Transmission Project or Small Generating Facility required to participate in a Class Year Interconnection Facilities Study under Section 32.3.5.3 of Attachment Z to the New York State Transmission System or to the Distribution System, in accordance with the NYISO Minimum Interconnection Standard, to enable the New York State Transmission System to receive Energy and Ancillary Services from the Large Generating Facility, Class Year Transmission Project or Small Generating Facility required to participate in a Class Year Interconnection Facilities Study under Section 32.3.5.3 of Attachment Z, pursuant to the terms of the ISO OATT.

**Existing System Representation:** The representation of the New York State Power System developed as specified in Section 25.5.5 of this Attachment S.

**Expedited Deliverability Study:** A study conducted by the ISO or a third party consultant to determine the extent to which an existing or proposed facility satisfies the NYISO Deliverability Interconnection Standard at its requested CRIS level without the need for System Deliverability Upgrades. The schedule and scope of the study is defined in Sections 25.5.9.2.1 and 25.7.1.2 of this Attachment S.

**External CRIS Rights:** A determination of deliverability within the Rest of State Capacity Region (*i.e.,* Load Zones A – F), awarded by the ISO for a term of five (5) years or longer, to a specified number of Megawatts of External Installed Capacity that satisfy the requirements set forth in Section 25.7.11 of this Attachment S to the ISO OATT, and that can be certified in a Bilateral Transaction used for the NYCA and not a Locality, or sold into the NYCA for an Installed Capacity auction and not in an Installed Capacity auction for a Locality.

**External-to-ROS Deliverability Rights**: The meaning set forth in Section 2.5 of the Services Tariff.

**Final Decision Round:** The round of ISO-communicated cost estimates and Developer responses for a Class Year Interconnection Facilities Study, in which all remaining eligible Developers issue an Acceptance Notice and post Security.

**Financial Settlement:** The Settlement Agreement approved by FERC in Docket Nos. EL02-125-000 and EL02-125-001 addressing the financial issues raised in those proceedings.

**Headroom:** The functional or electrical capacity of the System Upgrade Facility or the electrical capacity of the System Deliverability Upgrade that is in excess of the functional or electrical capacity actually used by the Developer’s Project.

**Highway:** 115 kV and higher transmission facilities that comprise the following NYCA interfaces: Dysinger East, West Central, Volney East, Moses South, Central East/Total East, and UPNY-ConEd, and their immediately connected, in series, Bulk Power System facilities in New York State. Each interface shall be evaluated to determine additional “in series” facilities, defined as any transmission facility higher than 115 kV that (a) is located in an upstream or downstream zone adjacent to the interface and (b) has a power transfer distribution factor (DFAX) equal to or greater than five percent when the aggregate of generation in zones or systems adjacent to the upstream zone or zones which define the interface is shifted to the aggregate of generation in zones or systems adjacent to the downstream zone or zones which define the interface. In determining “in series” facilities for Dysinger East and West Central interfaces, the 115 kV and 230 kV tie lines between NYCA and PJM located in LBMP Zones A and B shall not participate in the transfer. Highway transmission facilities are listed in ISO Procedures.

**Initial Decision Period:** The 30 calendar day period within which a Developer must provide an Acceptance Notice or Non-Acceptance Notice to the ISO in response to the first Project Cost Allocation issued by the ISO to the Developer.

**Interconnection System Reliability Impact Study (“SRIS”):** An engineering study that evaluates the impact of the proposed Large Generation Facility or Class Year Transmission Project on the safety and reliability of the New York State Transmission System and, if applicable, an Affected System, to determine what Attachment Facilities, Distribution Upgrades and System Upgrade Facilities are needed for the proposed Large Generation Facility or Class Year Transmission Project of the Developer to connect reliably to the New York State Transmission System or to the Distribution System in a manner that meets the NYISO Minimum Interconnection Standard for ERIS. The scope of the SRIS is defined in Section 7.3 of the Large Facility Interconnection Procedures in Attachment X to the ISO OATT.

**Large Facility:** A Large Generating Facility or a Class Year Transmission Project.

**NERC Planning Standards:** The transmission system planning standards of the North American Electric Reliability Council.

**Non-Acceptance Notice:** The notice by which a Developer communicates to the ISO its decision not to accept a Project Cost Allocation or Revised Project Cost Allocation.

**Non-Financial Settlement:** The Settlement Agreement approved by FERC in Docket Nos. EL02-125-000 and EL01-125-001 addressing non-financial issues for future cost allocations.

**NPCC Basic Design and Operating Criteria:** The transmission system design and operating criteria of the Northeast Power Coordinating Council.

**NYISO Deliverability Interconnection Standard:** The standard that must be met, unless otherwise provided for by this Attachment S, by (i) any generation facility larger than 2 MW in order for that facility to obtain CRIS (ii) any Class Year Transmission Project; (iii) any entity requesting External CRIS Rights, and (iv) any entity requesting a CRIS transfer pursuant to Section 25.9.5 of this Attachment S. To meet the NYISO Deliverability Interconnection Standard, the Developer must, in accordance with these rules, fund or commit to fund any System Deliverability Upgrades identified for its Project in the Class Year Deliverability Study.

**NYISO Load and Capacity Data Report:** The annual ISO survey of power demand and supply in New York State, published pursuant to Section 6-106 of the Energy Law of New York State.

**NYISO Minimum Interconnection Standard:** The reliability standard described in Section 25.2 of this Attachment S that must be met by any Project that is subject to ISO’s Large Facility Interconnection Procedures in Attachment X to the ISO OATT or the ISO’s Small Generator Interconnection Procedures in Attachment Z to the ISO OATT, that is proposing to connect to the New York State Transmission System or to the Distribution System to obtain ERIS. The Standard is designed to ensure reliable access by the proposed Project to the New York State Transmission System or to the Distribution System, as applicable. The Standard does not impose any deliverability test or deliverability requirement on the proposed Project.

**NYSRC Reliability Rules:** The reliability rules of the New York State Reliability Council.

**Open Class Year:** Class Year open for new members pursuant to the Class Year Start Date deadline specified in Section 25.5.9 of this Attachment S.

**Other Interfaces:** The following Interfaces into Capacity Regions: Lower Hudson Valley [*i.e.,* Rest of State (Load Zones A-F) to Lower Hudson Valley (Load Zones G, H and I)]; New York City [*i.e.,* Lower Hudson Valley (Load Zones G, H and I) to New York City (Load Zone J)]; and Long Island [*i.e.,* Lower Hudson Valley (Load Zones G, H and I) to Long Island (Load Zone K)], and the following Interfaces between the NYCA and adjacent Control Areas:PJM to NYISO, ISO-NE to NYISO, Hydro-Quebec to NYISO, and Norwalk Harbor (Connecticut) to Northport (Long Island) Cable.

**Overage Cost:** The dollar amount by which the total cost of System Upgrade Facilities identified in the Annual Transmission Reliability Assessment exceeds the total cost of System Upgrade Facilities considered in the Annual Transmission Baseline Assessment for the same Class Year.

**Overage Cost Percentage:** The ratio of the Overage Cost to the total cost of System Upgrade Facilities identified in the Annual Transmission Reliability Assessment.

**Project**: The proposed facility as described in a single Interconnection Request, to the extent permitted by Attachment X or Attachment Z to the ISO OATT, as applicable. For facilities not subject to the ISO’s Large Facility Interconnection Procedures in Attachment X to the ISO OATT or Small Generator Interconnection Procedures in Attachment Z to the ISO OATT, the Project refers to the facility as described in a single Class Year Study Agreement or Expedited Deliverability Studies Agreement, to the extent permitted by Attachment S to the ISO OATT.

**Project Cost Allocation:** The dollar figure estimate for a Developer’s share of the cost of the System Upgrade Facilities required for the reliable interconnection of its Project to the New York State Transmission System or to the Distribution System and/or the share of the cost of the System Deliverability Upgrades required for the Developer’s Project to meet the NYISO Deliverability Interconnection Standard.

**Revised Project Cost Allocation:** The revised dollar figure cost estimate and related information provided by the ISO to a Developer following receipt by the ISO of a Non-Acceptance Notice, or upon the occurrence of a Security Posting Default by another member of the respective Class Year.

**Security:** Under the interconnection facilities cost allocation rules set out in this Attachment S, a Developer must signify its willingness to pay the Connecting Transmission Owner and Affected Transmission Owner(s) for the Developer’s share of the required System Upgrade Facilities and System Deliverability Upgrades by posting Security for the full amount of the Developer’s share within a specified time frame. The Security can be a bond, irrevocable letter of credit, parent company guarantee or other form of security from an entity with an investment grade rating, executed for the benefit of the Connecting Transmission Owner and Affected Transmission Owner(s), meeting the requirements of this Attachment S, and meeting the commercially reasonable requirements of the Connecting Transmission Owner and Affected Transmission Owner(s).

**Security Posting Default:** A failure by one or more Developers to post Security as required by this Attachment S.

**Subsequent Decision Period:** A seven calendar day period within which a Developer must provide an Acceptance Notice or Non-Acceptance Notice to the ISO in response to the Revised Project Cost Allocation issued by the ISO to the Developer.

**System Deliverability Upgrades:** The least costly configuration of commercially available components of electrical equipment that can be used, consistent with Good Utility Practice and Applicable Reliability Requirements, to make the modifications or additions to Byways and Highways and Other Interfaces on the existing New York State Transmission System that are required for the proposed Project to connect reliably to the system in a manner that meets the NYISO Deliverability Interconnection Standard at the requested level of Capacity Resource Interconnection Service.

**System Upgrade Facilities:** The least costly configuration of commercially available components of electrical equipment that can be used, consistent with Good Utility Practice and Applicable Reliability Requirements, to make the modifications to the existing transmission system that are required to maintain system reliability due to: (i) changes in the system, including such changes as load growth, and changes in load pattern, to be addressed in accordance with Section 25.4.1 of this Attachment S; and (ii) proposed interconnections. In the case of proposed interconnections, System Upgrade Facilities are the modifications or additions to the existing New York State Transmission System that are required for the proposed Project to connect reliably to the system in a manner that meets the NYISO Minimum Interconnection Standard.

25.2 Minimum Interconnection Standard

25.2.1 Scope and Purpose of Standard

Each Large Facility and each Small Generating Facility subject to this Attachment S pursuant to Section 32.3.5.3.2 of Attachment Z must be evaluated under the NYISO Minimum Interconnection Standard in a Class Year Study. A Transmission Owner that has constructed a reliability-based transmission or distribution system upgrade, or an upgrade pursuant to an order issued by a regulatory body requiring such construction, will not be deemed to be a Developer under these rules because of the construction of that upgrade.

25.2.1.1 The NYISO Minimum Interconnection Standard is designed to ensure reliable access by the proposed project to the New York State Transmission System and to the Distribution System. The NYISO Minimum Interconnection Standard does not impose any deliverability test or deliverability requirement on the proposed project. Application of these rules, including the Annual Transmission Baseline Assessment and the Annual Transmission Reliability Assessment, to allocate responsibility for the cost of new transmission facilities to permit interconnection is not intended to affect the NYISO Minimum Interconnection Standard.

25.2.1.1.1 Consequently, the Minimum Interconnection Standard is not intended to address in any way the allocation of responsibility for the cost of upgrades and other new facilities associated with transmission service and the delivery of power across the Transmission System, the reduction of Congestion, economic transmission system upgrades, or the mitigation of Transmission System overloads associated with the delivery of power.

25.2.1.1.2 It is not anticipated that the installation of any interconnection facilities covered by the Minimum Interconnection Standard will improve the deliverability of power, reduce Congestion, or mitigate overloads associated with the delivery of power. If the installation of any facilities by a Developer does improve deliverability, reduce Congestion and create Incremental Transmission Congestion Contracts, or mitigate overloads, then that situation will be handled in accordance with the relevant provisions of the ISO OATT, including Sections 3.7 and 4.5, and applicable FERC precedent.

25.3 Deliverability Interconnection Standard

25.3.1 Scope and Purpose of Standard

Each proposed or existing facility larger than 2 MW, and each facility with CRIS that requests an increase to its CRIS, must meet the NYISO Deliverability Interconnection Standard before it can receive CRIS or Unforced Capacity Deliverability Rights, unless otherwise provided for in this Attachment S. For purposes of this Section 25.3.1, a facility comprised of multiple Generators is a single “facility.”

Pursuant to Section 32.1.1.7 of Attachment Z to the OATT, a Small Generating Facility 2 MW or smaller may obtain CRIS without being evaluated for deliverability under the NYISO Deliverability Interconnection Standard. The requirement that a facility not subject to the ISO’s Large Facility Interconnection Procedures or Small Generator Interconnection Procedures must meet the NYISO Deliverability Interconnection Standard to become a qualified Installed Capacity Supplier first applies on May 19, 2016, subject to the transition rule specified in Section 25.9.3.4.1 of this Attachment S.

Any facility with an established CRIS value may, at a later date, without submitting a new Interconnection Request, ask the ISO to reevaluate the facility for a higher level of MW of Installed Capacity, not to exceed the permissible levels of CRIS that may be requested pursuant to Section 25.8.1 of this Attachment S, by entering a Class Year Study or Expedited Deliverability Study to identify requested increase in CRIS MW is deliverable. Any facility with an established CRIS value may, without such evaluation and without submitting a new Interconnection Request, increase its existing CRIS value by a total of no more than 2 MW of Installed Capacity during the operating life of the facility; provided however, for Projects comprised of multiple Generators, this CRIS increase up to 2 MW is permitted only at the facility (*i.e.*, Project) level, not at the individual Generator level. A facility that receives this up to 2 MW CRIS increase, to the extent it later combines with another facility or Project to become a multi-Generator co-located resource (*e.g.*, a Co-located Storage Resource or Distributed Energy Resource), is not eligible for any additional CRIS increase above 2 MW, including the MW of CRIS increase already received pursuant to this Section 25.3.1, without proceeding through a deliverability evaluation in a Class Year Study or Expedited Deliverability Study.

Pursuant to Section 30.3.2.6 of Attachment X to the ISO OATT, an “established CRIS value” for facilities subject to a CRIS set and reset period pursuant to Sections 25.9.3.3, 25.9.3.1.4.1, 25.9.3.1.4.2, or 25.9.3.5 of this Attachment S is the final CRIS value established after the termination of the CRIS set and reset period.

As defined in Section 25.1 of this Attachment S, the term “Large Facility” includes a Class Year Transmission Project. A Class Year Transmission Project, as such term is defined in Section 25.1 of this Attachment S, includes any proposed new transmission facility that will interconnect to the New York State Transmission System or a proposed upgrade—an improvement to, addition to, or replacement of a part of an existing transmission facility—to the New York State Transmission System, for which (1) the Developer is eligible to request and does request CRIS—in the form of Unforced Capacity Deliverability Rights or External-to-ROS Deliverability Rights, as applicable, subject to the eligibility requirements set forth in the ISO Procedures; or (2) the Developer requests only ERIS and the transmission facility for which it requests ERIS is a transmission facility over which power flow can be directly controlled by power flow control devices directly connected to the Class Year Transmission Project without having to re-dispatch generation. Class Year Transmission Projects shall not include Attachment Facilities, Network Upgrade Facilities, System Upgrade Facilities or System Deliverability Upgrades.

25.3.1.1 The NYISO Deliverability Interconnection Standard is designed to ensure that the Project is deliverable throughout the New York Capacity Region(s) where the Project will interconnect or is interconnected. The NYISO Deliverability Interconnection Standard is also designed to ensure that the Developer of the Project restores the transfer capability of any Other Interfaces degraded by its interconnection.

25.3.1.2. Each Project electing CRIS will be allowed to become an Installed Capacity Supplier, or will be allowed to receive Unforced Capacity Deliverability Rights or External-to-ROS Deliverability Rights, in accordance with the rules of the New York Installed Capacity market, up to the amount of its deliverable capacity, as that amount is determined in accordance with the rules in this Attachment S, once the Developer of the Project has funded or committed to fund any required System Deliverability Upgrades in accordance with the rules in this Attachment S.

25.4 Interconnection Facilities Covered by Attachment S

25.4.1 Interconnection Standards

The interconnection facilities covered by these cost allocation rules are (i) those required for the proposed project to reliably interconnect to the New York State Transmission System or to the Distribution System in a m**a**nner that meets the NYISO Minimum Interconnection Standard for ERIS, and (ii) those required for the project to meet the NYISO Deliverability Interconnection Standard for CRIS.

25.4.2 Interconnection Facilities

The interconnection facilities covered by these cost allocation rules are comprised of the following types of facilities: Attachment Facilities, Distribution Upgrades, System Upgrade Facilities and System Deliverability Upgrades.

25.5 Class Year Study and Expedited Deliverability Study Processes

25.5.1 Side Agreements

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

25.5.2 Costs Covered By Attachment S

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

25.5.3 Dispatch Costs

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

25.5.4 Transmission Owners’ Cost Recovery

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

25.5.5 Existing System Representation

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

25.5.5.1 For Class Years subsequent to Class Year 2017: (i) the following facilities included in the ISO’s most recent NYISO Load and Capacity Data Report: all generation identified as existing and all transmission facilities identified as existing and/or firm, excluding those facilities that are subject to Class Year cost allocation but for which Class Year cost allocations have not been accepted; (ii) all proposed Projects, together with their associated System Upgrade Facilities and System Deliverability Upgrades, that have accepted their cost allocation in a prior Class Year cost allocation process; provided however, that System Deliverability Upgrades where construction has been deferred pursuant to Sections 25.7.12.2 and 25.7.12.3 of this Attachment S will only be included if construction of the System Deliverability Upgrades has been triggered under Section 25.7.12.3 of this Attachment S; (iii) all generation and transmission retirements and derates identified in the Load and Capacity Data Report as scheduled to occur during the five-year cost allocation study planning period; and (iv) Transmission Projects that are proposed under Attachments Y or FF of the ISO OATT and have met the following milestones prior to the Class Year Start Date: (1) have been triggered under the Reliability Planning Process, selected under the Short-Term Reliability Process, selected under the Public Policy Transmission Planning Process, or approved by beneficiaries under the Economic Planning Process); and (2) have a completed System Impact Study; (3) have a determination pursuant to Article VII that the Article VII application filed for the facility is in compliance with Public Service Law §122 (*i.e.*, “deemed complete”) (if applicable); and (4) are making reasonable progress under the applicable OATT Attachments Y or FF planning process; (v) Transmission Projects that are not proposed under Attachments Y or FF to the ISO OATT that have completed a Facilities Study and posted Security for Network Upgrade Facilities as required in Section 22.11.1 of Attachment P to the ISO OATT and have a determination pursuant to Article VII that the Article VII application filed for the facility is in compliance with Public Service Law §122 (*i.e.*, “deemed complete”) (if applicable); (vi) transmission projects not subject to the Transmission Interconnection Procedures or the Attachment X and S interconnection procedures (*i.e.*, new transmission facilities or upgrades proposed by a Transmission Owner in its Local Transmission Owner Plan or NYPA transmission plan) identified as “firm” by the Connecting Transmission Owner and either (1) have commenced a Facilities Study (if applicable) and have an Article VII application deemed complete (if applicable); or (2) are under construction and scheduled to be in-service within 12 months after the Class Year Start Date and (vii) all other changes to existing facilities, other than changes that are subject to Class Year cost allocation but that have not accepted their Class Year cost allocation, that are identified in the Load and Capacity Data Report or reported by Market Participants to the ISO as scheduled to occur during the five year cost allocation study planning period. Facilities in a Mothball Outage, an ICAP Ineligible Forced Outage, or Inactive Reserves will be modeled as in, and not removed from, the Existing System Representation. If the ISO has triggered multiple Transmission Projects under its Reliability Planning Process, the ISO will include in the base case the selected Transmission Project until or unless that project is halted or its Development Agreement is terminated, in which case the ISO will include in the base case the regulated backstop solution. The point of interconnection of a Retired generator with a terminated interconnection agreement is available to proposed facilities on a non-discriminatory basis pursuant to the ISO’s applicable interconnection and transmission expansion processes and procedures.  A Retired generator with an interconnection agreement that remains in effect after it is Retired will retain its right to the specific point of interconnection as provided for in the interconnection agreement and access to this point will not available for new facilities.

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

25.5.5.3 System Upgrade Facilities not listed on Exhibit A to the Financial Settlement, but for which cost allocations have been accepted in a prior Class Year cost allocation process, shall be represented in the Existing System Representation for subsequent cost allocation studies in the year of their anticipated in-service date.

25.5.6 Attachment Facilities

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

25.5.7 Distribution Upgrades

Each Developer is responsible for 100% of the cost of the Distribution Upgrades required for the reliable interconnection of its Project in compliance with the NYISO Minimum Interconnection Standard, as that responsibility is determined by these rules.

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

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

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

25.5.9.1 Class Year Start Date, Entry Requirements and Schedule

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

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

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

(1) elect to enter the applicable Class Year by providing notice to the ISO, together with (i) a demonstration that the Project satisfies the applicable regulatory milestones described in Section 25.6.2.3.1.1 of Attachment S or (ii) notice that it will submit a qualifying contract pursuant to Section 25.6.2.3.1 of this Attachment S or a two-part deposit consisting of $100,000 plus $3,000/MW deposit as required by Section 25.6.2.3.1, no later than five (5) Business Days following the ISO’s posting of the Class Year Start Date; and

(2) satisfy the criteria for inclusion in the next Class Year, on or before the Class Year Start Date, as those criteria are specified in Section 25.6.2.3.1 of this Attachment S, Section 32.1.1.7 of Attachment Z to the OATT or Section 32.3.5.3.2 of Attachment Z to the OATT, as applicable; and

(3) if requesting only CRIS, have completed one of the following on or before the Class Year Start Date, as applicable: a Class Year Study for ERIS, a System Impact Study under the Small Generator Interconnection Procedures, or a utility interconnection study if the Project is not subject to the ISO interconnection procedures under Attachments X and Z.

Upon a Developer’s satisfaction of the Class Year Study eligibility criteria specified in this 25.5.9.1, the ISO will tender a Class Year Study Agreement to the Developer pursuant to Section 30.8.1 of Attachment X to the OATT. An Eligible Class Year Project that satisfies the requirements of Section 30.8.1 of Attachment X to the OATT as it relates to completion of a Class Year Study Agreement, submission of required technical data and updated In-Service Date, Initial Synchronization Data and Commercial Operation Date, and submission of required deposits, all within 10 Business Days of the tender of the Class Year Study Agreement, will become a Class Year Project.

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

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

Through the Interconnection Projects Facilities Study Working Group and/or the Transmission Planning Advisory Subcommittee distribution lists, the ISO will provide the anticipated Class Year Schedule, including the status of and anticipated completion date of the Annual Transmission Baseline Assessment study cases.

25.5.9.2 Expedited Deliverability Study Process

25.5.9.2.1 Study Start Date, Entry Requirements and Schedule

The start date for the first Expedited Deliverability Study will be the first Business Day after thirty (30) Calendar Days following February 18, 2020. After the completion of the initial Expedited Deliverability Study, each Expedited Deliverability Study will begin the first Business Day after thirty (30) Calendar Days following the completion of the prior Expedited Deliverability Study; provided however, an Expedited Deliverability Study may not commence during the period between the posting of the draft Class Year Study report for Operating Committee approval and commencement of the next Class Year Study. If the first Business Day after thirty (30) Calendar Days following the completion of the prior Expedited Deliverability Study falls on a date within the above-described Class Year decision and settlement period, the Expedited Deliverability Study will begin on the first Business Day after ten (10) Calendar Days following the Class Year Study Start Date immediately following the above-described Class Year decision and settlement period.

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

In order to become eligible to enter an Expedited Deliverability Study, a Developer must (1) elect to enter the Expedited Deliverability Study by providing notice to the ISO by the Expedited Deliverability Study start date; (2) must have satisfied the data submission requirements set forth in Section 23.4.5.7.3.6 of the ISO Services Tariff required for Class Year Projects requesting CRIS in a Mitigated Capacity Zone and have such data submission deemed complete by the ISO by the Expedited Deliverability Study start date; and (3) must be in service or have completed one of the following, as applicable: a Class Year Study for ERIS, a System Impact Study under the Small Generator Interconnection Procedures, or a utility interconnection study if the facility is not subject to the ISO interconnection procedures under Attachments X and Z. A Project that satisfies the eligibility requirements for an Expedited Deliverability Study will become a member of the Expedited Deliverability Study if it satisfies the requirements of Section 25.5.9.2.2 of this Attachment S as it relates to completion of an Expedited Deliverability Study Agreement, submission of the required deposit, and submission of required technical data.

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

25.5.9.2.2 Expedited Deliverability Study Agreement

As soon as practicable after a Developer has notified the ISO of its request to enter the next Expedited Deliverability Study, the ISO shall tender an Expedited Deliverability Study Agreement in the form of Appendix 2 to this Attachment S. When the ISO tenders an Expedited Deliverability Study Agreement to a Developer, the ISO shall, at the same time, also provide one to the applicable Connecting Transmission Owner. The Expedited Deliverability Study Agreement shall provide that the Developer shall compensate the ISO for the actual cost of the Expedited Deliverability Study. When the ISO tenders the Expedited Deliverability Study Agreement to the requesting Developer, the ISO shall provide to the Developer a non-binding good faith estimate of the cost and timeframe for completing the Expedited Deliverability Study. Within ten (10) Business Days after the ISO tenders the Expedited Deliverability Study Agreement, the Developer shall complete the Expedited Deliverability Study Agreement and deliver the completed agreement to the ISO. Developer shall indicate, in the data form attached to the Expedited Deliverability Study Agreement, the MW level of requested CRIS up to the levels permitted by Section 25.8.1 of this Attachment S. Developer shall, with the completed Expedited Deliverability Study Agreement, deliver to the ISO (1) the required technical data and (2) a study deposit of $30,000. The Developer, ISO and Connecting Transmission Owner shall execute the Expedited Deliverability Study Agreement no later than ten (10) Calendar Days after the ISO confirms receipt of the executed Expedited Deliverability Study Agreement, the required technical data and required deposit from the Developer. The ISO shall provide a copy of the fully executed Expedited Deliverability Study Agreement to the Developer and Connecting Transmission Owner. The ISO shall invoice the Expedited Deliverability Study Developer on a monthly basis for the work conducted on the Expedited Deliverability Study. Each Developer shall pay an equal share of the actual cost of the combined Expedited Deliverability Study. The Developer shall pay invoiced amounts within thirty (30) Calendar Days of receipt of invoice. The ISO shall continue to hold the amounts on deposit in an interest bearing account associated with the Developer until settlement of the final invoice.

25.5.9.2.3 Expedited Deliverability Study Procedures

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

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

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

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

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

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

25.5.9.2.4 Expedited Deliverability Study Decision Process

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

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

25.5.10 Additional SDU Studies

25.5.10.1 Notice of SDUs Requiring Additional Studies

If a new System Deliverability Upgrade is identified (*i.e.*, a System Deliverability Upgrade not previously identified and cost allocated in a Class Year Study and not substantially similar to a System Deliverability Upgrade previously identified and cost allocated in a Class Year Study), the ISO will notify all members of the ISO’s Interconnection Projects Facilities Study Working Group that the ISO has made such a determination, such notice to be provided as soon as practicable after the ISO presents the preliminary Class Year Deliverability Study results to stakeholders and the ISO Operating Committee approves such results. This notice will be referred to as the “Notice of SDUs Requiring Additional Study.” At the same time the ISO issues the Notice of SDUs Requiring Additional Study, the ISO will issue a notice to only those Class Year Project Developers for which the ISO has identified System Deliverability Upgrades requiring additional SDU studies. Each Developer to which such notice is issued shall respond to the ISO within 10 Calendar Days to indicate whether it elects to (1) proceed or not proceed with an Additional SDU Study for the identified System Deliverability Upgrades; or (2) pursue one of multiple System Deliverability Upgrade alternatives identified by the ISO, which option Developer elects to be evaluated in the Additional SDU Study. If the Developer does not elect to pursue an Additional SDU Study for required System Deliverability Upgrades, it may only accept or reject its Deliverable MW, if any, in the Class Year Study. If the ISO does not receive the Developer’s election by the deadline, the Developer will be deemed to have (1) notified the ISO that it elects to not proceed with an Additional SDU Study for the identified System Deliverability Upgrades; and (2) will only be permitted to accept or reject its Deliverable MW, if any, in the Class Year Study.

25.5.10.2 Additional SDU Studies

If no Class Year Project Developer to which the Notice of SDUs Requiring Additional Study is issued elects to proceed with such additional studies, the Class Year Study will proceed to the decision and settlement phase set forth in Section 25.8.2 of this Attachment S. Alternatively, if any Class Year Project Developer to which the Notice of SDUs Requiring Additional Study is issued elects to proceed with such additional studies, the Class Year Study will proceed to the decision and settlement phase set forth in Section 25.8.2 of this Attachment S; however, the Additional SDU Study will be performed separate and apart from the Class Year Study; provided however, pursuant to Section 25.8.2 of this Attachment S, a Developer that elects to proceed with an Additional SDU Study has the option to proceed with the decision and settlement phase with the rest of the Class Year for its SUF Project Cost Allocation and deliverable MW, if any.

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

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

(1) The Developer will be required to enter a subsequent Class Year Study (*i.e.*, a Class Year Study subsequent to the one in which the Additional SDU Study was triggered) if it wishes to obtain an SDU Project Cost Allocation for its requested CRIS.

(2) The Developer’s election to enter a subsequent Class Year Study is subject to the applicable entry requirements of Section 25.5.9 and Section 30.8.1 of Attachment X; provided, however, a Developer that elects to enter the first such subsequent Class Year Study (*i.e.*, the first Class Year Study that commences after the Additional SDU Study commences) may provide notice of its election to enter such subsequent Class Year Study on or before completion of the Annual Transmission Baseline Assessment study cases for the subsequent Class Year Study.

(3) Election to enter into a subsequent Class Year Study will not constitute one of the two Class Years a Project may enter under Section 25.6.2.3.4 of Attachment S; provided, however, if the Developer enters a subsequent Class Year Study but rejects its SDU Project Cost Allocation for its requested CRIS, such action will constitute one of the two Class Years;

(4) In a subsequent Class Year Study to evaluate the Developer’s requested CRIS, the Additional SDU Studies will continue; provided, however, the base case used in the Additional SDU Studies will be updated based on the base case inclusion rules for that Class Year Study determined in accordance with Section 25.5.5.1 of this Attachment S.

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

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

25.6 Class Year Study Cost Allocation Methodology For ERIS

25.6.1 Cost Allocation Between Developers and Connecting Transmission Owners (ATBA)

The cost of System Upgrade Facilities is first allocated between Developers and Connecting Transmission Owners, in accordance with the rules that are discussed below in this Section 25.6.1.

25.6.1.1 The cost of System Upgrade Facilities is allocated between Developers and Connecting Transmission Owners based upon the results of an Annual Transmission Baseline Assessment of the five-year need for System Upgrade Facilities. The Annual Transmission Baseline Assessment, as described in these rules, will be conducted by the ISO staff in cooperation with Market Participants. No Market Participant will have decisional control over any determinative aspect of the Annual Transmission Baseline Assessment. The ISO and its staff will have decisional control over the entire Annual Transmission Baseline Assessment. If, at any time, the ISO staff decides that it needs specific expert services from entities such as Market Participants, consultants or engineering firms for it to conduct the Annual Transmission Baseline Assessment, then the ISO will enter into appropriate contracts with such entities for such input. As it conducts each Annual Transmission Baseline Assessment, the ISO staff will provide regularly scheduled status reports and working drafts, with supporting data, to the Operating Committee to ensure that all affected Market Participants have an opportunity to contribute whatever information and input they believe might be helpful to the process. Each completed Annual Transmission Baseline Assessment will be reviewed and approved by the Operating Committee. Each Annual Transmission Baseline Assessment is reviewable by the ISO Board of Directors in accordance with provisions of the Commission-approved ISO Agreement.

25.6.1.1.1 The purpose of the Annual Transmission Baseline Assessment is to identify the System Upgrade Facilities that Transmission Owners are expected to need during the five-year period covered by the Assessment to reliably meet the load growth and changes in the load pattern projected for the New York Control Area, with cost estimates for the System Upgrade Facilities.

25.6.1.1.1.1 Procedure for Annual Transmission Baseline Assessment

The procedure used to identify the System Upgrade Facilities that will ensure that New York State Transmission System facilities are sufficient to reliably serve existing load and meet load growth and changes in load patterns in compliance with NYSRC Reliability Rules, NPCC Basic Design and Operating Criteria, NERC Planning Standards, ISO rules, practices and procedures, and the Connecting Transmission Owner criteria included in FERC Form No. 715 (collectively “Applicable Reliability Requirements”). In order for the ISO to recognize any revisions to Connecting Transmission Owner criteria as Applicable Reliability Requirements under this Attachment S or Applicable Reliability Standards under Attachments X and Z, the Connecting Transmission Owner shall present proposed revisions to such criteria to the Operating Committee or one of its subcommittees. To the extent such revised criteria are not inconsistent with Order No. 2003 or the ISO’s interconnection procedures set forth in Attachments S, X and Z to the OATT, the ISO will accept such revised criteria. The procedure will use the Applicable Reliability Requirements in effect when the Annual Transmission Baseline Assessment is commenced. The procedure will be:

25.6.1.1.1.1.1 The ISO staff will first develop the Existing System Representation.

25.6.1.1.1.1.2 The ISO staff will then utilize the Existing System Representation to develop existing system improvement plans with each Transmission Owner. These improvement plans will use ISO data from the annual NYISO Load and Capacity Data Report to project system load growth and changes in load patterns, including those that reflect demand side management, and will identify the System Upgrade Facilities needed year-by-year for the existing system to reliably serve projected load in the Transmission Owner’s Transmission District for a five-year period. The ISO staff will integrate these existing system improvement plans into the Annual Transmission Baseline Assessment to ensure that the System Upgrade Facilities needed for a five-year period are identified on a New York State Transmission System-wide basis. The Annual Transmission Baseline Assessment will identify each anticipated System Upgrade Facility project, its estimated cost, its anticipated in-service date, and the status of the project (in construction, budget approval received, budget approval pending).

25.6.1.1.1.1.3 The ISO will identify in the Annual Transmission Baseline Assessment the System Upgrade Facilities needed to reliably meet projected load growth and changes in load pattern without the interconnection of any proposed Developer Projects, except for those proposed Projects included in the Existing System Representation pursuant to Section 25.5.5.

25.6.1.1.1.1.4 ISO staff will perform thermal, voltage, and stability analyses, as appropriate, to determine the normal and emergency transfer capabilities of the statewide existing system. To the extent local thermal, voltage, and stability analyses were performed during a Large Facility’s SRIS, such analyses will be relied upon in the Class Year Study, including the identification of System Upgrade Facilities required to mitigate adverse impacts under the NYISO Minimum Interconnection Standard. Estimates for the cost and timing to construct System Upgrade Facilities identified in the SRIS to mitigate local thermal, voltage or stability issues will be refined in the Class Year Study.

25.6.1.1.1.1.5 ISO staff will rely on the most recent resource reliability analysis of the existing system. If no Reliability Needs are required under the study assumptions used in the most recent resource reliability analysis, the existing system will be deemed to meet Applicable Reliability Requirements for purposes of the Class Year Study.

25.6.1.1.1.1.6 If the transmission and generation facilities included in the Existing System Representation, combined with previously approved and accepted System Upgrade Facilities, are insufficient to meet Applicable Reliability Requirements on a year by year basis, then the ISO staff will develop feasible generic solutions that satisfy the Applicable Reliability Requirements, in accordance with Section 25.6.1.2, below.

25.6.1.1.1.1.7 If the existing system meets Applicable Reliability Requirements, the ISO staff will perform short circuit analysis to determine whether there is sufficient interrupting capability in the existing system. If there are any breaker overloads, the ISO staff will determine the System Upgrade Facilities needed to mitigate the short circuit overloads.

25.6.1.1.1.1.8 A reassessment of Sections 25.6.1.1.1.1.4 through 25.6.1.1.1.1.6 shall be reassessed and, to the extent required by Good Utility Practice, repeated if the improvement plan impacts the transmission transfer capability of the system. The results of the short circuit analysis will be treated in the same manner as the results of thermal, voltage and stability analyses for all purposes under these cost allocation rules.

25.6.1.1.1.1.9 Each Annual Transmission Baseline Assessment conducted by ISO staff will be reviewed and approved by the Operating Committee, and its effectiveness will be subject to the approval of the Operating Committee. In its report to the Operating Committee, the ISO shall explain its reasons for all of its recommendations.

25.6.1.1.1.1.10 Each most recently completed Annual Transmission Baseline Assessment will be reviewed the following year by the ISO staff and updated, as necessary, following the criteria and procedures described herein.

25.6.1.2 In developing solutions as required by Section 25.6.1.2.6, the ISO will, as it develops its own generic solutions, also utilize the following procedures.

25.6.1.2.1 The ISO will first select as generic solutions proposed Class Year Developer Projects sufficient to meet Applicable Reliability Requirements on a year by year basis. If a proposed Class Year Developer project is larger than necessary, the ISO shall select that portion or segment of the project that is sufficient to meet but not exceed Applicable Reliability Requirements. If the proposed Developer project is not capable of being segmented or if the Developer project cannot meet Applicable Reliability Requirements on a year by year basis, the ISO shall not select it.

25.6.1.2.2 If the generation and transmission facilities included in the Existing System Representation, together with any proposed Developer Projects that qualify as solutions pursuant to Section 25.6.1.2.1, above, are not sufficient to meet Applicable Reliability Requirements, the ISO shall complete the development of its own generic solutions, taking into account any generic solutions proposed pursuant to Section 25.6.1.2.3, below, for inclusion in the ATBA.

25.6.1.2.3 Market Participants may also propose generic solutions for inclusion in the ATBA. The Market Participant proposing such solutions shall provide the ISO with all data necessary for the ISO to determine the feasibility of such proposed generic solutions.

25.6.1.2.4 The ISO shall develop and consider alternative sets of proposed generic solutions that fairly represent the range of feasible solutions to Applicable Reliability Requirements.

25.6.1.2.5 The ISO shall determine the feasibility of additional generic solutions developed pursuant to Sections 25.6.1.2.2, 25.6.1.2.3 and 25.6.1.2.3, according to the following criteria:

25.6.1.2.5.1 The ISO shall select only solutions that are based on proven technologies that have actually been licensed and financed, are under construction or have already been built in similar locations.

25.6.1.2.5.2 The ISO shall select as additional generic solutions only facilities that can reasonably be placed in service in time to meet Applicable Reliability Requirements on a year by year basis. In making this determination, the ISO shall consider the size and type of facility, access to fuel, access to transmission facilities, transmission upgrade requirements, construction time, and Good Utility Practice.

25.6.1.2.6 The ISO will submit its proposed generic solutions and the alternatives that it considered to Market Participants and to an independent expert for review and will make the results of the expert’s review available to Market Participants. The independent expert shall review the feasibility of the proposed generic solutions developed pursuant to Sections 25.6.1.2.2, 25.6.1.2.3 and 25.6.1.2.3, and of generic solutions based on the segmentation of any Class Year developer Projects under Section 25.6.1.2.1, according to the criteria set forth in Section 25.6.1.2.5.

25.6.1.2.6.1 If the independent expert concludes that one or more generic is not feasible, the ISO shall eliminate that solution from further review.

25.6.1.2.6.2 If the ISO does not adopt the expert’s recommendations, it will state in its report to the Operating Committee its reasons for not adopting those recommendations.

25.6.1.2.7 Subject to Section 25.6.1.2.7, below, in the event that more than one generic solution or set of solutions satisfies the feasibility requirement of Section 25.6.1.2.7, the ISO shall compare the System Upgrade Facilities that would be necessary to interconnect each such generic solution and shall adopt the solution that is most consistent with Good Utility Practice. For these purposes, in comparing alternative solutions, a generic solution that satisfies sub-load pocket deficiencies shall normally be selected first.

25.6.1.2.7.1 The ISO shall be responsible for determining whether any generic solution or proposed Developer Project meets Applicable Reliability Requirements.

25.6.1.3 With the exception of those upgrades that were previously allocated to, and accepted by Developer Projects as a part of the Annual Transmission Reliability Assessment in the Final Decision Round of previous Class Years, Developers are not responsible for the cost of any System Upgrade Facilities that are identified in the Annual Transmission Baseline Assessment, or any System Upgrade Facilities that resolve in whole or in part a deficiency in the system identified in the Annual Transmission Baseline Assessment.

25.6.1.4 Developers are responsible for 100% of the cost of the System Upgrade Facilities, not already identified in the Annual Transmission Baseline Assessment that are needed as a result of their Projects, and required for their Projects to reliably interconnect to the transmission system in a manner that meets the NYISO Minimum Interconnection Standard. The System Upgrade Facilities necessary to accommodate Developer Projects will be determined by the Interconnection Facilities Studies and the Annual Transmission Reliability Assessment. The criteria and procedures that will be followed to conduct the Annual Transmission Reliability Assessment are discussed below.

25.6.1.4.1 If a Connecting Transmission Owner or Developer elects to construct System Upgrade Facilities that are larger or more extensive than the minimum facilities required to reliably interconnect the proposed project, and are reasonably related to the interconnection of the proposed project, then the Connecting Transmission Owner or Developer is responsible for the cost of those System Upgrade Facilities in excess of the minimum System Upgrade Facilities required by the Developer Projects. If there is Headroom associated with these larger System Upgrade Facilities and a Developer of any subsequent project interconnects and uses the Headroom within ten years of its creation, such subsequent Developer shall pay the Connecting Transmission Owner or the Developer for this Headroom in accordance with these rules, including Section 25.8.7, below.

25.6.1.5 The System Upgrade Facilities cost for which a Developer is responsible will be determined on a “net” basis; that is, the Developer’s System Upgrade Facilities cost will be determined net of the benefits, or System Upgrade Facility cost reductions, that result from the construction and operation of its project and the related upgrades. The net cost responsibility of a Developer will not be less than zero. Also, the cost responsibility of the Connecting Transmission Owner for System Upgrade Facilities will be no greater than it would have been without the Developer’s project. Specifically, the Connecting Transmission Owner shall not be required to pay (in total) more than 100% of the cost of installing a specific piece of equipment.

25.6.1.5.1 The purpose of this approach is to allocate to the Developer the responsibility for the cost of the net impact of its project on the needs of the transmission system for System Upgrade Facilities. Thus, a Developer is responsible for the cost of the System Upgrade Facilities that are required by, or caused by, its project. A Developer is not responsible for the cost of System Upgrade Facilities that would be required anyway, without the construction of its project. If a Developer’s project reduces the cost of System Upgrade Facilities that would be required anyway, that beneficial cost reducing impact will be recognized.

25.6.1.5.2 The net System Upgrade Facilities cost and cost reduction benefits of a Developer’s project are determined by ISO staff comparing and netting the results of an Annual Transmission Baseline Assessment with the corresponding Annual Transmission Reliability Assessment in accordance with these rules.

25.6.1.5.3 The net System Upgrade Facilities cost and cost reduction benefits of a Developer’s project are comprised of those costs and cost reduction benefits caused by (1) the construction of System Upgrade Facilities not contained in the Annual Transmission Baseline Assessment, and (2) eliminating or reducing the need for the construction of System Upgrade Facilities contained in the Annual Transmission Baseline Assessment, due to the construction of System Upgrade Facilities associated with the proposed project.

25.6.1.5.4 The Developer’s net cost responsibility will be determined using constant dollars. That is, when netting the cost of System Upgrade Facilities required for its project, as identified in the Annual Transmission Reliability Assessment, with those identified in the Annual Transmission Baseline Assessment, the cost of System Upgrade Facilities in the out-years of the Annual Transmission Baseline Assessment and the out-years of the Annual Transmission Reliability Assessment will be discounted to a current year value for netting. The cost of out-year System Upgrade Facilities will be discounted to a current value using the weighted average cost of capital of the Connecting Transmission Owner.

25.6.2 Cost Allocation Among Developers (ATRA)

The Developers’ share of the cost of System Upgrade Facilities is allocated among Developers based upon the ISO Annual Transmission Reliability Assessment. The Annual Transmission Reliability Assessment will be conducted by ISO staff to ensure New York State Transmission System compliance with Applicable Reliability Requirements. The ISO staff will conduct the Annual Transmission Reliability Assessment, as described in these rules, in cooperation with Market Participants. No Market Participant will have decisional control over any determinative aspect of the Annual Transmission Reliability Assessment. The ISO and its staff will have decisional control over the entire Annual Transmission Reliability Assessment. If, at any time, the ISO staff decides that it needs specific expert services from entities such as Market Participants, consultants or engineering firms for it to conduct the Annual Transmission Reliability Assessment, then the ISO will enter into appropriate contracts with such entities for such input. As it conducts each Annual Transmission Reliability Assessment, the ISO staff will provide regularly scheduled status reports and working drafts, with supporting data, to the Operating Committee to ensure that all affected Market Participants have an opportunity to contribute whatever information and input they believe might be helpful to the process. Each completed Annual Transmission Reliability Assessment will be reviewed and approved by the Operating Committee. Each Annual Transmission Reliability Assessment is reviewable by the ISO Board of Directors in accordance with the provisions of the Commission-approved ISO Agreement.

25.6.2.1 The Annual Transmission Reliability Assessment for each Class Year will identify the System Upgrade Facilities required for all Class Year Projects, with cost estimates for the System Upgrade Facilities. The System Upgrade Facilities identified through the Annual Transmission Reliability Assessment will only be those System Upgrade Facilities that are not already included in an Annual Transmission Baseline Assessment.

25.6.2.2 For each Annual Transmission Reliability Assessment, the ISO will utilize the Existing System Representation used for the corresponding Annual Transmission Baseline Assessment.

25.6.2.3 Each Annual Transmission Reliability Assessment will update the results of Interconnection System Reliability Impact Studies that have previously been performed for certain proposed Projects.

25.6.2.3.1 Subject to the additional requirements in Sections 25.6.2.3.2 - 25.6.2.3.4, below, a Large Facility is eligible to have its project included in a given Class Year Study (*i.e.,* become a Class Year Project), if on or before the Class Year Start Date (i) the Operating Committee has approved (1) an Interconnection System Reliability Impact Study for the project performed pursuant to Attachment X of the ISO OATT or (2) a System Impact Study for the project performed pursuant to Attachment P to the ISO OATT, and (ii) the regulatory milestone has been satisfied in accordance with Sections 25.6.2.3.1.1, 25.6.2.3.1.2, or 25.6.2.3.1.3; provided, however, in lieu of satisfying a regulatory milestone by the Class Year Start Date, the Large Facility can, on or before the date by which a Developer is required to return a completed Class Year Interconnection Facilities Study Agreement pursuant to Section 30.8.1 of Attachment X to the OATT, either:

(1) demonstrate that the Developer has obtained for the Project (a) a New York State Energy Research and Development Authority (“NYSERDA”) Renewable Portfolio Standard agreement, (b) a NYSERDA Renewable Energy Certificate agreement (c) a NYSERDA Market Acceleration Incentive agreement, or (d) a power purchase agreement for the full output of the Large Facility; or

(2) submit a two-part deposit consisting of $100,000, and $3,000/MW for the requested ERIS of the Large Facility, or the requested ERIS of one or more Generators in a multi-unit Large Facility, for which the Project has not (1) obtained a NYSERDA or power purchase agreements specified above; or (2) satisfied a regulatory milestone set forth in Section 25.6.2.3.1 (*e.g.*, for a Co-located Storage Resource for which the Developer has only satisfied the regulatory milestone for the Energy Storage Resource but not the Intermittent Power Resource, the Developer may submit $100,000 and $3,000/MW for the requested ERIS of the Intermittent Power Resource).

The $100,000 portion of the deposit submitted pursuant to subsection (ii)(2) of this Section 25.6.2.3.1 will be fully refundable if, within twelve months after the Class Year Start Date or the Operating Committee’s approval of the Class Year Study, whichever occurs first, the Developer satisfies an applicable regulatory milestone and provides the ISO with adequate documentation that the Large Facility has satisfied an applicable regulatory milestone. The $3,000/MW deposit will be fully refundable upon the earlier of (a) the Large Facility’s satisfaction of an applicable regulatory milestone; (b) the Large Facility’s withdrawal from the Class Year Study, to the extent permitted by this Attachment S and by Attachment X to the ISO OATT; (c) the Large Facility’s rejection of its Project Cost Allocation for System Upgrade Facilities in a Class Year Study; (d) the Large Facility’s withdrawal from the ISO’s interconnection queue; or (e) the Large Facility’s acceptance of its Project Cost Allocation and posting of Security for System Upgrade Facilities in a Class Year Study. Upon a Large Facility’s withdrawal from the ISO’s interconnection queue, the $3,000/MW deposit will be fully refundable with interest actually earned. For Class Year 2019, the $3,000/MW deposit will be fully refundable for Projects that satisfy (ii)(1) of this Section 25.6.2.3.1. on or before March 1, 2020. The requirements set forth in this Section 25.6.2.3.1 do not apply to Projects that elect to enter a Class Year Study solely for the purpose of requesting CRIS.

25.6.2.3.1.1 The Developer must obtain or achieve at least one of the regulatory determinations or actions for the Large Facility, including all Generators for a multi-unit Large Facility, described in this Section 25.6.2.3.1.1. To satisfy the regulatory milestone, an applicable regulatory body (*e.g*., local, state, or federal) must determine that the permitting application submitted to site and construct the Large Facility is complete, as described below:

25.6.2.3.1.1.1 In connection with the Large Facility’s air or water permit application, either (i) a notice of determination of completeness mailed to the applicant by the New York State Department of Environmental Conservation (“DEC”) pursuant to 6 NYCRR § 621.6(c), as may be amended from time to time, or public notice of a complete application in the Environmental Notice Bulletin, or (ii) in the absence of such notices, a demonstration that the permit application is deemed to be complete pursuant to 6 NYCRR § 621.6(h), as may be amended from time to time.

25.6.2.3.1.1.2 A negative declaration issued for the Large Facility pursuant to the New York State Environmental Quality Review Act (“SEQRA”) by (i) the lead agency if the review is conducted in a coordinated manner or (ii) one of the involved agencies if the review is conducted in an uncoordinated manner pursuant to the implementing regulations for SEQRA in [the New York Codes, Rules and Regulations (“NYCRR”) at 6 NYCRR Part 617.6](https://govt.westlaw.com/nycrr/Browse/Home/NewYork/NewYorkCodesRulesandRegulations?guid=Ifb3e6cb0b5a011dda0a4e17826ebc834&originationContext=documenttoc&transitionType=Default&contextData=%28sc.Default%29" \t "_blank)(b)(4), as amended from time to time.

25.6.2.3.1.1.3 Under SEQRA, either (i) a determination by the lead agency, documented in minutes or other official records, that the Draft Environmental Impact Statement for the Large Facility is adequate for public review, (ii) a notice of completion of a Draft Environmental Impact Statement for the project issued by the lead agency pursuant to SEQRA, or (iii) public notice of completion in the Environmental Notice Bulletin.

25.6.2.3.1.1.4 A determination pursuant to Article VII that the Article VII application filed for the Class Year Transmission Project or for a transmission portion of the Large Facility is in compliance with Public Service Law §122.

25.6.2.3.1.1.5 A Notice of Availability of a Draft Environmental Impact Statement for the Large Facility filed with the U.S. Environmental Protection Agency pursuant to the National Environmental Policy Act of 1969 (“NEPA”) and its implementing regulations.

25.6.2.3.1.1.6 A final Finding of No Significant Impact for the project issued by the lead agency pursuant to NEPA and its implementing regulations.

25.6.2.3.1.1.7 For a Large Generator that is larger than 25 MW, a determination pursuant to Article 10 of the Public Service Law that the Article 10 application filed for the Large Generator is in compliance with Public Service Law § 164.

25.6.2.3.1.1.8 For a Large Generator, a determination pursuant to Section 94-C(5)(b) of the Executive Law that an application filed for a major renewable energy facility is deemed complete.

25.6.2.3.1.1.9 For a Large Generator that is an offshore wind facility on the outer continental shelf, a construction and operations plan deemed sufficient by the Bureau of Ocean Energy Management for which the Bureau of Ocean Energy Management has issued a Notice of Intent to prepare a Draft Environmental Impact Statement for the Large Facility in accordance with the U.S. Environmental Protection Agency pursuant to the National Environmental Policy Act of 1969 (“NEPA”) and its implementing regulations.

25.6.2.3.1.1.10 For a Large Facility with Attachment Facilities, System Upgrade Facilities or System Deliverability Upgrades that require an Article VII application, a determination pursuant to Article VII that the Article VII application is in compliance with Public Service Law §122.

25.6.2.3.1.2 A Large Facility located outside New York State will satisfy the regulatory milestone by achieving Section 25.6.2.3.1.1.5 or 25.6.2.3.1.1.6, above, or by satisfying a milestone comparable to that specified in Section 25.6.2.3.1.1.1 through 25.6.2.3.1.1.4, above, under applicable permitting laws.

25.6.2.3.1.3 In the event that none of the permitting processes referred to in Section 25.6.2.3.1.1 and 25.6.2.3.1.2 apply to the Large Facility, the Large Facility will be considered to have satisfied the regulatory milestone and will qualify for Class Year entry as of the date the Operating Committee approved the Large Facility’s Interconnection System Reliability Impact Study.

25.6.2.3.1.4 After a Large Facility’s Interconnection System Reliability Impact Study is approved by the Operating Committee and until the ISO confirms that the Large Facility has satisfied the regulatory milestone, the Developer must inform the ISO upon request, whether or not the Large Facility has satisfied the regulatory milestone described above. A project Developer must inform the ISO within ten (10) Business Days of the ISO’s request for such information.

25.6.2.3.2 A project must satisfy the applicable regulatory milestone in Section 25.6.2.3.1.1, above, within six (6) months after the date the ISO tenders to the project Developer the Standard Large Generator Interconnection Agreement for the project pursuant to Section 30.11.1 of Attachment X to the ISO OATT.

25.6.2.3.3 If a project fails to satisfy the regulatory milestone within the time period set forth in Section 25.6.2.3.2 of this Attachment S, the Interconnection Request of the project will be deemed to be withdrawn in accordance with Section 30.3.6 of the Large Facility Interconnection Procedures contained in Attachment X.

25.6.2.3.4 Once a project has an Operating Committee-approved SRIS or the ISO has determined the project is required to enter a Class Year Study pursuant to Attachment Z, then the project may enter up to two, but no more than two, of the next three consecutive Class Year Studies. The first Class Year with a Class Year Start Date after the date the Operating Committee approves a project’s Interconnection System Reliability Impact Study will count as the first of the three consecutive Class Year Studies. For purposes of this Section 25.6.2.3.4, a Class Year that a project enters and from which it later withdraws for ERIS evaluation pursuant to Section 25.7.7.1 or 25.6.2.3.3 of this Attachment S or Section 30.8.1.2 of Attachment X, counts as one of the two Class Years a project may enter.

25.6.2.3.4.1 Except as provided in Section 25.6.2.3.4.3, the project must accept its System Upgrade Facilities cost allocation and post required security for Energy Resource Interconnection Service from a Class Year ATRA that is no later than the first to occur of either (i) the second Class Year ATRA the project enters, or (ii) the third consecutive Class Year that starts after the project satisfies the eligibility criteria for inclusion in the Class Year ATRA. If the project fails to accept its System Upgrade Facilities cost allocation and post security by this deadline, the Interconnection Request of the project will be deemed to be withdrawn in accordance with Section 30.3.6 of the Large Facility Interconnection Procedures contained in Attachment X.

25.6.2.3.4.2 Except as provided in Section 25.6.2.3.4.3, below, if a project has not accepted its System Upgrade Facilities cost allocation and posted required security for Energy Resource Interconnection Service from either the first or second Class Year that starts after the project satisfies the eligibility criteria for inclusion in the Class Year ATRA and has not entered both the first and second such Class Year ATRA, then the project must enter the third Class Year ATRA (by satisfying the Class Year entry requirements set forth in Section 25.5.9 of this Attachment S and Section 30.8.1 of Attachment X). If the developer fails to do so within the timeframes specified in Attachments X or Z, as applicable, the Interconnection Request of the project will be deemed to be withdrawn in accordance with Section 30.3.6 of the Large Facilities Interconnection Procedures contained in Attachment X.

25.6.2.3.4.3 A project that was a member of a completed Class Year but did not accept its System Upgrade Facilities cost allocation and post any required security as of January 17, 2010 will be able to enter any one of the three consecutive Class Year ATRAs starting after that date. If the project enters one of these Class Year ATRAs and fails to accept its System Upgrade Facilities cost allocation and post required security, the Interconnection Request of the project will be deemed to be withdrawn in accordance with Section 30.3.6 of the Large Facility Interconnection Procedures. If the project has not entered either the first or second such Class Year, then the project must enter the third Class Year ATRA (by satisfying the Class Year entry requirements set forth in Section 25.5.9 of this Attachment S and Section 30.8.1 of Attachment X). If the Developer fails to do so within the timeframes specified in Attachments X or Z, as applicable, the Interconnection Request of the project will be deemed to be withdrawn in accordance with Section 30.3.6 of the Large Facilities Interconnection Procedures.

25.6.2.4 The Annual Transmission Reliability Assessment will update Interconnection System Reliability Impact Study results in accordance with the Class Year Interconnection Facilities Study procedures in Section 30.8 of the Large Facility Interconnection Procedures in Attachment X to the ISO OATT.

25.6.2.5 For Projects included in each Annual Transmission Reliability Assessment, the Interconnection System Reliability Impact Study updated results will specify the impact of each project in the Class Year on the reliability of the transmission system, that is, the pro rata contribution of each project in the Class Year to each individual System Upgrade Facilities identified in the updates.

25.6.2.5.1 In the case of a new System Upgrade Facility that has a functional capacity not readily measured in amperes or other discrete electrical units, such as a System Upgrade Facility dedicated to system protection, the pro rata impact of each project in the Class Year on the reliability of the transmission system will be based upon the number of Projects in the Class Year contributing to the need for the new System Upgrade Facility. The pro rata impact of each project in the Class Year needing such a new System Upgrade Facility will be equal. Accordingly, the pro rata contribution of each of the Projects to the need for the new System Upgrade Facility will be equal to (1/a), where “a” is the total number of Projects in the Class Year needing the new System Upgrade Facility.

25.6.2.5.2 In the case of a new System Upgrade Facility that has a capacity readily measured in amperes or other discrete electrical units, the impact of each project in the Class Year will be stated in terms of its pro rata contribution to the total electrical impact on each individual System Upgrade Facility in the Class Year of all Projects that have at least a *de minimus* impact, as described in Section 25.6.2.6.1 of these rules. The contribution to electrical impact will be measured in various ways depending on the nature of the transmission problem primarily causing the need for the individual System Upgrade Facility.

25.6.2.5.2.1 Contribution to short circuit current for interrupting duty beyond the rating of equipment.

25.6.2.5.2.2 Contribution to MW loading on the critical element for thermal overloads under the test conditions that cause the need for a System Upgrade Facility. MW contribution will be calculated by multiplying the associated distribution factor by the declared maximum MW of the project. The distribution factor is calculated by pro rata displacement of New York System load by the added generation.

25.6.2.5.2.3 Contribution to voltage drop on the most critical bus for voltage problems. A critical bus will be defined as representative for voltage conditions during a specific contingency. The pro rata impact of each project is measured as the ratio of the voltage drop at the critical bus caused by the project when none of the other Projects are represented, to the voltage drop at the critical bus when all of the Projects in the Class Year are represented.

25.6.2.5.2.4 Contribution to transient stability problems as measured by the fault current calculated for the most critical stability test that is causing the need for the System Upgrade Facility.

25.6.2.6 For each individual electrical impact standard listed in subsections 6.(a)(1) through 6.(a)(4) below, a Developer will not be responsible for the cost associated with a corresponding System Upgrade Facility if its project’s contribution is less than the *de minimus* impacts defined below. The costs of Projects that would otherwise have been allocated to certain Developer’s Projects but for the sub-*de minimus* impact exemption, shall be allocated 100 percent to the other Developers in the Class Year according to their pro rata contribution.

25.6.2.6.1 *De minimus* impact is defined in terms of any one of the factors listed below in this subsection. Examples of computations used to determine *de minimus* impact are shown in ISO Procedures.

25.6.2.6.1.1 **Short Circuit Contribution**: Equal to or greater than 100 amperes of the existing rating of the equipment that needs to be replaced.

25.6.2.6.1.2 **Thermal Loadings**: Equal to or greater than 10 MW on the most limiting monitored element under the most critical contingency that is causing the need for transmission improvements.

25.6.2.6.1.3 **Voltage Effects**: Equal to or greater than 2% of the voltage drop occurring with all Class Year Projects at the most critical bus.

25.6.2.6.1.4 **Stability Effects**: Equal to or greater than 100 amperes of the fault current for the most critical stability test that is causing the need for the System Upgrade Facility.

25.6.2.7 The pro rata contribution of each project in the Class Year to each of the System Upgrade Facilities identified in the Annual Transmission Reliability Assessment.

25.6.2.7.1 First, in accordance with Section 25.6.1.5 of these rules, the total cost of System Upgrade Facilities identified in the Annual Transmission Reliability Assessment is compared and netted with the total cost of System Upgrade Facilities identified in the Annual Transmission Baseline Assessment. If the total cost of System Upgrade Facilities identified in the Annual Transmission Reliability Assessment does not exceed the total cost of System Upgrade Facilities identified in the Annual Transmission Baseline Assessment, then there is no cost to be allocated among Class Year Developers.

25.6.2.7.2 If the total cost of System Upgrade Facilities identified in the Annual Transmission Reliability Assessment does exceed the total cost of System Upgrade Facilities identified in the Annual Transmission Baseline Assessment by some amount, then this amount (“Overage Cost”) is a cost to be allocated among Class Year Developers. Appendix One to this Attachment S sets out an example of an allocation of Overage Cost among Class Year Developers.

25.6.2.7.3 The Overage Cost represents a percentage of the total cost of System Upgrade Facilities identified in the Annual Transmission Reliability Assessment (“Overage Cost Percentage”).

25.6.2.7.4 Each System Upgrade Facility identified in the Annual Transmission Reliability Assessment has a cost specified for it in the Annual Transmission Reliability Assessment.

25.6.2.7.5 The pro rata contribution of each project in the Class Year to a System Upgrade Facility identified in the Annual Transmission Reliability Assessment represents a percentage contribution to the need for that System Upgrade Facility (“Contribution Percentage”).

25.6.2.7.6 An individual Developer’s pro rata responsibility for the cost of each System Upgrade Facility identified in the Annual Transmission Reliability Assessment is the product of (a) the Overage Cost Percentage; (b) the Developer’s Contribution Percentage for the particular System Upgrade Facility; and (c) the cost of the particular System Upgrade Facility as specified in the Annual Transmission Reliability Assessment.

25.6.2.7.7 If the least cost solution identified is to install one System Upgrade Facility (*e.g.*, a series reactor) rather than replacing a number of System Upgrade Facilities (*e.g.*, breakers), the ISO staff will determine each Developer’s Contribution Percentage by calculating what each Developer’s pro rata contribution would have been on the System Upgrade Facilities not replaced (*e.g.,* breakers) and applying that percentage to the System Upgrade Facility that is installed (*e.g.,* series reactor).

25.7 Deliverability Studies and Cost Allocation Methodology for CRIS

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

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

25.7.1.1 Cost Allocation Among Developers in a Class Year

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

25.7.1.2 Expedited Deliverability Study

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

25.7.2 Categories of transmission facilities

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

25.7.2.1 Byways

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

The Transmission Owner(s) responsible for constructing a System Deliverability Upgrade on a Byway shall request Incremental TCCs with respect to the System Deliverability Upgrade in accordance with the requirements of Section 19.2.4 of Attachment M of the ISO OATT. A Developer paying to upgrade a Byway will receive the right to accept any Incremental TCCs awarded by the ISO in proportion to its contribution to the total cost of the System Deliverability Upgrade. The ISO shall round any non-whole MW quantities to a whole number of Incremental TCCs in a manner that ensures that the sum of all individual allocations to eligible entities is equal to the total number of Incremental TCCs awarded to the System Deliverability Upgrade; provided, however, that a Developer will not be entitled to receive any Incremental TCCs if the whole number value determined by the ISO for the Developer’s proportionate share is zero. If a Developer elects to accept its proportionate share of any Incremental TCCs resulting from the System Deliverability Upgrade, the Developer shall be the Primary Holder of such Incremental TCCs. If a Developer declines an award of its proportionate share of any Incremental TCCs resulting from the System Deliverability Upgrade, or subsequently terminates the Incremental TCCs it elected to receive in accordance with Section 19.2.4.9 of Attachment M of the ISO OATT, the declined or terminated Incremental TCCs will be deemed reserved to the extent necessary to facilitate the potential for transfers to subsequent Developers that pay for the use of Headroom pursuant to this Attachment S on a System Deliverability Upgrade that has been awarded Incremental TCCs. Incremental TCCs that are declined or terminated by a Developer and not otherwise deemed reserved will be deemed permanently terminated. Incremental TCCs related to a System Deliverability Upgrade that were previously deemed reserved as a result of prior declination or termination will be deemed permanently terminated when the Headroom on the System Deliverability Upgrade ceases to exist or is otherwise reduced to zero in accordance with Section 25.8.7.4 of this Attachment S.

A Developer paying to upgrade a Byway will be eligible to receive Headroom payments in accordance with these rules. A subsequent Developer paying for use of Headroom on a System Deliverability Upgrade on a Byway will be entitled to receive Incremental TCCs, to the extent Incremental TCCs have been awarded by the ISO for the System Deliverability Upgrade, in proportion to its contribution to the total cost of the System Deliverability Upgrade, as determined based on its required Headroom payments. The ISO shall round any non-whole MW quantities to a whole number of Incremental TCCs in a manner that ensures that the sum of all individual allocations to eligible entities is equal to the total number of Incremental TCCs awarded to the System Deliverability Upgrade; provided, however, that a subsequent Developer will not be entitled to receive any Incremental TCCs if the whole number value determined by the ISO for the subsequent Developer’s proportionate share is zero. If a Developer that initially paid for a System Deliverability Upgrade on a Byway elected to receive its proportionate share of any Incremental TCCs related to the System Deliverability Upgrade and continues to hold such Incremental TCCs, any Incremental TCCs that a subsequent Developer is eligible to receive will be made available by reducing the Incremental TCCs related to the System Deliverability Upgrade held by the Developer that initially paid for the System Deliverability Upgrade in proportion to the Headroom payments received by such Developer from the subsequent Developer making such Headroom payments. If a Developer that initially paid for a System Deliverability Upgrade on a Byway declined to receive its proportionate share of any Incremental TCCs related to the System Deliverability Upgrade or subsequently terminated the Incremental TCCs it elected to receive, any Incremental TCCs that a subsequent Developer is eligible to receive will be made available from the Incremental TCCs related to the System Deliverability Upgrade that were previously deemed reserved as a result of prior declination or termination in proportion to the Headroom payments received by the Developer that initially paid for the System Deliverability Upgrade from the subsequent Developer making such Headroom payments. If a subsequent Developer elects to accept its proportionate share of any Incremental TCCs, the subsequent Developer shall be the Primary Holder of such Incremental TCCs; provided, however, that Incremental TCCs that were previously deemed reserved and are transferred to a subsequent Developer will become effective on the first day of the Capability Period that commences following the next Centralized TCC Auction conducted after the subsequent Developer makes the necessary Headroom payment and elects to receive its proportionate share of Incremental TCCs. If a subsequent Developer declines an award of its proportionate share of any Incremental TCCs resulting from its Headroom payments, or subsequently terminates the Incremental TCCs it elected to receive in accordance with Section 19.2.4.9 of Attachment M of the ISO OATT, the declined or terminated Incremental TCCs will be deemed permanently terminated.

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

25.7.2.2 Highways

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

The Transmission Owner(s) responsible for constructing a Highway System Deliverability Upgrade shall request Incremental TCCs with respect to the Highway System Deliverability Upgrade in accordance with the requirements of Section 19.2.4 of Attachment M of the ISO OATT. A Developer paying for Highway System Deliverability Upgrades will receive the right to accept any Incremental TCCs awarded by the ISO, in proportion to its contribution to the to the total cost of the Highway System Deliverability Upgrade. The ISO shall round any non-whole MW quantities to a whole number of Incremental TCCs in a manner that ensures that the sum of all individual allocations to eligible entities is equal to the total number of Incremental TCCs awarded to the Highway System Deliverability Upgrade; provided, however, that a Developer will not be entitled to receive any Incremental TCCs if the whole number value determined by the ISO for the subsequent Developer’s proportionate share is zero. If a Developer elects to accept its proportionate share of any Incremental TCCs resulting from the Highway System Deliverability Upgrade, the Developer shall be the Primary Holder of such Incremental TCCs. If a Developer declines an award of its proportionate share of any Incremental TCCs resulting from the Highway System Deliverability Upgrade, or subsequently terminates the Incremental TCCs it elected to receive in accordance with Section 19.2.4.9 of Attachment M of the ISO OATT, the declined or terminated Incremental TCCs will be deemed reserved to the extent necessary to facilitate the potential for transfers to subsequent Developers that pay for the use of Headroom pursuant to this Attachment S on a Highway System Deliverability Upgrade that has been awarded Incremental TCCs. Incremental TCCs that are declined or terminated by a Developer and not otherwise deemed reserved will be deemed permanently terminated. Incremental TCCs related to a Highway System Deliverability Upgrade that were previously deemed reserved as a result of prior declination or termination will be deemed permanently terminated when the Headroom on the Highway System Deliverability Upgrade ceases to exist or is otherwise reduced to zero in accordance with Section 25.8.7.4 of this Attachment S.

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

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

A subsequent Developer paying for use of Headroom on System Deliverability Upgrades will be entitled to receive Incremental TCCs, to the extent Incremental TCCs have been awarded by the ISO for the System Deliverability Upgrade, in proportion to its contribution to the total cost of the Highway System Deliverability Upgrade, as determined based on its required Headroom payments. The ISO shall round any non-whole MW quantities to a whole number of Incremental TCCs in a manner that ensures that the sum of all individual allocations to eligible entities is equal to the total number of Incremental TCCs awarded to the Highway System Deliverability Upgrade; provided, however, that a subsequent Developer will not be entitled to receive any Incremental TCCs if the whole number value determined by the ISO for the Developer’s proportionate share is zero. If: (i) a Developer that initially paid for a Highway System Deliverability Upgrade paid for capacity in excess of that required to provide its requested level of CRIS; (ii) Load Serving Entities have not funded a portion of the costs of the Highway System Deliverability Upgrade pursuant to Section 25.7.12 of this Attachment S; and (iii) the Developer elected to receive its proportionate share of any Incremental TCCs related to the System Deliverability Upgrade and continues to hold such Incremental TCCs, any Incremental TCCs that a subsequent Developer is eligible to receive will be made available by reducing the Incremental TCCs related to the System Deliverability Upgrade held by the Developer that initially funded the System Deliverability Upgrade in proportion to the Headroom payments received by such Developer from the subsequent Developer making such Headroom payments. If: (i) a Developer that initially paid for a Highway System Deliverability Upgrade paid for capacity in excess of that required to provide its requested level of CRIS; (ii) Load Serving Entities have not funded a portion of the costs of the Highway System Deliverability Upgrade pursuant to Section 25.7.12 of this Attachment S; and (iii) the Developer declined to receive its proportionate share of any Incremental TCCs related to the System Deliverability Upgrade or subsequently terminated the Incremental TCCs it elected to receive, any Incremental TCCs that a subsequent Developer is eligible to receive will be made available from the Incremental TCCs related to the System Deliverability Upgrade that were previously deemed reserved as a result of prior declination or termination in proportion to the Headroom payments received by the Developer that initially paid for the System Deliverability Upgrade from the subsequent Developer making such Headroom payments. If Load Serving Entities have funded a portion of a Highway System Deliverability Upgrade pursuant to Section 25.7.12 of this Attachment S, any Incremental TCCs that a subsequent Developer is eligible to receive will be made available by reducing the Incremental TCCs related to the System Deliverability Upgrade held by the Transmission Owner(s) responsible for constructing the System Deliverability Upgrade. If a subsequent Developer elects to accept its proportionate share of any Incremental TCCs, the subsequent Developer shall be the Primary Holder of such Incremental TCCs; provided, however, that Incremental TCCs that were previously deemed reserved and are transferred to a subsequent Developer will become effective on the first day of the Capability Period that commences following the next Centralized TCC Auction conducted after the subsequent Developer makes the necessary Headroom payment and elects to receive its proportionate share of Incremental TCCs. If a subsequent Developer declines an award of its proportionate share of any Incremental TCCs resulting from its Headroom payments, or subsequently terminates the Incremental TCCs it elected to receive in accordance with Section 19.2.4.9 of Attachment M of the ISO OATT, the declined or terminated Incremental TCCs will be deemed permanently terminated.

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

25.7.2.3 Other Interfaces

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

25.7.3 Capacity Regions

The deliverability test will be applied within each of the four (4) Capacity Regions: (1) Rest of State (i.e., Load Zones A through F); (2) Lower Hudson Valley (i.e., Load Zones G, H and I); (3) New York City (i.e., Load Zone J); and (4) Long Island (i.e., Load Zone K). To be declared deliverable a generator or Class Year Transmission Project must only be deliverable, at its requested CRIS MW, throughout each of the Capacity Regions in which the Project is interconnected or is interconnecting, or, if requesting CRIS for External-to-ROS Deliverability Rights, throughout the Rest of State Capacity Region. For example, starting with Class Year 2012, a proposed generator or Class Year Transmission Project from an external Control Area interconnecting in the Rest of State Capacity Region (i.e., Load Zones A-F) will be required to demonstrate deliverability throughout the Rest of State Capacity Region (i.e., Load Zones A-F), but will not be required to demonstrate deliverability to or within any of the following Capacity Regions: Lower Hudson Valley (i.e., Load Zones G, H and I); New York City (i.e., Load Zone J); or Long Island (i.e., Load Zone K). Starting with Class Year 2023, a proposed Class Year Transmission Project internal to the NYCA that is requesting CRIS for UDRs must be deliverable both throughout the Capacity Region to which it proposes to inject Energy and throughout the Capacity Region from which is proposes to withdraw Energy. For example, a Class Year Transmission Project that proposes to withdraw Energy from the Rest of State Capacity Region (i.e., Load Zones A-F) and inject Energy into New York City (i.e., Load Zone J) must demonstrate deliverability throughout the Rest of State Capacity Region and demonstrate deliverability throughout the New York City Capacity Region.

25.7.4 Participation in Capacity Markets

A Developer, in order to be eligible to become an Installed Capacity Supplier or receive Unforced Capacity Deliverability Rights or External-to-ROS Deliverability Rights, must obtain CRIS pursuant to the procedures set forth in this Attachment S. A Developer must enter a Class Year Deliverability Study or Expedited Deliverability Study in order to obtain CRIS, unless otherwise provided for in this Attachment S. The MW amount of CRIS requested by a Developer, stated in MW of Installed Capacity (“ICAP”), cannot exceed the MW levels specified in Sections 25.8.1 of this Attachment S. All requests for CRIS must be in tenths of a MW. The ISO will perform the Class Year Deliverability Study and Expedited Deliverability Study in accordance with these rules and with input of Market Participants, to determine the deliverability of the Projects requesting CRIS in each study. The Expedited Deliverability Study will only determine the extent to which the Project is deliverable at the full amount of requested CRIS. The Class Year Deliverability Study will determine deliverability at the full amount of requested CRIS and, if not deliverable, will identify and allocate the cost of the System Deliverability Upgrades needed to make deliverable each Class Year CRIS Project. In order to be eligible to become an Installed Capacity Supplier or receive Unforced Capacity Deliverability Rights or External-to-ROS Deliverability Rights, a Developer must be found fully deliverable at the requested CRIS level in an Expedited Deliverability Study or, in a Class Year Study, either (1) accept its deliverable MW in a Class Year Study or Expedited Deliverability Study; or (2) fund or commit to fund, in accordance with these rules, the System Deliverability Upgrades needed for its Project to be deliverable at the requested level of CRIS.

25.7.5 The Pre-Existing System

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

25.7.6 CRIS Values

Through a Class Year Study, a Developer may elect no CRIS, partial CRIS, or full CRIS for its Project by satisfying the applicable sections of this Attachment S. Through an Expedited Deliverability Study, a Developer may elect CRIS or partial CRIS to the extent its requested CRIS is deliverable pursuant to the NYISO Deliverability Interconnection Standard.

Each Project qualifying for CRIS will have two CRIS values per Project: one for the Summer Capability Period and one for the Winter Capability Period. For Projects comprised of multiple Generators, the Project’s CRIS, subject to the maximum permissible requested CRIS pursuant to Section 25.8.1 of this Attachment S, shall be allocated among the multiple Generators, and shall be allocated among the multiple Generators, as requested by Developer (to the extent permissible under Section 25.8.1 of this Attachment S). The Project’s CRIS and allocation of CRIS among its units, as applicable, will be specified by ISO in the Class Year Deliverability Study report approved by the ISO Operating Committee.

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

25.7.6.1 Winter CRIS will be calculated as follows:

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

Where:

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

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

25.7.6.1.1 For facilities with Summer CRIS as of December 16, 2017, the following additional provision applies: For such facilities for which there is an ISO-accepted temperature curve used for determining the Project’s DMNC, Winter CRIS will be calculated using such temperature curve, provided the capability represented by the curve does not exceed the Project’s ERIS. For facilities for which there is not an ISO-accepted temperature curve used for determining the Project’s DMNC, Winter CRIS will be set equal to the Project’s Summer CRIS unless the Project provides a temperature curve to the ISO by December 16, 2017, that the ISO subsequently determines is acceptable.

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

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

25.7.7 Deliverability Study Procedures

25.7.7.1 Class Year Deliverability Study Procedures

The ISO staff will conduct the Class Year Deliverability Study, as described in these rules, in cooperation with Market Participants. No Market Participant will have decisional control over any determinative aspect of the Class Year Deliverability Study. The ISO and its staff will have decisional control over the entire Class Year Deliverability Study. If, at any time, the ISO staff decides that it needs specific expert services from entities such as Market Participants, consultants or engineering firms for it to conduct the Class Year Deliverability Study, then the ISO will enter into appropriate contracts with such entities for such input. The ISO shall utilize existing studies to the extent practicable when it performs the study, including but not limited to SRIS deliverability analyses performed pursuant to Section 30.7.3.2 and 30.7.4.2 of Attachment X to the OATT. As it conducts each Class Year Deliverability Study, the ISO staff will provide regularly scheduled status reports and working drafts, with supporting data, to the Operating Committee or an Operating Committee subcommittee to ensure that all affected Market Participants have an opportunity to contribute whatever information and input they believe might be helpful to the process. Each completed Class Year Deliverability Study will be reviewed and approved by the Operating Committee, when the Operating Committee approves the ATRA for the same Class Year. Each Class Year Deliverability Study is reviewable by the ISO Board of Directors in accordance with the provisions of the Commission-approved ISO Agreement.

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

25.7.7.2 Expedited Deliverability Study Procedures

The ISO staff will conduct the Expedited Deliverability Study, as described in these rules in cooperation with Market Participants. No Market Participant will have decisional control over any determinative aspect of the Expedited Deliverability Study. The ISO and its staff will have decisional control over the entire Expedited Deliverability Study. If, at any time, the ISO staff decides that it needs specific expert services from entities such as Market Participants, consultants or engineering firms for it to conduct the Expedited Deliverability Study, then the ISO will enter into appropriate contracts with such entities for such input. The ISO shall utilize existing studies to the extent practicable when it performs the study, including but not limited to SRIS deliverability analyses performed pursuant to Section 30.7.3.2 and 30.7.4.2 of Attachment X to the OATT. As it conducts each Expedited Deliverability Study, the ISO staff will provide regularly scheduled status reports and working drafts, with supporting data, to the Operating Committee or an Operating Committee subcommittee to ensure that all affected Market Participants have an opportunity to contribute whatever information and input they believe might be helpful to the process. Each completed Expedited Deliverability Study will be reviewed and approved by the Operating Committee. Each Expedited Deliverability Study is reviewable by the ISO Board of Directors in accordance with the provisions of the Commission-approved ISO Agreement.

25.7.8 Deliverability Test Methodology for Highways and Byways

25.7.8.1 Definition of NYCA Deliverability

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

25.7.8.2 NYCA Deliverability Testing Methodology

25.7.8.2.1 Class Year Study

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

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

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

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

Facilities requesting CRIS and existing facilities with CRIS will be modeled in the deliverability analysis at MW levels described herein. A derated generator capacity incorporating availability is used. This derated generator capacity is calculated for each resource using a UCAP Deration Factor (“UCDF”). The UCDF used is an average value based on historical performance on a Capacity Region basis, as determined in accordance with ISO Procedures. The UCDF for all generators that are not Intermittent Power Resources (resources that are not Intermittent Power Resources include Energy Storage Resources) or Limited Control Run of River Hydro is the average EFORd. All generators that are not Intermittent Power Resources or Limited Control Run of River Hydro in the same Capacity Region will use the same UCDF. The UCDF for Intermittent Power Resources and Limited Control Run of River Hydro will be calculated based on historical production data by resource type in accordance with ISO Procedures.

Facilities comprised of Generators of different technologies will be derated using a blended UCDF that combines the UCDF of the individual Generators within the Project; provided however, that if the Project includes load reduction, the load reduction would not impact the UCDF of the Project. The UCDF factor for proposed Projects will be applied to the requested CRIS level. For facilities modeled in the ATBA, the UCDF will be applied to their CRIS level.

The CRIS MW requested by a Class Year Transmission Project or held by an existing facility with UDRs will not be derated at the point of injection (*i.e.*, sink) for the deliverability analysis. However, the withdrawal capability (*i.e.*, source) of such a facility that is internal to the NYCA will be modeled in the deliverability analysis at the MW of CRIS plus losses of the facility expected to occur at its CRIS injection level, in the manner set forth in Section 25.7.8.2.1.13.

Existing CRIS that will be modeled in the Class Year Study shall include: existing CRIS for facilities not being evaluated in the Class Year Study regardless of outage state, unless (1) that CRIS will expire no later than 12 months (*i.e.*, 365 Calendar Days) after the Class Year Start Date, except where the facility has provided notice of a proposed CRIS transfer anticipated to be finalized no later than 12 months (*i.e*., 365 Calendar Days) of the Class Year Start Date; or (2) the CRIS is associated with a Retired facility that cannot transfer such rights prior to CRIS expiration. For purposes of this Section 25.7.8.2.1.3, “existing CRIS” for Projects that have undergone a prior Class Year Study deliverability evaluation is CRIS obtained upon completion of a Class Year Study through which the Developer accepted its deliverable MW or accepted its Project Cost Allocation and posted Security for System Deliverability Upgrades, as applicable. For Projects that undergo an Expedited Deliverability Study deliverability evaluation, “existing CRIS” is CRIS that is obtained upon completion of an Expedited Deliverability Study through which the Developer was deemed to have accepted its deliverable MW in an Expedited Deliverability Study completed prior to the Class Year Study Start Date.

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

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

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

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

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

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

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

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

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

25.7.8.2.1.13 Deliverability testing will proceed as follows - The generation/load mix is split into two groups of generation and load, one upstream and one downstream for each zone or sub-zone tested within the Capacity Region. All elements that are part of the New York State Transmission System within the Capacity Region will be monitored. For a Class Year Transmission Project seeking UDRs, the MW of requested CRIS plus losses of the facility at the point of withdrawal are modeled as negative generation in the Capacity Region (*i.e.*, as a proxy generating facility withdrawing power from the New York State Transmission System in the Capacity Region.) If there is excess generation upstream (that is, more upstream generation than is necessary to serve the upstream load plus LFU) then the generation excess, considering generator derate factors described in Section 25.7.8.2.2 above, is assumed to displace downstream generation. If the dispatch of the upstream excess generation causes an overload, this overload is flagged as a potential deliverability problem and will be used to determine the amount of capacity that is assigned CRIS status and the overload mitigation.

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

25.7.8.2.2 Expedited Deliverability Study

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

25.7.8.2.2.2 Each Developer requesting CRIS will request that a certain number of MW be evaluated for deliverability, such MW not to exceed the maximum levels set forth in Section 25.8.1 of this Attachment S. The MW requested by a Developer will represent Installed Capacity, and will be derated for the deliverability analysis, as set forth in this Section 25.7.8.2.2.2. The CRIS MW requested by a Resource with an Energy Duration Limitation will represent Installed Capacity based on the Developer-selected duration (i.e., its expected maximum injection capability in MW hours for the Developer-selected duration). The CRIS MW requested by a Class Year Transmission Project seeking UDRs will represent Installed Capacity at the point of injection. At the conclusion of the analysis, the ISO will reconvert only the deliverable MW and report them in terms of MW of Installed Capacity using the same derating factor utilized at the beginning of the deliverability analysis.

Facilities requesting CRIS and existing facilities with CRIS will be modeled in the deliverability analysis at MW levels described herein. A derated generator capacity incorporating availability is used. This derated generator capacity is calculated for each resource using a UCAP Deration Factor (“UCDF”). The UCDF used is an average value based on historical performance on a Capacity Region basis, as determined in accordance with ISO Procedures. The UCDF for all generators that are not Intermittent Power Resources (resources that are not Intermittent Power Resources include Energy Storage Resources) or Limited Control Run of River Hydro is the average EFORd. The UCDF for Intermittent Power Resources and Limited Control Run of River Hydro will be calculated based on historical production data by resource type in accordance with ISO Procedures. Facilities comprised of Generators of different technologies will be derated using a blended UCDF that combines the UCDF of the individual Generators within the Project; provided however, that if the Project includes load reduction, the load reduction would not impact the UCDF of the Project.

The CRIS MW requested by a Class Year Transmission Project or held by an existing facility with UDRs will not be derated at the point of injection (*i.e.*, sink) for the deliverability analysis. However, the withdrawal capability (*i.e.*, source) of such a facility that is internal to the NYCA will be modeled in the deliverability analysis at the MW of CRIS plus losses of the facility expected to occur at its CRIS injection level, in the manner set forth in Section 25.7.8.2.2.13.

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

25.7.8.2.2.3 CRIS that will be modeled in the Expedited Deliverability Study shall include: (1) existing CRIS, including CRIS obtained in a previous Expedited Deliverability Study, for facilities not being evaluated in the instant Expedited Deliverability Study, regardless of outage state, unless (i) the CRIS will expire no later than four months (*i.e.*, 120 Calendar Days) after the Expedited Deliverability Study Start Date, except where the facility has provided notice of a proposed CRIS transfer anticipated to be finalized no later than four months (*i.e.*, 120 Calendar Days) after the Expedited Deliverability Study Start Date; or (ii) the CRIS is associated with a Retired facility that cannot transfer such rights prior to CRIS expiration; and (2) CRIS requested by Projects in the Class Year Study(ies) pending during the Expedited Deliverability Study. For purposes of this section 25.7.8.2.2.3, “existing CRIS” is CRIS that has not expired and CRIS that has been obtained by Projects through Attachment S. For Projects that undergo a Class Year Study deliverability evaluation, “existing CRIS,” is CRIS obtained, upon completion of a Class Year Study through which the Developer accepted deliverable MW or accepted its Project Cost Allocation and posted Security for System Deliverability Upgrades, as applicable. For Projects that undergo an Expedited Deliverability Study deliverability evaluation, “existing CRIS,” is CRIS obtained, upon completion of an Expedited Deliverability Study through which the Developer was deemed to have accepted its deliverable MW.

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

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

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

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

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

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

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

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

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

25.7.8.2.2.13 Deliverability testing will proceed as follows - The generation/load mix is split into two groups of generation and load, one upstream and one downstream for each zone or sub-zone tested within the Capacity Region. For a Class Year Transmission Project seeking UDRs, the MW of requested CRIS plus losses of the facility at the point of withdrawal are modeled as negative generation in the Capacity Region (*i.e.*, as a proxy generating facility withdrawing power from the New York State Transmission System in the Capacity Region.) All elements that are part of the New York State Transmission System within the Capacity Region will be monitored. If there is excess generation upstream (that is, more upstream generation than is necessary to serve the upstream load plus LFU) then the generation excess, taking into account generator derate factors described in Section 25.7.8.2.2 above, is assumed to displace downstream generation. If the dispatch of the upstream excess generation causes an overload, this overload is flagged as a potential deliverability problem and will be used to determine the amount of partial CRIS, if any, for the applicable Projects in the Expedited Deliverability Study.

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

25.7.9 Deliverability Test Methodology for Other Interfaces

25.7.9.1 Class Year Deliverability Test Methodology for Other Interfaces

The generators or Class Year Transmission Projects in a Class Year, whether or not they are otherwise deliverable across Highways and Byways, will not be considered deliverable if their aggregate impact degrades the transfer capability of any Other Interface more than the lesser of 25 MW or 2 percent of the transfer capability of the Other Interface identified in the ATBA. Each Developer will be responsible for its pro rata Class Year share of one hundred percent (100%) of the cost of System Deliverability Upgrades needed to restore transfer capability on the Other Interfaces impacted by the Class Year CRIS Projects but only to the extent that the degradation of transfer capability on the Other Interfaces, compared to that measured in the current Class Year ATBA, would not occur but for the aggregate impact of the Class Year Projects. Where two or more Projects contribute to the degradation of the transfer capability of an Other Interface, each Project Developer shall pay for a share of the required System Deliverability Upgrades based on its contribution to the degradation of the transfer capability. To the extent possible, the ISO will determine partial CRIS, if any, for any applicable Project in the Class Year Study.

25.7.9.2 Expedited Deliverability Study Test Methodology for Other Interfaces

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

25.7.10 Deliverability of External Installed Capacity

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

25.7.11 CRIS Rights For External Installed Capacity

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

25.7.11.1 Required Commitment of External Installed Capacity

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

25.7.11.1.1 Contract Commitment

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

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

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

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

**25.7.11.1.2**  **Non-Contract Commitment**

An entity holding External CRIS Rights under a Non-Contract Commitment must offer the committed number of MW of External Installed Capacity for every month of the commitment, as described below, in the ISO Installed Capacity auctions for an Award Period of at least five (5) years. The entity must have ownership or contract control of External Installed Capacity to fulfill its Non-Contract Commitment throughout the Award Period.

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

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

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

25.7.11.1.2.4 Notwithstanding other capacity mitigation measures that may apply, the offers to sell Installed Capacity into an auction submitted pursuant to this Non-Contract Commitment will be subject to an offer cap for each month of the Summer Capability Periods and each Specified Winter Month. This offer cap will be determined in accordance with the provisions contained in Section 5.12.2.4 of the Services Tariff.

**25.7.11.1.3 Failure to Meet Commitment**

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

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

**25.7.11.1.4 Obtaining External CRIS Rights**

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

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

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

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

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

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

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

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

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

25.7.11.1.4.2.7 By the end of the Initial Decisional Period (i.e., 30 days from Operating Committee approval of the Class Year Deliverability Study), an entity making a Contract Commitment and accepting either its SDU Project Cost Allocation or Deliverable MW quantity, must provide specific contract and resource information to the ISO. Unless entities are supplying External Installed Capacity as Control Area System Resources, requests for External Installed Capacity shall be resource-specific. Entities are permitted to substitute resources located in the same External Control Area. Such substitutions shall be subject to review and approval by ISO consistent with ISO Procedures and deadlines specified therein.

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

25.7.12 Cost Allocation for Highway System Deliverability Upgrades

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

25.7.12.2 If the portion of the System Deliverability Upgrades required to make one or more CRIS Projects in a Class Year deliverable is less than 90% of the total size (measured in MW) of the Highway System Deliverability Upgrade, the Developer(s) will be required to pay or commit to pay for a percentage share of the total cost of the Highway System Deliverability Upgrades equal to the estimated percentage megawatt usage by the Class Year CRIS Project of the total megawatts provided by the System Deliverability Upgrades. Other generators or Class Year Transmission Projects in the current Class Year Deliverability Study may share in the cost of these System Deliverability Upgrades, on the same basis. Projects in the current Class Year Deliverability Study will not be allocated all of the cost of these System Deliverability Upgrades. The rest of the cost of these System Deliverability Upgrades will be allocated to Load Serving Entities and subsequent Developers, as described in this Section 25.7.12. The Developer may either (1) make a cash payment of its proportionate share of the upgrade, which will be held by the Connecting Transmission Owner and Affected Transmission Owner(s) in interest-bearing account(s); or (2) post Security (as defined in this Attachment S) meeting the commercially reasonable requirements of the Connecting Transmission Owner and Affected Transmission Owner(s) for the Developer’s proportionate share of the cost of the upgrade. The amount(s) of cash or Security that a Developer must provide to its Connecting Transmission Owner and any Affected Transmission Owners will be included in the Class Year Deliverability Study report. If the Developer chooses to provide Security, its allocated cost will be increased by an annual construction-focused inflation index. The Developer will update its Security on an annual basis to reflect this increase. Except for this adjustment for inflation, the cost allocated to the Developers will not be increased if the estimated cost of the Highway System Deliverability Upgrade increases. However, the costs allocated to subsequent Developers will be based on a current cost estimate of the Highway System Deliverability Upgrade project.

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

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

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

25.7.12.3.3 If the NYISO triggers a transmission project under the Reliability Planning Process, selects a transmission project under the Short-Term Reliability Process, selects a transmission upgrade under the Public Policy Transmission Planning Process, or results in a Regulated Economic Transmission Project being approved under the Economic Planning Process (collectively “CSPP transmission upgrade”) and the CSPP transmission upgrade requires construction of a transmission facility that provides the same or greater transfer limit capability as the Highway facility identified as a Highway System Deliverability Upgrade to be constructed earlier than would be the case pursuant to Section 25.7.12.3.1, the CSPP transmission upgrade will be constructed as determined in the CSPP or the Short-Term Reliability Process, as applicable. Funds collected from Developers (pursuant to Section 25.7.12.2, above) will be used to cover a portion of the regulated solution costs to the extent that the funds collected from Developers were collected for System Deliverability Upgrades that are actually constructed by the regulated solution. To the extent this is true, these funds originally collected (or posted as Security) for System Deliverability Upgrades will be used as an offset to the total CSPP transmission upgrade cost, with the remainder of the upgrade cost to be allocated per the requirements of the CSPP, as set forth in Section 31.5 of Attachment Y to the ISO OATT, or the Short-Term Reliability Process, as set forth in Section 38.22 of Attachment FF to the ISO OATT.

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

25.7.12.4 If a Developer has accepted its Project Cost Allocation, before construction of an identified System Deliverability Upgrade for a Highway is commenced, if a Developer elects to be retested for deliverability it may request to be placed in the then Open Class Year. The Developer’s cost responsibility for System Deliverability Upgrades shall not increase as a result of such retesting. It may decrease or be eliminated. If the Developer’s Project is found to be deliverable without the System Deliverability Upgrades previously identified, the Developer’s Security posting will be terminated, or the Developer’s cash payment will be returned with the interest earned.

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

25.7.12.5.1 Load Serving Entities required by this Section 25.7.12 to fund a portion of the costs of a Highway System Deliverability Upgrade will receive the corresponding financial value of any Incremental TCCs related to the System Deliverability Upgrade held by the Transmission Owner(s) responsible for constructing the Highway System Deliverability Upgrade, as further described in Section 25.7.2.2 of this Attachment S. The corresponding financial value of any such Incremental TCCs will be accounted for in determining the applicable Highway Facilities Charge in accordance with Schedule 12 of the ISO OATT. The eligibility of the Load Serving Entities to the financial value of any Incremental TCCs related to the System Deliverability Upgrade held by the Transmission Owner(s) responsible for constructing the Highway System Deliverability Upgrade shall commence as of the date such Incremental TCCs become effective in accordance with Section 19.2.4 of Attachment M to the OATT and continue until the earlier of: (i) the expiration of any such Incremental TCCs; or (ii) the termination of the obligation of the Load Serving Entities to fund a portion of the costs of the Highway System Deliverability Upgrade.

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

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

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

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

25.7.13 Engineering, Procurement and Construction Agreement for System Deliverability Upgrades

If a System Deliverability Upgrade on the Connecting Transmission Owner’s system is cost allocated to a Developer and such Developer accepts its SDU Project Cost Allocation and fund or commits to fund the System Deliverability Upgrade, the Interconnection Agreement among the Developer, Connecting Transmission Owner and ISO will provide for the engineering, procurement and construction of such System Deliverability Upgrade.

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

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

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

25.8 Project Cost Allocation Decisions

25.8.1 Maximum Requested CRIS and Project Cost Allocation Figures

Starting with the Class Year subsequent to Class Year 2012, each Developer entering a Class Year Study or Expedited Deliverability Study whose Project is not yet In-Service will specify an Interconnection Service evaluation election and provide an updated In-Service Date and Commercial Operation Date (subject to the limitations set forth in Sections 30.3.3.1 and 30.4.4.5 of Attachment X) when it completes a Class Year Study Agreement or Expedited Deliverability Study Agreement. For Large Facilities and Small Generating Facilities that are required to enter a Class Year Study pursuant to Section 32.3.5.3.2 of Attachment Z to the ISO OATT, in the Class Year Study Agreement, must elect to be evaluated for ERIS. Any Project entering a Class Year Study may request CRIS. If the Developer elects to be evaluated for CRIS, the maximum requested MW level of CRIS is as follows:

(i) if the Class Year Project is a BTM:NG Resource, it can elect to be evaluated for ERIS alone, or both ERIS and some MW level of CRIS, not to exceed its Net ICAP;

(ii) if the Class Year Project is a Resource with Energy Duration Limitations, the requested MW level of CRIS cannot exceed the minimum of the following: (a) its expected maximum injection capability in MW for the Developer-selected duration; (b) the nameplate capacity of the Project (i.e., injection capability of the Project expressed in MW); or (c) the sum of the Project’s requested and existing ERIS, as applicable;

(iii) if the Class Year Project is a request for External-to-ROS Deliverability Rights, it can request a MW level of CRIS, not to exceed the increase in transfer capability created by its associated Class Year Transmission Project, as demonstrated in the Project’s System Reliability Impact Study.

(iv) if the Class Year Project is a facility comprised of multiple units of the same or different technology type, the requested MW level of CRIS must be requested at the facility level (i.e., corresponding to the Project as described in the Interconnection Request or revised Interconnection Request, as applicable), subject to the limitations below. The MW level of CRIS for a Project comprised of multiple Generators (e.g., Co-located Storage Resource or single technology facility with multiple units, each proposed to be assigned a single PTID) will be determined at the facility (i.e., Project) level and shall be allocated among the multiple Generators, as requested by Developer (to the extent permissible under Section 25.8.1 of this Attachment S). The Project’s CRIS and allocation of CRIS among its units, as applicable, will be specified by ISO in the Class Year Deliverability Study report approved by the ISO Operating Committee. The MW level of CRIS requested by the Developer cannot exceed the minimum of the following: (a) the expected maximum injection capability in MW for the Project as described in the Interconnection Request, as revised if applicable, including all co-located Generators sharing the same injection limit (*e.g.*, entire Distributed Energy Resource, entire Co-located Storage Resource or entire multi-unit single technology resource); provided however, if the Project includes a Resource with Energy Duration Limitation, its expected maximum injection capability in MW is limited by the Developer-selected duration ); (b) the nameplate capacity of the Project (i.e., collective injection capability of all units within the proposed Project expressed in MW); or (c) the sum of facility’s requested and existing ERIS, as applicable; and

(v) If the above subsections do not apply to the Class Year Project, the requested MW level of CRIS cannot exceed the nameplate capacity of the Project.

If the Class Year Project is existing and/or already interconnected taking ERIS, the Class Year Project will be evaluated for a MW level of CRIS specified by the Developer, not to exceed the permissible levels of CRIS that may be requested pursuant to this Section 25.8.1. For existing facilities proposing a modification to add a Generator of the same or different technology co-located at the same Point of Interconnection for which the Developer requests CRIS, the collective CRIS of the resources within what will be the modified facility (*e.g.*, the resulting Co-located Storage Resource or Distributed Energy Resource) cannot exceed the injection limit of the co-located units. For a Project that requests CRIS for part of a multi-unit facility, after combining with another existing or proposed co-located facility, the requested MW level of CRIS for cannot exceed the permissible levels of CRIS that may have been requested pursuant to this Section 25.8.1 for the entire co-located facility.

Based on the Class Year Project’s Interconnection Service evaluation elections, on the Annual Transmission Reliability Assessment update of Interconnection System Reliability Impact Study results, and on the results of the Class Year Deliverability Study, ISO staff shall, in accordance with these rules, provide the Developer of each Project included in the then-current Class Year with a dollar figure for its share of the cost of the System Upgrade Facilities required for reliable interconnection of the Project to the New York State Transmission System (“SUF Project Cost Allocation”). The ISO shall also provide each Class Year Developer requesting CRIS with (i) a dollar figure for its share of the cost of the System Deliverability Upgrades required for the megawatt level of CRIS requested for the Class Year Project (“SDU Project Cost Allocation”), and (ii) the number of megawatts of Installed Capacity, if any, that are deliverable from the Class Year Project with no new System Deliverability Upgrades (“Deliverable MW”). The ISO shall also provide a dollar figure for the total cost of the System Upgrade Facilities and System Deliverability Upgrades required for interconnection of the Class Year Project, as well as a description of the required System Upgrade Facilities and System Deliverability Upgrades, their expected in-service date, and a plan for their installation that is sufficient to verify these dollar figures. The ISO shall also provide a dollar figure for the total cost of all System Upgrade Facilities required by Projects in the Class Year and a dollar figure for the total cost of the System Deliverability Upgrades necessary to support the level of CRIS requested by each Class Year Developer. Each Class Year Developer will be given the Project Cost Allocation(s) and, Deliverable MW, if any associated with its Interconnection Service evaluation election, as soon as practicable prior to the submittal of the Annual Transmission Reliability Assessment and Class Year Deliverability Study to the Operating Committee.

25.8.2 Decision Periods for Class Year Study and Additional Deliverability Study

Within 30 calendar days following (1) approval of the final Annual Transmission Reliability Assessment and Class Year Deliverability Study by the Operating Committee (collectively the “Class Year Study Reports”); or (2) approval of the final SDU Study report by the Operating Committee when such approval is prior to completion of the Annual Transmission Baseline Assessment study cases for the following Class Year Study, (each such 30 calendar day period to be referred to as the “Initial Decision Period” for the respective study), or within 7 calendar days following the ISO’s issuance of a revised Class Year Study report or a revised Additional SDU Study report, as applicable, and accompanying Revised Project Cost Allocation and revised Deliverable MW report, as defined in and pursuant to Section 25.8.3 (a “Subsequent Decision Period”), if applicable, each Developer shall provide notice to the ISO, in writing and via electronic mail, stating whether it shall accept (an “Acceptance Notice”) or not accept (a “Non-Acceptance Notice”) the Project Cost Allocation(s) and Deliverable MW, if any, reported to it by the ISO for its Class Year Project. A Developer for a Class Year Project that is a multi-unit facility may not submit separate notices for separate portions of the Class Year Project (*e.g.* a Class Year Project that is a Co-located Storage Resource may not submit an Acceptance Notice for one of its resources and a Non-Acceptance Notice for the co-located resource). Failure to notify the ISO by the prescribed deadline as to whether a Developer accepts or rejects its Project Cost Allocation and Deliverable MW, if any, will be deemed a Non-Acceptance Notice. Each Developer may respond with either an Acceptance Notice or a Non-Acceptance Notice to each Project Cost Allocation and Deliverable MW reported to it by the ISO. Starting with Class Year 2012, an Acceptance Notice for Projects not yet In-Service must also include a confirmed In-Service Date and Commercial Operation Date, subject to the limitations set forth in Section 30.4.4.5 of Attachment X. A Developer in its first Class Year Study that requests to be evaluated for CRIS may accept both its SDU Project Cost Allocation and its SUF Project Cost Allocation. Alternatively, that Developer, if it accepts its SUF Project Cost Allocation, may provide a Non-Acceptance Notice for its SDU Project Cost Allocation and at the same time accept, or not accept its Deliverable MW. Or, as another alternative, that same Developer may elect to interconnect taking ERIS by providing an Acceptance Notice only for its SUF Project Cost Allocation. A Developer that accepts an SUF and/or SDU Project Cost Allocation will not be provided with the option to accept a Revised Project Cost Allocation following a Subsequent Decision Period unless the Revised Project Cost Allocation provides for (1) an increase in the SUF or the SDU Project Cost Allocation; or (2) a decrease in the Developer’s Deliverable MW.

A Developer in an Additional SDU Study that has not completed when the Initial Decision Period for the Class Year Study has commenced may, in the Initial Decision Period or Subsequent Decision Period for the Class Year in which the Additional SDU Study was triggered, (1) accept its SUF Project Cost Allocation and proceed with its Additional SDU Study; (2) reject its SUF Project Cost Allocation and be withdrawn from both the Class Year Study and the Additional SDU Study; or (3) wait until the Initial Decision Period that commences pursuant to this Section 25.8.2 upon completion of the Additional SDU Study to provide an Acceptance Notice or Non-Acceptance Notice for its SUF Project Cost Allocation and SDU Project Cost Allocation; provided however, that pursuant to this Section 25.8.2, no Initial Decision Period will be triggered by an Additional SDU Study that is ongoing at the time the ISO completes the Annual Transmission Baseline Assessment study cases for the subsequent Class Year Study. The SUF Project Cost Allocation and any deliverable MW identified in the Class Year Study for a Developer in an Additional SDU Study that elects not to accept its SUF Project Cost Allocation with its Class Year, but that elects to wait until the Initial Decision Period that commences pursuant to this Section 25.8.2 upon completion of the Additional SDU Study, will be revised in light of the final Class Year project cost allocation decisions (i.e., the SUF Cost Allocation and deliverable MW, if any, may change between the Initial Decision Period for the Class Year and the Initial Decision Period for the Additional SDU Study).

As soon as practicable following the end of the Initial Decision Period and any Subsequent Decision Period, as applicable, but not later than two (2) business days following the end of such decision period, the ISO shall report to the Operating Committee, all of the acceptance Notices and Non-Acceptance Notices that were received during that decision period. Starting with Class Year 2012, consistent with Section 30.4.4.5 of Attachment X, for any Project that fails to provide a confirmed In-Service Date and Commercial Operation Date in its Acceptance Notice or that provides a proposed In-Service Date or Commercial Operation Date with its Acceptance Notice that is beyond the time period permissible by Section 30.4.4.5 of Attachment X, the ISO’s Interconnection queue will reflect the latest possible permissible date, even if that requires the ISO to reject and modify the proposed In-Service Date or Commercial Operation Date provided in the Class Project’s Acceptance Notice. Subsequent modifications to a Project’s In-Service Date or Commercial Operation Date are governed by Section 30.4.4.5.2 of Attachment X.

25.8.2.1 If, following the Initial Decision Period or any Subsequent Decision Period, each and every Developer that remains eligible at that time provides Acceptance Notice(s), each Developer must signify its willingness to pay the Connecting Transmission Owner and Affected Transmission Owner(s) for its share of the required System Upgrade Facilities and System Deliverability Upgrades that it accepted by (i) satisfying Headroom payment/security posting obligations, if any, as specified in Section 25.8.7.6 and (ii) paying cash or posting Security (as hereinafter defined) in accordance with these rules, for the full amount of its respective Project Cost Allocation within 5 business days after the end of the Initial Decision Period or Subsequent Decision Period, as applicable. “Security” means a bond, irrevocable letter of credit, parent company guarantee or other form of security from an entity with an investment grade rating, executed for the benefit of the Connecting Transmission Owner and Affected Transmission Owner(s), meeting the requirements of these cost allocation rules, and meeting the respective commercially reasonable requirements of the Connecting Transmission Owner and Affected Transmission Owner(s). Security shall be posted to cover the period ending on the date on which full payment is made to the Connecting Transmission Owner for the System Upgrade Facilities, and the date(s) on which full payment is made to the Connecting Transmission Owner or Affected Transmission Owner(s) for the System Deliverability Upgrades; provided, however, that Security may be posted with a term as short as one year, so long as such Security is replaced no later than 15 business days before its stated expiration. In the event Security is not replaced as required in the preceding sentence, the Connecting Transmission Owner, or an Affected Transmission Owner in the case of Security for System Deliverability Upgrades, shall be entitled to draw upon the Security and convert it to cash, which cash shall be held by the Connecting Transmission Owner or Affected Transmission Owner for the account of the Developer. The round in which no remaining eligible Developers issue a Non-Acceptance Notice or commits a Security Posting Default shall be the final round for that Class Year or Additional SDU Study (the “Final Decision Round”).

25.8.2.2 At the end of the Initial Decision Period or any Subsequent Decision Period, if one or more of the Developers in the Class Year provides Non-Acceptance Notice (such event a “Non-Acceptance Event”), then every Developer in the Class Year shall be relieved of its obligation to pay cash or post Security in connection with that version of its Project Cost Allocation for both System Upgrade Facilities and System Deliverability Upgrades. In addition, following the Initial Decision Period or any Subsequent Decision Period, if all Developers in the Class Year provide Acceptance Notice under the Class Year Deliverability Study, the ATRA or both, but one or more of the Developers fails to pay cash or post the Security required hereunder (such event a “Security Posting Default”), then the beneficiaries of the payments and Security posted by the Developers that did pay or post Security (e.g., the Connecting Transmission Owners and Affected Transmission Owners) shall surrender the cash and posted Security to the respective Developers immediately. The Connecting Transmission Owners or Affected Transmission Owner(s) shall not make any draws or encumbrances on any cash or posted Security unless and until cash has been paid and Security has been posted by all Developers that issued Acceptance Notices in the Final Decision Round.

25.8.2.3 Following the Initial Decision Period, or any Subsequent Decision Period, if a Non-Acceptance Event or a Security Posting Default shall have occurred with respect to the ATRA, the Developer that provided the Non-Acceptance Notice or committed the Security Posting Default with respect to its SUF Project Cost Allocation will be removed by the ISO from the then current Class Year Study. If a Developer provides an Acceptance Notice and posts the required Security for ifs SUF Project Cost Allocation, or has done so in a prior Class Year, but provides a Non-Acceptance Notice with respect to its SDU Project Cost Allocation, it may provide an Acceptance Notice for its Deliverable MW and interconnect taking CRIS at that level. If the Developer either (i) provides a Non-Acceptance Notice with respect to both its SDU Project Cost Allocation and its Deliverable MW, or (ii) commits a Security Posting Default with respect to its SDU Project Cost Allocation, then that Developer shall be removed from the Class Year Deliverability Study or Additional SDU Study, as applicable, but, if in the Class Year Study, it may continue to participate in the ATRA and interconnect taking ERIS if it provides an Acceptance Notice and posts the required Security for its SUF Project Cost Allocation. The Developer electing to interconnect taking ERIS may later request, any number of times, to enter a Class Year Study or Expedited Deliverability Study and be evaluated for CRIS, subject to the Class Year Study and Expedited Deliverability Study entry requirements set forth in Section 25.5.9 of this Attachment S. The Developer will not be re-evaluated for ERIS. Once evaluated for CRIS in a later Class Year or Expedited Deliverability Study, the Developer may elect to accept either its SDU Project Cost Allocation or its Deliverable MW, or the Developer may provide a Non-Acceptance Notice for both its SDU Project Cost Allocation and its Deliverable MW and continue its interconnection taking ERIS. If the Developer does provide a Non-Acceptance Notice for both its SDU Project Cost Allocation and Deliverable MW and continues taking ERIS, the Developer may later request to enter a Class Year Study or Expedited Deliverability Study, subject to the Class Year Study and Expedited Deliverability Study entry requirements set forth in Section 25.5.9 of this Attachment S, and be evaluated again for CRIS. If, however, a Developer provides a Non-Acceptance Notice or commits a Security Posting Default for its SUF Project Cost Allocation, that Class Year Project shall be removed from both the ATRA and, if applicable, the Class Year Deliverability Study, and that Developer’s Interconnection Request will be processed further in accordance with Section 25.6.2.3 above.

25.8.2.4 Whenever Projects are removed from an Annual Transmission Reliability Assessment, Class Year Deliverability Study, Additional SDU Study, or Expedited Deliverability Study, ISO staff will notify the remaining Developers still included in the Annual Transmission Reliability Assessment, Class Year Deliverability Study, Additional SDU Study, or Expedited Deliverability Study, as applicable.

25.8.3 Revised Study Results

Immediately following receipt of Non-Acceptance Notices for any SDU Project Cost Allocations or SUF Project Cost Allocations or Deliverable MW, or upon the occurrence of a Security Posting Default, the ISO shall update the Class Year Study results or Additional SDU study results for those remaining Developers that continue to be included in the then-current Annual Transmission Reliability Assessment, Class Year Deliverability Study, or Additional SDU Study, as applicable, to reflect the impact of Non-Acceptance Notices and any Security posting Default. The updated Class Year Study or Additional SDU Study, as applicable, shall include updated SUF Project Cost Allocations and updated SDU Project Cost Allocations (each a “Revised Project Cost Allocation”) together with a revised Deliverable MW report. The updated Class Year Study shall be issued as soon as practicable, but in no event later than 14 calendar days following the occurrence of the Non-Acceptance Event or the Security Posting Default that necessitated development of the Revised Project Cost Allocations and revised Deliverable MW report. The ISO shall also provide the additional dollar figures relating to total cost for Developers in the Class Year Study or Additional SDU Study, as applicable, and the related information, described in Section 25.8.1, above. Following the issuance of the revised Annual Transmission Reliability Assessment, Class Year Deliverability Study, or Additional SDU Study, as applicable, and the issuance of Revised Project Cost Allocations and the revised Deliverable MW, each remaining Developer shall provide notice to the ISO within 7 calendar days whether it will accept its respective Revised Project Cost Allocation and revised Deliverable MW.

25.8.4 Completion of Class Year Decision Process

The process set forth in Sections 25.8.2 through 25.8.3 shall be repeated until none of the remaining eligible Developers in the Class Year Study or Additional SDU Study, as applicable, provides a Non-Acceptance Notice or commits a Security Posting Default.

25.8.5 Forfeiture of Security

With the exception of the requirement that cash and Security shall be surrendered back to the issuing Developer in connection with another Developer’s Security Posting Default, once a Developer has accepted the Project Cost Allocation(s) or Revised Project Cost Allocation(s) appropriate for its Interconnection Service election, as the case may be, and paid cash and posted Security or posted Security for that amount, such cash payment and Security shall be irrevocable and shall be subject to forfeiture as provided herein in the event that the Developer that paid cash and posted Security or posted the Security subsequently terminates or abandons development of its Project. Any cash and Security previously posted on a terminated Project will be subject to forfeiture to the extent necessary to defray the cost of the System Upgrade Facilities and System Deliverability Upgrades required for the Projects included in the Annual Transmission Reliability Assessment, Class Year Deliverability Study, or Additional SDU Study, as applicable, but only as described below. Security for System Upgrade Facilities constructed by the Developer (i.e., for which the Developer elects the option to build), shall be reduced after discrete portions of the System Upgrade Facilities have been completed, such reductions to be based on cost estimates from the Class Year Study, subject to review by the Connecting Transmission Owner or Affected Transmission Owner with which Security is posted, and subject to transfer of ownership to the Connecting Transmission Owner or Affected Transmission Owner, as applicable of all subject property, free and clear of any liens, as well as transfer of title and any transferable equipment warranties reasonably acceptable to the Connecting Transmission Owner or Affected Transmission Owner with which Security is posted. For System Upgrade Facilities constructed by the Connecting Transmission Owner or Affected Transmission Owner, Security shall be reduced after discrete portions of the System Upgrade Facilities have been completed by the Transmission Owner and paid for by the Developer, on a dollar-for-dollar basis for payments made to the Connecting Transmission Owner or Affected Transmission Owner pursuant to an E&P Agreement or Interconnection Agreement, subject to the Connecting Transmission Owner’s or Affected Transmission Owner’s review and approval.

25.8.6 Developer’s Future Cost Responsibility

Once a Developer has accepted a Project Cost Allocation or Revised Project Cost Allocation, as the case may be, in the Final Decision Round and paid cash and posted Security or posted Security for that amount, then the accepted figure caps the Developer’s maximum potential responsibility for the cost of System Upgrade Facilities and System Deliverability Upgrades required for its Project, except as discussed below.

25.8.6.1 If the portion of the Highway System Deliverability Upgrades required to make the Developer’s generator or Class Year Transmission Project deliverable is less than 90% of the total size of the Highway System Deliverability Upgrade identified for the Developer’s Project, and the Developer elects to commit to pay for its proportionate share of the Highway System Deliverability Upgrade by posting Security instead of paying cash, then the Developer’s allocated cost of the Highway System Deliverability Upgrade will be increased during the period of construction deferral by application of a construction inflation adjustment, as discussed in Section 25.7.12.2 of these rules. When deferred construction of the Highway System Deliverability Upgrade commences, the Developer will be responsible for actual costs in excess of the secured amount only when the excess results from changes to the operating characteristics of the Developer’s Project. If the portion of the System Deliverability Upgrades for a Highway System Deliverability Upgrade required to make one or more generators or Class Year Transmission Projects in a Class Year deliverable is ninety percent (90%) or more of the total size (measured in MW) of the System Deliverability Upgrades, construction is not deferred, and those Developers will be responsible for actual costs in excess of the secured amount in accordance with the rules in Sections 25.8.6.2-25.8.6.4 of this Attachment S.

25.8.6.2 If the actual cost of the Developer’s share of required System Upgrade Facilities or System Deliverability Upgrades is less than the agreed-to and secured amount, the Developer is responsible only for the actual cost figure.

25.8.6.3 If the actual cost of the Developer’s share of required System Upgrade Facilities or System Deliverability Upgrades would be greater than the agreed-to and secured amount because other Projects have been expanded, accelerated, otherwise modified or terminated, including Transmission Projects evaluated pursuant to Attachment P to the OATT and their required upgrades, as identified pursuant to Attachment P to the OATT, then the Developer is responsible only for the agreed-to and secured amount for its Project. The additional cost is covered by the Developers of the modified Projects, in accordance with these cost allocation rules, or by the drawing on the cash that has been paid and the Security that has been posted for terminated Projects, depending on the factors that caused the additional cost. Forfeitable cash and Security will be drawn on only as needed for this purpose, and only to the extent that the terminated Project associated with that Security has caused additional cost.

25.8.6.4 If the actual cost of the Developer’s share of required System Upgrade Facilities or System Deliverability Upgrades is greater than the agreed-to and secured amount because of circumstances that are not within the control of the Connecting Transmission Owner or Affected Transmission Owner(s) (such as, for example: (i) changes to the design or operating characteristics of the Project that impact the scope or cost of related System Upgrade Facilities or System Deliverability Upgrades; (ii) any costs that were not within the scope of the Class Year Study or Additional SDU Study, as applicable, that subsequently become known as part of the final construction design, including costs related to detailed design studies such as electro-magnetic transient analyses and subsynchronous resonance analyses; or (iii) cost escalation of materials or labor, or changes in the commercial availability of physical components required for construction), the cost cap shall be adjusted by any such amount and the Developer or the Load Serving Entity will pay the additional costs to the Connecting Transmission Owner or Affected Transmission Owner(s) as such costs are incurred by each of them. However, to the extent that some or all of the excess cost is due to factors within the control of the Connecting Transmission Owner or the Affected Transmission Owner(s) (such as, for example, additional construction man-hours due to Connecting Transmission Owner or the Affected Transmission Owner(s) management, or correcting equipment scope deficiencies due to Connecting Transmission Owner or the Affected Transmission Owner(s) oversights), then that portion of the excess cost will be borne by the Connecting Transmission Owner or the Affected Transmission Owner(s). Disputes between the Developer and the Connecting Transmission Owner concerning costs in excess of the agreed-to and secured amount will be resolved by the parties in accordance with the terms and conditions of their interconnection agreement. Disputes between the Developer and an Affected Transmission Owner will be resolved in accordance with Section 30.13.5 of the LFIP, or Section 32.4.2 of Attachment Z, as applicable.

25.8.7 Headroom Accounting

If, pursuant to these rules, a Developer, Connecting Transmission Owner, Affected Transmission Owner or Load Serving Entity (each an “Entity”) pays for any System Upgrade Facilities or System Deliverability Upgrades, or for any Attachment Facilities or Distribution Upgrades that are later determined to be System Upgrade Facilities or System Deliverability Upgrades, that create “Headroom”, and pays for the Headroom that is created, then that Entity will be paid the depreciated cost of that Headroom by the Developer of any subsequent Project that interconnects and uses the Headroom within the applicable period of time following the creation of the Headroom, as specified in Section 25.8.7.4.3 herein. The ISO will depreciate Headroom cost in accordance with Section 25.8.7.3 herein.

25.8.7.1 Developers of terminated Projects who have paid for Headroom with forfeited cash or Security instruments, as well as Developers of completed Projects who have paid for Headroom, will be repaid in accordance with these rules.

25.8.7.2 The Developer of the subsequent Project shall pay the prior Entity as soon as the cost responsibilities of the subsequent Developer are determined in accordance with these rules. In the case of Headroom created by Load Serving Entity funding Highway System Deliverability Upgrades pursuant to Schedule 12 of the ISO OATT, the Developer of the subsequent Project shall pay the Connecting Transmission Owner, and any Affected Transmission Owner(s), that are receiving or will receive Load Serving Entity funding for the Highway System Deliverability Upgrades pursuant to Schedule 12 of the ISO OATT. Upon receipt of the Developer Headroom payment, the Connecting Transmission Owner and any Affected Transmission Owner(s), will make the rate adjustment(s) called for by Section 6.12.4.1.3 of Schedule 12 of the ISO OATT.

25.8.7.3 The ISO will determine the depreciated cost of the System Upgrade Facilities and/or System Deliverability Upgrades associated with the Entity -created Headroom using one of the following two methods:

25.8.7.3.1 In all cases except the case of Highway System Deliverability Upgrades funded by Load Serving Entities pursuant to Schedule 12 of the ISO OATT, the ISO will use the FERC-approved depreciation schedule applied to comparable facilities by the Connecting Transmission Owner or the applicable Affected Transmission Owner. The ISO will depreciate the Headroom cost annually, starting with the year when the Headroom account is first established.

25.8.7.3.2 In the case of Highway System Deliverability Upgrades funded by Load Serving Entities pursuant to Schedule 12 of the ISO OATT, the ISO will use the FERC-approved depreciation schedule applied to the particular Highway System Deliverability Upgrades by the Connecting Transmission Owner or the applicable Affected Transmission Owner pursuant to Schedule 12 of the ISO OATT. The ISO will depreciate the Headroom cost annually, starting with the year the Highway System Deliverability Upgrade is placed in service. If a Class Year Deliverability Study or Additional SDU Study determines that a Developer in such study uses Headroom on such a Highway System Deliverability Upgrade before the Highway System Deliverability Upgrade has been placed in service, the ISO will calculate the Headroom use payment obligation of the Developer using the undepreciated cost of the Headroom.

25.8.7.4 Entity-created Headroom will be measured by the ISO in accordance with these rules. The use that a subsequent Project makes of Entity -created Headroom will also be measured by the ISO in accordance with these rules.

25.8.7.4.1 In the case of Headroom on System Upgrade Facilities that have an excess functional capacity not readily measured in amperes or other discrete electrical units, the use that each subsequent Project makes of the Entity-created Headroom will be measured solely by using the total number of Projects in the current and prior Class Years needing or using the System Upgrade Facility.

25.8.7.4.1.1 The use that each Project in a subsequent Class Year makes of Headroom on such a System Upgrade Facility will be measured as an amount equal to (1/b), where “b” is the total number of Projects in all prior and current Class Years using the System Upgrade Facility.

25.8.7.4.1.2 Each Developer in a subsequent Class Year that uses Headroom on such a System Upgrade Facility will make a Headroom payment to all prior Developers that have previously made payments for that System Upgrade Facility, both the prior Developers that have previously made Headroom payments and the Developers in the first Class Year that paid for the original installation of the System Upgrade Facility. The amount of the Headroom payment to each prior Developer that each Developer in a subsequent Class Year must make for its use of Headroom on such a System Upgrade Facility will be an amount equal to c/(b)x(d), where “c” is the depreciated cost of the System Upgrade Facility at the time of the subsequent Class Year Study, “b” is the total number of Projects in all prior and current Class Years using the System Upgrade Facility, and “d” is the total number of Projects in all the prior Class Years that have previously made payments for the System Upgrade Facility, both Headroom payments and payments for original installation.

25.8.7.4.2 In the case of System Upgrade Facilities or System Deliverability Upgrades that have an excess capacity readily measured in amperes or other discrete electrical units, the use the subsequent Project makes of the Entity-created Headroom will be measured in terms of the electrical impact of the subsequent Project, as that electrical impact is determined by the ISO in accordance with these rules.

25.8.7.4.3 The ISO will publish accounts showing the Headroom for each Developer and other Entities, and will update those accounts to reflect the impact of subsequent Projects. With the exception of Headroom on Highway System Deliverability Upgrades funded by Load Serving Entities pursuant to Schedule 12 of the ISO OATT, the ISO will close the Headroom account of an Entity when the electrical values in the account are reduced to zero or when ten years have passed since the establishment of the account, whichever occurs first.

25.8.7.4.3.1 In the case of Headroom on Highway System Deliverability Upgrades funded by Load Serving Entities pursuant to Schedule 12 of the ISO OATT, the ISO will close the Headroom account of the Load Serving Entity when the MW value in the account is reduced to zero, or at the end of the useful financial life of the Highway System Deliverability Upgrades, whichever occurs first.

25.8.7.4.4 If a subsequent Developer uses up all the Headroom of an earlier Entity, and also triggers the need for a new System Upgrade Facility or System Deliverability Upgrade, then the subsequent Developer will pay the Connecting Transmission Owner or Affected Transmission Owner for the new System Upgrade Facility or System Deliverability Upgrade, but will not pay the earlier Entity for the Headroom used up or the account extinguished. However, the earlier Entity will get a new Headroom account and a pro rata share of the Headroom in the new System Upgrade Facility or System Deliverability Upgrade purchased by the subsequent Developer. The economic value of this pro rata share will be equal to the economic value of the earlier Entity’s Headroom account that was extinguished by the subsequent Developer.

25.8.7.5 For Class Years 2001 and 2002, the ISO shall account for Headroom as provided by the Non-Financial Settlement. Developers in Class Year 2002 shall reimburse Class Year 2001 Developers in accordance with the terms of the Non-Financial Settlement.

25.8.7.6 The Developer of the subsequent Project shall pay the prior Entity within the five (5) business day period specified in Section 25.8.2.1 of this Attachment S. Headroom obligations related to a System Upgrade Facility that has been fully constructed must be satisfied by cash payment. Starting with Class Year 2012, all remaining Headroom obligations may be satisfied by a form of “Headroom Security” – a bond, irrevocable letter of credit, parent company guarantee or other form of security from an entity with an investment grade rating, executed for the benefit of the prior Entity, meeting the requirements of these cost allocation rules, and meeting the respective commercially reasonable requirements of the prior Entity. Headroom Security shall be posted to cover the period ending on the date on which full payment is made to the prior Entity for the Headroom obligation; provided, however, that Headroom Security may be posted with a term as short as one year, so long as such Headroom Security is replaced no later than fifteen (15) business days before its stated expiration. In the event Headroom Security is not replaced as required in the preceding sentence, the prior Entity shall be entitled to draw upon the Headroom Security and convert it to cash, which cash shall be held by the prior Entity for the account of the Developer.

25.8.8 Headroom Account Adjustments in the ATBA

In addition to the adjustments made by the ISO in Headroom accounts to reflect the impact of subsequent Projects, the ISO will make other adjustments to Headroom accounts when preparing for each Annual Transmission Baseline Assessment. The ISO will make these adjustments to reflect the impact of changes in the Existing System Representation modeled for the Annual Transmission Baseline Assessment that result from the installation, expansion or retirement of generation and transmission facilities for load growth and changes in load patterns. Such changes in the Existing System Representation can also result from changes in these rules or the criteria, methods or, software used to apply these rules.

25.8.8.1 No compensation will be paid as a result of these changes to the Existing System Representation. However, the ISO will adjust the ratios of dollars to electrical values in each Entity’s account to maintain the economic value of the Entity’s account that existed before the changes were made in the Existing System Representation.

25.8.8.2 The ISO will make no adjustments to Headroom accounts for the impact of subsequent generic solutions, except in those cases where the generic solution is a Class Year Project and the adjustment is made to reflect the impact of the Class Year Project.

25.8.9 Rate Base Facilities

With the exception of Developer use of Headroom created by Load Serving Entity funding of Highway System Deliverability Upgrades pursuant to Schedule 12 of the ISO OATT, Developers are not charged for their use of any rate base facilities, except to the degree applicable as customers taking service in accordance with the rates, if any, that apply to those facilities.

25.9 Going Forward

25.9.1 ERIS Election and future Evaluation for CRIS

Whenever a Developer elects to interconnect taking ERIS only, that Developer may, at any later date, ask the ISO to evaluate the Developer’s Large Facility or Small Generating Facility for CRIS by including the Developer’s Large Facility or Small Generating Facility in (1) the next Open Class Year and the Deliverability Study to be conducted for that Class Year; or (2) the next open Expedited Deliverability Study.

25.9.2 No Developer Responsibility for Future Upgrades

Once a Developer has posted Security for its share of the System Upgrade Facilities required for its project, and paid cash or posted Security for its share of the System Deliverability Upgrades required for its project, then, except as provided in Section 25.8.6 of these rules, that Developer has no further responsibility for the cost of additional Attachment Facilities, Distribution Upgrades, System Upgrade Facilities, and System Deliverability Upgrades that may be required in the future.

25.9.2.1 The Project interconnection agreement executed between a Developer and its Connecting Transmission Owner will reflect the Developer’s responsibility for the cost of new Attachment Facilities, Distribution Upgrades and System Upgrade Facilities and System Deliverability Upgrades, as that responsibility has been determined in accordance with these rules.

25.9.2.2 The cost of those additional Attachment Facilities, Distribution Upgrades, System Upgrade Facilities and System Deliverability Upgrades needed for future interconnection projects will be shared between future Developers and Transmission Owners, and allocated among future Developers, in accordance with the rules.

25.9.3 CRIS Rights

25.9.3.1 Retaining CRIS Status

Facilities awarded CRIS pursuant to this Attachment S, as allocated among the facilities’ individual units, as applicable, will retain such CRIS to the extent specified in Sections 25.9.3.2 and Section 25.9.3.3 of this Attachment S, regardless of subsequent changes to the transmission system or the transfer of facility ownership. Facilities awarded CRIS pursuant to this Attachment S that are withdrawn from the ISO interconnection queue will not receive any CRIS awarded to the facility through that queue position.

**25.9.3.2 Full CRIS Termination**

Subject to the requirements set forth in Sections 25.9.3.2.1 through 25.9.3.2.2 and the subsections therein, CRIS will be terminated in full upon request by the facility owner or due to three continuous years of the facility being CRIS-inactive, except as provided in Sections 5.18.2.3.2, 5.18.3.3.2, and 5.18.5 of the Services Tariff. The effective date of CRIS termination pursuant to this Section 25.9.3.2 will be the date the ISO has completed processing the termination request and provided notice of same to the requesting facility owner.

25.9.3.2.1 Voluntary termination. A Facility that (a) is Retired or in a Mothball Outage or (b) is in an IIFO, and has been assessed in a STAR or a Generator Deactivation Assessment where the ISO, in coordination with the Responsible Transmission Owner(s), determined that a Generator Deactivation Reliability Need will not result from the Facility’s deactivation, may elect to relinquish its CRIS, before that CRIS would otherwise expire under this Attachment S, upon notification to the ISO by submitting its request in accordance with ISO Procedures. Relinquishment of CRIS under this Section 25.9.3.2.2 may only be in full (*i.e.*, the facility may not elect to relinquish only a portion of its CRIS).

25.9.3.2.2 Termination for CRIS-Inactive Facilities. CRIS will terminate in full after three continuous years of being CRIS-inactive, as defined in Section 25.9.3.2.2.1, except as provided in Sections 5.18.2.3.2, 5.18.3.3.2, and 5.18.5 of the Services Tariff.25.9.3.2.2.1 For the purpose of the rules in this Section 25.9.3.2.2, once a facility with CRIS has synchronized, it becomes CRIS-inactive on the last day of the month for which it fails to (i) offer any capacity into ISO capacity auctions, and/or (ii) certify any capacity as an Installed Capacity Supplier through a Bilateral Transaction(s) or Export of capacity to an External Control Area, except as provided in Sections 25.9.3.2.2.1.1 and 25.9.3.2.2.1.2 below.

25.9.3.2.2.1.1 A facility that has synchronized before February 29, 2020 and was not CRIS-inactive under the previously-effective rules due to its activity as a load modifier, will be considered CRIS-inactive no earlier than February 29, 2020, based on its activity on and after that date.

25.9.3.2.2.1.2 A facility that has synchronized before February 29, 2020 but never offered capacity into ISO capacity auctions or certified capacity through a bilateral prior to February 29, 2020 will be considered CRIS-inactive no earlier than February 29, 2020, based on its activity on and after that date.

25.9.3.2.2.2 In the case of a CRIS-inactive facility, the facility’s CRIS terminates three years after the facility becomes CRIS-inactive, except as provided in Sections 5.18.2.3.2, 5.18.3.3.2, and 5.18.5 of the Services Tariff, unless the CRIS-inactive facility takes one of the following actions before the end of the three-year period: (1) returns to service and participates in an ISO capacity auction or bilateral transactions or (2) transfers CRIS to another facility as permitted by Sections 25.9.4 and 25.9.5 of this Attachment S

25.9.3.3 Partial CRIS Termination

25.9.3.3.1 For a facility other than a facility that has Unforced Capacity Deliverability Rights or External-to-ROS Deliverability Rights (*i.e.*, generators internal to the NYCA), CRIS utilization is the MW sum for a given month of the Installed Capacity Equivalent of UCAP: (1) offered into ISO capacity auctions; (2) certified through a Bilateral Transaction(s); and (3) exported to an External Control Area. If its CRIS utilization ratio (*i.e.*, ratio of the monthly CRIS utilization to its total applicable seasonal CRIS value) falls at or below 0.9 for every month for three consecutive years, measured on a forward rolling basis from [effective date], the facility’s CRIS will be reduced to the MW level of its existing CRIS values multiplied by the sum of (1) its maximum utilization ratio for any month within the prior three-year period and (2) 0.05, rounded to the nearest tenth of a MW. For purposes of calculating CRIS utilization pursuant to this Section 25.9.3.4.1, any months during which a facility is in a Mothball Outage or ICAP Ineligible Forced Outage are excluded and not considered as part of the three-year period for determining CRIS utilization. If a facility returns to service from a Mothball Outage or an ICAP Ineligible Forced Outage, the three (3)-year period for determining CRIS utilization will not restart, but will resume from the point when the facility entered the Mothball Outage or the ICAP Ineligible Forced Outage. For example, if after two consecutive years of a CRIS utilization ratio at or below 0.9, a facility enters an ICAP Ineligible Forced Outage, the three-year period does not continue during the ICAP Ineligible Forced Outage but resumes the first month the facility is eligible to participate in the ICAP market as determined by Section 5.18.2.2 of the Services Tariff.

25.9.3.3.2 For a facility with CRIS that has Unforced Capacity Deliverability Rights or External-to-ROS Deliverability Rights (“UDR/EDR transmission facility”), if during the three years from the Initial Synchronization Date of the UDR/EDR transmission facility the facility has not demonstrated, consistent with ISO Procedures, that it is capable of delivering MW of Energy to the NYCA interface equivalent to its MW of CRIS, its CRIS MW will be reduced to the maximum MW of Energy the UDR/EDR transmission facility has demonstrated it is capable of delivering to the NYCA interface pursuant to ISO Procedures of any month during this three-year period. For purposes of this Section 25.9.3.3.2, a UDR/EDR transmission facility is capable of delivering Energy to the NYCA interface if it demonstrates deliverability as required by ISO Procedures to be eligible to sell capacity for a particular month, in accordance with the requirements based on the Control Area where the External Installed Capacity Supplier is electrically located.

25.9.3.4 Term of External CRIS Rights

25.9.3.4.1 The initial term of External CRIS Rights, whether based on a Contract or Non-Contract Commitment, will be for an Award Period of no less than five (5) years.

25.9.3.4.2 An entity holding External CRIS Rights may renew those rights for one or more subsequent terms, as described below:

25.9.3.4.2.1 An entity holding External CRIS Rights based on a Contract Commitment may renew its External CRIS Rights, provided that the ISO receives from the entity a request to renew on or before the date specified in Section 25.9.3.5.2.3 indicating that the entity has renewed its bilateral contract to supply External Installed Capacity for an additional term of no less than five (5) years. If the entity does so, then that entity’s External CRIS Rights will be renewed for the same additional term, without any further evaluation of the deliverability of the External Installed Capacity covered by the renewed bilateral contract.

25.9.3.4.2.2 An entity holding External CRIS Rights based on a Non-Contract Commitment may renew its External CRIS Rights, provided that the ISO receives from the entity a request to renew on or before the date specified in Section 25.9.3.2.2.3. Any Non-Contract Commitment renewal must be for an additional term of no less than five (5) years. If the entity does so, then that entity’s External CRIS Rights will be renewed for the same additional term, without any further evaluation of the deliverability of the External Installed Capacity associated with the Non-Contract Commitment.

25.9.3.4.2.3 Requests for renewal of External CRIS Rights must be received by the ISO on or before a date defined by the earlier of: (i) six months prior to the expiration date of the Contract or Non-Contract Commitment, or (ii) one month prior to the Study Start Date of the ATRA that is prior to the start of the last Summer Capability Period within the current Award Period or renewal of an Award Period.

25.9.3.4.3 External CRIS Rights will terminate at the end of the effective Award Period or renewal of an Award Period if those rights have not been renewed for an additional term, pursuant to the process described above.

25.9.3.5 CRIS for Facilities Pre-Dating Class Year 2007

For Large Facilities and Small Generating Facilities pre-dating Class Year 2007, *i.e.*, facilities interconnected or completely studied for interconnection before the projects in Class Year 2007, the facility shall qualify for CRIS service so long as (i) it is not retired (*e.g.*, identified as retired in a NYISO Load and Capacity Data Report prior to October 5, 2008, (ii) its interconnection agreement is not terminated, and (iii) the facility begins commercial operations within three years of the commercial operation date or comparable commencement date specified in its initial interconnection agreement filing. A generator or merchant transmission facility pre-dating Class Year 2007 without an interconnection agreement on October 5, 2008, or one with an initial interconnection agreement filing that does not specify a commercial operation date or any comparable commencement date, shall qualify for CRIS so long as it is not retired (*e.g.*, identified as retired in a NYISO Load and Capacity Data Report) prior to October 5, 2008 and it begins commercial operations within three years of its in-service date specified in the 2008 NYISO Load and Capacity Data Report. For generators pre-dating Class Year 2007, the CRIS capacity level will be set at the maximum DMNC level achieved during the five most recent Summer Capability Periods prior to October 5, 2008, even if that DMNC value exceeds nameplate MW.

For a generator pre-dating Class Year 2007 and not having DMNC levels recorded for five Summer Capability Periods prior to October 5, 2008, its CRIS capacity level will be set, and reset if necessary, at the maximum DMNC level achieved during successive Summer Capability Periods until it has DMNC levels recorded for five Summer Capability Periods. Prior to the establishment of the generator’s first DMNC value for a Summer Capability Period, the generator’s CRIS level will be set at nameplate MW. The CRIS capacity level for intermittent resources pre-dating Class Year 2007 will be set at nameplate MW, and the CRIS capacity level for controllable lines pre-dating Class Year 2007 will be set at the MW of Unforced Capacity Deliverability Rights awarded to them. Existing generators that are eligible for CRIS under this Section 25.9.3.3.3 that wish to obtain CRIS pursuant to this provision must request CRIS within 60 days of May 19, 2016; CRIS cannot be obtained under this Section 25.9.3.3.3 if not requested by such date.

25.9.3.6 CRIS for Facilities Not Subject to ISO Interconnection Procedures

Starting May 19, 2016, all facilities that wish to become eligible to participate as Installed Capacity Suppliers pursuant to the requirements of Section 5.12 of the ISO Services Tariff, must have CRIS, even if the facility is not or was not, when interconnected, subject to the ISO’s interconnection procedures set forth in Attachments X or Z to the OATT.

Facilities not subject to the ISO’s interconnection procedures set forth in Attachments X and Z to the OATT may obtain CRIS rights by (i) entering a Class Year Deliverability Study and satisfying the NYISO Deliverability Interconnection Standard or (ii) satisfying the requirements set forth in Section 25.9.3.7.1. For a facility subject to this Section 25.9.3.4 that has obtained CRIS on or before February 29, 2020, its CRIS will terminate four (4) years after February 29, 2020 if the Developer has failed to provide notice to the ISO that the facility has synchronized. For a facility subject to this Section 25.9.3.7 that obtains CRIS after February 29, 2020, its CRIS will terminate four (4) years after the facility obtains CRIS, if the Developer fails to provide notice to the ISO that the facility has synchronized.

25.9.3.6.1 A facility not subject to the ISO’s interconnection procedures set forth in Attachments X and Z to the OATT may obtain CRIS without being evaluated in a Class Year Deliverability Study if it meets the following requirements (i) if the facility has not commenced Commercial Operation, it must have completed all required interconnection studies and have an effective interconnection agreement by May 19, 2016, (ii) if the facility has commenced Commercial Operation by May 19, 2016, it must have an effective interconnection agreement and must not have been out-of-service for more than three (3) consecutive years; (iii) it is not or was not, when first interconnected, subject to the ISO’s interconnection procedures set forth in Attachments X and Z to the OATT, and (iv) the facility owner must request CRIS within 60 days of May 19, 2016. The CRIS level for a facility that qualifies for CRIS under this Section 25.9.3.7.1 will be set in accordance with Section 25.9.3.7.1.1 and 25.9.3.7.1.2.

25.9.3.6.1.1 BTM:NG Resource

A BTM:NG Resource’s initial CRIS level will be set at its Net-ICAP level. The CRIS level will be set, and reset if necessary, at the maximum Net-ICAP level achieved during successive Summer Capability Periods until the facility has Net-ICAP levels recorded for five Summer Capability Periods. The five-year CRIS set and reset period begins with the first Summer Capability Period, following receipt of an initial CRIS value, for which the BTM:NG Resource’s Net-ICAP calculation incorporates a demonstrated Average Coincident Host Load. The final CRIS level will be the highest Net-ICAP recorded for the Summer Capability Period during the five-year set and reset period, excluding the initial CRIS level.

The five-year CRIS set and reset period will terminate early, before five Net-ICAP values have been recorded if any of the following conditions occurs: (i) the BTM:NG Resource ceases to qualify as a BTM:NG Resource pursuant to Section 5.12.1 of the Services Tariff; (ii) the BTM:NG Resource elects to participate as another type of Installed Capacity Supplier, other than as a BTM:NG Resource; or (iii) the BTM:NG Resource’s Net ICAP is equal to or less than zero for a Capability Period. Upon an early termination of the five-year CRIS set and reset period, the final CRIS value will be determined based on the available data from the CRIS set and reset period up to the point of early termination – *i.e.*, the highest Net-ICAP value recorded during the CRIS set and reset period prior to the point of early termination.

25.9.3.6.1.2. Facilities Other than BTM:NG Resources

Prior to the establishment of the generator’s first DMNC value for a Summer Capability Period, the generator’s CRIS level will be set at nameplate MW. The CRIS level will be set, and reset if necessary, at the maximum DMNC level achieved during successive Summer Capability Periods until the facility has DMNC levels recorded for five Summer Capability Periods.

25.9.3.7 CRIS for BTM:NG Resources Evaluated in a Class Year Deliverability Study

If meter data is available for both the Load and the generator, the initial CRIS that can be requested is limited to the demonstrated Net-ICAP. If meter data is not available for either the Load or the generator of the BTM:NG Resource, the initial CRIS that can be requested is limited to the Net-ICAP calculation set forth in Section 5.12.1 of the ISO Services Tariff. The initial CRIS level will set at the CRIS MW level evaluated in the Class Year Deliverability Study and either found to be deliverable or for which the Developer accepted its Project Cost Allocation and posted Security for any required System Deliverability Upgrades.

The CRIS level will be set, and reset if necessary, at the maximum DMNC level achieved during successive Summer Capability Periods, not to exceed the initial CRIS level, until the facility has DMNC levels recorded for five Summer Capability Periods – *i.e.*,the initial CRIS level will act as a cap through the set and reset period and for the final CRIS level. The final CRIS level will be the highest Net-ICAP recorded for the Summer Capability Period during the five-year set and reset period, excluding the initial CRIS level.

The five-year CRIS set and reset period will terminate early, before five Net-ICAP values have been recorded if any of the following conditions occurs: (i) the BTM:NG Resource ceases to qualify as a BTM:NG Resource pursuant to Section 5.12.1 of the Services Tariff; (ii) the BTM:NG Resource elects to participate as another type of Installed Capacity Supplier, other than as a BTM:NG Resource; or (iii) the BTM:NG Resource’s Net ICAP is equal to or less than zero for a Capability Period. Upon an early termination of the five-year CRIS set and reset period, the final CRIS value will be determined based on the available data from the CRIS set and reset period up to the point of early termination – *i.e.*, the highest Net ICAP value recorded during the CRIS set and reset period prior to the point of early termination.

25.9.4 Transfer of Deliverability Rights - Same Location

A facility with CRIS (“transferor facility”) may, on or after its Initial Synchronization Date, transfer some or all of its CRIS to a facility at the same electrical location (“transferee facility”), provided that (1) the transferee facility must be operational before the CRIS of the transferor facility terminates pursuant to Section 25.9.3 of this Attachment S; and (2) the transferor facility, if it is Retired, in a Mothball Outage or is in an IIFO, has been assessed in a STAR or a Generator Deactivation Assessment where the ISO, in coordination with the Responsible Transmission Owner(s), determined that a Generator Deactivation Reliability Need will not result from the Facility’s deactivation. For purposes of this Section 25.9.4, “same electrical location” means that the facilities are interconnecting to the same transmission bus at the same kV level. The transferee facility, if it has not already synchronized (*i.e.*, reached its Initial Synchronization Date), will only acquire the transferred CRIS once transferee facility has synchronized (*i.e.*, reached its Initial Synchronization Date). CRIS is stated in MW of Installed Capacity. In the case of transfers between the same or different resource types, those MW of Installed Capacity will be adjusted by the derate factor applicable to the transferor facility (based on the asset-class derate factors used in the most recent Class Year Deliverability Study) before the transfer and, following the transfer, will be readjusted to MW of Installed Capacity in accordance with the derate factor applicable to the transferee facility (based on the asset-class derate factors used in the most recent Class Year Deliverability Study). In the case of a Distributed Energy Resource (DER), CRIS rights are requested and awarded at the DER level, not at the individual asset level or at the Aggregation level, and therefore, may only be transferred at the DER level under this Section 25.9.4.

For purposes of calculating the period of time a facility is CRIS inactive pursuant to Section 25.9.3.2.3 of this Attachment S, the period of time the facility is CRIS inactive prior to the transfer does not impart to the transferee facility (*i.e.*, if the transferor facility had been CRIS inactive for two years prior to the transfer, that two years does not transfer with the transferred CRIS. The transferee’s CRIS is reset for purposes of Section 25.9.3.2.2).

If the transferor facility remains active (*i.e.*, as ERIS-only or with less than its original MW level of CRIS), it must submit a transfer notification form to the ISO in accordance with ISO Procedures before August 1 for the requested transfer to become effective at the later of the start of the next Capability Year (*i.e.*, May 1) or the Initial Synchronization Date of the transferee facility. If transferee facility does not reach its Initial Synchronization Date before the end of the next Capability Year (*i.e.*, April 30), the transfer will not be effective and the CRIS will remain with the transferor. A transferor facility that does not satisfy the above requirements must deactivate prior to transferring its CRIS.

If the transferor facility is located in a Mitigated Capacity Zone, it may obtain a final physical withholding determination pursuant to Section 23.4.5.6.5 of the MST. If the transferee facility is located in a Mitigated Capacity Zone and is not an Excluded Facility, pursuant to Section 23.2 of the MST, the transferee facility must, pursuant to Section 23.4.5.7 of the MST, obtain a Buyer-Side Mitigation determination for the transfer to become effective as soon as the start of the next capability month after the date upon which the last of the following occurs: the transferee obtains a Buyer-side Mitigation determination, if applicable; the transferor obtains a physical withholding determination, if applicable; and the facility meets all other applicable requirements in this Section 25.9.4; provided however, that if the same-location CRIS transferor elects to remain active (*i.e.*, as ERIS-only or with less than its original MW level of CRIS), such Buyer-Side Mitigation determination must be obtained before August 1 of the current Capability Year for the transfer to become effective at the later of the start of the next Capability Year (*i.e.*, May 1) or the Initial Synchronization Date of the transferee facility.

25.9.5 Transfer of Deliverability Rights - Different Locations

CRIS may also be transferred on a bilateral basis between an existing facility within the NYCA (“transferor facility”) and a new facility at a different location within the NYCA (“transferee facility”) to the extent that the transferee facility is found to be deliverable after the existing facility transfers its CRIS. The transferee facility may contract with an existing facility with CRIS to transfer some or all of the existing facility’s CRIS. The transferee facility will be allowed to acquire these rights if it meets the requirements set forth below:

25.9.5.1 Prior to the Class Year Start Date, the transferor and transferee facilities involved in the transfer transaction must notify the ISO the MW level of capacity rights proposed to be transferred. CRIS will be stated in MW of Installed Capacity. In the case of transfers between different resource types, those MW of Installed Capacity will be adjusted by the derate factor applicable to the existing facility before the transfer and, following the transfer, will be readjusted to MW of Installed Capacity in accordance with the derate factor applicable to the new project. All derate factors will be based on the asset-class derate factors in the current Class Year Deliverability Study.

25.9.5.1.1 The ISO will evaluate the deliverability of the Class Year projects together, with no transfers, to determine the extent to which transferee facilities in the Class Year are deliverable without the proposed transfers.

25.9.5.1.2 The ISO will then reduce the output of all transferor facilities to see if the new facility counterparties benefit, *i.e.*, their undeliverable capacity is made deliverable, from the proposed transfers; provided, however, the transferor facilities will be reduced only to the extent that their reduction does not adversely impact the deliverability of Class Year projects that are not parties to the proposed transactions.

25.9.5.1.3 If the deliverability test conducted by the ISO shows that the transferee facilities in the Class Year are fully or partially deliverable with these reductions of the established facility counterparties, then the transferee facilities will be given five business days to notify the ISO as to whether transfer transaction is final or not. If any proposed transactions are not finalized, then Sections 25.9.5.1.1 and 25.9.5.1.2 will be repeated until all proposed transactions have been terminated or finalized.

25.9.5.2 For each finalized transaction, the transferor facility will be modeled in the Class Year Study at its reduced output level (current level less CRIS finally transferred adjusted by the applicable derate factors). The Deliverability of Class Year Projects not parties to finalized transactions may benefit, but will not be adversely affected, by those transactions.

25.9.5.3 The transferor facility will be restricted in future capacity sales up to levels consistent with the CRIS rights that were transferred to the new project counterparty.

25.9.5.4 The transferee facility will only acquire the transferred CRIS once the transferee facilities becomes operational at the levels necessary to utilize those rights, provided that (1) the transferee facility must be operational before the CRIS of the transferor facility terminates pursuant to Section 25.9.3 of this Attachment S; and (2) the transferor facility, if it is Retired, in a Mothball Outage or is in an IIFO, has been assessed in a STAR or a Generator Deactivation Assessment where the ISO, in coordination with the Responsible Transmission Owner(s), determined that a Generator Deactivation Reliability Need will not result from the Facility’s deactivation.

If the transferor facility is located in a Mitigated Capacity Zone, it may be subject to a final physical withholding determination pursuant to Section 23.4.5.6.1 of the MST. If the transferee facility is located in a Mitigated Capacity Zone and is not an Excluded Facility, pursuant to Section 23.2 of the MST, the transferee facility must, pursuant to Section 23.4.5.7 of the MST, obtain a Buyer-Side Mitigation determination. Transfers may become effective as soon as the start of the next capability month after the date upon which the last of the following occurs: the transferee obtains a Buyer-side Mitigation determination, if applicable the transfer is found deliverable as described above in Sections 25.9.5.1.1, 25.9.5.1.2 and 25.9.1.3, and the facility meets all other applicable requirements in Sections 25.9.5.1 and 25.9.5.1.3.

For purposes of calculating the period of time a facility is CRIS inactive pursuant to Section 25.9.3.2.3 of this Attachment S, the period of time the facility is CRIS inactive prior to the transfer does not impart to the transferee facility (i.e., if the transferor facility had been CRIS inactive for two years prior to the transfer, that two years does not transfer with the transferred CRIS. The transferee’s CRIS is reset for purposes of Section 25.9.3.2.2).

25.9.6 Transfer of External CRIS Rights

A holder of External CRIS Rights may transfer some or all of the Contract or Non-Contract CRIS MW that it holds to another entity, provided that the following requirements are met:

25.9.6.1 The entity to receive the External CRIS Rights must, prior to the transfer, make either (i) a Contract Commitment of External Installed Capacity satisfying the requirements of Section 25.7.11.1.1 of this Attachment S, or (ii) a Non-Contract Commitment of External Installed Capacity satisfying the requirements of Section 25.7.11.1.2 of this Attachment S; and

25.9.6.2 The External Installed Capacity of the entity to receive the External CRIS Rights must use the same External Interface(s) used by the External Installed Capacity of the entity currently holding the External CRIS Rights; and

25.9.6.3 The transfer must be for the remaining duration of the Award Period or renewal of an Award Period currently effective for the External CRIS Rights to be transferred; and

25.9.6.4 If the holder of External CRIS Rights transfers some, but not all of its CRIS MW, the number of CRIS MW transferred must be such that, following the transfer, both the holder and the entity receiving External CRIS Rights satisfy the applicable requirements of Section 25.7.11.1.1 and 25.7.11.1.2 of this Attachment S; and

25.9.6.5 The transfer must take place on or before the earlier of:

25.9.6.5.1 Six months prior to the expiration date of the Contract or Non-Contract Commitment of the entity currently holding the External CRIS Rights to be transferred; or

25.9.6.5.2 One month prior to the Study Start Date of the ATRA that is prior to the start of the last Summer Capability Period within the current Award Period or renewal of an Award Period.

25.10 Miscellaneous Provisions

25.10.1 Non-financial Settlement of 2004

Notwithstanding any foregoing provisions to the contrary, the following provisions apply to the resumption of the cost allocation process after the approval by FERC of the Non-Financial Settlement.

25.10.1.1 Upon the study start date specified in the Non-Financial Settlement (“Study Start Date”), the ISO shall resume the cost allocation process set forth herein.

25.10.1.2 Except as provided below, the initial cost allocation shall determine the System Upgrade Facilities required for the reliable interconnection of all Developer projects that have met the milestones identified in Section 25.6.2.3.1 of this Attachment S on or before the Study Start Date. The ISO shall prepare an ATRA with respect to these Developer projects as a single class (the “Catch Up Class Year”). The Catch Up Class Year shall not include (1) Class Year 2001 Developer projects that have accepted their Project Cost Allocation prior to the Study Start Date, or (2) Class Year 2002 Developer Projects that have accepted their Project Cost Allocation pursuant to the terms of the Non-Financial Settlement.

25.10.1.3 The ISO shall use the 2004 Load and Capacity Data Report for the Catch Up Class Year cost allocation studies, unless the Study Start Date is later than January 1, 2005 in which event the ISO shall use the 2005 Load and Capacity Data Report. The Catch Up Class Year cost allocation studies shall identify system needs for the five-year period beginning January 1, 2005. In the event the Study Start Date is later than January 1, 2005 the Catch Up Class Year cost allocation studies shall identify system needs for the five-year period beginning January 1, 2006. The ISO shall present the results of the Catch Up Class Year cost allocation studies to the Operating Committee for approval as provided in Section 25.10.4 of this Attachment S.

25.10.1.4 The ISO shall represent the NYPA Poletti project in the ATBA and ATRA for the Catch Up Class Year as connected to the Astoria West Substation.

25.10.1.5 Once all Developers in the Catch Up Class Year have either (i) accepted their Project Cost Allocation, or (ii) dropped out of the class, the ISO shall resume annual cost allocations with respect to individual Class Years in accordance with the time frames set out in these rules.

25.10.1.6 All Developer projects in the Catch Up Class Year who do not accept their Project Cost Allocation shall be included in the ATRA in the next Class Year cost allocation process.

25.10.1.7 The ISO shall finalize the results of the Class Year 2002 cost allocation (including headroom issues) in accordance with the provisions of the Non-Financial Settlement.

25.10.2 Combined Study of Class Years 2009 and 2010

Notwithstanding any foregoing provisions to the contrary, the following special provisions apply to the Interconnection Facilities Studies for Class Year 2009 and Class Year 2010. These provisions provide that Class Year 2009 and Class Year 2010 will be performed on a combined basis. However, cost allocation for these two Class Years will be calculated separately, as described herein. All provisions of this Attachment S that are not inconsistent with the special provisions of this Section 25.10.2 shall apply as they normally do to projects in Class Year 2009 and Class Year 2010.

25.10.2.1 A single ATBA under the Minimum Interconnection Standard for the Class Year 2009 and Class Year 2010 will be developed using the 2010 NYISO Load and Capacity Data Report and will be the same ATBA as would otherwise be developed for the 2010 Class Year Study absent the combination of Class Year 2010 with Class Year 2009. This ATBA will be the starting point for a single deliverability baseline used under the Deliverability Interconnection Standard for Class Year 2009 and Class Year 2010. For purposes of this Section 25.10.2, “ATBA-Deliverability” refers to the deliverability baseline developed for Class Year 2009 and Class Year 2010 pursuant to this Section, and “ATRA-Deliverability” refers to the ATBA-Deliverability with the relevant Class Year projects added, as described below.

25.10.2.2 There will be two ATRAs and two ATRAs-Deliverability in the combined Class Year study: an ATRA and ATRA-Deliverability for Class Year 2009, as well as an ATRA and ATRA-Deliverability for Class Year 2010.

25.10.2.2.1 The ATRA and ATRA-Deliverability for Class Year 2009 will be the ATBA and ATBA-Deliverability, respectively, developed pursuant to Section 25.10.2.1 above, plus the projects that qualified for Class Year 2009 on or before March 1, 2009 and entered Class Year 2009.

25.10.2.2.2 The ATRA and ATRA-Deliverability for Class Year 2010 will be the ATRA and ATRA-Deliverability for Class Year 2009, plus the projects that qualified for Class Year 2010 on or before March 1, 2010 and entered Class Year 2010.

25.10.2.3 Cost Allocation for the Two Class Years

25.10.2.3.1 The cost allocation for Class Year 2009 System Upgrade Facilities and System Deliverability Upgrades will be calculated based on the incremental impact of the Class Year 2009 projects (i.e., the 2009 ATRA and ATRA-Deliverability) over the ATBA and ATBA-Deliverability, respectively, developed pursuant to Section 25.10.2.1 above.

25.10.2.3.2 The cost allocation for Class Year 2010 System Upgrade Facilities and System Deliverability Upgrades will be calculated based on the incremental impact of the Class Year 2010 projects (i.e., the 2010 ATRA and ATRA-Deliverability) over the Class Year 2009 ATRA and ATRA-Deliverability, respectively, as described fully below.

25.10.2.3.3 If Class Year 2010 projects use Headroom on System Upgrade Facilities or System Deliverability Upgrades identified for Class Year 2009 projects, the Class Year Study for Class Year 2010 will identify the Headroom use payments that must be made by Class Year 2010 projects to Class Year 2009 projects.

25.10.2.3.4 In the event that a System Upgrade Facility or System Deliverability Upgrade identified for Class Year 2009 is replaced in the Class Year Study for Class Year 2010 by a more capable System Upgrade Facility or System Deliverability Upgrade required for projects in Class Year 2010, the cost allocation for Class Year 2009 will be based on the System Upgrade Facility or System Deliverability Upgrade identified for Class Year 2009, and the cost allocation to Class Year 2010 will be based on the more capable replacement System Upgrade Facility or System Deliverability Upgrade.

25.10.2.4 Operating Committee Approval, Project Cost Allocation Decision Process and Class Year Settlement.

25.10.2.4.1 The initial Project Cost Allocation contained in the ATRA and Class Year Deliverability Study for Class Year 2009 will be based upon all projects in Class Year 2009. The initial Project Cost Allocation contained in the ATRA and Class Year Deliverability Study for Class Year 2010 will be based upon all projects in Class Year 2009 and Class Year 2010, except as described below in Section 25.10.2.4.4.3.

25.10.2.4.2 The ISO will undertake to complete the Class Year Study Report for Class Year 2009 and the Class Year Study Report for Class Year 2010 in parallel so that both study reports are ready to be presented at the same Operating Committee meeting. However, if at any time, the ISO determines that the Class Year Study Report for Class Year 2009 is ready for presentation to the Operating Committee (following applicable working group and subcommittee review), the ISO will present that study report to the Operating Committee regardless of the status of the Class Year Study Report for Class Year 2010. The Operating Committee will separately vote to approve the study report for Class Year 2009 and the study report for Class Year 2010, even if both study reports are presented at the same Operating Committee meeting.

25.10.2.4.3If the Class Year Study Reports for Class Year 2009 and Class Year 2010 are both approved at the same Operating Committee meeting, the Project Cost Allocation decision process will commence at that time and be conducted in parallel for the projects in both Class Years, as described in Section 25.10.2.4.5 below.

25.10.2.4.4 If the Class Year Study Report for Class Year 2009 is approved at an Operating Committee meeting where either (1) the study report for Class Year 2010 is not presented for approval, or (2) the study report for Class Year 2010 is presented for approval but not approved, the following process will be followed:

25.10.2.4.4.1 The Project Cost Allocation decision process for Class Year 2009 will not commence until the following Operating Committee meeting (“Second Operating Committee Meeting”), held not more than forty-five (45) days after the Operating Committee meeting where the study report for Class Year 2009 was approved.

25.10.2.4.4.2 If the Class Year Study Report for Class Year 2010 is approved at the Second Operating Committee Meeting, the Project Cost Allocation decision process for the projects in both Class Year 2009 and Class Year 2010 will commence at that time and be conducted in parallel for the projects in both Class Years as described in Section 25.10.2.4.5 below.

25.10.2.4.4.3 If the Class Year Study Report for Class Year 2010 is not approved at the Second Operating Committee Meeting, the Project Cost Allocation decision process for the projects in Class Year 2009 will commence immediately upon the Second Operating Committee Meeting and will follow the existing Project Cost Allocation decision process described in Sections 25.8.1-25.8.4 of Attachment S, with initial Acceptance Notices and/or Non-Acceptance Notices due 30 days after the Second Operating Committee Meeting. When the Project Cost Allocation decision process for the projects in Class Year 2009 is completed, and the Class Year Study Report for Class Year 2010 has been revised to reflect the final settlement of Class Year 2009 and is otherwise complete, the Class Year Study Report for Class Year 2010 will be presented to the Operating Committee meeting for approval. Upon Operating Committee approval of the Class Year Study Report for Class Year 2010, the Project Cost Allocation decision process for the projects in Class Year 2010 will begin.

25.10.2.4.4.4 Only in the event that the Class Year Study Report for Class Year 2010 is not approved at the Second Operating Committee Meeting, as described immediately above in Section 25.10.2.4.4.3, a Developer or Interconnection Customer in Class Year 2009 providing a Non-Acceptance Notice for its System Upgrade Facility Project Cost Allocation may, by the due date for providing such notice, elect to enter Class Year 2010, and its project will be placed in Class Year 2010, provided that (a) the project is otherwise eligible under the Class Year re-entry rules, (b) it submits to the ISO an executed Interconnection Facilities Study Agreement, together with the required deposit and data, within ten (10) days of its receipt of the Interconnection Facilities Study Agreement, and (c) cures any deficiency in its submittal within five (5) Business Days after receiving notice from the ISO about such deficiency. A project in Class Year 2009 committing a Security Posting Default may not enter Class Year 2010. Other than as described in this Section 25.10.2.4.4.4, projects in Class Year 2009 may not enter Class Year 2010.

25.10.2.4.5 If both Class Year Study Reports are approved by the Operating Committee, either at the same meeting or by the Second Operating Committee Meeting, as described above in Sections 25.10.2.4.2-25.10.2.4.4, the Developers and Interconnection Customers in both Class Year 2009 and Class Year 2010 will have thirty (30) days from the date of Operating Committee approval of the Interconnection Facilities Study Report for Class Year 2010 to provide an Acceptance Notice(s) or Non-Acceptance Notice(s) in accordance with Sections 25.8.1-25.8.4 of Attachment S. If any Developer or Interconnection Customer in either Class Year 2009 or Class Year 2010 provides a Non-Acceptance Notice or commits a Security Posting Default, the ISO will prepare a revised Class Year Study Report by the following process:

25.10.2.4.5.1 If any Developer or Interconnection Customer in Class Year 2009 provides a Non-Acceptance Notice(s) and/or commits a Security Posting Default, the ISO will notify all Developers and Interconnection Customers in both Class Years as required by Section 25.8.2 of Attachment S, and will prepare (1) a revised ATRA and/or Class Year Deliverability Study for Class Year 2009 to reflect impact of the Non-Acceptance Notice(s) and/or Security Posting Default(s) from Class Year 2009 projects, and (2) a revised ATRA and/or Class Year Deliverability Study for Class Year 2010 to reflect the impact of the Non-Acceptance Notice(s) and/or Security Posting Default(s) from Class Year 2009 project and Class Year 2010 projects. The ISO will prepare and publish the required ATRAs and/or Class Year Deliverability Study(ies) for both Class Years within four (4) weeks of its receipt of the last Non-Acceptance Notice or its receipt of notice of the last Security Posting Default, whichever is later.

25.10.2.4.5.2 If any Developer or Interconnection Customer in Class Year 2010 provides a Non-Acceptance Notice(s) and/or commits a Security Posting Default, but no Developer or Interconnection Customer in Class Year 2009 does so, the ISO will notify all Developers and Interconnection Customers in both Class Years as required by Section 25.8.2 of Attachment S, and will prepare and publish a revised ATRA and/or Class Year Deliverability Study for Class Year 2010 within two (2) weeks of its receipt of the last Non-Acceptance Notice or its receipt of notice of the last Security Posting Default, whichever is later. The ISO will not revise the ATRA or the Class Year Deliverability Study for Class Year 2009 as a result of a Non-Acceptance Notice from or a Security Posting Default by a Developer or Interconnection Customer in Class Year 2010.

25.10.2.4.5.3 The process described in the foregoing Sections 25.10.2.4.5.1 and/or 25.10.2.4.5.2 will be repeated until either (1) none of the remaining eligible Class Year Developers or Interconnection Customers provides a Non-Acceptance Notice or commits a Security Posting Default, or (2) all Developers or Interconnection Customers have dropped out of their respective Class Years.

25.10.2.5 Except for projects in Class Year 2009 that elect to enter Class Year 2010 pursuant to the procedures described above in Section 25.10.2.4.4.4, Class Year 2009 and Class Year 2010 will be considered as a single Class Year for purposes of calculating the number of Class Years a project may enter pursuant to Section 25.8.2.3 of Attachment S. A project that was in Class Year 2009 but elects to enter Class Year 2010 under section 25.10.2.4.4.4 that subsequently provides a Non-Acceptance Notice or commits a Security Posting Default related to its System Upgrade Facilities for Class Year 2010 will be deemed to have withdrawn its Interconnection Request in accordance with Section 30.3.6 of the Large Facility Interconnection Procedures in Attachment X to the OATT, or in accordance with Attachment Z to the OATT, as applicable.

25.10.3 ISO Data Requirements

Developers and Transmission Owners shall provide the ISO with all data necessary to make the determinations contemplated by these rules.

25.10.4 Rights Under the Federal Power Act

Nothing in these rules restricts the rights of any person under the OATT, or the right of any person to file a complaint with the Federal Energy Regulatory Commission under the relevant provisions of the Federal Power Act.

25.10.5 Transmission Service Customer Rights

Nothing in these rules precludes any transmission service customer from receiving transmission service charge credits to the extent the customer is entitled to such credits under FERC policy and precedent.

25.11 Appendices

APPENDIX 1 TO ATTACHMENT S– Allocation of Overage Cost

An Example of the Allocation of Overage Cost Among Class Year Developers, in Accordance with Section 25.6.2 of Attachment S:

* There are five Developer projects in Class Year 20XX.
* The Annual Transmission Reliability Assessment (“ATRA”) determines that 10 System Upgrade Facilities (“SUFs”) are needed to reliably interconnect the Class Year 20XX projects, at a total cost of $30 million.
* The Annual Transmission Baseline Assessment (“ATBA”) determines that 7 SUFs would be needed to meet reliability standards without the Class Year 20XX projects, at a total cost of $20 million. (Note: The ATBA may have included some generic “projects” identical to or similar to some of the Class Year 20XX projects, but not necessarily. Also, some of the SUFs identified by the ATBA may be the same as those identified in the ATRA, but not necessarily.)

(1) The total cost of ATRA SUFs allocated to the Transmission Owners (“TOs”) is equal to the total cost of the ATBA SUFs ($20 million).

(2) The total cost of ATRA SUFs allocated to the Developers, the Overage Cost, is the net of the total cost of the ATRA vs. ATBA SUFs ($30 million - $20 million = $10 million).

(3) The ratio of the Overage Cost to the total cost of ATRA SUFs, the Overage Cost Percentage, is used to compute the Developers’ cost allocations for each ATRA SUF. In this example, the Overage Cost Percentage, the ratio, = $10 million/$30 million = 1/3 (The Developers pay 1/3 the cost of each ATRA SUF). Assume the cost of one of the ATRA SUFs (SUF#1) is $3 million. The Developers’ share of the cost of that SUF = 1/3 x $3 million = $1 million.

(4) The Developers’ share of the cost of each ATRA SUF is allocated among all the Developers that have at least a *de minimus* impact causing the need for that SUF.

In this example, the ATRA determines that 3 of the 5 Class Year 200X projects have at least a *de minimus* impact causing the need for SUF#1.

(5) The Developers’ cost of an ATRA SUF is allocated to each Developer that has at least a *de minimus* impact in accordance with the Contribution Percentage, or ratio of that Developer’s measured impact, its electrical contribution, to the sum of the measured impact of all the Developers that have at least a *de minimus* impact.

In this example, the measured impacts of the three projects are 200, 300, and 500 amps, respectively. Thus the pro rata shares of the projects’ cost of SUF#1 are $200K, $300K, and $500K, respectively.**APPENDIX 2 TO ATTACHMENT S – Expedited Deliverability Study Agreement**

**THIS AGREEMENT** is made and entered into this \_\_\_\_ day of \_\_\_\_\_\_\_\_, 20\_\_ by and among \_\_\_\_\_\_\_\_\_, a \_\_\_\_\_\_\_\_\_\_\_ organized and existing under the laws of the State of \_\_\_\_\_\_\_\_ (“Developer”), the New York Independent System Operator, Inc., a not-for-profit corporation organized and existing under the laws of the State of New York (“NYISO”), and \_\_\_\_\_\_\_ a \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ organized and existing under the laws of the State of New York (“Connecting Transmission Owner“). Developer, NYISO and Connecting Transmission Owner each may be referred to as a “Party,” or collectively as the “Parties.”

**RECITALS**

**WHEREAS,** Developer is proposing to develop or owns an existing or facility requesting Capacity Resource Interconnection Service (“CRIS”); and

**WHEREAS,** the NYISO has confirmed that the Developer has satisfied the eligibility requirements for entering an Expedited Deliverability Study; and

**WHEREAS,** Developer has elected to enter an Expedited Deliverability Study in order to obtain or increase CRIS pursuant to Attachments S, X and Z to the NYISO’s Open Access Transmission Tariff (“OATT”), as applicable.

**NOW, THEREFORE,** in consideration of and subject to the mutual covenants contained herein the Parties agreed as follows:

1.0 When used in this Agreement, with initial capitalization, the terms specified shall have the meanings indicated in Section 30.1 of Attachment X to the NYISO’s OATT or Section 25.1.2 of Attachment S to the NYISO’s OATT.

2.0 Developer elects to be evaluated for CRIS and NYISO shall cause to be performed an Expedited Deliverability Study consistent with Attachments S and X to the ISO OATT. The terms of the above-referenced OATT Attachments, as applicable, are hereby incorporated by reference herein.

3.0 The scope of the Expedited Deliverability Study shall be subject to the assumptions set forth in Attachment A and the data provided in Attachment B to this Agreement.

4.0 The Expedited Deliverability Study report (i) shall identify whether the facility is fully deliverable at its requested level of CRIS; and (ii) if not fully deliverable, shall determine the facility’s deliverable MW.

5.0 The Developer shall provide a deposit of $30,000 for the performance of the Expedited Deliverability Study. The time for completion of the Expedited Deliverability Study is specified in Attachment A.

NYISO shall invoice Developer on a monthly basis for the expenses incurred by NYISO and the Connecting Transmission Owner on the Expedited Deliverability Study each month, as computed on a time and materials basis in accordance with the rates attached hereto. Developer shall pay invoiced amounts to NYISO within thirty (30) Calendar Days of receipt of invoice. NYISO shall continue to hold the amounts on deposit until settlement of the final invoice.

6.0 Miscellaneous.

6.1 Accuracy of Information. Except as Developer or Connecting Transmission Owner may otherwise specify in writing when they provide information to NYISO under this Agreement, Developer and Connecting Transmission Owner each represent and warrant that the information it provides to NYISO shall be accurate and complete as of the date the information is provided. Developer and Connecting Transmission Owner shall each promptly provide NYISO with any additional information needed to update information previously provided.

6.2 Disclaimer of Warranty. In preparing the Expedited Deliverability Study, the Party preparing such study and any subcontractor consultants employed by it shall have to rely on information provided by the other Parties, and possibly by third parties, and may not have control over the accuracy of such information. Accordingly, neither the Party preparing the Expedited Deliverability Study nor any subcontractor consultant employed by that Party makes any warranties, express or implied, whether arising by operation of law, course of performance or dealing, custom, usage in the trade or profession, or otherwise, including without limitation implied warranties of merchantability and fitness for a particular purpose, with regard to the accuracy, content, or conclusions of the Expedited Deliverability Study. Developer acknowledges that it has not relied on any representations or warranties not specifically set forth herein and that no such representations or warranties have formed the basis of its bargain hereunder.

6.3 Limitation of Liability. In no event shall any Party or its subcontractor consultants be liable for indirect, special, incidental, punitive, or consequential damages of any kind including loss of profits, arising under or in connection with this Agreement or the Expedited Deliverability Study or any reliance on the Expedited Deliverability Study by any Party or third parties, even if one or more of the Parties or its subcontractor consultants have been advised of the possibility of such damages. Nor shall any Party or its subcontractor consultants be liable for any delay in delivery or for the non-performance or delay in performance of its obligations under this Agreement.

6.4 Third-Party Beneficiaries. Without limitation of Sections 6.2 and 6.3 of this Agreement, Developer and Connecting Transmission Owner further agree that subcontractor consultants employed by NYISO to conduct or review, or to assist in the conducting or reviewing, an Expedited Deliverability Study shall be deemed third party beneficiaries of these Sections 6.2 and 6.3.

6.5 Term and Termination. This Agreement shall be effective from the date hereof and unless earlier terminated in accordance with this Section 6.5, shall continue in effect until the Expedited Deliverability Study is completed and approved by the NYISO Operating Committee. Developer or NYISO may terminate this Agreement upon the withdrawal of the Developer’s project from the NYISO interconnection queue.

6.6 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New York, without regard to any choice of laws provisions.

6.7 Severability. In the event that any part of this Agreement is deemed as a matter of law to be unenforceable or null and void, such unenforceable or void part shall be deemed severable from this Agreement and the Agreement shall continue in full force and effect as if each part was not contained herein.

6.8 Counterparts. This Agreement may be executed in counterparts, and each counterpart shall have the same force and effect as the original instrument.

6.9 Amendment. No amendment, modification or waiver of any term hereof shall be effective unless set forth in writing signed by the Parties hereto.

6.10 Survival. All warranties, limitations of liability and confidentiality provisions provided herein shall survive the expiration or termination hereof.

6.11 Independent Contractor. NYISO shall at all times be deemed to be an independent contractor and none of its employees or the employees of its subcontractors shall be considered to be employees of Developer or Connecting Transmission Owner as a result of this Agreement.

6.12 No Implied Waivers. The failure of a Party to insist upon or enforce strict performance of any of the provisions of this Agreement shall not be construed as a waiver or relinquishment to any extent of such party’s right to insist or rely on any such provision, rights and remedies in that or any other instances; rather, the same shall be and remain in full force and effect.

6.13 Successors and Assigns. This Agreement, and each and every term and condition hereof, shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns.

**IN WITNESS WHEREOF,** the Parties have caused this Agreement to be duly executed by their duly authorized officers or agents on the day and year first above written.

**New York Independent System Operator, Inc.**

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**[Insert name of Connecting Transmission Owner]**

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**[Insert name of Developer]**

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Attachment A To Appendix 2 - Expedited Deliverability Study Agreement

SCHEDULE FOR CONDUCTING THE  
EXPEDITED DELIVERABILITY STUDY

The NYISO and Connecting Transmission Owner shall use Reasonable Efforts to complete the study and issue an Expedited Deliverability Study report to the Developer within the four months after of receipt of an executed copy of this Expedited Deliverability Study Agreement:

- Study work (other than data provision and study review) that may be requested of the Transmission Owner by the NYISO is currently not specified, but will be specified in a Study Work Agreement to be developer between the NYISO and Transmission Owner.

- Pursuant to Article 5.0 of this Agreement, the rates for the study work are attached as Exhibit 1.

Attachment B To Appendix 2 - Expedited Deliverability Study Agreement

DATA FORM TO BE PROVIDED BY DEVELOPER

WITH THE EXPEDITED DELIVERABILITY STUDY AGREEMENT

1. Provide location plan and simplified one-line diagram of the plant and station facilities. For staged projects, please indicate future generation, transmission circuits, etc.

2. Specify the MW level of Capacity Resource Interconnection Service (“CRIS”) requested; provided however, that CRIS requests are subject to the limits specified in Section 25.8.1 of Attachment S to the ISO OATT.

Evaluation election (MW of requested CRIS):

If the Project will consist of multiple units, specify the requested allocation of the above MW level of requested CRIS: 3. Proposed Schedule:

Begin Construction Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_

In-Service Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_

Initial Synchronization Date:

Generation Testing Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_

Commercial Operation Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_

4. Additional Information Required as Part of this Data Form:

All facilities, including BTM:NG Resources, and Class Year Transmission Projects, must also complete Section A, below.

1. **Additional Information:**

Nameplate MW:

Nameplate MVA:

Auxiliary Load:

For temperature sensitive units, provide MW vs. temp curves and indicate maximum summer and winter net capability below:

* Maximum summer net (net MW = gross MW minus auxiliary loads total MW) which can be achieved at 90 degrees F:
* Maximum winter net (net MW = gross MW minus auxiliary loads total MW) which can be achieved at 10 degrees F :

1. One set of metering is required for each generation connection to the new ring bus or existing Connecting Transmission Owner station. Number of generation connections:
2. On the one-line indicate the generation capacity attached at each metering location. (Maximum load on CT/PT)
3. On the one-line indicate the location of auxiliary power. (Minimum load on CT/PT) Amps
4. Will an alternate source of auxiliary power be available during CT/PT maintenance?  
   \_\_\_\_\_\_ Yes \_\_\_\_\_\_\_ No
5. Will a transfer bus on the generation side of the metering require that each meter set be designed for the total plant generation? \_\_\_\_\_\_ Yes \_\_\_\_\_\_ No  
     
   (If yes, indicate on one-line diagram).

6. What type of control system or PLC will be located at the Developer’s facility?

7. What protocol does the control system or PLC use?

8. Please provide a 7.5-minute quadrangle of the site. Sketch the plant, station, transmission line, and property line.

9. Physical dimensions of the proposed interconnection station:

10. Bus length from generation to interconnection station:

11. Line length from interconnection station to Connecting Transmission Owner’s transmission line.

12. Tower number observed in the field. (Painted on tower leg):

13. Number of third-party easements required for transmission lines, if known:

14. Describe any injection-limiting equipment if the facility is requesting ERIS below its full output:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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15. In addition to the above information, as applicable, for BTM:NG Resources, please also provide the following information:

Interconnection Customer or Customer-Site Load:\_\_\_\_\_\_\_\_\_\_\_\_\_kW (if none, so state)

Existing load? Yes \_\_\_ No\_\_\_

If existing load with metered load data, provide coincident Summer peak load: \_\_\_\_\_\_\_\_

If new load or existing load without metered load data, provide estimated coincident Summer peak load: \_\_\_\_\_\_\_\_\_

Is the *new or existing load* in the Transmission Owner’s service area?

\_\_\_\_\_ Yes \_\_\_\_\_No Local provider:

**38 Attachment FF – Generator Deactivation Process**

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 Outagewill 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 serviceduring 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 maycontinue 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:

Where:

= 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 whichRepayment 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.

= the number of months from month *k* to month *E*, including month *k* and month *E*.

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

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

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

38.18 Market Monitoring Unit Review of Determinations

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

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

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

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

38.19 Terminating RMR Agreements

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

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

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

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

**38.20** Reserved

38.21 Reserved

38.22 Cost Allocation Methodology for Short-Term Reliability Process

The cost allocation mechanism under this Section 38.22 sets forth the basis for allocating costs associated with: (i) a Responsible Transmission Owner’s transmission Short-Term Reliability Process Solution proposed in accordance with Section 38.4 and, if applicable, its conceptual permanent transmission Short-Term Reliability Process Solution, (ii) a Developer’s transmission Short-Term Reliability Process Solution selected by the ISO to address a Short-Term Reliability Process Need pursuant to Section 38.10, or (iii) a Generator operating under an RMR Agreement to address a Short-Term Reliability Process Need. The ISO shall implement the specific cost allocation methodology set forth in this Section 38.22 of this Attachment FF in accordance with the Order No. 1000 Regional Cost Allocation Principles as set forth in Section 31.5.2.1 of Attachment Y.

The formula is applicable to the ISO’s share of the costs of an Interregional Transmission Project proposed as a regulated transmission solution to an identified Short Term Reliability Process Need in accordance with Section 38.4.2.5 of Attachment FF. The formula is not applicable to that portion of the cost of a regulated transmission reliability project that is, pursuant to Section 25.7.12 of Attachment S to the ISO OATT, paid for with funds (1) previously committed by or collected from Developers through their acceptance of a Project Cost Allocation for System Deliverability Upgrades required for the interconnection of generation projects or Class Year Transmission Projects, or (2) funds collected as a Highway Facilities Charge pursuant to Rate Schedule 12 of the ISO OATT.

This Section 38.22 establishes the allocation of the costs related to resolving Short-Term Reliability Process Needs resulting from resource adequacy, BPTF thermal transmission security, local transmission security for a Generator Deactivation Reliability Need, dynamic stability, and short circuit issues. Costs will be allocated in accordance with the following hierarchy: (i) resource adequacy pursuant to Section 38.22.1, (ii) BPTF thermal transmission security pursuant to Section 38.22.2, (iii) BPTF voltage security pursuant to Section 38.22.3, (iv) local transmission security for a Generator Deactivation Reliability Need pursuant to Section 38.22.4, (v) dynamic stability pursuant to Section 38.22.5, and (vi) short circuit pursuant to Section 38.22.6.

38.22.1 Resource Adequacy Reliability Solution Cost Allocation Formula

For purposes of solutions eligible for cost allocation under this Section 38.22, this section sets forth the cost allocation methodology applicable to that portion of the costs of the solution attributable to resolving resource adequacy. The same cost allocation formula is applied regardless of the project or sets of projects being triggered; however, the nature of the solution set may lead to some terms equaling zero, thereby dropping out of the equation. To ensure that appropriate allocation to the LCR and non-LCR zones occurs, the zonal allocation percentages are developed through a series of steps that first identify responsibility for LCR deficiencies, followed by responsibility for remaining need. The following formula shall apply to the allocation of the costs of the solution attributable to resource adequacy:

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  |  |  | + |  |  | \* |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |  |  |  |  |  |  |
|  |  |  | + |  |  | \* |  |  |  | \*100% |
|  |  |  |  |  |

Where *i* is for each applicable zone, *n* represent the total zones in NYCA, *m* represents the zones isolated by the binding interfaces, IRM is the statewide reserve margin, and where LCR is defined as the locational capacity requirement in terms of percentage and is equal to zero for those zones without an LCR requirement, LCRdefi is the applicable zonal LCR deficiency, SolnSTWdef is the STWdef for each applicable project, SolnCIdef is the CIdef for each applicable project, and Soln\_Size represents the total compensatory MW addressed by each applicable project for all reliability cost allocation steps in this Section 38.22.

Three step cost allocation methodology for regulated reliability solutions:

38.22.1.1 Step 1 - LCR Deficiency

38.22.1.1.1 Any deficiencies in meeting the LCRs for the Target Year will be referred to as the LCRdef. If the reliability criterion is met once the LCR deficiencies have been addressed, that is LOLE ≤ 0.1 for the Target Year is achieved, then the only costs allocated will be those related to the LCRdef MW. Cost responsibility for the LCRdef MW will be borne by each deficient locational zone(s), to the extent each is individually deficient.

For a single solution that addresses only an LCR deficiency in the applicable LCR zone, the equation would reduce to:

Where *i* is for each applicable LCR zone, LCRdefi represents the applicable zonal LCR deficiency, and Soln\_Size represents the total compensatory MW addressed by the applicable project.

38.22.1.1.2 Prior to the LOLE calculation, voltage constrained interfaces will be recalculated to determine the resulting transfer limits when the LCRdef MW are added.

38.22.1.2 Step 2 - Statewide Resource Deficiency. If the reliability criterion is not met after the LCRdef has been addressed, that is an LOLE > 0.1, then a NYCA Free Flow Test will be conducted to determine if NYCA has sufficient resources to meet an LOLE of 0.1.

38.22.1.2.1 If NYCA is found to be resource limited, the ISO, using the transfer limits and resources determined in Step 1, will determine the optimal distribution of additional resources to achieve a reduction in the NYCA LOLE to 0.1.

38.22.1.2.2 Cost allocation for compensatory MW added for cost allocation purposes to achieve an LOLE of 0.1, defined as a Statewide MW deficiency (STWdef), will be prorated to all NYCA zones, based on the NYCA coincident peak load. The allocation to locational zones will take into account their locational requirements.

For a single solution that addresses only a statewide deficiency, the equation would reduce to:

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  |  |  | \* |  |  | \*100% |
|  |  |  |
|  |  |  |  |  |  |  |

Where *i* is for each applicable zone, *n* is for the total zones in NYCA, IRM is the statewide reserve margin, and LCR is defined as the locational capacity requirement in terms of percentage and is equal to zero for those zones without an LCR requirement, Soln STWdef is the STWdef for the applicable project, and Soln\_Size represents the total compensatory MW addressed by the applicable project.

38.22.1.3 Step 3 - Constrained Interface Deficiency. If the NYCA is not resource limited as determined by the NYCA Free Flow Test, then the ISO will examine constrained transmission interfaces, using the Binding Interface Test.

38.22.1.3.1 The ISO will provide output results of the reliability simulation program utilized for the RNA that indicate the hours that each interface is at limit in each flow direction, as well as the hours that coincide with a loss of load event. These values will be used as an initial indicator to determine the binding interfaces that are impacting LOLE within the NYCA.

38.22.1.3.2 The ISO will review the output of the reliability simulation program utilized for the RNA along with other applicable information that may be available to make the determination of the binding interfaces.

38.22.1.3.3 Bounded Regions are assigned cost responsibility for the compensatory MW, defined as CIdef, needed to reach an LOLE of 0.1.

38.22.1.3.4 If one or more Bounded Regions are isolated as a result of binding interfaces identified through the Binding Interface Test, the ISO will determine the optimal distribution of compensatory MW to achieve a NYCA LOLE of 0.1. Compensatory MW will be added until the required NYCA LOLE is achieved.

38.22.1.3.5 The Bounded Regions will be identified by the ISO’s Binding Interface Test, which identifies the bounded interface limits that can be relieved and have the greatest impact on NYCA LOLE. The Bounded Region that will have the greatest benefit to NYCA LOLE will be the area to be first allocated costs in this step. The ISO will determine if after the first addition of compensating MWs the Bounded Region with the greatest impact on LOLE has changed. During this iterative process, the Binding Interface Test will look across the state to identify the appropriate Bounded Region. Specifically, the Binding Interface Test will be applied starting from the interface that has the greatest benefit to LOLE (the greatest LOLE reduction per interface compensatory MW addition), and then extended to subsequent interfaces until a NYCA LOLE of 0.1 is achieved.

38.22.1.3.6 The CIdef MW are allocated to the applicable Bounded Region isolated as a result of the constrained interface limits, based on their NYCA coincident peaks. Allocation to locational zones will take into account their locational requirements.

For a single solution that addresses only a binding interface deficiency, the equation would reduce to:

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  |  |  | \* |  |  | \*100% |
|  |  |  |
|  |  |  |  |  |  |  |

Where *i* is for each applicable zone, *m* is for the zones isolated by the binding interfaces, IRM is the statewide reserve margin, and where LCR is defined as the locational capacity requirement in terms of percentage and is equal to zero for those zones without an LCR requirement, SolnCIdef is the CIdef for the applicable project and Soln\_Size represents the total compensatory MW addressed by the applicable project.

38.22.2 BPTF Thermal Transmission Security Cost Allocation Formula

For purposes of solutions eligible for cost allocation under this Section 38.22, this section sets forth the cost allocation methodology applicable to that portion of the costs of the solution attributable to resolving BPTF thermal transmission security issues. If, after consideration of the compensatory MW identified in the resource adequacy reliability solution cost allocation in accordance with Section 38.22.1, there remains a BPTF thermal transmission security issue, the ISO will allocate the costs of the portion of the solution attributable to resolving the BPTF thermal transmission security issue(s) to the Subzones that contribute to the BPTF thermal transmission security issue(s) in the following manner.

38.22.2.1 Calculation of Nodal Distribution Factors

The ISO will calculate the nodal distribution factor for each load busmodeled in the power flow case utilizing the output of the reliability simulation program that identified the Short-Term Reliability Process Need, including the NYCA generation dispatch and NYCA coincident peak Load. The nodal distribution factor represents the percentage of the Load that flows across the facility subject to the Short-Term Reliability Process Need. The sign (positive or negative) of the nodal distribution factor represents the direction of flow.

38.22.2.2 Calculation of Nodal Flow

The ISO will calculate the nodal megawatt flow, defined as Nodal Flow, for each load bus modeled in the power flow case by multiplying the amount of Load in megawatts for the bus, defined as Nodal Load, by the nodal distribution factor for the bus. Nodal Flow represents the number of megawatts that flow across the facility subject to the Short-Term Reliability Process Need due to the Load.

38.22.2.3 Calculation of Contributing Load and Contributing Flow

The Nodal Load for a load bus with a positive nodal distribution factor is a contributing Load, defined as CLoad, and the Nodal Flow for that Load is contributing flow, defined as CFlow. To identify contributing Loads that have a material impact on the Short-Term Reliability Process Need, the ISO will calculate a contributing materiality threshold, defined as CMT, as follows:

Where *m* is for the total number of Subzones and *n* is for the total number of load buses in a given Subzone.

38.22.2.4 Calculation of Helping Load and Helping Flow

The Nodal Load for a load bus with a negative or zero nodal distribution factor is a helping Load, defined as HLoad, and the Nodal Flow for that Load is helping flow, defined as HFlow. To identify helping Loads that have a material impact on the Short-Term Reliability Process Need, the ISO will calculate a helping materiality threshold, defined as HMT, as follows:

Where *m* is for the total number of Subzones and *n* is for the total number of load buses in a given Subzone.

38.22.2.5 Calculation of Net Material Flow for Each Subzone

The ISO will identify material Nodal Flow for each Subzone and calculate the net material flow for each Subzone. For each load bus, the Nodal Flow will be identified as material flow, defined as MFlow, if the nodal distribution factor is (i) greater than or equal to CMT, or (ii) less than or equal to HMT. The net material flow for each Subzone, defined as SZ\_NetFlow, is calculated as follows:

Where *j* is for each Subzone and *n* is for the total number of load buses in a given Subzone.

38.22.2.6 Identification of Allocated Flow for Each Subzone

The ISO will identify the allocated flow for each Subzone and verify that sufficient contributing flow is being allocated costs. For each Subzone, if the SZ\_NetFlow is greater than zero, that Subzone has a net material contribution to the Short-Term Reliability Process Need and the SZ\_NetFlow is identified as allocated flow, defined as SZ\_AllocFlow. If the SZ\_NetFlow is less than or equal to zero, that Subzone does not have a net material contribution to the Generator Deactivation Reliability Need and the SZ\_AllocFlow is zero for that Subzone. If the total SZ\_AllocFlow for all Subzones is less than 60% of the total CFlow for all Subzones, then the CMT will be reduced and SZ\_NetFlow recalculated until the total SZ\_AllocFlow for all Subzones is at least 60% of the total CFlow for all Subzones.

38.22.2.7 Cost Allocation for a Single BPTF Thermal Transmission Security Issue

For a single solution that addresses only a BPTF thermal transmission security issue, the equation for cost allocation would reduce to:

Where *j* is for each Subzone; *m* is for the total number of Subzones; SZ\_AllocFlow is the allocated flow for each Subzone; SolnBTSdef is the number of compensatory MW for the BPTF thermal transmission security issue for the applicable project; and Soln\_Size represents the total compensatory MW addressed by the applicable project.

38.22.2.8 Cost Allocation for Multiple BPTF Thermal Transmission Security Issues

If a single solution addresses multiple BPTF thermal transmission security issues, the ISO will calculate weighting factors based on the ratio of the present value of the estimated costs for individual solutions to each BPTF thermal transmission security issue. The present values of the estimated costs for the individual solutions shall be based on a common base date that will be the beginning of the calendar month in which the cost allocation analysis is performed (the “Base Date”). The ISO will apply the weighting factors to the cost allocation calculated for each Subzone for each individual BPTF thermal transmission security issue. The following example illustrates the cost allocation for such a solution:

* A cost allocation analysis for the selected solution is to be performed during a given month establishing the beginning of that month as the Base Date.
* The ISO has identified two BPTF thermal transmission security issues, Overload X and Overload Y, and the ISO has selected a single solution (Project Z) to address both BPTF thermal transmission security issues.
* The cost of a solution to address only Overload X (Project X) is Cost(X), provided in a given year’s dollars. The number of years from the Base Date to the year associated with the cost estimate of Project (X) is N(X).
* The cost of a solution to address only Overload Y (Project Y) is Cost(Y), provided in a given year’s dollars. The number of years from the Base Date to the year associated with the cost estimate of Project Y is N(Y).
* The discount rate, D, to be used for the present value analysis shall be the current after-tax weighted average cost of capital for the Transmission Owners.
* Based on the foregoing assumptions, the following formulas will be used:
  + - Present Value of Cost (X) = PV Cost (X) = Cost (X) / (1+D)N(X)
    - Present Value of Cost (Y) = PV Cost (Y) = Cost (Y) / (1+D)N(Y)
    - Overload X weighting factor = PV Cost (X)/[PV Cost (X) + PV Cost (Y)]
    - Overload Y weighting factor = PV Cost (Y)/[PV Cost (X) + PV Cost (Y)]
* Applying those formulas, if:

Cost (X) = $100 Million and N(X) = 6.25 years

Cost (Y) = $25 Million and N(Y) = 4.75 years

D = 7.5% per year

Then:

PV Cost (X) = 100/(1+0.075) 6.25 = 63.635 Million

PV Cost (Y) = 25/(1+0.075)4.75 = 17.732 Million

Overload X weighting factor = 63.635 / (63.635 + 17.732) = 78.21%

Overload Y weighting factor = 17.732 / (63.635 + 17.732) = 21.79%

* Applying those weighing factors, if:

Subzone A cost allocation for Overload X is 15%

Subzone A cost allocation for Overload Y is 70%

Then:

Subzone A cost allocation % for Project Z =

(15% \* 78.21%) + (70% \* 21.79%) = 26.99%

38.22.2.9 Exclusion of Subzone(s) Based on *De Minimis* Impact

If a Subzone is assigned a BPTF thermal transmission security cost allocation less than a *de minimis* dollar threshold of the total project costs, that Subzone will not be allocated costs; *provided however,* that the total *de minimis* Subzones may not exceed 10% of the total BPTF thermal transmission security cost allocation. The *de minimis* threshold is initially $10,000. If the total allocation percentage of all *de minimis* Subzones is greater than 10%, then the *de minimis* threshold will be reduced until the total allocation percentage of all *de minimis* Subzones is less than or equal to 10%.

38.22.3 BPTF Voltage Security Cost Allocation

If, after consideration of the compensatory MW identified in the resource adequacy cost allocation in accordance with Section 38.22.1 and BPTF thermal transmission security cost allocation in accordance with Section 38.22.2, there remains a BPTF voltage security issue, the ISO will allocate the costs of the portion of the solution attributable to resolving the BPTF voltage security issue(s) to the Subzones that contribute to the BPTF voltage security issue(s). The cost responsibility for the portion (MW or MVAr) of the solution attributable to resolving the BPTF voltage security issue(s), defined as SolnBVSdef, will be allocated on a Load-ratio share to each Subzone to which each bus with a voltage issue is connected, as follows:

Where *j* is for each Subzone; *m* is for the total number of Subzones that are subject to BPTF voltage cost allocation; Coincident Peak is for the total peak Load for each Subzone; SolnBVSdef is for the portion of the solution necessary to resolve the BPTF voltage security issue(s); and Soln\_Size represents the total compensatory MW addressed by the applicable project.

38.22.4 Local Transmission Security Cost Allocation

If, after consideration of the compensatory MW identified in the resource adequacy cost allocation in accordance with Section 38.22.1, the BPTF thermal transmission security cost allocation in accordance with Section 38.22.2, and BPTF voltage security cost allocation in accordance with Section 38.22.3, there remains a non-BPTF thermal security issue or a non-BPTF voltage security issue, the ISO will allocate the costs of resolving the local security issue(s) to the Subzones that contribute to the local security issue(s). This local transmission security step will only apply for the allocation of the costs of a Short-Term Reliability Process Solution to a Generator Deactivation Reliability Need.

38.22.4.1 The Subzone in which the receiving terminal of the non-BPTF facility is located is assigned cost responsibility for the megawatt portion of the solution needed to eliminate the non-BPTF thermal issue(s), defined as LocalThermalMW. If multiple non-BPTF thermal issues in multiple Subzones are addressed by the solution, the LocalThermalMW will be allocated on a Load-ratio share to each identified Subzone as follows:

Where *j* is for each Subzone; *m* is for the total number of Subzones that are subject to local thermal cost allocation; Coincident Peak is for the total peak load for each Subzone; LocalThermalMW is for the megawatt portion of the solution needed to eliminate the non-BPTF thermal issue(s); and Soln\_Size represents the total compensatory MW addressed by the solution.

38.22.4.2 If there remains a voltage issue after consideration of LocalThermalMW, then the cost responsibility for the megawatt portion of the solution necessary to resolve the voltage issue(s), defined as LocalVoltageMW, will be allocated on a Load-ratio share to each Subzone to which each bus with a voltage issue is connected, as follows:

Where *j* is for each Subzone; *m* is for the total number of Subzones that are subject to local voltage cost allocation; Coincident Peak is for the total peak Load for each Subzone; LocalVoltageMW is for the megawatt portion of the RMR Agreement necessary to resolve the voltage issue(s); and Soln\_Size represents the total compensatory MW addressed by the solution.

38.22.5 Dynamic Stability Cost Allocation

If, after consideration of the compensatory MW identified in the resource adequacy cost allocation in accordance with Section 38.22.1, BPTF thermal transmission security cost allocation in accordance with Section 38.22.2, BPTF voltage security cost allocation in accordance with Section 38.22.3, and local transmission security cost allocation for a Generator Deactivation Reliability Need in accordance with Section 38.22.4, there remains a dynamic stability issue, the ISO will allocate the costs of the portion of the solution attributable to resolving the dynamic stability issue(s) to all Subzones in the NYCA on a Load-ratio share basis, as follows:

Where *j* is for each Subzone; *m* is for the total number of Subzones; Coincident Peak is for the total peak Load for each Subzone; DynamicMW is for the megawatt portion of the solution necessary to resolve the dynamic stability issue(s) for the applicable project; and Soln\_Size represents the total compensatory MW addressed by the applicable project.

38.22.6 Short Circuit Issues

If, after the completion of the prior reliability cost allocation steps, there remains a short circuit issue, the short circuit issue will be deemed a local issue and related costs will not be allocated under this process.

38.23 Cost Recovery for Short-Term Reliability Process

38.23.1 The Responsible Transmission Owner or the Developer that proposes a transmission Short-Term Reliability Process Solution that is selected by the ISO pursuant to Section 38.10 to address a Short-Term Reliability Process Need shall be entitled to full recovery of all reasonably incurred costs, including a reasonable return on investment and any applicable incentives, related to the development, construction, operation and maintenance of the transmission Short-Term Reliability Process Solution. The Responsible Transmission Owner shall also be entitled to recover its costs for developing its proposed transmission Short-Term Reliability Process Solution and, if applicable, its conceptual permanent Short-Term Reliability Process Solution, whether or not such solutions were selected by the ISO. The Responsible Transmission Owner or Developer will recover its costs in accordance with Schedule 16 of this ISO OATT, or as determined by the Commission. The period for cost recovery will be determined by the Commission and will begin if and when the Short-Term Reliability Process Solution is completed or halted, or as otherwise determined by the Commission. The NYISO does not provide cost recovery related to projects undertaken by Transmission Owners through their Local Transmission Owner Planning Processes pursuant to Sections 31.1.3 and 31.2.1 of Attachment Y of the ISO OATT.

38.23.2. If a selected regulated transmission Short-Term Reliability Process Solution is halted by the ISO, all of the costs incurred and commitments made by the Developer up to that point, including reasonable and necessary expenses incurred to implement an orderly termination of the project, will be recoverable by the Developer in accordance with Schedule 16 of the ISO OATT.

38.23.3 If the appropriate federal, state or local agency(ies) either rejects a necessary authorization, or approves and later withdraws authorization, for the selected transmission Short-Term Reliability Process Solution, the Developer may recover all of the necessary and reasonable costs incurred and commitments made up to the final federal, state or local regulatory decision, including reasonable and necessary expenses incurred to implement an orderly termination of the project, to the extent permitted by the Commission in accordance with its regulations. The ISO shall recover such costs in accordance with Schedule 16 of the ISO OATT.

38.23.4 If a Market Participant’s Generator is operating under an RMR Agreement pursuant to Section 38.11 to address a Short-Term Reliability Process Need, the Market Participant will be paid in accordance with Rate Schedule 8 of the ISO Services Tariff. The ISO will recover costs related to RMR Agreements from LSEs in accordance with Schedule 14 of the ISO OATT.

38.23.5 With the exception of a Generator operating under an RMR Agreement, costs related to non-transmission regulated Short-Term Reliability Process Solutions to Short-Term Reliability Process Needs will be recovered by Responsible Transmission Owners or Developers in accordance with the provisions of New York Public Service Law, New York Public Authorities Law, or other applicable state law.

**38.24 Appendix A – Generator Deactivation Notice Form**

**38.24.1 Instructions**

38.24.1.1 Before a Generator with a nameplate rating that exceeds 1 MW may be Retired or enter into a Mothball Outage, the Market Participant must satisfy the requirements set forth in Attachment FF to the OATT, including submitting to the NYISO a completed Generator Deactivation Notice using the form set forth in this Appendix A of Attachment FF to the OATT, and providing the information required by Appendix B of Attachment FF to the OATT.

38.24.1.2 In accordance with the requirements set forth in Section 38.3.1 of Attachment FF to the OATT and ISO Procedures, the Market Participant shall submit to the NYISO via electronic mail (a) the Generator Deactivation Notice form to [generator\_retirement@nyiso.com](mailto:generator_retirement@nyiso.com) and (b) all information required by Appendix B of Attachment FF to NYISO Stakeholder Services, to the attention of the Director of Market Mitigation and Analysis.

38.24.1.3 The NYISO will review the information received pursuant to Section 38.3.1.5 of the OATT to determine whether it is complete. The NYISO will notify the Market Participant to provide any additional information that is required in order for the Generator Deactivation Notice to be determined to be complete.

38.24.1.4 The 365 day notice period applicable to a Generator(s) proposing to be Retired or enter into a Mothball Outage will begin to run on the date of the next quarterly Short-Term Assessment of Reliability (STAR) that commences at least one day after the date on which NYISO issues a written notice to the Market Participant indicating that the Generator Deactivation Notice (including the information received and supporting certification) are complete.

38.24.1.5 The Market Participant has a continuing obligation to timely submit additional information pursuant to Section 38.25.4 of Appendix B, under Attachment FF to the NYISO OATT, and as otherwise required under the ISO Tariffs. All such information shall be sent to NYISO Stakeholder Services, to the attention of the Director of Market Mitigation and Analysis.

**38.24.2 Submitting Entity’s Information**

38.24.2.1 Name of entity submitting notice:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“submitting entity”)

38.24.2.2 Submitting entity’s interest in and relationship with Generator(s) (check all that apply):

[ ] Owner (and if part owner, percent) of Generator(s)

[ ] Operator of Generator(s)

[ ] Market Participant

[ ] Other \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

If the submitting entity is not both the owner and operator, provide the following information for (a) the owner, (b) the operator, (c) Market Participant, and (d) the submitting entity:

38.24.2.3 State of organization or incorporation:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

38.24.2.4 Contact information

Name of contact person and alternate contact person, title, relationship to the submitting entity, mailing address, e-mail address, office phone number, and cell phone number:

**38.24.3 Identity of Generator(s) Subject to Generator Deactivation Notice**

Location:

Unit Name:\_\_\_\_\_\_\_\_\_ PTID \_\_\_\_\_\_\_ Nameplate Rating in MW: \_\_\_\_\_\_\_\_\_\_\_

Unit Name:\_\_\_\_\_\_\_\_\_ PTID \_\_\_\_\_\_\_ Nameplate Rating in MW: \_\_\_\_\_\_\_\_\_\_\_

Unit Name:\_\_\_\_\_\_\_\_\_ PTID \_\_\_\_\_\_\_ Nameplate Rating in MW: \_\_\_\_\_\_\_\_\_\_\_

Unit Name:\_\_\_\_\_\_\_\_\_ PTID \_\_\_\_\_\_\_ Nameplate Rating in MW: \_\_\_\_\_\_\_\_\_\_\_

Revenue Meter Location(s) (Use PTIDs):

**38.24.4 Proposed Generator Deactivation**

38.24.4.1 The Generator Deactivation Notice is for the Generator(s) (check one):

[ ] to be Retired

[ ] to enter into a Mothball Outage.

38.24.4.2 If the submitting entity is proposing to enter the Generator(s) into a Mothball Outage, please check the box below to acknowledge that the Generator(s) is able to return to service within 180 days.

[ ] Generator(s) is able to return to service within 180 days

Please note: If the submitting entity believes that there is good cause for why a Generator will not be able to return to service within 180 days, the submitting entity must separately provide for each such Generator the proposed number of days for return and supporting information to the NYISO for review. The NYISO will determine whether the information provided satisfies the requirements of Section 5.18.3.2 of the ISO Services Tariff. If the Generator Deactivation Notice is for more than one Generator, and the response to this subsection 38.24.4.2 is not the same for all Generators, specify by Unit Name and PTID which Generators are able and which are not able to return to service within 180 days.

38.24.4.3 If the submitting entity is proposing to enter the Generator(s) into a Mothball Outage, please check the box below to acknowledge that the step-up transformer(s) and other system protection equipment will continue to be operational during the Mothball Outage.

[ ] The step-up transformer(s) and other system protection equipment will continue to be operational during the Mothball Outage.

38.24.4.4 If the submitting entity is proposing for the Generator(s) to be Retired on a date other than 365 days after the Generator Deactivation Assessment Start Date (as that term is defined in Section 38.1 of Attachment FF to the NYISO OATT), the desired retirement date is: [day] of [month] of [year].

38.24.4.5 If the submitting entity is proposing for the Generator(s) to enter into a Mothball Outage on a date other than 365 days after the Generator Deactivation Assessment Start Date, the desired date to enter into a Mothball Outage is: [day] of [month] of [year]. The submitting entity proposes to resume operation and participation in the ISO Administered Markets on: [day] of [month] of [year].

**38.24.5 Acknowledgments**

By submitting the Generator Deactivation Notice, the submitting entity acknowledges:

* After the NYISO determines that the Generator Deactivation Notice is complete, the NYISO will post a notice of that determination (and will notify the submitting entity.)
* If the submitting entity rescinds this Generator Deactivation Notice after the NYISO determines it to be complete, the submitting entity must reimburse the NYISO and the relevant New York Transmission Owner(s) in accordance with Section 38.14.2 of Attachment FF of the NYISO OATT the actual costs that each incurred in performing their responsibilities under Attachment FF of the NYISO OATT and Section 23.4.5.6 of the ISO Services Tariff in response to the submitting entity’s submission of this Generator Deactivation Notice, including any costs associated with using contractors.

**38.24.6 Submitted By:**

**Certification**

The undersigned certifies that he or she is an officer of the submitting entity, that he or she is authorized to execute this Certification and submit this Generator Deactivation Notice on behalf of the submitting entity, and that the information and statements contained herein (including any and all attachments, and information required by Appendix B of Attachment FF to the NYISO OATT submitted herewith,) and in this certification are true and correct to the best of his or her information, knowledge and belief, having conducted due diligence.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature

Name: Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date:

**38.25 Appendix B – Short-Term Reliability Process Cost, Revenue, and Other Information Requirements**

**38.25.1 Overview of Information Requirements**

This Appendix B governs the information that must be received by the ISO from Market Parties for Short-Term Reliability Process Solutions, including Initiating Generators, Short-Term Reliability Process Solutions proposed pursuant to Section 38.4 of Attachment FF, and Generators that have submitted a statement of intent or are otherwise required by the ISO to submit this information pursuant to 38.5 of this Attachment FF. The term “information” as used in this Appendix B and in Attachment FF includes all sources and types of information and data. The information required by this Appendix shall be separately stated from and is in addition to the information requirements for Generators in certain outages set forth in Section 5.18 of the ISO Services Tariff, the information required by the ISO pursuant to Section 23.4.5.6 of the ISO Services Tariff, and the Short-Term Reliability Process project information requirements set forth in Section 38.4 of this Attachment FF. If the information required by this Appendix does not exist on the date due to the ISO, the Market Party shall promptly provide it to the ISO if and when it does exist in whole or in part.

**38.25.2 Information Requirements Applicable to Initiating Generators**

38.25.2.1 The Market Party for an Initiating Generator must submit the information specified below, and any other information specified by the ISO on the section of its website identified for RMR Information Requirements, in the form and manner directed by the ISO. The items and their costs identified for (a) through (d), and (e) in this Section shall include only those costs necessary for the Initiating Generator to operate in accordance with Good Utility Practice for the duration of the relevant information period (as set forth in Section 38.25.8).

(a) Capital expenses, including those necessary to comply with federal or state environmental or safety laws, rules, regulations, and requirements, separately stating the financing cost (*e.g.*, interest and fees) for each item;

(b) Fixed operating and maintenance costs;

(c) Variable operating and maintenance costs, such as fuel, emissions, and start up costs, and other costs identified by the ISO in accordance with ISO Procedures; and if there is any difference between the submitted information and the information in the ISO’s Reference Level System at the time of the submission, and an explanation of the reason for the difference;

(d) The quantity of specific items of inventory necessary to be maintained, and costs thereof;

(e) The cost of expenditures other than those identified in (a) through (d) of this section that are necessary for the Generator to operate;

(f) All information pertaining to the capital structure of the Generator and its financing structure, the sources of capital, financing agreements, and dividend payout schedules;

(g) If the Generator Deactivation Notice is for the Generator to be Retired, (a) all existing agreements and proposals pertaining to the cost of opportunities that would be foregone if the Generator is not retired, such agreements being for the reuse, repurposing, or distribution of the real property of or on which the unit is located, its personal property or appurtenances; and (b) all agreements that contain a cost, premium, or fee for termination of all or a portion thereof;

(h) If the Generator is in an ICAP Ineligible Forced Outage or is Mothballed, and the Generator Deactivation Notice is for a retirement prior to the expiration of the period set forth in Section 5.18 of the ISO Services Tariff, the costs that are necessary to enable the Generator to return to service; and

(i) All sources of revenue, and the amount of, and terms and conditions associated with each source of revenues related to the construction of, investment in, upgrade to, or operation of the Generator.

38.25.2.2 For each item of cost or revenue, the Market Party shall specify whether it can be avoided, in whole or in part or diminished, if the Generator (a) ceases operations in the manner specified in its Generator Deactivation Notice, or (b) does not resume service from an ICAP Ineligible Forced Outage or Mothball Outage state. For each cost that can be avoided, the Market Party shall specify how it plans to do so and the potentially viable options examined to minimize the cost.

**38.25.3 Information Requirements Applicable to Short-Term Reliability Process Solutions Proposed Pursuant to Section 38.4 and Generators that Submit Statements of Intent or that Are Otherwise Required to Provide Information Pursuant to Section 38.5**

38.25.3.1 The Market Party for a Short-Term Reliability Process Solution proposed pursuant to Section 38.4, or for a Generator that submitted a statement of intent or that is otherwise required by the ISO to provide the information in Appendix B pursuant to Section 38.5, shall submit the information identified below, and any other information specified by the ISO on the ISO’s website, in the form and manner directed by the ISO.

38.25.3.2 If a Market Party has submitted a statement of intent to offer its Generator, or if the ISO otherwise requires the Market Party to provide the information in Appendix B regarding the Generator pursuant to Section 38.5, then the Market Party shall submit the information set forth in Section 38.25.2.1 and 38.25.2.2.

38.25.3.3 If a proposed Short-Term Reliability Process Solution is a new Generator, the Market Party shall submit those costs necessary for the Generator to be sited, permitted, and constructed, and the information below. The items and their costs identified for (a) through (d) in this Section shall include only those costs necessary for the Generator to operate in accordance with Good Utility Practice for the duration of the relevant information period.

(a) Capital expenses, including those necessary to comply with federal or state environmental or safety laws, rules, regulations, and requirements, separately stating the financing cost (*e.g.*, interest and fees) for each item;

(b) Fixed operating and maintenance costs;

(c) Variable operating and maintenance costs;

(d) The quantity of specific items of inventory necessary to be maintained, and costs thereof;

(e) All information pertaining to the capital structure of the Generator and its financing structure, including the sources of capital, financing agreements, and dividend payout schedules;

(f) All existing agreements and proposals pertaining to opportunity costs that would be foregone if the Generator served as a Short-Term Reliability Process Solution; and

(g) All sources of revenue, and the amount of, and terms and conditions associated with each source of revenues related to the construction of, investment in, upgrade to, or operation of the proposed Short-Term Reliability Process Solution or Generator.

38.25.3.4 If a proposed Short-Term Reliability Process Solution is a transmission project, the Market Party shall provide:

(a) Capital expenses, including the following elements:

(i) Capital expenses necessary to comply with federal or state environmental or safety requirements, separately stating the financing cost (*e.g.*, interest and fees) for each item;

(ii) Worksheets setting forth all relevant material and labor cost assumptions. These assumptions should be itemized, and should include the following elements:

(A) equipment, including, to the extent applicable and available, sub-itemized estimates for equipment associated with each of the following categories: (i) the proposed project; (ii) interconnection facilities (including Attachment Facilities and Direct Assignment Facilities); and (iii) System Upgrade Facilities, System Deliverability Upgrades, Network Upgrades, and Distribution Upgrades

(B) engineering and design work

(C) permitting

(D) site acquisition

(E) procurement

(F) construction work

(G) other commissioning work;

(iii) For each category or sub-category of cost estimate, a quantification of cost variance, including an assumed plus/minus range around the capital cost estimate.

(b) Fixed operating and maintenance costs;

(c) Variable operating and maintenance costs;

(d) The quantity of specific items of inventory necessary to be maintained, and costs thereof;

(e) The cost of expenditures other than those identified in (a) through (d) of this Section that are necessary to enable the project to operate, including any costs to obtain right of way, siting, and other federal, state and local permits;

(f) All information pertaining to the capital structure of the project and its financing structure, including the sources of capital, financing agreements, and dividend payout schedules;

(g) All existing agreements and proposals pertaining to opportunity costs that would be foregone if the project served as a Short-Term Reliability Process Solution; and

(h) All sources of revenue, and the amount of, and terms and conditions associated with each source of revenue related to the construction of, investment in, upgrade to, or operation of the project.

**38.25.4 Obligation to Submit Further Information**

Market Parties for Short-Term Reliability Process Solutions, including Initiating Generators, Short-Term Reliability Process Solutions proposed pursuant to Section 38.4, Generators that submitted a statement of intent pursuant to Section 38.5, and Generators otherwise required to provide the information in Appendix B pursuant to Section 38.5, shall provide any new information, and shall update and revise information previously submitted to the ISO in accordance with Sections 38.25.2 or 38.25.3, (i) no more than fifteen days after (a) a material change (or a series of changes that results in a material change) in (I) the physical condition of a proposed or potential Short-Term Reliability Process Solution or any aspect of its proposal, or (II) the information previously submitted, (b) an event occurring that makes any element of the information submitted materially inaccurate, (c) actual cost information becoming available where estimated information had been provided, (d) changes to costs based on physical events or regulatory developments that might reasonably be expected to impact planned operations, and also (ii) promptly upon the request of the ISO for any other information. The obligation to provide information pursuant to this Section 38.25.4 shall cease (a) for any proposed or potential Short-Term Reliability Process Solution (other than an Initiating Generator) on the earlier of the date (x) the ISO provides notice that a Short-Term Reliability Process Solution is not needed, (y) the request for Short-Term Reliability Process Solutions is withdrawn, or (z) that the ISO determines a Short-Term Reliability Process Solution other than it is expected to satisfy the Short-Term Reliability Process Need, and (b) for any Initiating Generator, upon the earlier of the date that (x) it withdraws its Generator Deactivation Notice if it stated it was a notice of retirement, or (y) it permanently retires.

38.25.5 The Market Party shall provide the ISO the actual costs and revenues for each item in Sections 38.25.2 through 38.25.4 to the greatest extent practicable. If actual costs and revenues are not available, the Market Party shall provide estimated costs and revenues along with a description of how the estimates were prepared. The Market Party must identify and describe the accounting protocols used to identify or determine all actual and estimated costs and revenues.

38.25.6 For each cost identified under Subsections (a), (b), (d) and (e) of Sections 38.25.2.1, 38.25.3.1, 38.25.3.4, or 38.25.3.5, or Subsections (a), (b) and (d) of Section 38.25.3.3, the Market Party shall provide a detailed plan specifying the schedule and timing of the planned action and expenditure, and if it is an existing Resource, an explanation and supporting documentation of how that plan compares to the Market Party’s past similar expenditures, actions, and protocols. The Market Party shall also specify the terms in any contracts associated with (a) avoidable capital expenses, normal maintenance, extraordinary maintenance and repairs, or variable costs that contain a cost, premium, and/or fee for termination of the agreement in whole or for a portion thereof, and shall provide a copy of the contract and documents pertinent to the calculation of the early termination premium, cost, and fee, and (b) revenues, and shall provide a copy of the contract and documents pertinent to the calculation of the revenues, and the historic revenues.

38.25.7 The Market Party shall specify whether each cost is associated solely with the individual unit(s) of the Generator, or a component of the transmission project, or whether the cost is for services or functions shared with other units or businesses. If a cost is a shared cost, the Market Party shall identify the other entities with which the cost is shared, the entity that allocates the cost to it; and the accounting protocols and methodology used in the allocation of the costs, and across which units and business the cost is allocated.

**38.25.8 Information Periods**

38.25.8.1 Information provided under Sections 38.25.2.1 and 38.25.2.2 shall encompass one year periods, for the five (5) years prior to and (a) if by an Initiating Generator or a Generator that submits a statement of intent pursuant to Section 38.5 for six (6) years from the date of the initial provision of information, and each annual update thereto, and (b) if by a Generator that did not provide a statement of intent, but is required to provide information by the ISO pursuant to 38.5, for the number of years identified by the ISO in the notification provided pursuant to 38.5 of Attachment FF.

38.25.8.2 Information provided by proposed Short-Term Reliability Process Solutions, other than an Initiating Generator or a Generator that has submitted a statement of intent or is otherwise required to provide information in Appendix B pursuant to Section 38.5, shall encompass one year periods, from the date of the initial provision of information for the period identified in the request for Short-Term Reliability Process Solutions.

38.25.8.3 For the financing cost of any mandatory capital expense, the Market Party shall provide information and data for: (a) the one-year period beginning on the estimated date of expenditure for the item of capital expense; and in addition (b) the period beginning on the estimated date of expenditure for the item of capital expense and ending, respectively, (i) if an Initiating Generator or a Generator that submitted a statement of intent pursuant to Section 38.5 two years, three years, four years, five years, and six years, from the date of the Generator Deactivation Notice or statement of intent (but excluding data and information beyond the date that is six years from the Generator Deactivation Notice or statement of intent); (ii) if a Generator that did not provide a statement of intent, but is required to provide information by the ISO pursuant to Section 38.5, for the number of years identified by the ISO in the notification provided pursuant to Section 38.5, from the date of its initial submission of information in accordance with Section 38.25.3, and (iii) if a proposed Short-Term Reliability Process Solution (other than an Initiating Generator or a Generator that has submitted a statement of intent or its otherwise required by the ISO to provide information pursuant to Section 38.5), for the duration of the Short-Term Reliability Process Need identified by the ISO in its request for Short-Term Reliability Process Solutions.

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**FORM OF RELIABILITY MUST RUN AGREEMENT**

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RELIABILITY MUST RUN AGREEMENT

This RELIABILITY MUST RUN AGREEMENT (“Agreement”) is made as of the day of , 20\_\_, among {fill in names and types of legal entity or entities} (collectively, “Owner”), and the New York Independent System Operator, Inc., a New York not-for-profit corporation (“ISO”).

RECITALS

Owner owns and has operational control over (PTID No. ), a MW electrical Generator together with appurtenant facilities and structures, located at (a/the “RMR Generator”). {If the station is comprised of more than one unit, describe all units at the station, including their MW and PTIDs, and then identify each unit or sets of units that is a distinct “RMR Generator” under this Agreement}.

The ISO is the Independent System Operator for New York and is responsible for the operation of the New York Control Area (“NYCA”) to ensure reliability and for the administration of the ISO Administered Markets.

Owner submitted a Generator Deactivation Notice [to mothball or to retire] each RMR Generator, which the ISO determined was complete on [ISO to fill-in date]. The 365 Day Notice Period concludes or concluded on [date one year from the Short-Term Assessment of Reliability Start Date].

The ISO has concluded that the RMR Generator[s] will be needed for reliability purposes during the Term of this Agreement. Schedule 1 to this Agreement contains a description of the Short-Term Reliability Process Need (for purposes of this Agreement, a “Reliability Need”) that the RMR Generator[s] are being kept in service to address.

The Parties have agreed: [ALT. 1, IF OWNER AND ISO AGREE ON TERMS AND CONDITIONS, OWNER ACCEPTS THE APR, AND THE PARTIES EXECUTE THE AGREEMENT (i) that the ISO shall submit this executed Agreement, including the proposed Availability and Performance Rate (“APR”), to the Federal Energy Regulatory Commission (“FERC”) in a Federal Power Act (“FPA”) Section 205 filing on the Parties’ behalf;] [ALT. 2, IF OWNER AND ISO AGREE ON TERMS AND CONDITIONS, OWNER ACCEPTS THE APR, BUT THERE ARE CAPITAL EXPENDITURES THAT REQUIRE FERC APPROVAL (i) that the ISO shall submit this Agreement to the Federal Energy Regulatory Commission (“FERC”), including the agreed-to components of a proposed Availability and Performance Rate (“APR”), in a Federal Power Act (“FPA”) Section 205 filing on the Parties’ behalf, and that Owner shall submit a separate FPA Section 205 filing that is consistent with the terms and conditions of service proposed in this Agreement, and that tracks the format of this Agreement, proposing the inclusion of the cost of certain Capital Expenditures in the APR;] [ALT. 3, IF OWNER AND ISO AGREE ON TERMS AND CONDITIONS BUT OWNER REJECTS THE APR AND SUBMITS AN OWNER DEVELOPED RATE (i) that the ISO shall submit this unexecuted Agreement that sets forth the Parties’ agreed-upon terms and conditions of service to the Federal Energy Regulatory Commission (“FERC”), in a Federal Power Act (“FPA”) Section 205 filing on the Parties’ behalf, and that Owner shall submit a separate FPA Section 205 filing proposing an Owner Developed Rate that is consistent with the terms and conditions of service proposed in this Agreement, and that tracks the format of this Agreement;] and (ii) to enter into this Agreement to establish the terms and conditions under which each RMR Generator shall be obligated to offer and provide Energy, Ancillary Services and Unforced Capacity to the ISO Administered Markets; and (iii) [to set certain components of the Availability and Performance Rate (“APR”) that determines the payments by which Owner shall recover the avoidable and variable costs of each RMR Generator, and makes available possible monthly and seasonal incentive payments based on each RMR Generator’s availability to operate and its performance when scheduled to operate] OR [to incorporate the Owner Developed Rate that is ultimately accepted by FERC].

NOW THEREFORE, in consideration of the agreements and covenants set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound by this Agreement as of its Start Date, the Parties covenant and agree as follows:

ARTICLE 1 - DEFINITIONS AND RULES OF INTERPRETATION

1.1 Definitions.

Except for the terms defined below and in the attached schedules, capitalized terms shall be as defined in the ISO Tariffs. The definitions set forth below are only intended for use in this Agreement and shall not be relied upon to interpret the ISO’s Tariffs.

1.1.1 “365 Day Notice Period” means the 365 days that follow the Short-Term Assessment of Reliability (“STAR”) Start Date.

1.1.2 “Additional Costs” has the meaning set forth in Section 4.3.3 of this Agreement.

1.1.3 “Affiliate” has the meaning set forth in Section 2.1 of the Services Tariff.

1.1.4 “Ancillary Services” means services necessary to support the transmission of Energy from Generators to Loads, while maintaining reliable operation of the NYS Power System in accordance with Good Utility Practice and Reliability Rules. Ancillary Services that RMR Generators may be able to provide include Voltage Support Service, Regulation Service, Operating Reserve Service (including Spinning Reserve, 10‑Minute Non‑Synchronized Reserves and 30‑Minute Reserves), and Restoration Services (black start).

1.1.5 “Availability & Performance Rate” or “APR” means the compensation that an RMR Generator is eligible to receive in accordance with Sections 15.8.1, 15.8.2, 15.8.3 and 15.8.4 of Rate Schedule 8 to the ISO’s Services Tariff during the Term of this Agreement. The APR consists of a daily calculation that is developed to permit an RMR Generator to recover its avoidable costs and variable costs, plus the opportunity to periodically earn financial incentives for availability to the markets and for performing consistent with the ISO’s dispatch when scheduled.

1.1.6 “Capital Expenditures” has the meaning set forth in Section 38.8.1.3 of the OATT.

1.1.7 “Contract” means any agreement, commitment, policy, document or similar instrument creating mutual obligations among two or more parties.

1.1.8 “FERC Effective Date” has the meaning set forth in Section 2.1 of this Agreement.

1.1.9 “Force Majeure Event” has the meaning set forth in Section 8.1 of this Agreement.

1.1.10 “Forced Outage” has the meaning set forth in Section 2.6 of the Services Tariff.

1.1.11 “FPA” means the Federal Power Act (16 U.S.C. § 791a).

1.1.12 “Generator Deactivation Notice” has the meaning set forth in Section 38.1 of the OATT.

1.1.13 “Short-Term Assessment of Reliability Start Date” has the meaning set forth in Section 38.1 of the OATT.

1.1.14 “Governmental Authority” means the government of any nation, state or other political subdivision thereof, including any entity lawfully exercising executive, military, legislative, judicial, regulatory, or administrative functions of or pertaining to a government.

1.1.15 “ISO Procedures” has the meaning set forth in Section 2.9 of the Services Tariff.

1.1.16 “ISO Tariffs” means the ISO’s Market Administration and Control Area Services Tariff (“Services Tariff”) and the ISO’s Open Access Transmission Tariff (“OATT”) collectively.

1.1.17 “Law” means any law, treaty, code, rule, regulation, or order or determination of an arbitrator, court or other Governmental Authority, or any license, permit, certificate, authorization, qualification, or approval granted by a Governmental Authority, each as amended, modified, supplemented or replaced from time to time, to the extent binding on a Party or any of its property.

1.1.18 “Market Mitigation and Analysis Department” or “MMA” has the meaning set forth in Section 30.2 of the Services Tariff.

1.1.19 “Market Monitoring Unit” or “MMU” has the meaning set forth in Section 30.2 of the Services Tariff.

1.1.20 “Month” means the period beginning at hour beginning zero on the first day of the calendar month and ending at hour beginning zero of the first day of the next succeeding calendar month.

1.1.21 “Notice of Forced Outage” has the meaning set forth in Section 7.2.3 of this Agreement.

1.1.22 “Notice of Event of Proposed Additional Cost” has the meaning set forth in Section 38.16.1 of the OATT.

1.1.23 “Notice of Shut-down” has the meaning set forth in Section 7.2.5 of this Agreement.

1.1.24 “Order” means any determination, command, mandate or similar directive made by a Governmental Authority.

1.1.25 “Owner” has the meaning set forth in the preamble of this Agreement and, where applicable and appropriate, includes Owner’s agent, assignee and/or designee.

1.1.26 “Owner-Developed Rate” means a rate that Owner filed with the Federal Energy Regulatory Commission (“FERC”) under Section 205 of the Federal Power Act, including any modifications required by FERC in its Order accepting the rate for filing. An Owner Developed Rate is different from the ISO-developed Availability & Performance Rate. The charges that the ISO pays pursuant to an Owner Developed Rate are represented by the “RMRCost” term that is used in Rate Schedule 8 to the Services Tariff.

1.1.27 “Party” means either the ISO or Owner, as the context requires. “Parties” means ISO and Owner.

1.1.28 “Permit” means any license, certificate, authorization, qualification, or similar approval granted by a Governmental Authority empowering the grantee to do some act.

1.1.29 “Planned Outage” means a planned interruption, in whole or in part, to the availability of a Generator to permit Owner to perform maintenance and repair of the Generator.

1.1.30 “Reference Level” means the ISO’s best estimate of an RMR Generator’s incremental marginal costs, and of an RMR Generator’s physical capabilities. The ISO determines Reference Levels in accordance with the requirements of its Market Power Mitigation Measures that are set forth in Section 23 of its Services Tariff. This term does not include UCAP Offer Reference Levels.

1.1.31 “RMR Avoidable Costs” has the meaning set forth in Section 1.18 of the OATT.

1.1.32 “RMR Generator” has the meaning set forth in Section 1.18 of the OATT.

1.1.33 “Shut-down Date” has the meaning set forth in Section 7.2.9 of this Agreement.

1.1.34 “Start Date” has the meaning set forth in Section 2.1 of this Agreement.

1.1.35 “Substantiated Additional Cost” has the meaning set forth in Section 38.16.2.1 of the OATT.

1.1.36 “Term” has the meaning set forth in Section 2.1 of this Agreement.

1.2 Interpretation.

In this Agreement, unless otherwise indicated or otherwise required by the context, the following rules of interpretation shall apply:

1.2.1 Reference to and the definition of any document (including this Agreement, an ISO Tariff or the ISO Procedures) shall be deemed a reference to such document as it may be amended, supplemented, revised or modified from time to time, and to any document that is a successor thereto but only to the extent the amendment or other modification is not prohibited by this Agreement or the ISO’s Tariffs.

1.2.2 The table of contents, article and section headings, and other captions in this Agreement are for the purpose of reference only and do not limit or affect its meaning.

1.2.3 Defined terms in the singular shall include the plural and vice versa, and the masculine, feminine or neuter gender shall include all genders.

1.2.4 The terms “include,” “includes,” or “including” when used herein shall not be considered limitations.

1.3 Construction.

1.3.1 The Parties shall comply with the ISO’s Tariffs, as they may be amended from time to time.

1.3.2 This Agreement has been drafted by the Parties hereto and shall not be construed against any Party as the sole drafter.

ARTICLE 2 – TERM

2.1 Start Date, FERC Effective Date and Term.

2.1.1 This Agreement shall become effective at the beginning of the hour beginning zero, on [the first day of a month] (the “Start Date”) and shall terminate at the end of the operating hour beginning 23 as of the date of the termination of the [last] RMR Generator as provided in Section 2.2 (“Term”). The [Parties or filing Party] request[s] that FERC set the date that this Agreement shall become legally effective under the FPA (the “FERC Effective Date”) to be consistent with the Start Date.

2.1.2 Following the ISO’s submission to FERC of an executed or unexecuted Agreement: (a) commencing on the proposed Start Date the Parties shall implement and comply with the Agreement, subject to any condition or modification directed by FERC, and (b) if the Parties agree, then Owner may begin incurring costs for Capital Expenditures that are included in the Agreement for recovery pending FERC action.

2.2 Termination.

This Agreement may be terminated as follows:

2.2.1 Conclusion of Reliability Need. ISO may unilaterally terminate this Agreement as to [the/an] RMR Generator effective upon ninety (90) days written notice to Owner if ISO determines that [the/an] RMR Generator is no longer or will no longer be needed to meet a Reliability Need. The ninety (90) day notice may be issued by ISO at any time. If two or more RMR Generators are subject to this Agreement, the Agreement shall be terminated with respect to one or more individual RMR Generators that are no longer needed to meet a Reliability Need. Concurrent with the ISO’s notice to [the/an] RMR Generator, the ISO shall inform the New York Public Service Commission that the RMR Generator will not be needed to meet a Reliability Need after the conclusion of the ninety (90) day notice period.

2.2.2 Termination for cause. ISO may unilaterally terminate this Agreement as to [the/an] RMR Generator effective upon thirty (30) days written notice to Owner if [the/an] RMR Generator does not satisfy the Minimum Availability Standard set forth in Section 7.3.1 of this Agreement, or if [the/an] RMR Generator fails to satisfy the Minimum Performance Standard set forth in Section 7.3.2 of this Agreement, or if [the/an] RMR Generator fails to satisfy the Operation to Address the Reliability Need Standard set forth in Section 7.3.3 of this Agreement. If two or more RMR Generators are subject to this Agreement, the Agreement may be terminated with respect to one or more individual RMR Generators that have failed to satisfy a Minimum Operating Standard. The consequences of termination for cause are addressed in Section 2.2.7 of this Agreement and in Section 23.6.5 of the Services Tariff.

2.2.3 This Agreement may also be terminated for an RMR Generator as provided in Section 7.2.9 (Forced Outages), and Section 9.4 (Termination for Default).

2.2.4 This Agreement terminates as of the date that there are no longer any RMR Generators that are subject to the Agreement.

2.2.5 If this Agreement is not terminated earlier, except as set forth in Section 2.3 hereof, it shall terminate at the end of hour beginning 23 on [the End Date, which shall be the last day of a month], unless the Parties agree in writing to extend the Term because the Reliability Need has not been resolved yet.

2.2.6 Events upon termination or expiration of this Agreement. Events that will occur upon the termination or expiration of this Agreement include the following: (a) the ISO will cease paying the APR or Owner Developed Rate (however, in some limited circumstances, the ISO may continue paying Owner for Capital Expenditures, *see* Section 4.3.2 below, or may pay wind-down costs in accordance with Section 4.8 below), (b) the RMR Generator will not be prohibited by the ISO Tariffs or this Agreement from entering a Mothball Outage or becoming Retired, consistent with the status that was indicated in a Generator Deactivation Notice and used to determine the RMR Generator’s RMR Avoidable Costs or Owner Developed Rate, although such action may be subject to an audit and review, and a penalty under Sections 23.2.4.1.1, 23.3.1.1 and 23.4.5.6 of the Services Tariff; (c) where appropriate, the ISO will inform the New York State Public Service Commission that the RMR Generator will no longer be needed to meet a Reliability Need; and (d) if Owner wants an RMR Generator to continue participating in the ISO Administered Markets following the conclusion of an RMR Agreement, then Owner must provide notice to the ISO in accordance with Section 2.2.9 below and timely post adequate credit, including any additional credit that may be required in accordance with Sections 26.4 and 26.5 of the Services Tariff.

2.2.6.1 If the status that was indicated in a Generator Deactivation Notice and used to determine the RMR Generator’s RMR Avoidable Costs or Owner Developed Rate is Retired, then Owner may elect to temporarily enter an Inactive Reserves state for up to sixty (60) days following the conclusion of an RMR Agreement before it must Retire or elect to continue participating in the ISO Administered Markets by submitting a Notice of Intent to Continue Participating in the ISO Administered Markets at Market-Based Rates in accordance with Section 2.2.9 of this Agreement, timely posting adequate credit, including any additional credit that may be required in accordance with Sections 26.4 and 26.5 of the Services Tariff and repaying the cost of any Capital Expenditures and other above market revenues in accordance with the requirements of Rate Schedule 8 to the ISO’s Services Tariff that are due. This provision does not excuse the twenty-one (21) day prior notice requirement that applies to all Notices of Intent to Continue Participating in the ISO Administered Markets at Market-Based Rates.

2.2.6.2 Owner shall decide whether a Generator that returned from a mothball or ICAP Ineligible Forced Outage to become an RMR Generator will enter a Mothball Outage or become Retired at the conclusion of its participation in the RMR Agreement. Alternatively, Owner may elect to have such a Generator continue participating in the ISO Administered Markets by submitting a Notice of Intent to Continue Participating in the ISO Administered Markets at Market-Based Rates in accordance with Section 2.2.9 of this Agreement and timely posting adequate credit, including any additional credit that may be required in accordance with Sections 26.4 and 26.5 of the Services Tariff. This provision does not excuse the twenty-one (21) day prior notice requirement that applies to all Notices of Intent to Continue Participating in the ISO Administered Markets at Market-Based Rates.

2.2.7 Consequence of termination of this Agreement (a) by the ISO “for cause” (*see* Section 2.2.2), or (b) due to a default by Owner (*see* Section 9.4). If the ISO terminates this Agreement for cause, or if this Agreement is terminated due to the default of Owner, following the termination date, consistent with Section 23.6.5.2 of the Services Tariff the ISO shall not be obligated by this Agreement to, and shall not continue to pay for, any Capital Expenditure that was incurred at or for a terminated RMR Generator. This includes Capital Expenditures that were included in the RMR Avoidable Cost component of an RMR Generator’s APR or in an Owner Developed Rate, that were authorized for recovery as Substantiated Additional Costs by the ISO, or that were otherwise reviewed and accepted by FERC.

2.2.8 Providing notice of cancellation to FERC. The ISO shall file all required notices of cancellation with FERC, and shall seek to make such cancellations effective on the date of termination under this Agreement.

2.2.9 Notice of Intent to Continue Participating in the ISO Administered Markets at Market-Based Rates following the conclusion of this Agreement. Owner shall provide the ISO with notice at least twenty-one (21) days in advance of the date this Agreement will terminate for an RMR Generator, identifying the RMR Generator(s) that Owner intends will continue participating in the ISO Administered Markets following the conclusion of this Agreement. If Owner intends to reduce the scope of a (former) RMR Generator’s participation in the ISO Administered Markets following the conclusion of this Agreement, it may so inform the ISO in its notice. Following the conclusion of this Agreement, the ISO shall not permit Energy, Ancillary Services or Unforced Capacity to be offered into or scheduled in the ISO Administered Markets from a former RMR Generator unless and until (a) adequate credit, including any additional credit that may be required in accordance with Sections 26.4 and 26.5 of the Services Tariff is timely posted, and (b) all obligations under Rate Schedule 8 to the Services Tariff to repay Capital Expenditures and other above market revenues are being complied with.

2.3 Survival.

Notwithstanding the termination of this Agreement, the Parties shall continue to be bound by the provisions of this Agreement which by their nature are intended to, and shall, survive such termination, including Sections 3.2.4 (Refund of Insurance Proceeds), 3.3.7 (Inform Subsequent Purchaser of Repayment Obligations), 4.3.4 (Obligation to Repay Capital Expenditures and Other Above Market Revenues), 4.7 (Penalties), 4.8 (Wind-Down Costs), 6.2 (Books and Records, Audit Rights), 7.2.8 (Refund of Insurance Proceeds), 9.2.1 and 9.2.2 (Liability), 9.2.3 (Indemnification), and 11.10 (Confidentiality). The ISO shall continue to apply Services Tariff Rate Schedule 8 and OATT Rate Schedule 14 when addressing any remaining charges, payments, credits or revenues earned or owed pursuant to this Agreement.

ARTICLE 3 - RIGHTS AND OBLIGATIONS

3.1 In General.

3.1.1 During the Term, the Owner shall operate, maintain, offer and administer each RMR Generator in accordance with (a) the ISO Tariffs, (b) this Agreement, and (c) the ISO Procedures. If Owner identifies an apparent conflict between the rules it is expected to follow, it should promptly contact the ISO to resolve the concern.

3.1.2 Except as otherwise limited by this Agreement, including Section 11.1 hereof, Owner may designate one or more agents to perform its obligations under this Agreement. Actions taken by Owner’s agents are considered actions by Owner. Owner shall require its agents to comply with the terms and conditions of this Agreement, and Owner shall remain primarily liable for the performance of its agents. Owner hereby ratifies and confirms all actions undertaken by its agents on behalf of Owner.

3.1.3 Owner is responsible for performing all billing obligations for each RMR Generator irrespective of whether or not it is the registered billing organization for each RMR Generator. Owner may designate or change the registered billing organization Owner relies on to fulfill these obligations in accordance with ISO Procedures.

3.2 Insurance.

3.2.1. At all times during the Term, Owner shall maintain insurance, written for amounts and by insurance companies acceptable to the ISO. Owner’s insurance shall include (a) All Risk Property Insurance against “all risks” of physical loss or damage to the RMR Generator(s), (b) Commercial General Liability Insurance for personal injury, bodily injury, including death and property damage, and (c) Umbrella Liability Insurance.

3.2.2. Owner shall cause its insurance providers to issue endorsements (a) waiving all rights of subrogation in favor of ISO, its directors, officers, agents and employees, and (b) naming ISO as a cancellation notice recipient for all coverages.

3.2.3 Prior to the Start Date, Owner shall provide certificates of insurance for all insurance required in this Agreement. Owner shall also provide ISO with written notice of renewals, or any material changes in, or cancellation of, any required insurance policy or endorsement, no later than ten (10) days prior to the effective date thereof, including a revised certificate of insurance with evidence providing details sufficient to demonstrate Owner’s continuous and uninterrupted coverage.

3.2.4 If Owner receives insurance proceeds from an insurance policy that Owner identified as an avoidable cost, and if Owner does not use those insurance proceeds to repair or improve the RMR Generator, then Owner shall make a reconciliation (“true-up”) filing with the FERC and pay all such insurance proceeds to ISO that exceed the amount actually expended by the Owner to repair or improve the RMR Generator. The ISO shall distribute any insurance proceeds it receives pursuant to the requirements of this Section 3.2.4 consistent with Section 6.14.6.1 of Rate Schedule 14 to the ISO OATT.

3.3 Contracts, Permits and Orders.

3.3.1 Providing Contracts and Permits affecting each RMR Generator when requested by the ISO. Owner shall promptly provide a complete, up-to-date copy of any Contract, Permit or Order the ISO requests that: (a) addresses the ownership or control of an RMR Generator, (b) is relevant to determining the costs and revenues of an RMR Generator (including the cost of a repair, addition or modification), (c) addresses the operation of an RMR Generator, or (d) could impact the availability, production or sale of Energy, Unforced Capacity, or Ancillary Services from an RMR Generator. If a Contract, Permit or Order that the ISO requests is in the process of being renewed, extended, modified or re-negotiated, Owner shall so inform the ISO when it provides the requested Contract, Permit or Order to the ISO.

3.3.2 Consistent with Section 5.12.4(c) of the Services Tariff, Owner shall not enter into any Contracts during the Term of this Agreement that would impair or otherwise diminish the ability of an RMR Generator to perform the requirements of this Agreement or of the ISO’s Tariffs or Procedures, nor will Owner cause or authorize other entities to enter into a Contract that would prevent an RMR Generator from operating consistent with the requirements of this Agreement or of the ISO’s Tariffs or Procedures.

3.3.3 Consistent with Sections 5.12.7, 5.12.8, 23.4.5.8 and 23.6.1.1 of the Services Tariff and Sections 3.5 and 3.7 of this Agreement, during the Term of this Agreement Owner shall offer all of the Energy and Ancillary Services that each RMR Generator is capable of producing directly to the ISO Administered Markets, and shall offer all of each RMR Generator’s Unforced Capacity in each ICAP Spot Market Auction, unless Owner is precluded from doing so by a Contract that was in effect before Owner executed this Agreement, but only to the extent and for the duration of the obligation under such Contract.

3.3.4 Owner shall submit a summary of the key terms and conditions of all Contracts (1) that were executed prior to the execution of this Agreement, and (2) that prevent all or any portion of the Energy or Ancillary Services that one or more RMR Generator(s) are capable of producing, or prevent all or any portion of one or more RMR Generator(s) Unforced Capacity, from being offered directly to the ISO Administered Markets to FERC, along with this Agreement as part of the Federal Power Act Section 205 filing that includes this Agreement and an APR or an Owner Developed Rate. Owner’s submission must list all of the parties to each Contract and specifically identify all Affiliates with which it executed Contracts.

3.3.4.1 The following RMR Generators are subject to Contracts that predate the execution of this Agreement that affect the quantity of Energy, Ancillary Services or Unforced Capacity that will be offered directly to the ISO Administered Markets by each identified RMR Generator:

[OWNER TO ADD/PROVIDE ONE OR MORE TABLES THAT INCLUDE THE INFORMATION REQUIRED IN THE COLUMNS BELOW, SPECIFICALLY IDENTIFYING ANY AFFILIATES.]

RMR Generator Description of Contract Obligation Date Contract was Executed or Last Renewed End Date of Contract Other Parties to Contract

3.3.5 During the Term of this Agreement, Owner shall not enter into, modify, extend or renew any Contract to sell Energy, Ancillary Services or Unforced Capacity from an RMR Generator in a manner that is inconsistent with Owner’s obligation to offer all of the Energy, Ancillary Services each RMR Generator is capable of producing, and to offer all of each RMR Generator’s Unforced Capacity, directly to the ISO Administered Markets. The prohibition applies to the renewal of Contracts that are temporarily accommodated under Section 3.3.3 of this Agreement.

3.3.6 Transfer of ownership or control during the Term. [The/An] RMR Generator that is the subject of this Agreement may not be sold or leased, and control over [the/an] RMR Generator may not be transferred to a different entity during the Term of this Agreement unless: (a) the sale or lease receives any necessary regulatory approvals, including FERC approval under Section 203 of the FPA; (b) Owner and the entity that is purchasing or leasing the RMR Generator fully comply with all ISO Procedures that address the transfer of Generators; (c) the purchaser or lessee satisfies the ISO’s credit requirements, (d) the purchaser or lessee becomes an ISO Customer, and (e) the purchaser or lessee agrees, in writing, to assume all of Owner’s obligations under this Agreement. If the transfer is temporary, or does not include the full capability of the RMR Generator owned or controlled by Owner, then Owner shall retain all of its obligations under this Agreement and the ISO Tariffs, and the purchaser or lessee shall become subject to Owner’s obligations under this Agreement and the ISO Tariffs.

3.3.7 Obligation to inform subsequent purchaser of an RMR Generator of obligation to repay cost of Capital Expenditures and other above market revenues, less depreciation, prior to re-entering ISO Administered Markets. If Owner sells an RMR Generator or an interest in an RMR Generator, during or following the Term of this Agreement, then Owner shall inform any and all purchasers of any Capital Expenditures and other above market revenues that must be repaid in accordance with Rate Schedule 8 to the ISO’s Services Tariff in order for the ISO to permit Energy, Ancillary Services or Unforced Capacity to be offered into, or to be scheduled in, the ISO Administered Markets from the (former) RMR Generator following the conclusion of this Agreement with regard to that Generator.

3.4 Testing.

3.4.1. RMR Generators shall timely comply with all ISO requirements that are necessary for an RMR Generator to provide a product or service it is required to provide under the ISO’s Tariffs or this Agreement. When necessary, Owner shall arrange in advance with the ISO, in accordance with the ISO’s Outage Scheduling Manual, to self-schedule an RMR Generator in order to perform a required test.

3.4.2. If, prior to or during the 365 Day Notice Period, an RMR Generator that is required to provide Voltage Support Services under Section 3.8 of this Agreement did not perform all testing that would be required to permit the RMR Generator to provide Voltage Support in the ISO Administered Markets during the Term of this Agreement, then the ISO shall require the RMR Generator to promptly test and shall permit the RMR Generator to provide Voltage Support in the ISO Administered Markets during the Term of this Agreement, consistent with Section 15.2 of the Services Tariff.

3.5 Energy Market Participation.

In accordance with Sections 23.6.1.1 through 23.6.1.5 of the Services Tariff, Owner shall offer for sale into the Day-Ahead and Real-Time Markets all of the Energy and Ancillary Services each RMR Generator is capable of providing by submitting ISO-committed flexible Bids (offers) at or below (equally or less restrictive than for physical parameters) the Reference Levels that are currently on-file with the ISO and approved for use by the ISO’s MMA. RMR Generators that are not Installed Capacity Suppliers, or that have not sold all of their Unforced Capacity, must still be offered into the Energy and Ancillary Services markets consistent with this obligation. *See also* Services Tariff Sections 5.12.7 and 5.12.8.

Consistent with Section 23.6.1.1 of the Services Tariff, Owner shall offer Energy, Operating Reserves and Regulation at prices that are equal to or less than each RMR Generator’s ISO-approved Reference Levels. Consistent with Sections 23.6.3.1 through 23.6.3.3 of its Services Tariff, the ISO will mitigate dollar-denominated Bids that exceed an RMR Generator’s currently effective Reference Levels and will perform all other Tariff-authorized mitigation.

Consistent with Sections 23.3.1.4.6.1 and 23.6.2.5 of the Services Tariff, Owner shall timely submit fuel price updates and fuel type updates to the ISO so that they can be incorporated to develop accurate Reference Levels for each RMR Generator. Submission of an inaccurate fuel price update or fuel type update may require the ISO to assess a financial penalty in accordance with Section 23.4.3.3.3 of the Services Tariff, or may result in the ISO’s referral of Owner’s failure to submit accurate fuel cost information to its Market Monitoring Unit for possible referral to FERC’s Office of Enforcement.

Owner is not required to submit hourly offers in the Real-Time Market for an RMR Generator that is not capable of being committed by the ISO’s Real-Time Commitment (“RTC”) if the RMR Generator was not committed Day-Ahead. If such an RMR Generator was committed Day-Ahead, Owner shall offer the RMR Generator into the Real-Time Market for the hours of its Day-Ahead schedule and for additional real-time hours consistent with the RMR Generator’s operating capabilities. Owner is required to timely respond to a Supplemental Resource Evaluation (“SRE”) or an Out-of-Merit (“OOM”) commitment request issued by the ISO or by a Transmission Owner for an RMR Generator. *See* Services Tariff Sections 23.6.1.1.4 and 23.6.1.1.5.

If and to the extent an RMR Generator is not available, or is not fully available, Owner shall timely notify the ISO of the outage or derate in accordance with ISO Procedures and accurately reflect each RMR Generator’s availability in its Bids. If an RMR Generator’s Variable Costs change as a result of the derate, then Owner must contact the ISO’s MMA Department to request changes to the RMR Generator’s Reference Levels. *See* Services Tariff Sections 23.6.1.1.6.

3.6 RMR Generator Reference Levels.

3.6.1 In advance of the execution of this Agreement the ISO, Owner and the ISO’s External Market Monitoring Unit performed a thorough review of each RMR Generator’s Reference Levels consistent with Section 23.6.2.3 of the Services Tariff. Before it executed this Agreement, Owner reviewed and is aware of the Reference Levels that the ISO determined for each RMR Generator that is subject to this Agreement. During the Term of this Agreement changes to an RMR Generator’s Reference Levels shall only be made consistent with Section 23.6.2 of the Services Tariff.

3.6.2 Changes to an RMR Generator’s variable costs for purposes of providing Energy, Reserves and Regulation shall be addressed via modifications to the RMR Generator’s Reference Levels using the adjustment process set forth in Section 23 of the Services Tariff. Owner is responsible for ensuring that an RMR Generator’s fuel costs and Reference Levels remain accurate and up-to-date. If Owner fails to provide updated information to the ISO on a timely basis mitigation, including financial penalties, may be applied in accordance with Section 23 of the Services Tariff. Failure to timely update RMR Generator information could also violate FERC’s regulations. *See* 18 CFR § 1c.2(a)(2).

3.7 Capacity Market Participation.

3.7.1 Each RMR Generator shall perform all obligations that an Installed Capacity Supplier of its resource type is required to perform under the Services Tariff and in accordance therewith.

3.7.2 Except as set forth in Section 3.3.3 above, during the Term of this Agreement Owner shall offer all of an RMR Generator’s Unforced Capacity directly into each ICAP Spot Market Auction at $0.00/KwMonth.

[ALTERNATE LANGUAGE If the RMR Generator has a pre-existing bilateral contract that satisfies the requirements of Section 3.3.3 of this Agreement, add to Section 3.7.2: For the Obligation Procurement Period of months [ ] through [ ] (the “bilateral period”), the RMR Generator shall offer {insert UCAP MW obligation and offer price consistent with the bilateral agreement}, and (a) for any Unforced Capacity in excess of such amount and for any Obligation Procurement Period beyond the bilateral period, the Unforced Capacity shall be offered at a price of $0.00/KwMonth.]

3.8 Restoration Services and Voltage Support Services.

3.8.1 Each RMR Generator that provided Restoration Services (including black start service) at any time during the most recent previous twelve (12) months that it participated in the ISO Administered Markets must provide Restoration Services during the Term of this Agreement unless Owner demonstrates to the ISO that an RMR Generator is not presently capable of providing Restoration Services.

[State whether each RMR Generator will provide Restoration Services or identify the RMR Generators that will provide Restoration Services.]

3.8.2 Each RMR Generator that provided Voltage Support Service at any time during the most recent previous twelve (12) months that it participated in the ISO Administered Markets must provide Voltage Support Service during the Term of this Agreement unless Owner demonstrates to the ISO that an RMR Generator is not presently capable of providing the service.

[State whether each RMR Generator will provide Voltage Support or identify the RMR Generators that will provide Voltage Support.]

3.9 Self-Scheduling.

Owner is expected to offer each RMR Generator into the NYISO’s Energy and Ancillary Service markets using the ISO-committed flexible bid mode at its Reference Levels for economic scheduling. However, Owner may request permission to self-schedule an RMR Generator for operational and maintenance considerations, including required testing or for fuel management purposes. The ISO may accept or reject the requested self-schedule in its sole discretion. Variable Costs during ISO-approved self schedules will be the self-scheduled RMR Generator’s Reference Levels.

ARTICLE 4 - COMPENSATION AND SETTLEMENT

4.1 In General.

In lieu of receiving market compensation Owner shall receive the APR that FERC accepted for filing, [*or* Owner shall receive an Owner Developed Rate that Owner submitted to FERC under Section 205 of the Federal Power Act and that FERC accepted for filing,] including any modifications required by FERC.

[ALTERNATIVE LANGUAGE IS INCLUDED SO THAT THE *PRO FORMA* AGREEMENT CAN BE USED FOR AN AVAILABILITY AND PERFORMANCE RATE OR FOR AN OWNER DEVELOPED RATE.]

There are four components to the APR: RMR Avoidable Costs, Variable Costs, the Availability Incentive and the Performance Incentive. Each component of the APR is explained below and a rate is set forth for each component below.

The ISO will pay the APR in accordance with Rate Schedule 8 to its Services Tariff. RMR Avoidable Costs and Variable Costs are calculated daily and paid on a weekly basis. The Performance Incentive (if any) is paid on a monthly basis. The Availability Incentive (if any) is paid on a seasonal basis. When necessary, Penalties are assessed on monthly invoices.

[Owner Developed Rate Alternative Language. There are two components to an Owner Developed Rate. The first component is Variable Costs, which is determined in the same manner as Variable Costs are determined under the APR. The second component is the FERC authorized component. The FERC authorized component effectively replaces the RMR Avoidable Cost component of the APR with the costs that FERC authorizes for recovery in an order issued pursuant to Section 205 of the Federal Power Act. Because an Owner Developed Rate is expected to exceed an RMR Generators RMR Avoidable Costs, no Availability or Performance Incentives are available.

The ISO will pay an Owner Developed Rate in accordance with Rate Schedule 8 to its Services Tariff. FERC authorized costs and Variable Costs shall be calculated daily and paid on a weekly basis.]

In addition to setting forth the APR for each RMR Generator, this Agreement sets forth the obligation, or references the obligation in the ISO Tariffs, of RMR Generators that are subject to an APR to pay penalties prescribed by the ISO’s Tariffs, each RMR Generator’s obligation to repay the cost of Capital Expenditures and other above market revenues that were paid for under an APR or under an Owner Developed Rate, if and when the RMR Generator returns to the ISO-Administered Markets following the conclusion of this Agreement, the circumstances under which the ISO will continue to repay Capital Expenditures after an RMR Generator’s obligation to provide service under this Agreement ends and the RMR Generator becomes Retired or enters a Mothball Outage, and the circumstances under which the ISO will pay wind-down costs to RMR Generators whose RMR Agreements are terminated early by the ISO due to the conclusion of the Reliability Need.

4.2 Recovery of Variable Costs.

Variable Costs are the incremental costs an available RMR Generator incurs to produce Energy or Ancillary Services. Variable Costs may change frequently; for example, when fuel prices change.

4.2.1. Cost of Providing Energy, Operating Reserves and Regulation

Consistent with Rate Schedule 8 to the Services Tariff, Owner shall be compensated on a weekly basis for providing Energy, Operating Reserves and Regulation based on the lesser of (a) the Bids that were submitted for an RMR Generator, or (b) the Reference Levels that are in place for an RMR Generator. The ISO will not compensate an RMR Generator for unscheduled overproduction that exceeds Compensable Overgeneration, as defined in the Services Tariff.

The ISO develops Reference Levels in accordance with Section 23 of its Services Tariff. The process the ISO uses to develop Reference Levels for each RMR Generator is described in Section 3.6 of this Agreement. The rules for changing a Reference Level that applies to an RMR Generator are set forth in Sections 23.3.1.4 and 23.6.2 of the Services Tariff.

4.2.2 Costs of Providing Voltage Support and Restoration Services

Voltage Support and Restoration Services (black start) are components of an RMR Generator’s Variable Costs. Consistent with Rate Schedule 8 to the Services Tariff, Owner shall be compensated on a weekly basis for providing Voltage Support and/or Restoration Services.

When determining the compensation an RMR Generator is eligible to receive for Voltage Support and/or Restoration Services the ISO shall treat each RMR Generator’s cost of providing either service as being equal to the Tariff-authorized compensation that the ISO pays Generators for providing the service. RMR Generators that require additional or different compensation to provide Voltage Support or Restoration Services must file at FERC and obtain a different rate from FERC for providing these services.

4.3 Recovery of RMR Avoidable Costs.

RMR Avoidable Costs are the fixed costs that would be avoided if an RMR Generator were to exit the ISO Administered Markets in the manner described in the Generator Deactivation Notice (to enter a Mothball Outage or become Retired), including, but not limited to, mandatory capital expenditures, fixed operating and maintenance costs, and forgone opportunity costs, determined by the ISO in accordance with Rate Schedule 8 to the Services Tariff and Section 38.8 of Attachment FF to the OATT, but not including variable costs and any other cost that may be included in the RMR Generator’s Reference Level.

The RMR Generator-specific rates set forth below identify when each RMR Generator’s RMR Avoidable Costs will change, and the amount of each change, or the expected amount of the change for Capital Expenditures. The RMR Avoidable Cost component of RMR Generator’s APR may change on specific dates, or when specified milestones are met, such as the entry into service of a Capital Expenditure. In addition to the expected changes in RMR Avoidable Costs specified below, an RMR Generator’s RMR Avoidable Costs may change due to the need for unexpected extraordinary maintenance or repairs (Additional Expenses) during the Term of this Agreement.

4.3.1 Generator-Specific RMR Avoidable Costs.

The RMR Avoidable Costs each RMR Generator that is providing service under an APR is authorized to recover are set forth in the table(s) below. However, the Capital Expenditures identified in the table(s) below are only estimates. The ISO will instead use the actual costs incurred for each Capital Expenditure to determine the APR, in accordance with Section 38.17 of Attachment FF to the OATT, as explained in Section 4.3.2 of this Agreement.

[FOR EACH RMR GENERATOR, ADD A TABLE SPECIFYING (1) THE INITIAL RMR AVOIDABLE COST (IDENTIFYING THE SIGNIFICANT COST COMPONENTS), (2) DATES WHEN, AND/OR SPECIFIC MILESTONES WHEN AVOIDABLE COSTS WILL CHANGE, SPECIFYING HOW MUCH THE COSTS WILL CHANGE (OR ARE EXPECTED TO CHANGE, WHEN THE MILESTONE IS THE IN-SERVICE DATE OF A CAPITAL EXPENDITURE) ON EACH DATE/AT EACH MILESTONE AND BRIEFLY STATING THE REASON FOR EACH CHANGE.]

[ADDITIONAL COSTS THAT ARE FILED FOR FERC REVIEW/ACCEPTANCE SHOULD BE ADDED TO THESE TABLES.]

4.3.2 Capital Expenditures.

Capital Expenditures are purchases, non-operational leases of or modifications to real property and/or assets (including, but not limited to, land, buildings and equipment) that (a) are required for the continued operation of one or more RMR Generator(s) during the term of an RMR Agreement, (b) have a useful life greater than one year, and (c) are not otherwise included in the NYISO’s calculation of RMR Avoidable Costs. Consistent with Section 38.17.1 of Attachment FF to the OATT, each Capital Expenditure must be distinctly identified in the tables set forth in Section 4.3.1 of this Agreement for RMR Generators that are receiving an APR, or in Section 4.6 of this Agreement for RMR Generators that are being compensated pursuant to an Owner Developed Rate. An expected cost and an expected in-service or completion date must be specified for each Capital Expenditure.

4.3.2.1 Submission of Capital Expenditures in initial FERC filing(s) by ISO and/or Owner. Consistent with Section 38.11 of Attachment FF to the OATT, Capital Expenditures of $10 million per year or less (or $25 million per year or less for nuclear-powered RMR Generators) (hereafter, the “10/25 *per annum* limit”) may be included in an executed RMR agreement with an APR that is filed by the ISO for FERC’s review. If Capital Expenditures that exceed the 10/25 *per annum* limit are necessary in any year of the Term of this Agreement, then Owner must file separately at FERC to recover any Capital Expenditure costs that exceed the 10/25 *per annum* limit. Owner Developed Rates must separately delineate Capital Expenditures so that the cost of Capital Expenditures can be recovered in accordance with the rules set forth in Section 38.17 of Attachment FF to the OATT.

4.3.2.2 ISO review of Capital Expenditures prior to commencing reimbursement. In accordance with Section 38.17.7 of the OATT the ISO is required to verify and validate Owner’s actual expenditures. If the actual cost of a Capital Expenditure exceeds the estimate set forth in Section 4.3.1 of this Agreement by more than five (5) percent, or exceeds the Substantiated Additional Cost that was verified and validated by the ISO or the Proposed Additional Cost that was approved by FERC by more than five (5) percent, then the ISO must also review the reasonableness of the expenditure. To the extent the ISO is not able to verify and validate an expense, or if the ISO is not able to determine that the actual cost of an expenditure that exceeded the estimate presented to the ISO or to the Commission by more than five (5) percent was reasonable, then Owner must present its Capital Expenditure costs to FERC for recovery.

4.3.2.3 Reimbursement of Capital Expenditures. Consistent with Section 38.17.8.1 of the OATT, the ISO will not provide initial financing for Capital Expenditures. When an authorized or accepted Capital Expenditure enters service or is otherwise integrated into an RMR Generator, the ISO will commence reimbursing Owner for the actual, demonstrated cost of the Capital Expenditure following completion of the review process described below. Consistent with Sections 38.17.8.2 and 38.17.8.2.1 of the OATT, the ISO will reimburse Owner for each Capital Expenditure on an accelerated basis, repaying the cost of Capital Expenditures by the End Date specified in Section 2.2.5 of this Agreement.

4.3.2.4 Development of Capital Expenditures on an expedited basis. In accordance with the requirements of Section 38.16.3 of the OATT (addressing Substantiated Additional Costs incurred during the Term of this Agreement) and Section 38.17.4 of the OATT (addressing development of a Capital Expenditure in advance of FERC action on Owner’s or ISO’s initial filing), when it is necessary to commence development of one or more Capital Expenditures before FERC has issued a ruling on Owner’s authority to recover the cost of that or those Capital Expenditure(s), the ISO has authority to reimburse Owner for the actual costs that Owner demonstrated that it reasonably incurred constructing the Capital Expenditures up to limits of $10 million or less (or $25 million or less for nuclear-powered RMR Generators). Capital Expenditure costs that are authorized by the ISO pursuant to Section 38.16.3 of the OATT count toward the 10/25 *per annum* limit described in Section 4.3.2.1 above. Capital Expenditure costs that are authorized by the ISO pursuant to Section 38.17.4 of the OATT are not subject to the 10/25 *per annum* limit. Instead, the ISO may authorize additional expenditures of up to $10 million (or $25 million for nuclear-powered RMR Generators) each time an extraordinary event requires Owner to incur Substantiated Additional Costs. *See* Section 4.3.3 below.

4.3.2.5 ISO Approval to commence development of Capital Expenditures. In order to improve coordination between ISO and Owner, and to reduce the potential for Owner to incur costs developing a Capital Expenditure that is not needed, Owner shall obtain written approval from the ISO before it commences development of a Capital Expenditure that is scheduled to enter service more than one year after the Start Date specified in Section 2.1 of this Agreement.

4.3.2.6 Reimbursement of costs of Capital Expenditures that are not completed. If FERC issues an Order rejecting recovery of the cost of one or more Capital Expenditure(s), or if the ISO instructs Owner to cease work on a Capital Expenditure, then consistent with Sections 38.17.4, 38.17.5 and 38.17.7 of the OATT, Owner shall promptly cease its efforts and take reasonable steps to minimize any additional costs it incurs. If this Agreement is terminated early for an RMR Generator for reasons other than Owner’s default or the RMR Generator’s failure to satisfy one of the Minimum Operating Standards set forth in Section 7.3 of this Agreement, then the ISO shall reimburse the cost of Capital Expenditures that Owner was working to complete, subject to the requirements of Sections 38.17.5 and 38.17.7 of the OATT.

4.3.3 Additional Costs.

During the Term of this Agreement an RMR Generator that is providing service under an APR or an Owner Developed Rate may require additional Capital Expenditures or other RMR Avoidable Costs that could not have been reasonably anticipated, and are not included in or scheduled to be recovered as components of an RMR Generators RMR Avoidable Costs, or its Owner Developed Rate or its Variable Costs (hereafter, “Additional Costs”).

Before it may permit recovery of Additional Costs, the ISO must first determine that (1) the Additional Costs could not have been reasonably anticipated by Owner and included in this RMR Agreement, and (2) the Additional Costs are necessary for the RMR Generator to continue to provide reliable service during the Term. The complete set of rules the ISO must follow when administering Proposed Additional Costs and Substantiated Additional Costs are set forth under Section 38.16 of the OATT.

For an RMR Generator that is providing service under an APR, the ISO is authorized by Section 38.16.3 of the OATT to allow up to $10 million (or up to $25 million for nuclear-powered RMR Generators) per event in actual, incurred and verified additional Capital Expenditures to be recovered as Substantiated Additional Costs. As with any Capital Expenditure, the ISO must limit recovery of such Substantiated Additional Costs to the actual, demonstrated costs incurred and may not begin repaying the Substantiated Additional Costs until the necessary addition, maintenance or repair is completed or enters service. The ISO shall submit an informational filing to FERC informing FERC of any Substantiated Additional Costs it includes in an RMR Generator’s APR.

Consistent with Section 38.16.5 of the OATT, Additional Costs (a) that involve RMR Avoidable Costs that are not Capital Expenditures, or (b) that exceed the ISO’s authority to authorize, or (c) that the ISO is not able to verify or validate, or (d) that exceeded the cost estimate provided to the ISO or to FERC by more than 5 percent, and where the ISO is not able to determine that Owner made reasonable efforts to expend the least amount necessary, or (e) any Substantiated Additional Costs that an RMR Generator that is subject to an Owner Developed Rate must incur, are not eligible for recovery under this Agreement unless and until they are filed with and accepted by FERC.

4.3.4 Requirement to Repay Capital Expenditures and Other Above Market Revenues in Accordance with Services Tariff Rate Schedule 8 in Order for the ISO to Permit a Former RMR Generator to Produce Energy, Ancillary Services or Unforced Capacity, and Associated Credit Obligations.

If, pursuant to the terms of an RMR agreement, the ISO reimbursed all or a portion of the cost of a Capital Expenditure that was incurred to permit an RMR Generator to provide service during the Term of the RMR Agreement, and the Generator is no longer the subject of this RMR Agreement or any other RMR Agreement, and is not an Interim Service Provider, then in order for the ISO to permit the Generator to be offered into or be scheduled in the ISO Administered Markets, the cost of all Capital Expenditures that the ISO paid to enable the RMR Generator to provide service under an RMR Agreement, less depreciation, may be required to be repaid to the ISO, over time, in accordance with the rules set forth in Rate Schedule 8 to the Services Tariff.

If, pursuant to the terms of an RMR Agreement, the ISO paid an RMR Generator a rate that provided revenues in excess of the revenues the Generator would have earned if it had been participating in the ISO Administered Markets at market-based rates (using the market participation, commitment, scheduling and dispatch that occurred in the ISO Administered Markets during the Term of the RMR Agreement to perform the comparison), and the Generator is no longer the subject of this RMR Agreement or any other RMR Agreement, and is not an Interim Service Provider, then in order for the ISO to permit the Generator to be offered into or be scheduled in the ISO Administered Markets, the difference between the revenues the RMR Generator received under an RMR Agreement (including money provided to reimburse Capital Expenditures) and the revenues the Generator would have earned if it had been participating in the ISO Administered Markets at market-based rates (taking into account applicable depreciation and the time value of money) may be required to be repaid to the ISO, over time, in accordance with the rules set forth in Rate Schedule 8 to the Services Tariff.

The ISO shall only allow a former RMR Generator to participate in the ISO Administered Markets if it is meeting all of its credit and repayment obligation(s), or has fully satisfied its repayment obligation(s). Otherwise, the ISO shall not permit Energy, Ancillary Services or Unforced Capacity to be offered into or scheduled in the ISO Administered Markets from the former RMR Generator.

The repayment obligation applies when a former RMR Generator is participating in the ISO Administered Markets while it is eligible to receive market-based rates, until the obligation has been fully repaid. The repayment obligation is not imposed while a former RMR Generator or former Interim Service Provider is in a Mothball Outage or ICAP Ineligible Forced Outage, or is Retired. If a former RMR Generator or former Interim Service Provider returns from being Retired, or from being in a Mothball Outage or ICAP Ineligible Forced Outage, to participate in the ISO Administered Markets while it is eligible to receive market-based rates, then the ISO will recalculate and reinstate an updated repayment obligation in accordance with Rate Schedule 8 to its Services Tariff.

A former RMR Generator that returns to participating in the ISO Administered Markets at market-based rates must re-complete the Short-Term Reliability Process before it will be permitted to exit the ISO Administered Markets. Until the former RMR Generator enters a Mothball Outage or becomes Retired, it may continue to accrue repayment obligations in accordance with Rate Schedule 8 to the Services Tariff.

If Owner notices an RMR Generator’s return to the ISO Administered Markets consistent with Section 2.2.9 of this Agreement, but it has not timely posted adequate credit, including any additional credit that may be required in accordance with Sections 26.4 and 26.5 of the Services Tariff, then the ISO shall not permit the Generator to submit offers or receive schedules and shall place the unit in Inactive Reserve for up to sixty (60) days. If Owner has not met its obligation to post adequate credit, including any additional credit that may be required in accordance with Sections 26.4 and 26.5 of the Services Tariff at the end of the sixty (60) days, then the ISO shall place the Generator in the state that it originally noticed (mothballed or retired). If the Generator returned from a mothball to provide RMR service, then the ISO shall return the Generator to a Mothball Outage. If the Generator returned from an ICAP Ineligible Forced Outage to provide RMR service, then the ISO shall place the Generator in a Mothballed Outage or Retired state, at Owner’s election.

4.4 Availability Incentive.

The baseline used to calculate the Availability Incentive each RMR Generator that is being compensated under an APR is eligible to recover is set forth in the table below. The incentive shall be calculated in accordance with Rate Schedule 8 to the Services Tariff. The ISO shall use each RMR Generator’s actual availability and the baseline specified in the table below to determine the incentive (if any) it shall pay for availability over a six-month Capability Period.

[ADD TABLE SPECIFYING THE AVAILABILITY BASELINE FOR EACH RMR GENERATOR.]

4.5 Performance Incentive.

The baseline used to calculate the Performance Incentive each RMR Generator that is being compensated under an APR is eligible to recover is set forth in the table below. The incentive shall be calculated in accordance with Rate Schedule 8 to the Services Tariff. The ISO shall use each RMR Generator’s actual performance and the baseline specified in the table below to determine the incentive (if any) it shall pay for performance each month.

[ADD TABLE SPECIFYING THE PERFORMANCE BASELINE FOR EACH RMR GENERATOR.]

4.6 Owner Developed Rate.

Owner Developed Rates may not exceed an RMR Generator’s full cost of service. Owner must separately file its Owner Developed Rate for FERC review and acceptance.

If Owner has agreed to follow, and the ISO has separately filed the *pro forma* terms and conditions of service, then the ISO shall incorporate the accepted Owner Developed Rate, including any modifications instructed by FERC, into this Agreement after FERC issues an Order accepting the Owner Developed Rate.

The costs each RMR Generator is authorized to recover under an Owner Developed Rate are explained below (using the explanation(s) provided by Owner) and set forth in the table(s) below. The table(s) below must distinctly identify and set forth the estimated cost of each Capital Expenditure, and the date on which each Capital Expenditure is expected to enter service.

The rules for recovering the cost of Capital Expenditures under an Owner Developed Rate, including the rules that apply if an RMR Generator continues to, or returns to participate in the ISO-Administered Markets following the conclusion of this Agreement, are the same rules that apply to Generators that are compensated pursuant to an APR. *See* Section 4.3.2 of this Agreement.

RMR Generators that are compensated pursuant to an Owner Developed Rate are not eligible to receive an Availability Incentive or a Performance Incentive. RMR Generators that are compensated pursuant to an Owner Developed Rate must obtain FERC approval to recover Substantiated Additional Costs.

[OWNER TO ADD EXPLANATION OF PROPOSED OWNER-DEVELOPED RATE THAT IS CONSISTENT WITH THE REQUIREMENTS OF THIS AGREEMENT AND THE ISO’S TARIFFS, INCLUDING BUT NOT LIMITED TO THE RULES FOR IMPLEMENTING RMR RATES THAT ARE SET FORTH IN RATE SCHEDULE 8 TO THE SERVICES TARIFF AND THE RULES IN SECTION 38.17 OF THE OATT ADDRESSING THE RECOVERY OF CAPITAL EXPENDITURES. OWNER SHALL INCLUDE ONE OR MORE TABLES THAT SPECIFY THE RATE THAT WILL APPLY TO EACH RMR GENERATOR.]

4.7 Penalties.

Each RMR Generator that is providing service under an APR is subject to all of the potential penalties, sanctions, deficiency charges and any similar charges, except for under-generation penalties (collectively, for purposes of this paragraph, “penalties”), that may apply to Generators under the ISO Tariffs. *Provided, however*, that the total amount of penalties that can be assessed to an RMR Generator that is providing service under an APR shall be capped at the total, cumulative amount of Performance Incentive payments and Availability Incentive payments computed by the ISO to be due to that RMR Generator through the end of the month in which one or more penalties are charged.

RMR Generators that are compensated pursuant to an Owner Developed Rate are subject to all of the potential penalties, sanctions, deficiency charges and any similar charges, including under-generation penalties, that may be assessed to Generators under the ISO Tariffs, without limitation.

4.8 Wind-Down Costs.

If the ISO terminates this Agreement early due to the conclusion of the Reliability Need prior to the end of the Term of this Agreement (*see* Section 2.2.1 above), then the ISO shall pay any demonstrated, actual additional wind-down costs that Owner must incur to place an RMR Generator in a Mothballed Outage or Retired state at the conclusion of this Agreement because the ISO terminated the Agreement early, in accordance with Sections 38.17.5 and 38.17.7 of the OATT. The ISO shall not pay such costs if a (former) RMR Generator continues to participate in the ISO Administered Markets following the conclusion of this Agreement. If Owner does not agree with the ISO’s determination of the actual additional costs it had to incur due to the ISO’s early termination of this Agreement, then Owner may submit a filing to FERC under Section 205 of the FPA seeking recovery of additional costs it will incur due to the ISO’s early termination of this Agreement. The ISO may pay wind-down fees after the termination of this Agreement pursuant to Services Tariff Rate Schedule 8 and recover them from the (former) RMR LSEs under OATT Rate Schedule 14.

ARTICLE 5 - MARKET MONITORING

5.1 Market Power Mitigation.

Although this Agreement requires the submission of Energy and Ancillary Service Bids for the RMR Generator(s) at fuel-adjusted Reference Levels, nothing herein shall preclude the ISO from applying any provision of its Market Power Mitigation Measures (Section 23 of the Services Tariff) to Owner, any Affiliate of Owner, the RMR Generator, or any other resources of Owner or of any Affiliate of Owner, including (a) the mitigation of Bids submitted for RMR Generators that are covered by this Agreement, and (b) conducting audits and reviews and imposing penalties pursuant to Sections 23.2.4.1.1, 23.3.1.1 and 23.4.5.6 of the Services Tariff.

The ISO’s assessment of financial penalties, sanctions, deficiency charges and the like, for failure to comply with the Market Power Mitigation Measures or other provisions of the ISO’s Tariffs, are addressed in Section 4.7 of this Agreement.

ARTICLE 6 - REPORTING AND AUDIT

6.1 Information Access.

Owner shall maintain and shall promptly make available to ISO upon request, any books, records, documents or information in its possession or control that are necessary for ISO to: (a) audit, determine, substantiate or verify any of the costs that Owner has incurred, or that Owner is permitted to recover under this Agreement and the ISO Tariffs, and (b) carry out its responsibilities under this Agreement and its Tariffs.

6.2 Books and Records; Audit Rights.

6.2.1 During the Term and for six (6) years thereafter (or for a longer term, if necessary to permit the ISO to repay the cost of a Capital Expenditure and other above market revenues that a former RMR Generator is required to repay under Rate Schedule 8 to the ISO’s Services Tariff), Owner shall keep detailed and accurate books and records, together with any supporting documents, pertaining to (a) the performance of its obligations under this Agreement, (b) the operation of each RMR Generator, including its availability, performance and Variable Costs, and (c) all components that went into developing the APR or the Owner-Developed Rate, including all adjustments thereto, Capital Expenditures and Substantiated Additional Costs.

6.2.2 Subject to the confidentiality requirements in Section 11.10 of this Agreement, Owner shall provide or make such books and records (including copies and extracts) available to ISO for inspection and audit at any time, upon reasonable notice.

ARTICLE 7 - RESOURCE OPERATION AND MAINTENANCE

7.1 Planned Outages.

7.1.1 First year of RMR operation. The ISO and Owner have developed a planned outage schedule covering the first year of each RMR Generator’s operation under this Agreement. The agreed upon schedule is included as Confidential Schedule 2 to this Agreement. The ISO will accommodate limited, reasonable changes to the agreed planned outage schedule requested by Owner, so long as such changes will not interfere with the ability of the RMR Generator to meet the Reliability Need. Planned outage schedules for subsequent years will be developed in accordance with this Article 7.

7.1.2 Owner shall be entitled to take the RMR Generator out of operation or reduce the net capability of the RMR Generator during ISO-approved Planned Outages, in accordance with the schedule for Planned Outages as established and implemented pursuant to the ISO’s Outage Scheduling Manual. The ISO may amend or cancel ISO-approved Planned Outages if necessary to protect system reliability. Consistent with Section 4.4 of this Agreement and Section 15.8.3 of Rate Schedule 8 to the Services Tariff, Planned Outages may reduce the Availability Incentive (if any) paid to an RMR Generator. Performance Incentives can be earned when an RMR Generator is scheduled in real-time.

7.1.3 The ISO and the MMU shall monitor deviations from each RMR Generator’s historic planned outage schedules. Owner shall promptly respond to ISO and MMU requests for explanations, information and data regarding or supporting outage schedules.

7.2 Forced Outages.

7.2.1 Generally. Owner shall be entitled to take the RMR Generator out of operation or reduce the net capability of the RMR Generator upon the occurrence of a Forced Outage. Consistent with Section 4.4 of this Agreement and Section 15.8.3 of Rate Schedule 8 to the Services Tariff, Forced Outages may reduce the Availability Incentive (if any) paid to an RMR Generator. Performance Incentives can be earned when an RMR Generator is scheduled in real-time.

7.2.2 The ISO and the MMU shall monitor deviations from each RMR Generator’s historic forced outage rate. Owner shall promptly respond to ISO and MMU requests for explanations, information and data regarding or supporting forced outages, including the time required to return from a Forced Outage.

7.2.3 Notice of Forced Outage. In the event of a Forced Outage that is anticipated to last for more than ten (10) days, in addition to any other notification obligation arising under the ISO Tariffs and Procedures, Owner shall promptly notify the ISO, in accordance with the Outage Scheduling Manual, in writing that a Forced Outage has occurred and estimate its duration (a “Notice of Forced Outage”).

7.2.4 Notice of Proposed Additional Costs. Owner shall also submit a Notice of Proposed Additional Costs to the ISO if it expects that costs that exceed the lesser of (a) $250,000, or (b) five (5) percent of annual RMR Avoidable Costs (excluding Capital Expenditures), will need to be incurred to return the RMR Generator to service, and if it satisfies the other requirements of Section 38.16.1 of the OATT. If the cost of returning an RMR Generator to service does not exceed the lesser of (a) $250,000, or (b) five (5) percent of annual RMR Avoidable Costs, excluding Capital Expenditures, then Owner shall promptly return the RMR Generator to service without additional recompense, consistent with Section 38.16.1.1 of the OATT.

7.2.5 Notice of Shut-down. As soon as reasonably practicable after the date of a Notice of Forced Outage but in no event greater than thirty (30) days from the start of such Forced Outage, either Party may, after assessing the nature, expected duration, and expected incurrence of Proposed Additional Costs or Substantiated Additional Costs, notify the other in writing of its determination that the RMR Generator shall, subject to the provisions of Section 7.2.9 of this Agreement, be Shut-down (a “Notice of Shut-down”) and if such notice applies to the entire RMR Generator that this Agreement should be terminated with regard to the affected RMR Generator.

7.2.6 In the event that an RMR Generator is Shut-down, Owner shall only be entitled to receive the APR or Owner Developed Rate through the Shut-down Date for that RMR Generator. However, the ISO may continue to repay the cost of Capital Expenditures incurred at the shut-down Generator in accordance with Section 4.3.2 of this Agreement and Section 38.17.5 of the OATT. With respect to a Shut-down applying only to some of the units that together comprise an RMR Generator, this Agreement shall remain in full force and effect with respect to the remaining unit(s).

7.2.7 Restoration following Owner Notice of Shut-down. With respect to a Notice of Shut-down made by Owner, if within thirty (30) days of receipt of Owner’s Notice of Shut-down ISO provides written notice to Owner that it is willing to allow or support (as appropriate) recovery of any Substantiated Additional Costs that may be required to recover from such Forced Outage in accordance with Section 4.3.3 of this Agreement and Sections 38.16.2.1, 38.16.3, 38.16.5 and 38.17.2 of the OATT, Owner agrees that it will, with reasonable dispatch, take the action requested by ISO, *i.e*., not Shut-down the RMR Generator, take all actions necessary to obtain any required FERC approval, and incur the costs necessary to return the RMR Generator to service from such Forced Outage, subject to reimbursement by the ISO in accordance with Section 4.3.3 of this Agreement and Sections 38.17.7 and 38.17.8 of the OATT.

7.2.8 Owner is obligated to use its best efforts to minimize any costs it must incur, and the Substantiated Additional Costs that the ISO reimburses Owner for will be subject to offset by any proceeds from any and all third-party sources, including insurance proceeds, paid to Owner to return the RMR Generator from the Forced Outage. If Owner receives insurance proceeds or other compensation after the ISO pays Owner’s Substantiated Additional Costs, then Owner shall make a subsequent reconciliation (“true-up”) filing with the FERC and refund any payments to ISO for Substantiated Additional Costs that exceed the amount actually expended by the Owner, after offsets. The ISO shall distribute any insurance proceeds or other compensation it receives pursuant to the requirements of this Section 7.2.8 consistent with Section 6.14.6.1 of Rate Schedule 14 to the OATT.

7.2.9 Shut-down Date. With respect to a Notice of Shut-down issued by ISO pursuant to Section 7.2.5, the “Shut-down Date” shall be the end of hour beginning 23 at the end of the month that includes the date that is the later of (a) ten (10) days after the receipt of such Notice of Shut-down by the Owner, or (b) sixty (60) days after the Forced Outage began. With respect to a Notice of Shut-down issued by Owner pursuant to Section 7.2.5, the Shut-down Date shall be the end of the month that includes the date that is the later of (x) thirty (30) days after the receipt of such Notice of Shutdown by ISO, or (y) sixty (60) days after the Forced Outage began, unless ISO has agreed to pay Owner’s Substantiated Additional Costs in accordance with Section 7.2.7, in which case no Shut-down Date will have occurred with respect to such Notice of Shut-down. As of the Shut-down Date, Owner may place the former RMR Generator in an ICAP Ineligible Forced Outage or reclassify the former RMR Generator’s status to Retired.

7.3 Minimum Operating Standards.

The requirements set forth below specify the Minimum Availability, Minimum Performance and Operation to Address the Reliability Need Standards that each RMR Generator is expected to achieve in order to continue to be entitled to compensation under this Agreement, including recovery of the cost of Capital Expenditures and Additional Costs.

**7.3.1 Minimum Availability Standards.**

The ISO developed the Minimum Availability Standard(s) set forth below for each RMR Generator based on (a) the RMR Generator’s historical performance, (b) any deferred maintenance, repair or capital expenditure costs that are included in RMR Avoidable Costs for an RMR Generator that can reasonably be expected to improve the RMR Generator’s availability, and (c) other factors that are specific to the particular RMR Generator for which the Minimum Availability Standard was developed.

[ADD TABLE WITH THE MINIMUM AVAILABILITY STANDARD THAT THE ISO WILL APPLY TO EACH RMR GENERATOR THAT IS SUBJECT TO THE RMR AGREEMENT.]

**7.3.2 Minimum Performance Standards.**

The ISO developed the Minimum Performance Standard(s) set forth below for each RMR Generator based on (a) the RMR Generator’s historical performance when scheduled to operate in real-time by the ISO, (b) any deferred maintenance, repair or capital expenditure costs that are included in RMR Avoidable Costs for an RMR Generator that can reasonably be expected to improve the RMR Generator’s performance, and (c) other factors that are specific to the particular RMR Generator for which the Minimum Performance Standard was developed.

[ADD TABLE WITH THE MINIMUM PERFORMANCE STANDARD THAT THE ISO WILL APPLY TO EACH RMR GENERATOR THAT IS SUBJECT TO THE RMR AGREEMENT.]

7.3.3 Operation to Address the Reliability Need Standard.

If an RMR Generator fails to operate as requested when it is called upon by the ISO or by a Transmission Owner to address the Reliability Need that is described in Schedule 1 to this Agreement on three or more occasions over the Term of this Agreement, then the ISO may terminate this Agreement as to that RMR Generator.

ARTICLE 8 - FORCE MAJEURE EVENTS

8.1 Definition of Force Majeure Event.

“Force Majeure Event” shall mean a cause or occurrence preventing a Party from performing its obligations under this Agreement, which cause or occurrence is beyond the reasonable control of the Party affected, not reasonably foreseeable by such Party, not due to an act or omission of the Party affected, and which could not have been avoided by the exercise of reasonable diligence. A Force Majeure Event shall not include any economic hardship, the cost of or inability to procure fuel, or changes in market conditions that affect the price of energy or transmission.

8.2 Notice of Force Majeure Event.

If any Party is unable to perform its obligations under this Agreement due to a Force Majeure Event, the Party that is unable to perform shall promptly notify the other Party of this occurrence, the effect on its performance, the nature of any corrective action needed, its efforts to remedy its inability to perform, and when it estimates it will be able to resume performance. Thereafter the nonperforming Party shall update that information as reasonably necessary.

8.3 Effect of Force Majeure Event.

If a Force Majeure event results in a Forced Outage then Sections 7.2.1. through 7.2.9 of this Agreement shall apply. If a Force Majeure Event prevents a Party from complying with any one or more obligations under this Agreement, that inability to comply will not constitute a default if (a) that Party uses reasonable efforts to remediate the Force Majeure Event in accordance with Section 8.4, and (b) that Party complies with its notice obligations under Section 8.2.

8.4 Remedial Efforts.

If a Force Majeure Event occurs, the Party unable to perform by reason of that Force Majeure Event shall use reasonable efforts to resume its performance under this Agreement as soon as practicable, to mitigate the consequences of the Force Majeure Event, and to limit damages to the other Party; provided that no Party shall be required to settle any strike, walkout, lockout, or other labor dispute on terms which, in the Party’s sole discretion, are contrary to its interests.

ARTICLE 9 - DISPUTE RESOLUTION AND REMEDIES

9.1 Dispute Resolution.

The Parties shall make reasonable efforts to settle any dispute arising out of or in connection with this Agreement. The process and timeframe for Owner to challenge invoices related to this Agreement is set forth in Section 7.4 of the Services Tariff. For all other disputes, the Parties shall designate officers or other senior representatives to confer and attempt to resolve a dispute on an informal basis within two (2) calendar days after receiving written notice of a dispute. If the Parties are unable to resolve the dispute by mutual agreement within ten (10) business days after receiving written notice of a dispute (such period may be extended by the mutual, written agreement of the Parties), then the dispute may be referred to FERC’s Dispute Resolution Division by either Party.

9.2 Liability and Indemnification.

9.2.1 Liability of ISO. The ISO shall not be liable, whether based on contract, indemnification, warranty, equity, tort, strict liability or otherwise, to Owner or any third party or other person for any damages whatsoever arising or resulting from any actions or omissions by ISO in performing its obligations under this Agreement, except to the extent ISO is found liable for gross negligence or willful misconduct, in which case ISO will only be liable for direct damages.

9.2.2 Liability of Owner. Except as set forth in Section 4.7 (Penalties) of this Agreement, or as set forth in the ISO’s Tariffs, in no event shall Owner be liable to ISO for any incidental, consequential, multiple or punitive damages, loss of revenues or profits, attorneys fees or costs arising out of, or connected in any way with the performance or non-performance of this Agreement except to the extent Owner is found liable for gross negligence or willful misconduct.

9.2.3 Indemnification. Owner shall indemnify, defend and save harmless the ISO and its directors, officers, employees and agents from any and all damages, losses, claims and liabilities by or to third parties arising out of or resulting from the performance by ISO under this Agreement or the actions or omissions of Owner in connection with this Agreement, except in cases of gross negligence or willful misconduct by the ISO or its directors, officers, employees or agents.

9.3 Specific Performance.

The Parties agree that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms and that monetary damages alone, even if available, would not be an adequate remedy. It is accordingly agreed that the Parties shall be entitled to specific performance of the terms hereof, this being in addition to any other remedy to which they are entitled at Law or in equity.

9.4 Termination for Default.

If any Party shall fail to perform any material obligation imposed on it by this Agreement and that obligation has not been suspended pursuant to this Agreement, the other Party, at its option, may terminate this Agreement by giving the Party in default written notice setting out specifically the circumstances constituting the default and declaring its intention to terminate this Agreement. If the Party receiving the notice does not within ten (10) days after receiving the notice, remedy the default, the Party not in default shall be entitled by a further written notice to terminate this Agreement. The Party not in default shall have a duty to mitigate damages. Termination of this Agreement pursuant to this Section 9.4 shall be without prejudice to the right of any Party to collect any amounts due to it under this Agreement.

9.5 Waiver.

The failure to exercise any remedy or to enforce any right provided in this Agreement or applicable Law shall not constitute a waiver of such remedy or right or of any other remedy or right. A Party shall be considered to have waived any remedies or rights only if the waiver is in writing. A waiver given by a Party will be applicable only to the specific instance for which it is given.

9.6 No Third-Party Beneficiaries.

Except as is specifically set forth in this Agreement, nothing in this Agreement, whether express or implied, confers any rights or remedies under, or by reason of, this Agreement on any persons other than the Parties and their respective successors and permitted assigns, nor is anything in this Agreement intended to relieve or discharge the obligations or liability of any third party, nor give any third person any rights of subrogation or action against any Party.

9.7 Remedies Cumulative.

The rights and remedies of the Parties are cumulative and not alternative.

ARTICLE 10 - COVENANTS OF THE PARTIES

10.1 ISO represents and warrants to Owner as follows:

10.1.1 The ISO is a validly existing corporation with full authority to enter into this Agreement.

10.1.2 The ISO has full power and authority to enter into this Agreement and perform all of the ISO’s obligations, representations, warranties, and covenants under this Agreement.

10.1.3 The ISO has taken all necessary measures to have the execution and delivery of this Agreement authorized, and upon the execution and delivery of this Agreement, this Agreement shall be a legally binding obligation of the ISO.

10.1.4 The ISO has all regulatory authorizations necessary for it to perform its obligations under this Agreement.

10.1.5 The execution, delivery, and performance of this Agreement are within ISO’s powers and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party, or any Law applicable to it.

10.2 Owner represents and warrants to ISO as follows:

10.2.1 Owner is duly organized, validly existing and in good standing under the Laws of the jurisdiction under which it is organized, and is authorized to do business in New York.

10.2.2 Owner has full power and authority to enter into this Agreement and to perform (directly, or through its agents and assigns that are authorized pursuant to Section 11.1 of this Agreement) all of Owner’s duties, obligations, representations, warranties, and covenants under this Agreement, including the power to offer Energy, Unforced Capacity, and Ancillary Services from each RMR Generator, and to operate, maintain, and administer each RMR Generator, all in accordance with (a) the ISO Tariffs, (b) this Agreement, and (c) the ISO Procedures.

10.2.3 Owner has taken all necessary measures to have the execution and delivery of this Agreement authorized, and upon the execution and delivery of this Agreement, this Agreement shall be a legally binding obligation of Owner.

10.2.4 Owner possesses, or has applied for, all regulatory authorizations, necessary for it to perform its obligations under this Agreement.

10.2.5 The execution, delivery, and performance of this Agreement are within the Owner’s powers and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party, or any Law applicable to it.

10.2.6 Owner is not in violation of any Laws, ordinances, or governmental rules, regulations or Order of any Governmental Authority or arbitration board materially affecting the performance of this Agreement.

10.2.7 Owner is not bankrupt, does not contemplate becoming bankrupt nor, to its knowledge, will become bankrupt.

10.2.8 Owner is an ISO Customer [and an ISO Transmission Customer,] and acknowledges that it has reviewed and is familiar with the ISO Tariffs.

10.2.9 Owner acknowledges and affirms that the foregoing representations, warranties, and covenants are continuing in nature throughout the Term of this Agreement. For purposes of this Section, “materially affecting performance” means resulting in a materially adverse effect on Owner’s performance of its obligations under this Agreement.

ARTICLE 11 - MISCELLANEOUS PROVISIONS

11.1 Assignment.

A Party shall not assign its rights or delegate its duties under this Agreement without the prior written consent of the other Party. Any such assignment or delegation made without such written consent shall be null and void. Upon any assignment made in compliance with this Section 11.1, this Agreement shall inure to and be binding upon the successors and assigns for the assigning Party.

11.2 Notices.

Except as otherwise expressly provided in this Agreement or required by Law, all notices, consents, requests, demands, approvals, authorizations and other communications provided for in this Agreement shall be in writing and shall be sent by personal delivery, certified mail, return receipt requested, facsimile transmission, electronic mail, or by recognized overnight courier service, to the intended Party at such Party’s address set forth below. All such notices shall be deemed to have been duly given and to have become effective: (a) upon receipt if delivered in person, by facsimile, or by electronic mail; (b) two days after having been delivered to an air courier for overnight delivery; or (c) seven days after having been deposited in the United States mail as certified or registered mail, return receipt requested, all fees pre-paid, addressed to the applicable addresses set forth below. Each Party’s address for notices shall be as follows (subject to change by notice in accordance with the provisions of this Section 11.2):

If to Owner:

[OFFICER NAME]

[OFFICER TITLE]

[STREET ADDRESS]

[CITY, STATE, ZIP]

[PHONE NUMBER]

[FAX NUMBER]

[E-MAIL ADDRESS]

If to ISO:

[OFFICER NAME]

[OFFICER TITLE]

10 Krey Boulevard

Rensselaer, New York 12144

[PHONE NUMBER]

[FAX NUMBER]

[E-MAIL ADDRESS]

With a copy to:

[INSERT LEGAL CONTACT]

The persons designated to receive Notice for a Party may be modified by providing Notice to the other Party of a change.

11.3 Parties’ Representatives.

Owner and the ISO shall ensure that throughout the Term of this Agreement, duly appointed representatives are available for communications between the Parties. The representatives shall have full authority to deal with all day-to-day matters arising under this Agreement. Acts and omissions of representatives shall be deemed to be acts and omissions of the Party. Owner and ISO shall be entitled to assume that the representatives of the other Party are at all times acting within the limits of the authority given by the representatives’ Party. Owner’s representatives shall be identified on Exhibit A. The ISO’s representatives shall be identified on Exhibit B. The Parties may at any time replace their representatives by sending the other Party a revision to its respective Exhibit.

11.4 Effect of Invalidation, Modification, or Condition.

Each covenant, condition, restriction, and other term of this Agreement is intended to be, and shall be construed as, independent and severable from each other covenant, condition, restriction, and other term. If any covenant, condition, restriction, or other term of this Agreement is held to be invalid or otherwise modified or conditioned by any Governmental Authority, the invalidity, modification, or condition of such covenant, condition, restriction, or other term shall not affect the validity of the remaining covenants, conditions, restrictions, or other terms hereof. If an invalidity, modification, or condition has a material impact on the rights and obligations of the Parties, the Parties shall make a good faith effort to renegotiate and restore the benefits and burdens of this Agreement as they existed prior to the determination of the invalidity, modification, or condition.

11.5 Amendments.

Amendments or modifications of this Agreement may be made only by a written instrument duly executed by all Parties, or through a filing with FERC under Section 206 of the FPA. Mutually agreed to amendments or modifications shall become effective only after the Parties have received any authorizations required from FERC. The Parties agree to negotiate in good faith any amendments to this Agreement that are needed to reflect the intent of the Parties as expressed herein and to reflect any changes to the design of the ISO Administered Markets that are approved by the Commission from time to time. Alternatively, either Party shall have the right to make a unilateral filing with FERC to modify this Agreement pursuant to Section 206 of the FPA and FERC’s rules and regulations thereunder. The Parties agree that any such filing shall not be subject to the “public interest” application of the just and reasonable standard of review as clarified in *Morgan Stanley Capital Group, Inc. v. Public Util. Dist. No. 1 of Snohomish County, Washington*, 554 U.S. 527 (2008) and refined in *NRG Power Mktg. v. Maine Pub. Utils. Comm’n*, 130 S. Ct. 693, 700 (2010). Each Party shall have the right to protest any such filing by another Party and to participate fully in any proceeding before FERC in which such modifications may be considered.

Nothing in this Section 11.5 shall be interpreted to require the ISO’s concurrence before Owner may submit a filing under Section 205 of the FPA to propose an initial rate to FERC, or to recover costs that Owner (or an RMR Generator) is specifically authorized to submit or to seek to recover under Sections 38.1 to 38.17 of the OATT. Nothing in this Section 11.5 shall be interpreted to require Owner’s concurrence before the ISO may submit a filing under Section 205 of the FPA to comply with the requirements of its Tariffs, or to submit a filing in accordance with Sections 2.2.8 or 4.6 of this Agreement.

11.6 Governing Law.

This Agreement shall be governed by and construed under the Laws of the State of New York without regard to conflicts of laws principles.

11.7 Entire Agreement.

This Agreement, as well as any appendices, schedules, exhibits or other attachments hereto, which are incorporated by reference herein and made a part hereof, constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior negotiations, undertakings, agreements and understandings.

11.8 Independent Contractors.

Owner and ISO acknowledge that as between Owner and ISO there is an independent contractor relationship, and that nothing in this Agreement shall create any association, joint venture, partnership, or principal/agent relationship between the Parties. Neither Owner nor ISO shall have any right, power, or authority to enter into any agreement or commitment, act on behalf of, or otherwise bind the other Party in any way.

11.9 Counterparts.

This Agreement may be executed in one or more counterparts each of which shall be deemed an original and all of which shall be deemed one and the same agreement.

11.10 Confidentiality.

Confidential Information or Protected Information identified as such by a Party and provided to the other Party pursuant to this Agreement shall be governed by the confidentiality provisions in the Code of Conduct, contained in Attachment F of the OATT, and the confidentiality provisions in the Market Monitoring Plan, contained in Attachment O of the Services Tariff, subject to the following:

11.10.1 Nothing herein or therein shall limit the right of a Party to file a copy of this Agreement with the Commission, without redaction, to the extent that Law, regulation, or agency Order makes such filing necessary or appropriate.

11.10.2 Notwithstanding anything in this Agreement to the contrary, if during the course of an investigation or otherwise, the Commission requests that a Party (the “responding Party”) provide to it information that has been designated by the other Party to be treated as confidential under this Agreement, the responding Party shall provide the requested information to the FERC or its staff within the time provided for in the request for information. The responding Party shall, consistent with 18 CFR § 388.112, request that the information be treated as confidential and non-public by the FERC and its staff and that the information be withheld from public disclosure.

11.11 Further Assurances.

The Parties agree to do such further acts and things and to execute and deliver such additional agreements and instruments as may be reasonably necessary to carry out the provisions and purposes of this Agreement.

11.12 Submittal to the Commission.

The Parties acknowledge and agree [ALT. 1, IF OWNER AND ISO AGREE ON TERMS AND CONDITIONS AND OWNER ACCEPTS THE APR that the ISO shall submit the executed Agreement to the FERC, including the proposed APR, in a FPA Section 205 filing on the Parties’ behalf;] [ALT. 2, IF OWNER AND ISO AGREE ON TERMS AND CONDITIONS, OWNER ACCEPTS THE APR, BUT THERE ARE CAPITAL EXPENDITURES THAT REQUIRE FERC APPROVAL (i) that the ISO shall submit this Agreement to the FERC, including the agreed-to components of the proposed APR, in a FPA Section 205 filing on the Parties’ behalf, and that Owner will submit a separate FPA Section 205 filing that is consistent with the terms and conditions of service proposed in this Agreement, and that tracks the format of this Agreement, proposing the inclusion of the cost of certain Capital Expenditures in the APR;]

[ALT. 3, IF OWNER AND ISO AGREE ON TERMS AND CONDITIONS BUT OWNER REJECTS THE APR AND SUBMITS AN OWNER DEVELOPED RATE that the ISO shall submit the Parties’ agreed-upon terms and conditions of service to the FERC, in a FPA Section 205 filing on the Parties’ behalf, and that Owner will submit a separate FPA Section 205 filing proposing an Owner Developed Rate that is consistent with the terms and conditions of service proposed in this Agreement and that tracks the format of this Agreement.]

Following the ISO’s submission to FERC of an executed or unexecuted Agreement, the Parties will implement and comply with this Agreement in accordance with Section 2.1.2 hereof.

**IN WITNESS WHEREOF**, this Agreement has been executed as of the date first above written.

[OWNER NAME]

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name:

Title:

NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name:

Title:

EXHIBIT A - OWNER’S REPRESENTATIVES

[OWNER TO PROVIDE]

EXHIBIT B - ISO’S REPRESENTATIVES

[NAME OF NYISO OFFICER WITH AUTHORITY TO EXECUTE AN RMR AGREEMENT]

[OFFICER TITLE] New York Independent System Operator, Inc.

10 Krey Boulevard

Rensselaer, New York 12144

38.27 Appendix D – Responsible Generator Party Certification

**Responsible Generator Party Certification**

|  |  |
| --- | --- |
| **Date (“Effective Date”)** |  |
| **Responsible Generator Party (“RGP”)** |  |
| Capitalized terms used and not otherwise defined herein shall have the meaning ascribed in the NYISO’s Open Access Transmission Tariff (“**OATT**”) or its Market Administration and Control Area Services Tariff (“**Services Tariff**”), as context requires, (together “**NYISO Tariffs**”). | |

WHEREAS, the RGP is the entity that is ultimately responsible for making determinations concerning outages affecting and the repair of and/or the deactivation or retirement of one or more generating facilities seeking to participate in or participating in the ISO Administered Markets (“**Outage and/or Deactivation Authority**”);

WHEREAS, Section 5.18 of the Services Tariff (Generator Outages and Generator Obligations While in These Outages) and Section 38 (Short-Term Reliability Process) of the OATT (or any successor provisions), and related NYISO Tariff rules implementing the NYISO’s outage state and generator deactivation requirements, establish certain requirements concerning outages affecting, the repair of, and the deactivation or retirement of generating facilities participating in the ISO Administered Markets;

WHEREAS, the RGP seeks to register or to renew its registration of a generating facility or generating facilities for which it has Outage and/or Deactivation Authority to participate in the ISO Administered Markets.

NOW, THEREFORE, in consideration of the foregoing, I, the undersigned, in my capacity as a duly authorized representative of the RGP named above, hereby certify, acknowledge, and agree, understanding that the NYISO is relying on these representations and agreements, that the RGP shall comply with the following requirements (“**Certification**”).

1. Generator. “Generator” shall mean the generating facility or facilities for which the RGP has Outage and/or Deactivation Authority and that are seeking to participate or are participating in the ISO Administered Markets. The generating facility or facilities shall be identified by the RGP in Schedule A to this Certification. The RGP shall specify in Schedule A for each Generator: the Generator Name, Generator PTID, the nameplate rating of the Generator, and whether the RGP’s Outage and/or Deactivation Authority concerns (i) outages affecting and the repair of the Generator, (ii) the deactivation or retirement of the Generator, or (iii) both.

2. Effective Date. This Certification shall take effect on the Effective Date indicated above, and shall last until terminated in accordance with the terms of this Certification (“**Term**”).

3. RGP Outage State Obligations. As of the Effective Date, and for the Term of this Certification, the RGP assumes the obligation to comply with the requirements of Section 5.18 of the Services Tariff, or any successor provisions, for the Generator(s) identified in Schedule A for which it is responsible. The RGP assumes the obligation to comply with the requirements of Section 5.18 of the Services Tariff that apply to any of a Market Participant, Market Party, Generator Owner, and/or a Generator, including, but not limited to, the requirements that address providing prior notice and information to the NYISO.

(a) However, if a Generator identified in Schedule A is only participating in the ISO-Administered Markets as a facility in an Aggregation then, for so long as the Generator is only participating in the ISO-Administered Markets as a facility in an Aggregation, the RGP is not required to comply with the requirements of Section 5.18 of the Services Tariff for that Generator.

4. RGP Generator Deactivation Obligations. As of the Effective Date, and for the Term of this Certification, the RGP assumes the obligation to comply with the requirements of Section 38 of the OATT, or any successor provisions, for the Generator(s) identified in Schedule A that have a nameplate rating greater than 1 MW for which it is responsible. The RGP assumes the obligation to comply with the requirements of Section 38 of the OATT that apply to any of a Market Participant, Market Party, Generator Owner, and/or a Generator, including, but not limited to, the requirements that address providing prior notice and information to the NYISO.

5. Representations and Warranties. RGP represents and warrants to the NYISO that (i) it possesses the Outage and/or Deactivation Authority specified in Schedule A for each of the listed Generators, (ii) it is duly organized, validly existing, and in good standing under the laws of its jurisdiction of formation, (iii) it has the legal power to execute and deliver this Certification and to perform in accordance with its terms, (iv)  all necessary actions have been taken to authorize the execution and delivery of this Certification and performance in accordance with its terms, (vi) this Certification is a legal, valid, and binding obligation, and (vii) there is no action or proceeding pending or, to its knowledge, threatened before any court, arbitrator, or governmental agency that may materially adversely affect its ability to perform its obligations under this Certification.

6. Changes to RGP’s Outage and/or Deactivation Authority. If the RGP no longer has the Outage and/or Deactivation Authority for a Generator as identified in Schedule A, the RGP shall notify the NYISO within ten (10) days of such change by submitting an update to Schedule A and shall provide the NYISO with the name of the entity that now possesses Outage and/or Deactivation Authority for the Generator. If the RGP acquires Outage and/or Deactivation Authority for a new or additional Generator the RGP shall provide the NYISO with an updated Schedule A within ten (10) days of obtaining such authority that identifies the additional Generator(s) and provides the information required in Section 1 above. Upon the NYISO’s request, the RGP shall review and provide any updates necessary to correct the information in its Schedule A within ten (10) days.

7. Default. In the event the RGP does not timely comply with the requirements of Section 5.18 of the Services Tariff or Section 38 of the OATT, as applicable, the NYISO may submit one or more public filings informing the Federal Energy Regulatory Commission (“**FERC**”) and/or the New York Public Service Commission (“**NYPSC**”) of the default and asking the appropriate agenc(ies) to exercise their authority to require the RGP to promptly remedy the default.

8. Termination.

(i) This Certification may be terminated by the mutual agreement, in writing, of the NYISO and the RGP.

(ii) This Certification may be unilaterally terminated by RGP submitting a notice of termination, in writing, to the NYISO after RGP accurately notifies the NYISO under Section 6 that it no longer has the Outage and/or Deactivation Authority for any New York Control Area Generator.

9. Communications. Notices and other communications given pursuant to this Certification shall be in writing, shall be deemed effective when received, and shall be delivered by hand, facsimile or email (in each case, with confirmation of receipt of delivery) or by certified mail to the following addresses:

a. If to the NYISO:

The New York Independent System Operator, Inc.

10 Krey Boulevard

Rensselaer, NY 12144

Attention: Registration Coordinator

E-mail: Customer\_Registration@nyiso.com

b. If to RGP:

[RGP to insert contact information.]

10. Amendment and Waiver. The terms and provisions of this Certification may not be amended or waived without the prior written consent of both the NYISO and the RGP.

11. Severability. Should any provision of this Certification be determined by a court of competent jurisdiction to be unenforceable, all of the other provisions shall remain effective.

12. Governing Law. This Certification shall be governed by the laws of the State of New York without regard to conflict of laws principles (other than Section 5-1401 of the New York General Obligations Law).

13. Execution. A signed copy of this Certification delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Certification.

**[*Remainder of page intentionally left blank; Signature page follows*]**

IN WITNESS WHEREOF, the undersigned has executed this Certification as of the date written above.

|  |  |
| --- | --- |
| **RESPONSIBLE GENERATOR PARTY** |  |
| Signature:  Print Name:  Title: |  |

Schedule A

**Generators Subject to responsible generator party Certification**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Generator Name** | **Generator PTID** | **Nameplate Rating of Generator** | **RGP Has Ultimate Responsibility Concerning Outages Affecting and Repair of Generator (Yes/No)** | **RGP Has Ultimate Responsibility Concerning Deactivation or Retirement of Generator (Yes/No)** |
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**Schedule A Submission Date:**