

## **7.4 Billing Disputes**

This Section 7.4 establishes the process and timeframe for review, challenge, and correction of Customer invoices. For purposes of this Section 7.4, any deadline that falls on a Saturday, Sunday, or holiday for which the ISO is closed shall be observed on the ISO's next business day.

For purposes of this Section 7.4, "finalized" data and invoices shall not be subject to further correction, including by the ISO, except as ordered by the Commission or a court of competent jurisdiction; *provided, however*, that nothing herein shall be construed to restrict any stakeholder's right to seek redress from the Commission in accordance with the Federal Power Act.

Challenges to charges and payments in awards rendered by the ISO to Customers buying or selling TCCs in Centralized TCC Auctions and Reconfiguration Auctions shall be governed by Section 19.10 of Attachment M of the ISO OATT and ISO Procedures and shall not be governed by this Section 7.4.

### **7.4.1 Settlement Cycle for Services Furnished On and After January 1, 2009**

#### **7.4.1.1 ISO Corrections or Adjustments and Customer Challenges to the Accuracy of Settlement Information**

Settlement information for services furnished beginning January 1, 2009, and thereafter shall be subject to review, comment, and challenge by a Customer and correction or adjustment by the ISO for errors at any time for up to five (5) months from the date of the initial invoice for the month in which service is rendered as set forth in Section 7.2.2. ~~12 or Section 7.2.3.2~~ of this ISO Services Tariff, ~~as applicable~~, and as further provided in Section 7.4.1.2, subject to the following requirements and limitations:

- 7.4.1.1.1 A Supplier or meter authority may review, comment on, and challenge Generator, tie-line, and sub-zone Load metering data for fifty-five (55) days from the date of the initial invoice for the month in which service is rendered. Following this review period, the ISO shall then have five (5) days to process and correct Generator, tie-line, and sub-zone Load metering data, after which time it shall be finalized.
- 7.4.1.1.2 The meter authority shall provide to the ISO all LSE bus metering data then available within seventy (70) days from the date of the initial invoice and shall provide any necessary updates to the LSE bus metering data as soon as possible thereafter. The ISO shall post all available LSE bus metering data within approximately seventy-five (75) days from the date of the initial invoice and shall continue to post incoming LSE bus metering data as soon as practicable after it is received.
- 7.4.1.1.3 The ISO shall post advisory settlement information, including available LSE bus metering data, within ninety (90) days from the date of the initial invoice. Customers may review, comment on, and challenge this settlement information, except for Generator, tie-line, and sub-zone Load metering data, after which the ISO shall process and correct the data and issue a corrected invoice with the regular monthly invoice issued on or about one hundred twenty (120) days from the date of the initial invoice. Following the ISO's issuance of a corrected invoice, Customers may continue to review, comment on, and challenge their settlement information, excepting Generator, tie-line, and sub-zone Load metering data, until the end of the five-month review period.
- 7.4.1.1.4 The meter authority shall provide to the ISO any final updates or corrections to LSE bus metering data within one hundred thirty (130) days from the date of the initial invoice. The ISO shall then post any updated and corrected LSE bus metering data within one hundred

thirty-five (135) days from the date of the initial invoice. Customers may then review, comment on, and challenge the LSE bus metering data for an additional ten (10) days.

Following this review period, the ISO shall have five (5) days to process and correct the LSE bus metering data, after which it shall be finalized.

The ISO shall use reasonable means to post metering revisions for review by Customers and to notify Customers of the approaching expiration of review periods. To challenge settlement information contained in an invoice, a Customer shall first make payment in full, including any amounts in dispute. Customer challenges to settlement information shall: (i) be submitted to the ISO in writing, (ii) be clearly identified as a settlement challenge, (iii) state the basis for the Customer's challenge, and (iv) include supporting documentation, if applicable. The ISO shall notify all Customers of errors identified and the details of corrections or adjustments made pursuant to this Section 7.4.1.1.

#### **7.4.1.2 Review and Correction of Challenged Invoices**

The ISO shall evaluate a settlement challenge as soon as possible within two (2) months following the conclusion of the challenge period specified in Section 7.4.1.1; *provided, however*, the ISO may, upon notice to Customers within this time of extraordinary circumstances requiring a longer evaluation period, take up to six (6) months to evaluate a settlement challenge. The ISO shall not be limited to the scope of Customer challenges in its review of a challenged invoice and may, at its discretion, review and correct any other elements and intervals of a challenged invoice, except Load and meter data as specified in Section 7.4.1.1. Corrections to a challenged invoice shall be applied to all Customers that were or should have been affected by the original settlement and shall not be limited to the Customer challenging the invoice; *provided, however*, that the ISO may recover *de minimis* amounts or amounts that the ISO is unable to collect from individual Customers through Rate Schedule 1 of this ISO Services Tariff.

Upon completing its evaluation, the ISO shall provide written notice to the challenging Customer of the ISO's final determination regarding the Customer's settlement challenge. If the ISO determines that corrections or adjustments to a challenged invoice are necessary and can quantify them with reasonable certainty, the ISO shall provide all Customers with the details of the corrections or adjustments within the timeframe established in this Section 7.4.1.2. The ISO shall then provide a period of twenty-five (25) days for Customers to review the corrected settlement information and provide comments to the ISO regarding the implementation of those corrections or adjustments; *provided, however*, that in the event of a dispute resolution proceeding conducted in accordance with Section 7.4.2 of this ISO Services Tariff, this twenty-five (25) day period shall not start or, if it has already started, shall be suspended until the conclusion of the dispute resolution proceeding. Following the conclusion of the dispute resolution proceeding, the ISO shall make any corrections to Customers' settlement invoices that it determines to be necessary and shall then start or re-start the twenty-five (25) day Customer comment period.

If no errors in the implementation of corrections or adjustments are identified during the twenty-five (25) day Customer comment period, the ISO shall issue a finalized close-out settlement ("Close-Out Settlement"), clearly identified as such, in the next regular monthly billing invoice. If an error in the implementation of a correction or adjustment is identified during the twenty-five (25) day Customer comment period, the ISO shall have one (1) month to make such further corrections as are necessary to address the error and provide Customers with one additional period of twenty-five (25) days to review and comment on the implementation of those further corrections. If an error in the implementation of those further corrections is identified, the ISO shall then have one (1) month to make any final corrections that are necessary and shall issue a finalized Close-Out Settlement in the next regular monthly billing invoice.

## **7.4.2 Expedited Dispute Resolution Procedures for Unresolved Settlement Challenges**

### **7.4.2.1 Applicability of Expedited Dispute Resolution Procedures**

This Section 7.4.2 establishes expedited dispute resolution procedures applicable to address any dispute between a Customer and the ISO regarding a Customer settlement that was not resolved in the ordinary settlement review, challenge, and correction process; *provided, however*, that nothing herein shall restrict a Customer or the ISO from seeking redress from the Commission in accordance with the Federal Power Act.

A Customer may request expedited dispute resolution if it has previously presented a settlement challenge consistent with the requirements of Section 7.4.1.1 of this ISO Services Tariff and has received from the ISO a final, written determination regarding the settlement challenge pursuant to Section 7.4.1.2 of this ISO Services Tariff. The scope of an expedited dispute resolution proceeding shall be limited to the subject matter of the Customer's prior settlement challenge. Customer challenges regarding Generator, tie-line, sub-zone Load, and LSE bus metering data shall not be eligible for formal dispute resolution proceedings under this ISO Services Tariff. To ensure consistent treatment of disputes, separate requests for expedited dispute resolution regarding the same issue and the same service month or months may be resolved on a consolidated basis, consistent with applicable confidentiality requirements.

### **7.4.2.2 Initiation of Expedited Dispute Resolution Proceeding**

To initiate an expedited dispute resolution proceeding, a Customer shall submit a written request to the ISO Chief Financial Officer within eleven (11) business days from the date that the ISO issues a final, written determination regarding a Customer settlement challenge pursuant to Section 7.4.1.2 of this ISO Services Tariff. A Customer's written request for expedited dispute resolution shall

contain: (i) the name of the Customer making the request, (ii) an indication of other potentially affected parties, to the extent known, (iii) an estimate of the amount in controversy, (iv) a description of the Customer's claim with sufficient detail to enable the ISO to determine whether the claim is within the subject matter of a settlement challenge previously submitted by the Customer, (v) copies of the settlement challenge materials previously submitted by the Customer to the ISO, and (vi) citations to the ISO Tariffs and other relevant materials upon which the Customer's settlement challenge relies.

The ISO Chief Financial Officer shall acknowledge in writing receipt of the Customer's request to initiate an expedited dispute resolution proceeding. If the ISO determines that the proceeding would be likely to aid in the resolution of the dispute, the ISO shall accept the Customer's request and provide written notice of the proceeding to all Customers through the ordinary means of communication for settlement issues. The ISO shall provide written notice to the Customer in the event that the ISO declines its request for expedited dispute resolution.

#### **7.4.2.3 Participation by Other Interested Customers**

Any Customer with rights or interests that would be materially affected by the outcome of an expedited dispute resolution proceeding may participate; *provided, however*, that a Customer seeking or supporting a change to the NYISO's determination regarding a Customer settlement challenge must have previously raised the issue in a settlement challenge consistent with the requirements of Section 7.4.1.1 of this ISO Services Tariff. To participate, such Customer shall submit to the ISO Chief Financial Officer a written request to participate that meets the requirements for an initiating request for expedited dispute resolution within eleven (11) business days from the date that the ISO issues notice of the expedited dispute resolution proceeding. If the ISO determines that the Customer has met the requirements of this Section 7.4.2.3, the ISO will accept the Customer's request to participate in the dispute resolution proceeding.

#### **7.4.2.4 Selection of a Neutral**

As soon as reasonably possible following the ISO's acceptance of a Customer's request for expedited dispute resolution under Section 7.4.2.2, the ISO shall appoint a neutral to preside over the proceeding by randomly selecting from a list (i) provided to the ISO by the American Arbitration Association or (ii) developed by the ISO with input from the appropriate stakeholder committee, until an available neutral is found. To the extent possible, the neutral shall be knowledgeable in electric utility matters, including electric transmission and bulk power issues and the financial settlement of electric markets.

No person shall be eligible to act as a neutral who is a past or present officer, employee, or consultant to any of the disputing parties, or of an entity related to or affiliated with any of the disputing parties, or is otherwise interested in the matter in dispute except upon the express written consent of the parties. Any individual appointed as a neutral shall make known to the disputing parties any such disqualifying relationship or interest and a new neutral shall be appointed, unless express written consent is provided by each party.

#### **7.4.2.5 Conduct of the Expedited Dispute Resolution Proceeding**

The neutral shall schedule the initial meeting of the disputing parties within five (5) business days of appointment. Except as otherwise provided in this Section 7.4.2, the neutral shall have discretion over the conduct of the dispute resolution process including, but not limited to: (i) requiring the disputing parties to meet for discussion, (ii) allowing or requiring written submissions, (iii) establishing guidelines for such written submissions, and (iv) allowing the participation of Customers that have requested an opportunity to be heard.

Within sixty (60) days of the appointment of the neutral, if the dispute has not been resolved, the neutral shall provide the disputing parties with a written, confidential, and non-binding

recommendation for resolving the dispute. The disputing parties shall then meet in an attempt to resolve the dispute in light of the neutral's recommendation. If the disputing parties have not resolved the dispute within ten (10) days of receipt of the neutral's recommendation, the dispute resolution process will be concluded.

Neither the recommendation of the neutral, nor statements made by the neutral or any party, including the ISO, or their representatives, nor written submissions prepared for the dispute resolution process, shall be admissible for any purpose in any proceeding.

#### **7.4.2.6 Allocation of Costs**

Each party to a dispute resolution proceeding shall be responsible for its own costs incurred during the process and for a pro rata share of the costs of a neutral.