

## Attachment II

## **27 Attachment U – Declaration and Recovery of Bad Debt Losses**

The ISO shall recover bad debt losses resulting from non-payment of money owed under this ISO OATT or the ISO Services Tariff by Transmission Customers or Customers (hereinafter, collectively referred to as “Transmission Customers” for purposes of this Attachment U) in accordance with this Attachment U.

### **27.1 Declaration Of A Bad Debt Loss**

At such time that the ISO’s Chief Financial Officer concludes that the ISO does not reasonably expect payment in full from a defaulting Transmission Customer within an acceptable time period, then the ISO’s Chief Financial Officer shall declare that the net unpaid obligation is a bad debt loss that requires recovery by the ISO in accordance with this Attachment U through a Schedule 1 charge, and the ISO shall pursue available remedies for customer defaults under the ISO Tariffs.

### **27.2 Notice To Market Participants**

The ISO shall notify Market Participants of the declaration of a bad debt loss under Section 27.1 of this Attachment U by a posting to the ISO website and to the Market Participant subscriber e-mail lists. Such notification shall identify the defaulting Transmission Customer, the dollar amount of the unpaid balance, the applicable Billing Period(s) for which settlement invoice obligations remain unpaid and are still owing to the ISO, and the future Billing Period(s) in which the ISO will recover the bad debt loss in accordance with this Attachment U through a Schedule 1 charge.

### **27.3 Recovery of Payment Defaults and Bad Debt Losses**

Whenever all or any portions of any settlement invoices remain unpaid to the ISO after the invoice due date, the ISO, at its discretion, may use the Working Capital Fund to maintain the liquidity of the New York wholesale energy markets and pay all Transmission Customers who are owed monies in their settlement invoices under the ISO Tariffs . The ISO shall not use the Working Capital Fund to satisfy WTSC non-payments. In the case of WTSC non-payments, the ISO may draw upon collateral for the benefit of the affected Transmission Owners in accordance with Section 26.11 of the ISO Services Tariff.

The ISO will ordinarily first seek to recover the amount of a payment default by drawing upon the entire amount of collateral provided by the defaulting Transmission Customer. If the ISO were unable to promptly recover the full amount of the debt in this way, the ISO would ordinarily seek to recover the amount of the payment default by drawing upon the defaulting Transmission Customer's contributions to the Working Capital Fund that is described in Attachment V to this ISO OATT. If the ISO were unable to promptly recover the full amount of the debt through this measure, it would then ordinarily make claims against any available loss protection insurance in accordance with the insurance's terms. The ISO may deviate from the sequence of steps above, or pursue alternative cost-recovery measures, if it determines that doing so would be more likely to minimize the size of, or avoid, a bad debt loss. After the ISO's Chief Financial Officer has declared a bad debt loss , and notified Market Participants in accordance with this Attachment U, the amount of the bad debt loss shall be allocated *pro rata* to all Transmission Customers pursuant to the following formula:

$$\text{Percentage of Loss to Be Paid by Transmission Customer} = \frac{\text{CAR} + \text{CAP}}{\text{NYAR} + \text{NYAP}}$$

**Where:**

CAR =	Transmission Customer's gross accounts receivable, including WTSC in the <del>Billing Period</del> <u>month</u> in which the payment obligation that resulted in the loss occurred <u>and the two previous months</u> .
CAP =	Absolute value of Transmission Customer's gross accounts payable, including WTSC, in the <del>Billing Period</del> <u>month</u> in which the payment obligation that resulted in the loss occurred <u>and the two previous months</u> .
NYAR =	ISO's gross accounts receivable plus the Transmission Owners' accounts receivable from WTSC, in the <del>Billing Period</del> <u>month</u> in which the payment obligation that resulted in the loss occurred <u>and the two previous months</u> .
NYAP =	Absolute value of ISO's gross accounts payable plus the absolute value of the Transmission Owners' accounts payable from WTSC, in the <del>Billing Period</del> <u>month</u> in which the payment obligation that resulted in the loss occurred <u>and the two previous months</u> .

Notwithstanding any recovery of unpaid WTSC in accordance with this Attachment U through a Schedule 1 charge, a Transmission Owner shall be required to pursue reasonable debt collection efforts and remit to the ISO any such WTSC ultimately collected.

The ISO shall recover the bad debt loss through a Schedule 1 charge in a subsequent Billing Period after the Billing Period in which the bad debt loss is declared; provided, however, that the ISO may recover bad debt losses over several Billing Periods if, in its discretion, the ISO determines such method of recovery to be a prudent course of action.

Transmission Customers that are subject to a Schedule 1 charge for a bad debt loss will be assessed the outstanding balance owing to the ISO, as originally reflected in the defaulting Transmission Customer's invoice, including any accrued interest through the date of such invoice, but exclusive of any additional interest on the unpaid balance that accrued subsequent to the original due date. The ISO shall have the option to adjust Transmission Customers' shares of bad debt loss recovery costs, on a ratable basis, if necessary to fully recover a loss. The ISO shall not be required to determine the outcome of any insurance claim before allocating bad debt loss recovery costs to Transmission Customers. Any bad debt losses that are later recovered

through insurance proceeds or from a defaulting Transmission Customer, or otherwise, shall be allocated to all Transmission Customers previously charged for the loss according to the same allocation method originally used to collect the loss.

#### **27.4 Re-Entry of Defaulting Transmission Customer**

In addition to the provisions for curing a Transmission Customer default contained elsewhere in the ISO Tariffs, a Transmission Customer whose previous default resulted in a Schedule 1 bad debt loss charge to other Transmission Customers must (i) cure such default by payment to the ISO of all outstanding and unpaid obligations and (ii) meet all ISO minimum participation criteria, registration requirements, and creditworthiness requirements, including posting of required collateral, prior to being re-admitted by the ISO to participate in the ISO markets. To prevent the purpose of this provision being circumvented by the use of separate entities, the ISO will evaluate relevant factors to determine if an entity seeking to participate in the ISO markets should be treated as the same Transmission Customer that experienced the previous default under this provision. Such factors may include, but are not limited to, the interconnectedness of the business relationships, overlap in relevant personnel, similarity of business activities, overlap of customer base, if any, and the business engaged in prior to the attempted re-entry.