

2.7 Billing and Payment

2.7.1 ISO Clearing Account

The ISO will establish an account (the “ISO Clearing Account”), and Transmission Customers shall make payments into or receive payments from the ISO Clearing Account in accordance with their settlement information provided by the ISO as described in Section 2.7.3 of this ISO OATT.

The ISO Clearing Account established herein shall be opened and operated by the ISO as trustee in trust for ISO creditors and ISO debtors in accordance with this ISO OATT.

The account shall be maintained at a bank or other financial institution in New York State as a trust account. Such account shall not be commingled with any other ISO accounts. The ISO will not take title to the funds held in the ISO Clearing Account. Nor will the ISO take title to any Energy, Capacity, Ancillary Services or TCCs.

2.7.2 Determination and Payment of Charges Associated with Transmission Service

This Section 2.7.2 applies to all Transmission Services except Transmission Service pursuant to Grandfathered Agreements listed in Attachment L. Charges applicable to Grandfathered Agreements are described in Attachment K.

2.7.2.1 Transmission Service Charge - General Applicability

The TSC charge is applied to all Actual Energy Withdrawals from the NYS Power System under Part 3 or Part 4 of this Tariff, except for withdrawals by a Transmission Owner to provide bundled retail service or scheduled withdrawals associated with grandfathered transactions as specified in Attachments K and L. The TSC charge also is applied to Transactions to destinations outside the NYCA (Export or Wheel-Through Transactions), except

as provided for in Section 2.7.2.1.4 of this Tariff.

Subject to the foregoing, the TSC applies to all Actual Energy Withdrawals regardless of whether the withdrawals occur in conjunction with a Bilateral Transaction or through the purchase of Energy from an LBMP Market. The TSC is payable under this Section regardless of whether the withdrawal is scheduled under Part 3 or Part 4 of this Tariff. Customers buying Energy from a Transmission Owner as part of a bundled retail rate will pay a portion of the Transmission Owner's transmission revenue requirement as part of their retail rates. Sales to these customers will be included in the billing units used to calculate each Transmission Owner's TSC under this Tariff in accordance with Attachment H.

Transmission Customers who are parties to grandfathered agreements specified in Attachment L will pay the applicable contract rate in those agreements. Revenues from these agreements will be credited against the Transmission Owners' individual revenue requirements in calculating the TSC.

2.7.2.1.1 Payable to Transmission Owners: The TSC will be payable to Transmission Owners, in the manner described below in the remainder of Section 2.7.2.1.

2.7.2.1.2 Payable by Retail Access Customers: Retail access customers or LSEs scheduling on their behalf will pay a TSC to their respective Transmission Owners under the provisions described in Part 5 of this Tariff. The TSC is payable under Part 5 (Retail Access Service) regardless of whether the LSE takes service under Part 3 (Point-to-Point Service) or Part 4 (Network Integration Service) of this Tariff.

2.7.2.1.3 Payable by LSEs Serving Non-Retail Access Load in NYCA: LSEs

serving NYCA Load that is not part of a retail access program, such as customers of municipal electric systems, will pay a TSC to the Transmission Owner in whose Transmission District the Load is located. The TSC shall apply to Actual Energy Withdrawals by the Load, regardless of whether such withdrawals are associated with Transmission Service under Part 3 or Part 4 of this Tariff or purchases from an LBMP Market, whether the withdrawals are scheduled or unscheduled, and regardless of whether the withdrawals were made on the Load's behalf by the LSE or by another Transmission Customer.

2.7.2.1.4 Payable by Eligible Customers Scheduling Export or Wheel-Through

Transactions: Eligible Customers scheduling Transactions to destinations outside the NYCA (Export or Wheel-Through Transactions) are subject to a TSC as calculated in Attachment H. The TSC charge shall be eliminated on all Exports and Wheel-Through Transactions scheduled with the ISO to destinations within the New England Control Area; provided that the following conditions shall continue to be met: (1) a Commission approved tariff provision is in effect that provides for unconditional reciprocal elimination of charges on Exports and Wheel-Through Transactions from the New England Control Area to the New York Control Area; (2) no change in the provisions in this Tariff related to Local Furnishing Bonds and Other Tax Exempt Financing shall be required for the reciprocal elimination of charges on Export and Wheel-Through Transactions to the New York Control Area; and (3) the New York Transmission Owners have the ability to fully recover the revenues related to the charges on Export and Wheel-Through Transactions that are eliminated. The ISO and the New York

Transmission Owners, jointly or separately, shall have the right to make a Section 205 filing with the Commission to reimpose the charge on Exports and Wheel-Through Transactions if at any time any of the foregoing conditions is no longer satisfied. The ISO will perform the requisite calculation and inform the Transmission Customer of the applicable Transmission Owner(s) of the TSC charge. The TSC will be payable by the Transmission Customer directly to the Transmission Owner(s).

2.7.2.2 Transmission Usage Charge (TUC)

2.7.2.2.1 Payable to the ISO: Transmission Usage Charges include Congestion Rents and charges for Marginal Losses. They are payable directly to the ISO. Attachment J explains the calculation of the TUC.

2.7.2.2.2 Payable by Eligible Customers Scheduling Transmission Service: All Transmission Customers scheduling Transmission Service under Part 3 or Part 4 of this Tariff shall pay the applicable TUC charge as calculated in the Attachment J hereto. Eligible Customers scheduling non-firm transactions under Part 3 will be subject to the Losses Component of the TUC only except as noted in Section 3.2.7 of this Tariff.

2.7.2.2.3 Payable by Transmission Owners Scheduling Bilateral Transactions on Behalf of Bundled Retail Customers: Transmission Owners scheduling Transmission Service to supply bundled retail customers shall pay the applicable TUC charge.

2.7.2.2.4 Payable by Eligible Customers or Transmission Owners Scheduling Direct LBMP Purchases from the LBMP Market: Any Transmission

Customer, or Transmission Owner purchasing from the LBMP Market to supply bundled retail customers, will pay the Congestion Rent and Marginal Losses charge applicable to its location. These Congestion Rent and Marginal Losses charges will be included in the calculation of the LBMP charged by the ISO for the purchase of Energy from the LBMP Market.

2.7.2.3 Ancillary Services

2.7.2.3.1 Payable to the ISO: All Ancillary Services charges are payable directly to the ISO.

2.7.2.3.2 Payable by LSEs: All LSEs scheduling Transmission Service under Part 3 or Part 4 or purchases from the LBMP Market to supply Load in the NYCA shall pay Ancillary Services charges as described in Schedules 1 through 6. The charges will be assessed on the basis of all Actual Energy Withdrawals by the Load, regardless of whether such withdrawals are scheduled or unscheduled, and regardless of whether they are scheduled on the Load's behalf by the LSE or by another Transmission Customer. As explained in Schedule 1, in certain circumstances the Schedule 1 charge may vary depending upon the Transmission District in which the Load is located.

2.7.2.3.3 Payable by Customers Scheduling External Transactions: Eligible Customers scheduling Export or Wheel-Through Transactions to destinations outside the NYCA, or purchases from the LBMP Market to serve Load outside the NYCA shall pay Ancillary Services charges under Schedules 1, 2, 4, and 5 of this Tariff. The charges will be assessed on the basis of all Scheduled Energy Withdrawals from the NYCA.

2.7.2.3.4 Payable by Transmission Owners Serving Bundled Retail Customers:

Transmission Owners scheduling Transmission Service or purchases from the LBMP Market to serve of bundled retail customers shall pay the ISO Ancillary Services charges as described in Schedules 1 to 6 based on Actual Energy Withdrawals.

2.7.2.4 NYPA Transmission Adjustment Charge (NTAC)

2.7.2.4.1 Payable to the ISO: NTAC charges are calculated in Attachment H. All NTAC charges are payable to the ISO.

2.7.2.4.2 Payable by LSEs Serving Load in the NYCA: Each LSE serving Load in the NYCA shall pay an NTAC to the ISO based on the LSE's Actual Energy Withdrawals.

2.7.2.4.3 Payable by Eligible Customers Scheduling Export or Wheel-Through

Transactions: Eligible Customers scheduling Export or Wheel-Through Transactions shall pay an NTAC based on their Transaction schedules. The NTAC charge shall not apply to Exports and Wheel-Through Transactions scheduled with the ISO to destinations within the New England Control Area provided that the conditions listed in Section 2.7.2.1.4 of this Tariff are satisfied.

2.7.2.5 Reliability Facilities Charge ("RFC") and LIPA RFC

2.7.2.5.1 Payable through the ISO: All RFC and LIPA RFC charges are calculated, collected and payable through the NYISO pursuant to Rate Schedule 10.

2.7.2.5.2 Payable by LSEs Serving Load in the NYCA: Each LSE serving Load in the NYCA shall pay an RFC and LIPA RFC to the NYISO in accordance with

Rate Schedule 10.

2.7.3 Billing Procedures and Payments

2.7.3.1 Invoices and Settlement Information

The ISO shall provide settlement and billing information to Transmission Customers.

The ISO shall inform each Transmission Customer that provides or is provided services furnished under this ISO OATT or the ISO Services Tariff of the payments due for such service.

For each service provided for under this ISO OATT or the ISO Services Tariff, the payments due to the ISO shall be netted against the corresponding amounts due to the Transmission Customer for providing service. Such information shall be electronically transmitted to the Transmission Customer.

Within five (5) business days after the first day of each month, the ISO shall submit an invoice to the Transmission Customer that indicates the net amount owed by or owed to the Transmission Customer for each of the services furnished under this ISO OATT and the ISO Services Tariff during the preceding month. The ISO shall use meter data submitted to the ISO in accordance with Section 3.16 of the ISO OATT; provided, however, that the ISO may use estimates in whole or in part, in accordance with ISO Procedures, to settle an invoice. Any charges based on estimates shall be subject to true-up, including interest calculated from the first due date after the service was rendered in accordance with Section 2.7.4 of this ISO OATT, in invoices subsequently issued by the ISO after the ISO has obtained the requisite actual information, provided that the actual information is supplied to the ISO within the timeframes established in Section 2.7.4.1 of this ISO OATT. The ISO may net any overpayment, including interest calculated from the date the overpayment was made in accordance with Section 2.7.4 of this ISO OATT, by the Transmission Customer for past estimated charges against current

amounts due from the Transmission Customer or, if the Transmission Customer has no outstanding amounts due, the ISO may pay to the Transmission Customer an amount equal to the overpayment. The ISO's invoices to Transmission Customers will be submitted only by electronic means via the ISO's Bid/Post System.

2.7.3.2 Payment by the Transmission Customer

A Transmission Customer owing payments on net shall make those payments to the ISO Clearing Account by the first banking day common to all parties after the 15th day of the month that the invoice is rendered by the ISO. All payments shall be made by wire transfer in immediately available funds payable to the ISO as trustee of the ISO Clearing Account.

2.7.3.3 Payments by the ISO

The ISO shall pay all net monies owed to a Transmission Customer from the ISO Clearing Account by the first banking day common to all parties after the 19th day of the month that the invoice is rendered by the ISO. All payments shall be made by wire transfer in immediately available funds payable to the Transmission Customer by the ISO as trustee of the ISO Clearing Account unless other arrangements are made.

2.7.3.4 Verification of Payments

The ISO shall verify that all payments owed by Transmission Customers in accordance with this ISO OATT and the ISO Services Tariff to the ISO Clearing Account have been paid in a timely manner in accordance with ISO Procedures. If a Transmission Customer fails to make a payment within the time period established in Section 2.7.3.2 of this ISO OATT or pays less than the amount due, the ISO shall take measures pursuant to Section 2.7.5 of this ISO OATT. The ISO shall also ensure that monies owed to Transmission Customers in accordance with this ISO

OATT and the ISO Services Tariff are paid through the ISO Clearing Account in a timely manner in accordance with ISO Procedures.

2.7.3.5 Settlement Information and Billing Procedures for TSCs

The ISO shall provide each Transmission Owner with information to facilitate TSC billing. Settlement information and billing procedures for payments of the TSC by retail access customers or LSEs serving retail access customers in accordance with Section 5 of this ISO OATT shall be separately issued, paid and collected in accordance with Section 5 of this ISO OATT. Settlement information and billing procedures for payments for TSCs for customers other than retail access customers and LSEs serving retail access customers shall be separately issued, paid and collected in accordance with the terms and conditions set forth in Attachment H of this ISO OATT in accordance with Section 5 of this ISO OATT.

2.7.3.6 Billing Procedures for Retail Access Programs

The billing procedures for customers participating in retail access programs shall be in accordance with Part IV of this ISO OATT.

2.7.4 Interest on Unpaid Balances:

Interest on any unpaid amount whether owed to a Transmission Customer or to the ISO as trustee of the ISO Clearing Account (including amounts placed in escrow) shall be calculated in accordance with the methodology specified for interest on refunds in the Commission's regulations at 18 C.F.R. § 35.19a (a)-(2)-(iii). Interest on unpaid amounts shall be calculated from the due date of the bill to the date of payment. Invoices shall be considered as having been paid on the date of receipt by the ISO.

If the ISO is unable to provide settlement information on time due to the actions or

inactions of the Transmission Customer, in addition to any other remedies the ISO may have at law or in equity, the Transmission Customer shall pay interest on amounts due, as calculated above, from the first day of the month following the month in which charges are accrued, to the time of payment of those charges.

2.7.4.1 Billing Disputes:

This Section 2.7.4.1 establishes the process and timeframe for review, challenge, and correction of Transmission Customer invoices. For purposes of this Section 2.7.4.1, 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 2.7.4.1, "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.

2.7.4.2 Settlement Cycle for Services Furnished Between January 1, 2007, and December 31, 2008

2.7.4.2.1 ISO Corrections or Adjustments and Transmission Customer Challenges to the Accuracy of Settlement Information

Settlement information for services furnished between January 1, 2007, and December 31, 2008, shall be subject to review, comment, and challenge by a Transmission Customer and correction or adjustment by the ISO for errors at any time for up to seven (7) months from the date of the initial invoice for the month in which the service is rendered and as further provided in Section 2.7.4.2.2, subject to the following requirements and limitations:

- (i) 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.
- (ii) 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-one (71) 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.
- (iii) The ISO shall post advisory settlement information, including available LSE bus metering data, within ninety (90) days from the date of the initial invoice. Transmission 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.
- (iv) 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-one (131) days from the date of the initial invoice. Transmission Customers may then review, comment on, and challenge the LSE bus metering data for an additional fourteen (14) 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.

- (v) At one hundred fifty (150) days from the date of the initial invoice, the ISO shall post updated advisory settlement information. Transmission Customers may review, comment on, and challenge this settlement information, except for Generator, tie-line, sub-zone Load, and LSE bus metering data, after which the ISO shall process and correct the data and issue an updated corrected invoice with the regular monthly invoice issued on or about one hundred eighty (180) days from the date of the initial invoice.
- (vi) Following the ISO's issuance of an updated corrected invoice, Transmission Customers may continue to review, comment on, and challenge settlement information, excepting Generator, tie line, sub-zone Load, and LSE bus metering data, until the end of the seven-month review period.

The ISO shall use reasonable means to post metering revisions for review by Transmission Customers and to notify Transmission Customers of the approaching expiration of review periods. To challenge settlement information contained in an invoice, a Transmission Customer shall first make payment in full, including any amounts in dispute. Transmission 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 Transmission Customer's challenge, and (iv) include supporting documentation, if applicable. The ISO shall

notify all Transmission Customers of errors identified and the details of corrections or adjustments made pursuant to this Section 2.7.4.2.1.

2.7.4.2.2 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 2.7.4.2.1; *provided, however*, the ISO may, upon notice to Transmission 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 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 2.7.4.2.1. Corrections to a challenged invoice shall be applied to all Transmission Customers that were or should have been affected by the original settlement and shall not be limited to the Transmission 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 Transmission Customers through Schedule 1 of this ISO OATT.

Upon completing its evaluation, the ISO shall provide written notice to the challenging Transmission Customer of the ISO's final determination regarding the Transmission 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 Transmission Customers with the details of the corrections or adjustments within the timeframe established in this Section 2.7.4.2.2. The ISO shall then provide a period of twenty-five (25) days for Transmission 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 2.7.4.4 of this ISO OATT, 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 Transmission Customers' settlement invoices that it determines to be necessary and shall then start, or re-start, the twenty-five (25) day Transmission Customer comment period.

If no errors in the implementation of corrections or adjustments are identified during the twenty-five (25) day Transmission 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 Transmission Customer comment period, the ISO shall have one (1) month to make such further corrections as are necessary to address the error and provide Transmission 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.

2.7.4.3 Settlement Cycle for Services Furnished On and After January 1, 2009

2.7.4.3.1 ISO Corrections or Adjustments and Transmission 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 Transmission 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 and as further provided in Section 2.7.4.3.2, subject to the following requirements and limitations:

- (i) 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.
- (ii) 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-one (71)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.
- (iii) The ISO shall post advisory settlement information, including available LSE bus metering data, within ninety (90) days from the date of the initial invoice. Transmission 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, Transmission 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.

- (iv) 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. Transmission 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 Transmission Customers and to notify Transmission Customers of the approaching expiration of review periods. To challenge settlement information contained in an invoice, a Transmission Customer shall first make payment in full, including any amounts in dispute. Transmission 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 Transmission Customer's challenge, and (iv) include supporting documentation, if applicable. The ISO shall notify all Transmission Customers of errors identified and the details of corrections or adjustments made pursuant to this Section 2.7.4.3.1.

2.7.4.3.2 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 2.7.4.3.1; *provided*,

however, the ISO may, upon notice to Transmission 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 Transmission 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 2.7.4.3.1. Corrections to a challenged invoice shall be applied to all Transmission Customers that were or should have been affected by the original settlement and shall not be limited to the Transmission 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 Transmission Customers through Rate Schedule 1 of this ISO OATT.

Upon completing its evaluation, the ISO shall provide written notice to the challenging Transmission Customer of the ISO's final determination regarding the Transmission 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 Transmission Customers with the details of the corrections or adjustments within the timeframe established in this Section 2.7.4.3.2. The ISO shall then provide a period of twenty-five (25) days for Transmission 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 2.7.4.4 of this ISO OATT, 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 Transmission Customers' settlement invoices that it determines to be necessary

and shall then start or re-start the twenty-five (25) day Transmission Customer comment period.

If no errors in the implementation of corrections or adjustments are identified during the twenty-five (25) day Transmission 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 Transmission Customer comment period, the ISO shall have one (1) month to make such further corrections as are necessary to address the error and provide Transmission 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.

2.7.4.4 Expedited Dispute Resolution Procedures for Unresolved Settlement Challenges

2.7.4.4.1 Applicability of Expedited Dispute Resolution Procedures

This Section 2.7.4.4 establishes expedited dispute resolution procedures applicable to address any dispute between a Transmission Customer and the ISO regarding a Transmission Customer settlement that was not resolved in the ordinary settlement review, challenge, and correction process; *provided, however*, that nothing herein shall restrict a Transmission Customer or the ISO from seeking redress from the Commission in accordance with the Federal Power Act.

A Transmission Customer may request expedited dispute resolution if it has previously presented a settlement challenge consistent with the requirements of Section 2.7.4.2.1 or 2.7.4.3.1 of this ISO OATT and has received from the ISO a final, written determination

regarding the settlement challenge pursuant to Section 2.7.4.2.2 or 2.7.4.3.2 of this ISO OATT. The scope of an expedited dispute resolution proceeding shall be limited to the subject matter of the Transmission Customer's prior settlement challenge. Transmission 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 OATT. 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.

2.7.4.4.2 Initiation of Expedited Dispute Resolution Proceeding

To initiate an expedited dispute resolution proceeding, a Transmission 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 Transmission Customer settlement challenge pursuant to Section 2.7.4.2.2 or 2.7.4.3.2 of this ISO OATT. A Transmission Customer's written request for expedited dispute resolution shall contain: (i) the name of the Transmission 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 Transmission 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 Transmission Customer, (v) copies of the settlement challenge materials previously submitted by the Transmission Customer to the ISO, and (vi) citations to the ISO Tariffs and other relevant materials upon which the Transmission Customer's settlement challenge relies.

The ISO Chief Financial Officer shall acknowledge in writing receipt of the Transmission

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 Transmission Customer's request and provide written notice of the proceeding to all Transmission Customers through the ordinary means of communication for settlement issues. The ISO shall provide written notice to the Transmission Customer in the event that the ISO declines its request for expedited dispute resolution.

2.7.4.4.3 Participation by Other Interested Transmission Customers

Any Transmission 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 Transmission Customer seeking or supporting a change to the NYISO's determination regarding a Transmission Customer settlement challenge must have previously raised the issue in a settlement challenge consistent with the requirements of Section 2.7.4.2.1 or 2.7.4.3.1 of this ISO OATT. To participate, such Transmission 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 Transmission Customer has met the requirements of this Section 2.7.4.4.3, the ISO will accept the Transmission Customer's request to participate in the dispute resolution proceeding.

2.7.4.4.4 Selection of a Neutral

As soon as reasonably possible following the ISO's acceptance of a Transmission Customer's request for expedited dispute resolution under Section 2.7.4.4.2, 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.

2.7.4.4.5 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 2.7.4.4, 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 Transmission 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.

2.7.4.4.6 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.

2.7.5 Customer Default

2.7.5.1 Events of Default

A Transmission Customer shall be in default, upon written notice from the ISO, in the event that: (i) the Transmission Customer fails to timely make a payment due to the ISO, regardless of whether such payment obligation is in dispute, (ii) the Transmission Customer fails to comply with the ISO's creditworthiness requirements, or (iii) the Transmission Customer fails to cure its default in another independent system operator/regional transmission organization market. In the event of a billing dispute between the ISO and the Transmission Customer, the ISO will continue to provide service under the Service Agreement as long as the Transmission Customer continues to make all payments.

2.7.5.2 Cure

Unless otherwise provided in Attachment W to this OATT, a Transmission Customer shall have one (1) business day to cure a default resulting from its failure to timely make a payment due to the ISO. A Transmission Customer shall have two (2) business days to cure a default resulting from its failure to comply with the ISO's creditworthiness requirements; *provided, however*, that a Transmission Customer shall have one (1) business day to cure a default resulting from its failure to comply with the ISO's creditworthiness requirements

following termination of a Prepayment Agreement.

2.7.5.3 ISO Remedies

In addition to any and all other remedies available under the ISO Tariffs or pursuant to law or equity, the ISO shall have the following remedies:

- (i) **Event of Default.** Upon an event of default and expiration of the relevant cure period, the ISO may terminate service to a Transmission Customer immediately upon notice to the Commission. In addition, in the event of a default, the ISO may initiate debt collection procedures on behalf of the ISO Clearing Account. The process for declaring and recovering bad debt losses is set forth in Attachment U to this OATT.
- (ii) **Financial Distress.** In the event of a reduction in the amount of a Transmission Customer's Unsecured Credit (a) by fifty percent (50%) or more as determined in accordance with Section 26.4 of Attachment K to the ISO Services Tariff, or (b) as a result of a material adverse change as determined in accordance with Section 26.10 of Attachment K to the ISO Services Tariff, then the ISO shall have the right to: (1) immediately issue an invoice to such Transmission Customer requiring payment within two (2) business days from the invoice date for initial settlements representing the sum of that billing period's daily billing data available as of the invoice date, and/or (2) require such Transmission Customer to prepay estimated charges for up to twelve months in accordance with ISO Procedures.
- (iii) **Default in Another ISO/RTO.** In the event a Transmission Customer fails to cure its default in another independent system operator/regional transmission

organization market, then the ISO shall have the right to: (1) demand immediate payment by the Transmission Customer to the ISO for any amounts owed as of the date of the demand, and/or (2) require the Transmission Customer to prepay estimated charges for up to twelve months in accordance with ISO Procedures, and/or (3) reduce or eliminate the amount of the Transmission Customer's Unsecured Credit.

- (iv) **Two Late Payments.** In the event a Transmission Customer fails to pay its invoice when due on two occasions within a rolling twelve (12) month period, then the ISO shall have the right to: (1) require the Transmission Customer to prepay estimated charges weekly, based on the charges incurred by the Transmission Customer in the previous week, for up to twelve months, and/or (2) reduce or eliminate the amount of the Transmission Customer's Unsecured Credit for up to twelve (12) months.

2.7.5.14 Notice to Transmission Customers

The ISO shall notify all Transmission Customers in the event that a Transmission Customer is in default and shall also notify all Transmission Customers in the event that the Transmission Customer subsequently cures the default or the ISO terminates the Transmission Customer due to the default.

2.7.6 Stranded Costs

The Transmission Owners other than NYPA may seek to recover stranded costs from the Transmission Customer pursuant to this Tariff in accordance with the terms, conditions and procedures set forth in Commission Order No. 888. However, the Transmission Owners must separately file any proposal to recover stranded costs under Section 205 of the FPA. This

provision shall not supersede or otherwise affect a Transmission Owner's right to recover stranded costs under other authority. To the extent that LIPA's rates for service are established by LIPA's Board of Trustees pursuant to Article 5, Title 1-A of the New York Public Authorities Law, Sections 1020-f(u) and 1020-s and are not subject to Commission and/or PSC jurisdiction, LIPA's recovery of stranded costs will not be subject to the foregoing requirements.

Upon filing of a proposal to recover stranded costs under the FPA, the Transmission Owner shall immediately provide the ISO with a copy of the appropriate rate schedule which will be incorporated as a new Stranded Service and Point-to-Point Service Customers and remit the collected amounts to the applicable Transmission Owner(s). Any SIRC rate schedule developed by LIPA under this Tariff will be effective upon receipt by the ISO, subject to any applicable laws and orders.

2.17 Incorporation of Certain Business Practice Standards

Pursuant to Commission Order No. 676-C, the ISO incorporates by reference the following business practice standards developed by the North American Energy Standards Board's Wholesale Electric Quadrant.

- Business Practices for Open Access Same-Time Information Systems (OASIS), Version 1.4 (WEQ-001, Version 001, Oct. 31, 2007, with minor corrections applied on Nov. 16, 2007) including Standards 001-0.2 through 001-0.8, 001-0.14 through 001-0.20;
- Business Practices for Open Access Same-Time Information Systems (OASIS) Standards & Communication Protocols, Version 1.4 (WEQ-002, Version 001, Oct. 31, 2007, with minor corrections applied on Nov. 16, 2007) including Standards 002-1 through 002-5.10, except as provided in Section 2.17.1 below;
- Coordinate Interchange (WEQ-004, Version 001, Oct. 31, 2007, with minor corrections applied on Nov. 16, 2007) including Purpose, Applicability, and Standards 004-0.1 through 004-17.2, and 004-A through 004-D, except as provided in Section 2.17.1 below;
- Area Control Error (ACE) Equation Special Cases Standards (WEQ-005, Version 001, Oct. 31, 2007, with minor corrections applied on Nov. 16, 2007) including Purpose, Applicability, and Standards 005-0.1 through 005-3.1.3, and 005-A;
- Manual Time Error Correction (WEQ-006, Version 001, Oct. 31, 2007, with minor corrections applied on Nov. 16, 2007) including Purpose, Applicability, and Standards 006-0.1 through 006-12;
- Inadvertent Interchange Payback (WEQ-007, Version 001, Oct. 31, 2007, with minor corrections applied on Nov. 16, 2007) including Purpose, Applicability, and Standards 007-0.1 through 007-2, and 007-A;
- Transmission Loading Relief - Eastern Interconnection (WEQ-008, Version 001, Oct. 31, 2007, with minor corrections applied on Nov. 16, 2007) including Purpose, Applicability, and Standards 008-0.1 through 008-3.11.2.8, and 008-A through 008-D;
- Gas/Electric Coordination (WEQ-011, Version 001, Oct. 31, 2007, with minor corrections applied on Nov. 16, 2007) including Standards 011-0.1 through 011-1.6;
- Public Key Infrastructure (PKI) (WEQ-012, Version 001, Oct. 31, 2007, with minor corrections applied on Nov. 16, 2007) including Recommended Standard, Certification, Scope, Commitment to Open Standards, and Standards 012-0.1 through 012-1.26.5; and

- Business Practices for Open Access Same-Time Information Systems (OASIS) Implementation Guide, Version 1.4 (WEQ-013, Version 001, Oct. 31, 2007, with minor corrections applied on Nov. 16, 2007) including Introduction and Standards 013-0.1 through 013-4.2, except as provided in Section 2.17.1 below.
- Measurement and Verification of Wholesale Electricity Demand Response (WEQ-015, 2008 Annual Plan Item 5(a), March 16, 2009).

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2.17.1 The ISO is not required to comply with the following Standards:

- Business Practices for Open Access Same-Time Information Systems (OASIS), Version 1.4 (WEQ-001, Version 001, Oct. 31, 2007, with minor corrections applied on Nov. 16, 2007): Standards 001-2.0 through 001-12.5.2, and Appendices 001-A and 001-B;
- Business Practices for Open Access Same-Time Information Systems (OASIS) Standards & Communication Protocols, Version 1.4 (WEQ-002, Version 001, Oct. 31, 2007, with minor corrections applied on Nov. 16, 2007): Standards 002-4.2.10, 002-4.2.11, 002-4.2.12, 002-4.3, *et seq.*, and 002-4.4;
- Open Access Same-Time Information Systems (OASIS) Data Dictionary, Version 1.4 (WEQ-003, Version 001, Oct. 31, 2007 January 15, 2005, with minor corrections applied on Nov. 16, 2007): Standard 003-0;
- Coordinate Interchange (WEQ-004, Version 001, Oct. 31, 2007, with minor corrections applied on Nov. 16, 2007): Standards 004-3, 004-3.1, 004-8.2, 004-11.1(a) and Appendices 004-A and 004-C, to the extent they govern physical transmission reservations; and
- Business Practices for Open Access Same-Time Information Systems (OASIS) Implementation Guide, Version 1.4 (WEQ-013, Version 001, Oct. 31, 2007, with minor corrections applied on Nov. 16, 2007): Standard 013-4.1.

5.1 Control Area Services

The ISO will provide Control Area Services in accordance with the standards and criteria of NERC and NPCC and the NYSRC Reliability Rules and Good Utility Practice. The Control Area Services provided by the ISO include, but are not limited to, the following:

- (a) Developing and implementing procedures to maintain the reliability of NYS Power System;
- (b) Coordinating operations with other Control Area operators;
- (c) Arranging for reserve sharing agreements with other ISOs and other Control Areas to enhance reliability during abnormal operating conditions;
- (d) Coordinating the outage schedules for generating units within the NYCA to maintain system reliability;
- (e) Committing adequate generation resources to ensure the reliability of the NYS Power System;
- (f) Taking command and control of the NYCA resources during Emergency conditions and coordinating operations with Transmission Owners;
- (g) Maintaining and Operating a central control center and performing the functions of the NERC security control center for the NYCA under Emergency operating conditions;
- (h) Defining the Installed Capacity requirements for LSEs, inclusive of individual customers taking services directly from the ISO, within the NYCA;
- (i) Determining Locational Installed Capacity requirements for LSEs to ensure the reliable operation of the NYCA;
- (j) Administering of an Installed Capacity Market;

- (k) Training the operating personnel of the ISO and Transmission Owner control rooms; and
- (l) Administering the mandatory NERC reliability compliance process.

5.1.1 Customer Compliance with Reliability Standards; Penalties

5.1.1.1 Customer Compliance with Reliability Standards:

In accordance with applicable requirements in this Tariff and the ISO Procedures, all Customers shall conform to all applicable reliability criteria, policies, standards, rules, regulations and other requirements of NERC, NPCC, NYSRC, any applicable regional council, or their successors, the ISO's specific reliability requirements and ISO Procedures, and applicable operating guidelines and all applicable requirements of federal and state regulatory authorities. Failure to conform to these requirements may subject a Customer to direct assignment of penalties assessed against the ISO by FERC, NERC, NPCC or any other federal or state regulatory authority as a result of such Customer's failure to conform.

5.1.1.2 Direct Assignment of Penalty Costs:

The ISO's compliance with applicable reliability criteria, policies, standards, rules, regulations and other requirements is sometimes dependent on timely, accurate and adequate information and/or action on the part of a Customer. If the ISO is found to be non-compliant with respect to any applicable reliability criteria, policies, standards, rules, regulations and other requirements as a result of a Customer's actions or failure to act in violation of an obligation imposed by the ISO Tariffs, ISO Procedures, or ISO Related Agreements, the ISO may seek to directly assign to the Customer the cost of a penalty imposed on the ISO as a consequence of its non-compliance. If the Customer is found to be non-compliant with respect to any applicable

reliability criteria, policies, standards, rules, regulations and other requirements as a result of the ISO's actions or failure to act in violation of an obligation imposed by the ISO Tariffs, ISO Procedures, or ISO Related Agreements, the Customer may seek to directly assign to the ISO the cost of a penalty imposed on the Customer as a consequence of the ISO's non-compliance. Any direct assignment of penalty costs must first be approved by FERC, as provided in Schedule 6.11 of the OATT.

5.1.1.3 ISO's Recovery of Penalty Costs Through Schedule 11:

If direct assignment to a particular Customer is not possible or if the ISO is directly responsible for a violation because of its own action or inaction, the ISO may seek to recover such penalty costs in Schedule 6.11 Section 6.11.3 of the ISO OATT. Any inclusion of penalty costs in Schedule 6.11 must first be approved by FERC on a case-by-case basis, as provided in Schedule 6.11 of the ISO OATT. Prior to seeking FERC authorization for recovery of a penalty in Schedule 6.11 Section 6.11.3 of the ISO OATT, the ISO shall consult with the Management Committee and any appropriate subcommittee or working groups designated by the Management Committee, regarding the recovery and allocation of such penalty before filing at FERC. Any recommendation by the Management Committee regarding a proposed penalty recovery shall be reported by the ISO to FERC in any ISO filing seeking penalty recovery.

5.1.2 Interregional Congestion Management Pilot Program

The following procedures shall govern the redispatch of generation to alleviate transmission congestion on selected pathways on the transmission systems operated by the ISO and PJM Interconnection, L.L.C. ("PJM") pursuant to an Interregional Congestion Management Pilot Program ("Pilot Program"). The procedures shall be used solely when, in the exercise of Good Utility Practice, the ISO or PJM determines that the redispatch of generation units on the

other's transmission system would reduce or eliminate the need to resort to Transmission Loading Relief or other transmission-related emergency procedures.

5.1.2.1 Identification of Transmission Constraints

- (a) On a periodic basis determined by the ISO and PJM, the ISO and PJM shall identify potential transmission operating constraints that could result in the need to use Transmission Loading Relief or other emergency procedures in order to alleviate the transmission constraints.
- (b) In addition to the identification of such potential transmission operating constraints, the ISO and PJM shall identify generation units on the other's system, the redispatch of which would eliminate the identified transmission constraints.
- (c) From the identified transmission constraints, the ISO and PJM shall agree in writing on the transmission operating constraints and redispatch options that shall be subject to this Section 5.1.2. In reaching such agreement, the ISO shall endeavor reasonably to limit the number of transmission constraints that are subject to this Section 5.1.2 so as to minimize potential cost shifting among Market Participants in the ISO and PJM Control Areas resulting from the redispatch of generation under the Pilot Program. The ISO shall post the transmission operating constraints that are subject to the Pilot Program on its website.

5.1.2.2 Redispatch Procedures

If (i) a transmission constraint subject to this Section 5.1.2 occurs and continues or reasonably can be expected to continue after the exhaustion of all economic alternatives that are reasonably available to the transmission system on which the constraint occurs and (ii) the ISO

or PJM, as applicable, has determined that it must use either Transmission Loading Relief or other emergency procedures, then (iii) the affected entity may request the other to redispatch one or more of the previously identified generation units to eliminate the transmission constraint. Upon such request, the ISO or PJM, as applicable, shall redispatch such generation if it is then subject to its dispatch control and such redispatch is consistent with Good Utility Practice.

5.1.2.3 Locational Based Marginal Price

In the event that a Generator is redispatched by the ISO in response to a request from PJM under Section 5.1.2, the Generator's bid for the Energy made available by the redispatch shall not be included in the determination of the Locational Based Marginal Price at that Generator's bus.

5.1.2.4 Generator Compensation

Generators that have increased or decreased generation output above or below the level that would otherwise represent the economic dispatch level as a result of a request made pursuant to the Pilot Program (the "MWh Adjustment") shall be compensated, on an interval-by-interval basis, based on the following formulas:

- (a) For a positive MWh Adjustment: $\text{Payment to Generator} = \text{MWh Adjustment} * (\text{unit offer price} - \text{marginal price at the generator bus})$. In addition the Generator shall be paid any applicable Minimum Generation Bid, Start-Up Bid, and Energy Bid price costs not covered by the LBMP revenue for the 24 hour day or not covered by the marginal price, as appropriate.
- (b) For a negative MWh Adjustment: $\text{Payment to Generator} = \text{MWh Adjustment} * (\text{marginal price at the generator bus} - \text{unit offer price})$. In addition the Generator shall be paid any applicable minimum generation, start-up and Energy Bid price

costs not covered by the LBMP revenue for the 24 hour day or not covered by the marginal price, as appropriate.

- (c) MWh adjustment payments to Generators pursuant to this subsection shall not be considered LBMP revenue for purposes of calculating minimum generation, start up and Energy bid price guarantees.

5.1.2.5 Settlements

- (a) If PJM redispatches generation, the ISO shall include in its monthly accounting and billing a payment to PJM for the costs of such redispatch as determined in accordance with Section 5.1.2.4
- (b) If the ISO redispatches generation under the Pilot Program, then it shall include in its monthly accounting and billing a credit to each redispatched Generator calculated in accordance with Section 5.1.2. 4 The ISO shall invoice PJM and PJM shall collect from its market participants and pay to the ISO an amount equal to all such credits to Generators.
- (c) Unless there is a separate Emergency Energy Transaction accompanying a generation adjustment under the Pilot Program there shall be no adjustment in interchange between the ISO and PJM as a result of redispatch under the Pilot Program. In the event that an Emergency Energy Transaction accompanies a generation adjustment under the Pilot Program, compensation for the Emergency Energy Transaction shall be at the rates for emergency purchases and sales which have been approved by the Commission, as they may be amended from time-to-time.

5.1.2.6 Incorporation of Certain Business Practice Standards

- (a) Pursuant to Commission Order No. 676-C, the ISO incorporates by reference the following business practice standards developed by the North American Energy Standards Board's Wholesale Electric Quadrant.

Business Practices for Open Access Same-Time Information Systems (OASIS), Version 1.4 (WEQ-001, Version 001, Oct. 31, 2007, with minor corrections applied on Nov. 16, 2007) including Standards 001-0.2 through 001-0.8, 001-0.14 through 001-0.20;

Business Practices for Open Access Same-Time Information Systems (OASIS) Standards & Communication Protocols, Version 1.4 (WEQ-002, Version 001, Oct. 31, 2007, with minor corrections applied on Nov. 16, 2007) including Standards 002-1 through 002-5.10, except as provided below;

Coordinate Interchange (WEQ-004, Version 001, October 31, 2007, with minor corrections applied on Nov. 16, 2007) including Purpose, Applicability, and Standards 004-0.1 through 004-17.2, and 004-A through 004-D, except as provided below;

Area Control Error (ACE) Equation Special Cases Standards (WEQ-005, Version 0010, Oct. 31, 2007, with minor corrections applied on Nov. 16, 2007) including Purpose, Applicability, and Standards 005-0.1 through 005-3.1.3, and 005-A;

Manual Time Error Correction (WEQ-006, Version 001, Oct. 31, 2007, with minor corrections applied on Nov. 16, 2007) including Purpose, Applicability, and Standards 006-0.1 through 006-12;

Inadvertent Interchange Payback (WEQ-007, Version 001, Oct. 31, 2007, with minor corrections applied on Nov. 16, 2007) including Purpose, Applicability, and Standards 007-0.1 through 007-2, and 007-A;

Transmission Loading Relief - Eastern Interconnection (WEQ-008, Version 001, Oct. 31, 2007, with minor corrections applied on Nov. 16, 2007) including Purpose, Applicability, and Standards 008-0.1 through 008-3.11.2.8, and 008-A through 008-D;

Gas/Electric Coordination (WEQ-011, Version 001, Oct. 31, 2007, with minor corrections applied on Nov. 16, 2007) including Standards 011-0.1 through 011-1.6;

Public Key Infrastructure (PKI) (WEQ-012, Version 001, Oct. 31, 2007, with minor corrections applied on Nov. 16, 2007) including Recommended Standard,

Certification, Scope, Commitment to Open Standards, and Standards 012-0.1 through 012-1.26.5; and

Business Practices for Open Access Same-Time Information Systems (OASIS) Implementation Guide, Version 1.4 (WEQ-013, Version 001, Oct. 31, 2007, with minor corrections applied on Nov. 16, 2007) including Introduction and Standards 013-0.1 through 013-4.2, except as provided below.

Measurement and Verification of Wholesale Electricity Demand Response (WEQ-015, 2008 Annual Plan Item 5(a), March 16, 2009).

- (b) The ISO is not required to comply with the following Standards:

Business Practices for Open Access Same-Time Information Systems (OASIS), Version 1.4 (WEQ-001, Version 001, Oct. 31, 2007, with minor corrections applied on Nov. 16, 2007): Standards 001-2.0 through 001-12.5.2, and Appendices 001-A and 001-B;

Business Practices for Open Access Same-Time Information Systems (OASIS) Standards & Communication Protocols, Version 1.4 (WEQ-002, Version 001, Oct. 31, 2007 with minor corrections applied on Nov. 16, 2007): Standards 002-4.2.10, 002-4.2.11, 002-4.2.12, 002-4.3, *et seq.*, and 002-4.4;

Open Access Same-Time Information Systems (OASIS) Data Dictionary, Version 1.4 (WEQ-003, Version 001, Oct. 31, 2007, with minor corrections applied on Nov. 16, 2007): Standard 003-0;

Coordinate Interchange (WEQ-004, Version 001, Oct. 31, 2007, with minor corrections applied on Nov. 16, 2007): Standards 004-3, 004-3.1, 004-8.2, 004-11.1(a) Appendices 004-A, and 004-C to the extent they govern physical transmission reservations; and

Business Practices for Open Access Same-Time Information Systems (OASIS) Implementation Guide, Version 1.4 (WEQ-013, Version 001, Oct. 31, 2007, with minor corrections applied on Nov. 16, 2007): Standard 013-4.1.

30.4 Market Monitoring Unit

30.4.1 Mission of the Market Monitoring Unit

The Market Monitoring Unit's goals are (1) to ensure that the markets administered by the ISO function efficiently and appropriately, and (2) to protect both consumers and participants in the markets administered by the ISO by identifying and reporting Market Violations, market design flaws and market power abuses to the Commission in accordance with Sections 30.4.5.3 and 30.4.5.4 below.

30.4.2 Retention and Oversight of the Market Monitoring Unit

The Board shall retain a consulting or other professional services firm, or other similar entity, to advise it on the matters encompassed by Attachment O and to carry out the responsibilities that are assigned to the Market Monitoring Unit in Attachment O. The Market Monitoring Unit selected by the Board shall have experience and expertise appropriate to the analysis of competitive conditions in markets for electric capacity, energy and ancillary services, and financial instruments such as TCCs, and to such other responsibilities as are assigned to the Market Monitoring Unit under Attachment O, and must also have sufficient resources and personnel to be able to perform the Core Functions and other assigned functions.

The Market Monitoring Unit shall be accountable to the non-management members of the Board, and shall serve at the pleasure of the non-management members of the Board.

30.4.3 Market Monitoring Unit Ethics Standards

The Market Monitoring Unit, including all persons employed thereby, shall comply at all times with the ethics standards set forth below. The Market Monitoring Unit ethics standards set forth below shall apply in place of the standards set forth in the ISO's OATT Attachment F Code

of Conduct, and/or the more general policies and standards that apply to consultants retained by the ISO.

30.4.3.1 The Market Monitoring Unit and its employees must have no material affiliation with any Market Party or Affiliate of any Market Party.

30.4.3.2 The Market Monitoring Unit and its employees must not serve as an officer, employee, or partner of a Market Party.

30.4.3.3 The Market Monitoring Unit and its employees must have no material financial interest in any Market Party or Affiliate of a Market Party. Ownership of mutual funds by Market Monitoring Units and their employees that contain investments in Market Parties or their Affiliates is permitted so long as: (a) the fund is publicly traded; (b) the fund's prospectus does not indicate the objective or practice of concentrating its investment in Market Parties or their Affiliates; and (c) the Market Monitoring Unit/Market Monitoring Unit employee does not exercise or have the ability to exercise control over the financial interests held by the fund.

30.4.3.4 The Market Monitoring Unit and its employees are prohibited from engaging in transactions in the markets administered by the ISO, other than in the performance of duties under the ISO's Tariffs. This provision shall not, however, prevent the Market Monitoring Unit, or its employees, from purchasing electricity, power and Energy as retail customers for their own account and consumption.

30.4.3.5 The Market Monitoring Unit and its employees must not be compensated, other than by the ISO, for any expert witness testimony or other commercial

services, in connection with any legal or regulatory proceeding or commercial transaction relating to the ISO or to the markets that the ISO administers.

30.4.3.6 The Market Monitoring Unit and its employees may not accept anything that is of more than *de minimis* value from a Market Party.

30.4.3.7 The Market Monitoring Unit and its employees must advise the Board in the event they seek employment with a Market Party, and must disqualify themselves from participating in any matter that could have an effect on the financial interests of that Market Party until the outcome of the matter is determined.

30.4.3.8 If the Market Monitoring Unit or any of its employees provide services to entities other than the ISO, the Market Monitoring Unit shall provide to the ISO's Board, and shall regularly update, a list of such entities and services. When the Market Monitoring Unit issues an opinion, report or recommendation to, for or addressing the ISO or the markets it administers that relates to, or could reasonably be expected to affect, an entity (other than the ISO) to which the Market Monitoring Unit or its employees provide services, the Market Monitoring Unit shall inform the ISO's Board of the opinion, report or recommendation it has issued, and that its opinion, report or recommendation relates to, or could reasonably be expected to affect, an entity to which the Market Monitoring Unit or its employees provide services.

30.4.4 Duties of the Market Monitoring Unit

The Market Monitoring Unit shall advise the Board, shall perform the Core Functions specified in Section 30.4.5 of Attachment O, and shall have such other duties and responsibilities

as are specified in Attachment O. The Market Monitoring Unit may, at any time, bring any matter to the attention of the Board that the Market Monitoring Unit may deem necessary or appropriate for achieving the purposes, objectives and effective implementation of Attachment O.

The Market Monitoring Unit shall not participate in the administration of the ISO's Tariffs, except for performing its duties under Attachment O. The Market Monitoring Unit shall not be responsible for performing purely administrative duties, such as enforcement of late fees or Market Party reporting obligations, that are not specified in Attachment O. The Market Monitoring Unit may (i) provide, or assist the ISO's efforts to develop, the inputs required to conduct mitigation, and (ii) assist the ISO's efforts to conduct "retrospective" mitigation (*see* Order 719 at PP. 369, 375) that does not change bids or offers (including physical bid or offer parameters) at or before the time such bids or offers (including physical bid or offer parameters) are considered in the ISO's market solution.

30.4.5 Core Market Monitoring Functions

The Market Monitoring Unit shall be responsible for performing the following Core Functions:

30.4.5.1 Evaluate existing and proposed market rules, tariff provisions and market design elements and recommend proposed rule and tariff changes to the ISO, to the Commission's Office of Energy Market Regulation staff, and to other interested entities, including the New York Public Service Commission, and participants in the ISO's stakeholder governance process. Provided that:

30.4.5.1.1 The Market Monitoring Unit is not responsible for systematic review of every tariff and market rule; its role is monitoring, not audit.

30.4.5.1.2 The Market Monitoring Unit is not to effectuate its proposed market design itself.

30.4.5.1.3 The Market Monitoring Unit's role in recommending proposed rule and Tariff changes is advisory in nature, unless a Tariff provision specifically concerns actions to be undertaken by the Market Monitoring Unit itself.

30.4.5.1.4 The Market Monitoring Unit must limit distribution of issues or concerns it identifies, and its recommendations to the ISO and to Commission staff in the event it believes broader dissemination could lead to exploitation. Limited distributions should include an explanation of why further dissemination should be avoided at that time.

30.4.5.2 Review and report on the performance of the wholesale markets to the ISO, the Commission, and other interested entities such as the New York Public Service Commission and participants in its stakeholder governance process on at least a quarterly basis, and issue a more comprehensive annual state of the market report. The Market Monitoring Unit may issue additional reports as necessary.

30.4.5.2.1 In order to perform the Core Functions, the Market Monitoring Unit shall perform daily monitoring of the markets that the ISO administers. The Market Monitoring Unit's daily monitoring shall include monitoring of virtual bidding.

30.4.5.2.2 The Market Monitoring Unit shall submit drafts of each of its reports to the ISO for review and comment sufficiently in advance of the report's issuance to provide an effective opportunity for review and comment by the ISO. The Market Monitoring Unit may disregard any suggestions with which it disagrees.

The ISO may not alter the reports prepared by the Market Monitoring Unit, nor dictate the Market Monitoring Unit's conclusions.

30.4.5.3 Identify and notify the Commission staff of instances in which a Market Party's or the ISO's behavior may require investigation, including, but not limited to, suspected Market Violations.

30.4.5.3.1 Except as provided in Section 30.4.5.3.2 below, in compliance with § 35.28(g)(3)(iv) of the Commission's regulations (or any successor provisions thereto) the Market Monitoring Unit shall submit a non-public referral to the Commission in all instances where it has obtained sufficient credible information to believe a Market Violation has occurred. Once the Market Monitoring Unit has obtained sufficient credible information to warrant referral to the Commission, the Market Monitoring Unit shall immediately refer the matter to the Commission and desist from further investigation of independent action related to the alleged Market Violation, except at the express direction of the Commission or Commission staff. The Market Monitoring Unit may continue to monitor for repeated instances of the reported activity by the same or other entities and shall respond to requests from the Commission for additional information in connection with the alleged Market Violation it has referred.

30.4.5.3.2 The Market Monitoring Unit is not required to refer the actions (or failures to act) listed in this Section 30.4.5.3.2 to the Commission as Market Violations, because they have: (i) already been reported by the ISO as a Market Problem under Article 3.5.1 of the ISO Services Tariff; and/or (ii) because they pertain to actions or failures that: (a) are expressly set forth in the ISO's Tariffs;

(b) involve objectively identifiable behavior; and (c) trigger a sanction or other consequence that is expressly set forth in the ISO Tariffs and that is ultimately appealable to the Commission. The actions (or failures to act) that are exempt from mandatory referral to the Commission are:

~~30.4.5.3.2.1 — failure to meet a deadline, or to take any other action, required of Developers under Attachments S, X, or Z to the ISO OATT that subjects a Developer to a possible loss of queue position;~~

30.4.5.3.2.2²¹ failure to meet a Contract or Non-Contract CRIS MW Commitment pursuant to Sections 25.7.11.1.1 and 25.7.11.1.2 of Attachment S to the ISO OATT that results in a charge or other a sanction under Section 25.7.11.1.3 of Attachment S of the ISO OATT;

~~30.4.5.3.2.3 — failure to provide wind forecasting information that results in a sanction under Section 5.8.1 of the ISO Services Tariff;~~

~~30.4.5.3.2.4 — failure to provide Installed Capacity-related information or operating data under Articles 5.12.1, 5.12.3, or 5.12.5 of the ISO Services Tariff that triggers sanctions under Article 5.12.12 of the ISO Services Tariff;~~

~~30.4.5.3.2.5 — failure to comply with the scheduling, bidding, and notification requirements under Articles 5.12.1 or 5.12.7 of the ISO Services Tariff that trigger sanctions under Article 5.12.12 of the ISO Services Tariff;~~

~~30.4.5.3.2.6 — other actions or failures to act that trigger sanctions under Article 5.12.12 of the ISO Services Tariff, including, but not limited to, failures by:~~

~~30.4.5.3.2.6.1 Installed Capacity Suppliers of Unforced Capacity from External System Resources located in an External Control Area or from a Control Area System~~

~~Resource that has agreed not to Curtail the Energy associated with Installed Capacity, or afford the same Curtailment priority that it affords its own Control Area Load to: (a) provide Installed Capacity related information required for certification as an Installed Capacity Resource as established in the ISO Procedures; and (b) comply with scheduling, bidding, or notification requirements for certification as an Installed Capacity Supplier established in the ISO Procedures.~~

~~30.4.5.3.2.6.2 Transmission Owners to provide information required by Article 5.11.3 of the ISO Services Tariff;~~

~~30.4.5.3.2.7—shortfalls by Installed Capacity Suppliers and External Installed Capacity Suppliers that trigger sanctions under Article 5.14.2 of the ISO Services Tariff;~~

~~30.4.5.3.2.8—Voltage Support Service performance that results in the imposition of charges under Rate Schedule 2 to the ISO Services Tariff;~~

~~30.4.5.3.2.9—Regulation Service performance that results in the imposition of penalties under Section 15.3.8 of Rate Schedule 3 to the ISO Services Tariff (in the event that such penalties are re-instituted by the ISO);~~

~~30.4.5.3.2.10—performance that results in the imposition of Persistent Undergeneration charges under Rate Schedule 3-A to the ISO Services Tariff;~~

~~30.4.5.3.2.11~~ ⁴¹² Black Start performance that results in reduction or forfeitures of payments under Rate Schedule 5 to the ISO Services Tariff;

~~30.4.5.3.2.12—conduct that results in a sanction under Section 23.4.3 of the Market Mitigation Measures, including, but not limited to: (i) where a Market Party, or its Affiliate, engages in physical withholding, including providing the ISO false~~

~~information regarding the derating or outage of an electric facility; (ii) where a Market Party, or its Affiliate, fails to follow the ISO's dispatch instructions in real time, resulting in a different output level than expected had the dispatch instruction been followed, where such conduct has caused a material increase in one or more prices or guarantee payments in an ISO-administered market; (iii) where a Market Party makes unjustifiable changes to one or more operating parameters of a Generator that reduce its ability to provide Energy or Ancillary Services; and (iv) a Load Serving Entity that has been subjected to a "Load Bid Measure" Penalty Level payment in accordance with Section 23.4.4 of the Market Mitigation Measures;~~

~~30.4.5.3.2.13 conduct that results in the ISO's use of the "Load Bid Measure" set forth in Section 23.4.4 of the Market Mitigation Measures;~~

~~30.4.5.3.2.14 actions or failures to act by Installed Capacity Suppliers and Responsible Interface Parties that trigger sanctions under Section 23.4.5.4, 23.4.4.6, or 23.4.5.7 of the Market Mitigation Measures;~~

30.4.5.3.2.153 any failure by the ISO to meet the deadlines for completing System Impact Studies, or any failure by a Transmission Owner to meet the deadlines for completing Facilities Studies, under Sections 3.7 and 4.5 of the ISO OATT that results in the filing of a notice and/or the imposition of sanctions under those provisions;

30.4.5.3.2.164 failure of a Market Party to comply with the ISO's creditworthiness requirements ~~for customers, including, but not limited to, failure to set forth in~~

Attachment K of the ISO Services tariff, or other action, that triggers sanctions under Section 7.5 of the ISO Services Tariff or Section 2.7.5 of the ISO OATT, specifically:

(i) ~~comply with a demand for additional credit support,~~ failure of a Market Party to make timely payment under Section 7.2.2 of the ISO Services Tariff or Section 2.7.3.2 of the ISO OATT that triggers a sanction under Sections 7.5.3(i) or 7.5.3(iv) of the ISO Services Tariff, or Sections 2.7.5.3(i), 2.7.5.3(iv), or 2.7.5.4 of the ISO OATT; (ii) ~~cure a default in another independent system operator/regional transmission organization market~~ failure of a Market Party to comply with a demand for additional credit support under Article 26.5 of Attachment K of the ISO Services Tariff that triggers a sanction under Section 7.5.3(i) of the ISO Services Tariff or Section 2.7.5.3(i) of the ISO OATT; (iii) ~~prepay for charges in accordance with the terms of a prepayment agreement~~ failure of a Market Party to cure a default in another ISO/RTO market under Sections 7.5.3(iii) of the ISO Services Tariff, or Section 2.7.5.3(iii) of the ISO OATT that triggers a sanction under either of those tariff provisions; (iv) ~~comply with the ISO's creditworthiness reporting requirements~~ failure of a Market Party that has entered into a Prepayment Agreement with the ISO under Appendix K-1 to Attachment K to the ISO Services Tariff to make payment in accordance with the terms of the Prepayment Agreement that triggers a sanction under the Prepayment Agreement or 7.5.3(i) of the ISO Services Tariff; and (v) ~~provide sufficient credit support to cover bid submissions~~ failure of a Market Party to make timely payment on two occasions within a rolling twelve month period under Section 7.5.3(iv) of

the ISO Services Tariff, or Section 2.7.5.3(iv) of the ISO OATT that triggers a sanction under either of those provisions.

To the extent the above list enumerates specific Tariff provisions, the exclusions specified above shall also apply to re-numbered and/or successor provisions thereto. The Market Monitoring Unit is not precluded from referring any of the activities listed above to the Commission.

30.4.5.4 Identify and notify the Commission staff of perceived market design flaws that could be effectively remedied by rule or tariff changes.

30.4.5.4.1 In compliance with § 35.28(g)(3)(v) of the Commission's regulations (or any successor provisions thereto) the Market Monitoring Unit shall submit a referral to the Commission when the Market Monitoring Unit has reason to believe that a market design flaw exists, that the Market Monitoring Unit believes could effectively be remedied by rule or tariff changes.

30.4.5.4.1.1 If the Market Monitoring Unit believes broader dissemination of the possible market design flaw, and its recommendation could lead to exploitation, the Market Monitoring Unit shall limit distribution of its referral to the ISO and to the Commission. The referral shall explain why further dissemination should be avoided.

30.4.5.4.1.2 Following referral of a possible market design flaw, the Market Monitoring Unit shall continue to provide to the Commission additional information regarding the perceived market design flaw, its effects on the market, any additional or modified observations concerning the Market Monitoring Unit's proposed market rule or tariff change, any recommendations made by the Market

Monitoring Unit to the ISO, its stakeholders, Market Parties or state public service commissions regarding the perceived market design flaw, and any actions taken by the ISO regarding the perceived market design flaw.

30.4.6 Market Monitoring Unit Responsibilities Set Forth Elsewhere in the ISO's Tariffs

30.4.6.1 Supremacy of (Attachment O)

Provisions addressing the Market Monitoring Unit, its responsibilities and its authority, have been centralized in Attachment O. However, provisions that address the Market Monitoring Unit can also be found in the Market Mitigation Measures that are set forth in Attachment H to the ISO Services Tariff, and elsewhere in the ISO's Tariffs. In the event of any inconsistency between the provisions of Attachment O and any other provision of the ISO OATT, the ISO Services Tariff, or any of their attachments and schedules, with regard to the Market Monitoring Unit, its responsibilities and its authority, the provisions of Attachment O shall control.

30.4.6.2 Market Monitoring Unit responsibilities set forth in the Market Mitigation Measures

30.4.6.2.1 The ISO and its Market Monitoring Unit shall monitor the markets the ISO administers for conduct that the ISO or the Market Monitoring Unit determine constitutes an abuse of market power but that does not trigger the thresholds specified in the Market Mitigation Measures for the imposition of mitigation measures by the ISO. If the ISO identifies or is made aware of any such conduct, and in particular conduct exceeding the thresholds for presumptive market effects specified in Section 23.3.2.3 of the Market Mitigation Measures, it

shall make a filing under § 205 of the Federal Power Act, 16 U.S.C. § 824d (1999) (“§ 205”) with the Commission requesting authorization to apply appropriate mitigation measures. Any such filing shall identify the particular conduct the ISO believes warrants mitigation, shall propose a specific mitigation measure for the conduct, shall incorporate or address the recommendation of its Market Monitoring Unit, and shall set forth the ISO’s justification for imposing that mitigation measure. The Market Monitoring Unit’s reporting obligations are specified in Sections 30.4.5.3 and 30.4.5.4 of Attachment O. *See* Market Mitigation Measures Section 23.1.2.

30.4.6.2.2 The ISO and the Market Monitoring Unit shall monitor the ISO Administered Markets for other categories of conduct, whether by a single firm or by multiple firms acting in concert, that have material effects on prices or guarantee payments in an ISO Administered Market. *See* Market Mitigation Measures Section 23.2.4.4.

30.4.6.2.3 When it has the capability to do so, the ISO shall determine the effect on prices or guarantee payments of questioned conduct through the use of sensitivity analyses performed using the ISO’s SCUC, RTC and RTD computer models, and such other computer modeling or analytic methods as the ISO shall deem appropriate following consultation with its Market Monitoring Unit. *See* Market Mitigation Measures Section 23.3.2.2.1.

30.4.6.2.4 Pending development of the capability to use automated market models, the ISO, following consultation with its Market Monitoring Unit, shall determine the effect on prices or guarantee payments of questioned conduct using the best

available data and such models and methods as they shall deem appropriate. *See* Market Mitigation Measures Section 23.3.2.2.2.

30.4.6.2.5 If through the application of an appropriate index or screen or other monitoring of market conditions, conduct is identified that (i) exceeds an applicable threshold, and (ii) has a material effect, as specified above, on one or more prices or guarantee payments in an ISO Administered Market, the ISO shall, as and to the extent specified in Attachment O or in Section 23.3.3.2 of the Market Mitigation Measures, contact the Market Party engaging in the identified conduct to request an explanation of the conduct. If a Market Party anticipates submitting bids in a market administered by the ISO that will exceed the thresholds specified in Section 23.3.1 of the Market Mitigation Measures for identifying conduct inconsistent with competition, the Market Party may contact the ISO to provide an explanation of any legitimate basis for any such changes in the Market Party's bids. If a Market Party's explanation of the reasons for its bidding indicates to the satisfaction of the ISO that the questioned conduct is consistent with competitive behavior, no further action will be taken. A preliminary determination by the ISO shall be provided to the Market Monitoring Unit for its review and the ISO shall consider the Market Monitoring Unit's recommendations in reaching its decision. Upon request, the ISO shall also consult with a Market Party with respect to the information and analysis used to determine reference levels under Section 23.3.1.4 of the Market Mitigation Measures for that Market Party. If cost data or other information submitted by a Market Party indicates to the satisfaction of the ISO that the reference levels for

that Market Party should be changed, revised reference levels shall be determined by the ISO, reviewed by the Market Monitoring Unit and, following the ISO's consideration of the Market Monitoring Unit's recommendation, communicated to the Market Party, and implemented by the ISO as soon as practicable. *See* Market Mitigation Measures Section 23.3.3.1.

30.4.6.2.6 With regard to a Market Party's request for consultation that satisfies the requirements of Sections 23.3.3.3.1.3 and 23.3.3.3.1.6 of the Market Mitigation Measures, and consistent with the duties assigned to the ISO in Section 23.3.3.3.1.6.1 of the Market Mitigation Measures, a preliminary determination by the ISO regarding the Market Party's consultation request shall be provided to the Market Monitoring Unit for its review and the ISO shall consider the Market Monitoring Unit's recommendations in reaching its decision. *See* Market Mitigation Measures Section 23.3.3.3.1.6.1 and 23.3.3.3.1.6.2.

30.4.6.2.7 Reasonably in advance of the deadline for submitting offers in an External Reconfiguration Market and in accordance with the deadlines specified in ISO Procedures, the Responsible Market Party for External Sale UCAP may request the ISO to provide a projection of ICAP Spot Auction clearing prices for the New York City Locality over the Comparison Period for the External Reconfiguration Market. Prior to completing its projection of ICAP Spot Auction clearing prices for the New York City Locality over the Comparison Period for the External Reconfiguration Market, the ISO shall consult with the Market Monitoring Unit regarding such price projection. *See* Market Mitigation Measures Section 23.4.5.4.3.

30.4.6.2.8 Prior to reaching its decision regarding whether the presumption of control of Unforced Capacity has been rebutted, the ISO shall provide its preliminary determination to the Market Monitoring Unit for review and comment. *See* Market Mitigation Measures Section 23.4.5.5.

30.4.6.2.9 Any proposal or decision by a Market Participant to retire or otherwise remove an Installed Capacity Supplier from the In-City Unforced Capacity market, or to de-rate the amount of Installed Capacity available from such supplier, may be subject to audit and review by the ISO if the ISO determines that such action could reasonably be expected to affect Market-Clearing Prices in one or more ICAP Spot Market Auctions for the New York City Locality subsequent to such action. Such an audit or review shall assess whether the proposal or decision has a legitimate economic justification or is based on an effort to withhold Installed Capacity physically in order to affect prices. The ISO shall provide the preliminary results of its audit or review to the Market Monitoring Unit for its review and comment. *See* Market Mitigation Measures Section 23.4.5.6.

30.4.6.2.10 When evaluating a request by a Developer or Interconnection Customer pursuant to Section 23.4.5.7 of the Market Mitigation Measures, the ISO shall seek comment from the Market Monitoring Unit on matters relating to the determination of price projections and cost calculations. *See* Market Mitigation Measures Section 23.4.5.7.

30.4.6.3 Market Monitoring Unit responsibilities set forth in the ISO Services Tariff

30.4.6.3.1 The ICAP Demand Curve periodic review schedule and procedures shall provide an opportunity for the Market Monitoring Unit to review and comment on the draft request for proposals, the independent consultant's report, and the ISO's proposed ICAP Demand Curves. *See* ISO Services Tariff Section 5.14.1.2.5.

30.4.6.4 Market Monitoring Unit responsibilities set forth in the Rate Schedules to the ISO Services Tariff.

30.4.6.4.1 Responsibilities related to the Regulation Service Demand Curve

In order to respond to operational or reliability problems that arise in real-time, the ISO may procure Regulation Service at a quantity and/or price point different than those specified in Section 15.3.7 of Rate Schedule 3 to the ISO Services Tariff. The ISO shall post a notice of any such purchase as soon as reasonably possible and shall report on the reasons for such purchases at the next meeting of its Business Issues Committee. The ISO shall also immediately initiate an investigation to determine whether it is necessary to modify the quantity and price points specified above to avoid future operational or reliability problems. The ISO will consult with its Market Monitoring Unit when it conducts this investigation.

If the ISO determines that it is necessary to modify the quantity and/or price points specified above in order to avoid future operational or reliability problems it may temporarily modify them for a period of up to 90 days. If circumstances reasonably allow, the ISO will consult with its Market Monitoring Unit, the Business Issues Committee, the Commission, and the PSC before implementing any such modification. In all circumstances, the ISO will consult with those entities as soon as reasonably possible after implementing a temporary modification.

After the first year the Regulation Service Demand Curve is in place, the ISO shall perform periodic reviews, subject to the scope requirement specified in Section 15.3.7 of Rate Schedule 3 to the ISO Services Tariff, and the Market Monitoring Unit shall be given the opportunity to review and comment on the ISO's periodic reviews of the Regulation Service Demand Curve. *See* Section 15.3.7 of Rate Schedule 3 to the ISO Services Tariff.

30.4.6.4.2 Responsibilities related to the Operating Reserves Demand Curves

In order to respond to operational or reliability problems that arise in real-time, the ISO may procure any Operating Reserve product at a quantity and/or price point different than those specified in Section 15.4.7 of Rate Schedule 4 to the ISO Services Tariff. The ISO shall post a notice of any such purchase as soon as reasonably possible and shall report on the reasons for such purchases at the next meeting of its Business Issues Committee. The ISO shall also immediately initiate an investigation to determine whether it is necessary to modify the quantity and price points specified above to avoid future operational or reliability problems. The ISO will consult with its Market Monitoring Unit when it conducts this investigation.

If the ISO determines that it is necessary to modify the quantity and/or price points specified in Section 15.4.7 of Rate Schedule 4 to the ISO Services Tariff in order to avoid future operational or reliability problems it may temporarily modify them for a period of up to 90 days. If circumstances reasonably allow, the ISO will consult with its Market Monitoring Unit, the Business Issues Committee, the Commission, and the PSC before implementing any such modification. In all circumstances, the ISO will consult with those entities as soon as reasonably possible after implementing a temporary modification.

After the first year the Operating Reserves Demand Curves are in place, the ISO shall perform periodic reviews, subject to the scope requirement specified in Section 15.4.7 of Rate

Schedule 4 to the ISO Services Tariff, and the Market Monitoring Unit shall be given the opportunity to review and comment on the ISO's periodic reviews of the Operating Reserve Demand Curves. *See* Section 15.4.7 of Rate Schedule 4 to the ISO Services Tariff.

30.4.6.5 Market Monitoring Unit responsibilities set forth in the Attachments to the ISO Services Tariff (other than the Market Mitigation Measures).

30.4.6.5.1 Responsibilities related to Transmission Shortage Cost

The ISO may periodically evaluate the Transmission Shortage Cost to determine whether it is necessary to modify the Transmission Shortage Cost to avoid future operational or reliability problems. The ISO will consult with its Market Monitoring Unit after it conducts this evaluation.

If the ISO determines that it is necessary to modify the Transmission Shortage Cost in order to avoid future operational or reliability problems the resolution of which would otherwise require recurring operator intervention outside normal market scheduling procedures, in order to avoid among other reliability issues, a violation of NERC Interconnection Reliability Operating Limits or System Operating Limits, it may temporarily modify it for a period of up to 90 days, provided however the ISO shall file such change with the Commission pursuant to § 205 of the Federal Power Act within 45 days of such modification. If circumstances reasonably allow, the ISO will consult with its Market Monitoring Unit, the Business Issues Committee, the Commission, and the PSC before implementing any such modification. In all circumstances, the ISO will consult with those entities as soon as reasonably possible after implementing a temporary modification and shall explain the reasons for the change. *See* Section 17.1.4 of Attachment B to the ISO Services Tariff.

30.4.6.5.2 Responsibilities under Appendix 4 to the Operating Protocol for the Implementation of Commission Opinion No. 476 (the “Operating Protocol”)

The ISO and PJM and their Market Monitoring Units shall, to the extent compatible with their respective tariffs and with any other market monitoring procedures that they have filed with the Commission:

- 30.4.6.5.2.1 Conduct such investigations as may be necessary to ensure that gaming, abuse of market power, or similar activities do not take place with regard to power transfers under the 600/400 MW contracts;
- 30.4.6.5.2.2 Conduct investigations that go into the region of the other ISO jointly with the ISO, PJM and both Market Monitoring Units;
- 30.4.6.5.2.3 Inform each other of any such investigations; and
- 30.4.6.5.2.4 Share information related to such investigations, as necessary to conduct joint investigations, subject to the requirements of Section C of Appendix 4 to the Operating Protocol and Section 30.6.6 of Attachment O.

See Section A of Appendix 4 to Attachment M-1 to the ISO Services Tariff.

30.4.6.6 Market Monitoring Unit responsibilities set forth in the ISO OATT

30.4.6.7 Market Monitoring Unit responsibilities set forth in the Rate Schedules to the ISO OATT

30.4.6.8 Market Monitoring Unit responsibilities set forth in the Attachments to the ISO OATT

30.4.6.8.1 Responsibilities related to Transmission Shortage Cost

The ISO may periodically evaluate the Transmission Shortage Cost to determine whether it is necessary to modify the Transmission Shortage Cost to avoid future operational or reliability

problems. The ISO will consult with its Market Monitoring Unit after it conducts this evaluation.

If the ISO determines that it is necessary to modify the Transmission Shortage Cost in order to avoid future operational or reliability problems the resolution of which would otherwise require recurring operator intervention outside normal market scheduling procedures, in order to avoid among other reliability issues, a violation of NERC Interconnection Reliability Operating Limits or System Operating Limits, it may temporarily modify it for a period of up to 90 days, provided however the ISO shall file such change with the Commission pursuant to §205 of the Federal Power Act within 45 days of such modification. If circumstances reasonably allow, the ISO will consult with its Market Monitoring Unit, the Business Issues Committee, the Commission, and the PSC before implementing any such modification. In all circumstances, the ISO will consult with those entities as soon as reasonably possible after implementing a temporary modification and shall explain the reasons for the change. *See* Section 16.1.4 of Attachment J to the ISO OATT.

30.4.6.8.2 Following the Management Committee vote, the draft Reliability Needs Assessment (RNA), with working group, Operating Committee, and Management Committee input, will be forwarded to the ISO Board for review and action. Concurrently, the draft RNA will be provided to the Market Monitoring Unit for its review and consideration of whether market rules changes are necessary to address an identified failure, if any, in one of the ISO's competitive markets. *See* Section 31.2.3.2 of Attachment Y to the ISO OATT.

30.4.6.8.3 Following the Management Committee vote, the draft Comprehensive Reliability Plan (CRP), with working group, Operating Committee, and

Management Committee input, will be forwarded to the ISO Board for review and action. Concurrently, the draft CRP will also be provided to the Market Monitoring Unit for its review and consideration of whether market rule changes are necessary to address an identified failure, if any, in one of the ISO's competitive markets. *See* Section 31.2.6.2 of Attachment Y to the ISO OATT.

30.4.6.8.4 Following the Management Committee vote, the draft Congestion Analysis and Resource Integration Study (CARIS), with Business Issues Committee and Management Committee input, will be forwarded to the ISO Board for review and action. Concurrently, the draft CARIS will be provided to the Market Monitoring Unit for its review and consideration. *See* Section 31.3.2.2 of Attachment Y to the ISO OATT.

30.4.6.9 Market Monitoring Unit responsibilities set forth in other documents that have been formally filed with the Commission.

30.4.7 Availability of Data and Resources to Market Monitoring Unit

30.4.7.1 The ISO shall ensure that the Market Monitoring Unit has sufficient access to ISO resources, personnel and market data to enable the Market Monitoring Unit to carry out its functions under Attachment O. Consistent with Section 30.6.1 of Attachment O, the Market Monitoring Unit shall have complete access to the ISO's databases of market information.

30.4.7.2 Any data created by the Market Monitoring Unit, including but not limited to reconfiguration of the ISO's data, will be kept within the exclusive control of the Market Monitoring Unit. The Market Monitoring Unit may share the data it creates, subject to the limitations on distribution of and obligation to protect the

confidentiality of Protected Information that are contained in Attachment O, the ISO Services Tariff, and the ISO's Code of Conduct.

30.4.7.3 Where data outside the ISO's geographic footprint would be helpful to the Market Monitoring Unit in carrying out its duties, the Market Monitoring Unit should seek out that data (with assistance from the ISO, where appropriate).