

Attachment VIII

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 Section 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 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;

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

30.4.5.3.2.3 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;

30.4.5.3.2.4 failure of a Market Party to comply with the ISO's creditworthiness requirements 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) 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) failure of a Market Party to comply with a demand for additional credit support

under Section 26.6 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) 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) 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) 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.

30.4.5.3.2.5 bidding in a manner that results in a penalty under Section 23.4.3.3.4 of the Market Mitigation Measures.

30.4.5.3.2.6 submission of inaccurate fuel type information into the Day-Ahead Market that results in a penalty under Section 23.4.3.3.3 of the Market Mitigation Measures.

30.4.5.3.2.7 submission of inaccurate fuel type and/or fuel price information into the Real-Time Market that results in a penalty under Section 23.4.3.3.4 of the Market Mitigation Measures.

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 If (i) the ISO determines, following consultation with the Market Party and review by the Market Monitoring Unit, that the Market Party or its representative has, over a time period of at least one week, submitted inaccurate fuel type or fuel price information that was, taken as a whole, biased in the Market Party's favor, *then* the ISO shall cease using the fuel type and fuel price information submitted to the ISO's Market Information System along with the Generator's Bid(s) to develop reference levels for the affected Generator(s) in the relevant (Day-Ahead or real-time) market for the durations specified in Sections 23.3.1.4.6.8.1, 23.3.1.4.6.8.2, and 23.3.1.4.6.8.3 of the Mitigation Measures. *See* Section 23.3.1.4.6.8 of the Market Mitigation Measures.

30.4.6.2.4 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.

30.4.6.2.5 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.

30.4.6.2.6 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. Market Parties shall ensure that the information they submit to the ISO, including but not

limited to fuel price and fuel type information, is accurate. Except as set forth in Section 23.3.1.4.6.7 of the Market Mitigation Measures, the ISO may not retroactively revise a reference level to reflect additional fuel costs if a Market Party or its representative did not timely submit accurate fuel cost information. Unsupported speculation by a Market Party does not present a valid basis for the ISO to determine that Bids that a Market Party submitted are consistent with competitive behavior, or to determine that submitted costs are appropriate for inclusion in the ISO's development of reference levels. Consistent with Sections 30.6.2.2 and 30.6.3.2 of the Plan, the Market Party shall retain the documents and information supporting its Bids and the costs it proposes to include in reference levels. A preliminary determination by the ISO shall be provided to the Market Monitoring Unit for its review and comment, and the ISO shall consider the Market Monitoring Unit's recommendations before the ISO issues its decision or determination to the Market Party. Upon request, the ISO shall consult with a Market Party or its representative 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's Generator(s). 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's Generator(s) should be changed, revised reference levels shall be proposed by the ISO, communicated to the Market Monitoring Unit for its review and comment and, following the ISO's consideration of any recommendation that the Market Monitoring Unit is able to timely provide, communicated to the Market Party, and implemented by the ISO

as soon as practicable. Changes to reference levels addressed pursuant to the terms of Section 23.3.3.1.4 of the Market Mitigation Measures shall be implemented on a going-forward basis commencing no earlier than the date that the Market Party's consultation request is received. *See* Market Mitigation Measures Sections 23.3.3.1.1 through 23.3.3.1.5.

30.4.6.2.7 With regard to a Market Party's request for consultation that satisfies the requirements of Sections 23.3.3.3.1.4 and 23.3.3.3.1.7 of the Market Mitigation Measures, and consistent with the duties assigned to the ISO in Section 23.3.3.3.1.7.1 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 23.3.3.3.1.7.1 and 23.3.3.3.1.7.2.

30.4.6.2.8 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 a Mitigated Capacity Zone over the Comparison Period for the External Reconfiguration Market. Prior to completing its projection of ICAP Spot Auction clearing prices for a Mitigated Capacity Zone 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.

30.4.6.2.9 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.

30.4.6.2.10 Any proposal or decision by a Market Participant to retire or otherwise remove an Installed Capacity Supplier from a Mitigated Capacity Zone 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 a Mitigated Capacity Zone subsequent to such action; provided, however, no audit and review shall be necessary if the Installed Capacity Supplier is a Generator that is being retired or removed from a Mitigated Capacity Zone as the result of a Forced Outage that began on or after the effective date of the amendments to Section 23.4.5.6.1 of this Services Tariff that was determined by the ISO to be a Catastrophic Failure. 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.

30.4.6.2.11 Any reclassification of a an Installed Capacity Supplier that is a Generator in a Mitigated Capacity Zone from a Forced Outage that began on or after the

effective date of Section 23.4.5.6.2 of this Services Tariff to an ICAP Ineligible Forced Outage by a Market Party or otherwise, pursuant to the terms of Section 5.18.2.1 of this Services Tariff, may be subject to audit and review by the ISO if the ISO determines that such reclassification could reasonably be expected to affect the Market-Clearing Price in one or more ICAP Spot Market Auctions for a Mitigated Capacity Zone in which the Generator(s) that is the subject of the reclassification is located, subsequent to such action; provided, however, if the Market Party's Generator experienced the Forced Outage as a result of a Catastrophic Failure, the reclassification of a Generator in a Mitigated Capacity Zone from a Forced Outage to an ICAP Ineligible Forced Outage shall not be subject to audit and review pursuant to Section 23.4.5.6.2 of this Services Tariff.

The audit and review pursuant to the above paragraph shall assess whether the reclassification of the Generator in a Mitigated Capacity Zone from a Forced Outage to an ICAP Ineligible Forced Outage had 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.

The audit and review pursuant to Section 23.4.5.6.2.1 of this Services Tariff shall be deferred by the ISO beyond the time period established in ISO Procedures for the audit and review until the ISO's receipt of data pursuant to Section 23.4.5.6.2.2 if the Generator was in a Forced Outage for at least 180 days before the reclassification and one or more Exceptional Circumstances delayed the acquisition of data necessary for the ISO's audit. If, at the time the ISO

acquires the necessary data, the Market Party has Commenced Repair of the Generator, or the Generator is determined by the ISO to have had a Catastrophic Failure, the Market Party shall not be subject to an audit and review pursuant to Section 23.4.5.6.2.1 of this Services Tariff. The ISO shall provide the preliminary results of its audit or review to the Market Monitoring Unit for its review and comment.

30.4.6.2.12 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. As required by Section 23.4.5.7.8 of Attachment H to this Services Tariff, the Market Monitoring Unit shall prepare a written report confirming whether the ISO's Offer Floor and exemption determinations and calculations conducted pursuant to Sections 23.4.5.7.2 and 23.4.5.7.6 of the Market Mitigation Measures were conducted in accordance with the terms of the Services Tariff, and if not, identifying the flaws inherent in the ISO's approach. This report shall be presented concurrent with the ISO's posting of its mitigation exemption determinations. Pursuant to Section 23.4.5.7.~~79~~ of the Market Mitigation Measures, the ISO shall also consult with the Market Monitoring Unit when evaluating whether any existing or proposed Generator or UDR project in a Mitigated Capacity Zone, except New York City, shall be exempted from an Offer Floor under that Section. Prior to the ISO making an exemption determination pursuant to Section 23.4.5.7.~~78~~, the Market Monitoring Unit shall provide the ISO a written opinion and recommendation.

The Market Monitoring Unit shall also provide a public report on its assessment of an ISO determination that an existing or proposed Generator or UDR project is exempt from an Offer Floor under Section 23.4.5.7.~~78~~. *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.

30.4.6.3.2 The new capacity zone periodic review shall provide an opportunity for the Market Monitoring Unit to review and comment on the NCZ Study, and any proposed NCZ tariff revisions. *See* ISO Services Tariff Sections 5.16.1.3 and 5.16.4.

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.

30.4.6.6 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 implementing new scheduling path prohibitions

If the ISO, acting in consultation with its Market Monitoring Unit, identifies transmission scheduling paths that are being used to schedule External Transactions in a manner that is not consistent with the manner in which power is actually expected to flow, the ISO may submit a compliance filing in FERC Docket No. ER13-780 proposing to expand the list of prohibited scheduling paths included in Section 16.3.3.8 of the ISO OATT. The ISO's compliance filing will include, or be accompanied by, a discussion of the Market Monitoring Unit's position regarding the ISO's proposal to add a new prohibited scheduling path or new prohibited scheduling paths. The Market Monitoring Unit's position may be explained in the ISO's filing letter, be set forth in an accompanying affidavit, or be submitted by the Market Monitoring Unit as a companion filing or as comments on the ISO's compliance filing in Docket No. ER13-780. *See* Section 16.3.3.8 of Attachment J to the ISO OATT.

30.4.6.8.2 Responsibilities related to the draft Reliability Needs Assessment

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 Responsibilities related to the draft Comprehensive Reliability Plan

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 31.2.7.2 of Attachment Y to the ISO OATT.

30.4.6.8.4 Responsibilities related to the draft Congestion Analysis and Resource Integration Study

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.

30.4.6.8.5 Responsibilities related to the draft Public Policy Transmission Planning Report

The ISO will provide the draft Public Policy Transmission Planning Report to the Market Monitoring Unit for its review and consideration of any impact on the ISO-administered markets of regulated transmission solutions proposed to satisfy a Public Policy Transmission Need. *See* Sections 31.4.9 and 31.4.10.1 of Attachment Y to the ISO OATT. The Market Monitoring Unit's evaluation will be provided to the Management Committee before the Management Committee's advisory vote. *See* Section 31.4.10.1 of Attachment Y. Following the Management Committee vote, the draft Public Policy Transmission Planning Report, with Business Issues Committee and Management Committee input, will be forwarded to the ISO Board for review and action. Concurrent with the submission to the ISO Board of the draft Public Policy Transmission Planning Report, the Market Monitoring Unit's evaluation will be provided to the ISO Board. *See* Section 31.4.10.2 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).

30.6 Data Collection and Disclosure

30.6.1 Access to ISO Data and Information

For purposes of carrying out their responsibilities under Attachment O, the Market Monitoring Unit and MMA shall have access to, and shall endeavor primarily to rely upon (but shall not be limited to), data or other information gathered or generated by the ISO in the course of its operations. This data and information shall include, but not be limited to, data or information gathered or generated by the ISO in connection with its scheduling, commitment and dispatch of generation, its determination of Locational Based Marginal Pricing, its operation or administration of the New York State Transmission System, and data or other information produced by, or required to be provided to the ISO under its Tariffs, the New York Independent System Operator Agreement, the New York State Reliability Council Agreement, or any other relevant tariffs or agreements.

30.6.2 Data from Market Parties

30.6.2.1 Data Requests

If the Market Monitoring Unit or MMA, determines that additional data or other information is required to accomplish the objectives of Attachment O or of the Market Mitigation Measures, the ISO may request the persons or entities possessing, having access to, or having the ability to generate or produce such data or other information to furnish it to the ISO or to its Market Monitoring Unit. Any such request shall be accompanied by an explanation of the need for such data or other information, a specification of the form or format in which the data is to be produced, and an acknowledgment of the obligation of the ISO and its Market Monitoring

Unit to maintain the confidentiality of data or information appropriately designated as Protected Information by the party producing it.

A party receiving an information request from the ISO shall furnish all information, in the requested form or format, that is: (i) included on the below list of categories of data or information that it may routinely request from a Market Party; or (ii) reasonably necessary to achieve the purposes or objectives of Attachment O, not readily available from some other source that is more convenient, less burdensome and less expensive, and not subject to an attorney-client or other generally recognized evidentiary doctrine of confidentiality or privilege.

The categories data or information that may be routinely requested shall be limited to data or information the routine provision of which would not be unduly burdensome or expensive, and which has been reasonably determined by the ISO, in consultation with its Market Monitoring Unit, to be likely to be relevant to the purposes and objectives of Attachment O or the Market Mitigation Measures.

30.6.2.2 Categories of Data the ISO May Request from Market Parties

The following categories of data or information may be obtained by the ISO from Market Parties in accordance with Attachment O. Market Parties shall retain the following categories of data or information for the period specified in Section 30.6.3 of Attachment O.

30.6.2.2.1 Production costs – Data or information relating to the costs or operating a specified Electric Facility (for generating units such data or information shall include, but not be limited to, heat rates, start-up fuel requirements, fuel purchase costs, and operating and maintenance expenses) or data or information relating to the costs of providing load reductions from a specified facility participating as a

Demand Side Resource in the ISO Operating Reserves or Regulation Service markets.

30.6.2.2.2 Opportunity costs – Data or information relating to a claim of opportunity costs, including, but not limited to, contracts or price quotes.

30.6.2.2.3 Logs – Data or information relating to the operating status of an Electric Facility, including, for generating units, generator logs showing the generating status of a specified unit or data or information relating to the operating status of a specified facility participating as a Demand Side Resource in the ISO Operating Reserves or Regulation Service markets. Such data or information shall include, but not be limited to, any information relating to the validity of a claimed forced outage or derating of a generating unit or other Electric Facility or a facility participating as a Demand Side Resource in the ISO Operating Reserves or Regulation Service markets.

30.6.2.2.4 Bidding or Capacity Agreements – Documents, data, or information relating to a Market Party or its Affiliate conveying to or receiving from another entity the ability: (i) to determine the bid/offer of (in any of the markets administered by the ISO); (ii) to determine the output level of; or (iii) to withhold; generation that is owned by another entity. At the request of the producing entity, the ISO may (but is not required to) permit the documents, data or information produced in response to the foregoing specification to be partially redacted, or the ISO may agree to other measures for the protection of confidential or commercially sensitive information, provided that the ISO receives the complete text of all provisions relating to the subjects specified in this Section 30.6.2.2.4

30.6.2.2.5 Other Cost and Risk Data Supporting Reference Levels or ICAP

mitigation determinations or Going-Forward Costs – All data or information not specifically identified above that: (i) supports or relates to a Market Party’s claimed, requested, or approved reference levels or Going-Forward Costs (as that term is defined in the Market Mitigation Measures) for a particular resource; or (ii) are necessary for the ISO to make a mitigation determination under Services Tariff Section 23.4.5.7, including data or information: (a) necessary to determine a Market Party’s Unit Net CONE (as that term is defined in the Market Mitigation Measures) for a particular resource; or (b) required to evaluate a Market Party for a mitigation determination, including information from a Market Party’s Affiliates, as appropriate.

30.6.2.2.6 Ownership and Control – Data or information identifying a Market Party’s Affiliates.

30.6.2.3 Enforcement of Data Requests

30.6.2.3.1 A party receiving a request for data or information specified in Section 30.6.2.2 of Attachment O shall promptly provide it to the ISO, and may not contest the right of the ISO to obtain such data or information except to the extent that the party has a good faith basis to assert that the data or information is not included in any of the categories on the list.

30.6.2.3.2 If a party receiving a request for data or information not specified in Section 30.6.2.2 of Attachment O believes that production of the requested data or information would impose a substantial burden or expense, or would require the party to produce information that is not relevant to achieving the purposes or

objectives of Attachment O, or would require the production of data or information of extraordinary commercial sensitivity, the party receiving the request shall promptly so notify the ISO, and the ISO shall review the request with the receiving party with a view toward determining whether, without unduly compromising the objectives of Attachment O, the request can be narrowed or otherwise modified to reduce the burden or expense of compliance, or special confidentiality protections are warranted, and if so shall so modify the request or the procedures for handling data or information produced in response to the request.

30.6.2.3.3 If the ISO determines that the requested information has not or will not be provided within a reasonable time, the ISO may invoke the dispute resolution provisions of the ISO Services Tariff to determine the ISO's right to obtain the requested information. The parties may agree to submit any such determination to binding arbitration and may seek expedited resolution, in accordance with the applicable dispute resolution procedures. The ISO may initiate judicial or regulatory proceedings at any time to compel the production of the requested information.

30.6.3 Data Retention

30.6.3.1 Section 30.6.3 of Attachment O sets forth requirements for the retention of market information by the ISO, by the Market Monitoring Unit and by Market Parties. The provisions of this data retention policy are binding on the ISO, on the Market Monitoring Unit and on Market Parties.

30.6.3.2 Except as specified herein, a Market Party shall retain the data and information specified in Section 30.6.2.2 of Attachment O for a period of six years from the date to which the data relates.

30.6.3.3 The ISO or its Market Monitoring Unit (as appropriate) shall retain for a period of six years from the date to which the data or information relates:

30.6.3.3.1 data or information required to be submitted to, or otherwise used by, the ISO in connection with the bidding, scheduling and dispatch of resources or loads in the New York energy, ancillary services, TCC or Installed Capacity (ICAP) markets;

30.6.3.3.2 data or information used or monitored by the ISO on system conditions in the New York Control Area, including but not limited to transmission constraints or planned or forced facility outages, that materially affect transmission congestion costs or market conditions in the New York energy, ancillary services or ICAP markets;

30.6.3.3.3 data or information collected by the ISO or by the Market Monitoring Unit (as appropriate) in the course of their implementation of Attachment O or the Market Mitigation Measures, on conditions in markets external to New York, or on fuel prices or other economic conditions that materially affect market conditions in the New York energy, ancillary services, TCC or ICAP markets;

30.6.3.3.4 data or information relating to the imposition of, or a decision not to impose, mitigation measures; and

30.6.3.3.5 such other data or information as the MMA or Market Monitoring Unit deem it necessary to collect in order to implement Attachment O or the Market Mitigation Measures.

30.6.3.4 The foregoing obligations to retain data or information shall not alter any data retention requirements that may otherwise be applicable to the ISO, to the Market Monitoring Unit, or to a Market Party; nor shall any such other data retention requirement alter the requirements specified above.

30.6.3.5 The ISO, Market Monitoring Unit or a Market Party may, at its option, purge or otherwise destroy any data or information that has been retained for the longest applicable period specified above, provided the retention of such data or information is not mandated by the FERC, the New York Public Service Commission, or other applicable requirement or obligation.

30.6.3.6 Compliance with the requirements specified herein for the retention of data or information shall not suspend or waive any statute of limitations or doctrine of laches, estoppel or waiver that may be applicable to any claim asserted against the ISO, the Market Monitoring Unit, or a Market Party.

30.6.4 Confidentiality

The Market Monitoring Unit and the ISO shall use all reasonable procedures necessary to protect and preserve the confidentiality of Protected Information, provided that such information is not available from public sources, is not otherwise subject to disclosure under any tariff or agreement administered by the ISO, and is properly designated as Protected Information. The ISO and the Market Monitoring Unit's obligation to protect and preserve the confidentiality of

Protected Information shall be of a continuing nature, and shall survive the rescission, termination or expiration of this Plan.

Except as may be required by subpoena or other compulsory process, or as authorized in the ISO's Tariffs and governing documents (including this Plan), the Market Monitoring Unit and the ISO shall not disclose Protected Information to any person or entity without the prior written consent of the party that the Protected Information pertains to. Upon receipt of a subpoena or other compulsory process for the disclosure of Protected Information, the ISO and/or the Market Monitoring Unit shall promptly notify the party that the Protected Information pertains to, and shall provide all reasonable assistance requested by the party to prevent or limit disclosure. Upon receipt of a subpoena or other compulsory process for the disclosure of Protected Information that was provided to the ISO or the Market Monitoring Unit pursuant to Section 30.6.6 below, the ISO or the Market Monitoring Unit, as appropriate, shall promptly notify the entity that provided the Protected Information and shall provide all reasonable assistance requested by that party to prevent or limit disclosure. Nothing in this Plan alters any existing statutory jurisdiction or authority to compel disclosure that may apply to the ISO, its Market Monitoring Unit, or to any other ISO, RTO, or market monitoring unit.

The ISO may, in consultation with the Market Monitoring Unit, adopt further or different procedures for the designation of information as Protected Information, or for the reasonable protection of Protected Information, after providing an opportunity for interested parties to review and comment on such procedures; provided, however, that such further or different procedures shall not permit the ISO or Market Monitoring Unit to disclose data or information that would be protected from disclosure under the procedures in place at the time the data or information was provided to the ISO or to the Market Monitoring Unit.

30.6.5 Collection and Availability of Information

30.6.5.1 The ISO and the Market Monitoring Unit shall regularly collect and maintain the information necessary for implementing Attachment O.

The ISO and the Market Monitoring Unit may provide Protected Information to each other as they determine necessary to carry out the purposes of this Plan.

30.6.5.2 The ISO, in consultation with the Market Monitoring Unit, shall make publicly available: (i) a description of the categories of data and information collected and maintained by the MMA and Market Monitoring Unit; (ii) such data or information as may be useful for the competitive or efficient functioning of any of the New York Electric Markets that can be made publicly available consistent with the confidentiality of Protected Information; and (iii) if and to the extent consistent with confidentiality requirements, such summaries, redactions, abstractions or other non-confidential compilations, versions or reports of Protected Information as may be useful for the competitive or efficient functioning of any of the New York Electric Markets. Any such proposed methods for creating non-confidential reports of such information shall only be adopted after provision of a reasonable opportunity for, and consideration of, the comments of Market Parties and other interested parties. All such proposed or adopted methods shall be set forth in the ISO Procedures, shall be made available through the ISO web site or comparable means, and shall be subject to review and approval by the Board.

30.6.5.3 Consistent with the foregoing requirements, the ISO and its Market Monitoring Unit shall make available, through the ISO web site or comparable

means, such reports on the New York Electric Markets as they determine will, at reasonable cost, facilitate competition in those markets.

30.6.5.4 Any data or other information collected by the ISO relating to any of the New York Electric Markets shall be provided upon request, and without undue discrimination between requests, to a Market Party, other interested party, or an Interested Government Agency, provided: (i) such data or information is not Protected Information, or the party designating it as Protected Information has consented in writing to its disclosure; (ii) such information can be provided without undue burden or disruption to, or interference with the other duties and responsibilities of the ISO; and (iii) the requesting party, if other than an Interested Government Agency, provides appropriate guarantees of reimbursement of the costs to the ISO of compiling and disclosing the data or information. If the ISO determines that doing so would not be unduly burdensome or expensive, or inconsistent with maintaining the competitiveness or economic efficiency of any market, the ISO shall make data or information provided in accordance with this paragraph available to interested parties through the ISO web site or other appropriate means.

30.6.5.5 The New York Public Service Commission and any Other State Commission may make tailored requests to the Market Monitoring Unit for information related to general market trends and the performance of the New York Electric Markets. If the Market Monitoring Unit determines that such a request is not unduly burdensome, it shall provide the information sought, subject

to the restrictions and limitations established in Sections 30.6.5.5.1, 30.6.5.5.2 and 30.6.5.5.4, below.

30.6.5.5.1 Except as provided in this Section 30.6.5.5.1, the Market Monitoring Unit shall not provide Protected Information to the New York Public Service Commission or to an Other State Commission in response to a request under Section 30.6.5.5 above. The Market Monitoring Unit may, but is not required to, provide Protected Information to the New York Public Service Commission or any Other State Commission when the party to which the requested Protected Information pertains has consented in writing to its disclosure. The Market Monitoring Unit may, but is not required to, provide Protected Information to the New York Public Service Commission or an Other State Commission if the general counsel/chief legal officer of the requesting state commission certifies, in writing, that: (i) the requested Protected Information will be protected from disclosure by law (and provides copies of the relevant laws, rules or regulations under which the requested Protected Information is protected from public disclosure); (ii) the requested Protected Information will be treated as confidential to the fullest extent of the laws of its state; (iii) the state commission will promptly notify the Market Monitoring Unit if it receives a request for disclosure of all or part of the Protected (iv) the state commission agrees to provide all reasonable and permissible assistance to prevent further disclosure of Protected Information provided by the Market Monitoring Unit to the state commission in response to a request governed by Section 30.6.5.5 of this Plan; and (v) the Protected Information will not be used for a state enforcement action.

The Market Monitoring Unit shall not provide Protected Information it received from another ISO or RTO, or from a market monitoring unit for another ISO or RTO, pursuant to the authority to share information granted by Section 30.6.6 of this Plan, in response to a request under Section 30.6.5.5 of this Plan. Instead, the Market Monitoring Unit shall identify to the requesting state commission the ISO, RTO or market monitoring unit that provided the information to the Market Monitoring Unit, so that the New York Public Service Commission or Other State Commission may request the Protected Information directly from its source in accordance with the provisions of the providing entity's tariffs, other governing documents, or an applicable law or rule.

30.6.5.5.2 Prior to disclosing Protected Information pertaining to a particular Market Party in response to a tailored request made under Section 30.6.5.5, the Market Monitoring Unit shall (1) notify the Market Party or Parties to which the Protected Information pertains of the request and describe the information that the Market Monitoring Unit proposes to disclose, and (2) allow the Market Party or Parties a reasonable time to object to the disclosure and to provide context to the Protected Information related to it. Providing the opportunity for Market Parties to object to disclosure, or to provide context to the information being produced shall not be permitted to unduly delay its release.

30.6.5.5.3 Section 30.6.5.5 of Attachment O pertains to requests by the New York Public Service Commission and Other State Commissions to the Market Monitoring Unit to provide information. Section 30.6.4 of Attachment O

addresses how the Market Monitoring Unit responds to compulsory processes, such as subpoenas and court orders.

30.6.5.5.4 In responding to a request under Section 30.6.5.5 of Attachment O, the Market Monitoring Unit shall not knowingly provide information to the New York Public Service Commission, or to any Other State Commission, that is designed to aid a state enforcement action.

30.6.5.5.5 The New York Public Service Commission or any Other State Commission may petition FERC to require the ISO to release information that the Market Monitoring Unit is not required to release, or that the Market Monitoring Unit is proscribed from releasing, under this Section 30.6.5.5 of Attachment O.

30.6.5.6 The Market Monitoring Unit shall respond to information and data requests issued to it by the Commission or its staff. If the Commission or its staff, during the course of an investigation or otherwise, requests Protected Information from the Market Monitoring Unit that is otherwise required to be maintained in confidence, the Market Monitoring Unit shall provide the requested information to the Commission or its staff within the time provided for in the request for information. In providing the information to the FERC or its staff, the Market Monitoring Unit shall, consistent with any FERC rules or regulations that may provide for privileged treatment of that information, request that the information be treated as confidential and non-public by the FERC and its staff and that the information be withheld from public disclosure. The Market Monitoring Unit shall not be held liable for any losses, consequential or otherwise, resulting from the Market Monitoring Unit divulging such Protected Information pursuant to a

request under this Section 30.6.5.6. After the Protected Information has been provided to the Commission or its staff, the Market Monitoring Unit shall immediately notify any affected Market Participant(s) when it becomes aware that a request for disclosure of such Protected Information has been received by the Commission or its staff, or a decision to disclose such Protected Information has been made by the Commission, at which time the Market Monitoring Unit and the affected Market Participant(s) may respond before such information would be made public, pursuant to the Commission's rules and regulations that may provide for privileged treatment of information provided to the Commission or its staff.

30.6.6 Sharing Information with Other ISOs/RTOs and Market Monitoring Units

30.6.6.1 The Market Monitoring Unit or the ISO may disclose Protected Information to another ISO or RTO or to another ISO or RTO's market monitoring unit (each a "Requesting Entity" in Section 30.6.6 of the Plan) if the Requesting Entity submits a written request stating that the requested Protected Information is necessary to an investigation or evaluation that the Requesting Entity is undertaking within the scope of its approved tariffs, other governing documents, or an applicable law or rule to determine (a) if market power is being, or has been, exercised, (b) if market manipulation is occurring or has occurred, or (c) if a market design flaw exists between interconnected markets, and either (i) demonstrates (by providing copies of the relevant documents, provisions, statutes, rules, orders, etc.) that its tariff or other governing document limits further disclosure of the Protected Information in a manner that satisfies all of the requirements set forth in Section 30.6.6.1.1, below, or (ii) executes a non-

disclosure agreement with the ISO and/or the Market Monitoring Unit that incorporates all of the requirements set forth in Section 30.6.6.1.1 below, and provides a written certification that the Requesting Entity possesses legal authority to enter into the required non-disclosure agreement and to be bound by its terms.

30.6.6.1.1 The Requesting Entity's governing documents or non-disclosure agreement must:

- (1) protect Protected Information that the ISO or the Market Monitoring Unit provides from disclosure, except where disclosure may be required by the FERC or by subpoena or other compulsory process;
- (2) establish a legally enforceable obligation to treat Protected Information provided by the ISO or its Market Monitoring Unit as confidential. Such obligation must be of a continuing nature, and must survive the rescission, termination or expiration of the applicable tariff(s), other governing document(s) or non-disclosure agreement;
- (3) require state commissions to request Protected Information provided by the ISO or its Market Monitoring Unit directly from the ISO or its Market Monitoring Unit, in a manner consistent with Section 30.6.5.5.1 of this Plan, and promptly inform the ISO or its Market Monitoring Unit of any requests received from a state commission for Protected Information provided by the ISO or its Market Monitoring Unit;
- (4) require the Requesting Entity to promptly notify the ISO or its Market Monitoring Unit and seek appropriate relief to prevent or, if it is not possible to prevent, to

limit disclosure in the event that a subpoena or other compulsory process seeks to require disclosure of Protected Information provided by the ISO or its Market Monitoring Unit;

- (5) require the Requesting Entity to promptly notify the ISO or its Market Monitoring Unit of any third party requests for additional disclosure of the Protected Information where Protected Information provided by the ISO or its Market Monitoring Unit has been disclosed to a court or regulatory body in response to a subpoena or other compulsory process, and to seek appropriate relief to prevent or limit further disclosure; and
- (6) require the destruction of the Protected Information at the earlier of (i) five business days after a request from the ISO or its Market Monitoring Unit for the return of the Protected Information is received, or (ii) the conclusion or resolution of the investigation or evaluation.

30.6.6.2 The ISO or the Market Monitoring Unit may undertake a joint investigation with another ISO/RTO or with another ISO or RTO's market monitoring unit to determine (a) if market power is being, or has been, exercised, (b) if market manipulation is occurring or has occurred, or (c) if a market design flaw exists in or between interconnected markets. In such a case, the ISO and the Market Monitoring Unit may disclose Protected Information to the other ISO/RTO or market monitoring unit as necessary to achieve the objectives of the investigation; provided that the ISO or Market Monitoring Unit first receives a written certification from the other ISO/RTO or market monitoring unit that its tariffs or other governing documents meet the standards set forth in this Section

30.6.6 or executes a non-disclosure agreement.

30.6.6.3 If the ISO discloses Protected Information to a Requesting Entity that is a jurisdictional ISO or RTO, the ISO shall also provide the Protected Information to the Requesting Entity's market monitoring unit as soon as the Requesting Entity's market monitoring unit satisfies the requirements of Section 30.6.6.1.1, above.

30.6.6.4 Protected Information provided by another ISO/RTO or market monitoring unit to the ISO or to the Market Monitoring Unit pursuant to the provisions of this Plan shall either be destroyed or returned to the entity that provided the Protected Information at the earlier of (i) five business days after receipt of a request from that entity for the return of the Protected, or (ii) the conclusion or resolution of the matter being investigated.