NEW YORK INDEPENDENT SYSTEM OPERATOR
10 Krey Boulevard ♦ Rensselaer, NY 12144

April 22, 2009

By Hand Delivery

Honorable Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

Re: New York Independent System Operator, Inc., Docket No. ER09-____-___ Proposed Tariff Revisions to Amend the Definition of Intermittent Power Resources to Include Landfill Gas Generation, Make other Conforming and Clarifying Changes, and Request for Waiver of Notice Period and for an April 23, 2009 Effective Date

Dear Secretary Bose:

In accordance with Section 205 of the Federal Power Act and Part 35 of the Commission's regulations, the New York Independent System Operator, Inc. ("NYISO") respectfully submits proposed revisions to its Market Administration and Control Area Services Tariff ("Services Tariff") and it Open Access Transmission Tariff ("OATT") to include electric facilities dependent on landfill gas as their fuel within the definition of "Intermittent Power Resources."[1] This proposed change will allow the NYISO to compensate such facilities for all the Energy they produce and to exempt them from persistent undergeneration charges. Landfill gas facilities exhibit the characteristics of Intermittent Power Resources and should be compensated on terms that are comparable to them. The proposed tariff revisions, therefore, serve the Commission's policy of allowing non-traditional resources to participate in the organized markets on terms that are comparable to Generators.[2] In addition, the NYISO is proposing three clarifications to the Services Tariff. First to indicate that Intermittent Power Resources are unable to accurately predict their real-time output; second, to amend the term "Compensable Overgeneration" to indicate that it is applicable only to facilities that have offered their Energy in the NYISO market, and third to add a phrase that was inadvertently omitted from the NYISO's recent tariff filing in Docket No. ER09-802-000. The proposed tariff amendments have been unanimously approved by the stakeholders' Management Committee and were endorsed by the NYISO's independent Board of Directors. As is discussed in Section IV, below, the NYISO is requesting a waiver of the notice period and early effective dates for a number of the tariff revisions proposed herein.

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1 Capitalized Terms that are not otherwise defined herein shall have the meaning set forth in Article 2 of the Services Tariff.

2 *Preventing Undue Discrimination and Preference in Transmission Service,* Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 888 (2007), *order on reh'g,* Order No. 890-A at P 499, FERC Stats. & Regs. ¶ 31,261 (2007), *order on reh'g,* Order No. 890-B, 123 FERC ¶ 61,299 (2008); *order on reh'g,* Order 890-C, 74 Fed. Reg. 12,540 (Mar. 25, 2009), 126 FERC ¶ 61,228 (2009).

I. Documents Submitted

The NYISO submits the following documents:

1. This filing letter;

2. A clean version of the proposed revisions to the NYISO's Services Tariff and OATT ("Attachment I"); and

3. A blacklined version of the proposed revisions to the NYISO's Services Tariff and OATT ("Attachment II").

II. Background and Issue

a. Landfill Gas Electric Facilities

Approximately 75 MW of landfill gas electric ("LFGE") generating facilities schedule their Energy sales through the NYISO. These facilities range in size from 1 MW to 17 MW.[3] Not much new Capacity is expected from this resource type as the New York Department of Environmental Conservation and the federal Environmental Protection Agency estimate that LFGE development potential in New York State is close to current levels.

LFGE Generators are large internal combustion engines that burn methane gas produced by the decomposition of garbage at sanitary landfills.[4] The level of Energy that these units can produce is dictated by variations in the methane content of their fuel and by landfill operations. Factors affecting the methane content of input gas include precipitation, landfill vacuum changes, temperature, and barometric pressure. Landfill operations include gas well shutoffs associated with daily filling and water control, adjustments to meet landfill regulatory or contractual commitments such as odor, and other emissions controls, none of which are scheduled by or with the LFGE Generator owner/operator.

Through plant visits and operating history reviews, the NYISO has confirmed that, due to this unschedulable fuel supply, these units typically exhibit hourly average output variations from 5% to 40% below schedule to 3.5% to 14% above schedule. Experience has shown that the effect on methane content of weather and landfill

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[3] A number of small units, many of them less than 1 MW, are not scheduled by the NYISO as they are treated as load modifiers.

[4] Methane comprises about 50% of the gases produced by landfills. Using the methane to produce electricity benefits the environment by avoiding the need to flare the methane.

operations is not predictable with sufficient accuracy to allow these plants to schedule their electric output accordingly.

Although the dependency of LFGE Generators on methane as their fuel source means that they are "unschedulable" resources, the Services Tariff currently requires that they follow their real-time Energy schedules or basepoints, pay persistent undergeneration charges if they fall below their basepoints and forgo Energy payment for any Energy provided above their basepoints. LFGEs should not be subject to these rules because the volatility in their fuel source means they cannot follow their basepoints with the precision necessary to avoid undesirable settlement consequences.

As is described more completely in the NYISO's recent filing in Docket No. ER09-972-000, 45 MW of LFGE Generators were paid as if they were Intermittent Power Resources from the later of 1999 or their in-service date until their settlements were converted to be consistent with the tariff.[5]

The Services Tariff settlement rules currently applicable to LFGE Generators should be replaced with the settlement rules that the NYISO currently applies to other resources with unpredictable and uncontrollable fuel supplies, such as wind, solar and Limited Control Run-of- River Hydro Resources. Such settlement rules would pay LFGE Generators for all Energy produced and exempt them from persistent undergeneration penalties.

Further, the definition of Intermittent Power Resource should be clarified to indicate that the intermittent units' dependency on wind, solar or landfill gas precludes accurate prediction of their real-time output. This simply clarifies that a unit qualified as an Intermittent Power Resource is assumed to be unable to predict its real-time output. Should this assumption change, because of advanced technologies or co-firing with other fuels, the facility should no longer qualify as an Intermittent Power Resource.

b. Energy Settlements Clarification

The Services Tariff authorizes the NYISO to pay certain facilities for all the Energy they inject into the system regardless of their schedule.[6] This includes intervals for which these units show no scheduled output (*i.e.*, the NYISO is not expecting any

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5 *See Notification of Tariff Implementation Errors and Request For Limited Tariff Waivers of the New York Independent System Operator, Inc.*, Docket No. ER09-972-000 at 2-7 (April 8, 2009). The last LFGE unit was converted to tariff-consistent settlements on March 9, 2009.

6 These are: (i) units supplying Energy bilaterally pursuant to certain contracts entered into before the NYISO began operations; (ii) electric facilities that also supply steam to the Consolidated Edison steam system; (iii) Intermittent Power Resources; and (iv) Limited Control Run of River Hydro facilities. *See* Services Tariff Section 4.5 and 4.5(i) & (ii), 2.23a, and 2.88a.

Energy from that Resource in that interval).[7] When the zero schedule results from the absence of an Energy offer for that interval, however, the NYISO has no information on how much Energy the Generator is expecting to produce or over what time period. Yet at present, the Services Tariff does not expressly require these units to submit Energy offers in order to be paid.[8]

Energy offers, or bilateral schedules, from these facilities would support efficient Generator scheduling and real-time price calculations. Therefore, to promote an efficient commitment and dispatch process, the NYISO proposes to adjust its software and pay these units for their actual Energy output only if they have offered their Energy to, or scheduled a bilateral transaction with, the NYISO in that hour.

To support this software change, the NYISO proposes two tariff amendments to apply the same offer requirements to these facilities as currently apply to other Generators. The amendments will require that these Resources provide an Energy offer before the NYISO will include them in its Energy settlement process.

III. Tariff Modifications

a. Landfill Gas Electric Generators

The NYISO proposes to amend Section 2.77a, the definition of the term "Intermittent Power Resource," to add landfill gas to the fuels which qualify a facility as an Intermittent Power Resource. The NYISO also proposes to clarify that a unit may only qualify as an Intermittent Power Resource if it is unable to accurately predict its real-time output. The amended definition of the term Intermittent Power Resource would read:

> Capacity resources that depend upon wind, solar energy or landfill gas for their fuel and that such dependence precludes accurate prediction of the facility's real-time output.

The NYISO also proposes to add this amended definition of Intermittent Power Resources to its OATT at a new Section 1.14q.1.

In addition, the NYISO proposes to amend Section 2.23a of the Services Tariff, the definition of Compensable Overgeneration, to include Intermittent Power Resources that depend on landfill gas among eligible facilities, provided that they are not bidding in

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7 A zero schedule may also appear for units whose output has declined to zero.

8 Tariff provisions require Suppliers, other than those listed in Services Tariff Sections 2.23a, 2.88a and 4.5 (i) and (ii), to have offered their Energy, scheduled a bilateral in the NYISO markets, or been committed to resolve a reliability issue, before receiving any Energy settlement for that interval. *See* Services Tariff Sections 4.5 (C) and (F).

a manner that indicates they are available to provide Regulation Service or Operating Reserves.[9] The NYISO also proposes to clarify this definition and resolve an earlier oversight by indicating that solar units are Intermittent Power Resources and are entitled to Compensable Overgeneration in the same manner as are landfill gas units.

Specifically, the NYISO proposes to amend the second paragraph of this Section to read:

> For Generators operating in Start-Up or Shutdown Periods, or Testing Periods, and for Intermittent Power Resources that depend on wind as their fuel and Limited Control Run-of-River Hydro Resources, not bidding in a manner that indicates they are available to provide Regulation Service or Operating Reserves, that were in operation on or before November 18, 1999 within the NYCA, plus an additional 3,300 MW of such Resources~~.~~, and for Intermittent Power Resources that depend on solar energy or landfill gas for their fuel and that are not bidding in a manner that indicates they are available to provide Regulation Service or Operating Reserves, Compensable Overgeneration shall mean that quantity of Energy injected by a Generator, over a given RTD interval . . . .

In addition, the NYISO proposes to amend Section 3 of Rate Schedule 3-A of the Services Tariff to add Intermittent Power Resources that depend on landfill gas as their fuel to the list of Generators exempt from persistent undergeneration charges. Specifically, the NYISO proposes to: (1) add a new subsection (iv) to Section 3 of Rate Schedule 3-A, listing Intermittent Power Resources that depend on landfill gas as their fuel; (2) modify the phrase Intermittent Power Resource in subsection (iii); and (3) renumber the balance of Section 3.

b. Energy Settlements Clarification

The NYISO proposes to amend two provisions in the Services Tariff to require that facilities, eligible to be paid for all Energy produced regardless of their schedule, provide Energy offers for the hours in which they wish to be paid. The first is to additionally amend Services Tariff Section 2.23a, the definition of the term "Compensable Overgeneration," to require Suppliers to submit an Energy offer for an interval to be eligible for Compensable Overgeneration in that interval. Specifically, the NYISO proposes to add the underlined phrase to the opening sentence of Section 2.23a of the Services Tariff, the definition of Compensable Overgeneration:

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[9] Electric facilities offering their Energy using the ISO-Committed Flexible or Self-Committed Flexible bid type in an hour are indicating they are available to provide Regulation Service or Operating Reserves in that hour and are presumed to be able to follow basepoints. As a result, they are not settled as Intermittent Power Resources for that hour.

> A quantity of Energy injected over a given RTD interval in which it has offered Energy: i) by a Supplier; or ii) by an Intermittent Power Resource depending on wind as its fuel for which the ISO has imposed a Wind Output Limit after October 31, 2009 in the given RTD interval, that exceeds the Real-Time Scheduled Energy Injection established by the ISO for those Suppliers and for which those Suppliers may be paid pursuant to ISO Procedures...

As well, for facilities eligible to be paid for all Energy produced regardless of their schedule under the second paragraph of the definition of "Compensable Overgeneration," the NYISO also proposes to add the phrase "in which it has offered Energy" to the second paragraph of Section 2.23a, to indicate they must have submitted an Energy offer for an interval to be eligible for Compensable Overgeneration in that interval:

> For Generators operating in Start-Up or Shutdown Periods, or Testing Periods, and for Intermittent Power Resources not described in subsection 2.23a (ii) that depend on wind as their fuel and Limited Control Run of River Hydro Resources, not bidding in a manner that indicates they are available to provide Regulation Service or Operating Reserves, that were in operation on or before November 18, 1999 within the NYCA, plus an additional 3,300 MW of such Resources, and for Intermittent Power Resources that depend on solar energy or landfill gas for their fuel and that are not bidding in a manner that indicates they are available to provide Regulation Service or Operating Reserves.. Compensable Overgeneration shall mean that quantity of Energy injected by a Generator, over a given RTD interval in which it has offered Energy, that exceeds the Real-Time Scheduled Energy Injection established by the ISO for that Generator and for which the Generator may be paid pursuant to ISO Procedures.[10]

The NYISO is proposing to similarly indicate that Resources supplying Energy bilaterally pursuant to certain contracts entered into before the NYISO began operations and certain electric facilities that also supply steam to the Consolidated Edison steam system must have submitted an Energy offer before the NYISO's Energy market settlement rules will apply. Specifically, the NYISO is proposing to amend Section 4.5 of the Services Tariff, Real-Time Market Settlements, the settlement rules that apply to these two types of units, by adding the underlined phrase:

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[10] While this amendment captures Generators in Start-up, Shutdown and Testing modes, as well as Intermittent Power Resources, these units are independently required to submit an Energy offer to qualify for Compensable Overgeneration. *See* Services Tariff Sections 2.172a, 2.172d, 2.177c and Technical Bulletins 146 and 155.

> For the purposes of this section, the scheduled output of each of the following Generators in each RTD interval in which it has offered energy shall retroactively be set equal to its actual output in that RTD interval . . .
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> .

Amending both of these sections will ensure that all units for which the Tariff authorizes payment for all Energy produced will be required to submit Energy offers to be paid.

c. Correction to Previously Filed Tariff Revisions in Docket No. ER09-802-000

In its recent filing in Docket No. ER09-802-000 the NYISO proposed to amend Attachment B to the Services Tariff and Attachment J to the OATT to create new rules for establishing the Upper and Lower Dispatch Limits for Intermittent Power Resources that depend on wind as their fuel.[11] The NYISO inadvertently failed to include in that filing the phrase "depending on wind as their fuel" in the first new sentence of Section I.A.1.b.(i)(B) in both Attachment B of the Services Tariff and Attachment J of the OATT. The NYISO proposes to remedy that unintentional omission by submitting a new Tariff sheet containing the appropriate amendment to Section I.A.1.b.(i)(B) for both tariffs. This correction is ministerial in nature and does not change the substantive content of the filing in Docket No. ER09-802-000. Instead, it merely corrects an oversight with the potential to confuse the otherwise clear intent of the NYISO's proposed tariff revisions, and filing letter, in Docket No. ER09-802-000.

IV. Proposed Effective Dates

The NYISO requests an effective date of April 23, 2009, the day after this filing, for its proposed amendments to: (i) Services Tariff Section 2.77a, and OATT Section 1.14q.1, the term "Intermittent Power Resource," to add facilities that generate electricity from landfill gas to that term and to clarify it; (ii) Services Tariff Section 2.23a, the term "Compensable Overgeneration," to add landfill gas facilities to the term; and (iii) Services Tariff Rate Schedule 3-A, Section 3, to exempt facilities that generate electricity from landfill gas from persistent undergeneration penalties, in order to allow the NYISO to implement these new rules as quickly as possible. These provisions would allow the

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[11] The attached blacklined tariff sheets attached are marked to indicate the proposed tariff revisions contrasted against the most recent version of the tariff sheets being considered by the Commission. The NYISO respectfully requests waiver of 18 C.F.R. § 35.10(c) (2008) to the extent the blacklined tariff sheets deviate from the requirements of the Commission's regulations. The NYISO notes that some of the tariff sheets affected by this filing contain changes currently pending before the Commission. Specifically, several of the tariff sheets contain language from the NYISO's earlier filing proposing new rules for Intermittent Power Resources. See *Proposed Tariff Revisions to Enhance Operational Control of Wind Resources, Amend Settlement Rules Applicable to Them and Increase System Reliability*, Docket No. ER09-802-000 (March 5, 2009).

NYISO to pay these Resources for all Energy produced and to exempt them from persistent undergeneration penalties.

The NYISO requests an effective date of May 12, 2009 for the amendment to Section I.A.1.b.(i)(B) in both Attachment B of the Services Tariff and Attachment J of the OATT, the effective date for revisions proposed in Docket No. ER09-802-000.

The Commission has discretion to waive the sixty day notice period and make tariff revisions effective as soon as the day after a filing is made when "good cause" is shown.[12] Good cause for such a waiver exists in this proceeding because landfill gas units are currently subject to Services Tariff requirements that they cannot reasonably be expected to meet. It is appropriate to relieve them from those requirements as soon as possible. All NYISO stakeholders have already been on notice that the NYISO would make this filing at least as far back as the Management Committee's approval of the related tariff revisions on March 25, 2009. Finally, as is noted below, all of the NYISO's proposed tariff revisions enjoy unanimous stakeholder support.

Good cause for such a waiver also exists with regard to the NYISO's proposed amendment to Section I.A.1.b.(i)(B) in both Attachment B of the Services Tariff and Attachment J of the OATT to correct an inadvertent oversight in the tariff amendments proposed in Docket No. ER09-802-000. All NYISO stakeholders have been on notice that the NYISO would make this amendment at least as far back as the Management Committee's approval of the tariff revision on January 27, 2009.

The NYISO requests an effective date of July 1, 2009 for the proposed amendments to Services Tariff Sections 2.23a, the term "Compensable Overgeneration," and Section 4.5, Real-Time Market Settlements, to clarify that certain Generators are required to submit an Energy offer to be paid. This is the first of the month following the Commission's normal sixty-day notice period and the day on which the software implementing this new functionality will be effective.

V. Requisite Stakeholder Approval

These amendments were unanimously approved by the NYISO Management Committee on March 25, 2009 and, for the correction to Section I.A.1.b.(i)(B) of Attachment B to the Services Tariff and Attachment J to the OATT, on January 27, 2009.

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12 *See, e.g., California Independent System Operator Corp.*, 113 FERC ¶ 61,287 at PP 48-50 (2005); *Brownsville Power I, L.L.C.*, 111 FERC ¶ 61,398 at PP 11-13 (2005).

VI. Communications and Correspondence

All communications and service in this proceeding should be directed to:

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VII. Service

The NYISO will electronically send a link to this filing to the official representative of each of its customers, to each participant on its stakeholder committees, to the New York Public Service Commission, and to the electric utility regulatory agencies of New Jersey and Pennsylvania. In addition, the complete filing will be posted on the NYISO's website at www.nyiso.com. The NYISO will also make a paper copy available to any interested party that requests one. To the extent necessary, the NYISO requests waiver of the requirements of Section 35.2(d) of the Commission's Regulations (18 C.F.R. § 35.2(d) (2008)) to permit it to provide service in this manner.

VIII. Conclusion

Wherefore, for the foregoing reasons, the New York Independent System Operator, Inc. respectfully requests that the Commission accept for filing proposed tariff revisions that are attached hereto with an effective date of April 23, 2009 and other proposed revisions to have an effective date of May 12, 2009 and July 1, 2009.

Respectfully submitted,

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ATTACHMENT I

1.14j Independent System Operator, Inc. ("ISO"): The New York Independent System Operator, a not-for-profit corporation established pursuant to the ISO Agreement.

1.14k Independent System Operator Agreement ("ISO Agreement"): The agreement that establishes the New York ISO.

1.14l Independent System Operator/New York State Reliability Council ("ISO/NYSRC Agreement"): The agreement between the ISO and the New York State Reliability Council governing the relationship between the two organizations.

1.14m Independent System Operator/Transmission Owner Agreement ("ISO/TO Agreement"): The agreement that establishes the terms and conditions under which the Transmission Owners transferred to the ISO Operational Control over designated transmission facilities.

1.14n Installed Capacity: A Generator or Load facility that complies with the requirements in the Reliability Rules and is capable of supplying and/or reducing the demand for Energy in the NYCA for the purpose of ensuring that sufficient Energy and Capacity are available to meet the Reliability Rules. The Installed Capacity requirement, established by the NYSRC, includes a margin of reserve in accordance with the Reliability Rules.

1.14o Interconnection or Interconnection Points ("IP"): The point(s) at which the NYCA connects with a distribution system or adjacent Control Area. The IP may be a single tie line or several tie lines that are operated in parallel.

1.14p Interface: A defined set of transmission facilities that separate Load Zones and that separate the NYCA from adjacent Control Areas.

1.14q Interface MW - Mile Methodology: The procedure used to allocate Original Residual TCCs determined prior to the first Centralized TCC auction to Transmission Owners.

1.14q.1 Intermittent Power Resource: Capacity resources that depend upon wind, or solar energy or landfill gas for their fuel and that such dependence precludes accurate prediction of the facility's real-time output. Each Intermittent Power Resource that depends on wind as its fuel shall include all turbines metered at a single scheduling point identifier (PTID).

B. Upper and Lower Dispatch Limits for Intermittent Power Resources That Depend on Wind as Their Fuel

For the first time point and later time points for Intermittent Power Resources depending on wind as their fuel, the Lower Dispatch Limit shall be zero and the Upper Dispatch Limit shall be the Wind Energy Forecast for that Resource. For Intermittent Power Resources depending on wind as their fuel in commercial operation as of January 1, 2002 with a name plate capacity of 12 MWs or fewer, the Upper and Lower Dispatch Limits shall be the output level specified by the Wind Energy Forecast.

2.22 Code of Conduct

The rules, procedures and restrictions concerning the conduct of the ISO directors and employees, contained in Attachment F to the ISO Open Access Transmission Tariff.

2.23 Commission ("FERC")

The Federal Energy Regulatory Commission, or any successor agency.

2.23a Compensable Overgeneration

A quantity of Energy injected over a given RTD interval in which it has offered Energy: i) by a Supplier; or ii) by an Intermittent Power Resource depending on wind as its fuel for which the ISO has imposed a Wind Output Limit after October 31, 2009 in the given RTD interval, that exceeds the Real-Time Scheduled Energy Injection established by the ISO for that Supplier and for which the Supplier may be paid pursuant to ISO Procedures, provided that the excess Energy injection does not exceed the Supplier's Real-Time Scheduled Energy Injection over that interval, plus a tolerance. The tolerance shall initially be set at 3% of a given Supplier's Normal Upper Operating Limit and may be modified by the ISO if necessary to maintain good Control Performance.

For Generators operating in Start-Up or Shutdown Periods, or Testing Periods, and for Intermittent Power Resources not described in subsection 2.23a(ii) that depend on wind as their fuel and Limited Control Run of River Hydro Resources, not bidding in a manner that indicates they are available to provide Regulation Service or Operating Reserves, that were in operation on or before November 18, 1999 within the NYCA, plus an additional 3,300 MW of such

Resources, and for Intermittent Power Resources that depend on solar energy or landfill gas for their fuel and that are not bidding in a manner that indicates they are available to provide Regulation Service or Operating Reserves, Compensable Overgeneration shall mean that

quantity of Energy injected by a Generator, over a given RTD interval in which it has offered Energy, that exceeds the Real-Time Scheduled Energy Injection established by the ISO for that Generator and for which the Generator may be paid pursuant to ISO Procedures.

For a Generator comprised of a group of generating units at a single location, which grouped generating units are separately committed and dispatched by the ISO, and for which Energy injections are measured at a single location, Compensable Overgeneration shall mean that quantity of Energy injected by the Generator, during the period when one of its grouped generating units is operating in a Start-Up or Shutdown Period, that exceeds the Real-Time Scheduled Energy Injection established by the ISO for that period, for that Generator, and for which the Generator may be paid pursuant to ISO Procedures.

2.24 Completed Application

An Application that satisfies all of the information and other requirements for service under the ISO Services Tariff.

2.25 Confidential Information

Information and/or data that has been designated by a Customer to be proprietary and confidential, provided that such designation is consistent with the ISO Procedures, the ISO Services Tariff, and the ISO Code of Conduct.

2.26 Congestion

A characteristic of the transmission system produced by a constraint on the optimum economic operation of the power system, such that the marginal price of Energy to serve the next increment of Load, exclusive of losses, at different locations on the transmission system is unequal.

2.77 Interface MW - Mile Methodology

The procedure used to allocate Original Residual TCCs determined prior to the first Centralized TCC Auction to Transmission Owners.

2.77a Intermittent Power Resource

Capacity resources that depend upon wind, solar energy or landfill gas for their fuel and that such dependence precludes accurate prediction of the facility's real-time output. Each Intermittent Power Resource that depends on wind as its fuel shall include all turbines metered at a single scheduling point identifier (PTID).

basis, including Real-Time deviations from any Bilateral Transaction schedules, shall be subject to the Real-Time Market Settlement. Transmission Customers not taking service under this Tariff shall be subject to balancing charges as provided for under the ISO OATT. Settlements with External Suppliers or External Loads will be based upon hourly scheduled withdrawals or injections. Real-Time Market Settlements for injections by Resources supplying Regulation Service or Operating Reserves shall follow the rules which are described in Rate Schedules 3 and 4, respectively.

For the purposes of this section, the scheduled output of each of the following Generators in each RTD interval in which it has offered Energy shall retroactively be set equal to its actual output in that RTD interval:

(i) Generators providing Energy under contracts executed and effective on or before November 18, 1999 (including PURPA contracts) in which the power purchaser does not control the operation of the supply source but would be responsible for penalties for being off-schedule, with the exception of Generators under must-take PURPA contracts executed and effective on or before November 18, 1999 who have not provided telemetering to their local TO and historically have not been eligible to participate in the NYPP market, which will continue to be treated as TO Load modifiers under the ISO-administered markets;

(ii) Existing topping turbine Generators and extraction turbine Generators producing electric Energy resulting from the supply of steam to the district

applies to the interval for which Regulation Service was provided in the Real-Time Market, or, if appropriate, the Day-Ahead Market.

In cases in which the Energy Difference that would be calculated using the procedure described above is less than the tolerance set forth in the ISO Procedures, the ISO shall set the Energy Difference for that interval equal to zero.

3.0 Exemptions

The following types of Generator shall not be subject to persistent undergeneration charges, or, if they are restored by the ISO, to performance charges:

(i) Generators providing Energy under contracts (including PURPA contracts), executed and effective on or before November 18, 1999, in which the power purchaser does not control the operation of the supply source but would be responsible for payment of the persistent undergeneration or performance charge;

(ii) Existing topping turbine Generators and extraction turbine Generators producing electric Energy resulting from the supply of steam to the district steam system in operation on or before November 18, 1999 and/or topping or extraction turbine Generators utilized in replacing or repowering existing steam supplies from such units (in accordance with good engineering and economic design) that cannot follow schedules, up to a maximum total of 499 MW of such units;

(iii) Intermittent Power Resources that depend on wind as their fuel and Limited Control Run of River Hydro Resources within the NYCA in operation on or before November 18, 1999, plus up to an additional 3300 MW of such Generators;

(iv) Intermittent Power Resources that depend on landfill gas as their fuel;

(v) Capacity Limited Resources and Energy Limited Resources to the extent that their real-time Energy injections are equal to or greater than their bid-in upper operating limits but are less than their Real-Time Scheduled Energy Injections~~.~~;

(vi) Generators operating in their Start-Up Period or their Shutdown Period and, for Generators comprised of a group of generating units at a single location, which grouped generating units are separately committed and dispatched by the ISO, and for which Energy injections are measured at a single location, each of the grouped generating units when one of the grouped generating units is operating in its Start-Up or Shutdown Period; and

(vii) Generators operating during a Testing Period.

For Generators and Resources described in subsections (i), (ii), (iii), (iv) and (v) above, this exemption shall not apply in an hour if the Generator or Resource has bid in that hour as ISO-Committed Flexible or Self-Committed Flexible.

B. Upper and Lower Dispatch Limits for Intermittent Power Resources That Depend on Wind as Their Fuel

For the first time point and later time points for Intermittent Power Resources depending on wind as their fuel, the Lower Dispatch Limit shall be zero and the Upper Dispatch Limit shall be the Wind Energy Forecast for that Resource. For Intermittent Power Resources depending on wind as their fuel in commercial operation as of January 1, 2002 with a name plate capacity of 12 MWs or fewer, the Upper and Lower Dispatch Limits shall be the output level specified by the Wind Energy Forecast.

C. Setting Physical Basepoints for Fixed Generators

When setting physical base points for Self-Committed Fixed Generators in any time point, the ISO shall consider the feasibility of the Resource reaching the output levels that it specified in its self-commitment request for each time point in the RTD run given: (A) its metered output at the time that the run was initialized; and (B) its response rate.

When setting physical base points for ISO-Committed Fixed Generators in any time point, the ISO shall consider the feasibility of the Resource reaching the output levels scheduled for it by RTC for each time point in the RTD run given: (A) its metered output at the time that the run was initialized; and (B) its response rate.

The RTD Base Point Signals sent to Self-Committed Fixed Generators shall follow the quarter hour operating schedules that those Generators submitted in their real-time self-commitment requests.

ATTACHMENT II

1.14j Independent System Operator, Inc. ("ISO"): The New York Independent System Operator, a not-for-profit corporation established pursuant to the ISO Agreement.

1.14k Independent System Operator Agreement ("ISO Agreement"): The agreement that establishes the New York ISO.

1.14l Independent System Operator/New York State Reliability Council ("ISO/NYSRC Agreement"): The agreement between the ISO and the New York State Reliability Council governing the relationship between the two organizations.

1.14m Independent System Operator/Transmission Owner Agreement ("ISO/TO Agreement"): The agreement that establishes the terms and conditions under which the Transmission Owners transferred to the ISO Operational Control over designated transmission facilities.

1.14n Installed Capacity: A Generator or Load facility that complies with the requirements in the Reliability Rules and is capable of supplying and/or reducing the demand for Energy in the NYCA for the purpose of ensuring that sufficient Energy and Capacity are available to meet the Reliability Rules. The Installed Capacity requirement, established by the NYSRC, includes a margin of reserve in accordance with the Reliability Rules.

1.14o Interconnection or Interconnection Points ("IP"): The point(s) at which the NYCA connects with a distribution system or adjacent Control Area. The IP may be a single tie line or several tie lines that are operated in parallel.

1.14p Interface: A defined set of transmission facilities that separate Load Zones and that separate the NYCA from adjacent Control Areas.

1.14q Interface MW - Mile Methodology: The procedure used to allocate Original Residual TCCs determined prior to the first Centralized TCC auction to Transmission Owners.

1.14q.1 Intermittent Power Resource: Capacity resources that depend upon wind, or solar energy or landfill gas for their fuel and that such dependence precludes accurate prediction of the facility's real-time output. Each Intermittent Power Resource that depends on wind as its fuel shall include all turbines metered at a single scheduling point identifier (PTID).

B. Upper and Lower Dispatch Limits for Intermittent Power Resources That Depend on Wind as Their Fuel

For the first time point and later time points for Intermittent Power Resources depending on wind as their fuel, the Lower Dispatch Limit shall be zero and the Upper Dispatch Limit shall be the Wind Energy Forecast for that Resource. For Intermittent Power Resources depending on wind as their fuel in commercial operation as of January 1, 2002 with a name plate capacity of 12 MWs or fewer, the Upper and Lower Dispatch Limits shall be the output level specified by the Wind Energy Forecast.

2.22 Code of Conduct

The rules, procedures and restrictions concerning the conduct of the ISO directors and employees, contained in Attachment F to the ISO Open Access Transmission Tariff.

2.23 Commission ("FERC")

The Federal Energy Regulatory Commission, or any successor agency.

2.23a Compensable Overgeneration

A quantity of Energy injected over a given RTD interval in which it has offered Energy: i) by a Supplier; or ii) by an Intermittent Power Resource depending on wind as its fuel for which the ISO has imposed a Wind Output Limit after October 31, 2009 in the given RTD interval, that exceeds the Real-Time Scheduled Energy Injection established by the ISO for that Supplier and for which the Supplier may be paid pursuant to ISO Procedures, provided that the excess Energy injection does not exceed the Supplier's Real-Time Scheduled Energy Injection over that interval, plus a tolerance. The tolerance shall initially be set at 3% of a given Supplier's Normal Upper Operating Limit and may be modified by the ISO if necessary to maintain good Control Performance.

For Generators operating in Start-Up or Shutdown Periods, or Testing Periods, and for Intermittent Power Resources not described in subsection 2.23a(ii) that depend on wind as their fuel and Limited Control Run of River Hydro Resources, not bidding in a manner that indicates they are available to provide Regulation Service or Operating Reserves, that were in operation on or before November 18, 1999 within the NYCA, plus an additional 3,300 MW of such

Resources~~.~~, and for Intermittent Power Resources that depend on solar energy or landfill gas for their fuel and that are not bidding in a manner that indicates they are available to provide Regulation Service or Operating Reserves. Compensable Overgeneration shall mean that

quantity of Energy injected by a Generator, over a given RTD interval in which it has offered Energy, that exceeds the Real-Time Scheduled Energy Injection established by the ISO for that Generator and for which the Generator may be paid pursuant to ISO Procedures.

For a Generator comprised of a group of generating units at a single location, which grouped generating units are separately committed and dispatched by the ISO, and for which Energy injections are measured at a single location, Compensable Overgeneration shall mean that quantity of Energy injected by the Generator, during the period when one of its grouped generating units is operating in a Start-Up or Shutdown Period, that exceeds the Real-Time Scheduled Energy Injection established by the ISO for that period, for that Generator, and for which the Generator may be paid pursuant to ISO Procedures.

2.24 Completed Application

An Application that satisfies all of the information and other requirements for service under the ISO Services Tariff.

2.25 Confidential Information

Information and/or data that has been designated by a Customer to be proprietary and confidential, provided that such designation is consistent with the ISO Procedures, the ISO Services Tariff, and the ISO Code of Conduct.

2.26 Congestion

A characteristic of the transmission system produced by a constraint on the optimum economic operation of the power system, such that the marginal price of Energy to serve the next increment of Load, exclusive of losses, at different locations on the transmission system is unequal.

2.77 Interface MW - Mile Methodology

The procedure used to allocate Original Residual TCCs determined prior to the first Centralized TCC Auction to Transmission Owners.

2.77a Intermittent Power Resource

Capacity resources that depend upon wind, ~~or~~ solar energy or landfill gas for their fuel and that such dependence precludes accurate prediction of the facility's real-time output. Each Intermittent Power Resource that depends on wind as its fuel shall include all turbines metered at a single scheduling point identifier (PTID).

basis, including Real-Time deviations from any Bilateral Transaction schedules, shall be subject to the Real-Time Market Settlement. Transmission Customers not taking service under this Tariff shall be subject to balancing charges as provided for under the ISO OATT. Settlements with External Suppliers or External Loads will be based upon hourly scheduled withdrawals or injections. Real-Time Market Settlements for injections by Resources supplying Regulation Service or Operating Reserves shall follow the rules which are described in Rate Schedules 3 and 4, respectively.

For the purposes of this section, the scheduled output of each of the following Generators in each RTD interval in which it has offered Energy shall retroactively be set equal to its actual output in that RTD interval:

(i) Generators providing Energy under contracts executed and effective on or before November 18, 1999 (including PURPA contracts) in which the power purchaser does not control the operation of the supply source but would be responsible for penalties for being off-schedule, with the exception of Generators under must-take PURPA contracts executed and effective on or before November 18, 1999 who have not provided telemetering to their local TO and historically have not been eligible to participate in the NYPP market, which will continue to be treated as TO Load modifiers under the ISO-administered markets;

(ii) Existing topping turbine Generators and extraction turbine Generators producing electric Energy resulting from the supply of steam to the district

applies to the interval for which Regulation Service was provided in the Real-Time Market, or, if appropriate, the Day-Ahead Market.

In cases in which the Energy Difference that would be calculated using the procedure described above is less than the tolerance set forth in the ISO Procedures, the ISO shall set the Energy Difference for that interval equal to zero.

3.0 Exemptions

The following types of Generator shall not be subject to persistent undergeneration charges, or, if they are restored by the ISO, to performance charges:

(i) Generators providing Energy under contracts (including PURPA contracts), executed and effective on or before November 18, 1999, in which the power purchaser does not control the operation of the supply source but would be responsible for payment of the persistent undergeneration or performance charge;

(ii) Existing topping turbine Generators and extraction turbine Generators producing electric Energy resulting from the supply of steam to the district steam system in operation on or before November 18, 1999 and/or topping or extraction turbine Generators utilized in replacing or repowering existing steam supplies from such units (in accordance with good engineering and economic design) that cannot follow schedules, up to a maximum total of 499 MW of such units;

(iii) Intermittent Power Resources that depend on wind as their fuel and Limited Control Run of River Hydro Resources within the NYCA in operation on or before November 18, 1999, plus up to an additional 3300 MW of such Generators;

(iv) Intermittent Power Resources that depend on landfill gas as their fuel;

(~~i~~v) Capacity Limited Resources and Energy Limited Resources to the extent that their real-time Energy injections are equal to or greater than their bid-in upper operating limits but are less than their Real-Time Scheduled Energy Injections~~.~~;

(v~~i~~i) Generators operating in their Start-Up Period or their Shutdown Period and, for Generators comprised of a group of generating units at a single location, which grouped generating units are separately committed and dispatched by the ISO, and for which Energy injections are measured at a single location, each of the grouped generating units when one of the grouped generating units is operating in its Start-Up or Shutdown Period; and

(vi~~i~~i) Generators operating during a Testing Period.

For Generators and Resources described in subsections (i), (ii), (iii)~~,~~ ~~and~~ (iv) and (v) above, this exemption shall not apply in an hour if the Generator or Resource has bid in that hour as ISO-Committed Flexible or Self-Committed Flexible.

B. Upper and Lower Dispatch Limits for Intermittent Power Resources That Depend on Wind as Their Fuel

For the first time point and later time points for Intermittent Power Resources depending on wind as their fuel, the Lower Dispatch Limit shall be zero and the Upper Dispatch Limit shall be the Wind Energy Forecast for that Resource. For Intermittent Power Resources depending on wind as their fuel in commercial operation as of January 1, 2002 with a name plate capacity of 12 MWs or fewer, the Upper and Lower Dispatch Limits shall be the output level specified by the Wind Energy Forecast.

C. Setting Physical Basepoints for Fixed Generators

When setting physical base points for Self-Committed Fixed Generators in any time point, the ISO shall consider the feasibility of the Resource reaching the output levels that it specified in its self-commitment request for each time point in the RTD run given: (A) its metered output at the time that the run was initialized; and (B) its response rate.

When setting physical base points for ISO-Committed Fixed Generators in any time point, the ISO shall consider the feasibility of the Resource reaching the output levels scheduled for it by RTC for each time point in the RTD run given: (A) its metered output at the time that the run was initialized; and (B) its response rate.

The RTD Base Point Signals sent to Self-Committed Fixed Generators shall follow the quarter hour operating schedules that those Generators submitted in their real-time self-commitment requests.