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FEDERAL ENERGY  
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April 17, 2008

**By Hand**

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street N.E.  
Washington, D.C. 20426

**Re: New York Independent System Operator, Inc.'s Proposed Expedited  
Dispute Resolution Process For Unresolved Customer Settlement  
Challenges; Docket No. ER08-842-000**

Dear Ms. Bose:

Pursuant to Section 205 of the Federal Power Act,<sup>1</sup> the New York Independent System Operator, Inc. ("NYISO") hereby submits revisions to its Open Access Transmission Tariff ("OATT") and its Market Administration and Control Area Services Tariff ("Services Tariff") to establish an expedited third-party dispute resolution process to address unresolved disputes arising out of a customer's review of the settlement information in its monthly settlement invoice.<sup>2</sup> The revisions proposed in this filing will ensure that the NYISO and its customers can address such unresolved customer settlement challenges within a timeframe that is consistent with the settlement review timelines established in the NYISO tariffs.

The NYISO recently revised its tariffs to shorten the process by which the NYISO and its customers review, challenge, and correct the settlement information in customers' monthly settlement invoices. At the conclusion of this process, the NYISO tariffs require that it issue a finalized invoice that cannot be modified by any party, including the NYISO, absent an order by the Commission or a court of competent jurisdiction. The NYISO tariffs also establish dispute resolution procedures that are generally applicable to disputes arising under the NYISO tariffs. However, the time required to conduct a dispute resolution proceeding in accordance

<sup>1</sup> 16 U.S.C. § 824d (2000).

<sup>2</sup> Capitalized terms that are not otherwise defined herein shall have the meanings specified in Article 2 of the Services Tariff and Article 1.0 of the OATT.



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with these general provisions is inconsistent with the revised timelines for the review, challenge, correction, and finalization of customer settlement invoices. Specifically, it would not be possible to complete a dispute resolution proceeding related to a customer settlement dispute under the existing, generally-applicable dispute resolution provisions before the NYISO is required by its tariffs to issue a finalized customer invoice. Therefore, the existing dispute resolution provisions are not adequate for this purpose.

The NYISO and its stakeholders have, therefore, developed an expedited dispute resolution process specific to customer settlement disputes, which is structured to last no longer than three months. A customer that has exhausted its opportunities under the ordinary settlement review process and is still not satisfied with the resolution of a disputed settlement may seek to initiate this expedited process to resolve the issue with the aid of a neutral third party. The results of the proposed process are non-binding, and the disputing parties are free to seek redress from the Commission.

#### **I. List of Documents Submitted**

The NYISO submits the following documents:

1. This filing letter;
2. A clean version of the proposed revisions to the Services Tariff (Attachment I);
3. A blacklined version of the proposed revisions to the Services Tariff (Attachment II);
4. A clean version of the proposed revisions to the OATT (Attachment III); and
5. A blacklined version of the proposed revisions to the OATT (Attachment IV).



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## II. Copies of Correspondence

Copies of correspondence concerning this filing should be served on:

Robert E. Fernandez, General Counsel  
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\* -- Persons designated for service.

## III. Service List

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](http://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) (2006)) to permit it to provide service in this manner.

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<sup>3</sup> The NYISO respectfully requests waiver of 18 C.F.R. § 385.203(b)(3) (2006) to permit service on counsel for the NYISO in both Washington, D.C. and Richmond, Virginia.



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#### IV. Background

The NYISO recently revised Article 7 of its Services Tariff and Article 7 of its OATT to shorten the time period for the NYISO and its customers to review, challenge, correct, and finalize customer settlement invoices from approximately twenty-two months to approximately twelve months.<sup>4</sup> Under the revised process, the NYISO and its customers have seven months to review and challenge settlement information for a given service month, with the exception of load and meter data, which is reviewed and finalized at an earlier stage of the settlement review process.<sup>5</sup> The NYISO then has two months to review and to make a final determination regarding customer challenges and any resulting corrections.<sup>6</sup> Finally, customers have a twenty-five day comment period to review any corrections made by the NYISO to make certain that they were implemented correctly.<sup>7</sup> At the conclusion of the settlement review process, the NYISO issues a finalized invoice, which cannot be modified by any party, including the NYISO, absent an order by the Commission or a court of competent jurisdiction.<sup>8</sup>

The NYISO's existing dispute resolution process is incompatible with the timelines of the current settlement review process. A dispute resolution proceeding conducted pursuant to the generally-applicable dispute resolution procedures in the NYISO's tariffs may take up to a year or more to conduct. Under the current settlement review process, the NYISO typically makes final determinations regarding remaining customer challenges to settlement information shortly before it is required by its tariffs to issue finalized customer invoices for the service month in question. Therefore, under the existing dispute resolution procedures, a dispute resolution proceeding initiated at this late stage by a customer that is not satisfied with the outcome of its settlement challenge could postpone the issuance of finalized customer invoices for the affected service month by a year or more. As a result, special expedited dispute resolution procedures are required to address this type of dispute.

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<sup>4</sup> See *New York Independent System Operator, Inc.'s Proposed Tariff Revisions Regarding the Review, Challenge, and Correction of Customer Settlement Information*, Docket No. ER06-783-000 (March 24, 2006) ("March 24 Filing"); *New York Independent System Operator Inc.'s Proposed Tariff Revisions Regarding the Shortening of the NYISO's Customer Settlement Cycle*, Docket No. ER07-156-000 (November 2, 2006).

<sup>5</sup> Services Tariff § 7.4.2.A; OATT § 7.2A.2a.

<sup>6</sup> Services Tariff § 7.4.2.B; OATT § 7.2A.2b. This two month period can be extended by an additional four months in extraordinary circumstances.

<sup>7</sup> *Id.* If a customer identifies an error in the NYISO's implementation of a correction, the NYISO will correct the error and re-post the invoice for one additional twenty-five day period. *Id.*

<sup>8</sup> Services Tariff §§ 7.4 and 7.4.2.B; OATT §§ 7.2A and 7.2A.2b.



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In its March 24, 2006, filing in which the NYISO initially proposed shortening its settlement review process, the NYISO informed the Commission that it was also working with its stakeholders to develop an expedited dispute resolution process that would be consistent with the timelines of the shortened settlement review process.<sup>9</sup> The NYISO and its stakeholders have since completed the development of an expedited dispute resolution process for unresolved customer settlement challenges. This process will allow a customer whose settlement challenge has not been resolved to its satisfaction in the ordinary settlement review process the opportunity to seek to resolve the dispute with the aid of a third party neutral before the NYISO is required by its tariffs to issue a finalized customer settlement invoice. Without this revision, the NYISO would be required to finalize the customer invoice prior to the resolution of the dispute, and the customer's only option will be to seek redress from the Commission or a court of competent jurisdiction. The proposed process and provisions are described below.

## **V. Description of Proposed Revisions**

The NYISO proposes to establish a new Section 7.4.4 in its Services Tariff and a new Section 7.2A.4 in its OATT to provide for an expedited dispute resolution process for unresolved customer settlement challenges, as described below.

### **A. Applicability**

The proposed expedited dispute resolution procedures will be the only formal dispute resolution procedures applicable to disputes arising out of the settlement review process.<sup>10</sup> This will not, however, limit the NYISO or its customers' ability to seek redress from the Commission under the Federal Power Act.

A customer may only request dispute resolution if it has previously presented a settlement challenge to the NYISO regarding the disputed issue and has received a written final determination by the NYISO regarding its challenge.<sup>11</sup> This requirement ensures that a customer will fully avail itself of the settlement review, challenge, and correction procedures already available through the ordinary settlement review process prior to seeking to initiate a

<sup>9</sup> See March 24 Filing at 4-5; see also 116 FERC ¶61,029 (July 12, 2006) at 6.

<sup>10</sup> Note that a customer's load and meter data are reviewed and finalized at an early stage in the settlement review process and are not subject to formal dispute resolution under the NYISO's tariffs.

<sup>11</sup> The customer's challenge must have been presented in accordance with the requirements of Section 7.4.2.A of the Services Tariff and Section 7.2A.2a of the OATT.



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dispute resolution proceeding that would consume substantial additional resources. Similarly, the scope of a dispute resolution proceeding conducted pursuant to the proposed provisions will be limited to the subject matter of the customer's previous settlement challenge. Separate customer requests for dispute resolution in connection with the same issue for the same service month(s) may be consolidated to ensure that the dispute is resolved in a consistent manner.

#### **B. Customer Request for Expedited Dispute Resolution**

A customer seeking dispute resolution regarding an unresolved settlement challenge must submit a written request to the NYISO Chief Financial Officer within eleven (11) business days from the date that the NYISO issues a final determination regarding the customer's settlement challenge. The customer's written request must contain the following: (i) the name of the customer making the request, (ii) an indication of other potentially affected parties, to the extent known, (iii) an estimate of the amount in controversy, (iv) a description of the subject matter of the claim with sufficient detail to enable the NYISO to determine whether the claim falls within the scope of an earlier challenge, (v) copies of settlement challenge materials previously submitted to the NYISO, and (vi) citations from the NYISO Tariffs and other materials upon which the customer's complaint relies.

The NYISO Chief Financial Officer will acknowledge receipt of the customer's request, and the NYISO will review the request to determine whether it believes that dispute resolution is likely to resolve the issue. If the NYISO accepts the request, it will promptly inform both the initiating customer and all other NYISO customers of its acceptance of dispute resolution through the usual means of communication regarding customer settlements. The NYISO will also provide written notice to a requesting customer if the NYISO declines to accept the customer's request.

If the NYISO accepts a request to initiate a dispute resolution proceeding prior to the start of the twenty-five day customer comment period for the affected service month(s), the NYISO will not start the customer comment period for the affected service month(s) until the conclusion of the dispute resolution proceeding. If the twenty-five day customer comment period has already begun, the NYISO will suspend the comment period until the conclusion of the dispute resolution proceeding, make any necessary corrections to customer settlement invoices, and re-start the twenty-five day customer comment period.



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### **C. Participation by Other Interested Customers**

Any customer whose rights and interests may be materially affected by the outcome of the dispute resolution may request to join the dispute resolution process; *provided, however*, that a customer seeking or supporting a change to the NYISO's determination regarding a customer settlement challenge must have previously raised the issue in a settlement challenge in accordance with the NYISO tariffs.<sup>12</sup> Such an interested customer will have eleven (11) business days following the issuance by the NYISO of notice of the dispute resolution proceeding to submit a written request to the NYISO Chief Financial Officer requesting the opportunity to participate in the dispute resolution proceeding. The written request must meet the same requirements as the initiating customer's written request. If the NYISO determines that the customer has met these requirements, it will accept the customer's request to participate in the dispute resolution proceeding.

### **D. Selection of a Neutral**

As soon as reasonably possible following the NYISO's acceptance of a customer's request for dispute resolution, the NYISO will appoint a neutral to preside over the dispute resolution proceeding by randomly selecting from a list (i) provided to the NYISO by the American Arbitration Association or (ii) developed by the NYISO with input from the appropriate stakeholder committee. The neutral will, to the extent possible, be knowledgeable in electric utility matters and shall not be affiliated with the NYISO or its customers.

### **E. The Expedited Dispute Resolution Proceeding**

Within five (5) business days of appointment, the neutral will schedule an initial meeting of the disputing parties. Except as otherwise limited by the proposed provisions, the neutral will have discretion over the conduct of the dispute resolution process including, but not limited to: (i) requiring the disputing parties to meet for discussion, (ii) allowing or requiring written submissions, (iii) establishing guidelines for such written submissions, and (iv) allowing the participation of customers that have requested an opportunity to be heard.

Within sixty (60) days following the date on which the neutral was appointed, if the dispute has not been resolved, the neutral will provide the disputing parties with a written,

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<sup>12</sup> Similar to the prerequisite for initiating an expedited dispute resolution proceeding, this requirement ensures that customers fully avail themselves of the established process for review, challenge, and correction of customer settlements before they are permitted to participate in such a proceeding.



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confidential, and non-binding recommendation for resolving the dispute. The disputing parties will then be required to meet in a good faith effort to resolve the dispute. If the disputing parties cannot resolve the dispute within ten (10) days of the receipt of the neutral's recommendation, the dispute resolution process will be concluded.<sup>13</sup>

#### **F. Allocation of Costs**

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

#### **G. Miscellaneous Revisions**

The NYISO proposes to remove interim provisions in Section 7.4.2.B of the Services Tariff and Section 7.2A.2b of the OATT that provide that a customer's initiation of a dispute resolution proceeding constitutes "extraordinary circumstances," which requires a four-month extension to the two month period in which the NYISO reviews customer settlement challenges. The intent of this interim measure was to provide additional time for the NYISO's current dispute resolution provisions to function along with the expedited settlement review process.<sup>14</sup> With the introduction of an expedited dispute resolution process for customer settlement issues, this interim measure is no longer necessary.

The NYISO also proposes to revise Article 11 of the Services Tariff, Article 12 of the OATT, and the defined term "Expedited Dispute Resolution Procedures" to establish that the expedited dispute resolution provisions described herein are the only formal dispute resolution provisions applicable to customer settlement disputes.

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<sup>13</sup> Neither the recommendation of the neutral nor statements or submissions made by the neutral or any parties or their representatives shall be admissible for any purpose in any other proceeding.

<sup>14</sup> See *Motion for Leave to Submit Compliance Filing One Day Out of Time and Compliance Filing of the New York Independent System Operator, Inc. in Docket Nos. ER06-783-1100, et al.*, Docket No. ER06-783-000 (August 14, 2006). The additional four-month period was intended only as an interim measure and would not necessarily provide sufficient time for the NYISO and its customers to address unresolved customer settlement challenges under the NYISO's general dispute resolution procedures.





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**VI. Effective Date**

The NYISO respectfully requests that this filing become effective sixty-one (61) days after the date of this filing.

**VII. Requisite Stakeholder Approval**

The tariff revisions proposed in this filing were the product of extensive discussions with stakeholders in the NYISO's Billing and Accounting Working Group. The revisions were approved at the NYISO's Business Issues Committee meeting on August 8, 2007, and at the NYISO's Management Committee meeting on August 29, 2007. On September 18, 2007, the NYISO's Board of Directors approved a motion directing the NYISO to file the proposed tariff revisions approved by the Management Committee.

**VIII. Conclusion**

WHEREFORE, for the foregoing reasons, the New York Independent System Operator, Inc. respectfully requests that the Commission accept the proposed tariff changes identified in this filing.

Respectfully submitted,

A handwritten signature in black ink that reads 'Ted J. Murphy' with a stylized flourish at the end.

Ted J. Murphy  
Counsel for  
New York Independent System Operator, Inc.

cc: Shelton M. Cannon  
Larry Gasteiger  
Connie Caldwell  
Michael A. Bardee  
Kathleen E. Nieman  
Lance Hinrichs

# **ATTACHMENT I**

## **2.52 Existing Transmission Agreement (“ETA”)**

An agreement between two or more Transmission Owners, or between a Transmission Owner and another entity, as defined in the ISO Agreement and the ISO OATT.

### **2.52.1 Expected Load Reduction**

For purposes of determining the Real-Time Locational Based Marginal Price, the reduction in Load expected to be realized in real-time from activation of the Emergency Demand Response Program and from Load reductions requested from Special Case Resources, as established pursuant to ISO Procedures.

### **2.52a Expedited Dispute Resolution Procedures**

The dispute resolution procedures applicable to disputes arising out of the Installed Capacity provisions of this Tariff (as set forth in Section 5.16) and the Customer Settlements provisions of this Tariff (as set forth in Section 7.4.4).

## **2.53 Exports**

A Bilateral Transaction or purchases from the LBMP Market where the Energy is delivered to an NYCA Interconnection with another Control Area.

## **2.54 External**

An entity (e.g., Supplier, Transmission Customer) or facility (e.g., Generator, Interface) located outside the Control Area being referenced or between two or more Control Areas. Where a specific Control Area is not referenced, the NYCA is the intended reference.

## **2.55 External Transactions**

Purchases, sales or exchanges of Energy, Capacity or Ancillary Services for which either the Point of Injection (“POI”) or Point of Withdrawal (“POW”) or both are located outside the NYCA (i.e., Exports, Imports or Wheels Through).

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basis for the Customer's challenge, and (iv) include supporting documentation, if applicable.

The ISO shall notify all Customers of errors identified and the details of corrections or adjustments made pursuant to this Section 7.4.2.A.

#### **7.4.2.B Review and Correction of Challenged Invoices**

The ISO shall evaluate a settlement challenge as soon as possible within two (2) months following the conclusion of the challenge period specified in Section 7.4.2.A; *provided, however*, the ISO may, upon notice to Customers within this time of extraordinary circumstances requiring a longer evaluation period, take up to six (6) months to evaluate a settlement challenge. The ISO shall not be limited to the scope of Customer challenges in its review of a challenged invoice and may, at its discretion, review and correct any other elements and intervals of a challenged invoice, except load and meter data as specified in 7.4.2.A. Corrections to a challenged invoice shall be applied to all Customers that were or should have been affected by the original settlement and shall not be limited to the Customer challenging the invoice; *provided, however*, that the ISO may recover *de minimis* amounts or amounts that the ISO is unable to collect from individual Customers through Rate Schedule 1 of the Services Tariff.

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Upon completing its evaluation, the ISO shall provide written notice to the challenging Customer of the ISO's final determination regarding the Customer's settlement challenge. If the ISO determines that corrections or adjustments to a challenged invoice are necessary and can quantify them with reasonable certainty, the ISO shall provide all Customers with the details of the corrections or adjustments within the timeframe established in this Section 7.4.2.B. The ISO shall then provide a period of twenty-five (25) days for Customers to review the corrected settlement information and provide comments to the ISO regarding the implementation of those corrections or adjustments; *provided, however*, that in the event of a dispute resolution proceeding conducted in accordance with Section 7.4.4 of this Tariff, this twenty-five (25) day period shall not start or, if it has already started, shall be suspended until the conclusion of the dispute resolution proceeding. Following the conclusion of the dispute resolution proceeding, the ISO shall make any corrections to Customers' settlement invoices that it determines to be necessary and shall then start or re-start the twenty-five (25) day Customer comment period.

If no errors in the implementation of corrections or adjustments are identified during the twenty-five (25) day Customer comment period, the ISO shall issue a finalized close-out Settlement ("Close-Out Settlement"), clearly identified as such, in the next regular monthly billing invoice. If an error in the implementation of a correction or adjustment is identified during the twenty-five (25) day Customer comment period, the ISO shall make such further

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corrections as are necessary to address the error and shall then provide one additional period of twenty-five (25) days for Customers to review and comment on the implementation of those further corrections. The ISO shall then make any final corrections that are necessary and shall issue a finalized Close-Out Settlement in the next regular monthly billing invoice.

**7.4.3 Settlement Information Not Subject to These Provisions**

The provisions of this Section 7.4 shall not apply to settlements calculated pursuant to Sections 2.4 and 2.5 of Attachment N of the ISO OATT nor Sections 2.4 and 2.5 of Part V of Attachment B of the ISO Services Tariff. The NYISO shall make a filing with the

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Commission regarding the timing for correcting and finalizing settlements calculated pursuant to these provisions and shall correct and finalize those settlements on the schedule directed by the Commission.

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

##### **7.4.4.A Applicability of Expedited Dispute Resolution Procedures**

This Section 7.4.4 establishes expedited dispute resolution procedures applicable to address any dispute between a Customer and the ISO regarding a Customer settlement that was not resolved in the ordinary settlement review, challenge, and correction process; *provided, however,* that nothing herein shall restrict a Customer or the ISO from seeking redress from the Commission in accordance with the Federal Power Act.

A Customer may request expedited dispute resolution if it has previously presented a settlement challenge consistent with the requirements of Section 7.4.2.A of this Tariff and has received from the ISO a final, written determination regarding the settlement challenge pursuant to Section 7.4.2.B of this Tariff. The scope of an expedited dispute resolution proceeding shall be limited to the subject matter of the Customer's prior settlement challenge. Customer challenges regarding Generator, tie-line, and LSE bus metering data shall not be eligible for formal dispute resolution proceedings under this Tariff. To ensure consistent treatment of disputes, separate requests for expedited dispute resolution regarding the same issue and the same service month or months may be resolved on a consolidated basis, consistent with applicable confidentiality requirements.

#### **7.4.4.B Initiation of Expedited Dispute Resolution Proceeding**

To initiate an expedited dispute resolution proceeding, a Customer shall submit a written request to the ISO Chief Financial Officer within eleven (11) business days from the date that the ISO issues a final, written determination regarding a Customer settlement challenge pursuant to Section 7.4.2.B of this Tariff. A Customer's written request for expedited dispute resolution shall contain: (i) the name of the Customer making the request, (ii) an indication of other potentially affected parties, to the extent known, (iii) an estimate of the amount in controversy, (iv) a description of the Customer's claim with sufficient detail to enable the ISO to determine whether the claim is within the subject matter of a settlement challenge previously submitted by the Customer, (v) copies of the settlement challenge materials previously submitted by the Customer to the ISO, and (vi) citations to the ISO's Tariffs and other relevant materials upon which the Customer's settlement challenge relies.

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

#### **7.4.4.C Participation by Other Interested Customers**

Any Customer with rights or interests that would be materially affected by the outcome of an expedited dispute resolution proceeding may participate; *provided, however*, that a



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Customer seeking or supporting a change to the NYISO's determination regarding a Customer settlement challenge must have previously raised the issue in a settlement challenge consistent with the requirements of Section 7.4.2.A of this Tariff. To participate, such Customer shall submit to the ISO Chief Financial Officer a written request to participate that meets the requirements for an initiating request for expedited dispute resolution within eleven (11) business days from the date that the ISO issues notice of the expedited dispute resolution proceeding. If the ISO determines that the Customer has met the requirements of this Section 7.4.4.C, the ISO will accept the Customer's request to participate in the dispute resolution proceeding.

#### **7.4.4.D Selection of a Neutral**

As soon as reasonably possible following the ISO's acceptance of a Customer's request for expedited dispute resolution under Section 7.4.4.B, the ISO shall appoint a neutral to preside over the proceeding by randomly selecting from a list (i) provided to the ISO by the American Arbitration Association or (ii) developed by the ISO with input from the appropriate stakeholder committee, until an available neutral is found. To the extent possible, the neutral shall be knowledgeable in electric utility matters, including electric transmission and bulk power issues and the financial settlement of electric markets.

No person shall be eligible to act as a neutral who is a past or present officer, employee, or consultant to any of the disputing parties, or of an entity related to or affiliated with any of the disputing parties, or is otherwise interested in the matter in dispute except upon the express

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written consent of the parties. Any individual appointed as a neutral shall make known to the disputing parties any such disqualifying relationship or interest and a new neutral shall be appointed, unless express written consent is provided by each party.

#### **7.4.4.E Conduct of the Expedited Dispute Resolution Proceeding**

The neutral shall schedule the initial meeting of the disputing parties within five (5) business days of appointment. Except as otherwise provided in this Section 7.4.4, the neutral shall have discretion over the conduct of the dispute resolution process including, but not limited to: (i) requiring the disputing parties to meet for discussion, (ii) allowing or requiring written submissions, (iii) establishing guidelines for such written submissions, and (iv) allowing the participation of Customers that have requested an opportunity to be heard.

Within sixty (60) days of the appointment of the neutral, if the dispute has not been resolved, the neutral shall provide the disputing parties with a written, confidential, and non-binding recommendation for resolving the dispute. The disputing parties shall then meet in an attempt to resolve the dispute in light of the neutral's recommendation. If the disputing parties have not resolved the dispute within ten (10) days of receipt of the neutral's recommendation, the dispute resolution process will be concluded.

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

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**7.4.4.F Allocation of Costs**

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

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twelve (12) months after the Application was rejected; and (iii) any other records associated with service under the ISO Services Tariff that are not listed above shall be maintained for twelve (12) months after the date of termination of the service.

## **ARTICLE 11**

### **DISPUTE RESOLUTION PROCEDURES**

#### **11.0 Applicability of Dispute Resolution Provisions**

The dispute resolution provisions in this Article 11 shall apply to any dispute arising under this Tariff with the exception of those disputes subject to Expedited Dispute Resolution Procedures.

#### **11.1 Internal Dispute Resolution Procedures**

Any dispute between or among Customers and/or the ISO involving service under the ISO Services Tariff (excluding applications for rate changes or other changes to the Tariff), ISO Procedures or to any Service Agreement entered into under the Tariff shall be presented directly to a senior representative of each party to the dispute for resolution on an informal basis as promptly as practicable.

If the designated representatives are unable to resolve the dispute within thirty (30) days by mutual agreement, the dispute may be submitted to the ISO's Dispute Resolution Administrator ("DRA"). The party submitting the matter to the DRA shall include a written statement describing the nature of the dispute and the issues to be resolved. Any subsequent mediation or arbitration process shall be limited to the issues presented for resolution.

The DRA may submit disputes to non-binding, mediation where the subject matter of the dispute involves the proposed change or modification of a rule, rate, Service Agreement or ISO

## **ATTACHMENT II**

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~~Third-Fourth~~ Revised Sheet No. 38  
 Superseding ~~Second-Third~~ Revised Sheet No. 38

## 2.52 Existing Transmission Agreement (“ETA”)

An agreement between two or more Transmission Owners, or between a Transmission Owner and another entity, as defined in the ISO Agreement and the ISO OATT.

### 2.52.1 Expected Load Reduction

For purposes of determining the Real-Time Locational Based Marginal Price, the reduction in Load expected to be realized in real-time from activation of the Emergency Demand Response Program and from Load reductions requested from Special Case Resources, as established pursuant to ISO Procedures.

### 2.52a Expedited Dispute Resolution Procedures

The ~~procedures~~ dispute resolution procedures applicable to disputes arising out of the Installed Capacity provisions of this Tariff (as set forth in Section 5.16) and the Customer Settlements provisions of this Tariff (as set forth in Section 7.4.4).

## 2.53 Exports

A Bilateral Transaction or purchases from the LBMP Market where the Energy is delivered to an NYCA Interconnection with another Control Area.

## 2.54 External

An entity (e.g., Supplier, Transmission Customer) or facility (e.g., Generator, Interface) located outside the Control Area being referenced or between two or more Control Areas. Where a specific Control Area is not referenced, the NYCA is the intended reference.

## 2.55 External Transactions

Purchases, sales or exchanges of Energy, Capacity or Ancillary Services for which either the Point of Injection (“POI”) or Point of Withdrawal (“POW”) or both are located outside the NYCA (i.e., Exports, Imports or Wheels Through).

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basis for the Customer's challenge, and (iv) include supporting documentation, if applicable.

The ISO shall notify all Customers of errors identified and the details of corrections or adjustments made pursuant to this Section 7.4.2.A.

#### **7.4.2.B Review and Correction of Challenged Invoices**

The ISO shall evaluate a settlement challenge as soon as possible within two (2) months following the conclusion of the challenge period specified in Section 7.4.2.A; *provided, however*, the ISO may, upon notice to Customers within this time of extraordinary circumstances requiring a longer evaluation period, take up to six (6) months to evaluate a settlement challenge.

~~Initiation of a dispute resolution proceeding pursuant to Article 11 of the ISO Services Tariff or Article 12 of the ISO OATT pertaining to a pending customer settlement challenge shall constitute an extraordinary circumstance for purposes of this Section 7.4.2.B.~~ The ISO shall not be limited to the scope of Customer challenges in its review of a challenged invoice and may, at its discretion, review and correct any other elements and intervals of a challenged invoice, except load and meter data as specified in 7.4.2.A. Corrections to a challenged invoice shall be applied to all Customers that were or should have been affected by the original settlement and shall not be limited to the Customer challenging the invoice; *provided, however*, that the ISO may recover *de minimis* amounts or amounts that the ISO is unable to collect from individual Customers through Rate Schedule 1 of the Services Tariff.

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Upon completing its evaluation, the ISO shall provide written notice to the challenging Customer of the ISO's final determination regarding the Customer's settlement challenge. If the ISO determines that corrections or adjustments to a challenged invoice are necessary and can quantify them with reasonable certainty, the ISO shall provide all Customers with the details of the corrections or adjustments within the timeframe established in this Section 7.4.2.B, and The ISO shall then provide a period of twenty-five (25) days for Customers to review the corrected settlement information and provide comments to the ISO regarding the implementation of those corrections or adjustments; provided, however, that in the event of a dispute resolution proceeding conducted in accordance with Section 7.4.4 of this Tariff, this twenty-five (25) day period shall not start or, if it has already started, shall be suspended until the conclusion of the dispute resolution proceeding. Following the conclusion of the dispute resolution proceeding, the ISO shall make any corrections to Customers' settlement invoices that it determines to be necessary and shall then start or re-start the twenty-five (25) day Customer comment period.

If no errors in the implementation of corrections or adjustments are identified during the twenty-five (25) day Customer comment period, the ISO shall issue a finalized close-out Settlement ("Close-Out Settlement"), clearly identified as such, in the next regular monthly billing invoice. If an error in the implementation of a correction or adjustment is identified during the twenty-five (25) day Customer comment period, the ISO shall make such further

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corrections as are necessary to address the error and shall then provide one additional period of twenty-five (25) days for Customers to review and comment on the implementation of those further corrections. The ISO shall then make any final corrections that are necessary and shall issue a finalized Close-Out Settlement in the next regular monthly billing invoice.

**7.4.3 Settlement Information Not Subject to These Provisions**

The provisions of this Section 7.4 shall not apply to settlements calculated pursuant to Sections 2.4 and 2.5 of Attachment N of the ISO OATT nor Sections 2.4 and 2.5 of Part V of Attachment B of the ISO Services Tariff. The NYISO shall make a filing with the

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Commission regarding the timing for correcting and finalizing settlements calculated pursuant to these provisions and shall correct and finalize those settlements on the schedule directed by the Commission.

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

##### **7.4.4.A Applicability of Expedited Dispute Resolution Procedures**

This Section 7.4.4 establishes expedited dispute resolution procedures applicable to address any dispute between a Customer and the ISO regarding a Customer settlement that was not resolved in the ordinary settlement review, challenge, and correction process; provided, however, that nothing herein shall restrict a Customer or the ISO from seeking redress from the Commission in accordance with the Federal Power Act.

A Customer may request expedited dispute resolution if it has previously presented a settlement challenge consistent with the requirements of Section 7.4.2.A of this Tariff and has received from the ISO a final, written determination regarding the settlement challenge pursuant to Section 7.4.2.B of this Tariff. The scope of an expedited dispute resolution proceeding shall be limited to the subject matter of the Customer's prior settlement challenge. Customer challenges regarding Generator, tie-line, and LSE bus metering data shall not be eligible for formal dispute resolution proceedings under this Tariff. To ensure consistent treatment of disputes, separate requests for expedited dispute resolution regarding the same issue and the same service month or months may be resolved on a consolidated basis, consistent with applicable confidentiality requirements.

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#### **7.4.4.B Initiation of Expedited Dispute Resolution Proceeding**

To initiate an expedited dispute resolution proceeding, a Customer shall submit a written request to the ISO Chief Financial Officer within eleven (11) business days from the date that the ISO issues a final, written determination regarding a Customer settlement challenge pursuant to Section 7.4.2.B of this Tariff. A Customer's written request for expedited dispute resolution shall contain: (i) the name of the Customer making the request, (ii) an indication of other potentially affected parties, to the extent known, (iii) an estimate of the amount in controversy, (iv) a description of the Customer's claim with sufficient detail to enable the ISO to determine whether the claim is within the subject matter of a settlement challenge previously submitted by the Customer, (v) copies of the settlement challenge materials previously submitted by the Customer to the ISO, and (vi) citations to the ISO's Tariffs and other relevant materials upon which the Customer's settlement challenge relies.

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

#### **7.4.4.C Participation by Other Interested Customers**

Any Customer with rights or interests that would be materially affected by the outcome of an expedited dispute resolution proceeding may participate; provided, however, that a

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Customer seeking or supporting a change to the NYISO's determination regarding a Customer settlement challenge must have previously raised the issue in a settlement challenge consistent with the requirements of Section 7.4.2.A of this Tariff. To participate, such Customer shall submit to the ISO Chief Financial Officer a written request to participate that meets the requirements for an initiating request for expedited dispute resolution within eleven (11) business days from the date that the ISO issues notice of the expedited dispute resolution proceeding. If the ISO determines that the Customer has met the requirements of this Section 7.4.4.C, the ISO will accept the Customer's request to participate in the dispute resolution proceeding.

#### 7.4.4.D Selection of a Neutral

As soon as reasonably possible following the ISO's acceptance of a Customer's request for expedited dispute resolution under Section 7.4.4.B, the ISO shall appoint a neutral to preside over the proceeding by randomly selecting from a list (i) provided to the ISO by the American Arbitration Association or (ii) developed by the ISO with input from the appropriate stakeholder committee, until an available neutral is found. To the extent possible, the neutral shall be knowledgeable in electric utility matters, including electric transmission and bulk power issues and the financial settlement of electric markets.

No person shall be eligible to act as a neutral who is a past or present officer, employee, or consultant to any of the disputing parties, or of an entity related to or affiliated with any of the disputing parties, or is otherwise interested in the matter in dispute except upon the express

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written consent of the parties. Any individual appointed as a neutral shall make known to the disputing parties any such disqualifying relationship or interest and a new neutral shall be appointed, unless express written consent is provided by each party.

#### 7.4.4.E. Conduct of the Expedited Dispute Resolution Proceeding

The neutral shall schedule the initial meeting of the disputing parties within five (5) business days of appointment. Except as otherwise provided in this Section 7.4.4, the neutral shall have discretion over the conduct of the dispute resolution process including, but not limited to: (i) requiring the disputing parties to meet for discussion, (ii) allowing or requiring written submissions, (iii) establishing guidelines for such written submissions, and (iv) allowing the participation of Customers that have requested an opportunity to be heard.

Within sixty (60) days of the appointment of the neutral, if the dispute has not been resolved, the neutral shall provide the disputing parties with a written, confidential, and non-binding recommendation for resolving the dispute. The disputing parties shall then meet in an attempt to resolve the dispute in light of the neutral's recommendation. If the disputing parties have not resolved the dispute within ten (10) days of receipt of the neutral's recommendation, the dispute resolution process will be concluded.

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

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**7.4.4.F Allocation of Costs**

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

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twelve (12) months after the Application was rejected; and (iii) any other records associated with service under the ISO Services Tariff that are not listed above shall be maintained for twelve (12) months after the date of termination of the service.

## ARTICLE 11

### DISPUTE RESOLUTION PROCEDURES

#### 11.0 Applicability of Dispute Resolution Provisions

The dispute resolution provisions in this Article 11 shall apply to any dispute arising under this Tariff with the exception of those disputes subject to Expedited Dispute Resolution Procedures.

#### 11.1 Internal Dispute Resolution Procedures

Any dispute between or among Customers and/or the ISO involving service under the ISO Services Tariff (excluding applications for rate changes or other changes to the Tariff), ISO Procedures or to any Service Agreement entered into under the Tariff shall be presented directly to a senior representative of each party to the dispute for resolution on an informal basis as promptly as practicable.

If the designated representatives are unable to resolve the dispute within thirty (30) days by mutual agreement, the dispute may be submitted to the ISO's Dispute Resolution Administrator ("DRA"). The party submitting the matter to the DRA shall include a written statement describing the nature of the dispute and the issues to be resolved. Any subsequent mediation or arbitration process shall be limited to the issues presented for resolution.

The DRA may submit disputes to non-binding, mediation where the subject matter of the dispute involves the proposed change or modification of a rule, rate, Service Agreement or ISO

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## **ATTACHMENT III**



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The ISO shall use reasonable means to post metering revisions for review by Transmission Customers and to notify Transmission Customers of the approaching expiration of review periods. To challenge settlement information contained in an invoice, a Transmission Customer shall first make payment in full, including any amounts in dispute. Transmission Customer challenges to settlement information shall: (i) be submitted to the ISO in writing, (ii) be clearly identified as a settlement challenge, (iii) state the basis for the Transmission Customer's challenge, and (iv) include supporting documentation, if applicable. The ISO shall notify all Transmission Customers of errors identified and the details of corrections or adjustments made pursuant to this Section 7.2A.2a.

**7.2A.2b Review and Correction of Challenged Invoices**

The ISO shall evaluate a settlement challenge as soon as possible within two (2) months following the conclusion of the challenge period specified in Section 7.2A.2a; *provided, however*, the ISO may, upon notice to Transmission Customers within this time of extraordinary circumstances requiring a longer evaluation period, take up to six (6) months to evaluate a settlement challenge.

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The ISO shall not be limited to the scope of challenges in its review of a challenged invoice and may, at its discretion, review and correct any other elements and intervals of a challenged invoice, except load and meter data as specified in 7.2A.2a. Corrections to a challenged invoice shall be applied to all Transmission Customers that were or should have been affected by the original settlement and shall not be limited to the Transmission Customer challenging the invoice; *provided, however*, that the ISO may recover *de minimis* amounts or amounts that the ISO is unable to collect from individual Transmission Customers through Schedule 1 of the OATT.

Upon completing its evaluation, the ISO shall provide written notice to the challenging Transmission Customer of the ISO's final determination regarding the Transmission Customer's settlement challenge. If the ISO determines that corrections or adjustments to a challenged invoice are necessary and can quantify them with reasonable certainty, the ISO shall provide all Transmission Customers with the details of the corrections or adjustments within the timeframe established in this Section 7.2A.2b. The ISO shall then provide a period of twenty-five (25) days for Transmission Customers to review the corrected settlement information and provide comments to the ISO regarding the implementation of those corrections or adjustments; *provided, however*, that in the event of a dispute

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resolution proceeding conducted in accordance with Section 7.2A.4 of this Tariff, this twenty-five (25) day period shall not start or, if it has already started, shall be suspended until the conclusion of the dispute resolution proceeding. Following the conclusion of the dispute resolution proceeding, the ISO shall make any corrections to Transmission Customers' settlement invoices that it determines to be necessary as a result of the dispute resolution proceeding and shall then start, or re-start, the twenty-five (25) day Transmission Customer comment period.

If no errors in the implementation of corrections or adjustments are identified during the twenty-five (25) day Transmission Customer comment

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#### **7.2A.4 Expedited Dispute Resolution Procedures for Unresolved Settlement Challenges**

##### **7.2A.4a Applicability of Expedited Dispute Resolution Procedures**

This Section 7.2A.4 establishes expedited dispute resolution procedures applicable to address any dispute between a Transmission Customer and the ISO regarding a Transmission Customer settlement that was not resolved in the ordinary settlement review, challenge, and correction process; *provided, however*, that nothing herein shall restrict a Transmission Customer or the ISO from seeking redress from the Commission in accordance with the Federal Power Act.

A Transmission Customer may request this expedited dispute resolution if it has previously presented a settlement challenge consistent with the requirements of Section 7.2A.2a of this Tariff and has received from the ISO a final, written determination regarding the settlement challenge pursuant to Section 7.2A.2b of this Tariff. The scope of an expedited dispute resolution proceeding shall be limited to the subject matter of the Transmission Customer's prior settlement challenge. Transmission Customer challenges regarding Generator, tie-line, and LSE bus metering data shall not be eligible for formal dispute resolution proceedings under this Tariff. To ensure consistent treatment of disputes, separate

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requests for expedited dispute resolution regarding the same issue and the same service month or months may be resolved on a consolidated basis, consistent with applicable confidentiality requirements.

#### **7.2A.4b Initiation of Expedited Dispute Resolution Proceeding**

To initiate an expedited dispute resolution proceeding, a Transmission Customer shall submit a written request to the ISO Chief Financial Officer within eleven (11) business days from the date that the ISO issues a final, written determination regarding a Transmission Customer settlement challenge pursuant to Section 7.2A.2b of this Tariff. A Transmission Customer's written request for expedited dispute resolution shall contain: (i) the name of the Transmission Customer making the request, (ii) an indication of other potentially affected parties, to the extent known, (iii) an estimate of the amount in controversy, (iv) a description of the Transmission Customer's claim with sufficient detail to enable the ISO to determine whether the claim is within the subject matter of a settlement challenge previously submitted by the Transmission Customer, (v) copies of the settlement challenge materials previously submitted by the Transmission Customer to the ISO, and (vi) citations to the ISO's Tariffs and/or other relevant materials upon which the Transmission Customer's settlement challenge relies.

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

**7.2A.4c Participation by Other Interested Transmission Customers**

Any Transmission Customer with rights or interests that would be materially affected by the outcome of an expedited dispute resolution proceeding may participate; *provided, however*, that a Transmission Customer seeking or supporting a change to the NYISO's determination regarding a Transmission Customer settlement challenge must have previously raised the issue in a settlement challenge consistent with the requirements of Section 7.2A.2a of this Tariff. To participate, such Transmission Customer shall submit to the ISO Chief Financial Officer a written request to participate that meets the requirements for an initiating request for expedited dispute resolution within eleven (11) business days from the date that the ISO issues notice of the expedited dispute resolution

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proceeding. If the ISO determines that the Transmission Customer has met the requirements of this Section 7.2A.4c, the ISO will accept the Transmission Customer's request to participate in the dispute resolution proceeding.

#### **7.2A.4d Selection of a Neutral**

As soon as reasonably possible following the ISO's acceptance of a Transmission Customer's request for expedited dispute resolution under Section 7.2A.4b, the ISO shall appoint a neutral to preside over the proceeding by randomly selecting from a list (i) provided to the ISO by the American Arbitration Association or (ii) developed by the ISO with input from the appropriate stakeholder committee, until an available neutral is found. To the extent possible, the neutral shall be knowledgeable in electric utility matters, including electric transmission and bulk power issues and the financial settlement of electric markets.

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

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any such disqualifying relationship or interest and a new neutral shall be appointed, unless express written consent is provided by each party.

**7.2A.4e Conduct of the Expedited Dispute Resolution Proceeding**

The neutral shall schedule the initial meeting of the disputing parties within five (5) business days of appointment. Except as otherwise provided in this Section 7.2A.4, the neutral shall have discretion over the conduct of the dispute resolution process including, but not limited to: (i) requiring the disputing parties to meet for discussion, (ii) allowing or requiring written submissions, (iii) establishing guidelines for such written submissions, and (iv) allowing the participation of Transmission Customers that have requested an opportunity to be heard.

Within sixty (60) days of the appointment of the neutral, if the dispute has not been resolved, the neutral shall provide the disputing parties with a written, confidential, and non-binding recommendation for resolving the dispute. The disputing parties shall then meet in an attempt to resolve the dispute in light of the neutral's recommendation. If the disputing parties have not resolved the dispute within ten (10) days of receipt of the neutral's recommendation, the dispute resolution process will be concluded.



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

**7.2A.4f Allocation of Costs**

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

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### **11A.0 List of Affiliates and/or Parent Company**

A Transmission Customer taking service under the Tariff shall provide the ISO, upon application for service, with a list identifying its parent company as well as any Affiliates. The Transmission Customer shall notify the ISO within 30 days of the effective date of any change to the original list. Any Transmission Customer shall respond within 10 days, to a request by the ISO to update the list of Affiliates and/or parent company. In addition, a Transmission Customer and an applicant seeking to become a Transmission Customer shall inform the ISO of any Affiliates that are currently taking service or applying to take service under the Tariffs.

### **12.0 Dispute Resolution Procedures**

The dispute resolution procedures in this Article 12 shall apply to any dispute arising under this Tariff, except as otherwise indicated.

**12.1 Internal Dispute Resolution Procedures:** Any dispute between a Transmission Customer and the ISO involving Transmission Service under the Tariff (excluding applications for rate changes or other changes to this Tariff, or to any Service Agreement entered into under this Tariff, which shall be presented directly to the Commission for resolution) or ISO Procedures shall be referred to a designated senior representative of the ISO and a senior representative of the Transmission Customer for resolution on an informal basis as promptly as practicable. In the event the designated representatives are unable to resolve the dispute within thirty (30) days or such other period as the parties may agree upon by mutual agreement, such dispute may be submitted to the Dispute Resolutions

## **ATTACHMENT IV**

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The ISO shall use reasonable means to post metering revisions for review by Transmission Customers and to notify Transmission Customers of the approaching expiration of review periods. To challenge settlement information contained in an invoice, a Transmission Customer shall first make payment in full, including any amounts in dispute. Transmission Customer challenges to settlement information shall: (i) be submitted to the ISO in writing, (ii) be clearly identified as a settlement challenge, (iii) state the basis for the Transmission Customer's challenge, and (iv) include supporting documentation, if applicable. The ISO shall notify all Transmission Customers of errors identified and the details of corrections or adjustments made pursuant to this Section 7.2A.2a.

#### **7.2A.2b Review and Correction of Challenged Invoices**

The ISO shall evaluate a settlement challenge as soon as possible within two (2) months following the conclusion of the challenge period specified in Section 7.2A.2a; *provided, however*, the ISO may, upon notice to Transmission Customers within this time of extraordinary circumstances requiring a longer evaluation period, take up to six (6) months to evaluate a settlement challenge.

~~Initiation of a dispute resolution proceeding pursuant to Article 11 of the ISO Services Tariff or Article 12 of the ISO OATT pertaining to a pending customer settlement challenge shall constitute an extraordinary circumstance for purposes~~

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~~of this Section 7.2A.2b.~~ The ISO shall not be limited to the scope of challenges in its review of a challenged invoice and may, at its discretion, review and correct any other elements and intervals of a challenged invoice, except load and meter data as specified in 7.2A.2a. Corrections to a challenged invoice shall be applied to all Transmission Customers that were or should have been affected by the original settlement and shall not be limited to the Transmission Customer challenging the invoice; *provided, however*, that the ISO may recover *de minimis* amounts or amounts that the ISO is unable to collect from individual Transmission Customers through Schedule 1 of the OATT.

Upon completing its evaluation, the ISO shall provide written notice to the challenging Transmission Customer of the ISO's final determination regarding the Transmission Customer's settlement challenge. If the ISO determines that corrections or adjustments to a challenged invoice are necessary and can quantify them with reasonable certainty, the ISO shall provide all Transmission Customers with the details of the corrections or adjustments within the timeframe established in this Section 7.2A.2b, ~~and~~ The ISO shall then provide a period of twenty-five (25) days for Transmission Customers to review the corrected settlement information and provide comments to the ISO regarding the implementation of those corrections or adjustments; *provided, however, that in the event of a dispute*

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resolution proceeding conducted in accordance with Section 7.2A.4 of this Tariff,  
this twenty-five (25) day period shall not start or, if it has already started, shall be  
suspended until the conclusion of the dispute resolution proceeding. Following  
the conclusion of the dispute resolution proceeding, the ISO shall make any  
corrections to Transmission Customers' settlement invoices that it determines to  
be necessary as a result of the dispute resolution proceeding and shall then start, or  
re-start, the twenty-five (25) day Transmission Customer comment period.

If no errors in the implementation of corrections or adjustments are identified during the twenty-five (25) day Transmission Customer comment

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**7.2A.4 Expedited Dispute Resolution Procedures for Unresolved Settlement Challenges**

**7.2A.4a Applicability of Expedited Dispute Resolution Procedures**

This Section 7.2A.4 establishes expedited dispute resolution procedures applicable to address any dispute between a Transmission Customer and the ISO regarding a Transmission Customer settlement that was not resolved in the ordinary settlement review, challenge, and correction process; *provided, however,* that nothing herein shall restrict a Transmission Customer or the ISO from seeking redress from the Commission in accordance with the Federal Power Act.

A Transmission Customer may request this expedited dispute resolution if it has previously presented a settlement challenge consistent with the requirements of Section 7.2A.2a of this Tariff and has received from the ISO a final, written determination regarding the settlement challenge pursuant to Section 7.2A.2b of this Tariff. The scope of an expedited dispute resolution proceeding shall be limited to the subject matter of the Transmission Customer's prior settlement challenge. Transmission Customer challenges regarding Generator, tie-line, and LSE bus metering data shall not be eligible for formal dispute resolution proceedings under this Tariff. To ensure consistent treatment of disputes, separate

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requests for expedited dispute resolution regarding the same issue and the same service month or months may be resolved on a consolidated basis, consistent with applicable confidentiality requirements.

**7.2A.4b Initiation of Expedited Dispute Resolution Proceeding**

To initiate an expedited dispute resolution proceeding, a Transmission Customer shall submit a written request to the ISO Chief Financial Officer within eleven (11) business days from the date that the ISO issues a final, written determination regarding a Transmission Customer settlement challenge pursuant to Section 7.2A.2b of this Tariff. A Transmission Customer's written request for expedited dispute resolution shall contain: (i) the name of the Transmission Customer making the request, (ii) an indication of other potentially affected parties, to the extent known, (iii) an estimate of the amount in controversy, (iv) a description of the Transmission Customer's claim with sufficient detail to enable the ISO to determine whether the claim is within the subject matter of a settlement challenge previously submitted by the Transmission Customer, (v) copies of the settlement challenge materials previously submitted by the Transmission Customer to the ISO, and (vi) citations to the ISO's Tariffs and/or other relevant materials upon which the Transmission Customer's settlement challenge relies.

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

7.2A.4c Participation by Other Interested Transmission Customers

Any Transmission Customer with rights or interests that would be materially affected by the outcome of an expedited dispute resolution proceeding may participate; provided, however, that a Transmission Customer seeking or supporting a change to the NYISO's determination regarding a Transmission Customer settlement challenge must have previously raised the issue in a settlement challenge consistent with the requirements of Section 7.2A.2a of this Tariff. To participate, such Transmission Customer shall submit to the ISO Chief Financial Officer a written request to participate that meets the requirements for an initiating request for expedited dispute resolution within eleven (11) business days from the date that the ISO issues notice of the expedited dispute resolution

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proceeding. If the ISO determines that the Transmission Customer has met the requirements of this Section 7.2A.4c, the ISO will accept the Transmission Customer's request to participate in the dispute resolution proceeding.

#### 7.2A.4d Selection of a Neutral

As soon as reasonably possible following the ISO's acceptance of a Transmission Customer's request for expedited dispute resolution under Section 7.2A.4b, the ISO shall appoint a neutral to preside over the proceeding by randomly selecting from a list (i) provided to the ISO by the American Arbitration Association or (ii) developed by the ISO with input from the appropriate stakeholder committee, until an available neutral is found. To the extent possible, the neutral shall be knowledgeable in electric utility matters, including electric transmission and bulk power issues and the financial settlement of electric markets.

No person shall be eligible to act as a neutral who is a past or present officer, employee, or consultant to any of the disputing parties, or of an entity related to or affiliated with any of the disputing parties, or is otherwise interested in the matter in dispute except upon the express written consent of the parties.

Any individual appointed as a neutral shall make known to the disputing parties

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any such disqualifying relationship or interest and a new neutral shall be appointed, unless express written consent is provided by each party.

**7.2A.4e Conduct of the Expedited Dispute Resolution Proceeding**

The neutral shall schedule the initial meeting of the disputing parties within five (5) business days of appointment. Except as otherwise provided in this Section 7.2A.4, the neutral shall have discretion over the conduct of the dispute resolution process including, but not limited to: (i) requiring the disputing parties to meet for discussion, (ii) allowing or requiring written submissions, (iii) establishing guidelines for such written submissions, and (iv) allowing the participation of Transmission Customers that have requested an opportunity to be heard.

Within sixty (60) days of the appointment of the neutral, if the dispute has not been resolved, the neutral shall provide the disputing parties with a written, confidential, and non-binding recommendation for resolving the dispute. The disputing parties shall then meet in an attempt to resolve the dispute in light of the neutral's recommendation. If the disputing parties have not resolved the dispute within ten (10) days of receipt of the neutral's recommendation, the dispute resolution process will be concluded.

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

7.2A.4f Allocation of Costs

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

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### 11A.0 List of Affiliates and/or Parent Company

A Transmission Customer taking service under the Tariff shall provide the ISO, upon application for service, with a list identifying its parent company as well as any Affiliates. The Transmission Customer shall notify the ISO within 30 days of the effective date of any change to the original list. Any Transmission Customer shall respond within 10 days, to a request by the ISO to update the list of Affiliates and/or parent company. In addition, a Transmission Customer and an applicant seeking to become a Transmission Customer shall inform the ISO of any Affiliates that are currently taking service or applying to take service under the Tariffs.

### 12.0 Dispute Resolution Procedures

The dispute resolution procedures in this Article 12 shall apply to any dispute arising under this Tariff, except as otherwise indicated.

**12.1 Internal Dispute Resolution Procedures:** Any dispute between a Transmission Customer and the ISO involving Transmission Service under the Tariff (excluding applications for rate changes or other changes to this Tariff, or to any Service Agreement entered into under this Tariff, which shall be presented directly to the Commission for resolution) or ISO Procedures shall be referred to a designated senior representative of the ISO and a senior representative of the Transmission Customer for resolution on an informal basis as promptly as practicable. In the event the designated representatives are unable to resolve the dispute within thirty (30) days or such other period as the parties may agree upon by mutual agreement, such dispute may be submitted to the Dispute Resolutions

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