

### 5.1 Distributions to Customers Exiting the ISO Energy Markets

Customers terminating their ISO Service Agreements and exiting the ISO energy markets will be refunded their cumulative principal contribution to the Working Capital Fund, including any earned interest that has been accrued but not previously distributed; provided, however, that this refund shall not occur until (i) all final Settlement adjustment invoices for that Customer have been paid and (ii) the applicable period for challenging the accuracy of final Settlement information has expired ~~or, at the ISO's discretion, the Customer executes a binding release acceptable to the ISO stating that the Customer accepts all final Settlement invoices as accurate and waives all rights to challenge such invoices.~~ Customers shall be responsible for providing the ISO with the wire transfer information necessary for the ISO to complete any refund of the Customer's Working Capital Fund contribution.

### 5.2 Customer **Nonpayment and Default**

In the event that ~~part or all, or any portions of, any payments due from Customers remain a payment owed by a Customer remains~~ unpaid after the ~~date such~~ payment is due ~~(including bad debt losses),~~ the ISO ~~at its sole discretion~~ may ~~utilize~~ use the Working Capital Fund as necessary to meet its cash flow requirements; *provided, however,* that the ISO shall set aside the nonpaying Customer's contribution to the Working Capital Fund pending determination of ISO's counsel and/or the appropriate bankruptcy courts regarding the appropriate disposition of such funds. If ~~there is insufficient collateral~~ the ISO draws from the Working Capital Fund to ~~offset~~ meet its cash flow requirements in the event of a Customer's ~~defaulted payment obligation to the ISO,~~ nonpayment and then ~~that~~

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~~Customer's pro-rata share of later declares the nonpayment to be a bad debt loss, the ISO shall recover the bad debt loss through the provisions of Rate Schedule 1 in accordance with Attachment U to the ISO OATT and shall replenish the Working Capital Fund through Rate Schedule 1. will be applied to any unpaid balance owing to the ISO, including any subsequent obligations for settlement adjustments. If a positive balance remains in that Customer's Working Capital Fund share after offsetting all unpaid payment obligations to the ISO and the Customer terminates its ISO Service Agreements,~~

‡The ISO shall pursue available remedies for Customer defaults under the ISO tariffs. Upon the necessary determination from the ISO's counsel and/or the appropriate bankruptcy courts and after applying a nonpaying Customer's available collateral, if any, the ISO shall apply ~~remaining balance of~~ the Customer's share of the Working Capital Fund to satisfy remaining amounts owed to the NYISO, including amounts owed as a result of settlement corrections. Upon termination of service ~~will be returned to the Customer according to and reconciliation by~~ the ISO of final settlement corrections affecting the Customer, the NYISO shall return the Customer's remaining share of the Working Capital Fund, if any, in accordance with the provisions of Section 5.1 of this Attachment V. ~~If the ISO declares a bad debt loss due to a defaulted Customer payment obligation and draws on the Working Capital Fund to offset such loss, the ISO shall replenish the Working Capital Fund by recovering the loss through a Rate Schedule 1 charge to all Customers.~~

### 5.3 Differences between ISO Actual and Forecasted Loads

The ISO funds its operating costs by charging Customers according to Section 3.A of Rate Schedule 1. In the event that differences between actual and forecasted ISO loads result in an insufficient recovery of its operating costs, the ISO may offset any shortfall in operating costs by (i) temporarily drawing from the Working Capital Fund or (ii) increasing the Rate Schedule 1 charge. Whenever practicable, the ISO shall provide notice to Market Participants of the potential need to offset a shortfall in operating costs in accordance with this Section 5.3.

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