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**23.2.1 NEW DEFINITIONS**

“Exempt Renewable Technology” shall mean, in all Mitigated Capacity Zones, an Intermittent Power Resources solely powered by wind or solar energy.

“Self Supply LSE” shall mean, a Load Serving Entity in one or more Mitigate Capacity Zones which operates under long-standing business model to meet more than fifty percent of its Load obligations through its own generation and that is a Public Power Entity, Single Customer Entity, or Vertically Integrated Utility. For purposes of this defined term,

(i) “Vertically Integrated Utility” means a utility that owns generation, includes such generation in a non-bypassable charge in its regulated rates, earns a regulated return on its investment in such generation, and that as of the date of its request for a Self Supply Exemption, has not divested more than seventy-five percent of its generation assets owned on May 20, 1996.

(ii) “Single Customer Entity” means an LSE that serves at retail only customers that are under common control with such LSE, where such control means holding 51% or more of the voting securities or voting interests of the LSE and all its retail customers.

**23.4.5 Installed Capacity Market Mitigation Measures**

23.4.5.1 If and to the extent that sufficient installed capacity is not under a contractual obligation to be available to serve load in New York and if physical or economic withholding of installed capacity would be likely to result in a material change in the price for installed capacity in all or some portion of New York, the ISO, in consideration of the comments of the Market Parties and other interested parties, shall amend this Attachment H, in accordance with the procedures and requirements for amending the Plan, to implement appropriate mitigation measures for installed capacity markets.

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23.4.5.2 Offers to sell Mitigated UCAP in an ICAP Spot Market Auction shall not be higher than the higher of (a) the UCAP Offer Reference Level for the applicable ICAP Spot Market Auction, or (b) the Going-Forward Costs of the Installed Capacity Supplier supplying the Mitigated UCAP. Where an Installed Capacity Supplier is a Pivotal Supplier in some, but not all, Mitigated Capacity Zones in which it has Resources, such Installed Capacity Supplier’s offer to sell Mitigated UCAP in any ICAP Spot Market Auction for any Resource for which it is a Pivotal Supplier shall not be higher than the higher of (a) the lowest of the UCAP Offer Reference Levels for each Mitigated Capacity Zone in which such Installed Capacity Supplier has Resources; or (b) if an Offer for a Resource has an applicable Going-Forward Cost, such Going-Forward Cost.

23.4.5.3 An Installed Capacity Supplier’s Going-Forward Costs for an ICAP Spot Market Auction shall be determined upon the request of the Responsible Market Party for that Installed Capacity Supplier. The Going-Forward Costs shall be determined by the ISO after consultation with the Responsible Market Party, provided such consultation is requested by the Responsible Market Party not later than 50 business days prior to the deadline for offers to sell Unforced Capacity in such auction, and provided such request is supported by a submission showing the Installed Capacity Supplier’s relevant costs in accordance with specifications provided by the ISO. Such submission shall show (1) the nature, amount and determination of any claimed Going-Forward Cost, and (2) that the cost would be

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avoided if the Installed Capacity Supplier is taken out of service or retired, as applicable. If the foregoing requirements are met, the ISO shall determine the level of the Installed Capacity Supplier’s Going-Forward Costs and shall seasonally adjust such costs not later than 7 days prior to the deadline for submitting offers to sell Unforced Capacity in such auction. A Responsible Market Party shall request an updated determination of an Installed Capacity Supplier’s Going-Forward Costs not less often than annually, in the absence of which request the Installed Capacity Supplier’s offer cap shall revert to the UCAP Offer Reference Level. An updated determination of Going-Forward Costs may be undertaken by the ISO at any time on its own initiative after consulting with the Responsible Market Party. Any redetermination of an Installed Capacity Supplier’s Going-Forward Costs shall conform to the consultation and determination schedule specified in this paragraph. The costs that an Installed Capacity Supplier would avoid as a result of retiring should only be included in its Going-Forward Costs if the owner or operator of that Installed Capacity Supplier actually plans to mothball or retire it if the Installed Capacity revenues it receives are not sufficient to cover those costs.

23.4.5.4 Mitigated UCAP shall be offered in each ICAP Spot Market Auction in accordance with Section 5.14.1.1 of the ISO Services Tariff and applicable ISO procedures, unless it has been exported to an External Control Area or sold to meet Installed Capacity requirements outside the Mitigated Capacity Zone in

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which the ICAP Supplier is a Pivotal Supplier is located in a transaction that does not constitute physical withholding under the standards specified below.

23.4.5.4.1 An export to an External Control Area or sale to meet an Installed Capacity requirement outside the Mitigated Capacity Zone in which the ICAP Supplier is a Pivotal Supplier is located of Mitigated UCAP (either of the foregoing being referred to as “External Sale UCAP”) may be subject to audit and review by the ISO to assess whether such action constituted physical withholding of UCAP from a Mitigated Capacity Zone. External Sale UCAP shall be deemed to have been physically withheld on the basis of a comparison of the net revenues from UCAP sales that would have been earned by the sale in a Mitigated Capacity Zone of External Sale UCAP. The comparison shall be made for the period for which Installed Capacity is committed (the “Comparison Period”) in each of the shortest term organized capacity markets (the “External Reconfiguration Markets”) for the area and during the period in which the Mitigated UCAP was exported or sold. External Sale ICAP shall be deemed to have been withheld from a Mitigated Capacity Zone if: (1) the Responsible Market Party for the External Sale UCAP could have made all or a portion of the External Sale UCAP available to be offered in the Mitigated Capacity Zone by buying out of its external capacity obligation through participation in an External Reconfiguration Market; and (2) the net revenues over the Comparison Period from sale in the Mitigated Capacity Zone of the External Sale UCAP that could have been made

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available for sale in that Locality would have been greater by 15% or more,  
provided that the net revenues were at least \$2.00/kilowatt-month more than the  
net UCAP revenues from that portion of the External Sale UCAP over the  
Comparison Period.

23.4.5.4.2 If Mitigated UCAP is not offered or sold as specified above, the  
Responsible Market Party for such Installed Capacity Supplier shall pay the ISO  
an amount equal to the product of (A) 1.5 times the difference between the  
Market-Clearing Price for the Mitigated Capacity Zone in the ICAP Spot Market  
Auction with and without the inclusion of the Mitigated UCAP and (B) the total  
of (1) the amount of Mitigated UCAP not offered or sold as specified above, and  
(2) all other megawatts of Unforced Capacity in the Mitigated Capacity Zone  
under common Control with such Mitigated UCAP. If the failure to offer was  
associated with the same period as the sale of External Sale UCAP, and the failure  
caused or contributed to an increase in UCAP prices in the Mitigated Capacity  
Zone of 15 percent or more, provided such increase is at least \$2.00/kilowatt-  
month, the Responsible Market Party for such Installed Capacity Supplier shall be  
required to pay to the ISO an amount equal to 1.5 times the lesser of (A) the  
difference between the average Market-Clearing Price for the Mitigated Capacity  
Zone in the ICAP Spot Market Auctions for the relevant Comparison Period with  
and without the inclusion of the External Sale UCAP in those auctions, or (B) the  
difference between such average price and the clearing price in the External

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Reconfiguration Market for the relevant Comparison Period, times the total of (1) the amount of Mitigated UCAP not offered or sold as specified above, and (2) all other megawatts of Unforced Capacity in the Mitigated Capacity Zone under common Control with such Mitigated UCAP. The ISO will distribute any amounts recovered in accordance with the foregoing provisions among the LSEs serving Loads in regions affected by the withholding in accordance with ISO Procedures.

23.4.5.4.3 Reasonably in advance of the deadline for submitting offers in an External Reconfiguration Market the Responsible Market Party for External Sale UCAP may request the ISO to provide a projection of ICAP Spot Auction clearing prices for the Mitigated Capacity Zone over the Comparison Period for the External Reconfiguration Market. Such requests, and the ISO’s response, shall be made in accordance with the deadlines specified in ISO Procedures. Prior to completing its projection of ICAP Spot Auction clearing prices for the Mitigated Capacity Zone over the Comparison Period for the External Reconfiguration Market, the ISO shall consult with the Market Monitoring Unit regarding such price projection. The Responsible Market Party shall be exempt from a physical withholding penalty as specified in Section 23.4.5.4.2, below, if at the time of the deadline for submitting offers in an External Reconfiguration Market its offers, if accepted, would reasonably be expected to produce net revenues from External UCAP Sales that would exceed the net revenues that would have been realized

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from sale of the External UCAP Sales capacity in the Mitigated Capacity Zone at the ICAP Spot Auction prices projected by the ISO. The responsibilities of the Market Monitoring Unit that are addressed in this section of the Mitigation Measures are also addressed in Section 30.4.6.2.8 of Attachment O.

23.4.5.5 Control of Unforced Capacity shall be rebuttably presumed from (i) ownership of an Installed Capacity Supplier, or (ii) status as the Responsible Market Party for an Installed Capacity Supplier, but may also be determined on the basis of other evidence. For purposes of determining if a Responsible Market Party is a Pivotal Supplier in a Mitigated Capacity Zone except the G-J Locality, the presumption of Control of Unforced Capacity can be rebutted by: (1) the sale of Unforced Capacity in a Capability Period Auction or a Monthly Auction, or (2) demonstrating to the reasonable satisfaction of the ISO that the ability to determine the price and quantity of offers to supply Unforced Capacity has been conveyed to a person or entity that is not an Affiliated Entity without limitation or condition. For purposes of determining if a Responsible Market Party is a Pivotal Supplier in the G-J Locality, the presumption of Control of Unforced Capacity can be rebutted by demonstrating to the reasonable satisfaction of the ISO that the ability to determine the price and quantity of offers to supply Unforced Capacity has been conveyed to a person or entity that is not an Affiliated Entity without limitation or condition, but cannot be rebutted by the sale of Unforced Capacity in a Capability Period or Monthly Auction. For any Mitigated Capacity Zone, if the

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presumption has not been rebutted, and if two or more Market Parties each have rights or obligations with respect to Unforced Capacity from an Installed Capacity Supplier that could reasonably be anticipated to affect the quantity or price of Unforced Capacity transactions in an ICAP Spot Market Auction, the ISO may attribute Control of the affected MW of Unforced Capacity from the Installed Capacity Supplier to each such Market Party. Prior to reaching its decision regarding whether the presumption of control of Unforced Capacity has been rebutted, the ISO shall provide its preliminary determination to the Market Monitoring Unit for review and comment. The responsibilities of the Market Monitoring Unit that are addressed in this section of the Mitigation Measures are also addressed in Section 30.4.6.2.9 of Attachment O.

**23.4.5.6 Audit, Review, and Penalties for Physical Withholding to Increase Market-Clearing Prices**

**23.4.5.6.1 Audit and Review of Proposals or Decisions to Remove or Derate Installed Capacity from a Mitigated Capacity Zone**

Any proposal or decision by a Market Participant to retire or otherwise remove an Installed Capacity Supplier from a Mitigated Capacity Zone Unforced Capacity market, or to derate the amount of Installed Capacity available from such supplier, may be subject to audit and review by the ISO if the ISO determines that such action could reasonably be expected to affect Market-Clearing Prices in one or more ICAP Spot Market Auctions for a Mitigated Capacity Zone in which the Resource(s) that is the subject of the proposal or decision is located, subsequent to such action; provided, however, no audit and review shall be necessary if the



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Installed Capacity Supplier is a Generator that is being retired or removed from a Mitigated Capacity Zone as the result of a Forced Outage that began on or after May 1, 2015 that was determined by the ISO to be a Catastrophic Failure. Such an audit or review shall assess whether the proposal or decision has a legitimate economic justification or is based on an effort to withhold Installed Capacity physically in order to affect prices. The ISO shall provide the preliminary results of its audit or review to the Market Monitoring Unit for its review and comment. The responsibilities of the Market Monitoring Unit that are addressed in this section of the Mitigation Measures are also addressed in Section 30.4.6.2.10 of Attachment O.

**23.4.5.6.2      Audit and Review of the Reclassification of a Generator in a Mitigated Capacity Zone From a Forced Outage to an ICAP Ineligible Forced Outage**

This Section 23.4.5.6.2 shall apply to a Market Party whose Installed Capacity Supplier is a Generator that began a Forced Outage on or after May 1, 2015.

23.4.5.6.2.1 Any reclassification of an Installed Capacity Supplier that is a Generator in a Mitigated Capacity Zone from a Forced Outage to an ICAP Ineligible Forced Outage by a Market Party or otherwise, pursuant to the terms of Section 5.18.2.1 of this Services Tariff, may be subject to audit and review by the ISO if the ISO determines that such reclassification could reasonably be expected to affect the Market-Clearing Price in one or more ICAP Spot Market Auctions for a Mitigated Capacity Zone in which the Generator(s) that is the subject of the reclassification is located, subsequent to such action; provided, however, if the Market Party’s Generator experienced the Forced Outage as a result of a Catastrophic Failure, the

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reclassification of a Generator in a Mitigated Capacity Zone from a Forced

Outage to an ICAP Ineligible Forced Outage shall not be subject to audit and review pursuant to this Section 23.4.5.6.2.

The audit and review pursuant to the above paragraph shall assess whether the reclassification of the Generator in a Mitigated Capacity Zone from a Forced Outage to an ICAP Ineligible Forced Outage had a legitimate economic justification or is based on an effort to withhold Installed Capacity physically in order to affect prices.

The ISO shall provide the preliminary results of its audit or review to the Market Monitoring Unit for its review and comment. The responsibilities of the Market Monitoring Unit that are addressed in this section of the Mitigation Measures are also addressed in Section 30.4.6.2.10 of Attachment O.

23.4.5.6.2.2 The audit and review pursuant to Section 23.4.5.6.2.1 shall be deferred by the ISO beyond the time period established in ISO Procedures for the audit and review of a reclassification of a Generator from a Forced Outage to an ICAP Ineligible Forced Outage if the Generator was in a Forced Outage for at least 180 days before the reclassification and one or more Exceptional Circumstances delayed the acquisition of data necessary for the ISO’s audit and review.

The ISO shall conduct the audit and review after its receipt of data that it determines is necessary for the audit and review; provided, however, if, at the time the ISO acquires the necessary data, the Market Party has Commenced

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Repair of the Generator, or the Generator is determined by the ISO to have had a Catastrophic Failure, the Market Party shall not be subject to an audit and review pursuant to Section 23.4.5.6.2.1 of this Services Tariff. A Generator that Commenced Repair while in an ICAP Ineligible Forced Outage but that ceased or unreasonably delayed that repair shall be subject to audit and review by the ISO pursuant to Section 23.4.5.6.2.1 of this Services Tariff.

The ISO shall provide the preliminary results of its audit or review to the Market Monitoring Unit for its review and comment. The responsibilities of the Market Monitoring Unit that are addressed in this section of the Mitigation Measures are also addressed in Section 30.4.6.2.10 of Attachment O.

23.4.5.6.2.3 The audit and review of the removal of a Generator from a Forced Outage to an ICAP Ineligible Forced Outage, and the determinations of Catastrophic Failure and Exceptional Circumstances, will be pursuant to specific timelines established in ISO Procedures.

23.4.5.6.2.4 The audit and review pursuant to Sections 23.4.5.6.2.1, and 23.4.5.6.2.2 shall be conducted to determine whether the decision not to repair a Generator had a legitimate economic justification, consistent with competitive behavior; that is, whether the cost of repair, including the risk-adjusted cost of capital, could not reasonably be expected to be recouped over the reasonably anticipated remaining life of the generator. The elements of such audit and review may include, as appropriate, the historical revenue and maintenance cost data for the purpose of

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the baseline, the duration of the repair, the costs including, but not limited to, capital expenditures necessary to comply with federal or state environmental, safety or reliability requirements that must be met in order to operate the Generator, the anticipated capacity, energy and ancillary services revenues following the repair, the projected costs of operating the Generator following the repair, any benefits that would be foregone from using the site for a purpose other than as the existing Generator (e.g., repowering), and other relevant data.

The criteria for the audit and review provided in this Services Tariff Section 23.4.5.6.2.4 may be incorporated, as appropriate, in an audit and review required to be conducted pursuant to other provisions in this Services Tariff Section 23.4.

23.4.5.6.2.5 For a requesting Market Party, a determination that the Market Party has experienced Exceptional Circumstances shall be made by the ISO by the 160<sup>th</sup> day of the Generator’s Forced Outage. The ISO shall use reasonable efforts to issue a determination that a Market Party has experienced Exceptional Circumstances after it has Commenced Repair and requests reclassification to an ICAP Ineligible Force Outage by the 40<sup>th</sup> day after the ISO’s receipt of data necessary to conduct the analysis.

For a requesting Market Party, a determination that a Generator has experienced a Catastrophic Failure shall be made by the ISO by the 160<sup>th</sup> day of the Forced Outage. If the ISO has determined that Exceptional Circumstances

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will delay the submission of data necessary for the ISO to perform an audit and review pursuant to Section 23.4.5.6.2.1 or 23.4.5.6.2, the ISO shall use reasonable efforts to issue a determination that the Generator has experienced a Catastrophic Failure by the 40<sup>th</sup> day after receipt of data necessary to conduct the analysis.

**23.4.5.6.3 Penalties for Withholding Installed Capacity Physically In Order To Affect Prices**

If the ISO determines that either: i) pursuant to Section 23.4.5.6.1, the proposal or decision by a Market Party to retire or otherwise remove an Installed Capacity Supplier from a Mitigated Capacity Zone, or to de-rate the amount of Installed Capacity available from such supplier, or ii) pursuant to Section 23.4.5.6.2, the ISO determines that the reclassification of an Installed Capacity Supplier that is a Generator from a Forced Outage to an ICAP Ineligible Forced Outage constitutes physical withholding, and would increase the Market-Clearing Price in one or more ICAP Spot Market Auctions for a Mitigated Capacity Zone by five percent or more, provided such increase is at least \$.50/kilowatt-month, for each such violation of the above requirements the Market Party shall be assessed an amount equal to the product of (A) 1.5 times the difference between the Market Clearing Price for the Mitigated Capacity Zone in the ICAP Spot Market Auctions with and without the inclusion of the withheld UCAP in those auctions, and (B) the total of (1) the number of megawatts withheld in the month and (2) all other megawatts of Installed Capacity in the Mitigated Capacity Zone under common Control with such withheld megawatts in the month. The requirement to pay such amounts shall continue until the Market Party demonstrates that the removal from service, retirement, or de-rate, as

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described in Section 23.4.5.6.1, or reclassification as described in Section 23.4.5.6.2 is justified by economic considerations other than the effect of such action on Market-Clearing Prices in the ICAP Spot Market Auctions for the Mitigated Capacity Zone. The ISO will distribute any amount recovered in accordance with the foregoing provisions among the LSEs serving Loads in the Mitigated Capacity Zone(s) wherein the Market-Clearing Price was affected for the month corresponding to the penalty accordance with ISO Procedures.

23.4.5.7 Unless exempt as specified below, offers to supply Unforced Capacity from a Mitigated Capacity Zone Installed Capacity Supplier: (i) shall equal or exceed the applicable Offer Floor; and (ii) can only be offered in the ICAP Spot Market Auctions. Except for Offer Floors applied pursuant to Section 23.4.5.7.9.5.2 (*i.e.*, after the revocation of a Competitive Entry Exemption,) Section 23.4.5.7.12.3 (*i.e.*, after the revocation of a Renewable Exemption,) or Section 23.4.5.7.13.5 (*i.e.*, after the revocation of a Self Supply Exemption), the Offer Floor shall apply to offers for Unforced Capacity from the Installed Capacity Supplier, if it is not a Special Case Resource, starting with the Capability Period for which the Installed Capacity Supplier first offers to supply UCAP. Offer Floors applied pursuant to Section 23.4.5.7.9.5.2 shall apply to offers for Unforced Capacity from an Installed Capacity Supplier starting with all ICAP auction activity subsequent to the date of the revocation. Offer Floors shall cease to apply to that portion of a resource’s UCAP (rounded down to the nearest tenth of a MW) that has cleared for any twelve, not-necessarily-consecutive,

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months (such cleared amount, “Cleared UCAP”). Offer Floors shall be adjusted annually using the inflation rate component of the escalation factor of the relevant effective ICAP Demand Curves that have been accepted by the Commission.

23.4.5.7.1      Unforced Capacity from an Installed Capacity Supplier that is subject to an Offer Floor may not be used to satisfy any LSE Unforced Capacity Obligation for Mitigated Capacity Zone Load unless such Unforced Capacity is obtained through participation in an ICAP Spot Market Auction.

23.4.5.7.2      An Installed Capacity Supplier, in a Mitigated Capacity Zone for which the Commission has accepted an ICAP Demand Curve, shall be exempt from an Offer Floor if: (a) the price that is equal to the (x) average of the ICAP Spot Market Auction price for each month in the two Capability Periods, beginning with the Summer Capability Period commencing three years from the start of the year of the Class Year (the “Starting Capability Period”) is projected by the ISO to be higher, with the inclusion of the Installed Capacity Supplier, than (y) the numerical value equal to 75 percent of the Mitigation Net CONE that would be applicable to such supplier in the same two (2) Capability Periods (utilized to compute (x)), (b) the price that is equal to the average of the ICAP Spot Market Auction prices in the six Capability Periods beginning with the Starting Capability Period is projected by the ISO to be higher, with the inclusion of the Installed Capacity Supplier, than the reasonably anticipated Unit Net CONE of the Installed Capacity Supplier, ~~or~~ (c) it has been determined to be exempt

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pursuant to Section 23.4.5.7.9 (the “Competitive Entry Exemption”), (d) it has been determined, and in the quantity of MW for which it has been determined, to be exempt pursuant to Section 23.4.5.7.12 (the “Renewable Exemption”), or (e) it has been determined, and in the quantity of MW for which it has been determined, to be exempt pursuant to Section 23.4.5.7.13 (the “Self Supply Exemption”). For purposes of the determinations pursuant to (a) and (b) of this section, the ISO shall identify Unit Net CONE and the price on the ICAP Demand Curve projected for a future Mitigation Study Period consistent with Sections 23.4.5.7.3.2 or 23.4.5.7.4, as appropriate, for each Examined Facility promptly after it (i) has accepted its SDU Project Cost Allocation and deliverable MW, if any, from the Final Decision Round and (ii) along with all other remaining members, has posted any associated security pursuant to OATT Section 25 (OATT Attachment S) (for purposes of Section 23.4, a project that “remains a member of a completed Class Year”). The first year value of an Examined Facility’s Unit Net CONE will be calculated pursuant to Section 23.4.5.7, Section 23.4.5.7.2.4, or 23.4.5.7.3.2, will be established at the time such Examined Facility first offers UCAP, and will be used by the ISO in subsequent mitigation exemption or Offer Floor determinations for Additional CRIS MW. Any determination received pursuant to this Section 23.4.5.7.2, Section 23.4.5.7.6. or 23.4.5.7.7 shall not become final for the relevant Examined Facility unless the Examined Facility accepts its SDU Project Cost Allocation and deliverable MW, if any, from the Final Decision



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Round, and posted any associated security pursuant to OATT Section 25, and remains a member of the completed Class Year. The Unit Net CONE or exemption determination pursuant to this Section shall be final on the date the ISO issues a notice to stakeholders that the Class Year decisional process has been completed.

23.4.5.7.2.1 Promptly after Commission acceptance of the first ICAP Demand Curve to apply to a Mitigated Capacity Zone, the ISO shall make an exemption and Offer Floor determination for any NCZ Examined Project that is in a completed Class Year and has received CRIS, unless exempt pursuant to section 23.4.5.7.6 or 23.4.5.7.8.

23.4.5.7.2.2 The ISO shall make an “Indicative Buyer-Side Mitigation Exemption Determination” for any NCZ Examined Project if (i) the Commission has accepted an ICAP Demand Curve for the Mitigated Capacity Zone that will become effective when the Mitigated Capacity Zone is first effective, or (ii) if the Commission has not accepted the first ICAP Demand Curve to apply specifically to the Mitigated Capacity Zone in which the NCZ Examined Project is located, provided the ISO has filed an ICAP Demand Curve pursuant to Services Tariff Section 5.14.1.2.11. The Indicative Buyer-Side Mitigation Exemption Determination shall be computed using such ICAP Demand Curve for the Mitigated Capacity Zone concurrent with the determinations the ISO makes for Examined Facilities pursuant to Sections 23.4.5.7.3.2 and 23.4.5.7.3.3. The ISO

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shall recompute the Indicative Buyer-Side Mitigation Exemption Determination promptly after Commission acceptance of the first ICAP Demand Curve for the applicable Locality provided that such NCZ Examined Project (i) received CRIS if the Class Year completed at the time the Commission accepts the Demand Curve, or (ii) has not been removed from the Class Year Deliverability Study if the Class Year is not completed. The Indicative Buyer-Side Mitigation Exemption Determination is for informational purposes only. The exemption or Offer Floor for an NCZ Examined Project to which this Section applies shall be determined for such projects receiving CRIS using the Commission-accepted Locality Demand Curve.

23.4.5.7.2.3 Any NCZ Examined Project not exempt pursuant to 23.4.5.7.8 shall provide data and information requested by the ISO by the date specified by the ISO, in accordance with the ISO Procedures.

The ISO shall compute the reasonably anticipated ICAP Spot Market Auction forecast price based on Expected Retirements (as defined in subsection 23.4.5.7.2.3.1), plus each NCZ Examined Project.

23.4.5.7.2.3.1 Expected Retirements shall be determined based on any Generator that provided written notice to the New York State Public Service Commission that it intends to retire, plus any UDR facilitiesprojects, or any Generator 2 MW or less that provided written notice to the ISO that it intends to retire.

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23.4.5.7.2.3.2 The Load forecast shall be based on data used to develop the Indicative

Locational Minimum Installed Capacity Requirement, and Special Case

Resources based on data for the Mitigated Capacity Zone that is part of the

Special Case Resource data set forth in the most-recently published Load and

Capacity Data (Gold Book).

23.4.5.7.2.4 The ISO shall post on its website the inputs of the reasonably anticipated

ICAP Spot Market Auction forecast prices determined in accordance with

23.4.5.7.2.3 (except for the posting of an input which would disclose Confidential

Information), the Expected Retirements, and the NCZ Examined Projects, before

the exemption or Offer Floor determination under this Section.

When the ISO is evaluating more than one NCZ Examined Project

concurrently, the ISO shall recognize in its computation of the anticipated ICAP

Spot Market Auction forecast price that Generators or UDR facilities-projects will

clear from lowest to highest, using for each NCZ Examined Project the lower of

(i) the first year value of its Unit Net CONE, or (ii) the numerical value equal to

75 percent of the Mitigation Net Cone, then inflated in accordance with 23.4.5.7

for each of the year two and year three of the Mitigation Study Period.

23.4.5.7.2.5 When evaluating NCZ Examined Projects pursuant to Sections

23.4.5.7.2.1 or 23.4.5.7.2.2, the ISO shall seek comment from the Market

Monitoring Unit on matters relating to the determination of price projections and

cost calculations. The ISO shall inform the NCZ Examined Project of the Offer

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Floor or Offer Floor exemption determination or Indicative Buyer-Side Mitigation

Exemption Determination promptly. The responsibilities of the Market

Monitoring Unit that are addressed in this Section 23.4.5.7.2.5 are also addressed in Section 30.4.6.2.12 of Attachment O.

23.4.5.7.2.6 If an NCZ Examined Project under the criteria in 23.4.5.7.2.1 or

23.4.5.7.2.2 does not provide all of the requested data by the date specified by the ISO, the MW of CRIS received at that time by the project shall be subject to the Mitigation Net CONE Offer Floor for the period determined by the ISO in accordance with Section 23.4.5.7.

23.4.5.7.2.7 An NCZ Examined Project or Examined Facility located in more than one Mitigated Capacity Zone shall be evaluated pursuant to the tests in Section 23.4.5.7.2 (a) and (b) or 23.4.5.7.3 (as applicable), calculating Mitigation Net CONE for the smallest Mitigated Capacity Zone that contains the Load Zone in which such NCZ Examined Project or Examined Facility is electrically located.

23.4.5.7.3 The ISO shall make such exemption and Unit Net CONE determination for each “Examined Facility” (collectively “Examined Facilities”) which term shall mean (I) each proposed new Generator and proposed new UDR project, and each existing Generator that has ERIS only and no CRIS, that is a member of the Class Year that requested CRIS, or that requested an evaluation of the transfer of CRIS rights from another location, in the Class Year Facilities Study commencing in the calendar year in which the Class Year Facility Study determination is being

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made (the Capability Periods of expected entry as further described below in this Section, the “Mitigation Study Period”), (II) each (i) existing Generator that did not have CRIS rights, and (ii) proposed new Generator and proposed new UDR project, that is an expected recipient of transferred CRIS rights at the same location regarding which the ISO has been notified by the transferor or the transferee of a transfer pursuant to OATT Attachment S Section 25.9.4 that will be effective on a date within the Mitigation Study Period, (III) each proposed new Generator that (a) is either (i) in the ISO Interconnection Queue, in a Class Year prior to 2009/10, and has not commenced commercial operation or been canceled, and for which the ISO has not made an exemption or Unit Net CONE determination, or (ii) not subject to a deliverability requirement (and therefore, is not in a Class Year) and (b) provides specific written notification to the ISO no later than the date identified by the ISO, that it plans to commence commercial operation and offer UCAP in a month that coincides with a Capability Period of the Mitigation Study Period. The term “Examined Facilities” does not include any facility exempt from an Offer Floor pursuant to the provisions of Section 23.4.5.7.

23.4.5.7.3.1 The commercial operation date to be used by the ISO solely for purposes of identifying the Examined Facilities will be determined by the ISO at the time of the Class Year Study as the date most-recently (A) identified by the project to the ISO in the Interconnection Facilities Study process or (B) reflected in the

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Interconnection Queue, or if neither of the foregoing is applicable, then the date identified by the project to the Transmission Owner to which it has proposed interconnecting.

23.4.5.7.3.2 The ISO shall compute the reasonably anticipated ICAP Spot Market Auction forecast price for any Mitigated Capacity Zone based on Expected Retirements (as defined in this subsection 23.4.5.7.3.2), plus each Examined Facility in 23.4.5.7.3 (I), (II), and (III).

Expected Retirements shall be determined based on any Generator that provided written notice to the New York State Public Service Commission that it intends to retire, plus any UDR ~~facility-project~~ or Generator 2 MW or less that provided written notice to the ISO that it intends to retire.

The load forecast and Special Case Resources shall be as set forth in the most-recently published Load and Capacity Data (Gold Book).

Before the commencement of the Initial Decision Period for the Class Year, the ISO shall post on its website the inputs of the reasonably anticipated ICAP Spot Market Auction forecast prices determined in accordance with 23.4.5.7.3.2, the Expected Retirements, and the Examined Facilities, before the Initial Project Cost Allocation, subject to any restrictions on the disclosure of Confidential Information or Critical Energy Infrastructure Information.

When the ISO is evaluating more than one Examined Facility concurrently, the ISO shall recognize in its computation of the anticipated ICAP Spot Market

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Auction forecast price that Generators or UDR ~~facilities-projects~~ will clear from lowest to highest, using for each Examined Facility the lower of (i) the first year value of its Unit Net CONE, or (ii) the numerical value equal to 75 percent of the Mitigation Net Cone, then inflated in accordance with 23.4.5.7 for each of the year two and year three of the Mitigation Study Period.

23.4.5.7.3.3 All developers, Interconnection Customers, and Installed Capacity

Suppliers for any Examined Facility that do not request CRIS shall provide data and information requested by the ISO by the date specified by the ISO, in accordance with the ISO Procedures. For any such Examined Facility that is in a Class Year but that only has ERIS rights after the Project Cost Allocation process is complete, the ISO shall utilize the data first provided in its analysis of the Unit Net CONE in its review of the project in any future Class Year in which the Generator or UDR ~~facility-project~~ requests CRIS. The ISO shall determine the reasonably anticipated Unit Net CONE less the costs to be determined in the Project Cost Allocation or Revised Project Cost Allocation, as applicable, prior to the commencement of the Initial Decision Period Class Year, and shall provide to the Examined Facility the ISO’s initial determination of an exemption or the Offer Floor. On or before the three (3) days prior to the ISO’s issuance of the Revised Project Cost Allocation, the ISO will revise its forecast of ICAP Spot Market Auction prices for the Capability Periods in the Mitigation Study Period based on the Examined Facilities that remain in the Class Year for CRIS and the Examined

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Facilities that meet 23.4.5.7.3 (II) or (III). When evaluating Examined Capacity pursuant to this Section 23.4.5.7, the ISO shall seek comment from the Market Monitoring Unit on matters relating to the determination of price projections and cost calculations. The ISO shall provide to each project its revised price forecast and a revised initial determination for a Subsequent Decision Period no later than the ISO’s issuance of a Revised Project Cost Allocation. If a project remains a member of a completed Class Year, the ISO shall inform the project of the final determination of the Offer Floor or whether the Offer Floor exemption specified above in this Section is applicable as soon as practicable after the date the ISO issues a notice to stakeholders that the Class Year decisional process has been completed, in accordance with methods and procedures specified in ISO Procedures. The responsibilities of the Market Monitoring Unit that are addressed in this section of the Mitigation Measures are also addressed in Section 30.4.6.2.12 of Attachment O.

23.4.5.7.3.4 If an Examined Facility under the criteria in 23.4.5.7.3 (II) or (III) has not provided written notice to the ISO on or before the date specified by the ISO, or any Examined Facility required to be reviewed does not provide all of the requested data by the date specified by the ISO, the proposed Capacity shall be subject to the Mitigation Net CONE Offer Floor for the period determined by the ISO in accordance with Section 23.4.5.7.



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23.4.5.7.3.5 Except as specified in Section 23.4.5.7.6 with respect to Additional CRIS

MW, an Examined Facility for which an exemption or Offer Floor determination has been rendered may only be reevaluated for an exemption or Offer Floor

determination if it meets the criteria in Section 23.4.5.7.3 (I) and was not

previously in a Class Year at the time of the completion of the Class Year either

(a) enters a new Class Year and requests~~for~~ CRIS or (b) intends to receive

transferred CRIS rights at the same location. An Examined Facility under the

criteria in 23.4.5.7.3 (II) that did receive CRIS rights will be bound by the

determination rendered and will not be reevaluated, and an Examined Facility

under the criteria in 23.4.5.7.3 (III) will not be reevaluated.

23.4.5.7.3.6 If an Installed Capacity Supplier demonstrates to the reasonable

satisfaction of the ISO that the value equal to the first of the three year values in

the Mitigation Study Period that comprise its Unit Net CONE is less than any

Offer Floor that would otherwise be applicable to the Installed Capacity Supplier,

then its Offer Floor shall be reduced to a numerical value equal to the first year of

its Unit Net CONE.

23.4.5.7.3.7 If the Installed Capacity Supplier first offers UCAP prior to the first

Capability Year of the Mitigation Study Period for which it was evaluated, its

Offer Floor shall be reduced using the inflation rate component identified in

Section 23.4.5.7. If the Installed Capacity Supplier first offers UCAP after the

first Capability Year of the Mitigation Study Period for which it was evaluated, its

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Offer Floor shall be increased using the inflation rate component identified in

23.4.5.7.

23.4.5.7.3.8 Net Energy and Ancillary Services Revenue Projections for UDR Projects:

For the purposes of making an exemption determination or Unit Net CONE determination pursuant to Section 23.4.5.7 for a UDR project, the ISO will determine the likely projected net Energy and Ancillary Services revenues utilizing a methodology that reflects, as applicable, but is not limited to, the guiding principles set forth in Section 23.4.5.7.3.8.1. The ISO will implement this Section 23.4.5.7.3.8 in accordance with Section 23.4.5.7.3.8.2.

23.4.5.7.3.8.1 The methodology used for a specific UDR project shall reflect the following guiding principles, where applicable:

- (a) The design and characteristics of the UDR project as proposed in the Class Year, including whether it is proposed to be uni-directional or bi-directional.
- (b) The market structure, scheduling rules, price formation rules, and other relevant characteristics and rules of the Control Area at each terminus of the UDR project.
- (c) The reasonably projected effects of transactions utilizing the UDR project on NYCA and External Control Areas prices, including proxy bus prices.
- (d) The reasonably projected cost to purchase energy, capacity, and ancillary services that would be transmitted into, and if the UDR project is proposed in the Class Year to be bi-directional also from, the Mitigated Capacity Zone, utilizing the UDR project at the rate determined by: (i) market-based clearing price

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mechanisms to the extent that the External Control Area uses them, or ISO market prices if an internal UDR project; (ii) a reasonable substitute, in the ISO’s judgment, to the extent that the External Control Area does not use market-based clearing price mechanisms to determine prices. The costs to purchase energy and capacity, and any other products associated therewith, shall not be based on advantages or sources of revenue that would not reflect arm’s-length transactions, or that are not in ordinary course of business for a competitive energy market participant.

(e) The reasonably anticipated fees for transmitting the ISO-projected energy, capacity, and ancillary services transactions utilizing the UDR project. These fees shall include any export fees, transmission services charges, ancillary services fees, scheduling fees, and other fees and costs.

(f) The reasonably projected opportunity costs (including fees) of selling energy, capacity, and any other products associated with the sale of energy, into an External Control Area in lieu of a sale transaction into the Mitigated Capacity Zone.

(g) The reasonably projected revenues from the sale of energy and ancillary services that would be transmitted into, and if the UDR project is proposed in the Class Year to be bi-directional also from, the Mitigated Capacity Zone, utilizing the UDR project at the rate determined by: (i) market-based clearing price mechanisms to the extent that the External Control Areas uses them, or ISO

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market prices if an internal UDR project; (ii) a reasonable substitute, in the ISO’s judgment, to the extent that the External Control Area does not use market-based clearing price mechanisms to determine prices. The revenues from the sale of energy, capacity, and any other products associated with the sale thereof, into an External Control Area shall not be based on advantages or sources of revenue that do not reflect arm’s-length transactions, or that are not in ordinary course of business for a competitive energy market participant.

- (h) The effect of scheduling uncertainty and imperfect arbitrage on the projected costs and revenues from the purchase and sale of energy and ancillary services that are reasonably projected to be transmitted into, and if the UDR project is proposed in the Class Year to be bi-directional also from, the Mitigated Capacity Zone, utilizing the UDR project.

**23.4.5.7.3.8.2 Implementation**

- (a) The ISO shall seek comment from the Market Monitoring Unit on the methodology the ISO will use to project net Energy and Ancillary Services for each UDR project, and the inputs used to perform the calculation. The responsibilities of the Market Monitoring Unit that are addressed in this section are also addressed in Section 30.4.6.2.12 of Attachment O.
- (b) The ISO shall post on its website a description of the methodology used for each UDR project, subject to any restrictions on the disclosure of Confidential Information or Critical Energy Infrastructure Information.

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- (c) If a UDR project that is an Examined Facility or an NCZ Examined Project withdraws from a Class Year and then enters another Class Year (regardless of whether it has the same or a different interconnection queue position,) the ISO may utilize a different methodology than it previously used, provided it reflects, where applicable, the guiding principles set forth in Section 23.4.5.7.3.8.1 and implemented in accordance with Section 23.4.5.7.3.8.2(a) and (b).

23.4.5.7.4 For purposes of Sections 23.4.5.7.2(b) and 23.4.5.7.6(b), the ISO shall identify (A) the Unit Net CONE projected for a Mitigation Study Period using: (i) the inflation rate component of the escalation factor of the relevant ICAP Demand Curves for any year for which there are accepted ICAP Demand Curves, and (ii) the inflation rate component of the escalation factor of the last year of accepted relevant ICAP Demand Curves if relevant ICAP Demand Curves do not apply to the year; and (B) the price on the ICAP Demand Curve projected for a Mitigation Study Period using (i) the escalation factor of the relevant ICAP Demand Curves for any year for which there are accepted ICAP Demand Curves; and (ii) the escalation factor of the last year of accepted ICAP Demand Curves if relevant ICAP Demand Curves do not apply to the year. For purposes of Section 23.4.5.7.2(a), the ISO shall use the escalation factor of the relevant ICAP Demand Curves.

23.4.5.7.5 A Mitigated Capacity Zone Installed Capacity Supplier that is a Special Case Resource shall be subject to an Offer Floor beginning with the month of its

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initial offer to supply Installed Capacity, and until its offers of Installed Capacity have been accepted in the ICAP Spot Market Auction at a price at or above its Offer Floor for a total of twelve, not necessarily consecutive, months. A Special Case Resource shall be exempt from the Offer Floor if (a) it is located in a Mitigated Capacity Zone except New York City and is enrolled as a Special Case Resource with the ISO for any month within the Capability Year that includes March 31 in an ICAP Demand Curve Reset Filing Year in which the ISO proposes a New Capacity Zone that includes the location of the Special Case Resource, or (b) the ISO projects that the ICAP Spot Market Auction price will exceed the Special Case Resource’s Offer Floor for the first twelve months that the Special Case Resource reasonably anticipated to offer to supply UCAP. If a Responsible Interface Party fails to provide Special Case Resource data that the ISO needs to conduct the calculations described in the two preceding sentences by the deadline established in ISO Procedures, the Special Case Resource will cease to be eligible to offer or sell Installed Capacity. The Offer Floor for a Special Case Resource shall be equal to the minimum monthly payment for providing Installed Capacity payable by its Responsible Interface Party, plus the monthly value of any payments or other benefits the Special Case Resource receives from a third party for providing Installed Capacity, or that is received by the Responsible Interface Party for the provision of Installed Capacity by the Special Case Resource. The Offer Floor calculation for a Special Case Resource located

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in New York City shall include any payment or the value of other benefits that are awarded for offering or supplying Mitigated Capacity Zone Capacity unless such payment or the value of other benefits is ruled exempt by Commission order in response to a request for exemption filed under section 206 of the Federal Power Act by New York State or a government instrumentality of New York State. The Offer Floor calculation for a Special Case Resource located in a Mitigated Capacity Zone except New York City shall include any payment or the value of other benefits that are awarded for offering or supplying Mitigated Capacity Zone Capacity, except for payments or the value of other benefits provided under programs administered or approved by New York State or a government instrumentality of New York State. Offers by a Responsible Interface Party at a PTID shall be not lower than the highest Offer Floor applicable to a Special Case Resource providing Installed Capacity at that PTID. Such offers may comprise a set of points for which prices may vary with the quantity offered. If this set includes megawatts from a Special Case Resource(s) with an Offer Floor, then at least the quantity of megawatts in the offer associated with each Special Case Resource must be offered at or above the Special Case Resource’s Offer Floor. Offers by a Responsible Interface Party shall be subject to audit to determine whether they conformed to the foregoing Offer Floor requirements. If a Responsible Interface Party together with its Affiliated Entities submits one or more offers below the applicable Offer Floor, and such offer or offers cause or

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contribute to a decrease in UCAP prices in the Mitigated Capacity Zone of 5 percent or more, provided such decrease is at least \$.50/kilowatt-month, the Responsible Interface Party shall be required to pay to the ISO an amount equal to 1.5 times the difference between the Market-Clearing Price for the Mitigated Capacity Zone in the ICAP Spot Auction for which the offers below the Offer Floor were submitted with and without such offers being set to the Offer Floor, times the total amount of UCAP sold by the Responsible Interface Party and its Affiliated Entities in such ICAP Spot Auction. If an offer is submitted below the applicable Offer Floor, the ISO will notify the Responsible Market Party and the notification will identify the offer, the Special Case Resource, the price impact, and the penalty amount. The ISO will provide the notice reasonably in advance of imposing such penalty. The ISO shall distribute any amounts recovered in accordance with the foregoing provisions among the entities, other than the entity subject to the foregoing payment requirement, supplying Installed Capacity in regions affected by one or more offers below an applicable Offer Floor in accordance with ISO Procedures.

**23.4.5.7.6 Exemption and Offer Floor Determinations for Additional CRIS MW:**

All requests for Additional CRIS MW located in a Mitigated Capacity Zone, in a Class Year or through a transfer, shall be evaluated for a buyer-side mitigation exemption or Offer Floor in accordance with this Section. Additional CRIS MW obtained in a Class Year or obtained through a transfer at the same location shall



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be exempt from an Offer Floor (a) if the price that is equal to (x) the average of the ICAP Spot Market Auction price for each month in the two Capability Periods, beginning with the Summer Capability Period commencing three years from the start of the Class Year (the “Starting Capability Period”) is projected by the ISO, with the inclusion of the Additional CRIS MW, to be higher than (y) the highest Offer Floor based on the Mitigation Net CONE that would be applicable to such Additional CRIS MW in the same two (2) Capability Periods (utilized to compute (x)); ~~or~~ (b) if the price that is equal to the average of the ICAP Spot Market Auction prices in the six Capability Periods beginning with the Starting Capability Period is projected by the ISO, with the inclusion of the Installed Capacity Supplier’s Additional CRIS MW, to be higher than the reasonably anticipated Unit Net CONE computed in accordance with (i) and (ii) of Section 23.4.5.7.6.1 for the Installed Capacity Supplier’s Additional CRIS MW, or (c) for the quantity of MW determined to be exempt pursuant to Section 23.4.5.7.12 (the Renewable Exemption), or (d) for the quantity of MW determined to be exempt pursuant to 23.4.5.7.13 (the Self Supply Exemption).

23.4.5.7.6.1 For Additional CRIS MW that have an exemption or Offer Floor determined pursuant to this Section 23.4.5.7.6, the ISO shall compute Unit Net CONE as follows:

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- (i) Unit Net CONE for the Additional CRIS MW shall be based on the Additional CRIS MW and the costs and revenues of and associated with the Additional CRIS MW if:
  - (a) the most recent prior determination concluded that the Capacity for which the Examined Facility accepted CRIS was exempt from the Offer Floor pursuant to Section 23.4.5.7.2(b), 23.4.5.7.6(b), 23.4.5.7.7, or 23.4.5.7.8; or
  - (b) at the time of an Examined Facility’s request for Additional CRIS MW:
    - (1) it has accepted CRIS MW equal to, or greater than, 95 percent of the Examined Facility’s maximum MW of electrical capability, net of auxiliary load, at an ambient temperature of 93° F as determined in accordance with ISO Procedures and (2) the amount of Cleared UCAP is greater than or equal to the amount of UCAP calculated pursuant to Section 23.4.5.7.6.3; or
  - (c) the Examined Facility’s Total Evaluated CRIS MW includes exempted CRIS MW for which the Examined Facility did not receive a Unit Net CONE determination and thus did not provide data to the ISO because the determination for the exempt CRIS MW received was not based on Unit Net CONE and was made prior to November 27, 2010.
- (ii) or in all other cases, Unit Net CONE, shall be the greater of two values, one based on the Total Evaluated CRIS MW, and the costs and revenues of the Total Evaluated CRIS MW, and one based on the Additional CRIS MW, and the costs and revenues of the Additional CRIS MW.

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23.4.5.7.6.2 When calculating the Unit Net CONE of the Total Evaluated CRIS MW

for an Examined Facility, the ISO shall utilize the Examined Facility’s first year Unit Net CONE determined pursuant to Section 23.4.5.7 and Sections 23.4.5.7.2.4 or 23.4.5.7.3.2, adjusted to the year’s dollars at the time of an Examined Facility’s request for Additional CRIS MW using: (i) the relevant value from the price index for non-farm business output published in the Survey of Current Business by the Department of Commerce’s Bureau of Economic Analysis (“BEA Non-Farm Price Index”), or its successor; or (ii) the inflation rate component of the escalation factor of the most currently accepted ICAP Demand Curves for any future year which is beyond the published BEA Non-Farm Price Index, or its successor.

23.4.5.7.6.3 For purposes of making the determination pursuant to Section 23.4.5.7.6.1(i)(b)(2), the amount of Cleared UCAP shall be compared to an amount of UCAP calculated as the product of the CRIS MW held by the Examined Facility immediately prior to its request for Additional CRIS MW and (1-EFORd). Except as specified in the next paragraph, for purposes of this calculation, if the Examined Facility is a Generator, its EFORd shall be derived using the data in the 5-year average NERC-GADS Generating Availability Report, or its successor, for the main class of the unit (hereinafter the “Class Average EFORd”) that is current at the time of the request for Additional CRIS MW, when available. If the Examined Facility is an Intermittent Power Resource

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or Limited Control Run-of-River Hydro Resource, the ISO shall apply a 5-year average derating factor based on ISO data to establish the EFORD to be utilized in the calculation pursuant to this paragraph. In all other cases, the ISO will apply the 5-year average derating factor from the ICAP/UCAP translation, for the smallest Mitigated Capacity Zone in which the resource is located at the time of the request. The EFORD applied by the ISO at the time that the Examined Facility first offers or certifies UCAP in an Installed Capacity auction (“Initial Entry EFORD”) shall be used instead of Class Average EFORD when it is higher (*i.e.*, a greater outage rate) than the Class Average EFORD calculated at the time of the Examined Facility’s request for Additional CRIS MW.

23.4.5.7.6.4 Additional CRIS MW shall be subject to the Mitigation Net CONE Offer Floor for the period specified in Section 23.4.5.7, for any Examined Facility whose Total Evaluated CRIS MW includes CRIS MW that are or have ever been subject to the Mitigation Net CONE Offer Floor, pursuant to Section 23.4.5.7.3.4.

23.4.5.7.6.5 The Offer Floor for Additional CRIS MW shall be equal to the lesser of:  
(a) the Unit Net CONE for the Additional CRIS MW; or (b) a numerical value equal to 75 percent of the Mitigation Net CONE translated into a seasonally adjusted monthly UCAP value for the Additional CRIS MW.

23.4.5.7.6.6 The results of this exemption determination shall apply only to the Additional CRIS MW and shall not alter or affect any prior exemption or Offer Floor determination for the Examined Facility. The Additional CRIS MW for

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which CRIS is received shall be bound by the determination rendered and will not be reevaluated unless the Examined Facility enters a new Class Year for the Additional CRIS MW.

23.4.5.7.6.7 When the ISO makes a mitigation exemption or Offer Floor determination for an Examined Facility’s Additional CRIS MW for an Installed Capacity Supplier other than that to which the Unit Net CONE determination for the Examined Facility was rendered, the ISO shall provide such Installed Capacity Supplier with the Examined Facility’s first year Unit Net CONE value if the Installed Capacity Supplier (a) requests that information, and (b) represents that it: (i) will use that information solely for purposes of considering a request for Additional CRIS MW for the Examined Facility, and (ii) will not share that information with or make it available to any other person except those that are assisting it in considering a request for Additional CRIS MW.

23.4.5.7.6.8 The ISO shall post on its website the determination of whether the project is exempt or non-exempt from an Offer Floor as soon as the determination is final. Concurrent with the ISO’s posting, the Market Monitoring Unit shall publish a report on the ISO’s determination, as further specified in Sections 30.4.6.2.12 ~~and 30.10.4~~ of Attachment O to this Services Tariff.

23.4.5.7.7 (a) An In-City Installed Capacity Supplier that is not a Special Case Resource shall be exempt from an Offer Floor if it was an existing facility on or before March 7, 2008. (b) A Generator or UDR project that was an existing

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facility on or before June 29, 2012, which: (i) is in a Mitigated Capacity Zone except New York City, and (ii) was grandfathered from the deliverability requirement at a certain quantity of MW of CRIS pursuant to Section 25.9.3.1 of OATT Attachment S (“Deliverability Grandfathering Process”) shall be exempt from an Offer Floor for the MW quantity of CRIS that was provided through the Deliverability Grandfathering Process plus an additional 2 MW obtained through Section 30.3.2.6 of Attachment X to the OATT. If the Generator or UDR project subsequently received CRIS above the quantity established through the Deliverability Grandfathering Process, this exemption shall not apply to any such increase above the 2 MW allowed in Section 30.3.2.6 of Attachment X to the OATT.

23.4.5.7.8 For any Mitigated Capacity Zone except New York City:

(I) Any existing or proposed Generator or UDR project that has the characteristics specified in this Section 23.4.5.7.8(I) shall be exempt from an Offer Floor with respect to the MW of CRIS that it received at the time, or for which it satisfied the specific CRIS transfer requirements stated in this Section. To be eligible for an exemption under this Section: (a) the existing or proposed Generator or UDR project’s location must be included in the ISO’s March 31 Filing in the ICAP Demand Curve Reset Filing Year in which a Mitigated Capacity Zone is first applied to such location; (b) prior to that March 31 Filing the existing or proposed Generator or UDR project must have both: (i)

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Commenced Construction and (ii) either (1) received the MW of CRIS in a Class Year that was completed or (2) submitted to the ISO an Interconnection Request that specifically states that the Generator or UDR project will be requesting or has requested a transfer of a specific MW quantity of CRIS at the same location in accordance with Section 25.9.4 of OATT Attachment S (provided that the transfer is ultimately approved by the ISO and consummated); and (c) the existing or proposed Generator or UDR project must demonstrate to the ISO no later than the deadline established by the ISO that it satisfies the requirements of (b) (i) and (ii) above; and

(II) An existing or proposed Generator or UDR project that is not subject to a deliverability requirement (and therefore, is not in a Class Year and does not receive CRIS MW) shall be exempt from an Offer Floor if it meets the following requirements prior to the ISO’s March 31 Filing in an ICAP Demand Curve Reset Filing Year in which a Mitigated Capacity Zone is first applied to such location: (a) has Commenced Construction, (b) has an effective interconnection agreement, and (c) provides specific written notification to the ISO that it meets requirements (a) and (b) of this subsection 23.4.5.7.8(II) no later than the deadline established by the ISO.

The ISO shall consult with the Market Monitoring Unit prior to determining whether an existing or proposed Generator or UDR project has Commenced Construction. Prior to the ISO making its determination, the Market

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Monitoring Unit shall provide the ISO a written opinion and recommendation regarding whether an existing or proposed Generator or UDR project Commenced Construction. The responsibilities of the Market Monitoring Unit that are addressed in this section of the Mitigation Measures are also addressed in Section 30.4.6.2.12 of Attachment O. The ISO shall only make a determination pursuant to this Section for an existing or proposed Generator or UDR project for the Mitigated Capacity Zone’s first application to the location of the project. The Market Monitoring Unit shall also provide a public report on its assessment of an ISO determination that an existing or proposed Generator or UDR project is exempt from an Offer Floor pursuant to this Section 23.4.5.7.8.

**23.4.5.7.9 Competitive Entry Exemption**

**23.4.5.7.9.1 Eligibility**

23.4.5.7.9.1.1 A proposed new Generator or UDR project that becomes a member of a Class Year after Class Year 2012 may request to be evaluated for a “Competitive Entry Exemption” for its CRIS MW and shall qualify for such exemption if the ISO determines that the proposed Generator or UDR project meets each of the following requirements: (a) does not have, and at no time before the Generator first produces or the UDR project first transmits energy (for purposes of this Section 23.4.5.7.9, the “Entry Date”) shall have, (i) a direct or indirect “non-qualifying contractual relationship,” as defined in Section 23.4.5.7.9.1.2, with a Transmission Owner, a Public Power Entity, or any other entity with a



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Transmission District in the NYCA or an agency or instrumentality of New York State or a political subdivision thereof, (collectively “Non-Qualifying Entry Sponsors”); or (ii) an unexecuted agreement, written or unwritten, with a Non-Qualifying Entry Sponsor that would support the development of the project, except those agreements that would not constitute a “non-qualifying contractual relationship,” as set forth in Section 23.4.5.7.9.1.3(i) – (viii), (b) is not itself, and is not an Affiliate of, a Non-Qualifying Entry Sponsor.

23.4.5.7.9.1.2 For purposes of Section 23.4.5.7.9, a direct “non-qualifying contractual relationship” shall include but not be limited to any contract, agreement, arrangement, or relationship (for the purposes of this Section 23.4.5.7.9, a “contract”) that: (a) directly relates to the planning, siting, interconnection, operation, or construction of the Generator or UDR project that is the subject of the request for the Competitive Entry Exemption; (b) is for the energy or capacity produced by or delivered from or by the Generator or UDR project, including an agreement for rights to schedule or use a UDR; or (c) provides services, financial support, or tangible goods to a Generator or UDR project. For purposes of Section 23.4.5.7.9, an indirect “non-qualifying contractual relationship” is any contract between the Generator or UDR project and an entity (for purposes of this Section 23.4.5.7.9, a “third party”) if the third party has a non-qualifying contractual relationship with a Non-Qualifying Entry Sponsor, the recital,

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purpose, or subject of which includes, or has the effect of including, this

Generator or UDR project.

23.4.5.7.9.1.3 A contract with a Non-Qualifying Entry Sponsor shall not constitute a “non-qualifying contractual relationship” if it is (i) an Interconnection Agreement; (ii) an agreement for the construction or use of interconnection facilities or transmission or distribution facilities, or directly connected joint use transmission or distribution facilities (including contracts required for compliance with Articles VII or X of the New York State Public Service Law or orders issued pursuant to Articles VII or X); (iii) a grant of permission by any department, agency, instrumentality, or political subdivision of New York State to bury, lay, erect or construct wires, cables or other conductors, with the necessary poles, pipes or other fixtures in, on, over or under public property; (iv) a contract for the sale or lease of real property to or from a Non-Qualifying Entry Sponsor at or above fair market value as of the date of the agreement was executed, such value demonstrated by an independent appraisal at the time of execution prepared by an accountant or appraiser with specific experience in such valuations; (v) an easement or license to use real property; (vi) a contract, with any department, agency, instrumentality, or political subdivision of New York State providing for a payment-in-lieu of taxes (*i.e.*, a “PILOT” agreement) or industrial or commercial siting incentives, such as tax abatements or financing incentives, provided the PILOT agreement or incentives are generally available to industrial

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or commercial entities; (vii) a service agreement for natural gas entered into under a tariff accepted by a regulatory body with jurisdiction over that service; or (viii) a service agreement entered into under a tariff accepted by a regulatory body with jurisdiction over that service at a regulated rate for electric Station Power, or steam service, excluding an agreement for a rate that is a negotiated rate pursuant to any such regulated electric, or steam tariff. Notwithstanding the foregoing, a contract with a Non-Qualifying Entry Sponsor that includes a provision that is a non-qualifying contractual relationship will render the entire contract described in (i) through (viii) of this Section a non-qualifying contractual relationship.

23.4.5.7.9.1.4 The ISO shall determine whether a Generator or UDR project is eligible for a Competitive Entry Exemption based on its review of the certifications required by Section 23.4.5.7.9.2, below, and any other supporting data requested by the ISO. When evaluating eligibility for a Competitive Entry Exemption, the ISO shall consult with the Market Monitoring Unit. The responsibilities of the Market Monitoring Unit that are addressed in this section of the Mitigation Measures are also addressed in Section 30.4.6.2.12 of Attachment O.

**23.4.5.7.9.2 Certifications and Acknowledgements**

23.4.5.7.9.2.1 A Generator or UDR project requesting a Competitive Entry Exemption shall submit to the ISO in accordance with ISO Procedures, and shall be legally bound by, the following Certification and Acknowledgement form executed by a duly authorized officer:

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**CERTIFICATION AND ACKNOWLEDGMENT**

I [NAME & TITLE] hereby certify on behalf of myself, [NAME OF PROJECT], and [NAME OF DEVELOPER] that each of the following statements is true and correct:

1. I am an officer whose responsibilities include the development of the [EXAMINED FACILITY], New York Independent System Operator, Inc.’s (“NYISO”) Interconnection queue position Number [INSERT NUMBER] (the “Project”).
2. I am duly authorized to make representations concerning the Project, including each of the certifications and acknowledgements that I have made in this document.
3. I hereby [REQUEST ON BEHALF OF/ACKNOWLEDGE THE PRIOR SUBMISSION IN THIS CLASS YEAR BY] the Developer a Competitive Entry Exemption for the Project.
4. I have reviewed and I understand the requirements established under the NYISO Market Administration and Control Area Services Tariff (“Services Tariff”) related to a “Competitive Entry Exemption” pursuant to Section 23.4.5.7.9.
5. I have personal knowledge of the facts and circumstances supporting the Project’s request and eligibility for a Competitive Entry Exemption as of the date of this Certification and Acknowledgment, including all data and other information submitted by the Project to the NYISO.
6. To the best of my knowledge and having conducted due diligence that is current as of the date of this Certification there [ARE/ARE NOT ANY] direct or indirect contractual relationships for the Project with a “Non-Qualifying Entry Sponsor,” as those terms are defined in Section 23.4.5.7.9 of the Services Tariff. I have listed all contracts with Non-Qualifying Entry Sponsors on Schedule 1 to this Certification.
7. If the Answer to (6) is that there are one or more direct or indirect contractual relationships for the Project with a Non-Qualifying Entry Sponsor, then I certify that to the best of my knowledge and having conducted due diligence that they are “allowable contracts” as set forth in Section 23.4.5.7.9.1.3(i) – (viii) of the Services Tariff.
8. To the best of my knowledge and having conducted due diligence that is current as of the date of this Certification, (a) no unexecuted agreements, written or unwritten, with a Non-Qualifying Entry Sponsor exist that would support the

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development of the Project except those agreements that would not constitute a non-qualifying contractual relationship, as set forth in Section 23.4.5.7.9.1.3(i) – (viii) of the Services Tariff, and (b) all agreements that would not constitute a non-qualifying contractual relationship are on Schedule 1 to this certification.

9. To the best of my knowledge and having conducted due diligence, the Project is not a Non-Qualifying Entry Sponsor, and it is not an “Affiliate” (as Affiliate is defined in Section 2.1 of the Services Tariff) of, a Non-Qualifying Entry Sponsor.
10. The Project shall provide any information or cooperation requested by the NYISO in connection with the Project’s request for a Competitive Entry Exemption.
11. All parents or Affiliates of the Project shall provide any information or cooperation requested by the ISO.

I hereby acknowledge on behalf of myself, [INSERT NAME OF PROJECT], and [NAME OF DEVELOPER] that:

- a. The submission of false, misleading, or inaccurate information, or the failure to submit information requested by the NYISO related to the Project’s request for a Competitive Entry Exemption, including but not limited to information contained or submitted in this Certification and Acknowledgement on behalf of the Project, shall constitute a violation of Section 4.1.7 of the Services Tariff, and subject to the Commission’s review, a violation of the Commission’s regulations and Section 316A of the Federal Power Act.
- b. If the Project submits false, misleading, or inaccurate information, or fails to submit requested information to the NYISO, including but not limited to information contained or submitted in this Certification and Acknowledgement on behalf of the Project, it shall cease to be eligible for a Competitive Entry Exemption and, if the Project has already received a Competitive Entry Exemption, that exemption shall be subject to revocation by the NYISO or the Commission after which the Project shall be subject to an Offer Floor set at the Mitigation Net CONE Offer Floor (such value calculated based on the date it first Offers UCAP, in accordance with Section 23.4.5.7.3.7, and adjusted annually in accordance with Section 23.4.5.7 of the Services Tariff,) starting with the date of the revocation pursuant to Section 23.4.5.7.9.5.3 of the Services Tariff.
- c. If the Project submits false, misleading, or inaccurate information, or fails to submit requested information to the NYISO, including but not limited to information contained or submitted in the Certification and Acknowledgement on behalf of the Project, it may be subject to civil penalties that may be imposed by

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the Commission for violations of Section 4.1.7 of Services Tariff, the Commission’s rules, and/or Section 316A of the Federal Power Act.

---

[PRINT NAME]  
[DATE]

Subscribed and sworn to before me  
this [ ] day of [MONTH] [YEAR].

---

Notary Public

My commission expires: \_\_\_\_\_

**PROJECT NAME] SCHEDULE 1 CERTIFICATION AND ACKNOWLEDGEMENT**  
**[DATE]**

**Parties to agreement   Date Executed   Effective Date   Date Performance Commences**

23.4.5.7.9.2.2 A duly authorized officer of the Generator or UDR project shall also  
submit a certification acknowledging that parents or Affiliates shall provide any  
information or cooperation requested by the ISO.

23.4.5.7.9.2.3 The certifying officers must have knowledge of the facts and  
circumstances supporting the request and qualification for a Generator’s or UDR  
project’s Competitive Entry Exemption.

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23.4.5.7.9.2.4 Such certifications shall be submitted concurrent with the request for a

Competitive Entry Exemption and each time the ISO requests a resubmittal of a certification, until the Generator’s or UDR project’s Entry Date.

23.4.5.7.9.2.5 The Generator or UDR project must notify the ISO if information in a certification ceases to be true, promptly upon such occurrence or learning information previously provided was not true.

23.4.5.7.9.2.6 Failure to provide, without prior notification, information or cooperation consistent with any certification shall be considered a false, misleading, or inaccurate submission for purposes of Section 23.4.5.7.9.5.

23.4.5.7.9.2.7 Where a notification is provided to the ISO, within 2 business days of receipt of a request from the ISO for information or cooperation, that the information or cooperation requested will not be provided, such refusal will not be considered a false, misleading, or inaccurate submission for purposes of Section 23.4.5.7.9.5 as long as the information is provided by the earlier of a mutually agreed upon deadline or thirty (30) calendar days. A refusal to provide information or any other failure to provide information by that deadline will make the Generator or UDR project requesting a Competitive Entry Exemption ineligible for such exemption, and such Generator or UDR project shall be subject to the Mitigation Net CONE Offer Floor (such value based on the date it first offers UCAP, in accordance with Section 23.4.5.7.3.7, and adjusted annually in accordance with Section 23.4.5.7 of the Services Tariff.)

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**23.4.5.7.9.3 Timing for Requests, Required Submittals, and Withdrawals**

23.4.5.7.9.3.1 The executed Certification and Acknowledgement form required by

Section 23.4.5.7.9.2 shall be submitted concurrent with a request for a Competitive Entry Exemption. The ISO may request additional information and updated certifications at any time prior to a Generator’s or UDR project’s Entry Date. A Generator or UDR project that is granted an exemption pursuant to this Section 23.4.5.7.9, shall be required to submit an executed Certification and Acknowledgement form set forth in Section 23.4.5.7.9.2 of the Services Tariff, updated as appropriate, upon its Entry Date.

23.4.5.7.9.3.2 Requests for Competitive Entry Exemptions for Generators or UDR

projects in Class Years subsequent to Class Year 2012 must be received by the ISO no later than the deadline by which a facility must notify the ISO of its election to enter the Class Year, such date as set forth in Section 25.5.9 OATT Attachment S. A Generator or UDR project that requests a Competitive Entry Exemption in a Class Year may not also request Renewable Exemption or Self Supply Exemption. A Generator or UDR project that remains a member of a completed Class Year if such Class Year is Class Year 2012 or prior Class Year, shall not be eligible to request or receive a Competitive Entry Exemption. The ISO shall determine whether a Generator or UDR project is exempt, subject to any required further submissions of information, or not exempt under the Competitive Entry Exemption, prior to the Initial Decision Period within which a



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Developer must provide an Acceptance Notice or Non-Acceptance Notice to the ISO in response to the first Project Cost Allocation issued by the ISO to the Developer.

23.4.5.7.9.3.3 A Generator or UDR project that submits a request for a Competitive Entry Exemption, including the required Certification and Acknowledgement, responses to information requests, and resubmittal, but (a) enters into a “non-qualifying contractual relationship” or (b) enters into an unexecuted agreement, written or unwritten, with a Non-Qualifying Entry Sponsor that would support the development of the Project, except those agreements identified in 23.4.5.7. 9.1.3 that would not constitute a “non-qualifying contractual relationship, may withdraw such request, provided that it notifies the ISO that it has entered into such “non-qualifying contractual relationship” within 2 business days of doing so. A Generator or UDR project seeking to withdraw its request pursuant to this section 23.4.5.7.9.3.3 shall be subject to the Mitigation Net CONE Offer Floor (such value calculated based on its the date it first offers UCAP, in accordance with Section 23.4.5.7.3.7, and adjusted annually in accordance with Section 23.4.5.7 of the Services Tariff,) but will not be subject to the provisions of Section 23.4.5.7.9.5.

**23.4.5.7.9.4 Notifications**

23.4.5.7.9.4.1 The ISO shall post on its website a list of each Generator or UDR project that requests a Competitive Entry Exemption that becomes a member of the Class

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Year, promptly after the deadline set forth in Section 30.8.1 of the OATT

(Attachment X) (by which the ISO must receive the Developer’s executed Class Year Interconnection Facilities Study Agreement and deposit.) The ISO shall update the list as necessary. The ISO shall also post on its website whether a request for a Competitive Entry Exemption was denied, or granted, as soon as its determination is final.

23.4.5.7.9.4.2 Concurrent with the ISO posting of its final determination, the Market Monitoring Unit shall publish a report on the ISO’s determination in accordance with Sections 30.4.6.2.12 ~~and 30.10.4~~ of Attachment O to the Services Tariff.

**23.4.5.7.9.5 Revocation**

23.4.5.7.9.5.1 The submission of false, misleading, or inaccurate information, or the failure to submit requested information in connection with a request for a Competitive Entry Exemption shall constitute a violation of the Services Tariff. Such violation shall be reported, by the ISO, to the Market Monitoring Unit and to the Commission’s Office of Enforcement (or any successor to its responsibilities).

23.4.5.7.9.5.2 Where the ISO reasonably believes that a request for a Competitive Entry Exemption was granted based on false, misleading, or inaccurate information, the ISO shall notify the Generator or UDR project that its Competitive Entry Exemption may be revoked, and provided 30 days written notice has been given to the Generator or UDR project (such notice to the extent practicable,) the ISO may revoke the Competitive Entry Exemption and apply the Mitigation Net

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CONE Offer Floor (such value calculated based on the date it first offers UCAP, in accordance with Section 23.4.5.7.3.7, and adjusted annually in accordance with Section 23.4.5.7 of the Services Tariff.) Prior to the revocation of a Competitive Entry Exemption and the submission of a report to the Commission’s Office of Enforcement (or any successor to its responsibilities,) the ISO shall provide the Generator or UDR project an opportunity to explain any statement, information, or action. The ISO cannot revoke the Competitive Entry Exemption until after the 30 days written notice period has expired, unless ordered to do so by the Commission.

23.4.5.7.10 The ISO shall post on its website the identity of the project in a Mitigated Capacity Zone and the determination of either exempt or non-exempt as soon as the determination is final. Concurrent with the ISO’s posting, the Market Monitoring Unit shall publish a report on the ISO’s determinations, as further specified in Sections 30.4.6.2.12 ~~and 30.10.4~~ of Attachment O to this Services Tariff.

23.4.5.7.11 Mitigated UCAP that is subject to an Offer Floor shall remain subject to the requirements of Section 23.4.5.4, and if the Offer Floor is higher than the applicable offer cap shall submit offers not lower than the applicable Offer Floor.

23.4.5.7.12 For an RMR Generator that has UCAP subject to an Offer Floor, the UCAP subject to the Offer Floor shall be offered at the higher of the Offer Floor and the RMR UCAP Offer Price.

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23.4.5.7.12 Renewable Exemption

23.4.5.7.12.1 Eligibility

23.4.5.7.12.1.1 A proposed new Generator in the amount of its requested CRIS MW and an existing Generator in the amount of its requested Additional CRIS MW may request, in accordance with ISO Procedures, to be evaluated for a Renewable Exemption, provided it does not request to be evaluated in the same Class Year for a Competitive Entry Exemption. The ISO shall evaluate requests for a Renewable Exempt that are received from members of (I) Class Year 2015 that are received on or before April 28, 2016, and (II) a Class Year after Class Year 2015 that are received no later than the deadline by which the facility must notify the ISO of its election to enter the Class Year, such date as set forth in Section 25.5.9 of OATT Attachment S. Proposed new Generators and requests for Additional CRIS MW shall not be eligible, and the ISO shall not evaluate them for eligibility, for a Renewable Exemption if they request a Competitive Entry Exemption in the Class Year or if they do not request to be evaluated for a Renewable Exemption by the deadline established in accordance with the preceding sentence. A Generator that remains a member of a completed Class Year if such Class Year is Class Year 2012 or prior Class Year, shall not be eligible to request or receive a Renewable Exemption. -The quantity of CRIS MW or Additional CRIS MW shall be exempt from an Offer Floor if the

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Generator remains a member of the completed Class Year and the ISO determines that it meets the requirements of Section (a) subject to the limitation in Section (b) of this Section 23.4.5.7.12.1.

(a) The proposed new (or existing if a request for Additional CRIS MW) Generator requesting a Renewable Exemption:

- (i) must have a proposed design in the Class Year to be powered solely by a device that can qualify as an Intermittent Power Resource or to be a Limited Control Run-of-River Resource as such terms are (A) defined on the date by which the ISO must receive the request for a Renewable Exemption in accordance with Section 23.4.5.7.12.1.1, or (B) in the ISO’s judgment, are reasonably expected to defined at the time it is first qualified as an Installed Capacity Supplier; and
- (ii) (A) be proposed in the Class Year to be powered solely by a technology that is an Exempt Renewable Technology; or  
(B) is determined by the ISO, in accordance with ISO Procedures, to have (1) high development costs, and (2) a low capacity factor such that there would be limited or no incentive and ability to develop it in order to artificially suppress capacity prices. The ISO shall make this determination by evaluating pertinent factors including whether the reasonably projected cost of new entry and of operating the proposed new Generator or Additional CRIS MW- are higher than the sum of (I) the likely projected revenues from the sale of

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Capacity, Energy and Ancillary Services, and any other generally available revenues associated with the production of energy, and (II) the reasonably estimated cost savings to Loads due to a reduction in UCAP Market-Clearing Prices from the entry of the proposed new Generator or Additional CRIS MW.

- (b) The total amount of MW that may be determined to be exempt pursuant to the Renewable Exemption in any one Class Year is 1000 MW of Installed Capacity. This amount includes the amount for which an NCZ Examined Project is determined to be eligible at the time the ISO issues an Indicative Buyer Side Mitigation Determination pursuant to Section 23.4.5.7.2.2, or a determination pursuant to Section 23.4.5.7.2.1. If the ISO determines that more than 1000 MW of Installed Capacity would be eligible for a Renewable Exemption in the Class Year but for the 1000 MW limitation, then each Generator or the Additional CRIS MW found to meet the requirements to be eligible for a Renewable Exemption other than those that were also determined to be exempt pursuant to Sections 23.4.5.7.2(a) or (b) or Section 23.4.5.7.13 (the Self Supply Exemption), shall have a portion of its CRIS MW or Additional CRIS MW exempted. Such portion of the 1000 MW shall be the MW equal to the proportion of the requested CRIS MW or Additional CRIS MW to the total Installed Capacity MW of all MW determined to be eligible for the Renewable Exemption for the Class Year (and not eligible pursuant to Sections 23.4.5.7.2(a) or (b) or Section 23.4.5.7.13.

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23.4.5.7.12.2 Periodic Review and Determination of Exempt Renewable Technologies

23.4.5.7.12.2.1 In each ICAP Demand Curve Reset Filing Year after 2016, the ISO shall conduct a periodic review, in accordance with this Section and ISO Procedures, to determine the technology types that should be Exempt Renewable Technologies for Class Years with a Class Year Start Date during the period of the next proposed ICAP Demand Curves.

23.4.5.7.12.2.1(a) The ISO’s periodic review will identify, by Mitigated Capacity Zone, the technologies that, at the time of the periodic review, are commercially viable in the ISO Administered Markets (whether as a single unit, or a plant comprised of more than one unit) and are either Intermittent Power Resources or Limited Control Run-of-River Hydro Resources (“candidate intermittent renewable technologies”):

23.4.5.7.12.2.1(b): For each candidate intermittent renewable technology, the ISO’s periodic review will reasonably project:

(i) the cost of new entry and costs to operate;

(ii) the revenues from the sale of Capacity, Energy and Ancillary Services, and any other generally available revenues associated with the production of energy by it;

(iii) the cost savings to Loads due to a reduction in ICAP Market-Clearing Prices from the new entry of the candidate intermittent renewable technology.

23.4.5.7.12.2.2 The ISO will utilize pertinent factors including results of the computation in accordance with Section 23.4.5.7.12.2.1(b) to determine for each Mitigated Capacity Zone which candidate intermittent renewable technologies have (a) high development

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costs and (b) a low capacity factor, such that considering (a) and (b) there is limited or no incentive and ability to develop the candidate intermittent renewable technology in order to artificially suppress capacity prices.

23.4.5.7.12.2.3 The ISO’s periodic review shall provide for:

(a) The ISO’s preliminary identification of candidate intermittent renewable technologies; for stakeholder review and comment;

(b) The ISO’s issuance of a draft list of recommended Exempt Renewable Technologies and the basis for the recommendation, for stakeholder and Market Monitoring Unit review and comment; (The responsibilities of the Market Monitoring Unit that are addressed in this section of the Services Tariff are also addressed in Section 30.4.6.23.12 of Attachment O.)

23.4.5.7.12.2.4 On or before the 60th day subsequent to the Commission issuance of an order accepting ICAP Demand Curves, the ISO shall file with the Commission the results of its periodic review and determination pursuant to Section 23.4.5.7.12.2.2. If the ISO’s determination of technology types that satisfy the provisions of Section 23.4.5.7.12.2.2 for any Mitigated Capacity Zones is different than the then-current definition of Exempt Renewable Technology, the ISO shall include in the filing, for Commission review, a proposed revised definition that is in accordance with its periodic determination, to be effective for Class Years with a Class Year Start Date during the period of the then most



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recently accepted ICAP Demand Curves. The ISO’s filing shall describe the basis  
for the ISO’s determination.

**23.4.5.7.12.3. Revocation**

23.4.5.7.12.3.1 A Generator that received a Renewable Exemption for any amount of  
CRIS MW shall notify the ISO in writing within 5 business days of the  
occurrence of any of the following events: if at the time a Generator first qualifies  
as an Installed Capacity Supplier or at anytime thereafter (a) it is not solely  
powered by the same technology based on which it was evaluated for a  
Renewable Exemption, and that technology is an Intermittent Power Resource or  
a Limited Control Run-of-River Hydro Resource as such terms are defined on the  
date the ISO notified the Generator of the final determination granting it a  
renewable exemption after it remains a member of a completed Class Year, or (b)  
if it changes the technology by which it is solely powered from the technology on  
which it was evaluated for a Renewable Exemption to a technology that is not an  
Exempt Renewable Technology as such term is defined on the date that the  
Generator first transmits energy using the different technology. Upon  
notification, (i) the ISO shall revoke the Renewable Exemption and (ii) the  
Mitigation Net CONE Offer Floor (such value calculated by the ISO based on the  
date the Generator (or Additional CRIS MW) first offers UCAP, in accordance  
with Section 23.4.5.7.3.7, and adjusted annually in accordance with Section  
23.4.5.7 of the Services Tariff) shall apply to all offers of UCAP subsequent to

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the deadline for Unforced Capacity certification prior to an ICAP Spot Market Auction (such date in accordance with ISO Procedures) next following revocation.

23.4.5.7.12.3.2 The failure to provide the ISO written notice in accordance with Section 23.4.5.7.12.3.1 shall constitute a violation of the Services Tariff. Such violation shall be reported by the ISO to the Market Monitoring Unit and to the Commission’s Office of Enforcement (or any successor to its responsibilities.)-

23.4.5.7.12.3.3 If a Generator has not provided notice in accordance with 23.4.5.7.12.3.1 and the ISO determines that the Generator is not solely powered by a technology as described 23.4.5.7.12.3.1, the ISO shall notify the Generator that its Renewable Exemption may be revoked, and provided 30 days written notice has been given to the Generator (such notice to the extent practicable,) the ISO may revoke the Renewable Exemption. In the event of a revocation, the Mitigation Net CONE Offer Floor (such value calculated by the ISO based on the date that the Generator (or Additional CRIS MW) first offers UCAP, in accordance with Section 23.4.5.7.3.7, and adjusted annually in accordance with Section 23.4.5.7 of the Services Tariff) shall apply to all offers of UCAP subsequent to the deadline for Unforced Capacity certification prior to an ICAP Spot Market Auction (such date in accordance with ISO Procedures) next following revocation. Prior to the revocation of a Renewable Exemption, the ISO shall provide the Generator an opportunity to respond to the ISO’s determination.

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The ISO cannot revoke the Renewable Exemption until after the 30 days written notice period has expired, unless ordered to do so by the Commission.

**23.4.5.7.12.4 Timing for Requests for a Renewable Exemption, Required Submittals, and Determinations**

23.4.5.7.12.4.1 Requests for a Renewable Exemption for proposed new Generators and requests for Additional CRIS MW in Class Years subsequent to Class Year 2015 must be received by the ISO no later than the deadline by which a facility must notify the ISO of its election to enter the Class Year, such date as set forth in Section 25.5.9 OATT Attachment S. A proposed new Generator that requests a Competitive Entry Exemption in a Class Year may not also request a Renewable Exemption in the same Class Year. The ISO may request additional information and updated information at any time regarding eligibility and continued eligibility and the Generator shall timely provide the information.

23.4.5.7.12.2 The ISO shall determine whether a proposed new Generator or Additional CRIS MW are eligible or not eligible for a Renewable Exemption, and whether it is are eligible or not eligible for an exemption pursuant to Section 23.4.5.7.2(a) and (b) or Section 23.4.5.7.3, prior to the Initial Decision Period. The ISO shall determine prior to the Initial Decision Period and at each Subsequent Decision Period and upon completion of the Class Year whether more than 1000 MW of Installed Capacity would be eligible for a Renewable Exemption (including MW

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of an NCZ Examined Project) in a Class Year but for the 1000 MW limitation. If  
at the time of the ISO’s issuance of initial determinations or the completion of the  
Class Year more than 1000 MW then remaining in the Class Year are eligible for  
a Renewable Exemption, the ISO shall (X) first exclude from the 1000 MW cap  
the MW of any proposed new Generator and the Additional CRIS MW that were  
determined to be exempt pursuant to Sections 23.4.5.7.2 (a), or (b) or Section  
23.4.5.7.13 and (Y) next, issue an initial determination (prior to the Initial  
Decision Period or at the time of any Subsequent Decision Period) or a final  
determination (if a member of the completed Class Year) of the MW equal to the  
proportion of the requested CRIS MW and Additional CRIS MW that will be  
exempt from an Offer Floor, as determined in accordance with Section  
23.4.5.7.12.1.1(b).

23.4.5.7.12.4.3 Determinations made pursuant to Section 23.4.5.7.12.4.2 shall be  
provided to the proposed new Generator or Generator requesting Additional CRIS  
MW concurrent with the issuance of determinations in accordance with Section  
23.4.5.7.3.3, and for an NCZ Examined Project at the time of the ISO’s  
determination pursuant to Section 23.4.5.7.2.1.

23.4.5.7.12.4.4 The ISO shall post on its website the determination of whether the  
project is exempt and if exempt, the quantity of MW, or non-exempt, from an  
Offer Floor as soon as the determination is final. Concurrent with the ISO’s

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posting, the Market Monitoring Unit shall publish a report on the ISO’s

determination, as further specified in Section 30.4.6.2.12 of Attachment O to this

Services Tariff.

**23.4.5.7.13 Self Supply Exemption**

**23.4.5.7.13.1 Eligibility**

23.4.5.7.13.1.1 In order to be evaluated for a Self Supply Exemption, each of the

following requirements must be satisfied, by the deadline, in the required form,

and with the required information in accordance with ISO Procedures. If one or

more of the requirements is not satisfied, the ISO shall not evaluate the request for

a Self Supply Exemption.

(a) A proposed new Generator or UDR project, or existing Generator or UDR project,

may request to be evaluated for a “Self supply Exemption” for a specified

quantity of MW up to its requested CRIS MW in accordance with ISO

Procedures, if it (a) is a member of Class Year 2015 and its request is received on

or before April 28, 2016, or (b) is a member of a Class Year after Class Year 2015

and its request is received no later than the deadline by which a facility must

notify the ISO of its election to enter the Class Year, such date as set forth in

Section 25.5.9 OATT Attachment S. A Generator or UDR project that requests a

Self Supply Exemption in a Class Year may not also request a Competitive Entry

Exemption in the same Class Year. A proposed new Generator or UDR project,

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that remained a member of Class Year 2012 or prior Class Year at the time of the completion of such Class Year, shall not be eligible to request or receive a Self Supply Exemption except in relation to a request for Additional CRIS MW.

- (b) If the proposed new or existing Generator or UDR project is not the wholly owned property of the LSE, or the wholly owned property of an organizational entity that is wholly owned by the LSE or that wholly owns the LSE, it shall have a Long Term Contract (in accordance with Subsection (1) of this Section 23.4.5.7.13.1.1(b)(1), and the request must also be made jointly, in a single request, with a one or more Self Supply LSE(s) to which the Generator or UDR project is obligated to provide the capacity pursuant to the Long Term Contract that forms the basis for the Generator’s or UDR project’s eligibility. If the proposed new or existing Generator or UDR project is the wholly owned property of the Self Supply LSE, or the wholly owned property of an organizational entity that is wholly owned by the Self Supply LSE or that wholly owns the Self Supply LSE, the Generator or UDR project must provide documentation at the time of the Generator or UDR project’s request that demonstrates to the reasonable satisfaction of the ISO that it has a statutory, regulatory, or organizational obligation to provide energy and capacity to the meet the Self Supply LSE’s ICAP Obligation.

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(1) Long Term Contract: For the purposes of a Self Supply Exemption, a “Long Term Contract” shall mean (i) a contract between the proposed new or existing Generator and the Self Supply LSE that are requesting the exemption, pursuant to which the Generator is obligated to provide to the Self Supply LSE at least the CRIS MW (or as applicable, Additional CRIS MW) of Installed Capacity for which the Self Supply Exemption is requested for a minimum of 10 years; and (ii) a contract between a proposed new or existing UDR project and the Self Supply LSE that are requesting the exemption, pursuant to which the LSE will have all rights to the UDRs and the use of the facility in the amount of at least the CRIS MW (or as applicable, Additional CRIS MW) of Installed Capacity for which the Self Supply Exemption is requested, for a minimum of 10 years.

(c) The request for a Self Supply Exemption(s) must specify the total quantity of CRIS MW or Additional CRIS MW for which it is requesting a Self Supply Exemption(s), and such quantity shall not exceed the MW of CRIS requested by it in the Class Year. If there is more than one Self Supply LSE associated with the request for a Self Supply Exemption received from a proposed new or existing Generator or UDR facility, the request shall identify the quantity of MW associated with each LSE, and (ii) the total quantity of MW associated with the Self Supply LSEs shall not exceed the total MW for which the proposed or existing Generator or UDR facility requested a Self Supply Exemption.

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(d) All Certification and Acknowledgement(s) required by section 23.4.5.7.13.2 must be received at the same time as the request for a Self Supply Exemption, in accordance with ISO Procedures, along with other data and information requested by the ISO.

23.4.5.7.13.1.2 The lesser of (i) the quantity of CRIS MW or Additional CRIS MW for which the Self Supply Exemption was requested and (ii) the quantity determined in accordance with Section 23.4.5.7.13.3 shall be exempt from an Offer Floor if the proposed new Generator or UDR project that requested the CRIS or the existing generator that requested Additional CRIS MW is a member of the Class Year at the time of its completion and if the ISO determines that the request satisfies all of the following requirements:

(a) The proposed Generator and UDR project will be, or the existing Generator or UDR project is, electrically located in the same Mitigated Capacity Zone in which the Self-Supply LSE has Projected ICAP Requirements (as such term is defined in Section 23.4.5.7.13.1.3),

(b) The proposed new or existing Generator or UDR project and the Developer are not and will not be owned by an LSE or an Affiliate of an LSE unless the such entity is the Self Supply LSE.

(c) If the proposed new Generator or UDR project requesting CRIS or existing Generator or UDR project requesting Additional CRIS MW is not the wholly owned property of the Self Supply LSE, or the wholly owned property of an organizational entity that is wholly



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owned by the Self Supply LSE or that wholly owns the Self Supply LSE requesting a Self

Supply Exemption, both entities have provided the applicable completed Certification

and Acknowledgement form set forth in Section 23.4.5.7.13.2 and satisfy each

requirement stated therein. If the proposed new or existing Generator or UDR project is

the wholly owned property of the Self Supply LSE, or the wholly owned property of an

organizational entity that is wholly owned by the Self Supply LSE or that wholly owns

the Self Supply LSE, that entity has provided the completed Certification and

Acknowledgement form set forth in Section 23.4.5.7.13.2} and satisfy each requirement

stated therein. The required completed Certification and Acknowledgement forms were

received by the ISO no later than the deadline by which a facility must notify the ISO of

its election to enter the Class Year, such date as set forth in Section 25.5.9 OATT

Attachment S, of the Class Year in which any of the proposed MW of CRIS that is the

subject to the requested Self Supply Exemption enter, in accordance with ISO

Procedures. The Certification and Acknowledgement forms were received by the

deadline, and all other information requested by the ISO was timely received.

(d) The ISO determines that the Self Supply LSE satisfies both the Net Short Threshold

set forth in Section 23.4.5.7.13.3.1 and the Net Long Threshold set forth in Section

23.4.5.7.13.3.2 for a specified quantity of MW.

(e) The proposed new Generator or UDR project or existing Generator or UDR project

that requests Additional CRIS certifies. that it does not have any contract, agreement,

arrangement, or relationship (for purposes of this Section 23.4.5.7.13.1.2(e), and the

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Certification and Acknowledgment in Section 23.4.5.7.13.2, a “contract”,) for any (i) material (in whole or in aggregate) payments, concessions, rebates, or subsidies, connected to or contingent on the Generator or UDR project’s (or Additional CRIS MWs) construction or operation, except as expressly permitted in Subsection (A) or (B) of this Section, or (ii) clearing in the ISO’s Installed Capacity market except as expressly permitted in Subsection (B).

(A) A proposed new Generator or UDR project, or existing Generator or UDR project that requests Additional CRIS, will not be ineligible for a Self Supply Exemption if there is a contract associated with it that is listed in (I) through (VIII) of this Section that (A.1) provides for a material payment, concession, rebate or subsidy, and (A.2) is not irregular or anomalous, and only reflects arms-length transactions, or (A.3) is consistent with the overall objectives of the Self Supply Exemption.

Listed contracts:

(I) an Interconnection Agreement;

(II) an agreement for the construction or use of interconnection facilities or transmission or distribution facilities, or directly connected joint use transmission or distribution facilities (including contracts required for compliance with Articles VII or X of the New York State Public Service Law or orders issued pursuant to Articles VII or X);

(III) a grant of permission by any department, agency, instrumentality, or political subdivision of New York State to bury, lay, erect or construct wires, cables or other

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conductors, with the necessary poles, pipes or other fixtures in, on, over or under public property;

(IV) a contract for the sale or lease of real property at or above fair market value as of the date of the agreement was executed, such value demonstrated by an independent appraisal at the time of execution prepared by an accountant or appraiser with specific experience in such valuations;

(V) an easement or license to use real property;

(VI) a contract, with any department, agency, instrumentality, or political subdivision of New York State providing for a payment-in-lieu of taxes (i.e., a “PILOT” agreement) or industrial or commercial siting incentives, such as tax abatements or financing incentives, provided the PILOT agreement or incentives are generally available to industrial or commercial entities;

(VII) a service agreement for natural gas entered into under a tariff accepted by a regulatory body with jurisdiction over that service; or

(VIII) a service agreement entered into under a tariff accepted by a regulatory body with jurisdiction over that service at a regulated rate for electric Station Power, or steam service, excluding an agreement for a rate that is a negotiated rate pursuant to any such regulated electric, or steam tariff.

(B) A proposed new Generator or UDR project, or existing Generator or UDR project that requests Additional CRIS, will not be ineligible for a Self Supply Exemption if

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the contract(s) that otherwise would render it ineligible in Section 23.4.5.7.13.2 is  
with its Self Supply LSE(s).

(C ) Contract Review Opportunity

(i) A proposed new Generator or UDR project or an existing Generator or UDR project that (1) is reasonably expected to be eligible to enter the next following Class Year, and that in connection with its own Load or for the Load of an LSE is planning on requesting a Self Supply Exemption, (2) is in a Class Year that is not completed (in accordance with Section 25.5.9 of the OATT,) or (3) received a Self Supply Exemption, may request that the ISO inform it whether, in the ISO’s view, any specific executed contract, unexecuted but substantially developed contract, or any pending request that if approved, granted, or otherwise conferred would constitute a contract, pursuant to Subsection 23.4.5.7.13.1.2 (e)(i) and (e)(ii) that would make it ineligible to obtain or (if previously granted) retain a Self Supply Exemption. Any such request must satisfy all of the following requirements:

(a) The proposed new or existing Generator or UDR project (unless it is for its own Load) must make any such request jointly with the LSE(s) with which it has executed or has an unexecuted but substantially developed a Long Term Contract. The LSE(s) must make any such request jointly with the proposed new or existing Generator or UDR project with which it would seek or has sought a Self Supply Exemption.

(b) As part of the submission of the request for a determination pursuant to Subsection (a) of this Section, the proposed new or existing Generator or UDR project, and the LSE(s) as applicable, must provide the ISO with all information regarding the contract or pending request regarding which it is requesting the ISO’s view, and if the request is jointly with an LSE,

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the executed or unexecuted and substantially developed Long Term Contract that would form the basis of a Self Supply Exemption Request, including copies of original documentation. In addition and at the time of the submission of the request, they shall also provide any other information identified by the ISO in accordance with ISO Procedures. They also must timely provide any further information that is requested by the ISO.

(c) Such requests can only be submitted to the ISO on or after the date established by the ISO in accordance with ISO Procedures, such date to be at least 60 days prior to the date that the ISO anticipates will be the deadline by which facilities must notify the ISO of their election to enter a Class Year (such Class Year deadline pursuant to Section 25.5.9 of OATT Attachment S.)

(ii) Provided that the ISO has timely received all of the information it needs to make a determination, the ISO shall state its view in response to such requests within 60 days.

(iii) When evaluating any such request, the ISO shall consult with the Market Monitoring Unit.

**23.4.5.7.13.2 Certifications and Acknowledgements**

23.4.5.7.13.2.1 A proposed new Generator or UDR project, or existing Generator or UDR project requesting Additional CRIS MW, that is not the wholly owned property of the Self Supply LSE, or the wholly owned property of an organizational entity that is wholly owned by the Self Supply LSE or that wholly owns the Self Supply LSE, and that is requesting a Self Supply Exemption shall submit to the ISO by the deadline by which a facility must notify the ISO of its election to enter the Class Year, such date as set forth in Section 25.5.9 OATT Attachment S, and thereafter upon the request of the ISO, in accordance with ISO Procedures. The

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proposed new Generator or UDR project, or existing Generator or UDR project

requesting Additional CRIS MW shall be legally bound by, the following

Certification and Acknowledgement form executed by a duly authorized officer:

**CERTIFICATION AND ACKNOWLEDGMENT**

I [NAME & TITLE] hereby certify on behalf of myself, [NAME OF PROJECT], and [NAME OF DEVELOPER] that each of the following statements is true and correct:

1. I am an officer whose responsibilities include the development of the [EXAMINED FACILITY or ENTITY REQUESTING ADDITIONAL CRIS MW], New York Independent System Operator, Inc.’s (“NYISO”) Interconnection queue position Number [INSERT NUMBER] (the “Project”).
2. I am duly authorized to make representations concerning the Project, including each of the certifications and acknowledgements that I have made in this document.
3. I hereby [REQUEST ON BEHALF OF] the Developer, a Self Supply Exemption for [MW REQUESTED FOR THE SELF SUPPLY EXEMPTION] for the Project in connection with [LOAD SERVING ENTITY THAT IS THE SELF SUPPLY LSE].
4. I have reviewed and I understand the requirements established under the NYISO Market Administration and Control Area Services Tariff (“Services Tariff”) related to a “Self Supply Exemption” pursuant to Section 23.4.5.7.13.
5. I have personal knowledge of the facts and circumstances supporting the Project’s request and eligibility for a Self Supply Exemption as of the date of this Certification and Acknowledgment, including all data and other information submitted by the Project to the NYISO.
6. [NAME OF DEVELOPER] is not owned in whole or in part by, and is not an Affiliate (as Affiliate is defined in Section 2.1 of the Services Tariff) of, a Load Serving Entity [OTHER THAN THE LOAD SERVING ENTITY THAT IS THE SELF SUPPLY LSE].

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7. [NAME OF PROJECT] has a Long Term Contract (as such term is defined in Services Tariff Section 23.4.5.7.13.1.1 (b)(1)) with LSE, that is the subject of the request for a Self Supply Exemption.
8. To the best of my knowledge and having conducted due diligence that is current as of the date of this Certification there is no contract, arrangement, arrangement, or relationship (for purposes of Section 23.4.5.7.13. 2(e) of the Services Tariff, and this Certification and Acknowledgment, a “contract”),s for any (i) material (in whole or in aggregate) payments, concessions, rebates or subsidies, (i) material (in whole or in aggregate) connected to or contingent on the [PROJECT’S] construction or operation, except as expressly permitted in Subsection (A) or (B) of Section 23.4.5.7.13. 2(e) of the Services Tariff, or (ii) clearing in the NYISO’s Installed Capacity market except as expressly permitted in Subsection (B) Section 23.4.5.7.13. 2(e).
9. I have listed in Schedule 1 to this Certification all contracts that involve payments, concessions, rebates, or subsidies connected to or contingent upon the [PROJECT’S] construction or operation that are not material or that are otherwise expressly permissible under Subsection (A) or (B) of Section 23.4.5.7.13.2(e).
10. The Project shall provide any information or cooperation requested by the NYISO in connection with the Project’s request for a Self Supply Exemption.

I hereby acknowledge on behalf of myself, [INSERT NAME OF PROJECT], and [NAME OF DEVELOPER] that:

- a. The submission of false, misleading, or inaccurate information, or the failure to submit information requested by the NYISO related to the Project’s request for a Self Supply Exemption, including but not limited to information contained or submitted in this Certification and Acknowledgement on behalf of the Project, shall constitute a violation of Section 4.1.7 of the Services Tariff, and subject to the Commission’s review, a violation of the Commission’s regulations and Section 316A of the Federal Power Act.
- b. If the Project submits false, misleading, or inaccurate information, or fails to submit requested information to the NYISO, including but not limited to information contained or submitted in this Certification and Acknowledgement on behalf of the Project, it shall cease to be eligible for a Self Supply Exemption and, if the Project has already received a Self Supply Exemption, that exemption shall be subject to revocation by the NYISO or the Commission after which the Project shall be subject to an Offer Floor set at the Mitigation Net CONE Offer Floor (such value calculated based on the date it first Offers UCAP, in accordance with Section 23.4.5.7.3.7, and adjusted annually in accordance with Section 23.4.5.7 of

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the Services Tariff,) starting with the next following deadline for Unforced Capacity certification prior to an ICAP Spot Market Auction subsequent to the date of revocation (such date in accordance with ISO Procedures) pursuant to Section 23.4.5.7.9.5 of the Services Tariff.

- c. If the Project submits false, misleading, or inaccurate information, or fails to submit requested information to the NYISO, including but not limited to information contained or submitted in the Certification and Acknowledgement on behalf of the Project, it may be subject to civil penalties that may be imposed by the Commission for violations of Section 4.1.7 of Services Tariff, the Commission’s rules, and/or Section 316A of the Federal Power Act.

\_\_\_\_\_  
[PRINT NAME]

[DATE]

Subscribed and sworn to before me  
this [ ] day of [MONTH] [YEAR].

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

23.4.5.7.13~~2.2~~ A Self Supply LSE that has a Long Term Contract (as such term is defined in Section 23.4.5.13.1(b)(1)) with a proposed new Generator or UDR project, or existing Generator or UDR project requesting Additional CRIS MW, that is requesting a Self Supply Exemption shall submit to the ISO as part of the by the Generator or UDR project’s request for a Self Supply Exemption, and



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thereafter upon the request of the ISO, in accordance with ISO Procedures, and

shall be legally bound by, the following Certification and Acknowledgement form

executed by a duly authorized officer:

**CERTIFICATION AND ACKNOWLEDGMENT**

I [NAME & TITLE] hereby certify on behalf of myself and [NAME OF LSE] (the “LSE”) that each of the following statements is true and correct:

1. I am an officer whose responsibilities include overseeing the capacity supply portfolio and obligations, and addressing Load requirements of the [LSE], and LSE’s Long Term Contract (as such term is defined in Services Tariff Section 23.4.5.7.13.1.1 (b)(1)) with [EXAMINED FACILITY or ENTITY REQUESTING ADDITIONAL CRIS MW], New York Independent System Operator, Inc.’s (“NYISO”) Interconnection queue position Number [INSERT NUMBER] (the “Project”).
2. I am duly authorized to make representations concerning the capacity supply portfolio, and obligations, Load requirements of [the LSE], and LSE’s Long Term Contract with the Project (the “Subject Long Term Contract”), including each of the certifications and acknowledgements that I have made in this document.
3. I hereby [REQUEST ON BEHALF OF] the LSE, a Self Supply Exemption for [MW REQUESTED FOR THE SELF SUPPLY EXEMPTION] for the Project associated with the Subject Long Term Contract.
4. I have reviewed and I understand the requirements established under the NYISO Market Administration and Control Area Services Tariff (“Services Tariff”) related to a “Self Supply Exemption” pursuant to Section 23.4.5.7.13.
5. I have personal knowledge of the facts and circumstances supporting the Subject Long Term Contract and LSE’s Load Obligations and supply obligations related to the Project’s request and eligibility for a Self Supply Exemption as of the date of this Certification and Acknowledgment, including all data and other information submitted by LSE to the NYISO.
6. The LSE is a Self Supply LSE [INSERT SUBSECTION OF DEFINITION BY WHICH THE LSE MEETS THE REQUIREMENTS OF THAT TERM] of that term.

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7. [NAME OF DEVELOPER] [is // is not] owned in part by, and [is // is not] an Affiliate (as Affiliate is defined in Section 2.1 of the Services Tariff) of, LSE. Appendix A to this Certification and Acknowledgement fully and completely sets forth and describes the organizational relationship between or among LSE, Developer and the Project, or any Affiliate of the foregoing entities in relation to the project; and any ownership or investment interest of LSE, Developer, and the Project, in either of the other entities, or any of the Affiliates thereof in relation to the Project.

87. [NAME OF PROJECT] and LSE are parties to the Subject Long Term Contract.

98. To the best of my knowledge and having conducted due diligence that is current as of the date of this Certification there are no arrangements for any payments or subsidies, that are directly or indirectly tied to the Unforced Capacity from the Project clearing in the NYISO’s Installed Capacity market other than those between the [NAME OF DEVELOPER],[PROJECT] and the LSE that is provided to the ISO with this Certification and Acknowledgement.

109. I have listed in Schedule 1 to this Certification all contracts that involve payments, concessions, rebates, or subsidies connected to or contingent upon the [PROJECT’S] construction or operation that are not material or that are otherwise expressly permissible under Subsection (A) or (B) of Section 23.4.5.7.13.2(e).

11. LSE shall provide any information or cooperation requested by the NYISO in connection with the LSE and the Project’s request for a Self Supply Exemption.

I hereby acknowledge on behalf of myself and LSE that:

a. The submission of false, misleading, or inaccurate information, or the failure to submit information requested by the NYISO related to the LSE’s and the Project’s request for a Self Supply Exemption, including but not limited to information contained or submitted in this Certification and Acknowledgement on behalf of the Project, shall constitute a violation of Section 4.1.7 of the Services Tariff, and subject to the Commission’s review, a violation of the Commission’s regulations and Section 316A of the Federal Power Act.

b. If the LSE or the Project submits false, misleading, or inaccurate information, or fails to submit requested information to the NYISO, including but not limited to information contained or submitted in this Certification and Acknowledgement on behalf of the LSE, the Project shall cease to be eligible for a Self Supply Exemption in respect of Subject Long Term Contract and, if the Project has already received a Self Supply Exemption, that exemption shall be subject to revocation by the NYISO or the Commission after which the Project shall be

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subject to an Offer Floor set at the Mitigation Net CONE Offer Floor (such value calculated based on the date it first Offers UCAP, in accordance with Section 23.4.5.7.3.7], and adjusted annually in accordance with Section 23.4.5.7 of the Services Tariff,) starting with the next following deadline for Unforced Capacity certification prior to an ICAP Spot Market Auction subsequent to the date of revocation (such date in accordance with ISO Procedures) pursuant to Section 23.4.5.7.9.5 of the Services Tariff.

- c. If the LSE submits false, misleading, or inaccurate information, or fails to submit requested information to the NYISO, including but not limited to information contained or submitted in the Certification and Acknowledgement on behalf of the Project, it may be subject to civil penalties that may be imposed by the Commission for violations of Section 4.1.7 of Services Tariff, the Commission’s rules, and/or Section 316A of the Federal Power Act.

\_\_\_\_\_  
[PRINT NAME]

[DATE]

Subscribed and sworn to before me  
this [ ] day of [MONTH] [YEAR].

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

23.4.5.7.13.2.3 A proposed new Generator or UDR project, or existing Generator or UDR project requesting Additional CRIS MW, that is the wholly owned property of the Self Supply LSE, or the wholly owned property of an organizational entity that is wholly owned by the Self Supply LSE or that wholly owns the Self Supply LSE

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that is requesting a Self Supply Exemption shall submit to the ISO by the deadline  
by which a facility must notify the ISO of its election to enter the Class Year,  
such date as set forth in Section 25.5.9 OATT Attachment S, and thereafter upon  
the request of the ISO, in accordance with ISO Procedures, and shall be legally  
bound by, the following Certification and Acknowledgement form executed by a  
duly authorized officer:

**CERTIFICATION AND ACKNOWLEDGMENT**

I [NAME & TITLE] hereby certify on behalf of myself, [NAME OF PROJECT], and  
[NAME OF DEVELOPER/LSE] that each of the following statements is true and correct:

1. I am an officer whose responsibilities include; (i) the development of the [EXAMINED FACILITY or ENTITY REQUESTING ADDITIONAL CRIS MW], New York Independent System Operator, Inc.’s (“NYISO”) Interconnection queue position Number [INSERT NUMBER] (the “Project”); and (ii) overseeing the capacity supply portfolio and obligations, and addressing Load Obligations of the Self Supply LSE and its obligations to serve retail customers,
2. I am duly authorized to make representations concerning the Project and the capacity supply portfolio, and obligations, Load requirements of [the DEVELOPER/LSE], including, if applicable the Long Term Contract between the Project and any entity performing the Self Supply LSE function (the “Subject Long Term Contract”), and also including each of the certifications and acknowledgements that I have made in this document
3. I hereby [REQUEST ON BEHALF OF] the [DEVELOPER/LSE], a Self Supply Exemption for [MW REQUESTED FOR THE SELF SUPPLY EXEMPTION] for the Project associated with [DEVELOPER/LSE’S] self supply arrangements, including, if applicable, any Subject Long Term Contract.
4. I have reviewed and I understand the requirements established under the NYISO Market Administration and Control Area Services Tariff (“Services Tariff”) related to a “Self Supply Exemption” pursuant to Section 23.4.5.7.13.

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5. I have personal knowledge of the facts and circumstances supporting: (i) the Project’s request and eligibility for a Self Supply Exemption; and (ii) the Load Obligations and supply obligations related to the Project’s request and eligibility for a Self Supply Exemption, as of the date of this Certification and Acknowledgment, including all data and other information submitted by the Project and by [DEVELOPER/LSE] to the NYISO.
6. The LSE is a Self Supply LSE pursuant to Section [INSERT SUBSECTION OF DEFINITION BY WHICH THE LSE MEETS THE REQUIREMENTS OF THAT TERM] of that term.
7. [NAME OF DEVELOPER/LSE] is not owned in whole or in part by, and is not an Affiliate (as Affiliate is defined in Section 2.1 of the Services Tariff) of, any other Load Serving Entity. Appendix A to this Certification and Acknowledgement fully and completely sets forth and describes the organizational relationship between [DEVELOPER/LSE’s] Self Supply LSE and Developer functions or affiliates and the Project.
8. To the best of my knowledge and having conducted due diligence that is current as of the date of this Certification there is not any contract, agreement, arrangement, or relationship (for purposes of Section 23.4.5.7.13. 2(e), and this Certification and Acknowledgment, a “contract”,) for any (i) material (in whole or in aggregate) payments, concessions, rebates, or subsidies, connected to or contingent on the [PROJECT’s] construction or operation, except as expressly permitted in Subsection (A) or (B) of Section 23.4.5.7.13. 2(e) of the Services Tariff, or (ii) clearing in the NYISO’s ICAP market.
9. I have listed in Schedule 1 to this Certification all contracts that involve payments, concessions, rebates, or subsidies connected to or contingent upon the [PROJECT’S] construction or operation that are not material or that are otherwise expressly permissible under Subsection (A) or (B) of Section 23.4.5.7.13.2(e).
10. The Project and [DEVELOPER/LSE] shall provide any information or cooperation requested by the NYISO in connection with the Project’s request for a Self Supply Exemption.

I hereby acknowledge on behalf of myself, [INSERT NAME OF PROJECT], and [NAME OF DEVELOPER/LSE] that:

- a. The submission of false, misleading, or inaccurate information, or the failure to submit information requested by the NYISO related to the Project’s and

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[DEVELOPER/LSE’s] request for a Self Supply Exemption, including but not limited to information contained or submitted in this Certification and Acknowledgement on behalf of the Project, shall constitute a violation of Section 4.1.7 of the Services Tariff, and subject to the Commission’s review, a violation of the Commission’s regulations and Section 316A of the Federal Power Act.

- b. If the DEVELOPER/LSE or the Project submits false, misleading, or inaccurate information, or fails to submit requested information to the NYISO, including but not limited to information contained or submitted in this Certification and Acknowledgement on behalf of the Project, it shall cease to be eligible for a Self Supply Exemption and, if the Project has already received a Self Supply Exemption, that exemption shall be subject to revocation by the NYISO or the Commission after which the Project shall be subject to an Offer Floor set at the Mitigation Net CONE Offer Floor (such value calculated based on the date it first Offers UCAP, in accordance with Section 23.4.5.7.3.7, and adjusted annually in accordance with Section 23.4.5.7 of the Services Tariff,) starting with the next following deadline for Unforced Capacity certification prior to an ICAP Spot Market Auction subsequent to the date of revocation (such date in accordance with ISO Procedures) pursuant to Section 23.4.5.7.9.5 of the Services Tariff.
- c. If the DEVELOPER/LSE or the Project submits false, misleading, or inaccurate information, or fails to submit requested information to the NYISO, including but not limited to information contained or submitted in the Certification and Acknowledgement on behalf of the Project, it may be subject to civil penalties that may be imposed by the Commission for violations of Section 4.1.7 of Services Tariff, the Commission’s rules, and/or Section 316A of the Federal Power Act.

[PRINT NAME]

[DATE]

Subscribed and sworn to before me  
this [ ] day of [MONTH] [YEAR].

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Notary Public

My commission expires: \_\_\_\_\_

*[The Net Short and Net Long Threshold Sections will be posted with the ICAP Working Group meeting materials separately]*

23.4.5.7.13.3 Net Short Threshold

23.4.5.7.13.4 Net Long Threshold

23.4.5.7.13.4 Timing of Determinations

23.4.5.7.13.4.1 Determinations.

(a) Prior to the Initial Decision Period, the ISO shall determine whether all or a portion of the MW specified in the request for a Self Supply Exemption is eligible for a Self Supply Exemption in accordance with Section 23.4.5.7.13.1.2. If the ISO determines that all or a portion of the CRIS MW for which a Self Supply Exemption was requested is not eligible for a Self Supply Exemption, the ISO shall make a determination in accordance with Section 23.4.5.7.3.2 prior to the commencement of the Initial Decision Period, and prior to the ISO’s issuance of a Revised Project Cost Allocation. When evaluating eligibility for a Self Supply Exemption, the ISO shall consult with the Market Monitoring Unit. The responsibilities of the Market Monitoring Unit that are addressed in this section of the Mitigation Measures are also addressed in Section 30.4.6.2.12 of Attachment O.

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(b) Determinations made pursuant to Section 23.4.5.7.13.4 shall be provided to the

proposed new Generator or UDR project or existing Generator or UDR project

requesting Additional CRIS MW concurrent with the issuance of determinations

in accordance with Section 23.4.5.7.3.3, and to an NCZ Examined Project at the

time of the ISO’s determination pursuant to Section 23.4.5.7.2.1-

(c ) The ISO shall post on its web site and concurrently notify the Self Supply LSE of the

ISO’s determination of exempt, and if exempt the quantity of MW, -or non-

exempt, from an Offer Floor as soon as the determination is final. Concurrent

with the ISO’s posting, the Market Monitoring Unit shall publish a report on the

ISO’s determination, as further specified in Sections 30.4.6.2.12 of Attachment O

to this Services Tariff.

**23.4.5.7.13.5 Revocation of a Self Supply Exemption**

(a) If, at the time prior to the Generator first producing, or the UDR project first

transmitting, Energy it or the Self Supply LSE no longer satisfies the

requirements of Section 23.4.5.7.13.1(b) or no longer meets the requirements of

the Acknowledgement and Certification, the Generator or UDR project and the

Self Supply LSE shall notify each other and other ISO in writing within 3

business days of the event or basis for the failure to meet the requirements for a

Self Supply Exemption. Upon notification, the ISO shall revoke the Self Supply

Exemption and apply the Mitigation Net CONE Offer Floor (such value



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calculated based on the date it first offers UCAP, in accordance with Section 23.4.5.7.3.7, and adjusted annually in accordance with Section 23.4.5.7 of the Services Tariff.)

(b) The failure to provide the ISO written notice in accordance with Section

23.4.5.7.13.5(a) shall constitute a violation of the Services Tariff. Such violation shall be reported by the ISO to the Market Monitoring Unit and to the Commission’s Office of Enforcement (or any successor to its responsibilities.)

(c) Where the ISO reasonably believes that a request for a Self Supply Exemption was

granted based on (i) false, misleading, or inaccurate information, or (ii) the Self Supply LSE’ identification of in accordance with Subsection (ii) the definition of “Self Supply Capacity” in Section 23.4.5.7.13.3 that CRIS associated with a Generator or UDR project was projected to expire before the end of the Mitigation Study Period but it has not expired on or before the date that marked the end of the Mitigation Study Period, the ISO shall notify the Generator or UDR project and the Self Supply LSE that the Self Supply Exemption may be revoked, and provided 30 days written notice has been given to the Generator or UDR project (such notice to the extent practicable,) the ISO may revoke the Self Supply Exemption and apply the Mitigation Net CONE Offer Floor (such value calculated based on the date the Generator or UDR project first offers UCAP, in accordance with Section 23.4.5.7.3.7, and adjusted annually in accordance with Section 23.4.5.7 of the Services Tariff.) Prior to the revocation of a Self Supply

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Exemption and the submission of a report to the Commission’s Office of Enforcement (or any successor to its responsibilities,) the ISO shall provide the Generator or UDR project an opportunity to explain any statement, information, or action, and if a statement information or action of the Self Supply LSE, it shall also provide an opportunity to that entity. The ISO cannot revoke the Self Supply Exemption until after the 30 days written notice period has expired, unless ordered to do so by the Commission.

**23.4.5.8 RMR Agreement Capacity Price and Offer Requirements**

**23.4.5.8.1** All UCAP from an RMR Generator shall be offered in each ICAP Spot Market Auction, except if and only to the extent expressly authorized in an RMR Agreement due to the existence of a commitment under a bilateral agreement that (a) was effective at the time the RMR Agreement became effective and (b) is effective and executory, requiring the provision of UCAP, for the Obligation Procurement Period.

**23.4.5.8.2** Except as provided in Section 23.4.5.7.12, all UCAP offered by an RMR Generator shall be offered in the amount of UCAP MW and at the price computed in accordance with this Section the (“RMR UCAP Offer Price”). The RMR UCAP Offer Price shall be \$0.00/kW-month; unless (a) the ISO’s determination of the need for the RMR Agreement is based in whole or in part on a resource adequacy need, or (b) (i) the ISO identifies pursuant to Section 31.2.11.8.2 of the

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ISO OATT that there is a Viable and Sufficient transmission or demand response Gap Solution that has an estimated net present value that is distinctly higher than that of any Initiating Generator or Generator that is a Viable and Sufficient Gap Solution for the Reliability Need (*i.e.*, the non-generator Viable and Sufficient Gap Solution has a lower net cost,) to the extent that the RMR Generator is expected to address the Reliability Need; (ii) the ISO determines that the transmission or demand response Gap Solution identified pursuant to Section 31.2.11.8.2 of the ISO OATT can be available for a period during the term of the RMR Agreement; and (iii) absent the circumstances described in Section 23.4.5.8.2.1. In the event that the conditions under either Subsection (a) or (b) of this Section 23.4.5.8.2 are met, the RMR UCAP Offer Price shall be the value computed by the ISO for that RMR Generator that is the RMR Avoidable Costs, net of likely projected annual Energy and Ancillary Services revenues, translated into a seasonally adjusted \$/kW-month UCAP value beginning with the month following the in service date of the distinctly higher net present value transmission or demand response Gap Solution at the time of the ISO’s determination pursuant to Section 31.2.11.8.2 of the ISO OATT, and lasting until the RMR Agreement terminates.

23.4.5.8.2.1 Circumstances in which 23.4.5.8.2 (b)(ii) would not be met include the ISO’s determination that the Viable and Sufficient transmission or demand response Gap Solution would be reasonably delayed; it was not reasonably

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practicable for such Gap Solution to proceed in order to be available by the date it  
identified in its response to the ISO’s request for Gap Solutions (as modified from  
time to time,) or it was not able to timely obtain necessary permits, governmental  
authorizations, or financing.