

8.4.1 Eligibility to Obtain Services Under This Tariff In Response To Sales Tax Issues

(A) In addition to any other requirements set forth in this Tariff, every Customer and every agent of a Customer (“Agent”) seeking to purchase any services under this Tariff shall supply to the NYISO and have on file with it at the time the Customer commences such purchases:

(1) If the Customer is registered or required to be registered with the New York State Department of Taxation and Finance under Articles 28 and 29 of the New York State Tax Law, or, if the Customer is a non-New York State purchaser, a valid, properly completed New York State exemption document, such as a Resale Certificate, an exempt organization certificate, an exempt purchase certificate or a direct pay permit, issued in accordance with New York State Tax Law; or

(2) if the Customer is not required to register, and is not registered, for sales and compensating use tax purposes under Articles 28 and 29 of the New York State Tax Law, and is not a Customer described in paragraph three of this subdivision, a valid, properly completed exempt organization certificate issued in accordance with New York State Tax Law; ~~or or, if the Customer is a non-New York State purchaser, a valid and properly completed resale certificate;~~
or

(3) if the Customer is an entity described in paragraph one, two or three of subdivision (a) of Section 1116 of the New York State Tax Law, evidence satisfactory under such

law that it is such an entity and it is not subject to New York State and local sales and compensating use taxes on its purchases of services under this Tariff; or

(4) if the person or entity seeking to make a purchase under this Tariff is an Agent of a Customer, (a) the appropriate documents described above that its principal would be required to supply and have on file with the NYISO if it were making the purchase directly and (b) evidence satisfactory under the New York State Tax Law to establish that person's status as agent of a Customer.

(B) (1) (a) If a Customer's certificate of authority issued under Articles 28 and 29 of the New York State Tax Law is revoked, suspended, cancelled, surrendered or otherwise terminated or expires or, (b) if a Customer's status as an exempt organization under New York State Law is revoked, suspended, cancelled, surrendered or otherwise terminated or expires, or, (c) if a Customer is no longer eligible to rely on the exemption document, exempt organization certificate or other satisfactory evidence it furnished to the ISO, that Customer shall immediately notify the ISO of its change in status and shall furnish to the ISO all other information the ISO may require to enable it to comply with its obligations under this Tariff and New York State Law.

(2) If an Agent's certificate of authority issued under Articles 28 and 29 of the New York State Tax Law is revoked, suspended, cancelled, surrendered or otherwise terminated or expires or, if an Agent's relationship with a Customer is revoked, suspended, cancelled, surrendered or otherwise terminated or expires, the Agent or former Agent shall immediately notify the ISO of its change in status and shall furnish to the ISO all other information the ISO may require to enable it to comply with its obligations under this Tariff

and New York State Law.

(3) Regardless of whether a Customer or its Agent or former Agent notifies the ISO of any change in status, as described in paragraph one or two of this subdivision (B), of either the Customer or of the Agent or former Agent, a change in status, as described in paragraph one or two of this subdivision (B), shall, from the time of its occurrence, be a Default under section 7.5 of this Tariff and the Customer or Agent, as the case may be, as a Defaulting Party, shall, from the time of that change in status, be required to pay any State and local sales taxes lawfully imposed on its purchases. A Defaulting Party shall have ten days from its change in status to cure the Default and to notify the ISO that it has so cured the Default. Regardless of whether the ISO has notice of any change in status from the affected Customer or from the Customer's Agent or from a third party, such as the New York State Commissioner of Taxation and Finance, as of the date of Default, the Customer or its Agent on the Customer's behalf shall continue to be allowed to purchase services under this Tariff for ten days from the time that the ISO has actual notice of a change in status.

(4) Immediately upon receiving from a Customer or its Agent a notice described in paragraph one or two of this subdivision, or immediately upon learning that a Customer's or its Agent's status has changed as described in paragraph one or two of this subdivision (B), the ISO shall notify the New York State Commissioner of Taxation and Finance of the name, address and federal identifying number of the Customer, and of any Agent of such a Customer, and of the change of status; and the ISO shall keep records of the type, quantity, price, etc. of services any such Customer purchases, or has purchased on its behalf by any Agent, after a change in status; and the ISO shall furnish such

information to the Commissioner of Taxation and Finance in such form as the Commissioner requests.

(5) If a Defaulting Party has not cured its Default prior to the expiration of the ten day period described in paragraph one of this subdivision, in addition to any and all other remedies available under this Tariff or pursuant to law or in equity, the ISO shall have the right to suspend and/or terminate the Defaulting Party's Service Agreement immediately upon notice to the Commission.

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