

**PROPOSED EXPEDITED THIRD-PARTY DISPUTE RESOLUTION
MECHANISM FOR UNRESOLVED CUSTOMER SETTLEMENT CHALLENGES**

INTRODUCTION

The tariff revisions proposed in FERC Docket No. ER06-783-000 will expedite the timing of and improve the process for the review, challenge, and correction of NYISO settlement information. The current alternative dispute resolution provisions in the NYISO's tariffs are incompatible with the shortened timelines established by those proposed revisions. Thus, it is necessary to develop an expedited third-party dispute resolution mechanism that will be compatible with the revised settlement correction provisions.

This document describes the key terms of a proposed expedited third-party dispute resolution mechanism applicable to Customer settlement challenges.

KEY TERMS OF PROPOSED PROVISIONS

I. Scope

This expedited process will be available only for Customer challenges to the accuracy of settlement information that were not resolved in the ordinary settlement review, challenge, and correction process.

- *This mechanism will only be available to address issues previously raised by the Customer in a settlement challenge.*
- *Purely bilateral disputes between Market Participants, or disputes with the NYISO not challenging the accuracy of settlement information, will be excluded.*
- *Market Participants with an interest in the outcome of an expedited third-party dispute resolution may be allowed to participate in the process at the discretion of the neutral.*

Either the NYISO or the Customer may forego this mechanism if the party concludes that third-party dispute resolution would be unlikely to resolve the matter. In such case, the NYISO or the Customer may seek action by FERC.

II. Request for Expedited Third-Party Dispute Resolution

A. Timing of the Request

A request for expedited third-party dispute resolution must be submitted to the Chief Financial Officer of the NYISO within five (5) business days of the NYISO's final determination on the substantive merits of a Customer's settlement challenge.

- *A request for expedited third-party dispute resolution would be premature prior to this point in the settlement review, challenge, and correction process. Late-filed requests will be denied.*

- *This schedule allows notice to Market Participants prior to issuance of a Close-Out Settlement.*

B. Substance of the Request

A Customer's request for expedited third-party dispute resolution must include: (i) the name of the Customer making the request; (ii) an indication of other potentially affected parties; (iii) a statement of the amount in controversy, which may be an estimate; (iv) an explanation of the Customer's claim sufficient to allow a determination of whether it is within the scope of the settlement challenge previously filed by the Customer; (v) copies of the previous settlement challenge materials submitted by the Customer to the NYISO; and (vi) citations to the provisions of the NYISO tariffs, manuals, or other materials upon which the Customer's claim relies.

C. Notice to Market Participants

Promptly upon receiving a request for expedited third-party dispute resolution, and prior to issuance of the Close-Out Settlement, the NYISO shall notify Market Participants of the request.

III. Streamlined Procedures

A. Pre-Selected Pool of Neutrals

The NYISO will develop, with input from the appropriate stakeholder committee, a pre-selected pool of neutrals unaffiliated with the NYISO and its Market Participants and substantively qualified to preside over the expedited third-party dispute resolution. To the extent possible, neutrals shall be knowledgeable in electric utility matters, including electric transmission and bulk power issues and the financial settlement of electric markets.

- *For each request for expedited third-party dispute resolution, the NYISO will randomly draw from the pre-selected pool of neutrals until an available neutral is found and appointed.*
- *The NYISO will maintain the list of pre-selected neutrals.*

B. Consolidation

To ensure consistent treatment of disputes, Customers' requests for expedited third-party dispute resolution on the same issues with respect to a given invoice or invoices may be resolved on a consolidated basis, consistent with applicable confidentiality requirements.

- *Entities with rights or interests that would be materially affected by the outcome of an expedited third-party dispute resolution may participate as the neutral deems appropriate.*

IV. Conduct of Expedited Third-Party Dispute Resolution

The neutral shall aid the parties in reaching an acceptable resolution. However, the neutral shall not have authority to impose a resolution on the parties.

A. Procedure

The neutral and representatives of the parties with authority to settle the dispute shall commence the dispute resolution process promptly after the date of the neutral's appointment.

Except as otherwise provided, the neutral shall have discretion over the conduct of the dispute resolution process. The neutral's discretion shall include: (i) requiring the parties to meet for discussion; (ii) allowing or requiring written submissions with statements of issues(s) and position(s); (iii) establishing guidelines for the written submissions; and (iv) allowing the participation of Market Participants who have requested an opportunity to be heard.

B. Non-Binding Recommendation

Within sixty (60) days from the date a Customer requests expedited third-party dispute resolution, if the dispute has not already been resolved, the neutral shall provide the parties a written, confidential, non-binding recommendation to resolve the dispute. Upon appointment, the neutral shall establish a schedule for meetings, submissions, etc. sufficient to allow him/her to issue the non-binding recommendation within 60 days from the date a Customer requested expedited third-party dispute resolution.

- *The recommendation shall include an assessment by the neutral of the merits of, and tariff support for, the principal positions advanced by each of the parties.*
- *The recommendation shall be limited to resolving the specific issues presented for resolution.*

The parties shall then meet in a good faith attempt to resolve the dispute in light of the neutral's recommendation. If the parties are still unable to resolve the dispute within ten (10) days of receiving the neutral's recommendation, the expedited third-party dispute resolution process will be deemed closed and any party thereto may request action from FERC. See Part V. below regarding the timeframe for such a filing.

Neither the recommendation of the neutral, nor any statements made by him/her or by any party or Market Participant or their representatives, or any written submissions prepared for the expedited third-party dispute resolution process, shall be admissible for any purpose, in any subsequent proceeding.

C. Costs

Each party to the expedited third-party dispute resolution shall be responsible for its own costs incurred during the process and for a pro rata share of the cost of the neutral. The pro rata share will be based on the number of parties, including any Market Participant which requests, and which is allowed to participate in the expedited third-party dispute resolution process.

V. Request for FERC Action

If the parties are unable to resolve the dispute in light of the neutral's recommendation, the parties shall be limited to a period of twenty (20) days from receipt of the neutral's recommendation to request FERC action.

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