

Proposed Changes to Services Tariff

12.3 Limitation on Liability

The ISO, Transmission Owners and NYSRC shall not be liable (whether based on contract, indemnification, warranty, tort, strict liability or otherwise, to any Customer, Market Participant, or any third party or other party for any damages whatsoever including, without limitation, direct, incidental, consequential, punitive, special, exemplary or indirect damages resulting from any act or omission in any way associated with a Service Agreement or the ISO Services Tariff, except to the extent that the ISO, Transmission Owner or NYSRC is found liable for gross negligence or intentional misconduct, in which case the ISO, Transmission Owner or NYSRC will not be liable for any incidental, consequential, punitive, special, exemplary or indirect damages. This Section, however, does not limit in any way the ISO's obligation to indemnify the Transmission Owners pursuant to the ISO/TO Agreement or any other agreement. Nothing in the ISO Services Tariff, or any Service Agreement pursuant to the ISO Services Tariff, express or implied, is intended to confer on any person, other than the parties to a Service Agreement, any rights or remedies under or by reason of the ISO Services Tariff.

_____ The protections provided to the ISO, Transmission Owners and NYSRC in this Section 12.3 regarding limitation of liability and damages shall be applicable to Generators acting in good faith to implement or comply with the directives of the ISO, Transmission Owner or NYSRC.