

STUDY AGREEMENT FOR AN ADDITIONAL RELIABILITY STUDY

THIS AGREEMENT is made and entered into this ____ day of _____, 20__ by and between _____, a _____ organized and existing under the laws of the State of _____, (“Requestor”), and the New York Independent System Operator, Inc., a not-for-profit corporation organized and existing under the laws of the State of New York (“NYISO”). Requestor and NYISO each may be referred to as a “Party,” or collectively referred to as the “Parties.”

RECITALS

WHEREAS, Requestor has submitted a completed request form, dated _____, and refundable deposit to the NYISO for the NYISO to conduct a reliability planning study in addition to the Comprehensive Reliability Plan studies conducted pursuant to Section B of Attachment Y to the OATT (an “Additional Reliability Study”); and

WHEREAS, Requestor and the NYISO have met to discuss and determine, and have determined and agreed upon, the scope of the Additional Reliability Study to be performed under this Agreement; and

WHEREAS, Requestor desires the NYISO to proceed to conduct the Additional Reliability Study in accordance with this Agreement, and with applicable provisions of Attachment Y to the OATT and ISO Procedures;

NOW, THEREFORE, in consideration of and subject to the mutual covenants contained herein the Parties agree as follows:

- 1.0 Capitalized terms that are not otherwise defined herein shall have the meaning set forth in Section 1.0 of the OATT or in Attachment Y to the OATT.
- 2.0 Requestor elects, and the NYISO shall perform or cause to be performed, an Additional Reliability Study consistent with the Comprehensive Reliability Plan studies conducted pursuant to Section B of Attachment Y to the OATT. The terms of Section B of Attachment Y to the OATT, as applicable, are hereby incorporated herein by reference.
- 3.0 The scope of the Additional Reliability Study shall be specified in Attachment A to this Agreement. The Additional Reliability Study shall use the most recently approved Comprehensive Reliability Plan database and base case assumptions.
- 4.0 The Additional Reliability Study will be based upon the information described in Attachment A to this Agreement, including the information provided by Requestor in its request for an Additional Reliability Study dated _____, 20__ (“Request For Additional Reliability Study”). The NYISO reserves the right to request further information from Requestor, as may reasonably become

necessary during the course of the Additional Reliability Study, and Requestor shall promptly provide such additional information if requested to do so.

- 5.0 The NYISO shall make reasonable efforts to complete the Additional Reliability Study by **[calendar date/date point on Comprehensive Reliability Plan cycle time line]**. If the NYISO determines that this target date will not be met, the NYISO will promptly inform Requestor and provide Requestor with an updated estimate of the date by which the Additional Reliability Study will be completed. If Requestor modifies the technical information provided in the Request For Additional Reliability Study, the NYISO may reasonably extend the time to complete the Additional Reliability Study.

6.0 Contents of Additional Reliability Study Report

6.1 [TBD]

6.2 [TBD]

6.3 [TBD]

7.0 Study Costs

- 7.1 The NYISO shall charge, and Requestor shall pay, all reasonable costs actually incurred by the NYISO to perform or cause to be performed, the Additional Reliability Study. Such costs may include the cost of consultants and contractors retained by the NYISO and the cost incurred by Transmission Owner(s) to supply study-related data when requested to do so by the NYISO. Costs shall be computed on a time and materials basis in accordance with the rates set forth in Attachment B to this Agreement.

- 7.2 The initial deposit of \$25,000 submitted by Requestor with its Request For Additional Reliability Study, shall be applied to the cost of the Additional Reliability Study. The NYISO's good faith estimate of the total cost of the Additional Reliability Study is \$[_____]. The Parties acknowledge and agree that the actual total cost of the Additional Reliability Study may differ from this estimate. Upon execution of this Agreement, Requestor shall submit an additional deposit of \$[_____] which the NYISO shall also apply to the actual cost of the Additional Reliability Study. If Requestor modifies the scope of the Additional Reliability Study as initially specified in Attachment A to this degree, and does so in such a way as to increase the estimated total cost of the Additional Reliability Study, the NYISO may request, and the Requestor shall pay, an additional deposit to reflect that cost increase, which the NYISO shall also apply to the actual cost of the Additional Reliability Study.

7.3 Upon completion of the Additional Reliability Study, NYISO shall charge, and Requestor shall pay, all reasonable costs actually incurred by the NYISO for the Additional Reliability Study. Any difference between the total of the deposits submitted by Requestor and the actual cost of the Additional Reliability Study shall be paid by or refunded to Requestor, as appropriate, within thirty (30) days.

8.0 Study Results

8.1 Upon completion of the Additional Reliability Study, and payment by Requestor of any amount due pursuant to Section 7.3 of this Agreement, the NYISO will deliver the completed Additional Reliability Study to Requestor, and the Parties will meet at a mutually agreeable time and place to review the results of the Additional Reliability Study.

8.2 The NYISO shall treat the results of the Additional Reliability Study as Confidential Information is treated under Attachment F to the OATT; provided, however, the NYISO will post the results of the Additional Reliability Study on its website if and when Requestor seeks regulated cost recovery under the OATT based upon the results of the Additional Reliability Study.

9.0 Requestor may withdraw its Request For Additional Reliability Study at any time by terminating this Agreement in accordance with Section 10.5 of this Agreement. Upon receipt of such termination notice, the NYISO will cease work on the Additional Reliability Study. Requestor shall reimburse the NYISO for all reasonable costs incurred for the Additional Reliability Study through the effective date of termination. Within fifteen (15) days of termination, the NYISO will forward to Requestor either (i) an invoice for unpaid study work, payable within thirty (30) days, or (ii) a refund of that portion of Requestor's deposited funds not required to cover unpaid study work. The NYISO will forward all completed study results and work papers to Requestor with the refund, if one is due, or upon receipt of full payment from Requestor for unpaid study work.

10.0 Miscellaneous.

10.1 Accuracy of Information. Except as Requestor may otherwise specify in writing when it provides information to the NYISO under this Agreement, Requestor represents and warrants that the information it provides to NYISO shall be accurate and complete as of the date the information is provided. Requestor shall promptly provide NYISO with any additional information needed to update information previously provided.

10.2 Disclaimer of Warranty. In preparing the Additional Reliability Study, the NYISO and any subcontractor consultants employed by it shall have to rely on information provided by the Requestor, and possibly by third

parties, and may not have control over the accuracy of such information. Accordingly, neither the NYISO nor any subcontractor consultant employed by the NYISO makes any warranties, express or implied, whether arising by operation of law, course of performance or dealing, custom, usage in the trade or profession, or otherwise, including without limitation implied warranties of merchantability and fitness for a particular purpose, with regard to the accuracy, content, or conclusions of the Additional Reliability Study. Requestor acknowledges that it has not relied on any representations or warranties not specifically set forth herein and that no such representations or warranties have formed the basis of its bargain hereunder.

- 10.3 **Limitation of Liability.** In no event shall either Party or its subcontractor consultants be liable for indirect, special, incidental, punitive, or consequential damages of any kind including loss of profits, arising under or in connection with this Agreement or the Additional Reliability Study or any reliance on the Additional Reliability Study by either Party or third parties, even if one of the Parties or its subcontractor consultants have been advised of the possibility of such damages.
- 10.4 **Third-Party Beneficiaries.** Without limitation of Sections 10.2 and 10.3 of this Agreement, Requestor further agrees that subcontractor consultants hired by NYISO with respect to the Study shall be deemed third party beneficiaries of these Sections 10.2 and 10.3.
- 10.5 **Term and Termination.** This Agreement shall be effective from the date hereof and unless earlier terminated in accordance with this Section 10.5, shall continue in effect for a term of [_____] or until the Additional Reliability Study is completed, whichever event occurs first. Requestor may by ten (10) days written notice terminate this Agreement and thereby withdraw Requestor's Request For Additional Reliability Study.
- 10.6 **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of New York, without regard to any choice of laws provisions.
- 10.7 **Severability.** In the event that any part of this Agreement is deemed as a matter of law to be unenforceable or null and void, such unenforceable or void part shall be deemed severable from this Agreement and the Agreement shall continue in full force and effect as if each part was not contained herein.
- 10.8 **Counterparts.** This Agreement may be executed in counterparts, and each counterpart shall have the same force and effect as the original instrument.
- 10.9 **Amendment.** No amendment, modification or waiver of any term hereof shall be effective unless set forth in writing signed by the Parties hereto.

- 10.10 Survival. All warranties, limitations of liability and confidentiality provisions provided herein shall survive the expiration or termination hereof.
- 10.11 Independent Contractor. NYISO shall at all times be deemed to be an independent contractor and none of its employees or the employees of its subcontractors shall be considered to be employees of Requestor as a result of this Agreement.
- 10.12 No Implied Waivers. The failure of a Party to insist upon or enforce strict performance of any of the provisions of this Agreement shall not be construed as a waiver or relinquishment to any extent of such Party's right to insist or rely on any such provision, rights and remedies in that or any other instances; rather, the same shall be and remain in full force and effect.
- 10.13 Successors and Assigns. This Agreement, and each and every term and condition hereof, shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns.

IN WITNESS THEREOF, the Parties have caused this Agreement to be duly executed by their duly authorized officers or agents on the day and year first above written.

NYISO

[Insert name of Requestor]

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

ATTACHMENT A

SCOPE OF WORK FOR THE ADDITIONAL RELIABILITY STUDY

[TBD]

[TBD]

[TBD]

ATTACHMENT B

**HOURLY RATES FOR PERSONNEL WORKING ON THE ADDITIONAL
RELIABILITY STUDY**

<u>Position</u>	<u>Hourly Rate</u>