30.6 Data Collection and Disclosure

30.6.1 Access to ISO Data and Information

For purposes of carrying out their responsibilities under Attachment O, the Market Monitoring Unit and MMA shall have access to, and shall endeavor primarily to rely upon (but shall not be limited to), data or other information gathered or generated by the ISO in the course of its operations. This data and information shall include, but not be limited to, data or information gathered or generated by the ISO in connection with its scheduling, commitment and dispatch of generation, its determination of Locational Based Marginal Pricing, its operation or administration of the New York State Transmission System, and data or other information produced by, or required to be provided to the ISO under its Tariffs, the New York Independent System Operator Agreement, the New York State Reliability Council Agreement, or any other relevant tariffs or agreements.

30.6.2 Data from Market Parties

30.6.2.1 Data Requests

If the Market Monitoring Unit or MMA, determines that additional data or other information is required to accomplish the objectives of Attachment O or of the Market Mitigation Measures, the ISO may request the persons or entities possessing, having access to, or having the ability to generate or produce such data or other information to furnish it to the ISO or to its Market Monitoring Unit. Any such request shall be accompanied by an explanation of the need for such data or other information, a specification of the form or format in which the data is to be produced, and an acknowledgment of the obligation of the ISO and its Market Monitoring Unit to maintain the confidentiality of data or information appropriately designated as Protected Information by the party producing it.

A party receiving an information request from the ISO shall furnish all information, in the requested form or format, that is: (i) included on the below list of categories of data or information that it may routinely request from a Market Party; or (ii) reasonably necessary to achieve the purposes or objectives of Attachment O, not readily available from some other source that is more convenient, less burdensome and less expensive, and not subject to an attorney-client or other generally recognized evidentiary doctrine of confidentiality or privilege.

The categories data or information that may be routinely requested shall be limited to data or information the routine provision of which would not be unduly burdensome or expensive, and which has been reasonably determined by the ISO, in consultation with its Market Monitoring Unit, to be likely to be relevant to the purposes and objectives of Attachment O or the Market Mitigation Measures.

30.6.2.2 Categories of Data the ISO May Request from Market Parties

The following categories of data or information may be obtained by the ISO from Market Parties in accordance with Attachment O. Market Parties shall retain the following categories of data or information for the period specified in Section 30.6.3 of Attachment O.

30.6.2.2.1 Production costs – Data or information relating to the costs or operating a specified Electric Facility (for generating units such data or information shall include, but not be limited to, heat rates, start-up fuel requirements, fuel purchase costs, and operating and maintenance expenses) or data or information relating to the costs of providing load reductions from a specified facility participating as a Demand Side Resource in the ISO Operating Reserves or Regulation Service markets.

30.6.2.2.2 Opportunity costs – Data or information relating to a claim of opportunity costs, including, but not limited to, contracts or price quotes.

30.6.2.2.3 Logs – Data or information relating to the operating status of an Electric Facility, including, for generating units, generator logs showing the generating status of a specified unit or data or information relating to the operating status of a specified facility participating as a Demand Side Resource in the ISO Operating Reserves or Regulation Service markets. Such data or information shall include, but not be limited to, any information relating to the validity of a claimed forced outage or derating of a generating unit or other Electric Facility or a facility participating as a Demand Side Resource in the ISO Operating Reserves or Regulation Service markets.

30.6.2.2.4 Bidding or Capacity Agreements – Documents, data, or information relating to a Market Party or its Affiliate conveying to or receiving from another entity the ability: (i) to determine the bid/offer of (in any of the markets administered by the ISO); (ii) to determine the output level of; or (iii) to withhold; generation that is owned by another entity. At the request of the producing entity, the ISO may (but is not required to) permit the documents, data or information produced in response to the foregoing specification to be partially redacted, or the ISO may agree to other measures for the protection of confidential or commercially sensitive information, provided that the ISO receives the complete text of all provisions relating to the subjects specified in this Section 30.6.2.2.4

30.6.2.2.5 Other Cost and Risk Data Supporting Reference Levels or Mitigation Exemption Determinations or Going-Forward Costs – All data or information not specifically identified above that: (i) supports or relates to a Market Party's claimed, requested, or approved reference levels or Going-Forward Costs (as that term is defined in the Market Mitigation Measures) for a particular resource; or (ii) are necessary for the ISO to make

a mitigation exemption determination under Services Tariff Section 23.4.5.7, including data or information: (a) necessary to determine a Market Party's Unit Net CONE (as that term is defined in the Market Mitigation Measures) for a particular resource; or (b) required to evaluate a Market Party's eligibility for a mitigation exemption determination, including information from a Market Party's Affiliates, as appropriate.

30.6.2.2.6 Ownership and Control – Data or information identifying a Market Party's Affiliates.

30.6.2.3 Enforcement of Data Requests

30.6.2.3.1 A party receiving a request for data or information specified in Section 30.6.2.2 of Attachment O shall promptly provide it to the ISO, and may not contest the right of the ISO to obtain such data or information except to the extent that the party has a good faith basis to assert that the data or information is not included in any of the categories on the list.

30.6.2.3.2 If a party receiving a request for data or information not specified in Section 30.6.2.2 of Attachment O believes that production of the requested data or information would impose a substantial burden or expense, or would require the party to produce information that is not relevant to achieving the purposes or objectives of Attachment O, or would require the production of data or information of extraordinary commercial sensitivity, the party receiving the request shall promptly so notify the ISO, and the ISO shall review the request with the receiving party with a view toward determining whether, without unduly compromising the objectives of Attachment O, the request can be narrowed or otherwise modified to reduce the burden or expense of compliance, or

special confidentiality protections are warranted, and if so shall so modify the request or the procedures for handling data or information produced in response to the request.

30.6.2.3.3 If the ISO determines that the requested information has not or will not be provided within a reasonable time, the ISO may invoke the dispute resolution provisions of the ISO Services Tariff to determine the ISO's right to obtain the requested information. The parties may agree to submit any such determination to binding arbitration and may seek expedited resolution, in accordance with the applicable dispute resolution procedures. The ISO may initiate judicial or regulatory proceedings at any time to compel the production of the requested information.

30.6.3 Data Retention

30.6.3.1 Section 30.6.3 of Attachment O sets forth requirements for the retention of market information by the ISO, by the Market Monitoring Unit and by Market Parties. The provisions of this data retention policy are binding on the ISO, on the Market Monitoring Unit and on Market Parties.

30.6.3.2 Except as specified herein, a Market Party shall retain the data and information specified in Section 30.6.2.2 of Attachment O for a period of six years from the date to which the data relates.

30.6.3.3 The ISO or its Market Monitoring Unit (as appropriate) shall retain for a period of six years from the date to which the data or information relates:

30.6.3.3.1 data or information required to be submitted to, or otherwise used by, the ISO in connection with the bidding, scheduling and dispatch of resources or loads in the New York energy, ancillary services, TCC or Installed Capacity (ICAP) markets;

30.6.3.3.2 data or information used or monitored by the ISO on system conditions in the New York Control Area, including but not limited to transmission constraints or planned or forced facility outages, that materially affect transmission congestion costs or market conditions in the New York energy, ancillary services or ICAP markets;

30.6.3.3.3 data or information collected by the ISO or by the Market Monitoring Unit (as appropriate) in the course of their implementation of Attachment O or the Market Mitigation Measures, on conditions in markets external to New York, or on fuel prices or other economic conditions that materially affect market conditions in the New York energy, ancillary services, TCC or ICAP markets;

30.6.3.3.4 data or information relating to the imposition of, or a decision not to impose, mitigation measures; and

30.6.3.3.5 such other data or information as the MMA or Market Monitoring Unit deem it necessary to collect in order to implement Attachment O or the Market Mitigation Measures.

30.6.3.4 The foregoing obligations to retain data or information shall not alter any data retention requirements that may otherwise be applicable to the ISO, to the Market Monitoring Unit, or to a Market Party; nor shall any such other data retention requirement alter the requirements specified above.

30.6.3.5 The ISO, Market Monitoring Unit or a Market Party may, at its option, purge or otherwise destroy any data or information that has been retained for the longest applicable period specified above, provided the retention of such data or information is

not mandated by the FERC, the New York Public Service Commission, or other applicable requirement or obligation.

30.6.3.6 Compliance with the requirements specified herein for the retention of data or information shall not suspend or waive any statute of limitations or doctrine of laches, estoppel or waiver that may be applicable to any claim asserted against the ISO, the Market Monitoring Unit, or a Market Party.

30.6.4 Confidentiality

The Market Monitoring Unit and the ISO shall use all reasonable procedures necessary to protect and preserve the confidentiality of Protected Information, provided that such information is not available from public sources, is not otherwise subject to disclosure under any tariff or agreement administered by the ISO, and is properly designated as Protected Information. The ISO and the Market Monitoring Unit's obligation to protect and preserve the confidentiality of Protected Information shall be of a continuing nature, and shall survive the rescission, termination or expiration of this Plan.

Except as may be required by subpoena or other compulsory process, or as authorized in the ISO's Tariffs and governing documents (including this Plan), the Market Monitoring Unit and the ISO shall not disclose Protected Information to any person or entity without the prior written consent of the party that the Protected Information pertains to. Upon receipt of a subpoena or other compulsory process for the disclosure of Protected Information, the ISO and/or the Market Monitoring Unit shall promptly notify the party that the Protected Information pertains to, and shall provide all reasonable assistance requested by the party to prevent or limit disclosure. Upon receipt of a subpoena or other compulsory process for the disclosure of Protected Information that was provided to the ISO or the Market Monitoring Unit pursuant to Section 30.6.6 below, the ISO or the Market Monitoring Unit, as appropriate, shall promptly notify the entity that provided the Protected Information and shall provide

all reasonable assistance requested by that party to prevent or limit disclosure. Nothing in this Plan alters any existing statutory jurisdiction or authority to compel disclosure that may apply to the ISO, its Market Monitoring Unit, or to any other ISO, RTO, or market monitoring unit.

The ISO may, in consultation with the Market Monitoring Unit, adopt further or different procedures for the designation of information as Protected Information, or for the reasonable protection of Protected Information, after providing an opportunity for interested parties to review and comment on such procedures; provided, however, that such further or different procedures shall not permit the ISO or Market Monitoring Unit to disclose data or information that would be protected from disclosure under the procedures in place at the time the data or information was provided to the ISO or to the Market Monitoring Unit.

30.6.5 Collection and Availability of Information

30.6.5.1 The ISO and the Market Monitoring Unit shall regularly collect and maintain the information necessary for implementing Attachment O.

The ISO and the Market Monitoring Unit may provide Protected Information to each other as they determine necessary to carry out the purposes of this Plan.

30.6.5.2 The ISO, in consultation with the Market Monitoring Unit, shall make publicly available: (i) a description of the categories of data and information collected and maintained by the MMA and Market Monitoring Unit; (ii) such data or information as may be useful for the competitive or efficient functioning of any of the New York Electric Markets that can be made publicly available consistent with the confidentiality of Protected Information; and (iii) if and to the extent consistent with confidentiality requirements, such summaries, redactions, abstractions or other non-confidential

compilations, versions or reports of Protected Information as may be useful for the competitive or efficient functioning of any of the New York Electric Markets. Any such proposed methods for creating non-confidential reports of such information shall only be adopted after provision of a reasonable opportunity for, and consideration of, the comments of Market Parties and other interested parties. All such proposed or adopted methods shall be set forth in the ISO Procedures, shall be made available through the ISO web site or comparable means, and shall be subject to review and approval by the Board.

30.6.5.3 Consistent with the foregoing requirements, the ISO and its Market Monitoring Unit shall make available, through the ISO web site or comparable means, such reports on the New York Electric Markets as they determine will, at reasonable cost, facilitate competition in those markets.

30.6.5.4 Any data or other information collected by the ISO relating to any of the New York Electric Markets shall be provided upon request, and without undue discrimination between requests, to a Market Party, other interested party, or an Interested Government Agency, provided: (i) such data or information is not Protected Information, or the party designating it as Protected Information has consented in writing to its disclosure; (ii) such information can be provided without undue burden or disruption to, or interference with the other duties and responsibilities of the ISO; and (iii) the requesting party, if other than an Interested Government Agency, provides appropriate guarantees of reimbursement of the costs to the ISO of compiling and disclosing the data or information. If the ISO determines that doing so would not be unduly burdensome or expensive, or inconsistent with maintaining the competitiveness

or economic efficiency of any market, the ISO shall make data or information provided in accordance with this paragraph available to interested parties through the ISO web site or other appropriate means.

30.6.5.5 The New York Public Service Commission and any Other State Commission may make tailored requests to the Market Monitoring Unit for information related to general market trends and the performance of the New York Electric Markets. If the Market Monitoring Unit determines that such a request is not unduly burdensome, it shall provide the information sought, subject to the restrictions and limitations established in Sections 30.6.5.5.1, 30.6.5.5.2 and 30.6.5.5.4, below.

30.6.5.5.1 Except as provided in this Section 30.6.5.5.1, the Market Monitoring Unit shall not provide Protected Information to the New York Public Service Commission or to an Other State Commission in response to a request under Section 30.6.5.5 above. The Market Monitoring Unit may, but is not required to, provide Protected Information to the New York Public Service Commission or any Other State Commission when the party to which the requested Protected Information pertains has consented in writing to its disclosure. The Market Monitoring Unit may, but is not required to, provide Protected Information to the New York Public Service Commission or an Other State Commission if the general counsel/chief legal officer of the requesting state commission certifies, in writing, that: (i) the requested Protected Information will be protected from disclosure by law (and provides copies of the relevant laws, rules or regulations under which the requested Protected Information is protected from public disclosure); (ii) the requested Protected Information will be treated as confidential to the fullest extent of the laws of its state; (iii) the state commission will promptly notify the Market Monitoring Unit if it

receives a request for disclosure of all or part of the Protected (iv) the state commission agrees to provide all reasonable and permissible assistance to prevent further disclosure of Protected Information provided by the Market Monitoring Unit to the state commission in response to a request governed by Section 30.6.5.5 of this Plan; and (v) the Protected Information will not be used for a state enforcement action.

The Market Monitoring Unit shall not provide Protected Information it received from another ISO or RTO, or from a market monitoring unit for another ISO or RTO, pursuant to the authority to share information granted by Section 30.6.6 of this Plan, in response to a request under Section 30.6.5.5 of this Plan. Instead, the Market Monitoring Unit shall identify to the requesting state commission the ISO, RTO or market monitoring unit that provided the information to the Market Monitoring Unit, so that the New York Public Service Commission or Other State Commission may request the Protected Information directly from its source in accordance with the provisions of the providing entity's tariffs, other governing documents, or an applicable law or rule.

30.6.5.5.2 Prior to disclosing Protected Information pertaining to a particular Market Party in response to a tailored request made under Section 30.6.5.5, the Market Monitoring Unit shall (1) notify the Market Party or Parties to which the Protected Information pertains of the request and describe the information that the Market Monitoring Unit proposes to disclose, and (2) allow the Market Party or Parties a reasonable time to object to the disclosure and to provide context to the Protected Information related to it. Providing the opportunity for Market Parties to object to disclosure, or to provide context to the information being produced shall not be permitted to unduly delay its release.

30.6.5.5.3 Section 30.6.5.5 of Attachment O pertains to requests by the New York Public Service Commission and Other State Commissions to the Market Monitoring Unit to provide information. Section 30.6.4 of Attachment O addresses how the Market Monitoring Unit responds to compulsory processes, such as subpoenas and court orders.

30.6.5.5.4 In responding to a request under Section 30.6.5.5 of Attachment O, the Market Monitoring Unit shall not knowingly provide information to the New York Public Service Commission, or to any Other State Commission, that is designed to aid a state enforcement action.

30.6.5.5.5 The New York Public Service Commission or any Other State Commission may petition FERC to require the ISO to release information that the Market Monitoring Unit is not required to release, or that the Market Monitoring Unit is proscribed from releasing, under this Section 30.6.5.5 of Attachment O.

30.6.5.6 The Market Monitoring Unit shall respond to information and data requests issued to it by the Commission or its staff. If the Commission or its staff, during the course of an investigation or otherwise, requests Protected Information from the Market Monitoring Unit that is otherwise required to be maintained in confidence, the Market Monitoring Unit shall provide the requested information to the Commission or its staff within the time provided for in the request for information. In providing the information to the FERC or its staff, the Market Monitoring Unit shall, consistent with any FERC rules or regulations that may provide for privileged treatment of that information, request that the information be treated as confidential and non-public by the FERC and its staff and that the information be withheld from public disclosure. The

Market Monitoring Unit shall not be held liable for any losses, consequential or otherwise, resulting from the Market Monitoring Unit divulging such Protected Information pursuant to a request under this Section 30.6.5.6. After the Protected Information has been provided to the Commission or its staff, the Market Monitoring Unit shall immediately notify any affected Market Participant(s) when it becomes aware that a request for disclosure of such Protected Information has been received by the Commission or its staff, or a decision to disclose such Protected Information has been made by the Commission, at which time the Market Monitoring Unit and the affected Market Participant(s) may respond before such information would be made public, pursuant to the Commission's rules and regulations that may provide for privileged treatment of information provided to the Commission or its staff.

30.6.6 Sharing Information with Other ISOs/RTOs and Market Monitoring Units

30.6.6.1 The Market Monitoring Unit or the ISO may disclose Protected Information to another ISO or RTO or to another ISO or RTO's market monitoring unit (each a "Requesting Entity" in Section 30.6.6 of the Plan) if the Requesting Entity submits a written request stating that the requested Protected Information is necessary to an investigation or evaluation that the Requesting Entity is undertaking within the scope of its approved tariffs, other governing documents, or an applicable law or rule to determine (a) if market power is being, or has been, exercised, (b) if market manipulation is occurring or has occurred, or (c) if a market design flaw exists between interconnected markets, and either (i) demonstrates (by providing copies of the relevant documents, provisions, statutes, rules, orders, etc.) that its tariff or other governing document limits further disclosure of the Protected Information in a manner that

satisfies all of the requirements set forth in Section 30.6.6.1.1, below, or (ii) executes a non-disclosure agreement with the ISO and/or the Market Monitoring Unit that incorporates all of the requirements set forth in Section 30.6.6.1.1 below, and provides a written certification that the Requesting Entity possesses legal authority to enter into the required non-disclosure agreement and to be bound by its terms.

30.6.6.1.1 The Requesting Entity's governing documents or non-disclosure agreement must:

(1) protect Protected Information that the ISO or the Market Monitoring Unit provides from disclosure, except where disclosure may be required by the FERC or by subpoena or other compulsory process;

(2) establish a legally enforceable obligation to treat Protected Information provided by the ISO or its Market Monitoring Unit as confidential. Such obligation must be of a continuing nature, and must survive the rescission, termination or expiration of the applicable tariff(s), other governing document(s) or non-disclosure agreement;

(3) require state commissions to request Protected Information provided by the ISO or its Market Monitoring Unit directly from the ISO or its Market Monitoring Unit, in a manner consistent with Section 30.6.5.5.1 of this Plan, and promptly inform the ISO or its Market Monitoring Unit of any requests received from a state commission for Protected Information provided by the ISO or its Market Monitoring Unit;

(4) require the Requesting Entity to promptly notify the ISO or its Market Monitoring Unit and seek appropriate relief to prevent or, if it is not possible to prevent, to limit disclosure in the event that a subpoena or other compulsory process seeks to require disclosure of Protected Information provided by the ISO or its Market Monitoring Unit;

(5) require the Requesting Entity to promptly notify the ISO or its Market Monitoring Unit of any third party requests for additional disclosure of the Protected Information where Protected Information provided by the ISO or its Market Monitoring Unit has been disclosed to a court or regulatory body in response to a subpoena or other compulsory process, and to seek appropriate relief to prevent or limit further disclosure; and

(6) require the destruction of the Protected Information at the earlier of (i) five business days after a request from the ISO or its Market Monitoring Unit for the return of the Protected Information is received, or (ii) the conclusion or resolution of the investigation or evaluation.

The ISO or the Market Monitoring Unit may undertake a joint investigation with another ISO/RTO or with another ISO or RTO's market monitoring unit to determine (a) if market power is being, or has been, exercised, (b) if market manipulation is occurring or has occurred, or (c) if a market design flaw exists in or between interconnected markets. In such a case, the ISO and the Market Monitoring Unit may disclose Protected Information to the other ISO/RTO or market monitoring unit as necessary to achieve the objectives of the investigation; provided that the ISO or Market Monitoring Unit first receives a written certification from the other ISO/RTO or market monitoring unit that its tariffs or other governing documents meet the standards set forth in this Section 30.6.6 or executes a non-disclosure agreement.

Protected Information provided by another ISO/RTO or market monitoring unit to the ISO or to the Market Monitoring Unit pursuant to the provisions of this Plan shall either be destroyed or returned to the entity that provided the Protected Information at the earlier of (i) five business days after receipt of a request from that entity for the return of the Protected, or (ii) the conclusion or resolution of the matter being investigated.