

#### 23.4.5.7.5 Excluded Facility Certification

Certifications and Acknowledgments found in this section must be made on behalf of an Excluded Facility that asserts the project or Resource complies with the criteria specified in (i), (ii) and/or (iii) of the Excluded Facilities definition in Section 23.2 of the Services Tariff. Such an Excluded Facility shall be legally bound by the following Certification and Acknowledgement executed by a duly authorized officer:

~~A Mitigated Capacity Zone Installed Capacity Supplier that is a Special Case Resource shall be subject to an Offer Floor beginning with the month of its initial offer to supply Installed Capacity, and until its offers of Installed Capacity have been accepted in the ICAP Spot Market Auction at a price at or above its Offer Floor for a total of twelve, not necessarily consecutive, months. A Special Case Resource shall be exempt from the Offer Floor if (a) it is located in a Mitigated Capacity Zone except New York City and is enrolled as a Special Case Resource with the ISO for any month within the Capability Year that includes March 31 in an ICAP Demand Curve Reset Filing Year in which the ISO proposes a New Capacity Zone that includes the location of the Special Case Resource, or (b) the ISO projects that the ICAP Spot Market Auction price will exceed the Special Case Resource's Offer Floor for the first twelve months that the Special Case Resource reasonably anticipated to offer to supply UCAP. If a Responsible Interface Party fails to provide Special Case Resource data that the ISO needs to conduct the calculations described in the two preceding sentences by the deadline established in ISO Procedures, the Special Case Resource will cease to be eligible~~

~~to offer or sell Installed Capacity. The Offer Floor for a Special Case Resource shall be equal to the minimum monthly payment for providing Installed Capacity payable by its Responsible Interface Party, plus the monthly value of any payments or other benefits the Special Case Resource receives from a third party for providing Installed Capacity, or that is received by the Responsible Interface Party for the provision of Installed Capacity by the Special Case Resource, except that it shall exclude the monthly value of any payments or other benefits the Special Case Resource receives from a retail level demand response program designed to address distribution level reliability needs that the Commission has, on a program specific basis, determined should be excluded. Offers by a Responsible Interface Party at a PTID shall be not lower than the highest Offer Floor applicable to a Special Case Resource providing Installed Capacity at that PTID. Such offers may comprise a set of points for which prices may vary with the quantity offered. If this set includes megawatts from a Special Case Resource(s) with an Offer Floor, then at least the quantity of megawatts in the offer associated with each Special Case Resource must be offered at or above the Special Case Resource's Offer Floor. Offers by a Responsible Interface Party shall be subject to audit to determine whether they conformed to the foregoing Offer Floor requirements. If a Responsible Interface Party together with its Affiliated Entities submits one or more offers below the applicable Offer Floor, and such offer or offers cause or contribute to a decrease in UCAP prices in the Mitigated Capacity Zone of 5 percent or more, provided such decrease is at least \$.50/kilowatt month, the Responsible Interface Party shall be required to pay to~~

~~the ISO an amount equal to 1.5 times the difference between the Market Clearing Price for the Mitigated Capacity Zone in the ICAP Spot Auction for which the offers below the Offer Floor were submitted with and without such offers being set to the Offer Floor, times the total amount of UCAP sold by the Responsible Interface Party and its Affiliated Entities in such ICAP Spot Auction. If an offer is submitted below the applicable Offer Floor, the ISO will notify the Responsible Market Party and the notification will identify the offer, the Special Case Resource, the price impact, and the penalty amount. The ISO will provide the notice reasonably in advance of imposing such penalty. The ISO shall distribute any amounts recovered in accordance with the foregoing provisions among the entities, other than the entity subject to the foregoing payment requirement, supplying Installed Capacity in regions affected by one or more offers below an applicable Offer Floor in accordance with ISO Procedures.~~

**CERTIFICATION AND ACKNOWLEDGMENT OF  
EXCLUDED FACILITY STATUS OF  
RESOURCE OR UDR PROJECT**

I [NAME & TITLE] hereby certify on behalf of myself, [NAME OF RESOURCE/PROJECT], and [NAME OF DEVELOPER/OWNER/OPERATOR] that each of the following statements is true and correct:

1. I am an officer whose responsibilities include the [development, ownership, or operational control] of the [NAME OF RESOURCE/PROJECT], New York Independent System Operator, Inc.'s ("NYISO") [Interconnection queue position/PTID Number (INSERT NUMBER)].
2. I am duly authorized to make representations concerning the [NAME OF RESOURCE/PROJECT] for [NAME OF DEVELOPER/OWNER/OPERATOR], including each of the certifications and acknowledgements that I have made in this document.

3. I hereby certify to the Excluded Facility Status of [NAME OF RESOURCE/PROJECT] as meeting the following criteria as provided in Section 23.2 of the Services Tariff in accordance with ISO Procedures and consistent with the documents provided in Schedule 1 to this Certification [select all that apply: i) the Resource technology type is specifically identified by the CLCPA or is publicly identified by New York State as supporting the goals of the CLCPA; (ii) the Resource or UDR project has a contract with the State of New York in order achieve the goals of the CLCPA (such as a Tier 1 or Tier 4 contract with NYSERDA); or (iii) the Resource or UDR project is eligible to receive a contract authorized by New York State that is supporting the goals of the CLCPA (such as a Tier 1 or Tier 4 contract with NYSERDA)].
4. I have reviewed and understand the requirements established under the NYISO Market Administration and Control Area Services Tariff (“Services Tariff”) related to its Buyer Side Mitigation provisions described in Sections 23.2 and 23.4.5.7, et seq of the Services Tariff (“BSM Rules”).
5. I have personal knowledge of the facts and circumstances supporting the [NAME OF RESOURCE/PROJECT] status as an Excluded Facility pursuant to the NYISO’s BSM Rules.
6. The [Developer/Owner/Operator] shall provide any information or cooperation requested by the NYISO in connection with this Certification and Acknowledgement of Excluded Facility Status.

I hereby acknowledge on behalf of myself, [NAME OF RESOURCE/PROJECT], and [NAME OF DEVELOPER/OWNER/OPERATOR] that:

- a. The submission of false, misleading, or inaccurate information, or the failure to submit information requested by the NYISO or to cooperate with a request related to this Certification and Acknowledgement, shall constitute a violation of Section 4.1.7 of the Services Tariff, and may be subject to the Commission’s review, a violation of the Commission’s regulations and Section 316A of the Federal Power Act.
- b. If false, misleading, or inaccurate information is submitted, or requested information is not provided, including but not limited to information contained or submitted in this Certification and Acknowledgement, Excluded Facility status shall not be recognized for [NAME OF RESOURCE/PROJECT] which may potentially be subject to an Offer Floor in accordance with the BSM Rules unless it is otherwise determined to be exempt pursuant to Section 23.4.5.7.2(a) or (b) of the Services Tariff.
- c. If the Project submits false, misleading, or inaccurate information, or fails to submit requested information to the NYISO or to cooperate with a request, including but not limited to information contained or submitted in the Certification and Acknowledgement on behalf of the Project, it may be subject to

civil penalties that may be imposed by the Commission for violations of Section 4.1.7 of Services Tariff, the Commission's rules, and/or Section 316A of the Federal Power Act.

\_\_\_\_\_  
[PRINT NAME]

[DATE]

Subscribed and sworn to before me  
this [ ] day of [MONTH] [YEAR].

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

**[PROJECT NAME] SCHEDULE 1 CERTIFICATION AND ACKNOWLEDGEMENT**  
**LIST AND ATTACHMENT OF PERTINENT**  
**DOCUMENTS AND AGREEMENTS**  
**[DATE]**

<b><u>Source of Document/ Parties to Agreement</u></b>	<b><u>Title</u></b>	<b><u>Date Issued/Executed</u></b>
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**23.4.5.7.5.1 Timing for Requests, Required Submittals, and Withdrawals**

The executed Certification and Acknowledgement form required by Section 23.4.5.7.5 shall be submitted concurrent with a request to be considered an Excluded Facility. The ISO may request additional information at any time and updated certifications at any time prior to the date that the Class Year decisional process of which the Examined Facility is a member has been completed.

Requests for Resources or UDR projects to be considered an Excluded Facility in Class Years and Requests for Resources to be considered an Excluded Facility in Expedited Deliverability Studies must be received by the ISO no later than the deadline by which a facility must notify the ISO of its election to enter the Class Year Study or Expedited Deliverability Study, such date as set forth in Section 25.5.9 OATT Attachment S, except (i) that for members of the ongoing Class Year 2021 Study that must certify to their Excluded Facility Status, certification shall be submitted to the NYISO with the request to be considered as an Excluded Facility within twenty-one calendar days from [ ], the effective date of this tariff section and (ii) as noted in 23.4.5.7.5.1.1 below.

The ISO shall determine, in consultation with the Market Monitoring Unit, whether a Resource or UDR project is an Excluded Facility, subject to any required further submissions of information, prior to the Initial Decision Period within which a Developer must provide an Acceptance Notice or

Non-Acceptance Notice to the ISO in response to the first Project Cost Allocation issued by the ISO to the Developer.

23.4.5.7.5.1.1 Except however, existing resources or UDR projects, with an Offer Floor, may request at any time to be an Excluded Facility, consistent with ISO Procedures. The ISO may request additional information at any time and updated certifications at any time for these requests prior to the issuance of a determination.

#### **23.4.5.7.5.2 Notifications**

The ISO shall post on its website a list of each Examined Facility that requests to be an Excluded Facility that becomes a member of the Class Year Study or Expedited Deliverability Study, promptly after the deadline set forth in Section 30.8.1 of the OATT (Attachment X) (by which the ISO must receive the Developer's executed Class Year Interconnection Facilities Study Agreement and deposit.) The ISO shall update the list as necessary. The ISO shall also post on its website a list of all Excluded Facilities.

#### **23.4.5.7.5.3 False, Misleading, or Inaccurate Information**

The submission of false, misleading, or inaccurate information, or the failure to submit requested information and cooperate in connection with a certification of Excluded Facilities status shall constitute a violation of the Services Tariff. Such violation shall be reported, by the ISO, to the Market Monitoring Unit and to the Commission's Office of Enforcement (or any successor to its responsibilities).