

Reliability Planning Process Manual Attachments

Attachment E Agreements for Additional Reliability Studies
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This document was prepared by:
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**AGREEMENTS
FOR
ADDITIONAL RELIABILITY STUDIES**

By and Among

New York Independent System Operator, Inc.,

AGREEMENTS FOR ADDITIONAL RELIABILITY STUDIES

THIS AGREEMENT is made and entered into this ____ day of ____ by and between _____, a _____ organized and existing under the laws of the State of _____, (“Requestor”), 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”), and [New York Transmission Owner](“Transmission Owner”), a _____ organized and existing under the laws of the State _____. Requestor, Transmission Owner and the 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 _____, (“Study Request”) and refundable deposit of \$_____ to the NYISO for the NYISO to conduct a reliability planning study, in addition to the Comprehensive Reliability Plan studies conducted pursuant to Section 31.2 of Attachment Y to the OATT and in accordance with NYISO Procedures, the purpose of which is for any interested party to determine whether a change in the configuration, location or amount of resources will impact the reliability of the New York State Bulk Power Transmission Facilities (an “Additional Reliability Study”);

WHEREAS, in accordance with NYISO Procedures, the Study Request and the Results of the Study will be treated as Confidential Information under Attachment F of the NYISO OATT;

WHEREAS, the Requestor and the NYISO have requested that Transmission Owner participate in performing the study as it has expertise that is necessary and relevant to the issues and analyses implicated by the Study Request;

WHEREAS, Transmission Owner and the NYISO have executed a Non-Disclosure Agreement, which is set forth in Attachment 3, in order to facilitate Transmission Owner’s participation in this study;

WHEREAS, Requestor, Transmission Owner 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, which is set forth in Attachment 1 hereto; and

WHEREAS, Requestor desires that Transmission Owner and the NYISO proceed in concert to perform, or cause to be performed, the Additional Reliability Study in accordance with this Agreement, and with applicable provisions of Attachment Y to the OATT and ISO Procedures;

WHEREAS, Requestor acknowledges the New York State Department of Public Service’s regulatory authority to request and receive market participant data and pertinent study information from the NYISO and Transmission Owner and hereby agrees to allow the Parties to respond to such requests for information once the Requestor has been notified of the request for information; and the Parties agree to take all appropriate steps to identify the responses as confidential, commercially sensitive and proprietary information that is exempt for disclosure under section 87 of the Public Officers law when responding to such requests; and

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 of the OATT or in Attachment X or Attachment Y to the OATT.
- 2.0 Requestor requests, and Transmission Owner and the NYISO shall jointly perform or cause to be performed, an Additional Reliability Study consistent with the Comprehensive Reliability Plan studies conducted pursuant to Section 31.2 of Attachment Y to the OATT. The terms of Section 31.2 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 1 to this Agreement (the “Scope of Work”). The Additional Reliability Study shall use the most recently approved Comprehensive Reliability Plan database and base case as of the date on which this Agreement is executed and as further updated and amended as described in the Scope of Work.
- 4.0 The Additional Reliability Study will be based upon the information described in the Scope of Work. The NYISO and reserve 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 information if requested to do so.
- 5.0 The NYISO and Transmission Owner shall perform, or cause to be performed, this Additional Reliability Study on a first come, first served basis in the order in which Requests for Additional Reliability studies are received. The NYISO and Transmission Owner shall make Reasonable Efforts to complete the Additional Reliability Study by _____. If the NYISO or Transmission Owner determine that this target date will not be met, written notice will promptly be provided by NYISO or Transmission Owner, as applicable, that provides Requestor and the other Party with an updated estimate of the date by which the Additional Reliability Study will be completed together with an explanation of the reasons why additional time is required. If Requestor requests to modify the Scope of Work and the Parties agree to such modification, or modifies or provides additional or updated technical information it has provided for the study, Transmission Owner and the NYISO may elect to reasonably extend the time to complete the Additional Reliability Study with appropriate written notice to all Parties.

6.0 Contents of Additional Reliability Study Report

- 6.1 An Additional Reliability Study Report (“Study Report”) will be prepared by Transmission Owner and the NYISO that describes the potential impacts on the reliability of the New York State Transmission System (“NYS Transmission System”) that result from the Requestor’s retirement and/or temporary lay-up options described in the Scope of Work. The Study Report will follow the report outline (as applicable) specified in the NYISO Transmission Planning Guideline #1.0.
- 6.2 Results of thermal, voltage, and stability analyses will be reported in accordance with Applicable Reliability Standards, Guidelines and study practices.
- 6.3 Modifications, if any, to the base case conditions made to complete the analyses will be documented in the Study Report

7.0 Study Costs

- 7.1 The NYISO and Transmission Owner shall charge, and Requestor shall pay, all reasonable documented costs actually incurred by the NYISO and Transmission Owner to perform or cause to be performed, the Additional Reliability Study. Such costs may include the reasonable costs of consultants and contractors retained by Transmission Owner and/or the NYISO and the cost, if any, incurred by other Transmission Owners 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 2 to this Agreement.
- 7.2 The initial deposit of \$25,000 submitted by Requestor with its Study Request shall be applied to the cost of the Additional Reliability Study. The 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 shall also apply to the actual cost of the Additional Reliability Study. If Requestor requests to modify, and the Parties agree to such modifications, the Scope of Work for the Additional Reliability Study, as initially specified in Attachment 1 to this Agreement, and does so in such a way as to increase the estimated total cost of the Additional Reliability Study, the NYISO shall request, and the Requestor shall pay, an additional deposit to reflect the estimated cost increase required for Transmission Owner and/or the NYISO to complete the work, as modified, The NYISO shall apply any additional deposits provided by the Requestor to the actual cost of the Additional Reliability Study reasonably incurred by Transmission Owner and the NYISO.
- 7.3 Upon completion of the Additional Reliability Study, NYISO shall charge, and Requestor shall pay, all reasonable documented costs actually incurred by Transmission Owner and the NYISO for the Additional Reliability Study

pursuant to a final invoice. 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 of the final invoice.

8.0 Study Results

- 8.1 Upon completion of the Additional Reliability Study, issuance of the final invoice and payment by Requestor of any amount due pursuant to Section 7.3 of this Agreement, the NYISO and Transmission Owner will jointly deliver the results of 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. The NYISO and Transmission Owner will also provide the results of the Additional Reliability Study to Requestor in electronic format.
- 8.2 The NYISO and Transmission Owner will review the results of the Additional Reliability Studies to determine whether the results reveal Confidential Information that may not be disclosed to the Requestor pursuant to the NYISO's Code of Conduct or is otherwise identified by Transmission Owner as their own Confidential Information. Prior to the delivery to the Requestor of the study results, NYISO and Transmission Owner will remove or sufficiently mask all Confidential Information to avoid the disclosure of any Confidential Information to the Requestor. The NYISO and Transmission Owner will treat the Study Request and the results of the Additional Reliability Study as Confidential Information in accordance with Attachment F to the OATT. The NYISO will not include the results of the Additional Reliability Study in the Reliability Needs Assessment or Comprehensive Reliability Plan. Notwithstanding the foregoing, the Requestor acknowledges and agrees that the NYISO and Transmission Owner shall be free to provide appropriate response to the New York State Department of Public Services (NYSDPS) with regard to any requests for information they may submit to the NYISO or Transmission Owner, regarding the generator or the study scope of work, after the Requestor has been provided written notice of the NYSDPS's request for information. In responding to such requests all Parties shall treat the study and the study results as confidential, commercial sensitive, proprietary information of the Requestor. The Requestor further acknowledges and agrees that the NYISO and Transmission Owner may disclose the results of this study, and that the NYISO may post the results of the Additional Reliability Study on its website, if and when Requestor seeks to obtain regulated cost recovery from an applicable state or federal regulatory authority based upon the results of the Additional Reliability Study or if the Requestor otherwise discloses the study request or the study results in the public domain.
- 8.3 The Requestor acknowledges and agrees that the NYISO and the Transmission Owner shall be free to conduct an independent analysis as part of the NYISO's Reliability Planning Processes or Transmission Owner's

local transmission planning efforts, if either Party determines, in its sole discretion and at its sole cost, that such analysis is appropriate.

- 8.4 The Requestor acknowledges and agrees that, notwithstanding the provisions of this agreement indicating that it will not receive Confidential Information from the NYISO or Transmission Owner, in the event that Requestor does receive Confidential Information of the NYISO or the Transmission Owner as a result of its interactions with NYISO and Transmission Owner or otherwise arising out of the performance of this study or review of the study results, it shall not use such information for its advantage, it shall destroy such information, and it shall take all other necessary steps to prevent any further disclosure of that Confidential Information within its organization and to third parties.
- 8.5 The Requestor further acknowledges and agrees that the NYISO and Transmission Owner may disclose the results of this study, and that the NYISO may post the results of the Additional Reliability Study on its website, if and when Requestor seeks to obtain regulated cost recovery from an applicable state or federal regulatory authority based upon the results of the Additional Reliability Study.
- 8.6 Nothing in this Agreement shall be construed to limit the NYISO's authority to determine the need for, or Transmission Owner's authority to develop and propose, a regulated backstop or gap solution pursuant to NYISO OATT Attachment Y or any local transmission planning project.
- 9.0 Requestor may withdraw its Study Request at any time by terminating this Agreement by delivering a termination notice in accordance with Section 10.5 of this Agreement. Upon receipt of such termination notice, Transmission Owner and the NYISO will cease work on the Additional Reliability Study. Requestor shall reimburse Transmission Owner and the NYISO for all reasonable documented costs incurred for the Additional Reliability Study through the effective date of termination. Following delivery of a termination notice, the NYISO will promptly 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. Subject to the confidentiality requirements set forth in sections 8.2 and 10.14 herein, the NYISO will forward all study results completed through the date of Requestor's termination notice and related 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 and Transmission Owner under this Agreement, Requestor represents and warrants that the information it provides shall be accurate and complete as of the date the information is provided. Requestor shall promptly provide NYISO and Transmission Owner with any additional information needed to update information previously provided.

- 10.2 Disclaimer of Warranty. In preparing the Additional Reliability Study, Transmission Owner and the NYISO, and any subcontractor or consultant employed by either Party, and any other Transmission Owner that provides study-related data, 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 Transmission Owner, the NYISO, nor any subcontractor or consultant employed by Transmission Owner or the NYISO, nor any other Transmission Owner that provides study-related data 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 any of the officers, directors, employees, parents, subsidiaries, affiliates, successors or assigns of any Party, or those of its subcontractors or consultants, or those of any other Transmission Owner that provides study-related data related to this Agreement, be liable for direct, 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 subcontractors or 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 any subcontractor or consultant hired by Transmission Owner and/or the NYISO with respect to the Study, and any other Transmission Owner that provides study-related data 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 to NYISO and Transmission Owner 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. Transmission Owner and the NYISO shall at all times be deemed to be independent contractors and none of their respective employees or the employees of their respective subcontractors or consultants, or employees of any other Transmission Owner providing study-related data under this Agreement, 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.
- 10.14 Confidentiality. The Parties acknowledge and agree that Requestor's request for the Additional Reliability Study and the results of such study constitute confidential and proprietary information. The Parties further acknowledge and agree that the results of the Additional Reliability Study may include Confidential Information pursuant to NYISO's Code of Conduct. The Parties shall not disclose any such information to any third party unless either (i) permitted to do so in writing by the other two Parties or (ii) required by law to disclose such information.

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.

New York Independent System Operator

By: _____

Title: _____

Date: _____

[New York Transmission Owner]

By: _____

Title: _____

Date: _____

[Requestor]

By: _____

Title: _____

Date: _____

ATTACHMENT 1

SCOPE OF WORK FOR THE ADDITIONAL RELIABILITY STUDY

[TBD]

[TBD]

[TBD]

ATTACHMENT 2

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

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