

Credit Information Sharing Under Order No. 895 Tariff Revisions

New Section of the Market Administration and Control Area Services Tariff:

Section 26.1.6. Credit Information Sharing Under Order No. 895

The ISO is permitted to share credit-related information of Market Participants, applicants seeking to become Market Participants, and their Affiliates with Commission-jurisdictional regional transmission organizations and independent system operators for the purpose of credit risk management and mitigation. This information includes, but is not limited to, (1) lists of Market Participants with positions in the ISO-Administered markets; (2) reports and metrics around risk and credit exposures; (3) disclosure that a Market Participant or Affiliate has defaulted on any of its financial or contractual obligations, failed to pay invoices on a timely basis, or failed to meet a collateral call; (4) information regarding a Market Participant's or its Affiliate's unresolved credit/collateral issues; (5) information indicating that a Market Participant or its Affiliate has an increased risk of default, such as instances where a Market Participant or its Affiliate has experienced a material adverse condition or material adverse change under a Commission-jurisdictional regional transmission organization or independent system operator tariff or related agreement; and (6) any other information on a Market Participant or its Affiliate that indicates a possible material adverse change in creditworthiness or financial status or an unreasonable credit risk.

The ISO is permitted to use credit-related information received from Commission-jurisdictional regional transmission organizations and independent system operators to the same extent and for the same purposes that it may use information from its Market Participants and applicants seeking to become Market Participants under the terms of this Tariff and the OATT. The ISO will treat material received under this provision as Confidential Information.

Redlines to OATT:

Section 12.4. Treatment of Confidential and Transmission System Information

This section deals with Confidential Information, including Transmission System Information. Confidential Information consists of: (1) data designated as such in NYPP Operating Policy OP-18 (or its successor); (2) any commercially sensitive information including, without limitation, trade secrets, equipment specific information (*e.g.*, Generator specific data such as heat rates, etc.), and business strategies, affirmatively designated as Confidential Information by its supplier or owner; and (3) Transmission System Information (“TSI”) that has not yet been posted on the OASIS or provided in some public forum such as a FERC filing. TSI is information: (1) that is commercially valuable and (2) access to which is necessary to buy, sell or schedule Energy, Capacity, Ancillary Services or Transmission Service. Examples of TSI include, but are not limited to, the following:

- Available Transfer Capability;
- Total Transfer Capability;
- Information regarding physical Curtailments and Interruptions;
- Information regarding Ancillary Services;
- Pricing for Transmission Service; and
- Discounts offered.

In the course of responding to requests for Energy, Capacity, Transmission Services or Ancillary Services, the ISO shall not disclose Confidential Information to any Market Participant. The ISO shall disclose data that is not Confidential Information, and information required to be disclosed by FERC, by posting the information on the OASIS. If an ISO Employee improperly discloses TSI to any Market Participant, the ISO shall immediately post

the information on the OASIS and notify the Commission.

ISO Employees shall also report all improper disclosures of Confidential Information to the ISO compliance officer (as described in Section 12.11) or its designee immediately. In the case of an Emergency, the ISO may disclose such TSI, and then notify the Commission, posting the information on the OASIS as soon as practicable but no later than twenty-four (24) hours after the information is disclosed.

The procedures described in this section do not apply to the following:

- (1) communication of TSI between the ISO and the Transmission Owner's control centers, and other power pools or ISOs;
- (2) communication of non-public, operational information concerning natural gas-fueled generation from resources located within the New York Control Area between the ISO and the operating personnel of an interstate natural gas pipeline company for the purpose of promoting reliable service or operational planning;
- (3) communication of non-public, operational information concerning natural gas-fueled generation from resources located within the New York Control Area between the ISO and the operating personnel of natural gas local distribution companies ("LDCs") and/or intrastate natural gas pipeline companies for the purpose of promoting reliable service or operational planning, if such party has acknowledged, in writing, that it is prohibited from disclosing—or using anyone as a conduit for disclosure of—non-public, operational information received from the ISO to: (a) an employee other than operating personnel of that LDC and/or intrastate natural gas pipeline company, (b) a third party, or (c) any affiliate except for (i) the operating personnel of an affiliated interstate natural gas pipeline

company, or (ii) the operating personnel of an intrastate pipeline which has a non-disclosure agreement with the ISO. The operating personnel of an affiliated interstate natural gas pipeline company accepting non-public operational information pursuant to this section shall agree to comply with 18 CFR 284.12(b)(4)(ii). Unless otherwise authorized by the Commission, for purposes of this section LDC or intrastate pipeline “operating personnel” shall exclude employees engaged in marketing functions as defined by 18 CFR 358.3(c) or who make sales of natural gas;

- (4) communication of information from a Market Participant to the ISO;
- (5) information that is no longer Confidential Information because it was made public by posting it on the OASIS; or it was legally disclosed by a third party in good faith and without violating a trade secret, secrecy agreement or employment contract with a non-disclosure clause; or it was made public by a government agency, court or other process of law;
- (6) requests by a Market Participant for a report regarding the status of that Market Participant’s particular contracts or transactions. The ISO shall provide all Market Participants requesting a report the same type and level of detail of information;
- (7) information that is not listed in NYPP OP-18 and has not been designated by the supplier or owner as Confidential Information;
- (8) disclosures by the ISO that are authorized under ISO Services Tariff Attachment H Section 23.4.5.7 and its subsections (except as restricted in section 23.4.5.7.3.2) and Attachment K Section 26.1.6;

- (9) identification of a Generator first entering service, becoming Retired, or entering into or returning from a Mothball Outage or ICAP Ineligible Forced Outage, including dates thereof; and
- (10) New York State Transmission System reliability impacts that would occur if a Generator were unavailable due to events such as becoming Retired or entering a Mothball Outage or ICAP Ineligible Forced Outage.

If Confidential Information is required to be divulged in compliance with an order or a subpoena of a court or regulatory body other than FERC or the Commodity Futures Trading Commission (“CFTC”), the ISO will seek to obtain a protective order or other appropriate protective relief from the court or regulatory body, provided, however, that the ISO staff shall not be required to do any additional analysis to produce such information. With the exception of requests for Confidential Information submitted to the ISO from FERC or the CFTC, the ISO shall provide advance written or electronic notice to the parties providing the Confidential Information as soon as practicable upon receipt of such an order or a subpoena from a court or regulatory body, and the ISO shall not be held liable for any losses, consequential or otherwise, resulting from the ISO divulging such Confidential Information pursuant to a subpoena or an order of a court or regulatory body.

The ISO shall establish procedures for handling Confidential Information that minimize the possibility of intentional or accidental improper disclosure.