

DRAFT – FOR DISCUSSION PURPOSES ONLY
For discussion at April 2019 Management Committee Meeting

2.1 Term and Effectiveness

2.1.1 Effectiveness:

This Tariff shall become effective on the latest of the following: (i) September 1, 1999; (ii) Commission approval of (a) this Tariff; (b) the ISO Services Tariff; (c) the ISO Agreement; (d) NYSRC Agreement; (e) the ISO/NYSRC Agreement; and (f) the ISO/TO Agreement; (iii) the date on which both the Commission and the PSC grant all necessary approvals to the Member Systems to transfer Operational Control of any facilities to the ISO or otherwise dispose of any of their property, including, without limitation, those approvals required under Section 70 of the New York Public Service Law (“PSL”) and Section 203 of the Federal Power Act (“FPA”); (iv) the last date that any other approval or authorization is received, to the extent such additional approval or authorization is necessary; (v) execution of the ISO Related Agreements with the exception of any Operating Agreement; or (vi) such later date specified by the Commission.

2.1.2 Term and Termination:

This Tariff shall remain in effect until: (i) canceled by the ISO upon sixty (60) days prior written notice in accordance with applicable Commission regulations; or (ii) the effective date of, any law, order, rule, regulation, or determination of a body of competent jurisdiction requiring termination or a material modification of this Tariff and/or Service Agreements related to this Tariff that would be inconsistent with any term or provision of the ISO/TO Agreement. Any Transmission Customer may withdraw from this Tariff on thirty (30) days prior written notice to the ISO.

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2.2 Initial Allocation and Renewal Procedures

2.2.1 Initial Allocation of Available Transfer Capability:

Firm Transmission Service under this Tariff is obtained when the Transmission Customer agrees to pay the Congestion associated with its service. A Transmission Customer may fix the price of Congestion costs associated with its Firm Transmission Service through the purchase of a sufficient quantity of Transmission Congestion Contracts (“TCCs”), including Fixed Price TCCs that are obtained under Attachment M to this Tariff, with receipt and delivery points corresponding to its Transmission Service. TCCs are solely financial instruments that do not establish any rights to, or the availability of, Transmission Service. For purposes of determining whether existing capability on the NYS Transmission System is adequate to accommodate a request for Firm Transmission Service under this Tariff, the ISO shall employ Security Constrained Unit Commitment (“SCUC”), Real-Time Commitment (“RTC”) and Real-Time Dispatch (“RTD”) programs in accordance with Attachment C. The availability of TCCs will be determined as described in Attachment M.

2.2.2 Reservation Priority For Existing Firm Service:

Existing firm service customers (wholesale requirements and transmission-only, with a contract term of extending beyond the ISO implementation date), have the right to take Transmission Service from the ISO in accordance with the provisions of Attachment K. This transmission reservation priority is independent of whether the existing customer continues to purchase Capacity and Energy from a Transmission Owner or elects to purchase Capacity and Energy from another Supplier.

At the end of their contract terms, certain LSEs may have the right to obtain Historic

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Fixed Price TCCs in accordance with Attachment M to this Tariff.

All NYS Transmission Capacity associated with expired Grandfathered Rights and/or Grandfathered TCCs other than that needed to support Historic Fixed Price TCCs (including extensions of Historic Fixed Price TCCs awarded pursuant to Section 19.2.1.4 of Attachment M of the OATT), shall be made available to support TCCs available for purchase in the next Centralized TCC auction facilitated by the ISO, pursuant to the provisions of Attachment M.

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2.3 Ancillary Services

Ancillary Services are needed with Transmission Service to maintain reliability within and among the Control Areas affected by the Transmission Service. The ISO provides the following Ancillary Services: (i) Scheduling, System Control and Dispatch, (ii) Voltage Support Service, (iii) Regulation Service, (iv) Energy Imbalance; (v) Operating Reserves Service, and (vi) Black Start Service.

The specific Ancillary Services, prices and/or compensation methods are described on the schedules that are attached to and made a part of this Tariff. Sections 2.3.1 through 2.3.6 below list the six Ancillary Services.

2.3.1 Scheduling, System Control and Dispatch Service:

The costs for Scheduling, System Control, and Dispatch Service are included among those costs recovered through Schedule 1.

2.3.2 Voltage Support Service:

The rates and/or methodology are described in Schedule 2.

2.3.3 Regulation Service:

The rates and/or methodology are described in Schedule 3.

2.3.4 Energy Imbalance Service:

The rates and/or methodology are described in Schedule 4.

2.3.5 Operating Reserve Service:

The rates and/or methodology are described in Schedule 5.

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2.3.6 ISO Black Start Capability:

The rates and/or methodology are described in Schedule 6.

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2.4 Open-Access Same Time Information System (“OASIS”)

Terms and conditions regarding Open Access Same-Time Information System and Standards of Conduct are set forth in Part 37 of the Commission’s regulations (“Open Access Same-Time Information System and Standards of Conduct for Public Utilities”) and 18 C.F.R. § 38 of the Commission’s regulations (Business Practice Standards and Communication Protocols for Public Utilities). The ISO will maintain an OASIS, including a Bid/Post System, for purposes of scheduling Transmission Service.

The ISO shall post on OASIS and its public website an electronic link to all rules, standards and practices that (i) relate to the terms and conditions of Transmission Service, (ii) are not subject to a North American Energy Standards Board (NAESB) copyright restriction, and (iii) are not otherwise included in this Tariff. The ISO shall post on OASIS and on its public website an electronic link to the NAESB website where any rules, standards and practices that are protected by copyright may be obtained. The ISO shall also post on OASIS and its public website an electronic link to a statement of the process by which the ISO shall add, delete or otherwise modify the rules, standards and practices that are not included in this tariff. Such process shall set forth the means by which the ISO shall provide reasonable advance notice to Transmission Customers and Eligible Customers of any such additions, deletions or modifications, the associated effective date, and any additional implementation procedures that the ISO deems appropriate.

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2.5 Local Furnishing Bonds and Other Tax Exempt Financing

2.5.1 Tax Exempt Financing Pursuant to Section 142(f) of the Internal Revenue Code:

This provision is applicable only to Transmission Owners that have financed facilities for the local furnishing of Energy with Local Furnishing Bonds, as described in Section 142(f) of the Internal Revenue Code (“Local Furnishing Bonds”). Notwithstanding any other provision of this Tariff, neither the ISO nor the Transmission Owner shall be required to provide transmission service to any Eligible Customer pursuant to this Tariff if the provision of such transmission service would jeopardize the tax-exempt status of any Local Furnishing Bond(s) used to finance the Transmission Owner’s facilities.

2.5.2 Section 211 Order:

The provision of transmission service under this Tariff shall also constitute provision of transmission service pursuant to an Order by the Commission under Section 211 of the FPA with respect to the transmission of electricity on Consolidated Edison’s transmission system.

2.5.3 Alternative Procedures for Requesting Transmission Service:

(i) If a Transmission Owner other than LIPA determines that the provision of transmission service requested by an Eligible Customer would jeopardize the tax-exempt status of any Local Furnishing Bond(s), the Transmission Owner shall advise the ISO within thirty (30) days of receipt of the Completed Application from an Eligible Customer requesting such service, or on the date on which this Tariff becomes effective, whichever is applicable. If LIPA determines that the provision of Transmission Service requested by an Eligible Customer would jeopardize the tax-exempt status of any Local Furnishing Bond(s) or LIPA Tax-Exempt Bonds,

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LIPA shall promptly advise the ISO.

(ii) If the Eligible Customer thereafter renews its request for the same transmission service referred to in (i) by tendering an application under Section 211 of the FPA, the Transmission Owner, within ten (10) days of receiving a copy of the Section 211 application, will waive its rights to a request for service under Section 213(a) of the FPA and to the issuance of a proposed order under Section 211 of the FPA. The Commission, upon receipt of the Transmission Owner's waiver of its rights to a request for service under Section 213(a) of the FPA and to the issuance of a proposed order under Section 211 of the FPA, shall issue an order under Section 211 of the FPA. Upon issuance of the order under Section 211 of the FPA, the ISO and the Transmission Owner shall be required to provide the requested Transmission Service in accordance with the terms and conditions of this Tariff.

2.5.4 Tax Exempt Financing Pursuant to Section 103 and Related Provision of the Internal Revenue Code:

This provision is applicable only to NYPA which has financed transmission facilities with the proceeds of bonds issued pursuant to Section 103 and related provisions of the Internal Revenue Code ("Government Bonds"). Notwithstanding any other provision of this Tariff, neither the ISO nor NYPA shall be required to provide Transmission Service to any Eligible Customer pursuant to this Tariff if provision of such transmission service would result in loss of the tax-exempt status of any government bonds or impair NYPA's ability to issue future tax-exempt obligations.

2.5.5 Transmission Service Effects on Use of Tax-Exempt Financing by LIPA:

This provision is applicable only to LIPA Tax-Exempt Bonds. Notwithstanding any other provisions of this Tariff, neither the ISO nor LIPA shall be required to provide

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Transmission Service to any Eligible Customer pursuant to this Tariff if the provision of such Transmission Service would result in the loss of tax-exempt status of any of LIPA Tax-Exempt Bonds or impair the Long Island Power Authority's ability to issue future tax-exempt obligations.

2.5.6 Responsibility for Costs Associated With Loss of Tax-Exempt Status:

If by virtue of an order issued by the Commission pursuant to Section 211 of the FPA, the ISO or a Transmission Owner is required to provide Transmission Service that would adversely affect the tax-exempt status of a Transmission Owner's Local Furnishing Bonds, Government Bonds, LIPA Tax-Exempt Bonds, or any other tax-exempt debt obligations then the Eligible Customer receiving such Transmission Service will compensate the Transmission Owner for all costs, if any, associated with the loss of tax-exempt status plus the costs of Transmission Service.

2.5.7 Use of LIPA's Facilities:

All categories of Transmission Service into and out of the Long Island Transmission District shall require pre-approval by LIPA to ensure compliance with Sections 2.5.1 and 2.5.5, above. LIPA shall promptly inform the ISO of those categories of Transmission Service that are preapproved. Customers seeking Transmission Service into and out of the Long Island Transmission District shall submit requests for service to the ISO pursuant to the terms of its Tariffs. If a Customer requests a category of Transmission Service that is not pre-approved, the ISO shall reject the schedule and advise the Customer that such Transmission Service must first be reviewed by LIPA and determined to be capable of being provided in a manner that is consistent with Sections 2.5.1 and 2.5.5, above. The ISO shall schedule Transmission Service into and out of the Long Island Transmission District, including External Transactions, in

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accordance with its Tariffs. The ISO also shall adopt procedures for coordination of scheduling Transmission Service into and out of the Long Island Transmission District, including External Transactions, consistent with the requirements of this Section and Section 11.02 of the ISO Agreement which shall be implemented on a nondiscriminatory basis.

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2.6 Reciprocity

A Transmission Customer receiving Transmission Service under this Tariff agrees to provide comparable Transmission Service that it is capable of providing to each Transmission Owner on similar terms and conditions over facilities used for the transmission of Energy owned, controlled or operated by the Transmission Customer and over facilities used for the transmission of Energy owned, controlled or operated by the Transmission Customer's corporate Affiliates. A Transmission Customer that takes Transmission Service from a power pool or Regional Transmission Group, Regional Transmission Organization (RTO), Independent System Operator (ISO) or other transmission organization approved by the Commission for the operation of transmission facilities also agrees to provide comparable transmission service to the transmission-owning members of such power pool and Regional Transmission Group, RTO, ISO, or other transmission organization on similar terms and conditions over facilities used for the transmission of Energy owned, controlled or operated by the Transmission Customer and over facilities used for the transmission of Energy owned, controlled or operated by the Transmission Customer's corporate Affiliates.

This reciprocity requirement applies not only to the Transmission Customer that obtains Transmission Service under this Tariff, but also to all parties to a Transaction that involves the use of Transmission Service under this Tariff, including the power seller, buyer and any intermediary, such as a power marketer. This reciprocity requirement also applies to any Eligible Customer that owns, controls or operates transmission facilities that uses an intermediary, such as a power marketer, to request Transmission Service under this Tariff. If the Transmission Customer does not own, control or operate transmission facilities, it must include in its Application a sworn statement of one of its duly authorized officers or other representatives

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that the purpose of its Application is not to assist an Eligible Customer to avoid the requirements of this provision.

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2.7 Billing and Payment

2.7.1 ISO as Counterparty; Right to Net or Set Off; ISO Clearing Account

2.7.1.1 ISO as Counterparty

The ISO shall be for all purposes the contracting counterparty, in its own name and right, to each Transmission Customer for any purchase or sale of any product or service, or for any other transaction, that is financially settled by the ISO under the ISO Tariffs.

2.7.1.2 Right to Net or Set Off Obligations Owed

Unless otherwise specifically set forth in this ISO OATT, if for any settlement period the ISO is required to pay any amount to the Transmission Customer and the Transmission Customer is required to pay any amount to the ISO under this ISO OATT or the ISO Services Tariff, such amounts shall be netted, and the party owing the greater aggregate amount shall pay to the other party the difference between the amounts owed. Additionally, all outstanding payment obligations under this ISO OATT and the ISO Services Tariff between the ISO and the Transmission Customer may be netted, offset, set off, or recouped, and payment shall be owed as set forth above.

2.7.1.3 ISO Clearing Account

The ISO will establish one or more accounts (the “ISO Clearing Account”) at a bank or other financial institution, and Transmission Customers shall make payments to the ISO or receive payments from the ISO through the ISO Clearing Account in accordance with their settlement information provided by the ISO as described in Section 2.7.3 of this ISO OATT.

The funds held by the ISO in the ISO Clearing Account shall not be commingled with

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funds held by the ISO in any other ISO accounts.

2.7.1.4 ISO Liability for Payment

The obligation of the ISO to pay Transmission Customers for monies owed for a given settlement period shall be limited so that the aggregate liability of the ISO for such payments does not exceed the sum of (i) the aggregate amount paid to or recovered by the ISO from Transmission Customers (including by applying a defaulting Transmission Customer's financial security) for that settlement period, and (ii) the amount of funds held by the ISO in the Working Capital Fund. The process for declaring and recovering bad debt losses is set forth in Attachment U to this ISO OATT.

2.7.2 Determination and Payment of Charges Associated with Transmission Service

This Section 2.7.2 applies to all Transmission Services except Transmission Service pursuant to Grandfathered Agreements listed in Attachment L. Charges applicable to Grandfathered Agreements are described in Attachment K.

2.7.2.1 Transmission Service Charge - General Applicability

The TSC charge is applied to all Actual Energy Withdrawals from the NYS Power System under Part 3 or Part 4 of this Tariff, except for withdrawals by a Transmission Owner to provide bundled retail service or scheduled withdrawals associated with grandfathered transactions as specified in Attachments K and L. The TSC charge also is applied to Transactions to destinations outside the NYCA (Export or Wheel-Through Transactions), except as provided for in Section 2.7.2.1.4 of this Tariff.

Subject to the foregoing, the TSC applies to all Actual Energy Withdrawals regardless of whether the withdrawals occur in conjunction with a Bilateral Transaction or through the

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purchase of Energy from an LBMP Market. The TSC is payable under this Section regardless of whether the withdrawal is scheduled under Part 3 or Part 4 of this Tariff. Customers buying Energy from a Transmission Owner as part of a bundled retail rate will pay a portion of the Transmission Owner's transmission revenue requirement as part of their retail rates. Sales to these customers will be included in the billing units used to calculate each Transmission Owner's TSC under this Tariff in accordance with Attachment H.

Transmission Customers who are parties to grandfathered agreements specified in Attachment L will pay the applicable contract rate in those agreements. Revenues from these agreements will be credited against the Transmission Owners' individual revenue requirements in calculating the TSC.

2.7.2.1.1 Payable to Transmission Owners: The TSC will be payable to Transmission Owners, in the manner described below in the remainder of Section 2.7.2.1.

2.7.2.1.2 Payable by Retail Access Customers: Retail access customers or LSEs scheduling on their behalf will pay a TSC to their respective Transmission Owners under the provisions described in Part 5 of this Tariff. The TSC is payable under Part 5 (Retail Access Service) regardless of whether the LSE takes service under Part 3 (Point-to-Point Service) or Part 4 (Network Integration Service) of this Tariff.

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2.7.2.1.3 Payable by LSEs Serving Non-Retail Access Load in NYCA: LSEs

serving NYCA Load that is not part of a retail access program, such as customers of municipal electric systems, will pay a TSC to the Transmission Owner in whose Transmission District the Load is located. The TSC shall apply to Actual Energy Withdrawals by the Load, regardless of whether such withdrawals are associated with Transmission Service under Part 3 or Part 4 of this Tariff or purchases from an LBMP Market, whether the withdrawals are scheduled or unscheduled, and regardless of whether the withdrawals were made on the Load's behalf by the LSE or by another Transmission Customer.

2.7.2.1.4 Payable by Transmission Customers Scheduling Export or

Wheel-Through Transactions: Transmission Customers scheduling Transactions to destinations outside the NYCA (Export or Wheel-Through Transactions) are subject to a TSC as calculated in Attachment H. The TSC charge shall be eliminated on all Exports and Wheel-Through Transactions scheduled with the ISO to destinations within the New England Control Area; provided that the following conditions shall continue to be met: (1) a Commission approved tariff provision is in effect that provides for unconditional reciprocal elimination of charges on Exports and Wheel-Through Transactions from the New England Control Area to the New York Control Area; (2) no change in the provisions in this Tariff related to Local Furnishing Bonds and Other Tax Exempt Financing shall be required for the reciprocal elimination of charges on Export and Wheel-Through Transactions to the New York Control Area; and (3) the New York Transmission Owners have the ability to fully

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recover the revenues related to the charges on Export and Wheel-Through Transactions that are eliminated. The ISO and the New York Transmission Owners, jointly or separately, shall have the right to make a Section 205 filing with the Commission to reimpose the charge on Exports and Wheel-Through Transactions if at any time any of the foregoing conditions is no longer satisfied. The ISO will perform the requisite calculation and inform the Transmission Customer of the applicable Transmission Owner(s) of the TSC charge. The TSC will be payable by the Transmission Customer directly to the Transmission Owner(s).

2.7.2.2 Transmission Usage Charge (TUC)

2.7.2.2.1 Payable to the ISO: Transmission Usage Charges include Congestion Rents and charges for Marginal Losses. They are payable directly to the ISO. Attachment J explains the calculation of the TUC.

2.7.2.2.2 Payable by Transmission Customers Scheduling Transmission

Service: All Transmission Customers scheduling Transmission Service under Part 3 or Part 4 of this Tariff shall pay the applicable TUC charge as calculated in the Attachment J hereto.

2.7.2.2.3 Payable by Transmission Owners Scheduling Bilateral Transactions on Behalf of Bundled Retail Customers: Transmission Owners scheduling Transmission Service to supply bundled retail customers shall pay the applicable TUC charge.

2.7.2.2.4 Payable by Customers Scheduling Direct LBMP Purchases from the LBMP Market: Any Customer purchasing from the LBMP Market to supply

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bundled retail customers, will pay the Congestion Rent and Marginal Losses charge applicable to its location. These Congestion Rent and Marginal Losses charges will be included in the calculation of the LBMP charged by the ISO for the purchase of Energy from the LBMP Market.

2.7.2.3 Ancillary Services

2.7.2.3.1 Payable to the ISO: All Ancillary Services charges are payable directly to the ISO.

2.7.2.3.2 Payable by LSEs: All LSEs scheduling Transmission Service under Part 3 or Part 4 or purchases from the LBMP Market to supply Load in the NYCA shall pay Ancillary Services charges as described in Schedules 1 through 6. The charges will be assessed on the basis of all Actual Energy Withdrawals by the Load, regardless of whether such withdrawals are scheduled or unscheduled, and regardless of whether they are scheduled on the Load's behalf by the LSE or by another Transmission Customer. As explained in Schedule 1, in certain circumstances the Schedule 1 charge may vary depending upon the Transmission District in which the Load is located.

2.7.2.3.3 Payable by Customers Scheduling External Transactions:

Transmission Customers scheduling Export or Wheel-Through Transactions to destinations outside the NYCA, or purchases from the LBMP Market to serve Load outside the NYCA shall pay Ancillary Services charges under Schedules 1, 2, 4, and 5 of this Tariff. The charges will be assessed on the basis of all Scheduled Energy Withdrawals from the NYCA.

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2.7.2.3.4 Payable by Transmission Owners Serving Bundled Retail Customers:

Transmission Owners scheduling Transmission Service or purchases from the LBMP Market to serve of bundled retail customers shall pay the ISO Ancillary Services charges as described in Schedules 1 to 6 based on Actual Energy Withdrawals.

2.7.2.4 NYPA Transmission Adjustment Charge (NTAC)

2.7.2.4.1 Payable to the ISO: NTAC charges are calculated in Attachment H. All NTAC charges are payable to the ISO.

2.7.2.4.2 Payable by LSEs Serving Load in the NYCA: Each LSE serving Load in the NYCA shall pay an NTAC to the ISO based on the LSE's Actual Energy Withdrawals.

2.7.2.4.3 Payable by Transmission Customers Scheduling Export or

Wheel-Through Transactions: Transmission Customers scheduling Export or Wheel-Through Transactions shall pay an NTAC based on their Transaction schedules. The NTAC charge shall not apply to Exports and Wheel-Through Transactions scheduled with the ISO to destinations within the New England Control Area provided that the conditions listed in Section 2.7.2.1.4 of this Tariff are satisfied.

2.7.2.5 Reliability Facilities Charge ("RFC") and LIPA RFC

2.7.2.5.1 Payable through the ISO: All RFC and LIPA RFC charges are calculated, collected and payable to the ISO pursuant to Rate Schedule 10.

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2.7.3 Billing and Payment Procedures

For purposes of this Section 2.7.3:

- (i) the term “Complete Week Settlement Period” shall mean the seven day period between Saturday and Friday for which all of the days are in the same month; and
- (ii) the term “Stub Week Settlement Period” shall mean the six or fewer day period between Saturday and Friday for which all of the days are in the same month.

2.7.3.1 Billing and Settlement Information

The ISO shall provide settlement and billing information to Transmission Customers. The ISO shall inform each Transmission Customer that provides or is provided services furnished under this ISO OATT or the ISO Services Tariff of the payments due for such service. Such information shall be made electronically available to the Transmission Customer.

2.7.3.2 Invoicing and Payment

2.7.3.2.1 Weekly Invoice

On or about each Wednesday, as set forth in ISO Procedures, the ISO shall submit an invoice to a Transmission Customer that indicates the net amount owed by or owed to the Transmission Customer for those services furnished under this ISO OATT or the ISO Services Tariff for the previous Complete Week Settlement Period or Stub Week Settlement Period that are designated as Weekly Invoice Components in ISO Procedures; *provided, however*, that the net amount owed by or owed to the Transmission Customer for those services furnished for a Stub Week Settlement Period that concludes a month shall be included in the next monthly

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invoice issued in accordance with Section 2.7.3.2.2 of this ISO OATT.

2.7.3.2.2 Monthly Invoice

Within five (5) business days after the first day of each month, the ISO shall submit an invoice to a Transmission Customer that indicates the net amount owed by or owed to the Transmission Customer:

- (i) for those services furnished under this ISO OATT or the ISO Services Tariff for a Stub Week Settlement Period that concludes the previous month that are designated as Weekly Invoice Components in ISO Procedures;
- (ii) for any adjustments to amounts contained in the weekly invoices issued in the previous month pursuant to Section 2.7.3.2.1 of this ISO OATT;
- (iii) for those services furnished under this ISO OATT or the ISO Services Tariff in the previous month that are designated as Monthly Invoice Components in ISO Procedures;
- (iv) for any adjustments to amounts contained in a previously issued monthly invoice that was issued on or about one hundred twenty (120) days prior to the issuance of this invoice; and
- (v) for any adjustments to amounts contained in a previously issued monthly invoice as part of the Close-Out Settlement of that monthly invoice pursuant to Section 2.7.4.2.2 of this ISO OATT.

2.7.3.2.3 Payment by the Transmission Customer

A Transmission Customer owing payments on net in its weekly invoice or its monthly invoice shall make those payments to the ISO through the ISO Clearing Account by the second

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business day after the date on which the weekly invoice or monthly invoice is rendered by the ISO unless otherwise specified in ISO Procedures. In accordance with Section 2.7.1.2 of this ISO OATT, the ISO may net any overpayment by the Transmission Customer for past estimated charges against current amounts due from the Transmission Customer or, if the Transmission Customer has no outstanding amounts due, the ISO may pay to the Transmission Customer an amount equal to the overpayment.

2.7.3.2.4 Payment by the ISO

Except as provided in Section 2.7.1.4 of this ISO OATT, the ISO shall pay all net monies owed to a Transmission Customer in its weekly invoice or its monthly invoice from the ISO Clearing Account by the second business day after the due date for Transmission Customer payments set forth in Section 2.7.3.2.3 of this ISO OATT unless otherwise specified in ISO Procedures.

2.7.3.3 Use of Estimated Data and Meter Data

The ISO may use estimates, including estimated meter data, in whole or in part to settle a weekly or monthly invoice in accordance with ISO Procedures. The ISO shall use meter data submitted to the ISO in accordance with Section 3.16 of this ISO OATT. Any charges based on estimates shall be subject to true-up in invoices subsequently issued by the ISO after the ISO has obtained the requisite actual information, provided that the ISO shall only true-up charges based on meter data prior to the deadline for finalizing the meter data established in Section 2.7.4.2 of this ISO OATT. A true-up charge shall include interest amounts calculated at the rate set forth in Section 2.7.4 of this ISO OATT from the weekly or monthly due date for the charge until the date of payment of the true-up amount for that charge.

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2.7.3.4 Method of Payment

All payments by the Transmission Customer shall be made by either (i) wire transfer in immediately available funds payable to the ISO through the ISO Clearing Account or (ii) any other method set forth in ISO Procedures. All payments by the ISO shall be made either (i) by wire transfer in immediately available funds payable to the Transmission Customer by the ISO through the ISO Clearing Account or (ii) any other method set forth in ISO Procedures.

2.7.3.5 Verification of Payments

The ISO shall verify that all payments owed by Transmission Customers in accordance with this ISO OATT and the ISO Services Tariff have been paid to the ISO in a timely manner. If a Transmission Customer fails to make a payment within the time period established in Sections 2.7.3.2.1, 2.7.3.2.2, and 2.7.3.6 of this ISO OATT or pays less than the amount due, the ISO shall take measures pursuant to Section 2.7.5 of this ISO OATT. Except as provided in Section 2.7.1.4 of this ISO OATT, the ISO shall also ensure that monies owed to Transmission Customers in accordance with this ISO OATT and the ISO Services Tariff are paid through the ISO Clearing Account in a timely manner.

2.7.3.6 TCC Auction Settlements

Notwithstanding Sections 2.7.3.2.1 and 2.7.3.2.2 of this ISO OATT, the ISO shall make settlements related to the Centralized TCC Auction and the Reconfiguration Auction as set forth in this Section 2.7.3.6.

2.7.3.6.1 The ISO shall submit invoices to, and make settlements with, Transmission Owners in connection with the allocation of Net Auction Revenues in accordance with the timeline set forth in ISO Procedures.

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2.7.3.6.2 Transmission Customers owing payments to the ISO as a result of their activity in or related to a Centralized TCC Auction or Reconfiguration Auction, pursuant to an award notice or a comparable invoice rendered by the ISO, shall make those payments to the ISO through the ISO Clearing Account in accordance with the timeline set forth in ISO Procedures.

2.7.3.6.3 Except as provided in Section 2.7.1.4 of this ISO OATT, the ISO shall pay all net monies owed to Transmission Customers as a result of their activity in or related to a Centralized TCC Auction or a Reconfiguration Auction, pursuant to an award notice or a comparable invoice rendered by the ISO, from the ISO Clearing Account in accordance with ISO Procedures.

2.7.3.6.4 Sections 2.7.3.1, 2.7.3.3, 2.7.3.4 and 2.7.3.5 of this ISO OATT and Section 19.9.6 of Attachment M of this ISO OATT shall apply to settlements calculated in accordance with this Section 2.7.3.6.

2.7.3.7 Settlement Information and Billing Procedures for TSCs

The ISO shall provide each Member System with information to facilitate TSC billing. Settlement information and billing procedures for payments of the TSC by retail access customers or LSEs serving retail access customers in accordance with Section 5 of this ISO OATT shall be separately issued, paid and collected in accordance with Section 5 of this ISO OATT. Settlement information and billing procedures for payments for TSCs for customers other than retail access customers and LSEs serving retail access customers shall be separately issued, paid and collected in accordance with the terms and conditions set forth in Attachment H of this ISO OATT in accordance with Section 5 of this ISO OATT.

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2.7.3.8 Billing Procedures for Retail Access Programs

The billing procedures for customers participating in retail access programs shall be in accordance with Section 5 of this ISO OATT.

2.7.4 Interest on Unpaid Balances:

Interest on any unpaid amount whether owed to a Transmission Customer or to the ISO (including amounts placed in escrow) shall be calculated in accordance with the methodology specified for interest on refunds in the Commission's regulations at 18 C.F.R. § 35.19a (a)-(2) (iii). Interest on unpaid amounts shall be calculated from the due date of the bill to the date of payment. Invoices shall be considered as having been paid on the date of receipt of payment by the ISO.

If the ISO is unable to provide settlement information on time due to the actions or inactions of the Transmission Customer, in addition to any other remedies the ISO may have at law or in equity, the Transmission Customer shall pay interest on amounts due, as calculated above, from the first day of the Billing Period following the Billing Period in which charges are accrued, to the time of payment of those charges.

2.7.4.1 Billing Disputes:

This Section 2.7.4.1 establishes the process and timeframe for review, challenge, and correction of Transmission Customer invoices. For purposes of this Section 2.7.4.1, any deadline that falls on a Saturday, Sunday, or holiday for which the ISO is closed shall be observed on the ISO's next business day.

For purposes of this Section 2.7.4.1, "finalized" data and invoices shall not be subject to further correction, including by the ISO, except as ordered by the Commission or a court of

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competent jurisdiction; *provided, however*, that nothing herein shall be construed to restrict any stakeholder's right to seek redress from the Commission in accordance with the Federal Power Act.

2.7.4.2 Settlement Cycle for Services Furnished On and After January 1, 2009

2.7.4.2.1 ISO Corrections or Adjustments and Transmission Customer Challenges to the Accuracy of Settlement Information

Settlement information for services furnished beginning January 1, 2009, and thereafter shall be subject to review, comment, and challenge by a Transmission Customer and correction or adjustment by the ISO for errors at any time for up to five (5) months from the date of the initial invoice for the month in which service is rendered as set forth in Section 2.7.3.2.2 of this ISO OATT and as further provided in Section 2.7.4.2.2, subject to the following requirements and limitations:

- (i) A Supplier or meter authority may review, comment on, and challenge Aggregation, Generator, tie-line, and sub-zone Load metering data for fifty-five (55) days from the date of the initial invoice for the month in which service is rendered. Following this review period, the ISO shall then have five (5) days to process and correct Aggregation, Generator, tie-line, and sub-zone Load metering data, after which time it shall be finalized.
- (ii) The meter authority shall provide to the ISO all LSE bus metering data then available within seventy (70) days from the date of the initial invoice and shall provide any necessary updates to the LSE bus metering data as soon as possible thereafter. The ISO shall post all available LSE bus metering data within approximately seventy-five (75) days from the date of the initial invoice and shall continue to post incoming LSE bus metering data as soon as practicable after it is

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received.

- (iii) The ISO shall post advisory settlement information, including available LSE bus metering data, within ninety (90) days from the date of the initial invoice.

Transmission Customers may review, comment on, and challenge this settlement information, except for Aggregation, Generator, tie-line, and sub-zone Load metering data, after which the ISO shall process and correct the data and issue a corrected invoice with the regular monthly invoice issued on or about one hundred twenty (120) days from the date of the initial invoice. Following the ISO's issuance of a corrected invoice, Transmission Customers may continue to review, comment on, and challenge their settlement information, excepting Aggregation, Generator, tie-line, and sub-zone Load metering data, until the end of the five-month review period.

- (iv) The meter authority shall provide to the ISO any final updates or corrections to LSE bus metering data within one hundred thirty (130) days from the date of the initial invoice. The ISO shall then post any updated and corrected LSE bus metering data within one hundred thirty-five (135) days from the date of the initial invoice. Transmission Customers may then review, comment on, and challenge the LSE bus metering data for an additional ten (10) days. Following this review period, the ISO shall have five (5) days to process and correct the LSE bus metering data, after which it shall be finalized.

The ISO shall use reasonable means to post metering revisions for review by Transmission Customers and to notify Transmission Customers of the approaching expiration of review periods. To challenge settlement information contained in an invoice, a Transmission

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Customer shall first make payment in full, including any amounts in dispute. Transmission Customer challenges to settlement information shall: (i) be submitted to the ISO in writing, (ii) be clearly identified as a settlement challenge, (iii) state the basis for the Transmission Customer's challenge, and (iv) include supporting documentation, if applicable. The ISO shall notify all Transmission Customers of errors identified and the details of corrections or adjustments made pursuant to this Section 2.7.4.2.1.

2.7.4.2.2 Review and Correction of Challenged Invoices

The ISO shall evaluate a settlement challenge as soon as possible within two (2) months following the conclusion of the challenge period specified in Section 2.7.4.2.1; *provided*, however, the ISO may, upon notice to Transmission Customers within this time of extraordinary circumstances requiring a longer evaluation period, take up to six (6) months to evaluate a settlement challenge. The ISO shall not be limited to the scope of Transmission Customer challenges in its review of a challenged invoice and may, at its discretion, review and correct any other elements and intervals of a challenged invoice, except Load and meter data as specified in Section 2.7.4.2.1. Corrections to a challenged invoice shall be applied to all Transmission Customers that were or should have been affected by the original settlement and shall not be limited to the Transmission Customer challenging the invoice; *provided, however*, that the ISO may recover *de minimis* amounts or amounts that the ISO is unable to collect from individual Transmission Customers through Rate Schedule 1 of this ISO OATT.

Upon completing its evaluation, the ISO shall provide written notice to the challenging Transmission Customer of the ISO's final determination regarding the Transmission Customer's settlement challenge. If the ISO determines that corrections or adjustments to a challenged invoice are necessary and can quantify them with reasonable certainty, the ISO shall provide all

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Transmission Customers with the details of the corrections or adjustments within the timeframe established in this Section 2.7.4.2.2. The ISO shall then provide a period of twenty-five (25) days for Transmission Customers to review the corrected settlement information and provide comments to the ISO regarding the implementation of those corrections or adjustments; *provided, however*, that in the event of a dispute resolution proceeding conducted in accordance with Section 2.7.4.3 of this ISO OATT, this twenty-five (25) day period shall not start or, if it has already started, shall be suspended until the conclusion of the dispute resolution proceeding. Following the conclusion of the dispute resolution proceeding, the ISO shall make any corrections to Transmission Customers' settlement invoices that it determines to be necessary and shall then start or re-start the twenty-five (25) day Transmission Customer comment period.

If no errors in the implementation of corrections or adjustments are identified during the twenty-five (25) day Transmission Customer comment period, the ISO shall issue a finalized close-out settlement ("Close-Out Settlement"), clearly identified as such, in the next regular monthly billing invoice. If an error in the implementation of a correction or adjustment is identified during the twenty-five (25) day Transmission Customer comment period, the ISO shall have one (1) month to make such further corrections as are necessary to address the error and provide Transmission Customers with one additional period of twenty-five (25) days to review and comment on the implementation of those further corrections. If an error in the implementation of those further corrections is identified, the ISO shall then have one (1) month to make any final corrections that are necessary and shall issue a finalized Close-Out Settlement in the next regular monthly billing invoice.

2.7.4.3 Expedited Dispute Resolution Procedures for Unresolved Settlement

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Challenges

2.7.4.3.1 Applicability of Expedited Dispute Resolution Procedures

This Section 2.7.4.3 establishes expedited dispute resolution procedures applicable to address any dispute between a Transmission Customer and the ISO regarding a Transmission Customer settlement that was not resolved in the ordinary settlement review, challenge, and correction process; *provided, however*, that nothing herein shall restrict a Transmission Customer or the ISO from seeking redress from the Commission in accordance with the Federal Power Act.

A Transmission Customer may request expedited dispute resolution if it has previously presented a settlement challenge consistent with the requirements of Section 2.7.4.2.1 of this ISO OATT and has received from the ISO a final, written determination regarding the settlement challenge pursuant to Section 2.7.4.2.2 of this ISO OATT. The scope of an expedited dispute resolution proceeding shall be limited to the subject matter of the Transmission Customer's prior settlement challenge. Transmission Customer challenges regarding Aggregation, Generator, tie-line, sub-zone Load, and LSE bus metering data shall not be eligible for formal dispute resolution proceedings under this ISO OATT. To ensure consistent treatment of disputes, separate requests for expedited dispute resolution regarding the same issue and the same service month or months may be resolved on a consolidated basis, consistent with applicable confidentiality requirements.

2.7.4.3.2 Initiation of Expedited Dispute Resolution Proceeding

To initiate an expedited dispute resolution proceeding, a Transmission Customer shall submit a written request to the ISO Chief Financial Officer within eleven (11) business days from the date that the ISO issues a final, written determination regarding a Transmission

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Customer settlement challenge pursuant to Section 2.7.4.2.2 of this ISO OATT. A Transmission Customer's written request for expedited dispute resolution shall contain: (i) the name of the Transmission Customer making the request, (ii) an indication of other potentially affected parties, to the extent known, (iii) an estimate of the amount in controversy, (iv) a description of the Transmission Customer's claim with sufficient detail to enable the ISO to determine whether the claim is within the subject matter of a settlement challenge previously submitted by the Transmission Customer, (v) copies of the settlement challenge materials previously submitted by the Transmission Customer to the ISO, and (vi) citations to the ISO Tariffs and other relevant materials upon which the Transmission Customer's settlement challenge relies.

The ISO Chief Financial Officer shall acknowledge in writing receipt of the Transmission Customer's request to initiate an expedited dispute resolution proceeding. If the ISO determines that the proceeding would be likely to aid in the resolution of the dispute, the ISO shall accept the Transmission Customer's request and provide written notice of the proceeding to all Transmission Customers through the ordinary means of communication for settlement issues. The ISO shall provide written notice to the Transmission Customer in the event that the ISO declines its request for expedited dispute resolution.

2.7.4.3.3 Participation by Other Interested Transmission Customers

Any Transmission Customer with rights or interests that would be materially affected by the outcome of an expedited dispute resolution proceeding may participate; *provided, however*, that a Transmission Customer seeking or supporting a change to the NYISO's determination regarding a Transmission Customer settlement challenge must have previously raised the issue in a settlement challenge consistent with the requirements of Section 2.7.4.2.1 of this ISO OATT. To participate, such Transmission Customer shall submit to the ISO Chief Financial Officer a

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written request to participate that meets the requirements for an initiating request for expedited dispute resolution within eleven (11) business days from the date that the ISO issues notice of the expedited dispute resolution proceeding. If the ISO determines that the Transmission Customer has met the requirements of this Section 2.7.4.3.3, the ISO will accept the Transmission Customer's request to participate in the dispute resolution proceeding.

2.7.4.3.4 Selection of a Neutral

As soon as reasonably possible following the ISO's acceptance of a Transmission Customer's request for expedited dispute resolution under Section 2.7.4.3.2, the ISO shall appoint a neutral to preside over the proceeding by randomly selecting from a list (i) provided to the ISO by the American Arbitration Association or (ii) developed by the ISO with input from the appropriate stakeholder committee, until an available neutral is found. To the extent possible, the neutral shall be knowledgeable in electric utility matters, including electric transmission and bulk power issues and the financial settlement of electric markets.

No person shall be eligible to act as a neutral who is a past or present officer, employee, or consultant to any of the disputing parties, or of an entity related to or affiliated with any of the disputing parties, or is otherwise interested in the matter in dispute except upon the express written consent of the parties. Any individual appointed as a neutral shall make known to the disputing parties any such disqualifying relationship or interest and a new neutral shall be appointed, unless express written consent is provided by each party.

2.7.4.3.5 Conduct of the Expedited Dispute Resolution Proceeding

The neutral shall schedule the initial meeting of the disputing parties within five (5) business days of appointment. Except as otherwise provided in this Section 2.7.4.3, the neutral

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shall have discretion over the conduct of the dispute resolution process including, but not limited to: (i) requiring the disputing parties to meet for discussion, (ii) allowing or requiring written submissions, (iii) establishing guidelines for such written submissions, and (iv) allowing the participation of Transmission Customers that have requested an opportunity to be heard.

Within sixty (60) days of the appointment of the neutral, if the dispute has not been resolved, the neutral shall provide the disputing parties with a written, confidential, and non-binding recommendation for resolving the dispute. The disputing parties shall then meet in an attempt to resolve the dispute in light of the neutral's recommendation. If the disputing parties have not resolved the dispute within ten (10) days of receipt of the neutral's recommendation, the dispute resolution process will be concluded.

Neither the recommendation of the neutral, nor statements made by the neutral or any party, including the ISO, or their representatives, nor written submissions prepared for the dispute resolution process, shall be admissible for any purpose in any proceeding.

2.7.4.3.6 Allocation of Costs

Each party to a dispute resolution proceeding shall be responsible for its own costs incurred during the process and for a pro rata share of the costs of a neutral.

2.7.5 Customer Default

2.7.5.1 Events of Default

A Transmission Customer shall be in default, upon written notice from the ISO, in the event that: (i) the Transmission Customer fails to timely make a payment due to the ISO, regardless of whether such payment obligation is in dispute, (ii) the Transmission Customer fails to comply with the ISO's creditworthiness requirements, or (iii) the Transmission Customer fails to cure its default in another independent system operator/regional transmission organization

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market. In the event of a billing dispute between the ISO and the Transmission Customer, the ISO will continue to provide service under the Service Agreement as long as the Transmission Customer continues to make all payments.

2.7.5.2 Cure

Unless otherwise provided in Attachment W to this OATT, a Transmission Customer shall have one (1) business day to cure a default resulting from its failure to timely make a payment due to the ISO. A Transmission Customer shall have two (2) business days to cure a default resulting from its failure to comply with the ISO's creditworthiness requirements; *provided, however*, that a Transmission Customer shall have one (1) business day to cure a default resulting from its failure to comply with the ISO's creditworthiness requirements following termination of a Prepayment Agreement.

2.7.5.3 ISO Remedies

In addition to any and all other remedies available under the ISO Tariffs or pursuant to law or equity, the ISO shall have the following remedies:

- (i) **Event of Default.** Upon an event of default and expiration of the relevant cure period, the ISO may terminate service to a Transmission Customer immediately upon notice to the Commission. In addition, in the event of a payment default, the ISO shall have the sole and exclusive right to initiate debt collection procedures against a Transmission Customer on account of any such default. The process for declaring and recovering bad debt losses is set forth in Attachment U to this OATT.
- (ii) **Financial Distress.** In the event of a reduction in the amount of a Transmission

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Customer's Unsecured Credit (a) by fifty percent (50%) or more as determined in accordance with Section 26.5 of Attachment K to the ISO Services Tariff, or (b) as a result of a material adverse change as determined in accordance with Section 26.14 of Attachment K to the ISO Services Tariff, then the ISO shall have the right to: (1) immediately issue an invoice to such Transmission Customer requiring payment within two (2) business days from the invoice date for initial settlements representing the sum of that Billing Period's daily billing data available as of the invoice date, and/or (2) require such Transmission Customer to prepay estimated charges weekly for up to twelve months in accordance with ISO Procedures.

(iii) Default in Another ISO/RTO. In the event a Transmission Customer fails to cure its default in another independent system operator/regional transmission organization market, then the ISO shall have the right to: (1) demand immediate payment by the Transmission Customer to the ISO for any amounts owed as of the date of the demand, and/or (2) require the Transmission Customer to prepay estimated charges weekly for a minimum of twelve months in accordance with ISO Procedures, and/or (3) reduce or eliminate the amount of the Transmission Customer's Unsecured Credit.

(iv) Two Late Payments. In the event a Transmission Customer fails to pay its invoice when due on two occasions within a rolling twelve (12) month period, then the ISO shall have the right to: (1) require the Transmission Customer to prepay estimated charges weekly, based on the charges incurred by the Transmission Customer in the previous week, for up to twelve months, and/or

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(2) reduce or eliminate the amount of the Transmission Customer's Unsecured Credit for up to twelve (12) months.

2.7.5.4 Notice to Transmission Customers

The ISO shall notify all Transmission Customers in the event that a Transmission Customer is in default and shall also notify all Transmission Customers in the event that the Transmission Customer subsequently cures the default or the ISO terminates the Transmission Customer due to the default. In the event of a payment default or creditworthiness default, the ISO will disclose in its notice to Transmission Customers the approximate amount of the default as follows:

| Default Amount | Type of Default | |
|-----------------------------|-----------------|------------------|
| | Payment | Creditworthiness |
| \$0 to \$100,000 | | |
| \$100,001 to \$500,000 | | |
| \$500,001 to \$1,000,000 | | |
| \$1,000,001 to \$5,000,000 | | |
| \$5,000,001 to \$10,000,000 | | |
| > \$10,000,000 | | |

In addition, in the event of a payment default, unless otherwise precluded, the ISO will also disclose the amount and type of collateral, if any, held by the ISO to secure the defaulting Transmission Customer's obligations to the ISO.

2.7.6 Stranded Costs

The Transmission Owners other than NYPA may seek to recover stranded costs from the Transmission Customer pursuant to this Tariff in accordance with the terms, conditions and procedures set forth in Commission Order No. 888. However, the Transmission Owners must separately file any proposal to recover stranded costs under Section 205 of the FPA. This

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provision shall not supersede or otherwise affect a Transmission Owner's right to recover stranded costs under other authority. To the extent that LIPA's rates for service are established by LIPA's Board of Trustees pursuant to Article 5, Title 1-A of the New York Public Authorities Law, Sections 1020-f(u) and 1020-s and are not subject to Commission and/or PSC jurisdiction, LIPA's recovery of stranded costs will not be subject to the foregoing requirements.

Upon filing of a proposal to recover stranded costs under the FPA, the Transmission Owner shall immediately provide the ISO with a copy of the appropriate rate schedule which will be incorporated as a new Stranded Service and Point-to-Point Service Customers and remit the collected amounts to the applicable Transmission Owner(s). Any SIRC rate schedule developed by LIPA under this Tariff will be effective upon receipt by the ISO, subject to any applicable laws and orders.

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2.8 Accounting for the Transmission Owner's Use of the Tariff

The Transmission Owners shall record the following amounts, as outlined below.

2.8.1 Transmission Revenue:

Transmission Owner shall include in a separate operating revenue account or subaccount, the revenues it receives from Transmission Service when making Third-Party Sales under Part 3 of this Tariff.

2.8.2 Study Costs and Revenues:

A Transmission Owner shall include in a separate transmission operating expense account or subaccount, costs properly chargeable to expense that are incurred by the Transmission Owner to perform any System Impact Study or Facilities Study to determine if it must construct new transmission facilities or upgrades necessary for its own uses, including making Third-Party Sales under this Tariff; and include in a separate operating revenue account or subaccount the revenues received by the Transmission Owner for a System Impact Study or Facilities Study performed when such amounts are separately stated and identified in the Transmission Customer's billing under this Tariff.

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2.9 Regulatory Filings

Subject to Section 2.10, nothing contained in the Tariff, any Service Agreement, or any Network Operating Agreement shall be construed as affecting in any way the right of the ISO, or any Transmission Owner, with respect to a change in its revenue requirement, to unilaterally make an application to the Commission, pursuant to Section 205 of the FPA, for a change in rates, terms and conditions, charges, classification of service, a Service Agreement or a Network Operating Agreement.

Subject to Section 2.10, nothing contained in this Tariff or any Service Agreement shall be construed as affecting in any way the ability of any party receiving service under this Tariff to exercise its rights under the FPA and pursuant to the Commission's rules and regulations promulgated thereunder.

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2.10 Tariff Modifications

Notwithstanding any other provision in this Tariff, this Tariff may be modified only as follows: any proposed amendment to this Tariff must be submitted to both the ISO Management Committee and the ISO Board; if both the ISO Board and the ISO Management Committee agree to an amendment of this Tariff, the ISO shall file the proposed amendment with the Commission pursuant to Section 205 of the FPA; if the ISO Board and the ISO Management Committee do not agree on a proposed amendment of this Tariff, this Tariff shall not be subject to change pursuant to Section 205 of the FPA. Nothing herein is intended to limit the rights of the ISO or any person under Section 206 of the FPA.

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2.11 Force Majeure and Indemnification and Liability Limitation

2.11.1 Force Majeure:

An event of Force Majeure means any act of God, labor disturbance, act of the public enemy, war, insurrection, riot, fire, storm or flood, explosion, breakage or accident to machinery or equipment, any Curtailment, order, regulation or restriction imposed by governmental military or lawfully established civilian authorities, or any other cause beyond a party's control. A Force Majeure event does not include an act of negligence or intentional wrongdoing. The ISO, each Transmission Owner and each Transmission Customer will not be considered in default as to any obligation under this Tariff if prevented from fulfilling the obligation due to an event of Force Majeure. However, a party whose performance under this Tariff is hindered by an event of Force Majeure shall make all reasonable efforts to perform its obligations under this Tariff.

2.11.2 Indemnification:

The Transmission Customer shall at all times indemnify, defend, and save the ISO and each Transmission Owner harmless from, any and all damages, losses, claims, including claims and actions relating to injury to or death of any person or damage to property, demands, suits, recoveries, costs and expenses, court costs, attorney fees, and all other obligations by or to third parties, arising out of or resulting from the ISO's or the Transmission Owner's performance of its obligations under this Tariff on behalf of the Transmission Customer, except in cases of gross negligence or intentional wrongdoing by the ISO and except in the case of gross negligence or negligence consistent with the limitation of liability standards in Section 2.11.3(a), or intentional wrongdoing by the Transmission Owner. The ISO will procure insurance or other alternative risk financing arrangements sufficient to cover the risks associated with the carrying out of its

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responsibilities under this Tariff. The proceeds from such insurance shall be used prior to the invocation by the ISO of its right to indemnification under this Section, through the Rate Schedule 1 charge. Except to the extent that indemnification of the ISO is required from a particular Transmission Customer because of the acts or omissions of the Transmission Customer, indemnification of or by the ISO shall be effected through the Rate Schedule 1 charge.

Nothing in this section shall preclude the ISO from seeking indemnification of penalty costs against Customers and Market Participants, including Transmission Owners, as provided in Schedule 11 of this Tariff, except that the ISO shall not be indemnified in instances of its gross negligence or intentional misconduct.

2.11.3 Limitation of Liability

- (a) The Transmission Owner shall not be liable, whether based on contract, indemnification, warranty, equity, tort, strict liability or otherwise, to any Transmission Customer, Market Participant, User, Interconnection Customer, Interconnecting Transmission Owner or any third party or other person for any damages whatsoever, including, without limitation, direct, incidental, consequential (including, without limitation, attorneys' fees and litigation costs), punitive, special, multiple, exemplary or indirect damages arising or resulting from any act or omission in any way associated with service provided under this Tariff, including, but not limited to, any act or omission that results in an interruption, deficiency or imperfection of service, except to the extent that the Transmission Owner is found liable for gross negligence or intentional misconduct, in which case the Transmission Owner will only be liable for direct

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damages. Nothing in this section, however, is intended to affect obligations otherwise provided in agreements between the ISO and Transmission Owner.

Except with respect to an interruption of service or when a Transmission Owner is acting in good faith to implement or comply with the directives of the ISO, the forgoing provisions shall not limit the liability of the Transmission Owner for damages resulting from its own negligence in connection with property owned, installed or maintained by a retail or wholesale customer of the Transmission Owner or leased by the customer from a third party, or for any damages to a retail or wholesale customer resulting from the negligence of the Transmission Owner in connection with the Transmission Owner's operation of the transmission system or from the presence or operation of the Transmission Owner's structures, equipment, wires, pipes, appliances or devices on the customer's premises.

- (b) The ISO shall not be liable, whether based on contract, indemnification, warranty, equity, tort, strict liability or otherwise, to any Transmission Customer, Market Participant, User, Interconnection Customer, Interconnecting Transmission Owner or any third party or other person for any damages whatsoever, including, without limitation, direct, incidental, consequential (including, without limitation, attorneys' fees and litigation costs), punitive, special, multiple, exemplary or indirect damages arising or resulting from any act or omission in any way associated with service provided under this Tariff, including, but not limited to, any act or omission that results in an interruption, deficiency or imperfection of service, except to the extent that the ISO is found liable for gross negligence or intentional misconduct, in which case the ISO will only be liable for direct

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damages. Nothing in this section, however, is intended to affect obligations otherwise provided in agreements between the ISO and Transmission Owner.

- (c) Neither the Transmission Owner nor the ISO shall be liable for damages arising out of services provided under this Tariff, including, but not limited to, any act or omission that results in an interruption, deficiency or imperfection of service, occurring as a result of conditions or circumstances beyond the control of the Transmission Owner or ISO, as applicable, or resulting from electric system design common to the domestic electric utility industry or electric system operation practices or conditions common to the domestic electric utility industry. The Transmission Owner shall not be liable for acts or omissions done in compliance or good faith attempts to comply with directives of the ISO.

2.11.4 Applicability to Generators:

The provisions on limitation of liability and damages, and on indemnification, set forth in Sections 2.11.2 and 2.11.3 shall be applicable to Generators acting in good faith to implement or comply with the directives of the Transmission Owner or the ISO.

2.11.5 ISO Cost Recovery:

To the extent that the ISO is required to pay any money damages or compensation or pay amounts due to its indemnification of any other party, the ISO shall be allowed to recover any such amounts under Schedule 1 of this ISO OATT as part of the Administrative Charges.

2.11.6 Reliability Compliance and Penalty Cost Recovery

- (a) Customer Compliance with Reliability Standards: In accordance with applicable requirements in this Tariff and the ISO Procedures, all Customers shall conform

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to all applicable reliability criteria, policies, standards, rules, regulations and other requirements of NERC, NPCC, NYSRC, or any applicable regional council, or their successors, the ISO's specific reliability requirements and ISO Procedures, and operating guidelines and all applicable requirements of federal and state regulatory authorities. Failure to conform to these requirements may subject a Customer to direct assignment of penalties assessed against the ISO by FERC, NERC, NPCC or any other federal or state regulatory authority as a result of such Customer's failure to conform.

- (b) Direct Assignment of Penalty Costs: The ISO's compliance with applicable reliability criteria, policies, standards, rules, regulations and other requirements is sometimes dependent on timely, accurate and adequate information and/or action on the part of a Customer. If the ISO is found to be non-compliant with respect to any applicable reliability criteria, policies, standards, rules, regulations and other requirements as a result of a Customer's actions or failure to act in violation of an obligation imposed by the ISO Tariffs, ISO Procedures, or ISO Related Agreements, the ISO may seek to directly assign to the Customer the cost of a penalty imposed on the ISO as a consequence of the Customer's non-compliance. If the Customer is found to be non-compliant with respect to any applicable reliability criteria, policies, standards, rules, regulations and other requirements as a result of the ISO's actions or failure to act in violation of an obligation imposed by the ISO Tariffs, ISO Procedures, or ISO Related Agreements, the Customer may seek to directly assign to the ISO the cost of a penalty imposed on the Customer as a consequence of the ISO's non-compliance. Any direct assignment

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of penalty costs must first be approved by FERC, as provided in Schedule 11 of this Tariff.

- (c) ISO's Recovery of Penalty Costs Through Schedule 11: If direct assignment to a particular Customer is not possible or if the ISO is directly responsible for a violation because of its own action or inaction, the ISO may seek to recover such penalty costs in Schedule 11 Section 6.11.3 of this Tariff. Any inclusion of penalty costs in Schedule 11 must first be approved by FERC on a case-by-case basis, as provided in Schedule 11. Prior to seeking FERC authorization for recovery of a penalty in Schedule 11 Section 6.11.3 of this Tariff, the ISO shall consult with the Management Committee and any appropriate subcommittee or working groups designated by the Management Committee, regarding the recovery and allocation of such penalty before filing at FERC. Any recommendation by the Management Committee regarding a proposed penalty recovery shall be reported by the ISO to FERC in any ISO filing seeking penalty recovery.
- (d) As used in this section, the term "Customer" shall include Transmission Owners.

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2.12 Back-Up Operation

2.12.1 Back-Up Operation Procedures:

The ISO shall maintain Back-Up Operation procedures that will carry out the intent and purposes of this ISO OATT, to the extent practical, in circumstances under which the normal communications or computer systems of the ISO are not fully functional. Such procedures shall include testing requirements and training for the ISO staff, and Transmission Owners. If a communication or computer system malfunction results in the ISO's inability to operate the NYCA in accordance with ISO Procedures or under approved testing procedures, the ISO will direct the Transmission Owners to assume the responsibility to operate their respective systems, including facilities that a Transmission Owner has agreed to operate in accordance with an operation and maintenance agreement, in accordance with Good Utility Practice to facilitate the operation of the NYCA in a safe and reliable manner.

The Transmission Owners will continue to operate their respective systems, including facilities that a Transmission Owner has agreed to operate in accordance with an operation and maintenance agreement, until such time that the ISO is ready to resume control. During Back-Up Operation, the Transmission Owner control centers will operate to maintain the Desired Net Interchange ("DNI") within each Transmission District. Generator Bid curves will be provided by the ISO to the individual Transmission Owners in order to permit dispatch by the Transmission Owners, subject to the Transmission Owner code of conduct to the extent applicable. Normal Day-Ahead Market and Real-Time Market operations may be halted if required.

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2.12.2 Market Participant and Transmission Customer Obligations:

During Back-Up Operation, Transmission Customers and other Market Participants shall comply with any and all instructions and orders issued by the ISO or the Transmission Owners.

2.12.3 Billing and Settlement:

In the event that Back-Up Operation is implemented, the billing and settlement procedures contained in Section 2.7 of this ISO OATT shall apply only to the extent they can be implemented by the Back-Up Operation procedures. The ISO will develop and apply as necessary modified billing and settlement procedures for use under the specific circumstances that required Back-Up Operation. The ISO shall gather necessary information, manually reconstruct the billing information as soon as practical, and submit invoices to Transmission Customers. The ISO shall be under no obligation to comply with the billing procedure time limits specified in Article 2.7. Neither the ISO nor the Transmission Owners shall be liable, under any circumstances, for any economic losses suffered by any Transmission Customer, Market Participant, or third party, resulting from the implementation by the ISO of Back-Up Operation or from compliance with orders issued by the ISO or Transmission Owners that were necessary to operate the NYCA in a safe and reliable manner. Such orders may include, without limitation, instructions to generation facilities to increase or decrease output, and instructions to Load to reduce or interrupt service.

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2.13 Emergency Notification:

The ISO shall notify the Commission and the PSC one business day after declaring a Major Emergency.

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2.14 Creditworthiness

All Transmission Customers and applicants seeking to become Transmission Customers shall be subject to the creditworthiness requirements contained in Attachment K to the ISO Services Tariff, including the minimum participation criteria set forth in Section 26.1 of Attachment K. “Customer,” as used in Attachment K to the ISO Services Tariff, shall also mean “Transmission Customer” and an applicant seeking to become a Transmission Customer.

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2.15 List of Affiliates and/or Parent Company

A Transmission Customer taking service under the Tariff shall provide the ISO, upon application for service, with a list identifying its parent company as well as any Affiliates. The Transmission Customer shall notify the ISO within 30 days of the effective date of any change to the original list. Any Transmission Customer shall respond within 10 days, to a request by the ISO to update the list of Affiliates and/or parent company. In addition, a Transmission Customer and an applicant seeking to become a Transmission Customer shall inform the ISO of any Affiliates that are currently taking service or applying to take service under the Tariffs.

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2.16 Dispute Resolution Procedures

The dispute resolution procedures in the ISO Market Administration and Control Area Services Tariff shall apply to any dispute arising under this Tariff, except as otherwise indicated.

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2.17 Incorporation of Certain Business Practice Standards

Pursuant to Commission Order No. 676-H, the ISO incorporates by reference the following business practice standards developed by the North American Energy Standards Board's Wholesale Electric Quadrant:

- WEQ-000, Abbreviations, Acronyms, and Definition of Terms, WEQ Version 003, July 31, 2012, as modified by NAESB final actions ratified on Oct. 4, 2012, Nov. 28, 2012 and Dec. 28, 2012 (with minor corrections applied Nov. 26, 2013);
- WEQ-001, Open Access Same-Time Information Systems (OASIS), OASIS Version 2.0 ,WEQ Version 003, July 31, 2012 as modified by NAESB final actions ratified on Dec. 28, 2012 (with minor corrections applied November 26, 2013) excluding Standards WEQ-001-9.5, WEQ-001-10.5, WEQ-001-14.1.3, WEQ-001-15.1.2 and WEQ-001-106.2.5, except as provided in section 2.17.1 below;
- WEQ-004, Coordinate Interchange, WEQ Version 003, July 31, 2012 (with Final Action ratified on December 28, 2012), except as provided in section 2.17.1 below;
- WEQ-005, Area Control Error (ACE) Equation Special Cases, WEQ Version 003, July 31, 2012;
- WEQ-006, Manual Time Error Correction, WEQ Version 003, July 31, 2012;
- WEQ-007, Inadvertent Interchange Payback, WEQ Version 003, July 31, 2012;
- WEQ-008, Transmission Loading Relief - Eastern Interconnection, WEQ Version 003, July 31, 2012 (with minor corrections applied November 28, 2012);
- WEQ-011, Gas/Electric Coordination, WEQ Version 003, July 31, 2012;
- WEQ-012 Public Key Infrastructure (PKI), WEQ Version 003, July 31, 2012, (as modified by NAESB final actions ratified on Oct. 4, 2012), except as provided in section 2.17.1 below (NYISO compliance to begin May 15, 2017, pursuant to *New York Independent System Operator, Inc.*, FERC Docket No. ER-15-550-000, Notice Granting Extension (April 15, 2015);
- WEQ-015, Measurement and Verification of Wholesale Electricity Demand Response, WEQ Version 003, July 31, 2012 (with minor corrections applied November 26, 2013); and
- WEQ-021, Measurement and Verification of Energy Efficiency Products, WEQ Version 003, July 31, 2012.

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2.17.1 The ISO is not required to comply with the following Standards:

- WEQ-001 Open Access Same-Time Information Systems (OASIS), OASIS Version 2.0, WEQ Version 003, July 31, 2012 (with minor corrections applied November 26, 2013): Standards 001-2, 001-3, 001-4, 001-5, 001-6, 001-7, 001-8, 001-9, 001-10, 001-011, 001-012, 001-13.1.2, 001-13.1.3(b) and (c), 001-014, 001-015, 001-016, 001-017, 001-018, 001-019, 001-020, 001-021, 001-022, 001-23, 001-101 through 001-107.3.1, 001-Appendix A, 001-Appendix B, and 001-Appendix D, pursuant to *New York Independent System Operator, Inc.*, 151 FERC ¶ 61,157 (May 19, 2015);
- WEQ-002, Open Access Same-Time Information System (OASIS) Business Practice Standards and Communication Protocols (S&CP), OASIS Version 2.0, WEQ Version 003, July 31, 2012, as modified by NAESB final actions ratified on Nov. 28, 2012 and Dec. 28, 2012 (with minor corrections applied November 26, 2013), pursuant to *New York Independent System Operator, Inc.*, 151 FERC ¶ 61,157 (May 19, 2015);
- WEQ-003, Open Access Same-Time Information Systems (OASIS) Data Dictionary Business Practice Standards, OASIS Version 2.0, WEQ Version 003, July 31, 2012, as modified by NAESB final actions ratified on Nov. 28, 2012 and Dec. 28, 2012 (with minor corrections applied November 26, 2013), pursuant to *New York Independent System Operator, Inc.*, 151 FERC ¶ 61,157 (May 19, 2015);
- WEQ-004, Coordinate Interchange, WEQ Version 003, July 31, 2012 (with Final Action ratified on December 28, 2012): Standards 004-3, 004-18, and 004-Appendix A and 004-Appendix C, pursuant to *New York Independent System Operator, Inc.*, 151 FERC ¶ 61,157 (May 19, 2015); and
- WEQ-013, Open Access Same-Time Information Systems (OASIS) Implementation Guide, OASIS Version 2.0, WEQ Version 003, July 31, 2012, as modified by NAESB final actions ratified on Dec. 28, 2012 (with minor corrections applied November 26, 2013), pursuant to *New York Independent System Operator, Inc.*, 151 FERC ¶ 61,157 (May 19, 2015).