

PSC NO: 10 – Electricity  
Consolidated Edison Company of New York, Inc.  
Initial Effective Date: 11/29/2019

Addendum Type: NEG  
Addendum Number: 5

**Individually Negotiated Contract 1**

- Service will be supplied for supplemental or backup purposes at rates designed in accordance with the Public Service Commission’s “Guidelines for the Design of Standby Rates,” adopted in Case 99-E-1470.
- The customer would have taken service at Service Classification No. 4, Rate II, but for the customer’s on-site generation. Except as modified herein, all rates and charges applicable to similarly situated customers are applicable to this service.
- The transmission components of the rate applicable to service at 138kV will be calculated using the Service Classification (“SC”) No. 4 Rate II revenue requirement and an allocation of 25% of costs to Contract Demand charges and 75% of costs to As-used Demand charges.
- The Customer Charge will be calculated using the revenue requirement for the Customer Charge in the SC 4-RA 138 kV standby rate excluding the revenue requirement for metering costs.
- Bills will also include the Monthly Adjustment Clause (“MAC”) charge associated with each such charge and Adjustment Factor – MAC, plus the Systems Benefit Charge and the Increase in Rates and Charges thereon.
- Con Edison will supply electric power and energy, including installed capacity, at the Service Classification No. 4 Rate II Market Supply Charge (“MSC”) and the Adjustment Factor – MSC, plus the Increase in Rates and Charges thereon.
- This contract expires October 30, 2036.
- The Addendum was filed on August 27, 2003, as Tariff Addendum 1 to PSC No. 2 – Retail Access.
- SC 4 was incorporated into SC 9 as of April 1, 2010. As of that date, all references to “SC 4” above refer to “SC 9” instead.

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Initial Effective Date: 11/29/2019

Addendum Type: NEG  
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### **Individually Negotiated Contract 2**

- Service will be supplied for supplemental or backup purposes at rates designed in accordance with the Public Service Commission’s “Guidelines for the Design of Standby Rates,” adopted in Case 99-E-1470.
- The customer would have taken service at Service Classification No. 9 Rate II, but for the customer’s on-site generation. Except as modified herein, all rates and charges applicable to similarly situated customers are applicable to this service.
- The customer’s ability to import power from the Con Edison system is subject to specific limitations for the period between May 1 to September 30 and the period between October 1 and April 1.
- The customer will take service under a modified Con Edison Service Classification (“SC”) No. 9, Rate V-General – Large – Standby Service (Large), High Tension Service with a Standby Contract Demand, and Service Classification 11 with an SC 11 Contract Demand. Billable SC-11 Contract Demand will be the amount by which SC-11 Contract Demand exceeds the Standby Contract Demand. Con Edison reduced customer’s Standby Contract Demand rate to reflect the design of the Con Edison Attachment Facilities and limited export described above. This reduction will apply to the prevailing Standby Contract Demand rate during the term of the contract. The SC-11 Contract Demand rate will be based on the prevailing rates for SC-11 Buy-back Service less the substation costs assess to the SC-11 primary customers. Customer is not eligible for the Standby Reliability Credit under General Rule 20 of this Tariff. The Customer Charge under SC 9, Rate V, will apply. Other than these modifications, all other aspects of the Standby and SC-11 Tariffs will apply, as modified from time-to-time.
- This contract expires on June 5, 2029 but can be automatically renewed for successive one-year terms.

PSC NO: 10 – Electricity  
Consolidated Edison Company of New York, Inc.  
Initial Effective Date: 02/09/2026  
Issued in compliance with order in Case 24-E-0621 dated 01/23/2026

Addendum Type: SIR  
Addendum Number: 22

**New York State  
Public Service Commission**

**New York State Standardized Interconnection Requirements and Application Process  
For New Distributed Generators and/or Energy Storage Systems 5 MW or Less  
Connected in Parallel with Utility Distribution Systems**

**Effective: February 9, 2026**

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## Section I. Application Process

### A. Introduction

This Standardized Interconnection Requirements and Application Process for New Distributed Generators and/or Energy Storage Systems 5 MW or Less Connected in Parallel with Utility Distribution Systems (SIR) provides a framework for processing applications to:

- interconnect new distributed generation (DG) facilities with an alternating current (AC) generator nameplate rating of 5 MW or less aggregated on the customer side of the point of common coupling (PCC);
- interconnect new energy storage system (ESS) facilities with an AC inverter/converter nameplate rating of 5 MW or less aggregated on the customer side of the PCC that may be stand-alone systems or combined with existing or new DG (Hybrid Projects), however, maximum export capacity onto the utility distribution system is capped at an AC nameplate rating or AC inverter/converter nameplate rating of 5 MW; and,
- review any modifications affecting the interface at the PCC to existing DG and/or ESS facilities with an AC nameplate rating of 5 MW or less (aggregated on the customer side of the PCC) that have been interconnected to the utility distribution system, and where an existing contract between the applicant and the utility is in place.

Distributed Generation or Energy Storage Systems neither designed to operate, nor operating, in parallel with the utility's electrical system are not subject to these requirements. This document will ensure that applicants are aware of the technical interconnection requirements and utility interconnection policies and practices. This SIR will also provide applicants with an understanding of the process and information required to allow utilities to review and accept the applicants' equipment for interconnection in a reasonable and expeditious manner.

The time required to complete the process will reflect the complexity of the proposed project. Projects using previously submitted designs certified per the requirements of Section II.H, Equipment Certification, will move through the process more quickly, and several steps may be satisfied with an initial application depending on the detail and completeness of the application and supporting documentation submitted by the applicant. Applicants submitting systems utilizing certified equipment, however, are not exempt from providing utilities with complete design packages necessary for the utilities to verify the electrical characteristics of the generator systems, the interconnecting facilities, and the impacts of the applicants' equipment on the utilities' systems.

The application process and the attendant services must be offered on a non-discriminatory basis. The utilities must clearly identify their costs related to the applicants' interconnections, specifically those costs the utilities would not have incurred but for the applicants' interconnections. The utilities will keep a log of all applications, milestones met, and justifications for application-specific requirements. The applicants are to be responsible for payment of the utilities' costs, as provided for herein. Any unspent project analysis/study fees shall be applied forward to any subsequent analysis applicable to a given application/project.

All application timelines shall commence the next Business Day following receipt of information from the applicant or the utility. For purposes of determining the date of an applicant's payment, when a payment is required, fees paid by wire transfer shall be deemed paid on the day of the transfer, whereas fees paid by check shall be deemed paid on the day the check clears.

Staff of the Department of Public Service ("DPS Staff") will monitor the application process to ensure that applications are addressed in a timely manner. To perform this monitoring function, DPS Staff will meet periodically with utility and applicant representatives.

A glossary of terms used herein is provided in Section III.

## **B. Application Process Steps for Systems 50 kW or Less**

### **Exception 1:**

For inverter based systems above 50 kW up to 300 kW, applicants may follow the expedited application process outlined in this section provided that the inverter based system has been certified and tested in accordance with the most recent revision of UL 1741, including supplement B ("UL 1741 SB"), with settings as specified in the utility's technical requirements document, and the utility has approved the project accordingly. The utility has ten (10) Business Days upon receipt of the original application submittal to determine if the application is complete, project is eligible for the expedited process, and whether it is approved for interconnection if eligible for expedited process. The utility shall notify the applicant in writing of its findings upon review of the application. If the utility determines that the inverter based system is not eligible for the expedited application process, the applicant can:

- 1) Proceed with the remaining steps of Section I.C of the SIR (Systems above 50 kW up to 5 MW); or
- 2) request a review by DPS Staff.

### **Exception 2:**

For non-inverter based system 50 kW or less, the applicant should be aware that additional information and review time may be required by the utility (refer to Step 3). The applicant must include the items required in Step 5 of the Application Process Steps for Systems above 50 kW up to 5 MW in its original application. This exception should not be considered the rule but used by the utility only in justified situations. Utilities are encouraged to use the expedited process whenever possible. The utility has ten (10) Business Days upon receipt of the original application submittal to determine if the application is complete, project is eligible for expedited process, and whether it is approved for interconnection if eligible for expedited process. The utility shall notify the applicant in writing of its findings upon review of the application. If the utility determines that the non-inverter based system is not eligible for the expedited application process, the applicant can:

- 1) Proceed with the remaining steps of Section I.C of the SIR (Systems above 50 kW up to 5 MW); or
- 2) Request a review by DPS Staff.

### **Exception 3:**

For all systems 50 kW or less, that are proposed to be installed in underground secondary network areas, the applicant should be aware that additional information and review time may be required by the utility (refer to Step 3). In some cases, interconnection may not be allowed or approved. DG systems interconnected to underground secondary network systems can cause unique design issues and overall reliability problems for the utilities. For this reason, additional review and analysis may be needed on a case by case basis. The utility has ten (10) Business Days upon receipt of the original application submittal to determine if the application is complete, project is eligible for the expedited process, and whether it is approved for interconnection if eligible for expedited process. The utility shall notify the applicant in writing of its findings upon review of the application. If the utility determines that the DG system cannot be interconnected, the applicant can request a review by DPS Staff.

### **STEP 1: Initial Communication from the Potential Applicant**

Communication could range from a general inquiry to a completed application.

### **STEP 2: The Inquiry is Reviewed by the Utility to Determine the Nature of the Project**

Technical staff from the utility may discuss the scope of the interconnection with the potential applicant (either by phone or in person) and provide a copy of the SIR document and any utility specific technical specifications that may apply. A utility representative shall be designated to serve as the single point of contact for the applicant in coordinating the potential applicant's project with the utility.

### **STEP 3: Potential Applicant Files an Application**

The potential applicant submits an application package in the name of the customer<sup>1</sup> to the utility. No application fee is required of the applicant for systems 50 kW or less. A complete application package will consist of all items detailed in Appendix F. Electronic submission of all documents via the Interconnection Online Application Portal ("IOAP") is required. The utility has ten (10) Business Days upon receipt of the original application submittal to determine if the application is complete, meets the SIR technical requirements in Section II, and/or approved for interconnection if all other requirements are met. The utility shall notify the applicant by email, fax, or other form of written communication. If the application is deemed not complete by the utility, the utility shall provide a detailed explanation of the deficiencies identified and a list of the additional information required from the applicant.

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<sup>1</sup> Per the Community Distributed Generation Program Order (issued July 17, 2015, in Case 15-E-0082), the project sponsor shall submit the interconnection application to the electric utility for approval. The sponsor may be any single entity, including the generation facility developer, an energy service company (ESCO), a municipal entity such as a town or village, a business or not-for-profit corporation, a limited liability company, a partnership, or other form of business or civic association.

Once it has received the required information, the utility shall notify the applicant of the acceptance or rejection of the application within ten (10) Business days. If the applicant fails to submit the additional information to the utility within thirty (30) Business Days following the date of the utility's written notification, the application shall be removed from the queue and no further action on the part of the utility is required.

The utility's notification of acceptance to the applicant shall include an executed New York State Standardized Interconnection Contract and the applicant may proceed with the proposed installation. The utility shall also indicate in its response to the applicant whether or not it plans to witness the testing and verification process in person.

An application will be placed in each utility's interconnection inventory once it is accepted as complete. If the final acceptance as set out in Step 6 below is not completed within twelve (12) months as a result of applicant inactivity, the utility has the right to notify the applicant by U.S. first class mail with delivery receipt confirmation or via email that the applicant's project will be removed from the utility's interconnection inventory if the applicant does not respond within thirty (30) Business Days of the issue of such notification and provide a project status update and/or justification as to why the project should remain in the utility's interconnection inventory for an additional period of time.

With respect to an applicant proposing to install a system rated 25 kW or less, that is to be net-metered, if the utility determines that it is necessary to install a dedicated transformer(s) or other equipment to protect the safety and adequacy of electric service provided to other customers, the applicant shall be informed of its responsibility for the actual costs for installing the dedicated transformer(s) and other safety equipment. Appendix E sets forth the responsibility each applicant shall have with respect to the actual cost of the dedicated transformer(s) and other safety equipment.

#### **STEP 4: System Installation**

The applicant will install the DG system according to the utility accepted design and the equipment manufacturer's requirements. If there are substantive design variations from the originally accepted system diagram, a revised system diagram (and other drawings for non-inverter based systems) shall be submitted by the applicant for the utility's review and acceptance. All inverter based systems will be allowed to interconnect to the utility system for a period not to exceed two hours, for the sole purpose of ensuring proper operation of the installed equipment.

For net metered systems as defined in Section II.A.6, Metering, any modifications related to metering configurations to allow for net energy metering for residential, farm service and non-residential wind electric generating systems shall be completed by the utility within ten (10) Business Days of either notification to the utility that the installation has been completed and inspected, or a request for a verification test, whichever comes first. If the utility requires inspection of the new metering configuration installation, such inspection shall be completed within the ten (10) Business Days allotted for the new meter installation.

#### **STEP 5: The Applicant's Facility is Tested in Accordance with the Standardized Interconnection Requirements**

Verification testing will be performed by the applicant in accordance with the written

verification test procedure specified in Appendix F. If the utility requested to witness the testing and verification process in person as required in Step 3, the applicant shall provide a written letter of notification to the utility that the system installation is completed, including any applicable inspections and authorization. After receipt of notification, the verification testing will be performed within ten (10) Business Days, at a mutually agreeable time. If the utility has opted not to witness the test, the applicant will send the utility within five (5) Business Days of completion of such tests a written notification certifying that the system has been installed and tested in compliance with the SIR, the utility-accepted design and the equipment manufacturer's instructions. The applicant's facility will be allowed to commence parallel operation upon satisfactory completion of the tests in Step 5. The applicant must have complied with, and must continue to comply with, all contractual and technical requirements.

### **STEP 6: Final Acceptance**

Within five (5) Business Days of receiving the written notification of successful test completion from Step 5, the utility will issue to the applicant a formal letter of acceptance for interconnection. Within five (5) Business Days of the completion of the on-site verification, the utility will issue to the applicant either a formal letter of acceptance for interconnection or a detailed explanation of the deficiencies in the system.

### **C. Application Process Steps for Systems above 50 kW up to 5 MW**

If, at any point in its review of an application, the utility determines that the project may benefit from or require a Qualifying Upgrade, the procedures of Appendix E shall apply.

For inverter based systems above 50 kW up to 300 kW, certified and tested in accordance with the most recent revision of UL 1741, including supplement B (UL 1741 SB), and with settings as specified in the utility's technical requirements document, applicants and utilities are encouraged, but not required, to use the expedited application process (Section I.B).

**Exception 1:** For all systems 50 kW up to 5 MW that are proposed to be installed in underground secondary network areas, the applicant should be aware that a Coordinated Electric System Interconnection Review (CESIR) may be required by the utility, based on each utility's specific technical requirements and design considerations on a case-by-case basis. In some cases, interconnection may not be allowed or approved. DG systems interconnected to underground secondary network systems can cause unique design issues and overall reliability problems for the utilities. The utility has ten (10) Business Days upon receipt of the original application submittal and payment to determine if the application is complete and whether it is eligible for interconnection. The utility shall notify the applicant in writing of its findings upon review of the application. If the utility determines that the DG system cannot be interconnected or requires additional information be submitted and/or additional review time is needed, the applicant can:

- 1) Work with the utility on an appropriate timeframe and approval schedule agreeable to both parties; or
- 2) request a review by DPS Staff.

### **STEP 1: Initial Communication from the Potential Applicant.**

Communication could range from a general inquiry to a completed application.

### **STEP 2: The Inquiry is Reviewed by the Utility to Determine the Nature of the Project.**

Technical staff from the utility may discuss the scope of the interconnection with the potential applicant (either by phone or in person) and shall provide a copy of the SIR and any utility specific technical specifications that may apply. A utility representative shall be designated to serve as the single point of contact for the applicant in coordinating the potential applicant's project with the utility. At this time the applicant may also request that a Pre-Application Report (see Appendix D herein) be provided by the utility. The applicant shall provide a non-refundable fee of \$750 with its request for completion of the Pre-Application Report. The Pre-Application Report shall be provided to the applicant within ten (10) Business Days of receipt of the form and payment of the fee. The Pre-Application Report will be non-binding and shall only provide the electrical system data and information requested that is readily available to the utility. Should the applicant formally apply to interconnect their proposed DG project within fifteen (15) Business Days of receipt of the utility's Pre-Application Report, the \$750 will be applied towards the application fee in Step 3.

### **STEP 3: Potential Applicant Files an Application**

The potential applicant submits an application to the utility in the name of the customer.<sup>2</sup> A complete application package will consist of all items detailed in Appendix F. Electronic submission of all documents via the Interconnection Online Application Portal (IOAP) is required. If a Pre-Application Report has been provided to the customer, and an application is received by the utility within fifteen (15) Business Days of the date of issue of the Pre-Application Report, a \$750 credit will be applied towards the application fee. If an application is received by the utility later than fifteen (15) Business Days from the date of issue of the Pre-Application Report, the \$750 fee will not be applied to the application fee. If the applicant proceeds with the project to completion, the application fee will be applied as a payment to the utility's total cost for interconnection, including the cost of processing the application.

The utility shall review the application to determine whether it is complete in accordance with Appendix F, and whether any additional information is required from the applicant. The utility shall notify the applicant in writing within ten (10) Business Days following receipt of the application and the application fee. If the application is not complete, the utility shall provide a detailed explanation of the deficiencies and provide a list of additional

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<sup>2</sup> Per the Community Distributed Generation Program Order (issued on July 17, 2015, in Case 15-E-0082), the project sponsor shall submit the interconnection application to the electric utility for approval. The sponsor may be any single entity, including the generation facility developer, an energy service company (ESCO), a municipal entity such as a town or village, a business or not-for-profit corporation, a limited liability company, a partnership, or other form of business or civic association.

information needed to the applicant. The utility shall notify the applicant by email, fax, or other form of written communication. The utility review at this stage is limited to the determination of completeness from an administrative perspective and does not mean the application has also received approval from an engineering perspective. The utility may require supplemental materials and information for purposes of performing a CESIR.

If the applicant fails to submit all items required by Appendix F, or to provide additional information identified by the utility within thirty (30) Business Days following the date of the utility's notification, the application shall be deemed withdrawn and no further action on the part of the utility is required.

A completed application shall be placed in the utility's interconnection queue.

If the required documentation is presented in this step, it will allow the utility to move to Step 4 and perform the required reviews and allow the process to proceed as expeditiously as possible.

The utility will refund any advance payments for services or construction not yet completed should the applicant be removed from the utility's interconnection inventory. If the costs incurred by the utility exceed the advance payments made by the applicant prior to removal from the interconnection inventory, the applicant will receive a bill for any balance due to the utility.

#### **STEP 4: Utility Performs Preliminary / Supplemental Screening Analysis and Develops a Cost Estimate for the Coordinated Electric System Interconnection Review (CESIR) if required**

The utility shall perform a Preliminary Screening Analysis of the proposed system interconnection utilizing the technical screens A through F detailed in Appendix G. The Preliminary Screening Analysis shall be completed and a written response detailing the results of each screen and the overall outcome of the Preliminary Screening Analysis shall be sent to the applicant within fifteen (15) Business Days of the completion of Step 3. Depending on the results of the Preliminary Screening Analysis and the subsequent choices of the applicant, the following process(es) will apply:

If the Preliminary Screening Analysis finds that the applicant's proposed system passes all of the relevant technical screens (i.e., Screens A through F) and is in compliance with the Interconnection Requirements outlined in Section II, and there are no requirements for Interconnection Facilities or Distribution Upgrades, the utility will return a signed and executed New York State Standardized Interconnection Contract to the applicant. The applicant will sign and return the contract within 15 Business Days after receipt from the utility and proceed with the interconnection process.

If the Preliminary Screening Analysis finds that the applicant's proposed system cannot pass all of the relevant technical screens (i.e., Screens A through F), the utility shall provide the technical reasons, data and analysis supporting the Preliminary Screening Analysis results in writing. The applicant shall notify the utility within ten (10) Business Days following such notification whether to (i) proceed to a Preliminary Screening Analysis results meeting, (ii) proceed to Supplemental Screening Review, (iii) proceed to a full CESIR, or (iv) withdraw the Interconnection Request. If a cost estimate for the CESIR is not provided with the Preliminary

Screening Analysis results, the utility shall provide one within five (5) Business Days of a request from the applicant. If the applicant opts to proceed to a full CESIR, the utility shall provide an invoice for the CESIR fee to the applicant within ten (10) Business Days of receipt of the applicant's notification. The applicant shall have ten (10) Business Days from receipt of the invoice to pay the CESIR fee. If the applicant fails to meet either the notification or the payment deadline, the application shall be removed from the queue and no further action on the part of the utility is required.

- i. If the applicant chooses to proceed to a Preliminary Screening Analysis results meeting and modifications that obviate the need for Supplemental Screening Analysis are identified, and the applicant and the utility agree to such modifications, the utility shall return a signed and executed New York State Standardized Interconnection Contract within fifteen (15) Business Days of the Preliminary Screening Analysis results meeting if no Interconnection Facilities or Distribution Upgrades are required. The applicant will sign and return the contract within 15 Business Days after receipt from the utility and proceed with the interconnection process.

If Interconnection Facilities or Distribution Upgrades are required and agreed to, the utility shall provide the applicant with a non-binding cost estimate of any Interconnection Facilities or Distribution Upgrades within fifteen (15) Business Days of the Preliminary Screening Analysis results meeting. The applicant will pay the cost estimate as provided in Section I-D.

If the applicant chooses to proceed to a Preliminary Screening Analysis results meeting and modifications that obviate the need for Supplemental Analysis are not identified and agreed to, the applicant shall notify the utility within ten (10) Business Days of the meeting of their intention to (i) proceed to Supplemental Screening Analysis, (ii) proceed to a full CESIR, or (iii) withdraw the application. If the applicant fails to notify the utility of their decision by this deadline, the application shall be removed from the queue and no further action on the part of the utility is required.

- ii. Applicants that elect to proceed to Supplemental Screening Analysis shall provide a nonrefundable fee of \$2,500 with their response; however actual costs up to a maximum of \$5,000 will be billable to the applicant upon reconciliation of utility costs as defined in Step 11 or exit from the interconnection queue. The utility shall complete the Supplemental Screening Analysis within twenty (20) Business Days, absent extraordinary circumstances, following authorization and receipt of the fee. If the Supplemental Screening Analysis finds that the applicant's proposed system passes all of the relevant technical screens (i.e., screens G through I) and is in compliance with the Interconnection Requirements outlined in Section II, then there are no requirements for Interconnection Facilities or Distribution Upgrades. Thus, the utility will return a signed and executed New York State Standardized Interconnection Contract to the applicant within fifteen (15) Business Days of providing the applicant the results of the Supplemental Screening Analysis. The applicant will sign and return the contract within fifteen (15) Business Days after receipt from the utility and proceed with the interconnection process.

If the Supplemental Screening Analysis finds that the applicant's proposed system cannot pass all of the relevant technical screens (i.e., Screens G through I), the utility shall provide the technical reasons, data, and analysis supporting the Supplemental Screening Analysis results in writing. The applicant shall notify the utility within ten (10) Business Days following such notification whether to (i) proceed to a Supplemental Screening Analysis results meeting, (ii) proceed to a full CESIR, or (iii) withdraw the application. If the applicant fails to notify the utility of their decision by this deadline, the application shall be removed from the queue and no further action on the part of the utility is required.

- i. If the applicant chooses to proceed to a Supplemental Screening Analysis results meeting and modifications that obviate the need for a CESIR are identified, and the applicant and the utility agree to such modifications, the utility shall return a signed and executed New York State Standardized Interconnection Contract within fifteen (15) Business Days of the Supplemental Screening Analysis results meeting if no Interconnection Facilities or Distribution Upgrades are required. The applicant will sign and return the contract within fifteen (15) Business Days after receipt from the utility and proceed with the interconnection process.

If Interconnection Facilities or Distribution Upgrades are required and agreed to, the utility shall provide the applicant with a non-binding cost estimate of any Interconnection Facilities or Distribution Upgrades within fifteen (15) Business Days of the Supplemental Screening Analysis results meeting. The applicant will pay the cost estimate as provided in Section D.

- ii. If the applicant chooses to proceed to a Supplemental Screening Analysis results meeting and modifications that obviate the need for a CESIR are not identified and agreed to, the applicant shall notify the utility, within ten (10) Business Days of the meeting, of their intention to proceed to a full CESIR or withdraw the application. If the applicant fails to notify the utility of their decision by this deadline, the application shall be removed from the queue and no further action on the part of the utility is required.
- iii. If the applicant decides to proceed to a CESIR after the Supplemental Screening Analysis results meeting, or if the applicant chooses at any time in the above process to proceed directly to a CESIR, the utility shall provide a cost estimate for the CESIR, if not already provided with preliminary analysis results, within five (5) Business Days of a request from the applicant. If the applicant opts to proceed to a full CESIR, the utility shall provide an invoice for the CESIR fee to the applicant within ten (10) Business Days of receipt of the applicant's notification. The applicant shall have ten (10) Business Days from receipt of the invoice to pay the fee. If the applicant fails to meet the payment deadline, the application shall be removed from the queue and no further action on the part of the utility is required.

If Interconnection Facilities or Distribution Upgrades are required to interconnect a proposed system that passes the relevant screens, the utility shall provide the applicant with a non-binding

cost estimate for the Interconnection Facilities or Distribution Upgrades within fifteen (15) Business Days of the Preliminary or Supplemental Screening Analysis. The applicant will pay the cost estimate as provided in Section D.

### **STEP 5: Applicant Commits to the Completion of the CESIR**

Prior to commencement of the CESIR, the applicant shall provide the following information to the utility:

- a complete updated interconnection design package, if there have been any changes to the documents submitted with the application;
- proof of site control by executing the New York State Standard Site Control Certification Form, Appendix J;
- the name, phone number, and agent letter of authorization (if appropriate) of the individual(s) responsible for addressing technical and contractual questions regarding the proposed system;
- if applicable, advance payment of the costs associated with the completion of the CESIR; and
- electrical studies as requested by the utility to demonstrate that the design is within acceptable limits, inclusive and not limited to the following: system fault, relay coordination, flicker, voltage drop, and harmonics. This shall include all relay, communication, and controller set points.

The utility may require a three-line diagram for solar photovoltaic (PV) and BESS designs proposed on three-phase systems, which shall include detailed information on the wiring configuration at the PCC and an exact representation of the existing utility service.

If the utility determines that the detailed interconnection design package provided by the applicant is incomplete or otherwise deficient, the utility shall notify the applicant within ten (10) Business Days and provide a detailed explanation of the deficiencies identified and a list of what is required by the applicant. Unless otherwise notified by the utility, the CESIR review period begins upon confirmed receipt and acceptance of the applicant's interconnection design package and associated fees.

If the applicant fails to provide the utility authorization to proceed, CESIR fee, and information requested within thirty (30) Business Days of the request, the application shall be removed from the queue and no further action on the part of the utility is required.

### **STEP 6: Utility Completes the CESIR**

The CESIR will consist of two parts:

- 1) a detailed review and explanation of the impacts to the utility system associated with the interconnection of the proposed system, and
- 2) a detailed review and explanation of the proposed system's compliance with the

applicable criteria set forth below.

A CESIR will be performed by the utility to determine if the proposed generation on the circuit results in any protective coordination, fault current, thermal, voltage, power quality, or equipment stress concerns.

The CESIR shall be completed within sixty (60) Business Days of receipt of the information set forth in Step 5. For systems utilizing type-tested equipment, the time required to complete the CESIR may be reduced. The utility shall complete the CESIR within sixty (60) Business Days, absent extraordinary circumstances, following authorization, receipt of the CESIR fee, and complete information set forth in Step 5. If the applicant fails to provide the utility authorization to proceed, CESIR fee and information requested within thirty (30) Business Days, the interconnection request shall be removed from the queue and no further action on the part of the utility is required.

The applicant and the utility may agree to allow up to an additional forty (40) Business Days beyond the time specified above for completion of the CESIR, provided that no other application is adversely impacted.

Upon completion of the CESIR, the utility will provide the following, in writing, to the applicant:

1. notification of whether the proposed system meets the applicable criteria considered in the CESIR process;
2. utility system impacts, if any;
3. a description of where the proposed system is not in compliance with these requirements;
4. detailed description of reasoning and justification for any system upgrades and associated equipment deemed necessary for interconnection of the project;
5. a good faith, detailed estimate of the total cost of completion of the interconnection of the proposed system and/or a statement of cost responsibility for any system upgrades and associated equipment deemed necessary for interconnection of the project; and
6. a Qualifying Upgrade Disclosure, if applicable

Appendix E sets forth the responsibility each applicant shall have with respect to the actual cost of the system upgrades and equipment necessary for the interconnection of the project. Utility cost estimates provided in the CESIR shall be detailed and broken down by specific equipment requirements, material needs, labor, overhead, and any other categories or efforts incorporated in the estimate. Contingencies associated with the cost estimates shall not exceed 15%. For Qualifying Upgrades that involve transformer banks, the utility shall identify the applicant's share of the cost of long lead-time equipment for the purpose of installment payments, as described in Section I-D.2.

#### **STEP 7: Applicant Commits to Utility Construction of Utility's System Modifications**

The applicant will execute the New York Standardized Interconnection Contract for interconnection and provide the utility with an advance payment of 25% of the utility's estimated

costs as identified in Step 6 within the time provided in Section I-D. The utility is not required to procure any equipment or materials associated with the project or begin construction until full payment has been received.

For applications subject to 25% and 75% payment requirements pursuant to Section I-D, the applicant shall provide both an updated three-line diagram and site-specific testing procedures within thirty (30) Business Days of making the 25% payment. For applications that do not require system modifications, a three-line diagram and site-specific testing procedure is required within thirty (30) Business Days after executing the New York State Standardized Interconnection Contract. For applications subject to a single 100% payment requirement under Section I-D, applicants are required to provide a three-line diagram and site-specific testing procedure within thirty (30) Business Days after the 100% payment. Three-line diagrams shall meet utility requirements as specified in Appendix F.

### **STEP 8: Project Construction**

The applicant and the utility shall collaborate to identify an in-service date and develop a project construction schedule (Appendix L). The applicant shall build the facility in accordance with the utility-accepted design and the project schedule. The utility shall commence construction/installation of system modifications in accordance with the project schedule. Utility system modifications will vary in construction time depending on the extent of work and equipment required. The schedule for this work is to be discussed and agreed upon with the applicant in Step 6.

### **STEP 9: The Applicant's Facility is Tested in Accordance with the Standardized Interconnection Requirements**

The verification testing shall be performed by the applicant in accordance with the written test procedure(s) provided by the applicant in Step 7 and any site-specific requirements identified by the utility in Step 6. The final verification testing shall be performed within ten (10) Business Days of notification to the utility by the applicant of complete installation at a mutually agreeable time, and the utility shall be given the opportunity to witness the tests. If the utility opts not to witness the tests, the applicant shall send the utility within five (5) Business Days of completion of such testing a written notification certifying that the system has been installed and tested in compliance with the SIR, the utility accepted design, and the equipment manufacturer's instructions.

### **STEP 10: Interconnection**

The applicant's facility will be allowed to commence parallel operation upon satisfactory completion of the tests in Step 9. In addition, the applicant must have complied with and must continue to comply with the contractual and technical requirements.

### **STEP 11: Final Acceptance and Utility Cost Reconciliation**

Except as provided in Appendix E, final project costs shall be reconciled pursuant to this section. If the utility witnessed the verification testing, then, within ten (10) Business Days of the completion of such testing, the utility will issue to the applicant either a formal letter of acceptance for interconnection or a detailed explanation of the deficiencies in the installed DG

system, ESS, or Hybrid Project. If the utility did not witness the verification testing, then, within ten (10) Business Days of receiving the written test notification from Step 9, the utility will either issue to the applicant a formal letter of acceptance for interconnection, or will request that the applicant and utility set a date and time to witness operation of the installed DG system, ESS, or Hybrid Project. This witnessed verification testing must be completed within twenty (20) Business Days after being requested. Within ten (10) Business Days of the completion of any such witnessed testing, the utility will issue to the applicant either a formal letter of acceptance for interconnection or a detailed explanation of the deficiencies in the installed DG system, ESS, or Hybrid Project. Within sixty (60) Business Days after issuance of the utility's formal letter of acceptance, or submittal of final as-built drawings to the utility, whichever occurs last, the utility shall prepare and submit to the applicant a final reconciliation statement of its actual costs less any CESIR and construction advance payments made by the applicant. Within twenty (20) Business Days after delivery of the reconciliation statement, the applicant will receive either a bill for any balance due or a reimbursement for overpayment from the utility as determined by the utility's reconciliation. The applicant may contest the reconciliation with the utility. If the utility's final reconciliation invoice states a balance due from the applicant, unless it is challenged by a formal complaint interposed by the applicant, it shall be paid to the utility within thirty (30) Business Days or the utility reserves the right to lock the generating system offline. If the utility's final reconciliation invoice states a reimbursement for overpayment to be paid by the utility, unless the reimbursement amount is challenged by a formal complaint interposed by the applicant, it shall be paid to the applicant within thirty (30) Business Days. If the applicant is not satisfied, a formal complaint may be filed with the Secretary to the Commission.

## **D. Payment and Construction Milestones**

### **1. Payment Requirements**

Applicants are responsible for payment of utility system modification cost estimates in accordance with the following rules and deadlines. All project costs will be subject to the provisions of Appendix E, where applicable. In certain cases, applicants may post a standby letter of credit (SLOC) in accordance with the rules detailed in D.2 instead of making a cash payment.

When the utility's estimated cost is \$10,000 or less, the applicant shall pay the utility 100% of the estimate within ninety (90) Business Days of receiving the cost estimate from the utility. Within fifteen (15) Business Days of receiving the payment, the utility will provide the applicant, via electronic communication, a signed New York State Standardized Interconnection Contract in the form of Appendix A and a written confirmation, on utility letterhead, of the compensation eligibility for which the project has qualified. The applicant will sign and return the contract to the utility within fifteen (15) Business Days. If the applicant does not return the signed contract within this period, the application shall be removed from the utility's interconnection queue, and no further action on the part of the utility is required.

When the estimated cost is greater than \$10,000, the applicant will make an advance payment of 25% of the estimate to the utility within ninety (90) Business Days of receiving the cost estimate. Within fifteen (15) Business Days of receiving the applicant's payment, the utility will provide the applicant, via electronic communication, a receipt for the payment, a signed New York State Standardized Interconnection Contract in the form of Appendix A, and a written confirmation, on utility letterhead, of the compensation eligibility for which the project has qualified. The applicant will sign and return the contract to the utility within fifteen (15) Business Days. The

applicant may request an extension of no more than fifteen (15) Business Days to return the contract. If the applicant does not return the signed contract within the time allowed, the application shall be removed from the utility's interconnection queue, and no further action on the part of the utility is required.

Within thirty (30) Business Days of receiving the 25% payment or SLOC, as detailed in D.2, where applicable, the utility shall provide an initial construction schedule to the applicant (consistent with Appendix L). The utility shall commence design work in accordance with its published guidance, unless otherwise directed by the applicant.

The applicant will have one hundred and twenty (120) Business Days from when the utility confirms receipt of the 25% payment or SLOC to pay the remaining 75% to the utility. The utility will provide a receipt to the applicant. Within thirty (30) Business Days of the payment, the utility will provide an updated project construction schedule (consistent with Appendix L).

If the applicant does not make a payment due under this section in the time required, the application shall be removed from the utility's interconnection queue with no further action required of the utility.

Within ten (10) Business Days of completion of design work, the utility will provide an updated upgrade cost estimate if the scope of work changed from the CESIR estimate.

If the applicant withdraws or is removed from the interconnection queue at any point after making a payment required under this section, any unspent portions of these payments will be refunded to the applicant consistent with the timelines described in Section I-C, Step 11.

If a local permitting moratorium prevents an applicant from meeting the above timelines, the utilities may grant affected project applicants an extension. To be granted an extension of the required timelines, the applicant must submit the New York State Standard Moratorium Attestation Form, Appendix I. Upon the applicant's payment of 25% of expected upgrade costs, if applicant has received its CESIR, returned the executed New York State Standardized Interconnection Contract, and submitted the Attestation Form to the utility, the due date for the remainder of the total upgrade payment shall be adjusted to one hundred and twenty (120) Business Days from the end of the moratorium. If applicable, any unused portion of the 25% payment shall be refunded if the project does not move forward after receiving an extension.

If the final acceptance as set out in Section I-C, Step 11 is not completed within twelve (12) months of the date the applicant returns the executed New York State Standardized Interconnection Contract as a result of applicant inactivity, the utility has the right to notify the applicant by U.S. first class mail with delivery receipt confirmation or via email that the applicant's project will be removed from the utility's interconnection queue if the applicant does not respond within thirty (30) Business Days of the issue of such notification and provide a project status update and/or justification as to why the project should remain in the utility's interconnection inventory for an additional period of time.

## **2. Standby Letters of Credit in Lieu of Cash for Certain Interconnection Upgrade Costs in Excess of \$500,000**

a. When an applicant's share of system modification costs, as identified in a CESIR, is estimated to exceed \$500,000, applicants may provide, and utilities will accept, an irrevocable SLOC in lieu of cash in accordance with these rules. For purposes of this section, system modification costs and Qualifying Upgrade costs may not be added together to reach the

\$500,000 threshold. The applicant is responsible for providing the utility with a physical or electronic SLOC by the payment milestone date. If the applicant fails to provide a SLOC by the required deadline, the application shall be removed from the utility's interconnection queue, and no further action from the utility will be required. It is the applicant's responsibility to maintain the SLOC as valid for the duration of the obligation.

b. A SLOC must designate the utility as the beneficiary and be issued or guaranteed by the New York Green Bank, a U.S. or Canadian commercial bank, or a U.S. or Canadian branch of a foreign bank, with a minimum "A" rating from Standard & Poor's, Fitch, Moody's, or Dominion, as approved by the respective utility. If an issuer does not meet those requirements, the SLOC must be confirmed by another financial institution that meets the rating requirements. If an issuer no longer meets the requirements, the utility can require a replacement SLOC within fifteen (15) Business Days that meets the standards. The utility shall return the SLOC within fifteen (15) Business Days of receipt of the replacement.

c. The utility shall be entitled to charge the applicant a non-refundable administrative fee of \$500. An applicant intending to post a SLOC for a payment obligation shall submit the fee with the proposed SLOC.

d. For Qualifying Upgrades, cash payments shall be due at the utility mobilization thresholds set in Appendix E (Section 2-C, "*Utility Mobilization Thresholds*"). The utility will notify the applicant at least five (5) business days in advance of any payment due date outlined in the table below.

If an applicant has posted a SLOC for a payment obligation that is non-refundable under Appendix E, failure of the applicant to make a cash payment at the time required by these rules shall be a default, and the utility shall be authorized to draw on the SLOC in the amount of the cash payment due. The utility shall return the SLOC in the circumstances when a cash deposit would be refunded under Appendix E. If an applicant that has posted a SLOC for a non-refundable payment obligation withdraws from the queue prior to the cash payment date, the utility may retain the SLOC until a replacement mechanism is provided in the form of cash and/or a SLOC from a replacement project, consistent with the requirements of Appendix E.

For Qualifying Upgrades that involve transformer banks, as defined in Appendix E, an applicant that has posted a SLOC may make its cash payments in two installments. The first installment shall be the portion of the applicant's Qualifying Upgrade Charge equal to its share of the cost of long lead-time equipment, as identified in the CESIR cost estimate. The first installment shall be due to the utility when the mobilization threshold is reached, as provided in Appendix E Section 2.C, "*Utility Mobilization Thresholds*." Upon making the first cash installment, the applicant may choose to replace or amend the posted SLOC for the remaining balance. The utility shall return the SLOC within fifteen (15) Business Days of receipt of the replacement. The second installment, equal to the balance of the Qualifying Upgrade Charge, shall be due after the utility receives the long lead-time equipment and mobilizes to initiate construction. The utility shall provide written notice through its DG portal that the balance payment is due, and the applicant shall make the cash payment within fifteen (15) Business Days of the date of the utility's notice.

e. The following table identifies scenarios when a SLOC may be used by an applicant and the requirements for replacing a SLOC with cash.

**Table 1: Scenarios for the Use of Standby Letters of Credit**

Scenario #	Description	Use Cases Regarding SLOCs
1	Applicant’s estimated system modification cost is at or below \$500,000	N/A (SLOC not allowed) and only cash payments by the applicant to the utility at the payment due dates will be allowed
2	Applicant’s estimated system modification cost exceeds \$500,000 and there are either: (i) no Qualifying Upgrades; or (ii) no Qualifying Upgrades except for Line Upgrades, as defined in Appendix E	SLOC may be posted at the time the applicant's 25% payment is due; a 100% cash payment to the utility will be required, covering the full amount of the CESIR cost estimate, by the 75% payment due date.
3	Applicant’s estimated system modification costs include Qualifying Upgrades (3V0, Other Substation Upgrades), as defined in Appendix E, and the applicant’s Qualifying Upgrade Charge exceeds \$500,000.	SLOC for the Qualifying Upgrade Charge may be posted ninety (90) Business Days following the CESIR delivery; the cash payment for the remaining balance is due when the cost-sharing mobilization threshold is reached.
4	Applicant’s estimated system modifications include Transformer Banks, as defined in Appendix E, for which the applicant’s Qualifying Upgrade Charge exceeds \$500,000.	SLOC may be posted for the Qualifying Upgrade Charge ninety (90) Business Days following the CESIR delivery.  Cash payments are required in two installments, aligned with two milestones:  1. The first payment will be a percentage of the total Qualifying Upgrade cost, based on the value of long lead-time equipment, as identified in the CESIR, when the mobilization threshold is reached.  2. The second payment will be due after the utility receives long-lead time equipment and mobilizes to initiate construction.

5	Applicant's estimated system modifications exceed \$500,000 and there are both Line Upgrades and Qualifying Upgrades, as defined in Appendix E, for which the mobilization threshold has not yet been reached	SLOC may be used at the time of the applicant's 25% and 75% payment due dates to the utility with 100% of the cash payment due to the utility when the last Qualifying Upgrade achieves the mobilization threshold. The utility will not mobilize for non-shared upgrades until it receives 100% of the cash payment.
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**E. Application Process for Energy Storage Systems (ESS)**

Except as provided in this Section, the rules in Sections I-B and I-C shall apply to applications to: construct new Hybrid Projects; construct new stand-alone storage; add an ESS to an existing DG facility; and change the operating mode of an existing Hybrid Project or stand-alone storage facility. Whether an application will be handled under Section I-B or I-C will be determined by the sum of the AC nameplate ratings of all DG facilities and ESS facilities comprising the proposed Hybrid Project.

**STEP 1: The Application**

An applicant proposing a Hybrid Project or stand-alone ESS shall complete and submit Appendix K with Appendix F.

The owner of an existing DG facility may apply to add an ESS by submitting a completed Appendix K to the utility at any time.

For all projects involving ESS, the utility shall review the application and respond within the time frames provided in Section I-B or I-C, as applicable.

Following interconnection of a Hybrid Project or a stand-alone ESS, the applicant may apply to the utility to change the operating characteristics of the storage component. To initiate review, the applicant shall submit a completed Appendix K specifying the proposed new operating characteristics to the utility.

**STEP 2: Protection and Control Review**

When performing screening analysis and system impact studies associated with ESS, operating characteristics including maximum export and import capacity shall be utilized, except that fault current contribution shall be evaluated based on aggregate AC nameplate rating. The utility's technical review shall determine whether the proposed facility, operating per the characteristics identified in the application (Appendix K), can be safely and reliably interconnected to the utility's distribution system. The applicant shall pay the costs for the utility's review in advance.

Following the completion of Step 3 in Section I.B, or upon passing the Preliminary or Supplemental Screening Analysis in Step 4 in Section I.C, based on the application and proposed operating parameters, the utility will determine if a Protection and Control Review is required. The utility will notify the applicant of this determination. The applicant will have thirty (30) Business Days from the notification to pay the nonrefundable fee for the review, which shall be calculated as \$500 plus \$4/kW capped at \$3,000. The utilities shall have twenty (20) Business Days to perform the review and provide the results to the applicant, including a description of

any modifications to the control systems that the utility determines are necessary.

Within ten (10) Business Days of an applicant's request, the utility shall discuss the results of the Protection and Control Review. Following the discussion, the applicant will have twenty (20) Business Days to determine whether or not to accept any required modifications to the control system and take the next step in the process as defined in Section I.B or I.C, as applicable, or to withdraw the application.

For all applications relating to ESS, the utility's written report of its technical review shall include a completed Attachment I, as defined below, specifying the operating parameters studied for the proposed facility. The utility and the applicant shall discuss the listed operating parameters promptly after delivery of the study results to the applicant.

For ESS applications requiring a CESIR, the utility will provide the applicant with any additional testing procedures required in connection with the ESS, using the applicant's load management control systems to limit reverse power. The utility will provide this information with the CESIR results.

### **STEP 3: Contract and Payment for Utility Construction Costs**

An applicant proposing a Hybrid Project, stand-alone storage, or the addition of ESS to an existing DG facility shall execute the New York State Standardized Interconnection Contract for Systems including Energy Storage, and make payment to the utility for its estimated construction costs within the time required by Section D.

Each contract shall include a completed Attachment I, which shall specify the operating parameters for the interconnected ESS after consultation with the applicant.

An applicant proposing to change the operating characteristics listed in Appendix K for an existing ESS shall sign an amendment to the New York State Standard Interconnection Contract for Facilities including Energy Storage to incorporate the revised Attachment I and make payment for any utility construction costs within the time required by Section I-D.

### **F. Rules for Combining DG Applications**

Distributed Generation applications that have been determined to be complete and that meet the following criteria may be combined:

- (a) the applications must be sequential in the utility's queue on both the circuit and substation bus, or non-sequential combined applications may proceed with the lower queue position;
- (b) there can be no non-SIR applications in the utility's queue between the applications that propose to aggregate;
- (c) the proposed projects must be located on the same or adjacent parcels;
- (d) both applications must be compensated at the same rate and; and
- (e) the size of the combined projects may not exceed an AC nameplate rating of 5 MW.

If none of the applications has reached the deadline for payment of 25% of the estimated utility construction costs necessary for its interconnection, the applicant(s) may ask the utility to perform a technical review of the applications as a combined project. The applicant(s) shall submit its request in writing to the utility. The utility shall cease any ongoing work on the individual applications and notify the applicant(s) within ten (10) Business Days of any

additional information that is needed to perform the requested analysis and of the fee that will be charged. The utility shall apply any unspent study fees related to the individual applications to the charge for the new study. The applicant(s) shall pay the fee and provide the information sought by the utility within ten (10) Business Days of the notification. The construction cost payment due dates for the applications that are proposed to combine will be suspended until a new due date is established pursuant to this Section.

If any of the applications proposed to be combined has made a payment for estimated utility construction costs, the applicant(s) may still submit a request to study them as a combined project as provided above. Any additional payment due dates associated with the applications shall be suspended until a new due date is established. The utility shall cease work on the individual applications and shall cancel any procurements that the applicant(s) agree should be cancelled. The applicant(s) shall bear any cost associated with such cancellations. The utility shall notify the applicant(s) of any information that is needed to perform the requested analysis and of the fee that will be charged for the study within ten (10) Business Days of receiving the request. The applicant(s) shall pay the fee and provide the information sought by the utility within ten (10) Business Days of the notification.

The utility shall have sixty (60) Business Days from receipt of the fee and the project information to perform the technical review of the combined applications. The utility's report of the results shall provide the information specified in Step 6 of Section I-C to the applicant(s). The applicant(s) may:

- (1) proceed to construct the combined project;
- (2) resume the interconnection of the separate applications; or
- (3) withdraw one or more of the applications.

If the applicant(s) selects option (1), payment for the full amount of the estimated utility construction costs shall be due sixty (60) Business Days after receipt of the results of the technical review. If the applicant(s) selects either option (2) or (3), full payment of the construction cost associated with the applications that are to continue to interconnect shall be due within the same time period. If the applicant(s) does not meet these deadlines, the applications shall be deemed withdrawn with no further action required by the utility.

## **G. Interconnection On-Line Application Portal (IOAP)**

Each utility shall maintain an IOAP system to provide applicants a web-based application submittal process. Hard copy, email, and/or mailed in application will no longer be allowed or accepted unless the utility IOAP systems are down for maintenance or failure. The IOAP shall also provide applicants with updated information regarding the status of their SIR application process. The system shall be customer specific and post the real-time status of the SIR process. At a minimum, the following content shall be provided:

1. The applicant's name and project/application identification number.
2. Description of the project, including at a minimum, the project's type (energy source), size, metering, and location.
3. SIR project application status, including all the steps completed and to be completed, along with corresponding completion/deadline dates associated with each step.
  - If the next action is to be taken by the utility, the expected date that action will

be completed,

- If the next action is to be taken by the applicant, what exactly is required and a contact for more information.
4. Information regarding any outstanding information request made by the utility of the applicant, and
  5. The status of all amounts paid and/or due to the utility by the applicant.

Access shall be available for the customer and their authorized agent(s), such that both can access the information. The IOAP must be private and secure from unauthorized access. Access to the IOAP shall be easily found on each electric utility's Interconnection / Distributed Generation home web page.

The IOAP application process must be consistent with the latest version of the SIR and include the ability to attach associated documentation or drawings for each project. Electronic signatures shall be accepted and approved for this process.

## **H. Modifications**

Applicants may propose a Modification at any time by submitting a request to the utility through the utility's on-line application portal and /or via email. Submission of such a request will not suspend any deadlines applicable to the pending application. The utility will review the request to determine whether the proposed Modification is a Material Modification and provide its determination to the applicant within ten (10) Business Days, unless the utility first notifies the applicant that additional information is needed to make the evaluation. In that case, the utility will have ten (10) Business Days from receipt of the additional information to determine whether the proposed Modification is a Material Modification.

A Material Modification to a project will require a new application, a new queue position, and removal of the original application if the applicant elects to move forward with the modification (if not yet interconnected).

The utility reserves the right to make the final determination as to whether a proposed change is a Material Modification.

When making the materiality determination, the utility will consider the DPS Staff posted Guidance Document on DER Material Modifications and will provide the applicant with a written explanation of its finding. At the applicant's request, the utility will meet with the applicant to discuss the materiality determination.

A Modification that is not determined to be material may still require evaluation and acceptance by the utility through the process described below. The applicant is obligated to pay any necessary study costs of the evaluation. The utility will notify the applicant of any additional funding and/or information that may be required to evaluate the Modification within five (5) Business Days of providing the materiality determination. The applicant shall have ten (10) Business Days to provide any requested information and pay the associated fees or choose to remain with the original interconnection application with associated uninterrupted timeline.

If the proposed change is not a Material Modification, and is proposed prior to the start of a CESIR, the utility will study the modified project in the CESIR process.

If the proposed change is not a Material Modification and is proposed following the start

of a CESIR but no later than forty (40) Business Days after the start date, the utility may have an additional forty (40) Business Days to complete the CESIR incorporating the change.

If the proposed change is not a Material Modification and is proposed at a later date, or after completion of a CESIR, the change may require further study and will require mutual agreement between the utility and the applicant. The utility retains the right to determine the extent of evaluation necessary but will endeavor to complete any necessary study within a timeframe no longer than a standard CESIR. The applicant will be responsible for any costs related to the change.

## **Section II. Interconnection Requirements**

### **A. Design Requirements**

#### **1. Common**

The generator-owner shall provide appropriate protection and control equipment, including a protective device that utilizes an automatic disconnect device that will disconnect the generation in the event that the portion of the utility system that serves the generator is de-energized for any reason or for a fault in the generator-owner's system. The generator-owner's protection and control equipment shall be capable of automatically disconnecting the generation upon detection of an islanding condition and upon detection of a utility system fault.

The type and size of the generation facility or energy storage system is based on electrical generator or inverter AC nameplate rating.

The generator-owner's protection and control scheme shall be designed to ensure that the generation remains in operation when the frequency and voltage of the utility system is within the limits specified by the required operating ranges. Upon request from the utility, the generator-owner shall provide documentation detailing compliance with the requirements set forth in this document.

The specific design of the protection, control, and grounding schemes will depend on the size and characteristics of the generator-owner's generation, as well the generator-owner's load level, in addition to the characteristics of the particular portion of the utility's system where the generator-owner is interconnecting.

The generator-owner shall have, as a minimum, an automatic disconnect device(s) sized to meet all applicable local, state, and federal codes and operated by over and under voltage and over and under frequency protection. For three-phase installations, the over and under voltage function should be included for each phase and the over and under frequency protection on at least one phase. All phases of a generator or inverter interface shall disconnect for voltage or frequency trip conditions sensed by the protective devices. Voltage protection shall be wired phase to ground for single phase installations and for applications using wye grounded-wye grounded service transformers.

The settings below are listed for single-phase and three-phase applications using wye grounded- wye grounded service transformers or wye grounded-wye grounded isolation transformers. For applications using other transformer connections, a site-specific review will be performed by the utility and the revised settings identified in Step 6 of the Application Process.

The requirements set forth in this document are intended to be consistent with those contained in the most current version of IEEE Std 1547, Standard for Interconnecting Distributed Resources with Electric Power Systems. The requirements in IEEE Std 1547 above

and beyond those contained in this document shall be followed and any other Standards included in or referenced to in IEEE Std 1547 shall be adhered to.

### **Voltage Response**

The required operating range for the generators shall be as detailed in the most current version of IEEE Std 1547 and the Category (related to Area EPS abnormal conditions) as specified by the utility's technical requirements document. In addition, the generator shall not cause the system voltage at the PCC to deviate from a range of 95% to 105% of the utility system voltage. For excursions outside these limits the protective device shall automatically initiate a disconnect sequence from the utility system as detailed in the most current version of IEEE Std 1547. Clearing time is defined as the time the range is initially exceeded until the generator-owner's equipment ceases to energize the PCC and includes detection and intentional time delay. Other static or dynamic voltage functionalities shall be permitted as agreed upon by the utility and generator-owner.

### **Frequency Response**

The required operating range for the generators shall be as detailed in the most current version of IEEE Std 1547 and the Category (related to Area EPS abnormal conditions) as specified by the utility's technical requirements document . If deemed necessary due to abnormal system conditions the utility may request that the generator operate at frequency ranges below 59.3 Hz in coordination with the load shedding schemes of the utility system. For excursions outside these limits the protective device shall automatically initiate a disconnect sequence from the utility system as detailed in the most current version of IEEE Std 1547. Clearing time is defined as the time the range is initially exceeded until the generator- owner's equipment ceases to energize the PCC and includes detection and intentional time delay. Other static or dynamic frequency functionalities shall be permitted as agreed upon by the utility and generator-owner.

### **Reconnection to the Utility System**

If the generation facility is disconnected as a result of the operation of a protective device, the generator-owner's equipment shall remain disconnected until the utility's service voltage and frequency have recovered to acceptable voltage and frequency limits as defined in the most current version of IEEE Std 1547 for a minimum of five (5) minutes. Systems greater than 25 kW that do not utilize inverter based interface equipment shall not have automatic recloser capability unless otherwise approved by the utility. If the utility determines that a facility must receive permission to reconnect, then any automatic reclosing functions must be disabled and verified to be disabled during verification testing.

## **2. Synchronous Generators**

Synchronous generation shall require synchronizing facilities. These shall include automatic synchronizing equipment or manual synchronizing with relay supervision, voltage regulator, and power factor control.

For all synchronous generators sufficient reactive power capability shall be provided by the generator-owner to withstand normal voltage changes on the utility's system. The generator voltage VAR schedule, voltage regulator, and transformer ratio settings shall be jointly

determined by the utility and the generator-owner to ensure proper coordination of voltages and regulator action. Generator-owners shall have synchronous generator reactive power capability to withstand voltage changes up to 5% of the base voltage levels.

A voltage regulator must be provided and be capable of maintaining the generator voltage under steady state conditions within plus or minus 1.5% of any set point and within an operating range of plus or minus 5% of the rated voltage of the generator.

Generator-owners shall adopt one of the following grounding methods for synchronous generators interconnected to effectively grounded circuits:

- a. Solid grounding
- b. High- or low-resistance grounding
- c. High- or low-reactance grounding
- d. Ground fault neutralizer grounding

Synchronous generators shall not be permitted to connect to utility secondary network systems without the acceptance of the utility.

### **3. Induction Generators**

Induction generation may be connected and brought up to synchronous speed (as an induction motor) if it can be demonstrated that the initial voltage drop measured at the PCC is acceptable based on current inrush limits. The same requirements also apply to induction generation connected at or near synchronous speed because a voltage dip is present due to an inrush of magnetizing current. The generator-owner shall submit the expected number of starts per specific time period and maximum starting kVA draw data to the utility.

Starting or rapid load fluctuations on induction generators can adversely impact the utility's system voltage. Corrective step-switched capacitors or other techniques may be necessary. These measures can, in turn, cause ferro resonance. If these measures are installed on the customer's side of the PCC, the utility will review these measures and may require the customer to install additional equipment.

### **4. Inverters**

Direct current generation can only be installed in parallel with the utility's system using a synchronous inverter. The design shall be such as to disconnect this synchronous inverter upon a utility system event. Inverters intended to provide local grid support during system events that result in voltage and/or frequency excursions as described in Section II.A.1 shall be provided with the required onboard functionality to allow for the equipment to remain online for the duration of the event.

It is recommended that equipment be selected from the Department of Public Service "Certified Interconnection Equipment list" maintained on the Commission's website. Interconnected DG systems utilizing equipment not found in such list must meet all functional requirements of the current version of IEEE Std 1547 and be protected by utility grade relays (as defined in these requirements) using settings approved by the utility and verified in the field. The field verification test must demonstrate that the equipment meets the voltage and frequency requirements detailed in this section.

Synchronization or re-synchronization of an inverter to the utility system shall not result in a voltage deviation that exceeds the requirements contained in Section II.E, Power Quality. Only inverters designed to operate in parallel with the utility system shall be utilized for that purpose.

## 5. Minimum Protective Function Requirements

Protective system requirements for distributed generation facilities result from an assessment of many factors, including but not limited to:

- Type and size of the distributed generation facility
- Voltage level of the interconnection
- Location of the distributed generation facility on the circuit
- Distribution transformer
- Distribution system configuration
- Available fault current
- Load that can remain connected to the distributed generation facility under isolated conditions
- Amount of existing distributed generation on the local distribution system.

As a result, protection requirements cannot be standardized according to any single criteria. Minimum protective function requirements shall be as detailed in the table below. Function numbers, as detailed in the latest version of ANSI C37.2, are listed with each function. All voltage, frequency, and clearing time set points shall be field adjustable.

<b>Synchronous Generators</b>	<b>Induction Generators</b>	<b>Inverters</b>
Over/Under Voltage (Function 27/59)	Over/Under Voltage (Function 27/59)	Over/Under Voltage (Function 27/59)
Over/Under Frequency (Function 81O/81U)	Over/Under Frequency (Function 81O/81U)	Over/Under Frequency (Function 81O/81U)
Anti-Islanding Protection	Anti-Islanding Protection	Anti-Islanding Protection
Overcurrent (Function 50P/50G/51P/51G)	Overcurrent (Function 50P/50G/51P/51G)	Overcurrent (Function 50P/50G/51P/51G)

For energy storage systems or distributed generation where net export is limited, Reverse Power (Function 32) shall be required.

The need for additional protective functions shall be determined by the utility on a case-by-case basis. If the utility determines a need for additional functions, it shall notify the generator-owner in writing of the requirements. The notice shall include a description of the specific aspects of the utility system that necessitate the addition, and an explicit justification for the necessity of the enhanced capability. The utility shall specify and provide settings for those functions that the utility designates as being required to satisfy protection practices. Any

protective equipment or setting specified by the utility shall not be changed or modified at any time by the generator- owner without written consent from the utility.

The generator-owner shall be responsible for ongoing compliance with all applicable local, state, and federal codes and standardized interconnection requirements as they pertain to the interconnection of the generating equipment. Protective devices shall utilize their own current transformers and potential transformers and not share electrical equipment associated with utility revenue metering.

A failure of the generator-owner's protective devices, including loss of control power, shall open the automatic disconnect device, thus disconnecting the generation from the utility system. A generator-owner's protection equipment shall utilize a non-volatile memory design such that a loss of internal or external control power, including batteries, will not cause a loss of interconnection protection functions or loss of protection set points.

All interface protection and control equipment shall operate as specified independent of the calendar date.

For monitoring and control of new DG projects, the most current version of the Monitoring and Control Criteria shall be employed by the utilities to evaluate the need for such equipment. The Monitoring and Control Criteria document was developed and agreed to through a collaborative process as part of the Interconnection Technical Working Group (ITWG). This document can be found on the Department of Public Service website ([www.dps.ny.gov](http://www.dps.ny.gov)) at the Distributed Generation/Interconnections tab under Interconnection Technical Working Group Information. The communications hardware, protocols, and data models must comply with utility standards.

## **6. Metering**

Metering requirements shall be determined by the configuration of the DER system. New metering or modifications to existing metering will be reviewed on a case-by-case basis and shall be consistent with metering requirements adopted by the Commission.

Any incremental metering costs are included in interconnection costs that may be required of an applicant.

The following table summarizes the applicable New York Net Metering Rules:

<b>New York (PSL §66-l) - Net Metering*</b>			
<b>Incentive Type:</b>	Net Metering Rules		
<b>Eligible Renewable/Other Technologies:</b>	Wind		
<b>Applicable Sectors:</b>	Residential	Non-Residential	Farm-Service Wind
<b>Limit on System Size:</b>	25 kW	Up to 2 MW	500 kW
<b>Remote Net Metering</b>	No**	Yes	Yes
<b>Limit on Overall Enrollment:</b>	.3% of 2005 Demand per IOU		

\* Refer to specific utility tariff leaves for more detailed rules and regulations applicable to net metering wind electric generating systems.

\*\* Residential customers who own or operate a farm operation as defined by Agriculture and Markets Law §301(11) and locate solar photovoltaic, micro-hydroelectric, wind, or fuel cells on property owned or leased by the customer are also eligible for remote net metering.

## **B. Operating Requirements**

The generator-owner shall provide a 24-hour telephone and email/electronic contact. This contact will be used by the utility to arrange access for repairs, inspection, or emergencies. The utility will make such arrangements (except for emergencies) during normal business hours. For all required disconnections of the generator-owner's system to facilitate non-emergency utility work on the electric power system, the utility will provide two (2) Business Days' advance notice to the generator-owner contact with an indication of anticipated duration.

Voltage and frequency trip set point adjustments shall be accessible to service personnel only. Any changes to these settings must be reviewed and approved by the utility.

The generator-owner shall not supply power to the utility during any outages of the utility system that serves the PCC. The generator-owner's generation may be operated during such outages only with an open tie to the utility. Islanding will not be permitted. The generator-owner shall not energize a de-energized utility circuit for any reason.

Energy storage systems cannot disconnect to self-generate if their operating

characteristics require their stored energy to be discharged at that time. All control systems must be password protected from modification by the interconnection customer and property owner following Interconnection.

The disconnect switch specified for system size larger than 25 kW and non-inverter based systems of 25 kW or less in Section II.D, Disconnect Switch, may be opened by the utility at any time for any of the following reasons:

- a. to eliminate conditions that constitute a potential hazard to utility personnel or the general public;
- b. pre-emergency or emergency conditions on the utility system;
- c. a hazardous condition is revealed by a utility inspection; protective device tampering; or,
- d. parallel operation prior to utility approval to interconnect.

The disconnect switch may be opened by the utility for the following reasons, after notice to the responsible party has been delivered and a reasonable time to correct (consistent with the conditions) has elapsed:

- a. A generator-owner has failed to make available records of verification tests and maintenance of its protective devices;
- b. A generator-owner's system adversely impacts the operation of utility equipment or equipment belonging to other utility customers; or,
- c. A generator-owner's system is found to adversely affect the quality of service to adjoining customers.

The utility will provide a name and telephone number so that the generator-owner can obtain information about the utility lock-out.

The generator-owner shall be allowed to disconnect from the utility without prior notice to self-generate.

If a generator-owner proposes any modification to the system that has an impact on the interface at the PCC after it has been installed and a contract between the utility and the generator-owner has already been executed, then any such modifications must be reviewed and approved by the utility before the modifications are made.

### **C. Dedicated Transformer**

The utility reserves the right to require a power-producing facility to connect to the utility system through a dedicated transformer. The transformer shall either be provided by the connecting utility at the generator-owner's expense, purchased from the utility, or conform to the connecting utility's specifications. The transformer that is part of the normal electrical service connection of a generator-owner's facility may meet this requirement if there are no other customers supplied from it. A dedicated transformer is not required if the installation is designed and coordinated with the utility to protect the utility system and its customers adequately from potential detrimental net effects caused by the operation of the generator.

If the utility determines a need for a dedicated transformer, it shall notify the generator-owner in writing of the requirements. The notice shall include a description of the specific aspects of the utility system that necessitate the addition, the conditions under which the dedicated transformer is expected to enhance safety or prevent detrimental effects, and the expected response of a normal, shared transformer installation to such conditions.

#### **D. Disconnect Switch**

Generating equipment with system size larger than 25 kW and non-inverter based systems of 25 kW or less shall be capable of being isolated from the utility system by means of an external, manual, visible, gang-operated, load break disconnecting switch. The disconnect switch shall be installed, owned, and maintained by the customer-generator, and located between the generating equipment and its interconnection point with the utility system.

The disconnect switch must be rated for the voltage and current requirements of the installation.

The basic insulation level (BIL) of the disconnect switch shall be such that it will coordinate with that of the utility's equipment. Disconnect devices shall meet applicable requirements of the most current revision of UL, ANSI, and IEEE standards, and shall be installed to meet all applicable local, state, and federal codes. (New York City Building Code may require additional certification.)

The disconnect switch shall be clearly marked, "Generator Disconnect Switch," with permanent 3/8 inch or larger letters.

The customer-generator will propose, and the utility will approve, the location of the disconnect switch. The location and nature of the disconnect switch shall be indicated in the immediate proximity of the electric service entrance. The disconnect switch shall be readily accessible for operation and locking by utility personnel in accordance with Section II.B, Operating Requirements. The disconnect switch must be lockable in the open position with a 3/8" shank utility padlock.

For installations above 600V or with a full load output of greater than 960A, a draw-out type circuit breaker with the provision for padlocking at the draw-out position will not be an acceptable disconnect switch for the purposes of this requirement unless the use of such a circuit breaker is specifically granted by the utility, based on site-specific technical requirements. If the utility grants such use, the generator-owner will be required, upon the utility's request, to provide qualified operating personnel to open the draw-out circuit breaker and ensure isolation of the DG system, with such operation to be witnessed by the utility followed immediately by the utility locking the device to prevent re-energization. In an emergency or outage situation, where there is no access to the draw-out breaker or no qualified personnel, utilities may disconnect the electric service to the premise in order to isolate the DG system.

#### **E. Power Quality**

The requirements for acceptable flicker levels shall be in accordance with the latest version of IEEE Std 1453 Recommended Practice for the Analysis of Fluctuating Installations on Power Systems. Short and long-term perception of flicker shall be within the planning and compatibility levels delineated in this standard. Mitigation measures necessary to comply with these requirements shall be at the generator-owner's expense.

## **F. Power Factor**

If the average power factor, as measured at the PCC, is less than 0.9 (leading or lagging), the method of power factor correction necessitated by the installation of the generator will be negotiated with the utility as a commercial item. If the average power factor of the generator is proven to be above the minimum of 0.9 (leading or lagging) by the customer and accepted by the utility, that power factor value shall be used for any further utility design calculations and requirements.

Induction power generators may be provided VAR capacity from the utility system at the generator-owner's expense. The installation of VAR correction equipment by the generator-owner on the generator-owner's side of the PCC must be reviewed and approved by the utility prior to installation.

## **G. Islanding**

Systems must be designed and operated so that islanding is not sustained on utility distribution circuits or on substation bus and transmission systems. The requirements listed in this document are designed and intended to prevent islanding. Special protection schemes and system modifications may be necessary based on the capacity of the proposed system and the configuration and existing loading on the subject circuit.

For inverter based systems, evaluation of the need for special measures to prevent unintentional islanding on radial distribution systems should be based on best practices related to the most current version of the Unintentional Islanding Protection Practice Connected to the Distribution System. This document can be found on the Department of Public Service website ([www.dps.ny.gov](http://www.dps.ny.gov)) at the Distributed Generation/Interconnections tab under Interconnection Technical Working Group Information.

The need for zero sequence voltage (3V0) and direct transfer trip (DTT) protection schemes shall be evaluated based on minimum loads on the associated feeder and substation bus, including certain fault conditions resulting from system installation to protect for an islanded condition.

## **H. Equipment Certification**

In order for the equipment to be acceptable for interconnection to the utility system without additional protective devices, the interface equipment must be equipped with the minimum protective function requirements listed in the table in Section II.A.5 and be tested by a Nationally Recognized Testing Laboratory (NRTL) recognized by the United States Occupational Safety and Health Administration (OSHA) in compliance with the most current revision of UL 1741, including supplement B (UL 1741 SB), with settings as specified in the utility's technical requirements document.

For each interconnection application, documentation including the proposed equipment certification, stating compliance with the most recent version of UL 1741, including UL 1741 SB, with settings as specified in the utility's technical requirements document, by an NRTL, shall be provided by the applicant to the utility. Supporting information from an NRTL website or UL's website stating compliance is acceptable for documentation.

If an equipment manufacturer, vendor, or any other party desires, documentation indicating compliance as stated above may be submitted to the Department of Public Service for listing under the certified equipment list on the Department of Public Service website ([www.dps.ny.gov](http://www.dps.ny.gov)) at the Distributed Generation/Interconnections tab.

Certification information for equipment tested and certified to the most current revision of UL 1741, including UL 1741 SB, with settings as specified in the utility's technical requirements document, by a non-NRTL shall be provided by the manufacturer, or vendor, to the contacts listed on the Department of Public Service website for review before final acceptance and posting under the certified equipment list. Utilities are not responsible for reviewing and approving equipment tested and certified by a non-NRTL.

If a NRTL certifies equipment to the most current version of UL 1741, including UL 1741 SB, with settings as specified in the utility's technical requirements document, and compliance documentation is submitted to the utility, the utility shall accept such equipment for interconnection in New York State. All equipment certified to the most current revision of UL 1741, including UL 1741 SB, with settings as specified in the utility's technical requirements document, by an NRTL shall be deemed 'certified equipment' even if it does not appear on the Commission's website under the Certified Equipment list.

Utility grade relays need not be certified per the requirements of this section.

For DG systems that are already interconnected with the utility's electrical system and seek to use the New York State Standardized Interconnection Requirements and Application Process in order to qualify for net metering, no DG system will be required to obtain recertification the latest equipment certification standards, as long as the DG system met the equipment certification requirements by the utility in effect at the time of the DG unit's interconnection.

## **I. Verification Testing**

All interface equipment must include a verification test procedure as part of the documentation presented to the utility in the course of the interconnection process. Except for the case of small single-phase inverters as discussed later, the verification test must establish that the protection settings meet the SIR requirements. The verification testing may be site-specific and is performed periodically to assure continued acceptable performance.

Upon initial parallel operation of a generating system, or any time interface hardware or software is changed, the verification test must be performed. A qualified individual must perform verification testing in accordance with the manufacturer's published test procedure. Qualified individuals include professional engineers, factory-trained and certified technicians, and licensed electricians with experience in testing protective equipment. The utility reserves the right to witness verification testing or require written certification that the testing was successfully performed.

Verification testing shall be performed at least once every four years. All verification tests prescribed by the manufacturer shall be performed. If wires must be removed to perform certain tests, each wire and each terminal must be clearly and permanently marked. The generator-owner shall maintain verification test reports for inspection by the utility.

Single-phase inverters and inverter systems rated 25 kW and below shall be verified upon initial parallel operation and once every four years as follows: the generator-owner shall interrupt the utility source and verify that the equipment automatically disconnects and does not reconnect for at least five minutes after the utility source is reconnected. The owner shall maintain a log of these operations for inspection by the connecting utility. Any system that depends upon a battery for trip power shall be checked and logged at least annually for proper voltage. Once every four (4) years the battery must be either replaced or a discharge test performed.

## **J. Interconnection Inventory**

The utilities will manage the queue of interconnection applications in their inventories in the order in which they are received and according to the timelines set forth in this document.

To ensure applications are addressed in a timely manner and monitor the overall interconnection activities, utilities shall submit an SIR inventory of projects monthly to the Public Service Commission by the 15th day of the following month. Therefore, 12 interconnection inventory submissions shall be provided each year by each of the electric utilities. Utilities shall provide DPS Staff with redacted and unredacted versions of its interconnection inventory, including the current queue, for the associated time period in Excel format. At a minimum, the following information shall be provided in the inventory:

1. Utility Name
2. Applicant Name
3. Developer
4. Application No.
5. Circuit ID
6. Substation
7. System Type
8. System Capacity
9. Metering Configuration
10. Protective Equipment
11. Application Review Start and End date
12. Preliminary Screening Analysis Start and End date
13. CESIR Start and End date
14. CESIR Costs
15. Utility CESIR Costs
16. Customer CESIR Costs
17. Utility System Upgrade Costs
18. Customer System Upgrade Costs
19. Verification Testing date
20. Final Letter of Acceptance date

## **Section III. Glossary of Terms**

**Automatic Disconnect Device:** An electronic or mechanical switch used to isolate a circuit or piece of equipment from a source of power without the need for human intervention.

**Battery Energy Storage System (BESS):** A commercially-available mechanical, electrical, or electro-chemical means to store and release electrical energy, using battery chemistries for grid-scale applications (*e.g.*, lithium-ion), and its associated electrical inversion device and control functions that may stand-alone or be paired with a distributed generator at a point of common coupling. BESS's shall comply with all ESS rules and requirements, unless otherwise specifically excepted.

**Business Day:** Monday through Friday, excluding utility holidays.

**Cease to Energize:** Cessation of energy flow capability.

**Coordinated Electric System Interconnection Review (CESIR):** Any studies performed by utilities to ensure that the safety and reliability of the electric grid with respect to the interconnection of distributed generation as discussed in this document.

**Dedicated Transformer:** A transformer installed by the utility to isolate a DG system.

**Developer:** The applicant or the contractor identified in Appendix F as the agent for the customer. A single developer includes all legal entities associated or affiliated with a given company (“Affiliates”) where Affiliates means any person controlling, controlled by, or under common control with, any other person; where “control” shall mean the ownership of, with right to vote, 50 percent or more of the outstanding voting securities, equity, membership interests, or equivalent, of such person.

**Direct Transfer Trip:** Remote operation of a circuit breaker by means of a communication channel.

**Disconnect (verb):** To isolate a circuit or equipment from a source of power. If isolation is accomplished with a solid-state device, "Disconnect" shall mean to cease the transfer of power.

**Disconnect Switch:** A mechanical device used for isolating a circuit or equipment from a source of power.

**Distributed Energy Resources (DER):** Energy sources that consist of distributed generation facilities or energy storage systems or any combination thereof.

**Distributed Generation (DG):** Generation facilities supplementing on-site load or non-centralized electric power production facilities interconnected at the distribution side of an electric power system.

**Draw-out Type Circuit Breaker:** Circuit breakers that are disconnected by physically separating, or racking, the breaker assembly away from the switchgear bus.

**Electric Power System (EPS):** Refers to the electric power system owned, controlled, and/or operated by the utility and used to provide transmission and/or distribution services to its customers.

**Energy Storage System (ESS):** A commercially-available mechanical, electrical or electro-chemical means to store and release electrical energy, and its associated electrical inversion device and control functions that may stand-alone or be paired with a distributed generator at a point of common coupling.

**Generator-Owner:** An applicant to operate on-site power generation equipment in parallel with the utility grid per the requirements of this document.

**Hosting Capacity:** The amount of distributed energy that can be interconnected without requiring electric infrastructure upgrades or adversely affecting power quality or reliability under

current configurations.

**Hybrid Project:** A facility that operates, or is planned to operate, as a distributed generator paired with an energy storage system at a point of common coupling.

**Islanding:** A condition in which a portion of the utility system that contains both load and distributed generation is isolated from the remainder of the utility system (Adopted from IEEE Std 929.).

**Material Modification:** A Modification to a facility that may have adverse impacts on subsequently queued applications in the interconnection queue, or any Modification described below (regardless of impact to a queued project):

1. A change in the physical location of the DER such that the Property Owner Consent Form or Site Control Certification Form as required by the SIR is no longer valid.
2. A change in the PCC to a location on a different line segment or different distribution feeder for projects interconnecting to the utility's radial system, or any change in PCC for projects interconnecting to the utility's network system.
3. An increase in the nameplate kVA or kW rating of the originally proposed distributed generation facility or energy storage system of more than 2%.
4. An additional distributed generation or energy storage system (other than the 2% increase in nameplate in item 3 above) not disclosed in the original application, where a separate and distinct distributed generation facility or energy storage system already exists behind the same proposed PCC. This would include existing non-disclosed distributed generation or energy storage systems or a request for additional distributed generation or energy storage systems at the project site.

**Maximum Export:** The maximum export capacity of an Energy Storage System to the distribution grid at the PCC communicated by the Applicant and studied as such by the utility per their review of the impacts on the utility system based on the operating characteristic of the Energy Storage System.

**Maximum Import:** The maximum import capacity of an Energy Storage System from the distribution grid at the PCC communicated by the Applicant and studied as such by the utility per their review of the impacts on the utility system based on the operating characteristic of the Energy Storage System.

**Mobilization Threshold:** The minimum percentage of a Qualifying Upgrade cost that must be funded by Participating Projects to trigger the utility to begin the construction process for the Qualifying Upgrade.

**Modification:** A change to the ownership, equipment, equipment ratings, equipment configuration, or operating characteristics\* of the facility, or to schedules\* associated with the facility as described in the application.

\*Modifications that alter operating characteristics or schedules may be deemed material. Please consult with host utility for review and resolution.

**Multi-Value Distribution (MVD):** A transformer bank installation or replacement identified by the utility in its Capital Investment Plan as a Multi-Value Distribution project.

**Network:** A network (also known as an area network) is comprised of multiple, primary feeders supplying network transformers tied together in parallel on the secondary side to provide energy into a low voltage grid.

**Participating Project:** A Triggering Project or a Sharing Project that benefits from and shares costs of a Qualifying Upgrade. A Participating Project must be greater than 50 kW AC nameplate rating in size. Where Participating Projects are projects all proposed by the same developer, within a six-month period, such projects must be greater than 50 kW AC nameplate rating in aggregate.

**Point of Common Coupling (PCC):** The point at which the interconnection between the electric utility and the customer interface occurs. Typically, this is the customer side of the utility revenue meter.

**Preliminary Review:** A review of the generator-owner's proposed system capacity, location on the utility system, system characteristics, and general system regulation to determine if the interconnection is viable.

**Proactive 3V0:** A utility-initiated upgrade where the utility installs 3V0 prior to any applicant payment and collects pro rata payments from interconnecting projects that utilize the upgrade.

**Protective Device:** A device that continuously monitors a designated parameter related to the operation of the generation system that operates if preset limits are exceeded.

**Qualifying Upgrade:** System modifications which result in an increase to the Hosting Capacity of the utility's distribution system beyond that required to interconnect a Triggering Project that can be shared by multiple Distributed Generation/Energy Storage System projects and whose costs are greater than \$250,000.

**Qualifying Upgrade Disclosure:** An exhibit to the CESIR presenting the use case and specifics of a Qualifying Upgrade, including the technology option(s) considered to address the electric system impacts and total estimated Qualifying Upgrade cost and increase in Hosting Capacity as well as the resulting capacity increase in shared cost expressed in kW.

**Required Operating Range:** The range of magnitudes of the utility system voltage or frequency where the generator-owner's equipment, if operating, is required to remain in operation for the purposes of compliance with UL 1741. Excursions outside these ranges must result in the automatic disconnection of the generation within the prescribed time limits.

**Safety Equipment:** Includes dedicated transformers or equipment and facilities to protect the safety and adequacy of electric service provided to other customers.

**Sharing Project:** A project that benefits from and contributes to the cost of a Qualifying Upgrade holding an interconnection queue position after the Triggering Project.

**Spot Network:** A spot network is a network within a smaller area network where one or more

multiple transformers are dedicated to serve a single customer or large energy-consuming facility such as a high-rise building.

**Stand-Alone Storage:** An energy storage system that is solely connected to a point of common coupling and not paired with a distributed generator.

**Triggering Project:** The application in the queue at a given substation or feeder whose proposed interconnection triggers the need for a Qualifying Upgrade.

**Utility Grade Relay:** A relay that is constructed to comply with, as a minimum, the most current version of the following standards for non-nuclear facilities:

<u>Standard</u>	<u>Conditions Covered</u>
ANSI/IEEE C37.90	Usual Service Condition Ratings - <ul style="list-style-type: none"><li>● Current and Voltage Maximum design for all relay AC and DC auxiliary relays</li><li>● Make and carry ratings for tripping contacts</li><li>● Tripping contacts duty cycle</li><li>● Dielectric tests by manufacturer</li><li>● Dielectric tests by user</li></ul>
ANSI/IEEE C37.90.1	Surge Withstand Capability (SWC) Fast Transient
Test IEEE C37.90.2	Radio Frequency Interference
ANSI C37.2	Electric Power System Device Function
Numbers IEC 255-21-1	Vibration
IEC 255-22-2	Electrostatic Discharge
IEC 255-5	Insulation (Impulse Voltage Withstand)

**Verification Test:** A test performed upon initial installation and repeated periodically to determine that there is continued acceptable performance.

**Wind, Net Meter, Residential Applicant:** A residential applicant who is proposing to install a wind electric generating system, not to exceed a combined rated capacity of 25 kW, located and used at the applicant's primary residence, per the requirements of New York State Public Service Law §66-1.

**Wind, Net Meter, Non-Residential Applicant:** A non-residential applicant who is proposing to install a wind electric generating system located and used at the applicant's premises, not to exceed 2 MW, pursuant to New York State Public Service Law §66-1.

**Wind, Net Meter, Farm Applicant:** A farm applicant who is proposing to install a wind electric generating system, not to exceed a combined rated capacity of 500 kW, located and used at the applicant's primary residence, per the requirements of New York State Public Service Law §66-1.

**APPENDIX A**

**NEW YORK STATE STANDARDIZED CONTRACT  
FOR INTERCONNECTION OF NEW DISTRIBUTED GENERATION UNITS AND/OR  
ENERGY STORAGE SYSTEMS WITH CAPACITY OF 5 MW OR LESS CONNECTED  
IN PARALLEL WITH UTILITY DISTRIBUTION SYSTEMS**

**Interconnection Customer Information:**

**Utility Information:**

Name:

Name:

Address:

Address:

Telephone:

Telephone:

Fax:

Fax:

Email:

Email:

Unit Application/File No.:

Utility Account Number:

## DEFINITIONS

**Delivery Service** means the services the Utility may provide to deliver capacity or energy generated by the Interconnection Customer to a buyer to a delivery point(s), including related ancillary services.

**Energy Storage System (ESS)** means a commercially available mechanical, electrical, or electro-chemical means to store and release electrical energy, and its associated electrical inversion device and control functions that may be stand-alone or paired with a distributed generator at a point of common coupling.

**Interconnection Customer** means the owner of the Unit.

**Interconnection Facilities** means the equipment and facilities on the Utility's system necessary to permit operation of the Unit in parallel with the Utility's system.

**Material Modification** means a Modification to a Unit that may have adverse impacts on the Utility's system, Utility customers, other projects, or applications in the interconnection queue.

**Modification** means a change to the ownership, equipment, equipment ratings, equipment configuration, or operating conditions of the Unit.

**Premises** means the real property where the Unit is located.

**SIR** means the New York State Standardized Interconnection Requirements for new distributed generation units and/or energy storage systems with a nameplate capacity of 5 MW or less connected in parallel with the Utility's distribution system.

**Unit** means the distributed generation, stand-alone ESS, or combined generation and ESS facilities approved by the Utility for operation in parallel with the Utility's system. This Agreement relates only to such Unit, but a new agreement shall not be required if the Interconnection Customer makes physical alterations to the Unit that do not result in an increase in its nameplate generating capacity. The nameplate generating capacity or inverter/converter rating of the Unit shall not exceed 5 MW.

**Utility** means [insert legal name of the interconnecting utility].

## I. TERM AND TERMINATION

**1.1 Term:** This Agreement shall become effective when executed by both Parties and shall continue in effect until terminated.

**1.2 Termination:** This Agreement may be terminated as follows:

- a. The Interconnection Customer may terminate this Agreement at any time, by giving the Utility sixty (60) days' written notice.
- b. Failure by the Interconnection Customer to seek final acceptance by the Utility within twelve (12) months after completion of the utility construction process described in the SIR shall automatically terminate this Agreement.
- c. Either Party may, by giving the other Party at least sixty (60) days' prior written notice, terminate this Agreement in the event that the other Party is in default of any of the material terms and conditions of this Agreement. The terminating Party shall specify in the notice the basis for the termination and shall provide a reasonable opportunity to cure the default.
- d. The Utility may, by giving the Interconnection Customer at least sixty (60) days' prior written notice, terminate this Agreement for cause. The Interconnection Customer's non-compliance with an upgrade to the SIR, unless the Interconnection Customer's installation is "grandfathered," shall constitute good cause.

**1.3 Disconnection and Survival of Obligations:** Upon termination of this Agreement the Unit will be disconnected from the Utility's electric system. The termination of this Agreement shall not relieve either Party of its liabilities and obligations, owed or continuing at the time of the termination.

**1.4 Suspension:** This Agreement will be suspended during any period in which the Interconnection Customer is not eligible for Delivery Service from the Utility

## II. SCOPE OF AGREEMENT

**2.1 Scope of Agreement:** This Agreement relates solely to the conditions under which the Utility and the Interconnection Customer agree that the Unit may be interconnected to and operated in parallel with the Utility's system.

**2.2 Electricity Not Covered:** The Utility shall have no duty under this Agreement to account for, pay for, deliver, or return in kind any electricity produced by the Facility and delivered into the Utility's System unless the system is net metered as described in Public Service Law Section 66-1.

### III. INSTALLATION, OPERATION AND MAINTENANCE OF UNIT

**3.1 Compliance with SIR:** Subject to the provisions of this Agreement, the Utility shall be required to interconnect the Unit to the Utility's system, for purposes of parallel operation, if the Utility accepts the Unit as in compliance with the SIR. The Interconnection Customer shall have a continuing obligation to maintain and operate the Unit in compliance with the SIR.

**3.2 Observation of the Unit - Construction Phase:** The Utility may, in its discretion and upon reasonable notice, perform reasonable on-site verifications during the construction of the Unit. Whenever the Utility chooses to exercise its right to perform observations herein it shall specify to the Interconnection Customer its reasons for its decision to perform the observation. For purposes of this paragraph and paragraphs 3.3 through 3.5, the term "on-site verification" shall not include testing of the Unit, and verification tests shall not be required except as provided in paragraphs 3.3 and 3.4.

**3.3 Observation of the Unit - Ten-day Period:** The Utility may perform on-site verifications of the Unit and observe the execution of verification testing within a reasonable period of time, not exceeding ten (10) business days after system installation. The Unit will be allowed to commence parallel operation upon satisfactory completion of the verification test. The Interconnection Customer must have complied with and must continue to comply with all contractual and technical requirements.

**3.4 Observation of the Unit - Post-Ten-day Period:** If the Utility does not perform an on-site verification of the Unit and observe the execution of verification testing within the ten-day period, the Interconnection Customer will send the Utility within five (5) days of the verification testing a written notification certifying that the Unit has been installed and tested in compliance with the SIR, the utility-accepted design and the equipment manufacturer's instructions. The Interconnection Customer may begin to produce energy upon satisfactory completion of the verification test. After receiving the verification test notification, the Utility will either issue to the Interconnection Customer a formal letter of acceptance for interconnection, or may request that the applicant and utility set a date and time to perform an on-site verification of the Unit and make reasonable inquiries of the Interconnection Customer, but only for purposes of determining whether the verification tests were properly performed. The Interconnection Customer shall not be required to perform the verification tests a second time, unless irregularities appear in the verification test report or there are other objective indications that the tests were not properly performed in the first instance.

**3.5 Observation of the Unit - Operations:** The Utility may perform on-site verification of the operations of the Unit after it commences operations if the Utility has a reasonable basis for doing so based on its responsibility to provide continuous and reliable utility service or as authorized by the provisions of the Utility's Retail Electric Tariff relating to the verification of Interconnection Customer installations generally.

**3.6 Costs of Interconnection Facilities:** During the term of this Agreement, the Utility shall design, construct and install the Interconnection Facilities. The Interconnection Customer

shall be responsible for paying the incremental capital cost of such Interconnection Facilities attributable to the Interconnection Customer's Unit. All costs associated with the operation and maintenance of the Dedicated Facilities after the Unit first produces energy shall be the responsibility of the Utility.

**3.7 Modifications to the Unit:** The Interconnection Customer may request a Modification at any time after commencement of parallel operation. The Utility shall evaluate the request and determine whether the proposed change is a Material Modification in accordance with the rules for requesting changes to applications in the SIR. A Material Modification will be studied pursuant to the procedures in the SIR for new applications. In the case of a non-material modification that is accepted by the Utility, the parties will execute an amendment to this Agreement describing the Unit changes that have been approved.

#### IV. DISCONNECTION OF THE UNIT

**4.1 Emergency Disconnection:** The Utility may disconnect the Unit, without prior notice to the Interconnection Customer (a) to eliminate conditions that constitute a potential hazard to Utility personnel or the general public; (b) if pre-emergency or emergency conditions exist on the Utility system; (c) if a hazardous condition relating to the Unit is observed by a Utility inspection; or (d) if the Interconnection Customer has tampered with any protective device. The Utility shall notify the Interconnection Customer of the emergency if circumstances permit. The Interconnection Customer shall notify the Utility promptly when it becomes aware of an emergency condition that affects the Unit that may reasonably be expected to affect the Utility EPS.

**4.2 Non-Emergency Disconnection Due to Unit Performance:** The Utility may disconnect the Unit, after notice to the responsible party has been provided and a reasonable time to correct, consistent with the conditions, has elapsed, if (a) the Interconnection Customer has failed to make available records of verification tests and maintenance of his protective devices; (b) the Unit system interferes with Utility equipment or equipment belonging to other customers of the Utility; (c) the Unit adversely affects the quality of service of adjoining customers; (d) the ESS does not operate in compliance with the operating parameters and limits described in Attachment 1 to this Agreement.

**4.3 Non-Emergency Disconnection for Utility Work:** The Utility may disconnect the Unit after notice to Interconnection Customer when necessary for routine maintenance, construction, and repairs on the Utility EPS. The Interconnection Customer may request to reconnect its service prior to the completion of the Utility's work. The Utility shall accommodate such requests, provided that the Interconnection Customer shall be responsible for the costs of the Utility's review and any system modifications required to reconnect the Unit ahead of schedule.

**4.4 Disconnection by Interconnection Customer:** The Interconnection Customer may disconnect a Unit with an AC nameplate rating above 300 kW upon 18 hours advance notice to

the Utility if the planned shutdown will last 8 hours or more. For non-emergency forced outages lasting 8 hours or more, the Interconnection Customer shall notify the Utility within 24 hours of the commencement of the shutdown.

**4.5 Utility Obligation to Cure Adverse Effect:** If, after the Interconnection Customer meets all interconnection requirements, the operations of the Utility are adversely affecting the performance of the Unit or the Customer's premises, the Utility shall immediately take appropriate action to eliminate the adverse effect. If the Utility determines that it needs to upgrade or reconfigure its system, the Interconnection Customer will not be responsible for the cost of new or additional equipment beyond the point of common coupling between the Interconnection Customer and the Utility.

## V. ACCESS

**5.1 Access to Premises:** The Utility shall have access to the disconnect switch of the Unit at all times. At reasonable hours and upon reasonable notice consistent with Section III of this Agreement, or at any time without notice in the event of an emergency (as defined in paragraph 4.1), the Utility shall have access to the Premises.

**5.2 Utility and Interconnection Customer Representatives:** The Utility shall designate, and shall provide to the Interconnection Customer, the name and telephone number of a representative or representatives who can be reached at all times to allow the Interconnection Customer to report an emergency and obtain the assistance of the Utility. For the purpose of allowing access to the premises, the Interconnection Customer shall provide the Utility with the name and telephone number of a person who is responsible for providing access to the Premises.

**5.3 Utility Right to Access Utility-Owned Facilities and Equipment:** If necessary for the purposes of this Agreement, the Interconnection Customer shall allow the Utility access to the Utility's equipment and facilities located on the Premises. To the extent that the Interconnection Customer does not own all or any part of the property on which the Utility is required to locate its equipment or facilities to serve the Interconnection Customer under this Agreement, the Interconnection Customer shall secure and provide in favor of the Utility the necessary rights to obtain access to such equipment or facilities, including easements if the circumstances so require.

## VI. DISPUTE RESOLUTION

**6.1 Good Faith Resolution of Disputes:** Each Party agrees to attempt to resolve all disputes arising hereunder promptly, equitably and in a good faith manner.

**6.2 Mediation:** If a dispute arises under this Agreement, and if it cannot be resolved by the Parties within ten (10) business days after written notice of the dispute, the parties agree to submit the dispute to mediation by a mutually acceptable mediator, in a mutually convenient

location in New York State, in accordance with the then current International Institute for Conflict prevention & Resolution Procedure, or to mediation by a mediator provided by the New York Public Service Commission. The Parties agree to participate in good faith in the mediation for a period of up to 90 days. If the Parties are not successful in resolving their disputes through mediation, then the parties may refer the dispute for resolution to the New York Public Service Commission, which shall maintain continuing jurisdiction over this Agreement.

**6.3 Escrow:** If there are amounts in dispute of more than two thousand dollars (\$2,000), the Interconnection Customer shall either place such disputed amounts into an independent escrow account pending final resolution of the dispute in question, or provide to the Utility an appropriate irrevocable standby letter of credit in lieu thereof.

## VII. INSURANCE

**7.1. Commercial General Liability:** The Interconnection Customer shall, at its own expense, procure and maintain throughout the period of this Agreement the following minimum insurance coverage:

- 7.1.1.** Commercial general liability insurance with limits not less than:
  - 7.1.1.1.** Five million dollars (\$5,000,000) for each occurrence and in the aggregate if the AC Nameplate rating of the Interconnection Customer's Facility is greater than five (5) MWAC;
  - 7.1.1.2.** Two million dollars (\$2,000,000) for each occurrence and five million dollars (\$5,000,000) in the aggregate if the AC Nameplate rating of the Interconnection Customer's Facility is greater than one (1) MWAC and less than or equal to five (5) MWAC;
  - 7.1.1.3.** One million dollars (\$1,000,000) for each occurrence and in the aggregate if the AC Nameplate rating of the Interconnection Customer's Facility is greater than or equal to 300 (kWAC) and less than or equal to one (1) MWAC
- 7.1.2.** Any combination of general liability and umbrella/excess liability policy limits can be used to satisfy the limit requirements of Section 7.1.1.
- 7.1.3.** The general liability insurance required to be purchased in Section 7.1.1 may be purchased for the direct benefit of the Utility and shall respond to third party claims asserted against the Utility (hereinafter known as "Owners Protective Liability"). Should this option be chosen, the requirement of Section 7.3(a) will not apply but the Owners Protective Liability policy will be purchased for the direct benefit of the Utility and the Utility will be designated as the primary and "Named Insured" under the policy.

**7.2. General Commercial Liability Insurance:** The Interconnection Customer is not required to provide general commercial liability insurance for facilities with an AC nameplate rating of 300 kW or less. Due to the risk of incurring damages however, the New York State Public Service Commission (“Commission”) recommends that the Interconnection Customer obtain adequate insurance. The inability of the Utility to require the Interconnection Customer to provide general commercial liability insurance coverage for operation of the Unit is not a waiver of any rights the Utility may have to pursue remedies at law against the Interconnection Customer to recover damages.

**7.3. Insurer Requirements and Endorsements:** All required insurance shall be written by reputable insurers authorized to conduct business in New York. In addition, all general liability insurance shall, (a) include the Utility as an additional insured; (b) contain a severability of interest clause or cross-liability clause; (c) provide that the Utility shall not incur liability to the insurance carrier for payment of premium for such insurance; and (d) provide for thirty (30) calendar days’ written notice to the Utility prior to cancellation or termination of such insurance, with the exception of a ten (10) days’ notice in the event of premium non-payment; provided that to the extent the Interconnection Customer is satisfying the requirements of subpart (d) of this paragraph by means of a presently existing insurance policy, the Interconnection Customer shall only be required to make good faith efforts to satisfy that requirement and will assume the responsibility for notifying the Utility as required above.

**7.4. Evidence of Insurance:** Evidence of the insurance required shall state that coverage provided is primary and is not in excess to or contributing with any insurance or self-insurance maintained by Interconnecting Customer. Prior to the Utility commencing work on System Modifications, and annually thereafter, the Interconnection Customer shall have its insurer furnish to the Utility certificates of insurance evidencing the insurance coverage required above.

**7.4.1** If coverage is on a claims-made basis, the Interconnection Customer agrees that the policy effective date or retroactive date shall be no later than the effective date of this agreement, be continuously maintained throughout the life of this agreement, and remain in place for a minimum of three (3) years following the termination of this agreement or if policies are terminated will purchase a three-year extended reporting period. Evidence of such coverage will be provided on an annual basis.

**7.4.2** In the event that an Owners Protective Liability policy is provided, the original policy shall be provided to the Utility.

**7.5. Self-Insurance:** If the Interconnection Customer has a self-insurance program established in accordance with commercially acceptable risk management practices, the Interconnection Customer may comply with the following in lieu of the above requirements as reasonably approved by the Utility:

**7.5.1.** The Interconnection Customer shall provide to the Utility, at least thirty (30) calendar days prior to the Date of Initial Operation, evidence of such program to self-insure to a level of coverage equivalent to that required.

**7.5.2.** If the Interconnection Customer ceases to self-insure to the standards required hereunder, or if the Interconnection Customer is unable to provide continuing evidence of the Interconnection Customer's financial ability to self-insure, the Interconnection Customer agrees to promptly obtain the coverage required under Section 7.1.

**7.6. Utility Obligation to Maintain Insurance:** The Utility agrees to maintain general liability insurance or self-insurance consistent with its existing commercial practice. Such insurance or self-insurance shall not exclude coverage for the Utility's liabilities undertaken pursuant to this Agreement.

**7.7. Notification Obligations:** The Parties further agree to notify each other whenever an accident or incident occurs resulting in any injuries or damages that are included within the scope of coverage of such insurance, whether or not such coverage is sought.

## VIII. LIMITATION OF LIABILITY

**8.1** Each Party's liability to the other Party for any loss, cost, claim, injury, liability, or expense, including reasonable attorney's fees, relating to or arising from any act or omission in its performance of this Agreement, shall be limited to the amount of direct damage actually incurred. In no event shall either Party be liable to the other Party for any indirect, special, consequential, or punitive damages of any kind whatsoever. Nothing herein is meant to limit the liability of a Party to an unaffiliated third-party claimant.

## IX. INDEMNITY

**9.1** This provision protects each Party from liability incurred to third parties arising from actions taken pursuant to the provisions of this Agreement. Liability under this provision is exempt from the general limitations on liability found in Section 7.

**9.2** Each Party (the "Indemnifying Party") shall at all times indemnify, defend, and hold the other Party (the "Indemnified Party") 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, to the extent arising out of or resulting from the Indemnifying Party's action or failure to meet its obligations under this Agreement, except in cases of negligence, gross negligence or intentional wrongdoing by the Indemnified Party.

**9.3** If a Party is obligated to indemnify and hold the Indemnified Party harmless under this section, the amount owing to the Indemnified Party shall be the amount of such Indemnified Party's actual loss, as adjudicated by the Indemnifying Party's insurance carrier, net of any insurance or other recovery.

**9.4** Promptly after receipt by an Indemnified Party of any claim or notice of the

commencement of any action or administrative or legal proceeding or investigation as to which the indemnity provided for in this section may apply, the Indemnified Party shall notify the Indemnifying Party of such fact. Any unintentional failure of or delay in such notification shall not affect a Party's indemnification obligation unless such failure or delay is materially prejudicial to the Indemnifying Party.

## X. CONSEQUENTIAL DAMAGES

**10.1** Other than as expressly provided for in this Agreement or pursuant to the utility tariff, neither Party shall be liable to the other Party under any provision of this Agreement for any losses, damages, costs, or expenses for any special, indirect, incidental, consequential, or punitive damages, including but not limited to loss of profit or revenue, loss of the use of equipment, cost of capital, cost of temporary equipment or services, whether based in whole or in part in contract, in tort, including negligence, strict liability, or any other theory of liability; provided, however, that damages for which a Party may be liable to the other Party under another agreement will not be considered to be special, indirect, incidental, or consequential damages hereunder.

## XI. MISCELLANEOUS PROVISIONS

**11.1 Beneficiaries:** This Agreement is intended solely for the benefit of the Parties hereto, and if a Party is an agent, its principal. Nothing in this Agreement shall be construed to create any duty to, or standard of care with reference to, or any liability to, any other person.

**11.2 Severability:** If any provision or portion of this Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction, such portion or provision shall be deemed separate and independent, and the remainder of this Agreement shall remain in full force and effect.

**11.3 Entire Agreement:** This Agreement constitutes the entire Agreement between the Parties and supersedes all prior agreements or understandings, whether verbal or written.

**11.4 Waiver:** No delay or omission in the exercise of any right under this Agreement shall impair any such right or shall be taken, construed or considered as a waiver or relinquishment thereof, but any such right may be exercised from time to time and as often as may be deemed expedient. In the event that any agreement or covenant herein shall be breached and thereafter waived, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

**11.5 Applicable Law:** This Agreement shall be governed by and construed in accordance with the law of the State of New York.

**11.6 Amendments:** This Agreement shall not be amended unless the amendment is in writing and signed by the Utility and the Customer.

**11.7 Force Majeure:** For purposes of this Agreement, "Force Majeure Event" means any event: (a) that is beyond the reasonable control of the affected Party; and (b) that the affected Party is unable to prevent or provide against by exercising reasonable diligence, including the following events or circumstances, but only to the extent they satisfy the preceding requirements: acts of war, public disorder, insurrection, or rebellion; floods, hurricanes, earthquakes, lightning, storms, and other natural calamities; explosions or fires; strikes, work stoppages, or labor disputes; embargoes; and sabotage. If a Force Majeure Event prevents a Party from fulfilling any obligations under this Agreement, such Party will promptly notify the other Party in writing, and will keep the other Party informed on a continuing basis of the scope and duration of the Force Majeure Event. The affected Party will specify in reasonable detail the circumstances of the Force Majeure Event, its expected duration, and the steps that the affected Party is taking to mitigate the effects of the event on its performance. The affected Party will be entitled to suspend or modify its performance of obligations under this Agreement, other than the obligation to make payments then due or becoming due under this Agreement, but only to the extent that the effect of the Force Majeure Event cannot be mitigated by the use of reasonable efforts. The affected Party will use reasonable efforts to resume its performance as soon as possible.

**11.8 Assignment to Corporate Party:** At any time during the term, the Interconnection Customer may assign this Agreement to a corporation or other entity with limited liability, provided that the Interconnection Customer obtains the consent of the Utility. Such consent will not be withheld unless the Utility can demonstrate that the corporate entity is not reasonably capable of performing the obligations of the assigning Interconnection Customer under this Agreement.

**11.9 Assignment to Individuals:** At any time during the term, the Interconnection Customer may assign this Agreement to another person, other than a corporation or other entity with limited liability, provided that the assignee is the owner, lessee, or is otherwise responsible for the Unit.

**11.10 Permits and Approvals:** Interconnection Customer shall obtain all environmental and other permits lawfully required by governmental authorities prior to the construction and for the operation of the Unit during the term of this Agreement.

**11.11 Limitation of Liability:** Neither by inspection, if any, or non-rejection, nor in any other way, does the Utility give any warranty, express or implied, as to the adequacy, safety, or other characteristics of any structures, equipment, wires, appliances or devices owned, installed or maintained by the Interconnection Customer or leased by the Interconnection Customer from third parties, including without limitation the Unit and any structures, equipment, wires, appliances or devices appurtenant thereto.

**ACCEPTED AND AGREED:**

**Interconnection Customer**

**Signature:**

**Printed Name:**

**Title:**

**Date:**

**Utility Signature:**

**Printed Name:**

**Title:**

**Date:**

**ATTACHMENT 1**

**ENERGY STORAGE SYSTEMS DESCRIPTION OF OPERATING  
PARAMETERS AND LIMITS**

**APPENDIX A-1 – FOR USE WITH FEDERAL AGENCIES**

**NEW YORK STATE STANDARDIZED CONTRACT  
FOR INTERCONNECTION OF NEW DISTRIBUTED GENERATION UNITS AND/OR  
ENERGY STORAGE SYSTEMS WITH CAPACITY OF 5 MW OR LESS CONNECTED  
IN PARALLEL WITH UTILITY DISTRIBUTION SYSTEMS**

**Interconnection Customer Information:**

Name:

Address:

Telephone:

Fax:

Email:

Unit Application/File No.:

**Utility Information:**

Name:

Address:

Telephone:

Fax:

Email:

Utility Account Number:

## DEFINITIONS

**Delivery Service** means the services the Utility may provide to deliver capacity or energy generated by the Interconnection Customer to a buyer to a delivery point(s), including related ancillary services.

**Energy Storage System (ESS)** means a commercially available mechanical, electrical, or electro-chemical means to store and release electrical energy, and its associated electrical inversion device and control functions that may be stand-alone or paired with a distributed generator at a point of common coupling.

**Interconnection Customer** means that the owner of the Unit is a Federal agency, defined by the Federal Claims Act, 28 U.S.C. 2671 et seq., to include the executive departments, the judicial and legislative branches, the military departments, independent establishments of the United States, and corporations primarily acting as instrumentalities or agencies of the United States, but does not include any contractor with the United States (U.S.).

**Interconnection Facilities** means the equipment and facilities on the Utility's system necessary to permit operation of the Unit in parallel with the Utility's system.

**Material Modification** means a Modification to a Unit that may have adverse impacts on the Utility's system, Utility customers, other projects, or applications in the interconnection queue.

**Modification** means a change to the ownership, equipment, equipment ratings, equipment configuration, or operating conditions of the Unit.

**Premises** means the real property where the Unit is located.

**SIR** means the New York State Standardized Interconnection Requirements for new distributed generation units with a nameplate capacity of 5 MW or less connected in parallel with the Utility's distribution system.

**Unit** means the distributed generation, stand-alone ESS, or combined generation and ESS facilities approved by the Utility for operation in parallel with the Utility's system. This Agreement relates only to such Unit, but a new agreement shall not be required if the Interconnection Customer makes physical alterations to the Unit that do not result in an increase in its nameplate generating capacity. The nameplate generating capacity or inverter/converter rating of the Unit shall not exceed 5 MW.

**Utility** means [insert legal name of the interconnecting utility].

## I. TERM AND TERMINATION

**1.1 Term:** This Agreement shall become effective when executed by both Parties and shall continue in effect until terminated.

**1.2 Termination:** This Agreement may be terminated as follows:

- a. The Interconnection Customer may terminate this Agreement at any time, by giving the Utility sixty (60) days' written notice.
- b. Failure by the Interconnection Customer to seek final acceptance by the Utility within twelve (12) months after completion of the utility construction process described in the SIR shall automatically terminate this Agreement.
- c. Either Party may, by giving the other Party at least sixty (60) days' prior written notice, terminate this Agreement in the event that the other Party is in default of any of the material terms and conditions of this Agreement. The terminating Party shall specify in the notice the basis for the termination and shall provide a reasonable opportunity to cure the default.
- d. The Utility may, by giving the Interconnection Customer at least sixty (60) days' prior written notice, terminate this Agreement for cause. The Interconnection Customer's non-compliance with an upgrade to the SIR, unless the Interconnection Customer's installation is "grandfathered," shall constitute good cause.

**1.3 Disconnection and Survival of Obligations:** Upon termination of this Agreement the Unit will be disconnected from the Utility's electric system. The termination of this Agreement shall not relieve either Party of its liabilities and obligations, owed or continuing at the time of the termination.

**1.4 Suspension:** This Agreement will be suspended during any period in which the Interconnection Customer is not eligible for Delivery Service from the Utility

## II. SCOPE OF AGREEMENT

**2.1 Scope of Agreement:** This Agreement relates solely to the conditions under which the Utility and the Interconnection Customer agree that the Unit may be interconnected to and operated in parallel with the Utility's system.

## III. Electricity Not Covered

The Utility shall have no duty under this Agreement to account for, pay for, deliver, or return in kind any electricity produced by the Facility and delivered into the Utility's System unless the system is net metered as described in Public Service Law Section 66-1.

#### IV. INSTALLATION, OPERATION AND MAINTENANCE OF UNIT

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**3.2 Observation of the Unit - Construction Phase:** The Utility may, in its discretion and upon reasonable notice, perform reasonable on-site verifications during the construction of the Unit. Whenever the Utility chooses to exercise its right to perform observations herein it shall specify to the Interconnection Customer its reasons for its decision to perform the observation. For purposes of this paragraph and paragraphs 3.3 through 3.5, the term "on-site verification" shall not include testing of the Unit, and verification tests shall not be required except as provided in paragraphs

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**3.4 Observation of the Unit - Post-Ten-day Period:** If the Utility does not perform an on-site verification of the Unit and observe the execution of verification testing within the ten-day period, the Interconnection Customer will send the Utility within five (5) days of the verification testing a written notification certifying that the Unit has been installed and tested in compliance with the SIR, the utility-accepted design and the equipment manufacturer's instructions. The Interconnection Customer may begin to produce energy upon satisfactory completion of the verification test. After receiving the verification test notification, the Utility will either issue to the Interconnection Customer a formal letter of acceptance for interconnection, or may request that the applicant and utility set a date and time to perform an on-site verification of the Unit and make reasonable inquiries of the Interconnection Customer, but only for purposes of determining whether the verification tests were properly performed. The Interconnection Customer shall not be required to perform the verification tests a second time, unless irregularities appear in the verification test report or there are other objective indications that the tests were not properly performed in the first instance.

**3.5 Observation of the Unit - Operations:** The Utility may perform on-site verification of the operations of the Unit after it commences operations if the Utility has a reasonable basis for doing so based on its responsibility to provide continuous and reliable utility service or as authorized by the provisions of the Utility's Retail Electric Tariff relating to the verification of Interconnection Customer installations generally.

**3.6 Costs of Interconnection Facilities:** During the term of this Agreement, the Utility shall design, construct and install the Interconnection Facilities. The Interconnection Customer

shall be responsible for paying the incremental capital cost of such Interconnection Facilities attributable to the Interconnection Customer's Unit. All costs associated with the operation and maintenance of the Dedicated Facilities after the Unit first produces energy shall be the responsibility of the Utility.

**3.7 Modifications to the Unit:** The Interconnection Customer may request a Modification at any time after commencement of parallel operation. The Utility shall evaluate the request and determine whether the proposed change is a Material Modification in accordance with the rules for requesting changes to applications in the SIR. A Material Modification will be studied pursuant to the procedures in the SIR for new applications. In the case of a non-material modification that is accepted by the Utility, the parties will execute an amendment to this Agreement describing the Unit changes that have been approved.

## V. DISCONNECTION OF THE UNIT

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**4.2 Non-Emergency Disconnection Due to Unit Performance:** The Utility may disconnect the Unit, after notice to the responsible party has been provided and a reasonable time to correct, consistent with the conditions, has elapsed, if (a) the Interconnection Customer has failed to make available records of verification tests and maintenance of his protective devices; (b) the Unit system interferes with Utility equipment or equipment belonging to other customers of the Utility; (c) the Unit adversely affects the quality of service of adjoining customers; (d) the ESS does not operate in compliance with the operating parameters and limits described in Attachment 1 to this Agreement.

**4.3 Non-Emergency Disconnection for Utility Work:** The Utility may disconnect the Unit after notice to Interconnection Customer when necessary for routine maintenance, construction, and repairs on the Utility EPS. The Interconnection Customer may request to reconnect its service prior to the completion of the Utility's work. The Utility shall accommodate such requests, provided that the Interconnection Customer shall be responsible for the costs of the Utility's review and any system modifications required to reconnect the Unit ahead of schedule.

**4.4 Disconnection by Interconnection Customer:** The Interconnection Customer may disconnect a Unit with an AC nameplate rating above 300 kW upon 18 hours advance notice to

the Utility if the planned shutdown will last 8 hours or more. For non-emergency forced outages lasting 8 hours or more, the Interconnection Customer shall notify the Utility within 24 hours of the commencement of the shutdown

**4.5 Utility Obligation to Cure Adverse Effect:** If, after the Interconnection Customer meets all interconnection requirements, the operations of the Utility are adversely affecting the performance of the Unit or the Customer's premises, the Utility shall immediately take appropriate action to eliminate the adverse effect. If the Utility determines that it needs to upgrade or reconfigure its system, the Interconnection Customer will not be responsible for the cost of new or additional equipment beyond the point of common coupling between the Interconnection Customer and the Utility.

## VI. ACCESS

**5.1 Access to Premises:** The Utility shall have access to the disconnect switch of the Unit at all times. At reasonable hours and upon reasonable notice consistent with Section III of this Agreement, or at any time without notice in the event of an emergency (as defined in paragraph 4.1), the Utility shall have access to the Premises.

**5.2 Utility and Interconnection Customer Representatives:** The Utility shall designate, and shall provide to the Interconnection Customer, the name and telephone number of a representative or representatives who can be reached at all times to allow the Interconnection Customer to report an emergency and obtain the assistance of the Utility. For the purpose of allowing access to the premises, the Interconnection Customer shall provide the Utility with the name and telephone number of a person who is responsible for providing access to the Premises.

**5.3 Utility Right to Access Utility-Owned Facilities and Equipment:** If necessary for the purposes of this Agreement, the Interconnection Customer shall allow the Utility access to the Utility's equipment and facilities located on the Premises. To the extent that the Interconnection Customer does not own all or any part of the property on which the Utility is required to locate its equipment or facilities to serve the Interconnection Customer under this Agreement, the Interconnection Customer shall secure and provide in favor of the Utility the necessary rights to obtain access to such equipment or facilities, including easements if the circumstances so require.

## VII. DISPUTE RESOLUTION

**6.1 Good Faith Resolution of Disputes:** Each Party agrees to attempt to resolve all disputes arising hereunder promptly, equitably and in a good faith manner.

**6.2 Mediation:** If a dispute arises under this Agreement, and if it cannot be resolved by the Parties within ten (10) business days after written notice of the dispute, the parties agree to submit the dispute to mediation by a mutually acceptable mediator, in a mutually convenient

location in New York State, in accordance with the then current International Institute for Conflict prevention & Resolution Procedure, or to mediation by a mediator provided by the New York Public Service Commission. The Parties agree to participate in good faith in the mediation for a period of up to 90 days. If the Parties are not successful in resolving their disputes through mediation, then the parties may refer the dispute for resolution to the New York Public Service Commission, which shall maintain continuing jurisdiction over this Agreement.

**6.3 Escrow:** If there are amounts in dispute of more than two thousand dollars (\$2,000), the Interconnection Customer shall, within 30 working days of written request from the Utility and subject to the availability of appropriations, provide the Utility with a Letter of Assurance confirming that the Interconnection Customer (a U.S. Federal Agency) has adequate funds available under the full faith and credit of the United States to cover the potential costs of the dispute, if it is resolved in the Utility's favor.

## VIII. INSURANCE

**7.1 Self-Insurance:** The Interconnection Customer is self-insured as an agency of the United States of America pursuant to the Federal Tort Claims Act, 28 U.S.C. 2671 *et seq.*

**7.2 Utility Obligation to Maintain Insurance:** The Utility agrees to maintain general liability insurance or self-insurance consistent with its existing commercial practice. Such insurance or self-insurance shall not exclude coverage for the Utility's liabilities undertaken pursuant to this Agreement.

**7.3 Notification Obligations:** The Parties further agree to notify each other whenever an accident or incident occurs resulting in any injuries or damages that are included within the scope of coverage of such insurance, whether or not such coverage is sought.

## IX. LIMITATION OF LIABILITY

**8.1** Each Party's liability to the other Party for any loss, cost, claim, injury, liability, or expense, including reasonable attorney's fees, relating to or arising from any act or omission in its performance of this Agreement, shall be limited to the amount of direct damage actually incurred. In no event shall either Party be liable to the other Party for any indirect, special, consequential, or punitive damages of any kind whatsoever. Nothing herein is meant to limit the liability of a Party to an unaffiliated third-party claimant. The liability, if any, of the Interconnection Customer for injury or loss of property, or personal injury or death shall be governed exclusively by the provisions of the Federal Tort Claims Act, 28 U.S.C. 2671, *et seq.*

## X. INDEMNITY

The liability, if any, of the Interconnection Customer for injury or loss of property, or personal injury or death shall be governed exclusively by the provisions of the Federal Tort Claims Act, 28 U.S.C. 1346(b).

- a. Each Party (the “Indemnifying Party”) shall at all times indemnify, defend, and hold the other Party (the “Indemnified Party”) 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, to the extent arising out of or resulting from the Indemnifying Party's action or failure to meet its obligations under this Agreement, except in cases of negligence, gross negligence or intentional wrongdoing by the Indemnified Party.
- b. If a Party is obligated to indemnify and hold the Indemnified Party harmless under this section, the amount owing to the Indemnified Party shall be the amount of such Indemnified Party’s actual loss, as adjudicated by the Indemnifying Party’s insurance carrier, net of any insurance or other recovery.
- c. Promptly after receipt by an Indemnified Party of any claim or notice of the commencement of any action or administrative or legal proceeding or investigation as to which the indemnity provided for in this section may apply, the Indemnified Party shall notify the Indemnifying Party of such fact. Any unintentional failure of or delay in such notification shall not affect a Party's indemnification obligation unless such failure or delay is materially prejudicial to the Indemnifying Party.

## XI. CONSEQUENTIAL DAMAGES

Other than as expressly provided for in this Agreement or pursuant to the utility tariff, neither Party shall be liable to the other Party under any provision of this Agreement for any losses, damages, costs, or expenses for any special, indirect, incidental, consequential, or punitive damages, including but not limited to loss of profit or revenue, loss of the use of equipment, cost of capital, cost of temporary equipment or services, whether based in whole or in part in contract, in tort, including negligence, strict liability, or any other theory of liability; provided, however, that damages for which a Party may be liable to the other Party under another agreement will not be considered to be special, indirect, incidental, or consequential damages hereunder.

## XII. MISCELLANEOUS PROVISIONS

**11.1 Beneficiaries:** This Agreement is intended solely for the benefit of the Parties hereto, and if a Party is an agent, its principal. Nothing in this Agreement shall be construed to create any duty to, or standard of care with reference to, or any liability to, any other person.

**11.2 Severability:** If any provision or portion of this Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction, such portion or provision shall be deemed separate and independent, and the remainder of this Agreement shall remain in full force and effect.

**11.3 Entire Agreement:** This Agreement constitutes the entire Agreement between the Parties and supersedes all prior agreements or understandings, whether verbal or written.

**11.4 Waiver:** No delay or omission in the exercise of any right under this Agreement shall impair any such right or shall be taken, construed or considered as a waiver or relinquishment thereof, but any such right may be exercised from time to time and as often as may be deemed expedient. In the event that any agreement or covenant herein shall be breached and thereafter waived, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

**11.5 Applicable Law:** This Agreement shall be governed by the laws of the United States of America and, to the extent that there is no applicable or controlling federal law, the laws of the State of New York, without regard to conflicts of law principles.

**11.6 Amendments:** This Agreement shall not be amended unless the amendment is in writing and signed by the Utility and the Customer.

**11.7 Force Majeure:** For purposes of this Agreement, "Force Majeure Event" means any event: (a) that is beyond the reasonable control of the affected Party; and (b) that the affected Party is unable to prevent or provide against by exercising reasonable diligence, including the following events or circumstances, but only to the extent they satisfy the preceding requirements: acts of war, public disorder, insurrection, or rebellion; floods, hurricanes, earthquakes, lightning, storms, and other natural calamities; explosions or fires; strikes, work stoppages, or labor disputes; embargoes; and sabotage. If a Force Majeure Event prevents a Party from fulfilling any obligations under this Agreement, such Party will promptly notify the other Party in writing, and will keep the other Party informed on a continuing basis of the scope and duration of the Force Majeure Event. The affected Party will specify in reasonable detail the circumstances of the Force Majeure Event, its expected duration, and the steps that the affected Party is taking to mitigate the effects of the event on its performance. The affected Party will be entitled to suspend or modify its performance of obligations under this Agreement, other than the obligation to make payments then due or becoming due under this Agreement, but only to the extent that the effect of the Force Majeure Event cannot be mitigated by the use of reasonable efforts. The affected Party will use reasonable efforts to resume its performance as soon as possible.

**11.8 Assignment to Corporate Party:** At any time during the term, the Interconnection Customer may assign this Agreement to a corporation or other entity with limited liability, provided that the Interconnection Customer obtains the consent of the Utility. Such consent will not be withheld unless the Utility can demonstrate that the corporate entity is not reasonably capable of performing the obligations of the assigning Interconnection Customer under this Agreement.

**11.9 Assignment to Individuals:** At any time during the term, the Interconnection Customer may assign this Agreement to another person, other than a corporation or other

entity with limited liability, provided that the assignee is the owner, lessee, or is otherwise responsible for the Unit.

**11.10 Permits and Approvals:** Interconnection Customer shall obtain all environmental and other permits lawfully required by governmental authorities prior to the construction and for the operation of the Unit during the term of this Agreement.

**Limitation of Liability:** Neither by inspection, if any, or non-rejection, nor in any other way, does the Utility give any warranty, express or implied, as to the adequacy, safety, or other characteristics of any structures, equipment, wires, appliances or devices owned, installed or maintained by the Interconnection Customer or leased by the Interconnection Customer from third parties, including without limitation the Unit and any structures, equipment, wires, appliances or devices appurtenant thereto. The liability, if any, of the Interconnection Customer for injury or loss of property, or personal injury or death shall be governed exclusively by the provisions of the Federal Tort Claims Act, 28 U.S.C. 2671, *et seq.*

**ACCEPTED AND AGREED:**

**Interconnection Customer**

**Signature:**

**Printed Name:**

**Title:**

**Date:**

**Utility Signature:**

**Printed Name:**

**Title:**

**Date:**

**ATTACHMENT 1**

**ENERGY STORAGE SYSTEMS DESCRIPTION OF OPERATING  
PARAMETERS AND LIMITS**

**APPENDIX A-2 – FOR USE WITH STATE AGENCIES**

**NEW YORK STATE STANDARDIZED CONTRACT  
FOR INTERCONNECTION OF NEW DISTRIBUTED GENERATION UNITS AND/OR  
ENERGY STORAGE SYSTEMS WITH CAPACITY OF 5 MW OR LESS CONNECTED  
IN PARALLEL WITH UTILITY DISTRIBUTION SYSTEMS**

**Interconnection Customer Information:**

**Utility Information:**

Name:

Name:

Address:

Address:

Telephone:

Telephone:

Fax:

Fax:

Email:

Email:

Unit Application/File No.:

Utility Account Number:

## DEFINITIONS

**Delivery Service** means the services the Utility may provide to deliver capacity or energy generated by the Interconnection Customer to a buyer to a delivery point(s), including related ancillary services.

**Energy Storage System (ESS)** means a commercially available mechanical, electrical, or electro-chemical means to store and release electrical energy, and its associated electrical inversion device and control functions that may be stand-alone or paired with a distributed generator at a point of common coupling.

**Interconnection Customer** means the State Agency that is the owner of the Unit.

**Interconnection Facilities** means the equipment and facilities on the Utility's system necessary to permit operation of the Unit in parallel with the Utility's system.

**Material Modification** means a Modification to a Unit that may have adverse impacts on the Utility's system, Utility customers, other projects, or applications in the interconnection queue.

**Modification** means a change to the ownership, equipment, equipment ratings, equipment configuration, or operating conditions of the Unit.

**Premises** means the real property where the Unit is located.

**SIR** means the New York State Standardized Interconnection Requirements for new distributed generation units with a nameplate capacity of 5 MW or less connected in parallel with the Utility's distribution system.

**State Agency** means any state department, state university of New York, city university of New York, board, bureau, division, commission, committee, council, office, or other governmental entity performing a governmental or proprietary function for the state, or any combination thereof, except any public authority or public benefit corporation, the judiciary, or the state legislature.

**Unit** means the distributed generation, stand-alone ESS, or combined generation and ESS facilities approved by the Utility for operation in parallel with the Utility's system. This Agreement relates only to such Unit, but a new agreement shall not be required if the Interconnection Customer makes physical alterations to the Unit that do not result in an increase in its nameplate generating capacity. The nameplate generating capacity or inverter/converter rating of the Unit shall not exceed 5 MW.

**Utility** means [insert legal name of the interconnecting utility].

## I. TERM AND TERMINATION

**1.1 Term:** This Agreement shall become effective when executed by both Parties and shall continue in effect until terminated.

**1.2 Termination:** This Agreement may be terminated as follows:

- a. The Interconnection Customer may terminate this Agreement at any time, by giving the Utility sixty (60) days' written notice.
- b. Failure by the Interconnection Customer to seek final acceptance by the Utility within twelve (12) months after completion of the utility construction process described in the SIR shall automatically terminate this Agreement.
- c. Either Party may, by giving the other Party at least sixty (60) days' prior written notice, terminate this Agreement in the event that the other Party is in default of any of the material terms and conditions of this Agreement. The terminating Party shall specify in the notice the basis for the termination and shall provide a reasonable opportunity to cure the default.
- d. The Utility may, by giving the Interconnection Customer at least sixty (60) days' prior written notice, terminate this Agreement for cause. The Interconnection Customer's non-compliance with an upgrade to the SIR, unless the Interconnection Customer's installation is "grandfathered," shall constitute good cause.

**1.3 Disconnection and Survival of Obligations:** Upon termination of this Agreement the Unit will be disconnected from the Utility's electric system. The termination of this Agreement shall not relieve either Party of its liabilities and obligations, owed or continuing at the time of the termination.

**1.4 Suspension:** This Agreement will be suspended during any period in which the Interconnection Customer is not eligible for Delivery Service from the Utility

## II. SCOPE OF AGREEMENT

**2.1 Scope of Agreement:** This Agreement relates solely to the conditions under which the Utility and the Interconnection Customer agree that the Unit may be interconnected to and operated in parallel with the Utility's system.

**2.2 Electricity Not Covered:** The Utility shall have no duty under this Agreement to account for, pay for, deliver, or return in kind any electricity produced by the Facility and delivered into the Utility's System unless the system is net metered as described in Public Service Law Section 66-J.

### III. INSTALLATION, OPERATION AND MAINTENANCE OF UNIT

**3.1 Compliance with SIR:** Subject to the provisions of this Agreement, the Utility shall be required to interconnect the Unit to the Utility's system, for purposes of parallel operation, if the Utility accepts the Unit as in compliance with the SIR. The Interconnection Customer shall have a continuing obligation to maintain and operate the Unit in compliance with the SIR.

**3.2 Observation of the Unit - Construction Phase:** The Utility may, in its discretion and upon reasonable notice, perform reasonable on-site verifications during the construction of the Unit. Whenever the Utility chooses to exercise its right to perform observations herein it shall specify to the Interconnection Customer its reasons for its decision to perform the observation. For purposes of this paragraph and paragraphs 3.3 through 3.5, the term "on-site verification" shall not include testing of the Unit, and verification tests shall not be required except as provided in paragraphs

**3.3 Observation of the Unit - Ten-day Period:** The Utility may perform on-site verifications of the Unit and observe the execution of verification testing within a reasonable period of time, not exceeding ten (10) business days after system installation. The Unit will be allowed to commence parallel operation upon satisfactory completion of the verification test. The Interconnection Customer must have complied with and must continue to comply with all contractual and technical requirements.

**3.4 Observation of the Unit - Post-Ten-day Period:** If the Utility does not perform an on-site verification of the Unit and observe the execution of verification testing within the ten-day period, the Interconnection Customer will send the Utility within five (5) days of the verification testing a written notification certifying that the Unit has been installed and tested in compliance with the SIR, the utility-accepted design and the equipment manufacturer's instructions. The Interconnection Customer may begin to produce energy upon satisfactory completion of the verification test. After receiving the verification test notification, the Utility will either issue to the Interconnection Customer a formal letter of acceptance for interconnection, or may request that the applicant and utility set a date and time to perform an on-site verification of the Unit and make reasonable inquiries of the Interconnection Customer, but only for purposes of determining whether the verification tests were properly performed. The Interconnection Customer shall not be required to perform the verification tests a second time, unless irregularities appear in the verification test report or there are other objective indications that the tests were not properly performed in the first instance.

**3.5 Observation of the Unit - Operations:** The Utility may perform on-site verification of the operations of the Unit after it commences operations if the Utility has a reasonable basis for doing so based on its responsibility to provide continuous and reliable utility service or as authorized by the provisions of the Utility's Retail Electric Tariff relating to the verification of Interconnection Customer installations generally.

**3.6 Costs of Interconnection Facilities:** During the term of this Agreement, the Utility shall design, construct and install the Interconnection Facilities. The Interconnection Customer shall

be responsible for paying the incremental capital cost of such Interconnection Facilities attributable to the Interconnection Customer's Unit. All costs associated with the operation and maintenance of the Dedicated Facilities after the Unit first produces energy shall be the responsibility of the Utility.

**3.7 Modifications to the Unit:** The Interconnection Customer may request a Modification at any time after commencement of parallel operation. The Utility shall evaluate the request and determine whether the proposed change is a Material Modification in accordance with the rules for requesting changes to applications in the SIR. A Material Modification will be studied pursuant to the procedures in the SIR for new applications. In the case of a non-material modification that is accepted by the Utility, the parties will execute an amendment to this Agreement describing the Unit changes that have been approved.

#### **IV. DISCONNECTION OF THE UNIT**

**4.1 Emergency Disconnection:** The Utility may disconnect the Unit, without prior notice to the Interconnection Customer (a) to eliminate conditions that constitute a potential hazard to Utility personnel or the general public; (b) if pre-emergency or emergency conditions exist on the Utility system; (c) if a hazardous condition relating to the Unit is observed by a Utility inspection; or (d) if the Interconnection Customer has tampered with any protective device. The Utility shall notify the Interconnection Customer of the emergency if circumstances permit. The Interconnection Customer shall notify the Utility promptly when it becomes aware of an emergency condition that affects the Unit that may reasonably be expected to affect the Utility EPS.

**4.2 Non-Emergency Disconnection Due to Unit Performance:** The Utility may disconnect the Unit, after notice to the responsible party has been provided and a reasonable time to correct, consistent with the conditions, has elapsed, if (a) the Interconnection Customer has failed to make available records of verification tests and maintenance of his protective devices; (b) the Unit system interferes with Utility equipment or equipment belonging to other customers of the Utility; (c) the Unit adversely affects the quality of service of adjoining customers; (d) the ESS does not operate in compliance with the operating parameters and limits described in Attachment 1 to this Agreement.

**4.3 Non-Emergency Disconnection for Utility Work:** The Utility may disconnect the Unit after notice to Interconnection Customer when necessary for routine maintenance, construction, and repairs on the Utility EPS. The Interconnection Customer may request to reconnect its service prior to the completion of the Utility's work. The Utility shall accommodate such requests, provided that the Interconnection Customer shall be responsible for the costs of the Utility's review and any system modifications required to reconnect the Unit ahead of schedule.

**4.4 Disconnection by Interconnection Customer:** The Interconnection Customer may disconnect a Unit with an AC nameplate rating above 300 kW upon 18 hours advance notice to the Utility if the planned shutdown will last 8 hours or more. For non-emergency forced outages

lasting 8 hours or more, the Interconnection Customer shall notify the Utility within 24 hours of the commencement of the shutdown

**4.5 Utility Obligation to Cure Adverse Effect:** If, after the Interconnection Customer meets all interconnection requirements, the operations of the Utility are adversely affecting the performance of the Unit or the Customer's premises, the Utility shall immediately take appropriate action to eliminate the adverse effect. If the Utility determines that it needs to upgrade or reconfigure its system, the Interconnection Customer will not be responsible for the cost of new or additional equipment beyond the point of common coupling between the Interconnection Customer and the Utility.

## V. ACCESS

**5.1 Access to Premises:** The Utility shall have access to the disconnect switch of the Unit at all times. At reasonable hours and upon reasonable notice consistent with Section III of this Agreement, or at any time without notice in the event of an emergency (as defined in paragraph 4.1), the Utility shall have access to the Premises.

**5.2 Utility and Interconnection Customer Representatives:** The Utility shall designate, and shall provide to the Interconnection Customer, the name and telephone number of a representative or representatives who can be reached at all times to allow the Interconnection Customer to report an emergency and obtain the assistance of the Utility. For the purpose of allowing access to the premises, the Interconnection Customer shall provide the Utility with the name and telephone number of a person who is responsible for providing access to the Premises.

**5.3 Utility Right to Access Utility-Owned Facilities and Equipment:** If necessary for the purposes of this Agreement, the Interconnection Customer shall allow the Utility access to the Utility's equipment and facilities located on the Premises. To the extent that the Interconnection Customer does not own all or any part of the property on which the Utility is required to locate its equipment or facilities to serve the Interconnection Customer under this Agreement, the Interconnection Customer shall secure and provide in favor of the Utility the necessary rights to obtain access to such equipment or facilities, including easements if the circumstances so require.

## VI. DISPUTE RESOLUTION

**6.1 Good Faith Resolution of Disputes:** Each Party agrees to attempt to resolve all disputes arising hereunder promptly, equitably and in a good faith manner.

**6.2 Mediation:** If a dispute arises under this Agreement, and if it cannot be resolved by the Parties within ten (10) business days after written notice of the dispute, the parties agree to submit the dispute to mediation by a mutually acceptable mediator, in a mutually convenient location in New York State, in accordance with the then current International Institute for Conflict prevention & Resolution Procedure, or to mediation by a mediator provided by the New York Public Service Commission. The Parties agree to participate in good faith in the

mediation for a period of up to 90 days. If the Parties are not successful in resolving their disputes through mediation, then the parties may refer the dispute for resolution to the New York Public Service Commission, which shall maintain continuing jurisdiction over this Agreement.

**6.3 Escrow:** The Interconnection customer shall, within thirty (30) working days of written request from the Utility and subject to the availability of appropriations under §41 of the State Finance Law, provide the Utility with a Letter of Assurance confirming that the Interconnection Customer (a New York State Agency) has adequate funds available under the taxing power and/or full faith and credit of the State of New York to cover the costs in dispute, if it is resolved in the Utility's favor.

## VII. INSURANCE

**7.1. Commercial General Liability:** The Interconnection Customer shall, at its own expense, procure and maintain throughout the period of this Agreement the following minimum insurance coverage:

**7.1.1.** Commercial general liability insurance with limits not less than:

**7.1.1.1.** Five million dollars (\$5,000,000) for each occurrence and in the aggregate if the AC Nameplate rating of the Interconnection Customer's Facility is greater than five (5) MWAC;

**7.1.1.2.** Two million dollars (\$2,000,000) for each occurrence and five million dollars (\$5,000,000) in the aggregate if the AC Nameplate rating of the Interconnection Customer's Facility is greater than one (1) MWAC and less than or equal to five (5) MWAC;

**7.1.1.3.** One million dollars (\$1,000,000) for each occurrence and in the aggregate if the AC Nameplate rating of the Interconnection Customer's Facility is greater than or equal to 300 (kWAC) and less than or equal to one (1) MWAC

**7.1.2.** Any combination of general liability and umbrella/excess liability policy limits can be used to satisfy the limit requirements of Section 7.1.1 (a).

**7.1.3.** The general liability insurance required to be purchased in Section 7.1 (a) may be purchased for the direct benefit of the Utility and shall respond to third party claims asserted against the Utility (hereinafter known as "Owners Protective Liability"). Should this option be chosen, the requirement of Section 7.3(a) will not apply but the Owners Protective Liability policy will be purchased for the direct benefit of the Utility and the Utility will be designated as the primary and "Named Insured" under the policy.

**7.2. General Commercial Liability Insurance:** The Interconnection Customer is not required to provide general commercial liability insurance for facilities with an AC nameplate rating of 300 kW or less. Due to the risk of incurring damages however, the New York State

Public Service Commission (“Commission”) recommends that the Interconnection Customer obtain adequate insurance. The inability of the Utility to require the Interconnection Customer to provide general commercial liability insurance coverage for operation of the Unit is not a waiver of any rights the Utility may have to pursue remedies at law against the Interconnection Customer to recover damages

**7.3. Insurer Requirements and Endorsements:** All required insurance shall be written by reputable insurers authorized to conduct business in New York. In addition, all general liability insurance shall, (a) include the Utility as an additional insured; (b) contain a severability of interest clause or cross-liability clause; (c) provide that the Utility shall not incur liability to the insurance carrier for payment of premium for such insurance; and (d) provide for thirty (30) calendar days’ written notice to the Utility prior to cancellation or termination of such insurance, with the exception of a ten (10) days’ notice in the event of premium non-payment; provided that to the extent the Interconnection Customer is satisfying the requirements of subpart (d) of this paragraph by means of a presently existing insurance policy, the Interconnection Customer shall only be required to make good faith efforts to satisfy that requirement and will assume the responsibility for notifying the Utility as required above.

**7.4. Evidence of Insurance:** Evidence of the insurance required shall state that coverage provided is primary and is not in excess to or contributing with any insurance or self-insurance maintained by Interconnecting Customer. Prior to the Utility commencing work on System Modifications, and annually thereafter, the Interconnection Customer shall have its insurer furnish to the Utility certificates of insurance evidencing the insurance coverage required above.

**7.4.1** If coverage is on a claims-made basis, the Interconnection Customer agrees that the policy effective date or retroactive date shall be no later than the effective date of this agreement, be continuously maintained throughout the life of this agreement, and remain in place for a minimum of three (3) years following the termination of this agreement or if policies are terminated will purchase a three-year extended reporting period. Evidence of such coverage will be provided on an annual basis.

**7.4.2** In the event that an Owners Protective Liability policy is provided, the original policy shall be provided to the Utility.

**7.5. Self-Insurance:** If the Interconnection Customer has a self-insurance program established in accordance with commercially acceptable risk management practices or self-retention or funding program established by law or otherwise set by local governmental policy, the Interconnection Customer may comply with the following in lieu of the above requirements as reasonably approved by the Utility:

**7.5.1.** The Interconnection Customer shall provide to the Utility, at least thirty (30) calendar days prior to the Date of Initial Operation, evidence of such program to self-insure or self-retain to a level of coverage equivalent to that required.

**7.5.2.** If the Interconnection Customer ceases to self-insure or self-retain or fund to the standards required hereunder, or if the Interconnection Customer is unable to provide

continuing evidence of the Interconnection Customer's financial ability to self-insure, the Interconnection Customer agrees to promptly obtain the coverage required under Section 7.1.

**7.6. Utility Obligation to Maintain Insurance:** The Utility agrees to maintain general liability insurance or self-insurance consistent with its existing commercial practice. Such insurance or self-insurance shall not exclude coverage for the Utility's liabilities undertaken pursuant to this Agreement.

**7.7. Notification Obligations:** The Parties further agree to notify each other whenever an accident or incident occurs resulting in any injuries or damages that are included within the scope of coverage of such insurance, whether or not such coverage is sought.

## VIII. LIMITATION OF LIABILITY

**8.1** Each Party's liability to the other Party for any loss, cost, claim, injury, liability, or expense, including reasonable attorney's fees, relating to or arising from any act or omission in its performance of this Agreement, shall be limited to the amount of direct damage actually incurred. In no event shall either Party be liable to the other Party for any indirect, special, consequential, or punitive damages of any kind whatsoever. Nothing herein is meant to limit the liability of a Party to an unaffiliated third-party claimant.

## IX. INDEMNITY

**9.1** This provision protects each Party from liability incurred to third parties arising from actions taken pursuant to the provisions of this Agreement. Liability under this provision is exempt from the general limitations on liability found in Section 7.

**9.2** The Utility shall at all times indemnify, defend, and hold the Interconnection Customer (State Agency) 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, to the extent arising out of or resulting from the action or failure to meet its obligations under this Agreement, except in cases of negligence, gross negligence or intentional wrongdoing by the Interconnection Customer .

**9.3** Subject to the availability of lawful appropriations and consistent with Section 8 of the State Court of Claims Act, the Interconnection Customer shall hold Utility harmless from and indemnify it for any final judgment of a court of competent jurisdiction to the extent attributable to the negligence of the Interconnection Customer or its officers or employees when acting within the course and scope of their employment. Liability incurred to third parties as a result of carrying out the provisions under this Agreement shall be exempt from the general limitations on liability set forth above.<sup>3</sup>

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<sup>3</sup> Certain New York laws (e.g. Section 41 of New York State Finance Law, Article 2 of the Court of Claims Act and Article 17 of the Public Officers Law) define the scope of New York State's indemnification of its contractual counterparties.

**9.4** If a Party is obligated to indemnify and hold the Indemnified Party harmless under this section, the amount owing to the Indemnified Party shall be the amount of such Indemnified Party's actual loss, as adjudicated by the Indemnifying Party's insurance carrier, net of any insurance or other recovery.

**9.5** Promptly after receipt by an Indemnified Party of any claim or notice of the commencement of any action or administrative or legal proceeding or investigation as to which the indemnity provided for in this section may apply, the Indemnified Party shall notify the Indemnifying Party of such fact. Any unintentional failure of or delay in such notification shall not affect a Party's indemnification obligation unless such failure or delay is materially prejudicial to the Indemnifying Party.

## **X. CONSEQUENTIAL DAMAGES**

**10.1** Other than as expressly provided for in this Agreement or pursuant to the utility tariff, neither Party shall be liable to the other Party under any provision of this Agreement for any losses, damages, costs, or expenses for any special, indirect, incidental, consequential, or punitive damages, including but not limited to loss of profit or revenue, loss of the use of equipment, cost of capital, cost of temporary equipment or services, whether based in whole or in part in contract, in tort, including negligence, strict liability, or any other theory of liability; provided, however, that damages for which a Party may be liable to the other Party under another agreement will not be considered to be special, indirect, incidental, or consequential damages hereunder.

## **XI. MISCELLANEOUS PROVISIONS**

**11.1 Beneficiaries:** This Agreement is intended solely for the benefit of the Parties hereto, and if a Party is an agent, its principal. Nothing in this Agreement shall be construed to create any duty to, or standard of care with reference to, or any liability to, any other person.

**11.2 Severability:** If any provision or portion of this Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction, such portion or provision shall be deemed separate and independent, and the remainder of this Agreement shall remain in full force and effect.

**11.3 Entire Agreement:** This Agreement including standard clauses for a governmental contract (e.g. New York State Appendix A or State University of New York Exhibit A) constitutes the entire Agreement between the Parties and supersedes all prior agreements or understandings, whether verbal or written.

**11.4 Waiver:** No delay or omission in the exercise of any right under this Agreement shall impair any such right or shall be taken, construed or considered as a waiver or relinquishment thereof, but any such right may be exercised from time to time and as often as may be deemed expedient. In the event that any agreement or covenant herein shall be breached and thereafter waived, such waiver shall be limited to the particular breach so waived and shall not be

deemed to waive any other breach hereunder.

**11.5 Applicable Law:** This Agreement shall be governed by and construed in accordance with the law of the State of New York.

**11.6 Amendments:** This Agreement shall not be amended unless the amendment is in writing and signed by the Utility and the Customer.

**11.7 Force Majeure:** For purposes of this Agreement, "Force Majeure Event" means any event: (a) that is beyond the reasonable control of the affected Party; and (b) that the affected Party is unable to prevent or provide against by exercising reasonable diligence, including the following events or circumstances, but only to the extent they satisfy the preceding requirements: acts of war, public disorder, insurrection, or rebellion; floods, hurricanes, earthquakes, lightning, storms, and other natural calamities; explosions or fires; strikes, work stoppages, or labor disputes; embargoes; and sabotage. If a Force Majeure Event prevents a Party from fulfilling any obligations under this Agreement, such Party will promptly notify the other Party in writing, and will keep the other Party informed on a continuing basis of the scope and duration of the Force Majeure Event. The affected Party will specify in reasonable detail the circumstances of the Force Majeure Event, its expected duration, and the steps that the affected Party is taking to mitigate the effects of the event on its performance. The affected Party will be entitled to suspend or modify its performance of obligations under this Agreement, other than the obligation to make payments then due or becoming due under this Agreement, but only to the extent that the effect of the Force Majeure Event cannot be mitigated by the use of reasonable efforts. The affected Party will use reasonable efforts to resume its performance as soon as possible.

**11.8 Assignment to Corporate Party:** At any time during the term, the Interconnection Customer may assign this Agreement to a corporation or other entity with limited liability, provided that the Interconnection Customer obtains the consent of the Utility. Such consent will not be withheld unless the Utility can demonstrate that the corporate entity is not reasonably capable of performing the obligations of the assigning Interconnection Customer under this Agreement.

**11.9 Assignment to Individuals:** At any time during the term, the Interconnection Customer may assign this Agreement to another person, other than a corporation or other entity with limited liability, provided that the assignee is the owner, lessee, or is otherwise responsible for the Unit.

**11.10 Permits and Approvals:** Interconnection Customer shall obtain all environmental and other permits lawfully required by governmental authorities prior to the construction and for the operation of the Unit during the term of this Agreement.

**11.11 Limitation of Liability:** Neither by inspection, if any, or non-rejection, nor in any other way, does the Utility give any warranty, express or implied, as to the adequacy, safety, or other characteristics of any structures, equipment, wires, appliances or devices owned, installed or maintained by the Interconnection Customer or leased by the Interconnection Customer from

third parties, including without limitation the Unit and any structures, equipment, wires, appliances or devices appurtenant thereto.

**ACCEPTED AND AGREED:**

**Interconnection Customer**

**Signature:**

**Printed Name:**

**Title:**

**Date:**

**Utility Signature:**

**Printed Name:**

**Title:**

**Date:**

**ATTACHMENT 1**

**ENERGY STORAGE SYSTEMS DESCRIPTION OF OPERATING  
PARAMETERS AND LIMITS**

**APPENDIX B -**

**NEW YORK STATE STANDARDIZED APPLICATION FOR  
INTERCONNECTION OF INVERTER BASED PARALLEL  
GENERATION EQUIPMENT TO THE ELECTRIC SYSTEM OF**

**Utility:**

**Customer:**

Name: Phone: (      )

Address: Fax: (      )

Email:

Municipality:

Utility Account No.:

Utility Meter No.:

**Agent (if any):**

Name: Phone: (      )

Address: Fax: (      )

Email:

**Consulting Engineer or Contractor:**

Name: Phone: (      )

Address: Fax: (      )

Email:

**Existing Electric Service:**

Capacity: \_\_\_\_\_ Amperes

Voltage: \_\_\_\_\_ Volts

Service Character:     Single Phase         Three Phase

**Location of Protective Interface Equipment on Property:**

*(Include address if different from customer address.)*

**Energy Producing Inverter Information:**

Total AC Nameplate Rating of All Inverters:

Inverter

Inverter or System Tested to UL 1741 (most current version):

Yes     No    *If no, attach product literature.*

Manufacturer:

Model:

Quantity:

Rating per inverter: \_\_\_\_\_ kW

Type:  Forced Commutated         Line Commutated

Utility Interactive         Stand Alone

Rated Output:        \_\_\_\_\_ Amperes        \_\_\_\_\_ Volts

Ramp Rate:

Method of Grounding:     Grounded         Ungrounded

Quantity of Inverters:

*If there is more than one inverter of different types of manufacturers, please provide information on a separate sheet.*

If applicable:

Step Up Transformer Winding Configuration:

Wye-Wye         Wye-Delta         Delta-Wye

Other existing DG such as emergency generators, other renewable technologies, microturbines, hydro, fuel cells, battery storage, etc:

Yes         No

*If yes, provide information about existing generation on separate sheet and include detail on single-line diagram.*

**Signature:**

---

CUSTOMER/AGENT SIGNATURE

---

TITLE

---

DATE

**APPENDIX C -**

**NEW YORK STATE STANDARDIZED APPLICATION  
FOR INTERCONNECTION OF NON-INVERTER BASED PARALLEL  
GENERATION EQUIPMENT TO THE ELECTRIC SYSTEM OF**

**Utility:**

**Customer:**

Name: Phone: (     )     )

Address: Fax: (     )     )

Email:

Municipality:

Utility Account No.: Utility Meter No.:

**Agent (if any):**

Name: Phone: (     )     )

Address: Fax: (     )     )

Email:

**Consulting Engineer or Contractor:**

Name: Phone: (     )     )

Address: Fax: (     )     )

Email:

**Estimated In-Service Date:**

**Existing Electric Service:**

Capacity: \_\_\_\_\_ Amperes

Voltage: \_\_\_\_\_ Volts

Service Character:     Single Phase         Three Phase

Secondary 3 Phase Transformer Connection:     Wye         Delta

**Location of Protective Interface Equipment on Property:**

*(Include address if different from customer address.)*

**Energy Producing Generator Unit Information:**

Manufacturer:

Model No.:

Version No.:

Synchronous     Induction     Other

Rating: \_\_\_\_\_ kW

Rating: \_\_\_\_\_ kVA

Rated Output: \_\_\_\_\_ VA

Rated Voltage: \_\_\_\_\_ Volts

Rated Frequency: \_\_\_\_\_ Hz

Rated Speed: \_\_\_\_\_ RPM

Efficiency: \_\_\_\_\_ %

Power Factor: \_\_\_\_\_ %

Rated Current: \_\_\_\_\_ Amps

Locked Rotor Current: \_\_\_\_\_ Amps

Synchronous Speed: \_\_\_\_\_ RPM

Winding Connection:

Min. Operating Freq./Time:

Generator Connection:  Delta  Wye  Wye Grounded

Three-Line Diagram attached:  Yes

Verification Test Plan attached:  Yes

If applicable, Certification to UL 1741 attached:  Yes

**For Synchronous Machines:**

Submit copies of the Saturation Curve and the Vee Curve

Salient  Non-Salient

Torque: \_\_\_\_\_ lb-ft

Rated RPM:

Field Amperes: \_\_\_\_\_ at rated generator voltage and current

and \_\_\_\_\_ % PF over-excited

Type of Exciter:

Output Power of Exciter:

Type of Voltage Regulator:

Direct-axis Synchronous Reactance ( $X_d$ ): \_\_\_\_\_ ohms

Direct-axis Transient Reactance ( $X'_d$ ): \_\_\_\_\_ ohms

Direct-axis Sub-transient Reactance ( $X''_d$ ): \_\_\_\_\_ ohms

**For Induction Machines:**

Rotor Resistance ( $R_r$ ): \_\_\_\_\_ ohms      Exciting Current: \_\_\_\_\_ Amps

Rotor Reactance ( $X_r$ ): \_\_\_\_\_ ohms      Reactive Power Required:

Magnetizing Reactance ( $X_m$ ): \_\_\_\_\_ ohms,      \_\_\_\_\_ VARs (No Load)

Stator Resistance ( $R_s$ ): \_\_\_\_\_ ohms,      \_\_\_\_\_ VARs (Full Load)

Stator Reactance ( $X_s$ ): \_\_\_\_\_ ohms

Short Circuit Reactance ( $X''_d$ ): \_\_\_\_\_ ohms,

Phases:    ( ) Single Phase    ( ) Three Phase

Frame Size: \_\_\_\_\_      Design Letter: \_\_\_\_\_

Temp. Rise: \_\_\_\_\_ °C

Step Up Transformer Winding Configuration:

( ) Wye-Wye      ( ) Wye-Delta      ( ) Delta-Wye

**Signature:**

\_\_\_\_\_  
CUSTOMER/AGENT SIGNATURE

\_\_\_\_\_  
TITLE

\_\_\_\_\_  
DATE

**APPENDIX D -**

**PRE-APPLICATION REPORT FOR THE CONNECTION OF PARALLEL  
GENERATION EQUIPMENT TO THE UTILITY DISTRIBUTION  
SYSTEM**

Utility:

<b>DG Project Information: (Provided to Utility by Applicant)</b>
Customer name
Location of Project: (Address and/or GPS Coordinates)
DG technology type
DG fuel source / configuration
Proposed project size in kW (AC)
Date of Pre-Application Request
<b>Pre-Application Report: (Provided to Applicant by Utility – 10 Business Days)</b>
Date of Pre-Application Report Delivery
Operating voltage of closest distribution line
Phasing at site
Approximate distance to 3-Phase (if only 1 or 2 phases nearby)
Circuit capacity (MW)
Fault current availability, if readily obtained
Circuit peak load for the previous calendar year
Circuit minimum load for the previous calendar year
Approximate distance (miles) between serving substation and project site
Number of substation banks
Total substation bank capacity (MW)
Total substation peak load (MW)
Aggregate existing distributed generation on the circuit (kW)
Aggregate queued distributed generation on the circuit (kW)

**APPENDIX E -**

**COST SHARING FOR SYSTEM MODIFICATIONS  
& COST RESPONSIBILITY FOR DEDICATED TRANSFORMER(S) AND  
OTHER SAFETY EQUIPMENT FOR NET METERED CUSTOMERS**

Generator Type	Generator Size	Equipment Cost to Residential Net Metered Customers	Equipment Cost to <b>Non-Residential</b> Net Metered Customers****
Micro-CHP	Less than or equal to 10 kW	\$350 maximum	N/A
Fuel Cell	Less than or equal to 10 kW	\$350 maximum	As determined by Utility*
Fuel Cell****	Over 10 kW up to 2 MW	N/A	As determined by Utility*
Solar	Less than or equal to 25 kW	\$350 maximum	\$350 maximum
Solar****	Over 25 kW up to 2 MW	N/A	As determined by Utility*
Micro-hydroelectric	Less than or equal to 25 kW	\$350 maximum	As determined by Utility*
Micro-hydroelectric****	Over 25 kW up to 2 MW	N/A	As determined by Utility*
Wind **	Less than or equal to 25 kW	\$750 maximum	\$750 maximum
Wind****	Over 25 kW up to 2 MW	N/A	As determined by Utility*
Farm Wind ***	Over 25 kW up to 500 kW	N/A	\$5,000 maximum***
Farm Waste ***	Up to 2 MW	N/A	\$5,000 maximum***

\* Subject to review by the Commission at the request of the Customer. Such costs can include the total costs for upgrades to ensure the adequacy of the distribution system which would not have been necessary but for the interconnection of the net metered DG resource (as per PSL §66-1(3)(c)(iii)).

\*\* Residential and Non-Residential Wind Customers with a total rated capacity up to 25 kW,

Farm Wind may be required to also pay for feeder line upgrades that would not be required but for the interconnection of the net metered DG resource. Residential and Non-Residential Wind, and Farm Wind Customers are responsible for all feeder line upgrade costs if the total nameplate rating of the generating equipment exceeds 20% of the rated capacity of the feeder line (as per PSL §66-1(5)(c)(ii)). Farm Wind Customers are responsible for 50% of feeder line upgrade costs if the total nameplate rating of the generating equipment does not exceed 20% of the rated capacity of the feeder line (as per PSL §66-1(2)).

\*\*\* For Farm Wind projects with a total nameplate rating of the generation equipment that does not exceed 20% of the rated capacity of the local feeder line to which the project will connect, that portion of the CESIR costs related to transformers or other equipment installed at the customer's site is included in the \$5,000 limitation; however, the customer is also responsible for 50% of the CESIR costs related to feeder line upgrades. Farm Wind projects with a total nameplate rating of the generation equipment that does exceed 20% of the rated capacity of the local feeder line to which the project will connect, CESIR costs related to transformers or other equipment installed at the customer's site is included in the \$5,000 limitation; however, Farm Wind customers are responsible for the CESIR costs related to feeder line upgrades.

\*\*\*\* The first project triggering an eligible upgrade will initially bear 100% of the cost, while subsequent projects benefitting from those upgrades will reimburse the first project developer. The share of the costs paid by subsequent developers shall be calculated by the utility as the ratio of the total upgrade cost to the total AC watts the upgrade serves. If a third project uses the upgrade, the utility will perform a new calculation based on the new number of total watts served; the third project will pay its share and the utility will divide the third project's contribution among the first two projects. Sharing continues according to this formula until the capacity of the upgrade is used up or the net costs to the participating projects falls to \$100,000 or lower, whichever comes first. The utilities shall administer the allocation process and track the payments among contributing projects. The utilities are authorized to collect a \$750 fee from applicants for processing each reimbursement. The Equipment Upgrade Cost Sharing Requirement is limited in several ways. First, cost sharing only applies to substation 3V0 protection, substation transformer upgrades, and other substation-level shared upgrades. Second, only those upgrades that cost in excess of \$250,000 are subject to sharing. Third, projects below 200 kW AC in size are not required to participate.

### **Cost Sharing for Qualifying Upgrades**

The cost-sharing provisions herein apply to two categories of system modifications: Utility-Initiated Upgrades and Market-Initiated Upgrades, as defined below, both which utilize a pro rata approach whereby the applicant pays only for the specific distribution hosting capacity assigned to its project for these types of system modifications. A pro rata approach consists of taking the estimated cost of an upgrade and dividing that cost by the total increased Hosting Capacity created by the upgrade, thereby creating a dollar per kW cost which will then be multiplied by an individual project's AC nameplate rating in kW to determine the applicant's pro

rata cost share. The rules specified in Section I. Application Process will continue to govern applicants' cost obligations with respect to all other system modifications.

## **1. Utility-Initiated Upgrades**

The category of Utility-Initiated Upgrades consists of substation transformer bank (bank) installations or replacements and proactive zero sequence voltage (3V0) installations. Each utility shall identify its proposed Utility-Initiated Upgrades in its annual Capital Investment Plan (CIP). Each year, when the CIP is filed with the Commission, the utility will publish a link to the CIP on its system data portal and a list of those substations included in the CIP that are eligible for cost sharing hereunder as Utility-Initiated Upgrades where the utility plans to complete engineering within the next twenty-four (24) months. The utility will describe the scope of the upgrade to be performed at each such substation by providing planned design/construction schedules and funding estimates required to accommodate additional DG/ESS interconnections. After the established application deadline as defined below, the utility shall determine a pro rata cost per kW for the upgrade at each relevant substation.

### **A. Bank Upgrades (Proposed Multi-value Distribution Projects)**

In the course of its planning process, at the time when the utility identifies the need to install or replace a bank due to asset condition, reliability, safety, resiliency, or capacity requirements, the utility shall consider options for designing the new bank equipment to create greater DG/ESS Hosting Capacity than the baseline installation would create. If the bank can be upgraded to increase Hosting Capacity while solving a pre-existing asset condition, reliability, safety, resiliency, or capacity issue, and if there is market interest that indicates DG/ESS growth above the capacity of the baseline equipment, the utility will identify the enhanced installation or replacement in the next published CIP as a Multi-value Distribution ("MVD") project. The utility will fund the cost of the baseline project. Participating Projects will fund the difference between the baseline and the MVD project cost.

If the utility determines, in its sole discretion, that there is sufficient time in the CIP project schedule (where "sufficient time" is baseline project specific and includes baseline projects where final design and engineering is not complete and prior to procurement) to allow additional DG/ESS developers to submit interconnection applications, the utility will publish a deadline for such applications on its system data portal with the link to the CIP. The utility notice will describe the baseline installation to be performed and the corresponding design/construction plan for the proposed baseline project. Within thirty (30) Business Days after the application deadline, the utility will calculate a cost per kW<sup>1</sup> for the upgrade for each project with an approved application to participate in the MVD Project Study and will provide that information and an invoice for MVD Project Study costs to each applicant. Applicants will have 10 Business Days to pay their share of the study costs; applicants who make this payment on time will be considered Participating Projects. Once Participating Projects commit to participate in the MVD Project Study, which requires the payment of their respective MVD Project Study cost share, Participating Projects will also be subject to CESIR payment timelines for project specific non-shared costs as per Section I-D. The utility will start the MVD Project Study and Participating Project CESIRs once the MVD Project Study and CESIR payments are

received. If Participating Projects do not meet payment timelines and are withdrawn from queue, the pro rata cost per kW remains the same for remaining Participating Projects, and the Utility will have discretion on whether enough is collected to justify proceeding with the MVD project. The utility will have one hundred (100) Business Days to complete both the MVD Project Study and each Participating Project's CESIR.

The MVD Project Study result will include an indication of the incremental project equipment, Hosting Capacity enabled, preliminary milestone schedule, and revised cost per kW required to interconnect Participating Projects as part of the proposed MVD project. If the MVD Project Study indicates that the aggregate Participating Project capacity exceeds the capacity of the MVD project, the capacity will be assigned by interconnection queue position. After the MVD Project Study results are provided to the Participating Projects, for those Participating Projects where the MVD Study confirms available increased Hosting Capacity, a non-refundable full MVD Qualifying Upgrade payment for the shared costs of proceeding with the MVD project will be due within ninety (90) Business Days from each of the Participating Projects that want to proceed. If projects are withdrawn from the queue such that additional Participating Projects in queue can now benefit from Hosting Capacity created by the Qualifying Upgrade, the utility will send invoices to additional Participating Projects where the MVD project can now meet their Hosting Capacity needs. Applicants who receive an invoice under this provision shall pay the invoice within 30 Business Days or be withdrawn from the queue.

Based on the number of DG/ESS applicants that pay the non-refundable MVD Qualifying Upgrade payment and the CIP project schedule, the utility will have the discretion to move ahead with the MVD project. If the utility determines it will not proceed with the MVD project, it will provide notice of its decision and rationale to Participating Projects within fifteen (15) Business Days of receipt of the MVD Qualifying Upgrade payment and will refund those payments via the utility cost reconciliation process per Section 1-C. No MVD Qualifying Upgrade payments will be refunded to Participating Projects that are withdrawn from the queue after making such payments until/unless a subsequent project(s) take their place by making MVD Qualifying Payments that equal or exceed the MVD Qualifying Payments received from those withdrawing Participating Projects.

## **B. Proactive 3V0 Upgrades**

The CIP will identify substations at which the utility plans to install 3V0 upgrades. Following the utility's filing of the CIP, additional applicants may apply for interconnection at the identified substations. The utility will accept applications at a substation designated for a 3V0 upgrade up to the maximum capacity available at the site for reliable and safe operation. The utility will have the discretion to proceed where 3V0 upgrades are feasible. Payments will be due in accordance with CESIR payment timelines as per Section 1-D.

## **2. Market-Initiated Upgrades**

This section addresses cost-sharing for Qualifying Upgrades identified in the course of the interconnection application process.

## **A. Process for Market-Initiated Upgrades**

Whenever the utility determines that a substation Qualifying Upgrade is required to interconnect a Triggering Project, the utility will promptly discuss its finding with the applicant. If the applicant decides to continue with the application, then in addition to the CESIR process outlined in Section I-C, the utility will proceed with a more detailed study to develop a cost estimate and initial construction schedule for the Qualifying Upgrade. The utility will determine the Qualifying Upgrade Cost and the net increase in Hosting Capacity that would result from the construction of that modification. The utility shall have up to forty (40) Business Days to conduct the additional study to assess the Qualifying Upgrade and complete the CESIR. The utility will present the Qualifying Upgrade use case and supporting details in the Qualifying Upgrade Disclosure, which will include the following items:

1. The technology option(s) considered to address the electric system impacts;
2. The Qualifying Upgrade selected by the utility;
3. The estimated Qualifying Upgrade Cost and increase in Hosting Capacity;
4. The estimated Capacity Increase Shared Cost (per kW AC); and
5. A Preliminary Milestone schedule for the Qualifying Upgrade.

The utility will also publish the Qualifying Upgrade Disclosure with the next monthly update to the utility's system data portal after the CESIR is delivered to the Triggering Project applicant.

The CESIR will assign the Triggering Project and any Sharing Project its Qualifying Upgrade Charge. In accordance with the requirements of Section 1-D, each applicant shall pay 25% of the project specific costs ninety (90) Business Days following the CESIR delivery and pay 75% of the project specific costs and Qualifying Upgrade Charge one hundred and twenty (120) Business Days from when the utility confirms receipt of the 25%. No Qualifying Upgrade Charge payments will be refunded to Participating Projects that are withdrawn from the queue after making such payments until/unless a subsequent project(s) take their place by making Qualifying Upgrade Charge payments that equal or exceed the Qualifying Upgrade Charge payments made by the withdrawing Participating Projects.

For Qualifying Upgrades that are distribution/sub-transmission line and underground secondary network upgrades,<sup>2</sup> the utility shall charge the Triggering Project the full cost estimate for the Qualifying Upgrade as established in the CESIR. In accordance with the requirements of Section I-D, Triggering Project and Sharing Project(s) shall make 25% and 75% payments. The 25% payment is refundable until the project makes the 75% payment, at which time both payments become non-refundable. At the time the Triggering Project applicant makes its first payment, the utility shall designate the upgrade as a "DG/ESS Encumbered Line." Construction of the upgrade shall begin once the utility has received full payment of the cost estimate. Any Sharing Project(s) above 50 kW AC that later proceeds to CESIR will be charged its pro rata share of the Qualifying Upgrade. The utility will calculate the pro rata share based on the capacity of the DG/ESS project and footage used. After five years from the first project interconnection, or when the Triggering Project's contribution after reimbursement becomes less than \$100,000, whichever occurs first, the line will no longer be considered a "DG/ESS Encumbered Line." No payments shall be refunded to a Sharing Project(s) after making full payment until a subsequent project(s) takes their place by making their full payment. At the discretion of the applicant, the Triggering Project can opt out of cost sharing until the 75% payment date, thereby classifying the upgrade as a project specific non-shared upgrade and be subject to the rules for project specific non-shared costs as per Section I-D.

## **B. Project Profiles to Be Considered in Site Selection and Eligible for the Market-Initiated DG/ESS Upgrade Mechanism**

Participating Projects must be greater than 50 kW AC nameplate rating in size, or Participating Projects proposed by the same developer, within a six-month period, must be greater than 50 kW AC nameplate rating in aggregate.

The table below, “Market-Initiated Cost Sharing 2.0 Mechanisms”, provides a breakdown of Triggering and Sharing project cost responsibilities, Mobilization Threshold, and Refundability/Reconciliation of the various Market-Initiated Qualifying Upgrade mechanisms.

## Market-Initiated Cost Sharing 2.0 Mechanisms

Market-Initiated Qualifying Upgrade	CESIR Cost Responsibility		Mobilization Threshold	Refundability and Reconciliation
	Triggering Project	Sharing Project		
Distribution and Sub-Transmission Lines and Underground Secondary Network Upgrades	100% of Qualifying Upgrade Cost	Pro-Rata Share based on kW Capacity and Footage	Upon payment of 100% of Qualifying Upgrade Cost by Triggering Project	<p>The 25% payment is refundable until the project makes the 75% payment at which time both payments become non-refundable.</p> <p>Qualifying Upgrade Costs are non-refundable for the Triggering Project until a Sharing Project provides payment such that the utility has receipt of 100% of Qualifying Upgrade Cost.</p> <p>Upon receipt of additional payments by Sharing Projects the utility shall reconcile with the Triggering Project based on a calculated estimated pro-rata share. Remaining reconciliation for Qualifying Upgrade Cost to occur pursuant to Section I-C of the SIR.</p>
Transformer Bank	Pro-Rata Share of Qualifying Upgrade Cost based on kW Capacity	Pro-Rata Share of Qualifying Upgrade Cost based on kW Capacity	Upon payment of 75% of Qualifying Upgrade Cost by Triggering Project and Sharing Project(s)	<p>Qualifying Upgrade Costs are non-refundable until another Sharing Project provides payment such that the utility has received payments equal to the pro-rata share of the Qualifying Upgrade.</p> <p>Remaining reconciliation for Qualifying Upgrade Cost to occur pursuant to Section I-C of the SIR.</p>
Other Qualifying Substation Upgrades	Pro-Rata Share of Qualifying Upgrade Cost based on kW Capacity	Pro-Rata Share of Qualifying Upgrade Cost based on kW Capacity	Upon payment of 25% of Qualifying Upgrade Cost by Triggering Project and Sharing Project(s)	<p>Qualifying Upgrade Costs are non-refundable until another Sharing Project provides payment such that the utility has received payments equal to the pro-rata share of the Qualifying Upgrade.</p> <p>Remaining reconciliation for Qualifying Upgrade Costs to occur pursuant to Section I-C of the SIR.</p>

### **C. Utility Mobilization Thresholds**

The utility shall proceed to construct a Qualifying Upgrade, other than a distribution/sub-transmission line upgrade or underground secondary network upgrade, once it has collected sufficient funds from the Triggering and Sharing Project(s) in accordance with the following:

1. For all substation upgrades other than a transformer installation/upgrade, the utility shall proceed once Participating Project payments total at least 25% of the estimated Qualifying Upgrade Cost.
2. For a substation transformer installation/upgrade and associated work, construction shall begin once payments made by Participating Projects equal at least 75% of the estimated Qualifying Upgrade Cost. If the 75% threshold is not collected within twelve (12) months of an applicant paying its full construction contribution, then the applicant may request a refund, which the utility shall process within sixty (60) Business Days of the request.
3. If Triggering Project and Sharing Project(s) Hosting Capacity needs are below the minimum subscription threshold, the Triggering Project, or the Triggering Project and any Sharing Project(s), may agree to fund shares beyond their capacity needs so that the minimum subscription threshold criterion is met.
4. To mitigate the risk to utility customers, unrecovered costs shall be capped at 2% of a utility's distribution/sub-transmission electric capital investment budget per fiscal year, after which any Qualifying Upgrades would require full (100%) funding from Triggering Projects and Sharing Projects prior to utility mobilization for such projects' construction work.

### **3.Capital Project Queues**

The utility will create a Capital Project Queue at the substation or feeder level for each Utility-Initiated Upgrade and Market-Initiated Upgrade identified under these rules where utility construction will take longer than twenty-four (24) months. The utility will note on its Hosting Capacity map that the station/feeder is impacted by the Capital Project Queue due to future work.

Applications pending at the time a Capital Project Queue is created will be placed into the queue if the applicant consents. New applications will be placed into a Capital Project Queue following the Preliminary Screening Analysis. The payment timelines in Section 1-D will be suspended for applications assigned to a Capital Project Queue, except as provided otherwise in this Section.

When the upgrade for a given substation is within eighteen (18) months of the expected completion date, applications will be removed from in the Capital Project Queue and will advance through the remaining SIR steps based on their original application completion date. Any project that was placed in the Capital Project Queue after the CESIR was complete will need to go through the CESIR process again due to potential changes to the utility's electric power system, unless the utility determines that a restudy is not needed.

#### **4.Unsubscribed Capacity**

Utilities will continue to collect contributions from Participating Projects up to five (5) years after a Qualifying Upgrade is placed in service, or all available Hosting Capacity from a Qualifying Upgrade is used, whichever occurs first.

If the Triggering Project and initial Sharing Project(s) have met the minimum threshold to begin the upgrade, but the available Hosting Capacity has not been completely filled and thus utility customers contribute to the unassigned costs (either through the establishment of a deferred regulatory asset or in base rates), then any additional Sharing Projects that use available Hosting Capacity up to five (5) years after the upgraded asset is placed in service will be required to fund their pro rata share prior to interconnection, and utility customers shall receive the benefit provided by those additional Sharing Project(s). At the time additional Sharing Project(s) provide contributions for Qualifying Upgrades under this scenario, the following utility customer protections shall apply:

- i. For Qualifying Upgrades that are in service but NOT included in base rates, the utility shall cease deferring the return on, and return of, investment associated with contributions from subsequent Sharing Projects. Additionally, the Qualifying Upgrade is to be excluded from the utility's net plant, or capital expenditure, tracking mechanism until it is included in base rates.
- ii. For Qualifying Upgrades that are in service AND included in base rates, the utility is required to reduce plant in service by the funds provided by additional Sharing Project(s). The utility's net plant, or capital expenditure, tracking mechanism will provide utility customers with the benefit of funds received from the additional Sharing Project(s).

If the additional Hosting Capacity needs of the Triggering Project and initial Sharing Project(s) are below the minimum subscription threshold, and the Triggering Project and initial Sharing Project(s) (if any), agree to fund shares beyond their capacity needs so that the minimum subscription threshold criterion is met, then the Triggering Project and initial Sharing Project(s) have provided contributions in excess of the Capacity Increase Shared Cost rate multiplied by their respective Hosting Capacity. Under this scenario the cost of unsubscribed capacity is being borne by the Triggering Project, previously paid Sharing Project(s) (if any), and utility customers.

Additional Sharing Projects that connect to the upgraded station/feeder will be required to contribute such that the Triggering Project, initial Sharing Project(s) (if any), and additional Sharing Projects have provided funding at an equal dollar per kW of Hosting Capacity. Triggering Projects and previously paid Participating Projects are to be provided refunds (from the utility) as a result of the additional contribution of Sharing Project(s). Refunds shall be provided to the Triggering Project and previously paid Sharing Project(s) until the Participating Projects have provided funding at a level that is equivalent to their Capacity Increase Shared Cost multiplied by their respective Hosting Capacity level. If additional Sharing Projects provide funding, the utility customer protections described in Scenario 1 (sections i and ii) shall apply.

## **5. Cost Reimbursement**

The Utility will reimburse Participating Projects for the costs of Qualifying Upgrades in advance of the final project cost reconciliation process established in section 1.C, Step 11 of the SIR, as provided in this section. These reimbursements will be based on the cost estimates provided by the utility.

For upgrades involving the DG Encumbered Line mechanism, Triggering Projects and previously paid Sharing Projects shall be reimbursed by the utility when later Sharing Projects make their full payments, with contributions to be calculated based on project size and footage utilized. Once the Triggering Project and Sharing Project(s) have paid 100% of their respective payments, the utility will reimburse Sharing Projects' estimated costs to the Triggering Project within sixty (60) Business Days. When the final utility costs for all participating projects on a DG Encumbered Line are known, both the Triggering Project and any Sharing Projects will be billed or refunded by the utility as provided in the SIR.

When any Triggering Project or Sharing Projects pay more than their pro rate cost shares in order to reach a mobilization threshold, as provided in section D.3 above, payments from additional Sharing Projects received after the mobilization threshold is reached will be first applied to the Triggering Project and initial Sharing Project(s) that paid more than their pro rata cost share, until the Triggering Project and Sharing Projects' contributions are equal to the pro rata share of each project based on capacity needs. When the final costs are known, the Triggering Project and Sharing Projects will be billed or refunded based on the actual costs per the SIR. Applications held in the interim queues pursuant to the Commission's March 21, 2021 Order Directing Interim Modifications to the New York State Standardized Interconnection Requirements that pay the full cost of a Qualifying Upgrade shall be treated as Triggering Projects and shall be reimbursed in accordance with the rules stated in the preceding paragraph.

## APPENDIX F -

### APPLICATION PACKAGE CHECKLIST

Completed standard application form	√
New York State Standardized Acknowledgement of Property Owner Consent Form – For Systems above 50 kW up to 5 MW Only – Refer to Appendix H for form	√
For residential systems rated 50 kW and below, a signed copy of the standard contract	√
Letter of authorization, signed by the Customer, to provide for the contractor to act as the customer’s agent, if necessary	√
If requesting a new service, a site plan drawing with the proposed interconnection point identified by a Google Earth, Bing Maps, or similar satellite image. The drawings shall show all electrical components proposed for the installation and their connections to the existing on-site electrical system from that point to the PCC, and shall be clearly marked to distinguish between new and existing equipment. For those projects on existing services, account and meter numbers shall be provided.	√
Description / Narrative of the project and site proposed. If multiple DG systems are being proposed at the same site/location, this information needs to be identified and explained in detail.	√
DG technology type	√
DG fuel source / configuration	√
Proposed project size in AC kW	√
Project is net metered, remote, or community net metered	√
Copy of the certificate of compliance referencing UL 1741. If proposing power-limited equipment, provide additional generic letter by manufacturer detailing output range in which inverter model(s) were tested and certified to UL 1741.	√
Copy of the manufacturer’s product data sheet for the interface equipment. For custom equipment ( <i>e.g.</i> , transformer, disconnect, or recloser), copy of the manufacturer’s product brochure.	√

<p>For systems 50 kW or less, provide a copy of manufacturer's verification test procedures.</p>	<p>√</p>
<p>For solar PV and BESS applications – a single-line drawing that meets the requirements of this Appendix. For all other types of applications – a three-line diagram that meets the requirements of this Appendix.</p> <p>Single-line and three-line diagrams must include the following:</p> <ol style="list-style-type: none"> <li>1. Number, individual ratings, connection configurations, and type of all major electrical components such as generating units, step-up transformers, auxiliary transformers, grounding transformers, neutral reactors, and switches/disconnects of the proposed interconnection, including the required protection devices (instrument transformer configuration and polarity if applicable) and circuit breakers.</li> <li>2. Proposed inverter protection settings (and relay equipment settings if applicable).</li> <li>3. Proposed generator step-up transformer MVA ratings, impedances, tap settings, neutral connections, winding configurations, and voltage ratings.</li> <li>4. For those systems proposed to be interconnected at a system voltage of 1,000 volts or greater, the drawings shall be sealed by a NYS licensed Professional Engineer.</li> <li>5. Control system designs, phase sequencing, differential relay settings, ground connections, and metering transformer connections.</li> </ol>	<p>√</p>

**APPENDIX G -  
APPLICATION SCREENING**

**PRELIMINARY SCREENING**

All Preliminary Screens shall be completed by the utility and results shall be provided to the applicant in accordance with Section C, Step 4.

**Screen A: Is the PCC on a Networked Secondary System?**

Does the proposed system connect to a secondary network system?

- Yes (Proceed to Screen B, then complete Screens 1 through 3)
- No (Proceed to Screen B, then complete Screens C through F)

**Screen B: Is Certified Equipment Used?**

Does the applicant propose to use equipment that has been listed to meet UL 1741 (Inverters, Converters and Charge Controllers for Use in Independent Power Systems) and for inverter-based equipment, UL 1741, including supplement B (UL 1741 SB), with settings as specified in the utility's technical requirements document, by a nationally recognized testing laboratory?

- Yes (Pass Screen)
- No (Fail Screen)

***Screen 1: Are the existing service, transformer, and network protector(s) adequate?***

- Yes (Pass Screen)
- No (Fail Screen)

Are the existing service, transformer (*i.e.*, transformer closest to PCC), and network protector(s) adequate to interconnect the aggregate and proposed DER capacity (inclusive of this proposed project)?

- Yes (Pass Screen)
- No (Fail Screen)

***Screen 2: Is the proposed DG system compatible with the utility grid?***

2(a) Identify the equipment type (inverter, synchronous, induction, or hybrid) and capacity (kW).

2(b) Can the network protector(s) accommodate reverse power?

- If answer to Items 2(a) and 2(b) Pass (Pass Screen)
- If answer to Item 2(a) or 2(b) Fails (Fail Screen)

**Screen 3: Simplified Penetration Test**

3(a) Is the aggregate interconnected and proposed DER capacity (including this proposed project) less than 15% of the minimum load of the network?

3(b) Is the sum of the aggregate interconnected and proposed DER capacity (inclusive of this proposed project) in the local network less than 50% of the minimum load on the transformer(s) in this area?

- If answer to Items 3(a) and 3(b) is Yes (Pass Screen)
- If answer to Item 3(a) or 3(b) is No (Fail Screen)

**Screen C: Is the Electric Power System (EPS) Rating Exceeded?**

Does the maximum aggregated generation or loading capacity connected to an EPS (existing and approved prior to application) exceed any EPS ratings (modified per established utility practice)?

- Yes (Fail Screen)
- No (Pass Screen)

**Screen D: Is the Line and Grounding Configuration Compatible with the Interconnection Type?**

1. Identify primary distribution line configuration that will serve the distributed generation or energy storage. Based on the DER interconnection and using the table below, determine compatibility with the electric power service, including, phase balance, line and grounding configuration. The following table shall be used to determine risk for ineffective grounding

<b>Primary distribution line configuration</b>	<b>Type of DER connection to primary</b>	<b>Result/Criteria</b>
Three-phase, three-wire	Any type	Pass
Three-phase, four-wire > 5 kV	Single-phase line-to-neutral	Pass
All Three-phase, four-wire (For any line that has sections or mixed three-wire and four-wire)	All others	Fail. To pass aggregate DER AC nameplate rating must be less than or equal to 10% of line-section peak load

2. Based on aggregate DER on the feeder, is phase balancing maintained within utility limits?

- If items 1 & 2 pass, (Pass Screen)
- If items 1 or 2 fail, (Fail Screen)

### **Screen E: Simplified Penetration Test**

If the aggregate DER capacity on any medium voltage line section (existing and approved prior to application) is less than the daytime minimum load (where 12 months of line section minimum load data are available or alternatively can be estimated from existing data, or determined from a power flow model) or 15% of the annual peak load (where daytime minimum load data is not available) for all line sections bounded by automatic sectionalizing devices upstream of the DER?

- Yes (Pass Screen)
- No (Fail Screen)

### **Screen F: Is Feeder Capacity Adequate for Individual and Aggregate DER?**

1. Is the feeder available short circuit capacity at the medium voltage PCC, divided by the rating of the individual DER, greater than 25?
2. Is the feeder available short circuit capacity at the substation divided by the capacity all aggregate DER on the feeder, greater than 25?
  - If items 1 & 2 pass, (Pass Screen)
  - If items 1 or 2 fail, (Fail Screen)

## **SUPPLEMENTAL SCREENING ANALYSIS**

All Supplemental Screens (G-I) shall be completed by the utility and results shall be provided to the applicant in accordance with Section C, Step 4.

### **Screen G: Reverse Power Flow Test**

Where the aggregate DER capacity exceeds the minimum load for all line sections bounded by upstream equipment, does the EPS have the capability to support reverse power flow?

- Yes (Pass Screen)
- No (Fail Screen)

### **Screen H: Voltage Flicker Test**

Can it be determined that the voltage fluctuation is within acceptable limits as defined by IEEE 1453?

1. Voltage flicker emission generated by each fluctuating installation (Pst) should be calculated using the following formula:

$$\Delta V = (d/d_{Pst=1}) \times F \leq 0.35 \quad \text{and} \quad d = ((RL \times \Delta P + XL \times \Delta Q) / V^2)$$

When:  $X_L/RL < 5$

OR

$$\Delta V = (d/d_{Pst=1}) \times F \leq 0.35 \quad \text{and} \quad d = (\Delta V/V) \approx (\Delta S/S)$$

When:  $X_L/R_L \geq 5$

Whereby:

$$\text{PV Plant Variability} = (F/d_{Pst=1}) = 0.2/2.56\% = 7.8$$

***Explanation of Variables & Acronyms***

***d** = the relative voltage change caused by the DER at the PCC*

***dpst = 1** (curve value) is the relative voltage change that yields a Pst value of unity when voltage fluctuations are rectangular*

***Pst** = the short-term flicker emission limit for the customer installation (typically based on 10-minute time frame)*

***X<sub>L</sub>** = the line reactance in ohms*

***R<sub>L</sub>** = the line resistance in ohms*

***I<sub>sc</sub>** = the maximum available 3-phase fault current at the PCC in amperes*

***S<sub>sc</sub>** = the maximum available fault apparent power at the PCC*

***ΔS** = the change in apparent power in volt amperes **ΔP***

*= the change in real power in watts of the DG **ΔQ** =*

*the change in reactive power in vars of the DG **V** = the nominal line to line voltage*

***ΔV** = the change in voltage at the PCC*

***F** = the shape factor related to the shape of the expected voltage fluctuation*

2. Can it be determined within the Supplemental Review that aggregate DER does not cause voltage excursion outside of ANSI C84.1 Range A?
3. Can it be determined that an aggregate DER generation change of 75% of nameplate does not result in a voltage change of greater than half the bandwidth of any voltage regulating device on the associated feeder?

A Pst greater than 0.35 as calculated in Step 1 or no to the determination in Steps 2 and 3 constitutes failure of this screen.

## **Screen I: Operating Limits, Protection Adequacy and Coordination Evaluation**

1. Review anti-islanding protection requirements based on the most recent version of the JU Unintentional Islanding Protection Practice and identify utility and DER system upgrades, if required.
2. Review DER system configuration to determine if design and operation meets utility's effective grounding and ground source contribution requirements.
3. Identify equipment where fault current exceeds 90% of its short circuit current interrupting capability.
4. Identify any additional concerns related to utility and DER protection adequacy and protection, including but not limited to: protective device coordination and coverage, load rejection overvoltage, and 3V0 protection (where applicable).

**APPENDIX H -**

**New York State Standardized Acknowledgment of Property Owner Consent Form**

**Interconnecting Utility:** \_\_\_\_\_

**Utility Project Number (if available):** \_\_\_\_\_

(Note: This Acknowledgment is to be signed by the owner of the property where the proposed distributed generation facility and interconnection will be placed, when the owner or operator of the proposed distributed generation facility is not also the owner of the property, and the property owner's electric facilities will not be involved in the interconnection of the distributed generation facility.)

This Acknowledgment is executed by \_\_\_\_\_,  
(the "Property Owner"; as used herein the term shall include the Property Owner's successors in interest to the Property), as owner of the real property situated in the City/Town of \_\_\_\_\_, \_\_\_\_\_ County, New York, known as \_\_\_\_\_ [street address] (the "Property"), at the request of \_\_\_\_\_ [name of Developer] (the "Developer"; as used herein the term shall include the Developer's successors and assigns).

This Acknowledgment does not grant or convey any interest in the Property to the Developer.

1. The Property Owner certifies as of the date indicated below that the Property Owner is working exclusively with the Developer on a proposal to install a distributed generation facility (the "Facility") on the Property.

OR

2. The Property Owner certifies as of the date indicated below that the Developer has executed with the Property Owner one of the following: a signed option agreement to lease or purchase the Property, an executed Property lease, or an executed purchase agreement for the Property granting the Developer a right to use the Property for purposes of installing the Facility.

Property Owner:

Developer:

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**APPENDIX I -**

**New York State Standard Moratorium Attestation Form**

[UTILITY COMPANY NAME]  
[UTILITY DEPT. NAME AND CONTACT NAME]  
[UTILITY STREET ADDRESS]  
[CITY/TOWN, New York [ZIP CODE]

<b>Re:</b>	DEVELOPER	[name]
		[contact information]
	PROJECT	[utility ID number]
	PROPERTY	[street address]
		[municipality/county]
		[city/town and zip code]

\_\_\_\_\_ [DEVELOPER NAME] hereby attests that it will notify the  
interconnecting utility identified above of the date that the moratorium on solar development in  
\_\_\_\_\_ [MUNICIPALITY NAME] is lifted.

By signing below, Developer confirms that this attestation is true and correct.

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

**APPENDIX J -**

**New York State Standard Site Control Certification Form**

[UTILITY COMPANY NAME]  
 [UTILITY DEPT. NAME AND CONTACT NAME]  
 [UTILITY STREET ADDRESS]  
 [CITY/TOWN], New York [ZIP CODE]

<b>Re:</b>	DEVELOPER	[name]
		[contact information]
	PROJECT	[utility ID number]
	PROPERTY	[street address]
		[municipality/county]
		[city/town and zip code]

\_\_\_\_\_ (the “Property Owner”) is the owner of the above- referenced property (the “Property”).

\_\_\_\_\_ (the “Developer”) is the developer of the project identified above.

The Property Owner and the Developer have entered into an agreement authorizing the Developer to use the Property for the purpose of constructing and operating a distributed generation facility. The type of agreement that is in place is indicated below by a check mark.

	Signed option agreement to lease or purchase the Property
	Executed lease agreement for the Property
	Executed agreement to purchase the Property
	License or other agreement granting exclusive right to use the Property for purposes of constructing and operating the distributed generation facility

Property Owner and Developer entered into the agreement on or about \_\_\_\_\_  
 (MM/DD/YYYY)

Terms of Agreement (including options to extend) \_\_\_\_\_  
 (MM/DD/YYYY)

**Property Owner**

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Developer**

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

## APPENDIX K -

### Energy Storage System (ESS) Application Requirements / System Operating Characteristics / Market Participation

#### Application Requirements

- a. Provide a general overview / description and associated scope of work for the proposed project. Is the new ESS project associated with a new or existing DG facility? (if information is available.) Use the example given below for the project description if information is available.

Project consists of a new **AC-coupled hybrid** Distributed Generator (DG) and Energy Storage System (ESS). The proposed project is not associated with any other existing DER at the facility OR The proposed project is associated with project XYZ (provide project number from relevant utility's IOAP). The DG consists of a **2000 kW / 2000 kVA** solar PV system, and the ESS will be a single inverter **979.2 kW / 1000 kVA** with a **3916.8 kWh** rating. The required ESS charging capacity of our system will be **4189 kWh** factoring in round trip efficiency of **93.5%** and will charge from both the PV and the grid. The system will have an auxiliary load of **45 kVA**, and the itemized list will be included in the line diagram.

- b. Identify whether this is a Stand-Alone or Hybrid ESS proposal, or a change to the operating characteristics of an existing system. If Hybrid ESS, please select the configuration option:
  1. Hybrid Option A - ESS is charged exclusively by the DG
  2. Hybrid Option B - ESS will not export to the grid, only DG will.
    - a. Hybrid Option C - ESS may charge/discharge unrestricted from the grid, but grid consumption by ESS is netted out of grid exports.<sup>1</sup>
  3. Hybrid Option D - ESS may charge/discharge unrestricted from the grid, but any consumption on the account is netted out of grid exports
  4. N/A - not Value Stack

---

<sup>1</sup> ESS may have restricted charge/discharge to be defined in Question 2e.

- c. Market participation:<sup>2</sup>
1. Compensated under a utility tariff(s)? If yes, please specify. Identify any associated use case stacking (*i.e.*, parallel standby, net meter, VDER, import only, export only, peak shaving, generator firming, demand response, etc.) if applicable.
  2. NYISO markets? If yes, has the NYISO process been initiated? Please specify which anticipated NYISO market(s).
  3. As part of an NWA? If yes, please specify which associated NWA.
  4. program or market not listed? If yes, please describe.
- d. Indicate DER system nameplate rating based on the proposed project configuration, *i.e.*, stand-alone, AC-coupled or DC-coupled. The values should be broken down by existing DER and DER to be installed in the DER Nameplate Rating table below. Also indicate the total exporting capacity and total importing capacity including all losses in the Storage Capacity Table.

Table 1. DER Nameplate Rating

DER System		Inverter Nameplate Rating		Factory Limited Nameplate Rating*	
		kW	kVA	kW	kVA
Stand-Alone	New Storage to be Installed				
	Existing Storage Installation if Applicable				
AC-Coupled System	New Storage to be Installed				
	Existing Storage Installation if Applicable				
	New DG to be Installed				
	Existing DG Installation if Applicable				
DC-Coupled System	New Storage and DG to be Installed				
	Existing DG and Storage Installation if Applicable				

\* If the factory nameplate rating reflects system limitations, the equipment manufacturer shall additionally provide a letter verifying the factory limited reduced rating of the system before the utility can utilize the factory limited nameplate rating in the CESIR.

<sup>2</sup> Market participation information is non-binding but may be used to verify operating characteristics and metering configuration. Participation in NYISO markets and NWA programs may influence the technical study.

Table 2. Storage Capacity

Storage Capacity in kWh	
Total Export Capacity	
Total Import Capacity - Charging and Losses	
Round Trip Efficiency	

- e. Provide specification data/rating sheets for both the AC and/or DC components including the manufacturer, model, and nameplate ratings (kW) of the inverter(s)/converters(s) and controllers for the ESS and/or DG system, and capacity of ESS unit(s) (kWh).
- f. Indicate the type of Energy Storage (ES) technology to be used. For example, NaS, Dry Cell, PB-acid, Li-ion, vanadium flow, etc.
- g. Will the proposed project provide both real power and reactive power (PQ injection)?
- h. Will the proposed project provide reactive power control, either via volt/VAR mode or specific power factor?
- i. Indicate whether the interconnected inverters inverter(s)/converter(s) is/are compliant to the latest versions of the following additional standards. If partially compliant to subsections of the latest standards, please list those subsections:
  - 1. IEEE 1547a - 2018
  - 2. UL 1741, including supplement B (UL 1741 SB), with settings as specified in the utility's technical requirements document
  - 3. List the UL 1741 CRD for PCS, if this applies to the project. Also mention the certification tests that were performed and/or excluded for the proposed inverter.
  - 4. List the UL 1741 CRD for Multimode, if this applies to the project. Also mention the certification tests that were performed for the proposed inverter.
- j. List the system's maximum import in kW AC, including any equipment and ancillary loads (*i.e.*, HVAC) to be installed to facilitate the ESS installation.

List the ancillary equipment's maximum import in kW and kVA for HVAC and other aggregated ancillary loads in the table below. Where data on ancillary equipment load is unavailable, please provide the best estimate.

Table 3. List of Ancillary Equipment and Load

Ancillary Equipment	Ancillary Load	
	kW	kVA

--	--	--

- k. Indicate desired ramp rates in kW/second during charging and discharging (worst case will be assumed if not provided). Please attach a charge and discharge data/curve.
- l. Is the ESS symmetrical or asymmetrical (*e.g.*, charge magnitude equivalent to discharge magnitude)? Provide proposed inverter(s) power factor operating range and anticipated operational setpoints<sup>33</sup> in the context of the expected two-quadrant or four-quadrant operation.
- m. Indicate the maximum potential change in power magnitude expressed in equipment limitations such as per-second, minute, hour, or day, and kW or % of kW as applicable.
- n. Add check boxes against the preferred charging and discharging windows in Table 5 below. For a 24/7 unrestricted schedule, check all boxes for charging and discharging windows. Where scheduled operation is selected, please ensure that the energy storage system's operation is aligned with the local utility's guidelines for charging and discharging. Be advised that the specific conditions and requirements of the local electrical circuit will be the determining factor for the final operational charge/discharge windows and rates. If not specified, the utility will prescribe operational windows based on the local utility's guidelines for scheduled operation. Also indicate any specific operational limitations that will be imposed (*e.g.*, will not charge or discharge across PCC between 2-7 pm; etc.).

Please indicate if the project should be studied for one or both scenarios.

Table 4. Preferred Study Operation Windows

Study Operation Windows	Yes/No
Preferred/selected operation window	
24/7 unrestricted operation	

If 24/7 unrestricted operation is not selected, please fill the table below. In the Capacity (kW) column, mention the fraction of battery nameplate capacity in whole numbers that will charge or discharge.

---

<sup>3</sup> Final setpoints are subject to change per utility's direction.

Table 5. 24/7 Charging and Discharging Schedule

Time of operation	Charging		Discharging	
	Check as applicable	Capacity (kW)	Check as applicable	Capacity (kW)
2400-0100	<input type="checkbox"/>		<input type="checkbox"/>	
0100-0200	<input type="checkbox"/>		<input type="checkbox"/>	
0200-0300	<input type="checkbox"/>		<input type="checkbox"/>	
0300-0400	<input type="checkbox"/>		<input type="checkbox"/>	
0400-0500	<input type="checkbox"/>		<input type="checkbox"/>	
0500-0600	<input type="checkbox"/>		<input type="checkbox"/>	
0600-0700	<input type="checkbox"/>		<input type="checkbox"/>	
0700-0800	<input type="checkbox"/>		<input type="checkbox"/>	
0800-0900	<input type="checkbox"/>		<input type="checkbox"/>	
0900-1000	<input type="checkbox"/>		<input type="checkbox"/>	
1000-1100	<input type="checkbox"/>		<input type="checkbox"/>	
1100-1200	<input type="checkbox"/>		<input type="checkbox"/>	
1200-1300	<input type="checkbox"/>		<input type="checkbox"/>	
1300-1400	<input type="checkbox"/>		<input type="checkbox"/>	
1400-1500	<input type="checkbox"/>		<input type="checkbox"/>	
1500-1600	<input type="checkbox"/>		<input type="checkbox"/>	
1600-1700	<input type="checkbox"/>		<input type="checkbox"/>	
1700-1800	<input type="checkbox"/>		<input type="checkbox"/>	
1800-1900	<input type="checkbox"/>		<input type="checkbox"/>	
1900-2000	<input type="checkbox"/>		<input type="checkbox"/>	
2000-2100	<input type="checkbox"/>		<input type="checkbox"/>	
2100-2200	<input type="checkbox"/>		<input type="checkbox"/>	
2200-2300	<input type="checkbox"/>		<input type="checkbox"/>	
2300-2400	<input type="checkbox"/>		<input type="checkbox"/>	

- o. Provide a summary of protection and control scheme functionality and provide details of any integrated protection of control schematics and default settings within controllers.
- p. Submit control schemes, electrical configurations, and sufficient details for the utility to review and confirm acceptance of proposal. Detail any integrated control scheme(s) that are included in the interconnected inverter(s)/converters including a sequence of operations for expected events, energy flows, or power restrictions. For example, provide details if the ESS can be charged only through the DG input, or if the ESS can be switched to be charged from the line input, or if a control scheme is proposed to prohibit power flow directionality or peak values. Provide details on grounding of the interconnected ESS and/or DG system to meet utility's effective grounding requirements.
- q. Provide short circuit current capabilities and harmonic output from the hybrid ESS project or stand-alone ESS.
- r. If the intended use case for the ESS includes behind-the-meter backup services, please provide a description and documentation illustrating how the entire system disconnects from the utility during an outage (*e.g.*, mechanical or electronic, coordination, etc.).

## Optional Questions

Questions in this section are not required for a complete application, although any responses provided may support the utility's decision to review the project performance in a manner that could result in less impact to the customer interconnection.

- a. Indicate whether the interconnected inverters inverter(s)/converter(s) is/are compliant to the latest versions of the following additional standards. If partially compliant to subsections of the latest standards, please list those subsections:
  - a. SunSpec Common Smart Inverter Profile (CSIP) v2.103-15-2018
- b. Any other recognized standard or practice. Indicate the maximum frequency of change in operating modes (*i.e.*, charging to discharging and vice-versa) that will be allowed based upon control system configurations.
- c. Provide details on standard communication as follows:
  - a. Hardware interfaces that are available, *e.g.*, TCP/IP, serial, etc.
  - b. Protocols that are available, *e.g.*, MODBUS, DNP-3, 2030.5, etc.
  - c. Data models that are available, *e.g.*, 61850-90-7, SunSpec, MESA, 2030.5, OpenADR, etc.
- d. Provide details on whether the inverter(s)/converter(s) have any intrinsic grid support

functions, such as autonomous or interactive voltage and frequency support. If so, please describe these functions and default settings.

## APPENDIX L -

### Project Construction Schedule

Utility Project Number (if available)

Project Name

Developer

\* *This Interconnection schedule depends upon receipt of funds along with notification to proceed, executed Interconnection Agreement, weather, equipment delivery, public opposition to right-of-way and timely Customer design submittals. Close coordination is required to sequence construction and planned interruption events. As a result, any final schedule requires mutual agreement and would be subject to change.*

Milestone	Estimated Time Duration to Completion (Weeks)	Responsible Party
25% Payment		Interconnection Customer
Administrative Setup		Utility
Customer Submittals Single-Line and Three-Line Diagrams Stamped Site Plans		Interconnection Customer
Design Queue		Utility
Permitting/Easements		Utility
Upgrade Design – Line/POI/Substation Design		Utility: Complete design to the point of material ordering
75% Payment**		Interconnection Customer (120 Business Days after 1 <sup>st</sup> Payment)
Updated Construction Schedule		Utility: Provide an Updated Construction Schedule

Updated Upgrade Cost Estimate	Upgrade Design + 10BD	Utility: Provide an Updated Upgrade Cost Estimate
Verification Test Coordination Customer Witness Testing Energization/Permission to Operate	Per SIR Timelines	<u>Utility/Interconnection customer</u> <i>Customer submittals required to be approved to schedule test</i>
Total Project Duration		Utility/Interconnection Customer

\*\* The sequence of Milestone schedule might change for non-CESIR projects.

## Appendix M –

### Temporary Rules Relating to Applicants Seeking Federal Tax Credits

Introduction. On August 15, 2025, the Internal Revenue Service (IRS) issued guidelines on renewable energy project eligibility for certain federal tax credits pursuant to §§ 70512 and 70513 of Public Law 119-21, 139 Stat. 72 (July 4, 2025) and Executive Order 14315. The purpose of these rules is to support the timely interconnection of as many projects that are eligible for federal tax credits as possible.

Capitalized terms used in this Appendix not otherwise defined here shall have the meanings given to them in the Standardized Interconnection Requirements (SIRs).

These rules shall apply to all projects that are eligible for federal tax credits under the IRS guidance, regardless of technology.

#### A. Provisions Applicable to Group A Projects.

1. The initial participants in Group A shall be (i) those projects that have commenced construction on or before the effective date of these rules and do not require Qualifying Upgrades, and (ii) projects that must be in-service by December 31, 2027, to qualify for tax credits. Projects that commence construction after the effective date of these rules and intend to seek tax credits shall be added to Group A as provided in section 3, below.
2. Within 15 calendar days of the effective date of these rules, developers of projects included in paragraph (1) above shall provide to the relevant utilities the date on which they commenced construction, where applicable, and proposed in-service dates. Each developer and interconnecting utility shall discuss the feasibility of the proposed in-service dates. Following that consultation, the utility shall provide all developers whose projects do not require Qualifying Upgrades a schedule and a target in-service date, which may or may not be the date originally proposed by the developer, and the date when deposits required under the SIR must be released in order for the utility to achieve the target in-service date (the Release Date). The utilities shall complete this scheduling process for the initial Group A projects no later than 75 calendar days after the effective date of these rules. If a project covered by A(1)(ii) requires a Qualifying Upgrade, and the developer wishes to initiate a work plan for the upgrade, the procedures set out in section B(5)(c) below shall apply, and the projects shall be treated as Group B projects.
3. A project that commences construction after the effective date of these rules and intends to seek federal tax credits may receive a schedule as a Group A project by notifying the utility of the date on which it commenced construction and its proposed in-service date. Notifications may be made at any time after May 1, 2026. The utility shall discuss the proposed in-service date as provided above and provide the developer a schedule, target in-service date, and Release Date within 15 Business Days of receiving the notification. In establishing schedules for entering Group A projects, utilities shall avoid delaying others previously scheduled.

4. The interconnecting utilities shall schedule and manage the work needed to interconnect Group A projects such that each project is placed in-service within the applicable time frame required by the IRS. The utilities may adjust target in-service dates and Release Dates as necessary to maximize the number of projects that achieve the IRS in-service dates. Utilities shall notify affected developers in writing via their DG portals of any change to either target in-service dates or Release Dates and the reason for the change.
  5. Group A projects who do not release their deposits on or before the Release Date assigned by the utility shall be removed from Group A and shall not be scheduled under these rules. If a Group A developer anticipates missing a project's assigned Release Date, the developer may request a revised schedule. Such requests must be submitted to the utility in writing at least 15 Business Days prior to the Release Date and must include a proposed in-service date. The utility shall make reasonable efforts to re-schedule its work to meet the in-service date allowed by the IRS but shall not be required to meet the project's proposed in-service date. The utility shall provide the developer a new Release Date and, if necessary, a new target in-service date within 15 Business Days of receiving the developer's request. A project that requests a revised schedule shall be removed from Group A if:
    - a. the utility cannot reschedule the work in time to meet the IRS in-service deadline for that project; or
    - b. the developer does not release the deposit by the second Release Date.
  6. If a project is cancelled, the interconnecting utility will stop work. Within 60 Business Days of the cancellation, the utility shall submit a final reconciliation statement as required by Step 11 of the SIRs.
  7. Except for projects included in A(1) above, projects that have not initiated scheduling under these rules shall make their deposits according to the deadlines in Section 1.D of the SIRs. SIRs deposit deadlines applicable to Projects included in A(1) shall be paused until their respective Release Dates. Projects scheduled as Group A projects shall deposit 100% of the cost estimates assigned to them on or before the Release Date.
- B. Provisions relating to Group B Projects. These projects require Qualifying Upgrades to interconnect. The rules recognize subgroups B.1 and B.2.
1. Qualifying Upgrade Charge payments not due prior to the effective date shall be due when required under these rules.
  2. Group B.1 consists of all projects that notify the utility in writing within 30 days of the effective date of these rules that (1) they have been assigned a Qualifying Upgrade Share, and (2) they have commenced construction as defined by the IRS. In the notification, developers shall provide the date on which they met the construction requirement and the date by which the IRS rules require them to be in-service. The utilities shall develop preliminary work plans for completing the Qualifying Upgrades necessary to interconnect the Group B.1 projects within the IRS deadlines. The

utilities shall provide the preliminary work plans to the Group B.1 developers no later than May 1, 2026. Developers who decide to participate in a work plan shall make their Qualifying Upgrade Charge payments no later than June 1, 2026. Projects that paid Qualifying Upgrade Charges prior to the effective date may opt in to a work plan by confirming their payments by the same date. All projects that make or confirm payments by June 1, 2026, shall be considered Participating Projects.

3. The utilities shall revise and publish on their websites the work plans for the Qualifying Upgrades that have reached the mobilization thresholds established in Appendix E of the SIR with Group B.1 payments. Such work plans shall be published no later than July 15, 2026. A work plan shall include key development steps, time for starting and completing engineering and design, equipment procurement schedules, and construction mobilization dates. The work plan must deploy the utility resources necessary for all Participating Projects to be in service within the time allowed by the IRS. The utility may modify and re-publish a work plan as needed but all revisions must schedule the remaining work so all Participating Projects can meet the relevant IRS in-service deadline.
4. If Group B.1 project payments submitted or confirmed by June 1, 2026, do not meet the mobilization threshold with respect to a particular Qualifying Upgrade, the utility shall determine whether it can complete the upgrade in time to meet IRS deadlines. If the utility determines it can do so, it shall publish the date by which the mobilization threshold must be reached in order to complete the upgrade on time. Such a Qualifying Upgrade shall be considered open to participation. Information identifying the Qualifying Upgrade, the mobilization threshold payment deadline, and the funds needed to meet the threshold shall be posted on the utility's website. The utility shall make these determinations and publish this information no later than July 15, 2026.
5. Group B.2 consists of all other projects that commence construction and are allocated Qualifying Upgrade Shares at any time. Developers of these projects may elect to be scheduled under these rules by notifying the utility of the date when they commenced construction and their IRS in-service deadline.
  - a. When a B.2 project requires a Qualifying Upgrade that is the subject of a published work plan, the B.2 project shall pay its Qualifying Upgrade Charge with the notification required above, and the utility shall add the project to the work plan.
  - b. When a B.2 project requires a Qualifying Upgrade that is open to participation under section B(4) above, the project shall pay its Qualifying Upgrade Charge on or before the mobilization threshold deadline set by the utility. The utility shall publish the work plan for the upgrade once developer payments reach the mobilization threshold.
  - c. When a B.2 project requires a Qualifying Upgrade not covered in (a) or (b) above, the utility shall determine whether the Qualifying Upgrade can be constructed in time to meet the project's IRS deadline. If the utility concludes

that the Qualifying Upgrade can be completed in time, the utility shall inform the developer and any other developers sharing the Qualifying Upgrade of the deadline by which the mobilization threshold must be met in order for the utility to construct the identified Qualifying Upgrade and meet the IRS deadlines applicable to their projects. The utility shall also post this information on its website. The deadline fixed hereunder shall be the payment due date for Qualifying Upgrade Charges from projects that depend on the same Qualifying Upgrade. If developer payments meet the mobilization threshold on or before the deadline, the utility shall publish the work plan for the upgrade.

6. Qualifying Upgrade Shares will not be refunded once the mobilization threshold is met, except under the circumstances identified in B(8) below.
7. The utilities shall diligently perform the work required to execute published work plans and construct Qualifying Upgrades in time to capture tax credits. The utilities shall update the published work plans monthly until all Participating Projects are interconnected.
8. If, after the mobilization threshold for a Qualifying Upgrade is reached, the utility determines that (1) circumstances beyond its control have made it impossible to complete the upgrade in time to achieve the in-service dates that are required by the IRS; or (2) its costs for the upgrade have increased 50% or more above the costs estimated by the utility at the time the Qualifying Upgrade was identified, the utility shall confer with the Participating Projects to determine whether they wish to proceed to interconnection.
  - a. If Participating Project developers notify the utility that they choose to withdraw, the utility shall invoice the withdrawing developers for, and the developers shall pay, their shares of the actual costs incurred by the utility to that point.
  - b. Participating Project developers that continue to interconnection shall not be responsible for any costs attributable to the withdrawing developers. Costs attributable to withdrawing projects shall be collected from projects that interconnect later. Any withdrawing projects that re-apply shall be charged and shall pay their shares of the actual costs incurred by the utility through completion of the upgrade, plus any non-shared cost, less any amounts paid at the time of withdrawal.
9. In the event a utility determines it cannot complete a Qualifying Upgrade in time, the utility shall consider alternative approaches to meeting IRS in-service deadlines, if requested by any of the Participating Projects. Alternative approaches must not impact system reliability, and Participating Projects must bear the cost of implementing the alternative. Nothing in these rules requires a utility to develop a work plan for a Qualifying Upgrade that cannot be completed in time to meet IRS deadlines.

10. The utilities shall provide individual project schedules and target in-service dates to all Participating Projects, simultaneously with the publication of the relevant work plans.

C. Provisions Applicable to All Projects.

1. Except as provided in these rules, interconnection applicants and the utilities shall continue to follow the SIR. Projects that do not qualify for tax credits, and projects that are not scheduled hereunder as participants in Groups A and B, shall be scheduled for construction and energization in accordance with the SIR so long as no Group A or B project is delayed thereby.
2. The utilities shall have discretion to schedule their work and to revise in-service dates and work plans as necessary to maximize the number of tax credit-eligible projects that meet the in-service dates required by the IRS.
3. Utilities are authorized to spend deposit funds or draw on any standby letters of credit as needed to meet the schedules established under these rules.

PSC NO: 10 – Electricity  
Consolidated Edison Company of New York, Inc.  
Initial Effective Date: 12/31/2025  
Issued in compliance with Order in Case 98-M-1343 dated 11/13/2025

Addendum Type: UBP  
Addendum Number: 11

# STATE OF NEW YORK PUBLIC SERVICE COMMISSION

## UNIFORM BUSINESS PRACTICES CASE 98-M-1343

December 2025

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## **SECTION 1: DEFINITIONS**

As used in the Uniform Business Practices (UBP), the following terms shall have the following meanings:

Assignment – Transfer by one ESCO to another ESCO of its rights and responsibilities relating to provision of electric and/or gas supply under a sales agreement.

Bill ready – A consolidated billing practice that requires each non-billing party, after receiving customers' usage data, to calculate its charges and send via EDI charges, billing information, and bill messages to the billing party in a form that allows the transfer of the information to the bill in a format the billing party selects.

Billing cycle – The period for which a customer is billed for usage of electricity or natural gas.

Billing services agreement (BSA) – An agreement between the distribution utility and the ESCO stating the billing practices and procedures and the rights and responsibilities of billing and non-billing parties relating to issuance of consolidated bills to customers.

Budget billing – A billing plan that provides for level or uniform amounts due each billing period over a set number of periods, typically 12 months, and determined by dividing projected annual charges by the number of periods. Installment amounts may be adjusted during the period and may include reconciliations at the end of the budget period to account for differences between actual charges and installment amounts.

Business day – Monday through Friday, except for public holidays.

Consolidated billing – A billing option that provides customers with a single bill combining charges from more than one service provider and issued by a distribution utility providing delivery service (utility consolidated bill) or by a commodity supplier (ESCO consolidated bill).

Customer inquiry – A question or request for information from a customer relating to a rate, term, or condition of service provided by an ESCO, distribution utility or other service provider.

Cramming – The addition of unauthorized charges to a customer's bill.

Deferred payment agreement (DPA) – A fair and equitable payment plan agreed upon by a customer and utility and/or a customer and an ESCO that allows a customer to pay an overdue amount in installments. A DPA is based upon the customer's financial circumstances and ability to pay the overdue amount while making payment on current charges.

Demand – The amount of electricity or natural gas that is or could be immediately needed by a customer at any given point in time referred to as customer load. For consolidated billing, the term is used in the context of "billing period demand" for customer bills.

Electric – The amount of electricity, measured in kilowatts (kW), that a customer uses at a point in time, the customer's usage averaged over a period, or capacity of facilities reserved for the customer for stand-by or other service.

Natural Gas – The amount of gas measured in cubic feet or therms that a customer uses or may use over a period, or capacity of facilities reserved for the customer for stand-by or other service.

Direct customer – An entity that purchases and schedules delivery of electricity or natural gas for its own consumption and not for resale. A customer with an aggregated minimum peak connected load of 1 MW to a designated zonal service point qualifies for direct purchase and scheduling of electricity provided the customer complies with NYISO requirements. A customer with annual usage of a minimum of 3,500 dekatherms of natural gas at a single service point qualifies for direct purchase and scheduling of natural gas.

Distribution utility – A gas or electric corporation owning, operating, or managing electric or gas facilities for the purpose of distributing gas or electricity to end users.

Distribution utility customer account number – A number used by a distribution utility to identify the account of a utility customer.

Distribution utility tariff – A schedule of rates, terms and conditions of services provided by a distribution utility.

Door-to-door sales – The sale of energy services in which the ESCO or the ESCO’s representative personally solicits the sale, and the buyer’s agreement or offer to purchase is made at a place other than the places of business of the seller; provided that “door-to-door sales” shall not include any sale which is conducted and consummated entirely by mail, telephone or other electronic means, or during a scheduled appointment at the premises of a buyer of nonresidential utility service, or through solicitations of commercial accounts at trade or business shows, conventions or expositions.

Drop – A transaction that closes a customer’s account with a provider. This term is used when: (1) a customer’s enrollment is pending and the customer rescinds the enrollment; (2) a customer enrolled with an ESCO returns to distribution utility service or enrolls with another ESCO; or (3) the ESCO discontinues service to a customer.

Dual billing – A billing option that provides for separate calculation of charges and presentation of bills to the customer by the distribution utility and ESCO.

Electronic data interchange (EDI) – The computer-to-computer exchange of routine information in a standard format using established data processing protocols. EDI transactions are used in retail access programs to switch customers from one supplier to another or to exchange customers’ history, usage, or billing data between a distribution utility or MDSP and an ESCO. Transaction set standards, processing protocols and test plans are authorized in orders issued by the Public Service Commission in Case 98-M-0667, In the Matter of Electronic Data Interchange and available on the Department of Public Service website at: [www.dps.ny.gov/98m0667.htm](http://www.dps.ny.gov/98m0667.htm).

Energy broker – A non-utility entity that performs energy management or procurement functions on behalf of customers or ESCOs, and (1) that assumes the contractual and legal responsibility for the sale of electric supply service, transmission or other services to end-use retail customers, but does not take title to any of the electricity sold, and does not make retail energy sales to customers, or (2) that assumes the contractual and legal obligation to provide for the sale of natural gas supply service, transportation or other services to end-use retail customers, but does not take title to any of the natural gas sold, and does not make retail energy sales to customers.

Energy consultant – any person, firm, association or corporation who acts as broker in soliciting, negotiating or advising any electric or natural gas contract, or acts as an agent in accepting any electric or natural gas contract on behalf of an ESCO.

Energy services company (ESCO) – An entity eligible to sell electricity and/or natural gas to end-use customers using the transmission or distribution system of a utility. ESCOs may perform other retail service functions.

ESCO marketing representative – An entity that is either the ESCO, or a contractor/vendor, an Energy Broker, or Energy Consultant conducting, on behalf of the ESCO, any marketing activity that is designed to enroll customers with the ESCO.

Enroll/Enrollment – The process used to switch a customer from a distribution utility to an ESCO or from one ESCO to another.

Express Customer Consent – Consent given directly and knowingly by the customer, either verbally, electronically or in writing, that shall be maintained by the ESCO in a verifiable format.

Enrollment date – The effective date for commencement of electric or natural gas service from an ESCO or distribution utility.

Guarantor – An entity that agrees to pay another's debt or perform another's duty, liability, or obligation.

Independent Third-Party Verification – the confirmation of a customer's agreement to take service from an ESCO or authorization for the ESCO to request information by a Verification Agent.

Interval data – Actual energy usage for a specific time interval for a specific period recorded by a meter or other measurement device.

Load profile – Actual or estimated customer energy usage by interval over a period representing usage for a customer or average usage for a customer class.

Lockbox – A billing payment receipt method agreed upon by a distribution utility and an ESCO, involving use of a third-party financial institution to receive and disburse customer payments.

Material Change – Any change that affects the rates, terms, and conditions of service contained in the customer agreement. For example, this could include but not be limited to, the commodity rate, product term, or product type.

Marketing - The publication, dissemination, or distribution of informational and advertising materials regarding the ESCO's services and products to the public by print, broadcast, electronic media, direct mail, or by telecommunication.

Meter – A device for determination of the units of electric or natural gas service supplied to consumers.

Meter Data Service Provider (MDSP) – An entity that provides meter data services, consisting of meter readings, meter data translations, and customer association, validation, editing and estimation.

Meter Service Provider (MSP) – An entity that installs, maintains, tests and removes meters, or other measurement devices and related equipment.

Multi-retailer model – A model for retail access that involves provision of electric or natural gas supply and of delivery service, provided separately to end use customers by two or more entities.

New York State Independent System Operator (NYISO) - An independent management organization, authorized by the Federal Energy Regulatory Commission, operating the

bulk electric transmission system.

New delivery customer – A customer initiating delivery service by a distribution utility.

Nomination – A request for delivery of a physical quantity of natural gas or for its delivery at a specific point under a purchase, sale, or transportation agreement.

Office of Consumer Services – Office, within the Department of Public Service, which receives and makes determinations concerning customer complaints. Office of Consumer Services (OCS) identifies the exiting Office or its successor in the event the Office name is changed.

Pay-as-you-get-paid method – A payment processing method offered by a billing party presenting consolidated bills, whereby the billing party forwards payment to the non-billing party after receiving payment from the customer.

Pending enrollment – A stage in processing an enrollment that commences with validation of an enrollment transaction request and ends on the enrollment date that the new supplier is expected to deliver energy.

Pending ESCO – An ESCO is a pending ESCO from the date of receipt of an EDI notice containing the effective date for a customer's enrollment until the ESCO commences commodity service for that customer.

Plain Language – Written in clear and coherent manner using words with common and everyday meaning and avoiding legal or energy industry terms, acronyms, and abbreviations that a person of ordinary intelligence would not be expected to understand. If use of a technical term is necessary, the term is clearly defined in the portion of the text where it is used.

Purchased accounts receivable – A debt owed to an ESCO by a customer for receipt of supplies of gas or electricity and transferred to a distribution utility in exchange for consideration.

With recourse – Purchase of accounts receivable with recourse by a distribution utility means that the ESCO remains liable if its customers fail to make payments. A distribution utility that purchases accounts receivable with recourse sends payments to an ESCO at predetermined intervals for amounts billed that are not in dispute and may offset subsequent purchase payments against or obtain reimbursement from an ESCO of any unpaid amounts.

Without recourse – Purchase of accounts receivable without recourse by a distribution utility means that the ESCO is not liable if its customers fail to make payments. A distribution utility that purchases accounts receivable without recourse sends payments to an ESCO at predetermined intervals for amounts billed that are not in dispute and has no right to seek reimbursement from an ESCO of any unpaid amounts.

Rate ready – A consolidated billing practice that requires each non-billing party to furnish in advance of the billing cycle, rates, rate codes or prices (fixed and/or variable), tax rates, billing information, and bill messages to the billing party. The billing party, after receipt of usage data from the MDSP, uses the information on record to calculate the non-billing party's charges.

Residential customer – An individual or occupant of a residential premise as defined in 16 NYCRR Part 11.2(a)(2).

Sales agreement – An agreement between a customer and an ESCO that contains the

terms and conditions governing the supply of electricity and/or natural gas provided by an ESCO. The agreement may be a written contract signed by the customer or a statement supporting a customer's verifiable verbal or electronic authorization to enter into an agreement with the ESCO for the services specified.

Single retailer model – A model for retail access that involves provision of electric and/or natural gas service to end users by an ESCO that purchases delivery service from the distribution utility and resells it along with electricity and/or natural gas to end users.

Slamming – Enrollment of a customer by an ESCO without authorization.

Small non-residential electric customer – a non-residential electric customer who does not have any demand metered accounts.

Small non-residential natural gas customer – a non-residential natural gas customer who, on an annual basis, does not use more than 750 dekatherms, or its equivalent, when usage is aggregated across all accounts.

Special meter reading – An actual meter reading performed, upon request, on a date that is different than the regularly scheduled meter reading date.

Special needs customer – A customer who has a certified medical emergency condition, who is elderly, blind or physically challenged, or who may suffer serious impairment to health or safety as a result of service termination during cold weather periods and, thus, is eligible for special procedures before termination of service under the Home Energy Fair Practices Act (HEFPA) (Public Service Law §32(3)).

Switch – Transfer of a customer from one ESCO to another, from a distribution utility to an ESCO, or from an ESCO to a distribution utility.

Switching cycle – For electric service, the period between the date of the last meter read and the next regularly scheduled meter read. For gas customers, the period between the date of the last meter read and the next regularly scheduled meter read or the first day of the month and the first day of the following month.

Termination Fee – An amount specified in an ESCO sales agreement where such agreement permits the ESCO to assess and collect a charge in such amount to a customer who terminates the agreement before the end of a term described in that agreement, regardless of whether the assessed amount is identified as a fee, a charge, liquidated damages or a methodology for the calculation of damages, and regardless of whether it is fixed, scaled or subject to calculation based on market factors. In the event the customer is deceased before the end of such contract term, no fee for termination or early cancellation shall be assessed.

Verification Agent - An entity that is an independent vendor/contractor conducting, on behalf of the ESCO, verification of an agreement, resulting from telephonic or door-to-door marketing with a customer to initiate service and begin enrollment or to obtain customer authorization for release of information, as required by Section 5, Attachment 1 of the UBP. In the limited circumstance where the verification is only of customer authorization for release of information, the entity does not need to be independent of the ESCO.

**SECTION 2: ELIGIBILITY REQUIREMENTS**

## A. Applicability

This Section sets forth the process that an applicant is required to follow for a Department of Public Service (the Department) finding of eligibility to sell natural gas or electricity as an ESCO, that an ESCO is required to follow to maintain eligibility, and that a distribution utility is required to follow for discontinuance of an ESCO's or Direct Customer's participation in a distribution utility's retail access program.

## B. Application Requirements

1. Applicants seeking eligibility to sell natural gas and/or electricity as ESCOs are required to submit to the Department an application package containing the following information and attachments:
  - a. A completed Retail Access Eligibility Application Form (Application), available on the Department website ([www.dps.ny.gov](http://www.dps.ny.gov)). The Application shall require the applicant to:
    - i. identify the methods by which it intends to market its products and services to customers;
    - ii. identify the category/categories of commodity products it intends to provide to customers (e.g. variable-rate, fixed-rate, or renewably sourced commodity);
    - iii. disclose each state in which the applicant operates as an ESCO or has operated within the 24 months preceding the date of application and provide any data in its possession regarding complaint history;
    - iv. disclose any other trade names used by the applicant and the state in which the trade name was/is used;
    - v. disclose and describe any data breaches associated with customer proprietary information that occurred in any jurisdiction within the 24 months preceding the date of application, as well as any actions taken by the applicant in response to the incident(s);
    - vi. disclose and describe specific policies and procedures established by the applicant to secure customer data; and
    - vii. disclose any history of bankruptcy, dissolution, merger, or acquisition activities in the 24 months preceding the date of application, including data for affiliates of the ESCO applicant and upstream owners and subsidiaries.
  - b. A sample standard Sales Agreement for each customer class that meets the requirements set forth in Section 5.B.3, *infra*.
  - c. Sample forms of the notices sent upon assignment of sales agreements, discontinuance of service, renewal notices, or transfer of customers to other providers.
  - d. A sample ESCO bill used when dual billing is in effect and, if applicable, a sample ESCO consolidated bill, with terms stated in clear, plain language;
  - e. Procedures used to obtain customer authorization for ESCO access to a customers' historic usage or credit information;

- f. Sample copies of informational and promotional materials that the ESCO uses for mass marketing purposes;
  - g. Proof of registration with the New York State Department of State;
  - h. Internal procedures for prevention of slamming and cramming;
  - i. Name, postal and e-mail addresses, and telephone and fax numbers for the applicant's main office;
  - j. Names and addresses of any entities that hold ownership interests of 10% or more in the ESCO, including a contact name for corporate entities and partnerships;
  - k. Detailed explanation of any criminal or regulatory sanctions imposed during the previous 36 months against any senior officers of the ESCO or any entities holding ownership interests of 10% or more in the ESCO;
  - l. An Officer Certification document sworn to by a high-level officer of the ESCO applicant, such as the Chief Executive Officer, President or the equivalent, in which the officer affirms that the ESCO is willing and able to comply with all applicable laws and regulations;
  - m. A copy of the ESCO's quality assurance program, which is designed to monitor (a) compliance with Section 10 of the UBP and (b) accuracy of the ESCO marketing materials provided to prospective customers;
  - n. A completed Service Provider Contact Form, which can be found on the Department's website <http://www.dps.ny.gov/ocs.html>, identifying the ESCO's employee(s) responsible for resolving consumer complaints received by the Department and referred to the ESCO; and
  - o. A list of the entities, including contractors and sub-contractors, that will market to customers on behalf of the ESCO. The list must include the entities' names, addresses, phone numbers and owners, managers, and/or principals. This list must be updated regularly as entities are added or removed.
2. Applicants shall submit to the Department the name of the utility that will test designated EDI transactions required for syntactical verification in the Phase I testing program. The Department shall maintain a list of ESCOs that successfully complete Phase I test requirements by transaction type.
  3. An ESCO that knowingly makes false statements in its application package is subject to denial or revocation of eligibility.
  4. If the application package contains information that is a trade secret or sensitive for security reasons, the applicant may request that the Department withhold disclosure of the information, pursuant to the Freedom of Information Law (Public Officers Law Article 6) and Public Service Commission regulations (16 NYCRR §6-1.3).
- C. Department Review Process
1. The Department shall review the Application information and documentation submitted by each applicant and make an initial determination as to the applicant's likelihood of compliance with the Uniform Business Practices if the ESCO were deemed eligible to operate in the State. To enable the Department to make a thorough and assessment of an application, an ESCO shall notify the Department

of any major changes in the information submitted in the Retail Access Eligibility Application Form and/or application package that occurs during the Department review process.

2. Following its review of the Application information and documentation, the Department shall advise the applicant, in writing, if the Application is approved and the applicant is eligible to operate in the State and if satisfaction of Phase I EDI testing requirement has been verified by the utility designated by the applicant.
3. ESCOs deemed eligible to provide commodity service by the Department must begin serving customers within two-years from the date of the letter notifying the ESCO of their eligibility status (eligibility letter). The ESCO that does not begin serving customers within such two-year period may be required to conduct additional EDI testing before enrollments will be processed.
4. If following its review of the Application information and documentation the Department determines that the applicant is not likely to comply with the UBP if the ESCO were deemed eligible, the Department may recommend to the Commission that, for good cause shown, the Commission deny the ESCO's Application.
5. In any instance that the Department recommends to the Commission that an ESCO applicant be denied eligibility, the applicant shall be afforded an opportunity to provide to the Commission with a response in rebuttal to the Department's recommendation and in support of its application before the Commission renders a final eligibility determination.
6. The Department shall periodically review the eligibility of each ESCO operating in New York and make a recommendation to the Commission if the Department finds that the ESCO should not be permitted to continue operating in New York.

D. Maintaining ESCO Eligibility Status

1. An ESCO shall submit by January 31 each year (January 31 Statement):
  - a. a statement that the information and attachments in its Retail Access Eligibility Form and application package are current; or
  - b. a description of revisions to the Retail Access Eligibility Form and application package and a copy of the revised portions or, at the ESCO's option, a copy of the revised portions identifying the revisions by highlighting or other means; and
  - c. An Officer Certification document, as required by Section 2.B.1.
2. An ESCO shall update all the information it submitted in its original application package to the Department every three years, starting from the date of its eligibility letter, consistent with the requirements of UBP Section 2.B. An ESCO's status as an eligible supplier is continuous from the date of the Department eligibility letter, unless revoked or otherwise limited in accordance with UBP Section 2.D.5. If the three-year anniversary date falls within one month of January 31, the ESCO shall resubmit its application package in lieu of the January 31 statement.
3. An ESCO shall file with the Secretary, a separate average unit price for products with no energy-related value-added services for each of two groups of customers and by load zone: i) residential price fixed for a minimum 12-month period; ii) residential variable price. The averages should be weighted by the amount of commodity sold at each price within each customer category. ESCOs shall also

file the number of customers purchasing products in those categories. ESCOs shall file the required information quarterly, reflecting data over that period, within 30 days of the end of each calendar quarter (i.e., data must be provided no later than April 30<sup>th</sup>, July 30<sup>th</sup>, October 30<sup>th</sup> and January 30<sup>th</sup> of each year).<sup>1</sup>

4. An ESCO shall submit at other times during the year:
  - a. A description of any major change in the Retail Access Eligibility Application Form and/or application package and a copy of the revised portions or, at the ESCO's option, a copy of the revised portions identifying the revisions by highlighting or other means. For purposes of Subdivision D of this Section, the term, "major change," means a revision in the terms and conditions applicable to the business relationship between the ESCO and its customers, including provisions governing the process for termination of sales agreements.
  - b. Changes in marketing plans, including changes to the list required in subsection B.1.n of this Section of the UBP.
  - c. Changes in the ESCO's business and customer service information displayed on the Department's Website.
  - d. At least once every thirty days, each ESCO serving residential customers must post a price for each product it offers to those customer classes (e.g., fixed-price, variable-price, renewable energy, with each type of value-added service, etc.) on the Power to Choose website. Each ESCO must guarantee to charge new customers no more than the price of the ESCOs posted offers at the time of the customer's agreement for each product.
  - e. Changes in personnel responsible for resolving consumer complaints received by the Department and referred to the ESCO.
5. An ESCO may be subject to the consequences listed in UBP Section 2.D.6.b for reasons, including, but not limited to:
  - a. false or misleading information in the application package;
  - b. failure to adhere to the policies and procedures described in its Sales Agreement;
  - c. failure to comply with required customer protections;
  - d. failure to comply with applicable NYISO requirements, reporting requirements, or Department oversight requirements;
  - e. failure to provide notice to the Department of any material changes in the information contained in the Retail Access Eligibility Form or application package;
  - f. failure to comply with the UBP terms and conditions, including discontinuance requirements;
  - g. failure to comply with EDI transaction set standards and processing protocols and/or use properly functioning EDI systems;
  - h. repeated failures to comply with price reporting requirements, reporting misleading price information, or continuing to fail to comply with price

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<sup>1</sup> If the Power-to-Choose website is modified to allow ESCOs to file this information there, the Department may notify ESCOs that compliance with this provision may be accomplished in that manner.

- reporting requirements after withdrawal of eligibility to enroll new customers;
- i. failure to comply with the Commission's Environmental Disclosure Requirements or failure to comply with other Commission Orders, Rules or Regulations;
  - j. failure to reply to a complaint filed with the Department and referred to the ESCO within the timeframe established by the Department' Office of Consumer Services which is not less than five days;
  - k. any of the reasons stated in Subdivision F of this Section; or
  - l. a material pattern of consumer complaints on matters within the ESCO's control;
  - m. failure to comply with any federal, state, or local laws, rules, or regulations related to sales or marketing; or 'No Solicitation' signage on the premises; or
  - n. failure to comply with any of the Marketing Standards set forth in Section 10 of the UBP.
6. In determining the appropriate consequence for a failure or non-compliance in one or more of the categories set forth in UBP Section 2.D.5, the Commission or Department may take into account the nature, the circumstances, including the scope of harm to individual customers, and the gravity of the failure or non-compliance, as well as the ESCO's history of previous violations.
- a. The Commission or Department shall:
    1. Either (a) notify the ESCO in writing of its failure to comply and request that the ESCO take appropriate corrective action or provide remedies within the directed cure period, which will be based on a reasonable amount of time given the nature of the issue to be cured; or (b) order that the ESCO show cause why a consequence should not be imposed.
    2. The Commission may impose the consequences listed in subparagraph b of this paragraph if (a) ESCO fails to take corrective actions or provide remedies within the cure period; or (b) the Commission determines that the incident or incidents of non-compliance are substantiated and the consequence is appropriate.
    3. Consequences shall not be imposed until after the ESCO is provided notice and an opportunity to respond.
    4. The notice of consequences imposed by the Commission will be published on the Department's website.
  - b. Consequences for non-compliance in one or more of the categories set forth in UBP Section 2.D.5 may include one or more of the following restrictions on an ESCO's opportunity to sell electricity and/or natural gas to retail customers:
    1. Suspension from a specific Commission approved retail program in either a specific service territory or all territories in New York;
    2. Suspension of the ability to enroll new customers in either a specific service territory or all service territories in New York;
    3. Imposition of a requirement to record all telephonic marketing presentations, which shall be made available to the Department for review;
    4. Reimbursements to customers who did not receive savings promised in the ESCO's sales agreement/Customer Disclosure Statement or substantially

- demonstrated to have been included in the ESCO's marketing presentation or to customers who incurred costs as a result of the ESCO's failure to comply with the marketing standards set forth in Section 10 of the UBP;
5. Release of customers from sales agreements without imposition of early termination fees;
  6. Revocation of an ESCO's eligibility to operate in New York; and,
  7. Any other measures that the Commission may deem appropriate.
- c. Consequences imposed pursuant to this paragraph shall continue to apply until the ESCO's failure to comply with the UBP has been cured or the Commission or Department has determined that no further cure is necessary.
7. An ESCO's eligibility to serve customers is valid unless: the ESCO abandons its eligibility status; or such status is revoked by the Commission through a final order pursuant to UBP Section 2.D.6.
  8. The Department shall notify distribution utilities upon notice to the ESCO, and the NYISO if applicable, of any determination to revoke an ESCO's eligibility to sell natural gas and/or electricity. The distribution utility shall notify the ESCO's customers, in accordance with paragraph 3 of Subdivision F of this Section, of any Department revocation of an ESCO's eligibility.
- E. Distribution Utility Requirements
1. After receipt of the Department's compliance letter, the ESCO shall notify the distribution utility, and NYISO if applicable, of its eligibility status and intent to complete the process to commence operation in the distribution utility's service area, including execution of any operating agreement that is required.
  2. Upon satisfaction of the distribution utility's and, if applicable the NYISO's requirements, and successful completion of EDI testing conducted by the distribution utility, the ESCO may enter into an operating agreement, if any is required, with the distribution utility to commence operations in its service territory.
- F. Discontinuance of an ESCO's and Direct Customer's Participation in a Retail Access Program
1. In accordance with the procedures established in this Subdivision, a distribution utility may discontinue an ESCO's or Direct Customer's participation in its retail access program for the following reasons:
    - a. Failure to act that is likely to cause, or has caused, a significant risk or condition that compromises the safety, system security, or operational reliability of the distribution utility 's system, and the ESCO or Direct Customer failed to eliminate immediately the risk or condition upon verified receipt of a non-EDI notice;
    - b. Failure to provide natural gas (provided zero quantity) to the distribution utility's city gate;
    - c. Failure to pay an invoice upon the due date;
    - d. Failure to provide for delivery of at least 95% of the amount of natural gas directed by a distribution utility for delivery or at least 80% of the daily metered usage of the ESCO's customers or a Direct Customer's specified load or lower percentages included in a balancing program established in a

- distribution utility's tariff and/or any operating agreement;
  - e. Failure to maintain a creditworthiness standard or provide required security;
  - f. Failure to comply with the terms and conditions of a distribution utility's tariff, operating agreement, or Gas Transportation Operating Procedures (GTOP) Manual to the extent that said documents are consistent with the provisions of the UBP;
  - g. Discontinuance of an ESCO's or Direct Customer's participation in a distribution utility's retail access program by the NYISO; or,
  - h. Commission determination that an ESCO is not eligible to sell natural gas or electricity to retail customers.
2. To initiate the discontinuance process, a distribution utility shall send a non-EDI discontinuance notice by overnight mail and verified receipt, to the ESCO or Direct Customer and the Department. The notice shall contain the following information:
    - a. The reason, cure period, if any, and effective date for the discontinuance;
    - b. A statement that the distribution utility shall notify the ESCO's customers of the discontinuance if the ESCO fails to correct the deficiency described in the notice within the cure period, unless the Department directs the distribution utility to stop the discontinuance process;
    - c. The distribution utility may suspend the ESCO's right to enroll customers until correction of the deficiency; and
    - d. Correction of the deficiency within the cure period, or a Department directive, will end the discontinuance process.
  3. The distribution utility shall send notices to the ESCO's customers informing them of the discontinuance and providing the following information:
    - a. The discontinuance shall or did occur on one of the following dates selected by the distribution utility: the scheduled meter read date, the first day of the month, or another date, if readings are estimated, or on the date of a special meter read;
    - b. Customers have the option to select another ESCO or return to full utility service or, if a program authorizing random assignment is in effect, to enroll with a designated ESCO through that program;
    - c. Names and telephone numbers of ESCOs offering service to retail customers in the distribution utility's service territory;
    - d. Any ESCO selected by a customer may file an enrollment request on the customer's behalf with the distribution utility, and the distribution utility shall charge no fee for changing the customer's provider to the new ESCO; and,
    - e. During any interim between discontinuance of a customer's current ESCO and enrollment with a new ESCO, the distribution utility shall provide service under its applicable tariff, unless the distribution utility notified the customer that it is terminating its delivery services to the customer on or before the discontinuance date.
  4. The distribution utility shall submit a sample copy of its discontinuance notice to the Department for review and approval prior to distribution to customers.
  5. The distribution utility may request permission from the Department to expedite

the discontinuance process, upon a showing that it is necessary for safe and adequate service or in the public interest. Any expeditious discontinuance process shall include the ESCO or Direct Customer, and the distribution utility.

6. Upon any discontinuance, an ESCO or Direct Customer shall remain responsible for payment or reimbursement of any and all sums owed under the distribution utility tariffs, any tariffs on file with the FERC and service agreements relating thereto, or any agreements between the ESCO and the distribution utility.
7. The notice requirements and time limits for a distribution utility to discontinue an ESCO's or Direct Customer's participation in a distribution utility's retail access program (discontinue participation) are:
  - a. Upon a distribution utility determination that an ESCO's or Direct Customer's action, or failure to act, is likely to cause, or has caused, a significant risk or condition that compromises the safety, system security, or operational reliability of the distribution utility's system and that the ESCO or Direct Customer failed to eliminate immediately the risk or condition upon verified receipt of a non-EDI notice, the distribution utility may discontinue participation as soon as practicable.
  - b. Upon a distribution utility determination that an ESCO or Direct Customer responsible for the delivery of natural gas failed, except under force majeure conditions, to deliver natural gas (provided zero quantity) to the distribution utility's service territory for its load, the distribution utility may discontinue participation no sooner than two business days after receipt by the ESCO or Direct Customer of a discontinuance notice.
  - c. Upon a distribution utility determination that an ESCO or Direct Customer failed to pay an invoice on the due date, as specified in the distribution utility's tariff, and the ESCO's or Direct Customer's required security or credit limit is insufficient to cover the unpaid amount, with interest, the distribution utility may discontinue participation no sooner than ten businessdays (cure period) after receipt by the ESCO or Direct Customer of a discontinuance notice. If the ESCO or Direct Customer pays the amount due  
on or before the expiration of the cure period, the distribution utility shall stop the process to discontinue participation.
  - d. Upon a distribution utility determination that an ESCO or Direct Customer responsible for the nomination and delivery of natural gas failed, except in force majeure conditions, to nominate and/or deliver sufficient natural gas to the distribution utility's service territory to satisfy at least 95% of the amount of natural gas directed by a distribution utility for delivery or at least 80% of the daily metered usage of the ESCO's customers or the Direct Customer's specified load or lower percentages included in a balancing program established in a distribution utility's tariffs and/or any operating agreement on any three days during any month, the distribution utility may initiate a discontinuance process no sooner than five business days (cure period) after receipt by the ESCO or Direct Customer of a discontinuance notice. If the ESCO or Direct Customer provides adequate assurances and a description of any necessary process changes that ensure adequate nominations and deliveries on or before the expiration of the cure period, the distribution utility

shall stop the discontinuance process. Upon a determination to continue the discontinuance process because the assurances and proposed process changes are inadequate, the distribution utility shall notify the ESCO or Direct Customer that it will discontinue participation no later than 15 business days from the expiration of the cure period. The distribution utility shall notify the ESCO's customers that the distribution utility will discontinue participation on or before the expiration of 15 business days from the end of the cure period. If a failure to provide sufficient natural gas for any 3 days during a calendar month occurred during the past 12 months and the distribution utility sent a related discontinuance notice for each occurrence, it may discontinue participation no sooner than two business days after receipt by an ESCO or Direct Customer of a discontinuance notice.

- e. Upon a distribution utility determination that an ESCO or Direct Customer failed to provide or maintain a creditworthiness standard or required security, the distribution utility may initiate a discontinuance process no sooner than five business days (cure period) after receipt by the ESCO or Direct Customer of a discontinuance notice. If the ESCO or Direct Customer satisfies the creditworthiness standard or provides the required security on or before the expiration of the cure period, the distribution utility shall stop the discontinuance process. Upon a determination to continue with the discontinuance process because the ESCO or Direct Customer failed to comply with the creditworthiness standard or provide adequate security, the distribution utility shall notify the ESCO or Direct Customer that it will discontinue participation no later than 15 business days from the expiration of the cure period. The distribution utility shall notify the ESCO's customers that it will discontinue participation on or before 15 days from the expiration of the cure period. If a failure to comply with the creditworthiness standard or provide adequate security occurred twice during the past 12 months and the distribution utility sent a related discontinuance notice for each failure, it may discontinue participation no sooner than two business days after receipt by an ESCO or Direct Customer of a discontinuance notice.
- f. Upon a distribution utility determination that an ESCO or Direct Customer failed, except in force majeure conditions, to comply with any other applicable provision of the distribution utility's tariff, operating agreement, or GTOP manual, the distribution utility may initiate a discontinuance process no sooner than ten business days (cure period) after receipt by the ESCO or Direct Customer of a discontinuance notice. If the ESCO or Direct Customer provides adequate assurances and a description of any necessary process changes that ensure compliance on or before the expiration of the cure period, the distribution utility shall stop the discontinuance process. Upon a determination to continue the discontinuance process because the assurances and proposed process changes are inadequate, the distribution utility shall notify the ESCO or Direct Customer that it will discontinue participation no later than 15 business days from the expiration of the cure period. The distribution utility shall notify the ESCO's customers that it will discontinue participation on or before the expiration of 15 business days after the end of the cure period.

**SECTION 3: CREDITWORTHINESS**

## A. Applicability

This Section establishes creditworthiness standards that apply to ESCOs and Direct Customers. An ESCO's and Direct Customer's participation in a distribution utility's retail access program is contingent upon satisfaction of creditworthiness requirements and provision of any security.

## B. ESCOs

1. An ESCO shall satisfy a distribution utility's creditworthiness requirements if:
  - a. The ESCO, or a guarantor, maintains a minimum rating from one of the rating agencies and no rating below the minimum from one of the other two rating agencies. For the purposes of this Section, minimum rating shall mean "BBB" from Standard & Poor's, "Baa2" from Moody's Investor Service, or "BBB" from Fitch Ratings (minimum rating); or,
  - b. The ESCO enters into a billing arrangement with the distribution utility, whereby the distribution utility bills customers on behalf of the ESCO and retains the funds it collects to offset any balancing and billing service charges provided that the distribution utility has a priority security interest with a first right of access to the funds. The ESCO shall submit an affidavit from a senior officer attesting to such utility interest and right. Except that an ESCO serving customers outside of such billing arrangement, must satisfy the security requirements of UBP Section 3.D with respect to those customers.
2. If an ESCO, or a guarantor, is not rated by Standard & Poor's, Moody's Investor Service or Fitch Ratings, it shall satisfy a distribution utility's creditworthiness requirements if the ESCO, or a guarantor:
  - a. Maintains a minimum "1A2" rating from Dun & Bradstreet (Dun and Bradstreet minimum rating) and the ESCO maintains 24 months good payment history with the distribution utility; and,
  - b. Provides any security required by the distribution utility, calculated in accordance with Subdivision D, after deduction of the following unsecured credit allowances:

<u>Rating</u>	<u>Unsecured Credit Allowance</u>
5A1 or 5A2	30% of an ESCO's tangible net worth, up to 5% of the distribution utility's average monthly revenues for the applicable service
4A1 or 4A2	30% of an ESCO's tangible net worth, up to 5% of the distribution utility's average monthly revenues for the applicable service
3A1 or 3A2	30% of an ESCO's tangible net worth, up to 5% of the distribution utility's average monthly revenues for the applicable service
2A1 or 2A2	50% of an ESCO's tangible net worth, up to \$500,000
1A1 or 1A2	50% of an ESCO's tangible net worth, up to \$375,000

An ESCO shall provide information, upon request of the distribution utility, to enable the distribution utility to verify the ESCO's equity. The distribution utility may request reasonable information to obtain the verification and shall safeguard it as confidential information and protect it from public disclosure. The distribution utility may deny the unsecured credit allowance to any ESCO that fails to provide the requested information.

3. A distribution utility may require an ESCO to provide and maintain security in the full amount of the distribution utility's credit risk, calculated in accordance with Subdivision D, if:
  - a. The ESCO, or a guarantor, is not rated;
  - b. The ESCO, or a guarantor, with a minimum rating is placed on credit watch with negative implications or is rated below the minimum rating;
  - c. The ESCO, or a guarantor, is rated below the Dun & Bradstreet minimum rating or the ESCO fails to maintain 24 months good payment history with the distribution utility; or,
  - d. An ESCO issuing consolidated bills fails to render timely bills to customers or to make timely payments to the distribution utility.
4. If a distribution utility's credit risk, associated with an ESCO's participation in its retail access program, exceeds 5% of the distribution utility's average monthly revenues for the applicable service, the distribution utility may require the ESCO, in addition to maintaining a minimum rating, to provide and maintain security in the amount of such excess credit risk.

C. Direct Customers

A Direct Customer shall satisfy a distribution utility's creditworthiness requirements if:

1. Its account is current and remained current for the past 12 months; and,
2. If its debt is rated, it maintains a minimum rating of its long-term unsecured debt securities from one of the rating agencies and no rating below the minimum rating from one of the other two rating agencies.

D. Calculation of Credit Risk and Security

The distribution utility shall calculate its credit risk and establish its security requirements as follows:

1. Delivery Service Risk

- a. For an ESCO that issues a consolidated bill under a multi-retailer model, a distribution utility may require security in an amount no greater than 45 days of peak usage of the ESCO's customers' projected energy requirements during the next 12 months, priced at the distribution utility's applicable delivery service rate and including relevant customer charges.
- b. For an ESCO that bills customers for delivery and commodity services under a single retailer model, a distribution utility may require security in an amount no greater than 60 days of peak usage of the ESCO's customers' projected energy requirements during the next 12 months, priced at the distribution utility's applicable delivery service rate and including relevant customer charges.
- c. Upon an ESCO request, the distribution utility shall establish separate security requirements for summer (April 1 - October 31) and winter (November 1 - March 31) and may retain winter security until the end of two months (April and May) after the end of the winter period.

2. Natural Gas Imbalance Risk

- a. The distribution utility may require an ESCO or Direct Customer to provide security in an amount no greater than the ESCO's customers' or a Direct Customer's projected maximum daily quantity times peak forecasted NYMEX price for the next 12 months and for upstream capacity to the city gate times 10 days.
- b. Upon the request of an ESCO or Direct Customer, the distribution utility shall establish separate security requirements for summer (April 1 - October 31) and winter (November 1 - March 31) and may retain winter security until the end of two months (April and May) after the end of the winter period.

3. Major Change in Risk

- a. A major change shall mean a change in credit risk of more than the greater of 10% or \$200,000.
- b. The ESCO or Direct Customer shall promptly notify the distribution utility and the Department of any major change in credit and or rating risk.
- c. The distribution utility may require an ESCO or a Direct Customer, within five days, to provide additional amounts of security if a major change occurs to increase its credit risk, as follows:
  1. If Standard & Poors, Moody's Investor Service, or Fitch Ratings downgrades an ESCO's, or its guarantor's, rating or a Direct Customer's

debt below the minimum rating or Dun & Bradstreet downgrades an ESCO's, or its guarantor's, rating or a Direct Customer's debt; or,

2. An increase occurs in customer usage or in energy prices and such increase is sustained for at least 30 days.
- d. In the event that a major change occurs to decrease a distribution utility's credit and/or rating risk, results in compliance by an ESCO or Direct Customer with creditworthiness requirements, and elimination of the basis for holding some or all of the security, the distribution utility shall return or release the excess amount of the ESCO's or Direct Customer's security with accumulated interest, if applicable. The distribution utility shall return such amount within five business days after receipt of an ESCO or Direct Customer notice informing the distribution utility of the occurrence of such major change.

#### E. Security Instruments

1. The following financial arrangements are acceptable methods of providing security:
  - a. Deposit or prepayment, which shall accumulate interest at the applicable rate per annum approved by the Public Service Commission for "Other Customer Capital";
  - b. Standby irrevocable letter of credit or surety bond issued by a bank, insurance company or other financial institution with at least an "A" bond rating;
  - c. Security interest in collateral; or,
  - d. Guarantee by another party or entity with a credit rating of at least "BBB" by S&P, "Baa2" by Moody's, or "BBB" by Fitch; or
  - e. Other means of providing or establishing adequate security.
2. A distribution utility may refuse to accept any of these methods for just cause provided that its policy is applied in a nondiscriminatory manner to any ESCO.
3. If the credit rating of a bank, insurance company, or other financial institution that issues a letter of credit or surety bond to an ESCO or Direct Customer falls below an "A" rating, the distribution utility shall allow a minimum of five business days for an ESCO or Direct Customer to obtain a substitute letter of credit or surety bond from an "A" rated bank, insurance company, or other financial institution.

#### F. Lockbox

If the distribution utility and ESCO arrange for a lockbox, security requirements are reduced by 50% provided that the arrangement includes the following:

1. Agreement on allocation of funds and the first right of the distribution utility, in the event of an ESCO's financial difficulty, to obtain funds in the lockbox deposited to the credit of the ESCO;
2. Establishment of rules for managing the lockbox;
3. Agreement on conditions for terminating the lockbox for non-compliance with the rules or for failure to receive customer payments on a timely basis; and,

4. Responsibility of an ESCO for any costs associated with implementing and administering the lockbox.

G. Calling on Security

1. If an ESCO or Direct Customer fails to pay the distribution utility, in accordance with UPB Section 7, Invoices, the distribution utility may draw from security provided that the distribution utility notifies the ESCO or Direct Customer five business days' in advance of the withdrawal and the ESCO or Direct Customer fails to make full payment before the expiration of the five business days.
2. If an ESCO receives a discontinuance notice or elects to discontinue service to customers and owes amounts to the distribution utility, the distribution utility may draw from the security provided by the ESCO without prior notice.
3. If an ESCO files a petition or an involuntary petition is filed against an ESCO under the laws pertaining to bankruptcy, the distribution utility may draw from security, to the extent permitted by applicable law.

H. Application by Distribution Utilities

1. Within ten business days after receipt of a complete ESCO application, a distribution utility shall complete its evaluation of initial creditworthiness, state the rationale for its determination, and provide the calculation supporting the credit limit and any resulting security requirement.
2. A distribution utility shall perform, at least annually, an evaluation, at no charge, of an ESCO's satisfaction of creditworthiness standards and security requirements.
3. A distribution utility shall perform evaluations of creditworthiness, security requirements, and security calculations in a non-discriminatory and reasonable manner.
4. Pending resolution of any dispute, the ESCO or Direct Customer shall provide requested security within the time required in this Section.
5. A distribution utility may reduce or eliminate any security requirement provided that it reduces or eliminates the requirement in a nondiscriminatory manner for any ESCO or Direct Customer. The distribution utility may request reasonable information to evaluate credit risk. If an ESCO or Direct Customer fails to provide the requested information, a distribution utility may deny the ESCO or Direct Customer an opportunity to provide lower or no security.

**SECTION 4: CUSTOMER INFORMATION****A. Applicability**

This Section establishes practices for release of customer information by distribution utilities or MDSPs to ESCOs and Direct Customers and identifies the content of information sets. The distribution utility or MDSP and an ESCO shall use EDI standards, to the extent developed, for transmittal of customer information and may transmit data, in addition to the minimum information required, via EDI or by means of an alternative system.

**B. Customer Authorization Process**

The distribution utility or MDSP shall provide information about a specific customer requested by an ESCO authorized by the customer to receive the information.

1. An ESCO shall obtain customer authorization to request information, in accordance with the procedures in UBP Section 5, Changes in Service Providers, Attachments 1, 2, and 3. An ESCO shall inform its customers of the types of information to be obtained, to whom it will be given, how it will be used, and how long the authorizations will be valid. The authorization is valid for no longer than six months unless the sales agreement provides for a longer time.
2. A distribution utility and a MDSP shall assume that an ESCO obtained proper customer authorization if the ESCO is eligible to provide service and submits a valid information request.
3. An ESCO shall retain, for a minimum of two years or for the length of the sales agreement whichever is longer, verifiable proof of authorization for each customer. Verification records shall be provided by an ESCO, upon request of the Department, within five calendar days after a request is made. Locations for storage of the records shall be at the discretion of the ESCOs.
4. Upon request of a customer, a distribution utility and/or MDSP shall block access by ESCOs to information about the customer.
5. An ESCO and its agent shall comply with statutory and regulatory requirements pertaining to applicable state and federal do-not-call registries.

**C. Customer Information Provided to ESCOs<sup>1</sup>**

1. Release of Information. A distribution utility and a MDSP shall use the following practices for transferring customer information to an ESCO:
  - a. A distribution utility shall provide the information in the Billing Determinant Information Set upon acceptance of an ESCO's enrollment request and the information in the Customer Contact Information Set and the Credit Information Set, upon ESCO request.

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<sup>1</sup> Upon enrollment of a customer, an ESCO shall receive usage data and any subsequent changes, corrections and adjustments to previously supplied data or estimated consumption for a period, at the same time that the distribution utility validates them for use. An ESCO issuing consolidated bills is entitled to receive billing information, in accordance with UBP Section 9, Billing and Payment Processing.

- b. The distribution utility or MDSP shall respond within two business days to valid requests for information as established in EDI transaction standards and within five business days to requests for data and information for which an EDI transaction standard is not available. The distribution utility or MDSP shall provide the reason for rejection of any valid information request.
2. Customer Contact Information Set. The distribution utility or MDSP, to the extent it possesses the information, shall provide, upon an ESCO request, consumption history for an electric account and consumption history and/or<sup>1</sup> a gas profile for a gas account.
  - a. Consumption history<sup>2</sup> for an electric or gas account shall include:
    1. Customer's service address;
    2. Electric or gas account indicator;
    3. Sales tax district used by the distribution utility and whether the utility identifies the customer as tax exempt;
    4. Rate service class and subclass or rider by account and by meter, where applicable;
    5. Electric load profile reference category or code, if not based on service class, whether the customer's account is settled with the ISO utilizing an actual 'hourly' or a 'class shape' methodology, or Installed Capacity (ICAP) tag, which indicates the customer's peak electricity demand;
    6. Customer's number of meters and meter numbers;
    7. Whether the customer receives any special delivery or commodity "first through the meter" incentives, or incentives from the New York Power Authority;
    8. The customer's Standard Industrial Classification (SIC) code;
    9. Usage type (e.g., kWh or therm), reporting period, and type of consumption (actual, estimated, or billed);
    10. Whether the customer's commodity service is currently provided by the utility;
    11. 12 months, or the life of the account, whichever is less, of customer data via EDI and, upon separate request, an additional 12 months, or the life of the account, whichever is less, of customer data via EDI or an alternative system at the discretion of the distribution utility or MDSP, and, where applicable, demand information;<sup>3</sup> if the customer has more than one meter associated with an account, the distribution utility or MDSP shall provide the applicable information, if available, for each meter; and

<sup>1</sup> If a distribution utility or MDSP offer a gas profile and consumption history, an ESCO may choose either option. A distribution utility or MDSP shall make available, upon request, class average load profiles for electric customers.

<sup>2</sup> A distribution utility or MDSP, in addition to EDI transmittal, may provide Web based access to customer history information.

<sup>3</sup> A distribution utility may provide data for a standard 24 months or life of the account, whichever is less, as part of its Customer Contract Information Set.

12. Electronic interval data in summary form (billing determinants aggregated in the rating periods under a distribution utility's tariffs) via EDI, and if requested in detail, via an acceptable alternative electronic format.
- b. A gas profile for a gas account shall include:
  1. Customer's service address;
  2. Gas account indicator;
  3. Customer's number of meters and meter numbers;
  4. Sales tax district used by the distribution utility for billing and whether the utility identifies the customer as tax exempt;;
  5. The customer's Standard Industrial Classification (SIC) code;
  6. Whether the customer's commodity service is currently provided by the utility;
  7. Rate service class and subclass or rider, by account and by meter, where applicable;
  8. Date of gas profile; and,
  9. Weather normalization forecast of the customer's gas consumption for the most recent 12 months or life of the account, whichever is less, and the factors used to develop the forecast.
3. Billing Determinant Information Set. Upon acceptance of an ESCO enrollment request, a distribution utility shall provide the following billing information for an electric or gas account, as applicable<sup>1</sup>:
  - a. Customer's service address, and billing address, if different;
  - b. Electric and/or gas account indicator;
  - c. Meter reading date or cycle and reporting period;
  - d. Billing date or cycle and billing period;
  - e. Meter number, if available;
  - f. Distribution utility rate class and subclass, by meter;
  - g. Description of usage measurement type and reporting period;
  - h. Customer's load profile group, for electric accounts only;
  - i. Life support equipment indicator;
  - j. Gas pool indicator, for gas accounts only;
  - k. Gas capacity/assignment obligation code;
  - l. Customer's location based marginal pricing zone, for electric accounts only; and,
  - m. Budget billing indicator.<sup>2</sup>

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<sup>1</sup> As specified in the EDI standard for an enrollment request and response, the distribution utility may transmit additional data elements, based upon the request, the responding distribution utility, and the commodity type.

<sup>2</sup> This indicator is limited to 12 month levelized payment plans and does not include other payment plans.

4. Credit Information Set. The distribution utility or MDSP shall provide credit information for the most recent 24 months or life of the account, whichever is less, upon receipt of an ESCO's electronic or written affirmation that the customer provided authorization for release of the information to the ESCO. Credit information shall include number of times a late payment charge was assessed and incidents of service disconnection.

D. Direct Customer Information

A Direct Customer shall receive usage data and any subsequent changes, corrections and adjustments to previously supplied data, and estimated consumption for a period, at the same time that the distribution utility validates them for use. The distribution utility or MDSP shall make available, upon request, to an electric Direct Customer, a class load profile for its service class.

E. Charges for Customer Information

No distribution utility or MDSP shall impose charges upon ESCOs or Direct Customers for provision of the information described in this Section. The distribution utility may impose an incremental cost-based fee, authorized in tariffs for an ESCO's request for customer data for a period in excess of 24 months or for detailed interval data per account for any length of time.

F. Unauthorized Information Release

An ESCO, its employees, agents, and designees, are prohibited from selling, disclosing or providing any customer information obtained from a distribution utility or MDSP, in accordance with this Section, to others, including their affiliates, unless such sale, disclosure or provision is required to facilitate or maintain service to the customer or is specifically authorized by the customer or required by legal authority. If such authorization is requested from the customer, the ESCO shall, prior to authorization, describe to the customer the information it intends to release and the recipient of the information.

## **SECTION 5: CHANGES IN SERVICE PROVIDERS**

### A. Applicability

This Section establishes practices for receiving, processing, and fulfilling requests for changing a customer's electricity or natural gas provider and for obtaining a customer's authorization for the change. A change in a provider includes transfer from: (1) one ESCO to another; (2) an ESCO to a distribution utility; and (3) a distribution utility to an ESCO. This Section also establishes practices for: an ESCO's drop of a customer or a customer's drop of an ESCO, retention of an ESCO after a customer's relocation within a distribution utility's service area, assignment of a customer, and initiation or discontinuance of procurement of electricity or natural gas supplies by a Direct Customer. This Section does not establish practices for obtaining other energy-related services or changing billing options.

The process of changing a service provider is comprised of two steps. For enrollment with an ESCO, the first step is obtaining customer agreement, and any required third-party verification, to accept electric and/or natural gas service according to the terms and conditions of an offer. A sales agreement establishes the terms and conditions of the customer's business arrangement with the ESCO. The second step is enrollment and the distribution utility's modification of its records to list the customer's transfer to a provider on a specific date. The second step is primarily between the ESCO and the distribution utility.

### B. Customer Agreement

An ESCO, its agent, an Energy Broker, or an Energy Consultant may solicit and enter into a sales agreement with a customer subject to the following requirements.

1. The ESCO, Energy Broker, or Energy Consultant shall obtain a customer agreement to initiate service and enroll a customer and customer authorization to release information to the ESCO by means of one of the following methods.
  - a. Telephone agreement and authorization, preceded, or followed within three business days, by provision of a sales agreement, in accordance with requirements in Attachment 1 – Telephonic Agreement and Authorization/Third Party Verification Requirements;
  - b. Electronic agreement and authorization, attached to an electronic version of the sales agreement, in accordance with requirements in Attachment 2 – Electronic Agreement and Authorization Requirements; or
  - c. Written agreement bearing a customer's signature on a sales agreement (original or fax copy of a signed document), in accordance with requirements in Attachment 3 – Written Agreement and Authorization Requirements.
2. For any sale resulting from either door-to-door or telephonic marketing, each enrollment is only valid with an independent third-party verification.
3. The ESCO shall provide residential customers the right to cancel a sales agreement within three business days after its receipt (cancellation period).
4. The standard Sales Agreements for each customer class shall include the following information written in plain language:
  - a. Terms and conditions applicable to the business relationship between the ESCO and the customer which includes:

1. provisions governing the process for rescinding or terminating an agreement by the ESCO or the customer including provisions stating that a residential customer may rescind the agreement within three business days after its receipt;
  2. the placeholder for the price or how the price is determined, the terms and conditions of the agreement, including the term and end date, if any, of the agreement, the amount of the termination fee and the method of calculating the termination fee, if any, the amount of late payment fees, if applicable, and the provisions, if any, for the renewal of the agreement; and,
  3. a clear description of the conditions, if any, that must be present in order for savings to be provided to the customer, if savings are guaranteed.
- b. Such contract shall also include on the first page thereof a Customer Disclosure Statement (the Statement). The text within this Statement shall state in plain language the terms and conditions described above and set forth in Attachment 4 – Sample Customer Disclosure Statement. When the form contract is used by the ESCO as its agreement with the customer, the Customer Disclosure Statement shall also contain the price term of the agreement. In the event that the text in the Statement differs from or is in conflict with a term stated elsewhere in the agreement, the term described by the text in the Statement shall constitute the agreement with the customer notwithstanding a conflicting term expressed elsewhere in the agreement.
  - c. Procedures for resolving disputes between the ESCO and a customer;
  - d. Consumer protections provided by the ESCO to the customer;
  - e. Method for applying payments and consequences of non-payment;
  - f. Any charges and fees, services, options or products offered by the ESCO;
  - g. Department contact information, including the Department ESCO hotline at 1-888-697-7728;
  - h. ESCO contact information, including a local or toll-free number from the customer's service location, and procedures used for after-hours contacts and emergency contacts, including transfer of emergency calls directly to a distribution utility and/or an answering machine message that includes an emergency number for direct contact with the distribution utility.
  - i. A statement that the ESCO shall provide at least 15 calendar days' notice prior to any cancellation of service to a customer; and
  - j. If a condition of service, a statement that the ESCO reserves the right to assign the contract to another ESCO.
  - k. A disclosure of the form, amount and/or method of compensation provided to an Energy Broker or Energy Consultant if such compensation is collected through the ESCO customer agreement or is paid to the Energy Broker or Energy Consultant by the ESCO.
5. Additional terms and conditions applicable to residential customers and customers solicited via door-to-door sales include:
    - a. Prepayments – no agreement for the provision of energy by an ESCO shall require a prepayment. Where an ESCO is the billing party, it may offer a customer an option of prepayment. Any agreement providing for

prepayment may be cancelled by the customer, without penalty within 90 calendar days from the date of such agreement. Any unused portion of the prepayment shall be returned to the customer within 30 business days following cancellation of the agreement.

- b. Termination fees – no agreement for the provision of energy by an ESCO shall require a termination or early cancellation fee in excess of either a) \$100 for any contract with a remaining term of less than 12 months; or b) \$200 for any contract with a remaining term of more than 12 months or; c) twice the estimated bill for energy services for an average month, provided that an estimate of an average monthly bill was provided to the customer when the offer was made by the ESCO along with the amount of any early termination fee. To calculate such average monthly bill, the ESCO may use an average of the customer's actual usage for the previous twelve months or if such data is unavailable at the time the offer is made apply the usage for a typical customer in that service classification as reported by the distribution utility or the Commission, and multiply it by the ESCO's estimate of the average annual rate that will be charged under the agreement.
- c. Variable charges – all variable charges must be clearly and conspicuously identified in all contracts, sales agreements and marketing materials.
- d. Material changes to and renewals of customer agreements – no material changes shall be made in the terms or duration of any contract for the provision of energy by an ESCO without the express consent of the customer obtained under the methods authorized in the UBP. This shall not restrict an ESCO from renewing a contract by clearly informing the customer in writing, not less than thirty days nor more than sixty days prior to the renewal date, of the renewal terms and the customer's option to reject the renewal terms. A customer shall not be charged a termination fee as set forth in Section 5.B.3.1.a herein, if the customer's express consent has not been obtained to any change in material terms and conditions, or if the customer objects to such renewal within three business days of receipt of the first billing statement under the agreement as renewed. All changes to the terms of the contract, including changes to the price, commodity rate, product or service type, will be considered material and will require that the ESCO obtain the customer's express consent for renewal.
- e. An ESCO shall retain, for a minimum of two years or for the length of the sales/renewal agreement whichever is longer, verifiable proof of a customer's express consent for renewal.
- f. A renewal notice in the standardized format provided by the Department, must be used. In any notice regarding contract renewal, the provider shall disclose the following information as it exists at the time of such notice: (i) the price the provider currently charges for energy services; (ii) the price it proposes to charge upon renewal; (iii) the price that is charged by the customer's distribution utility; and (iv) information notifying the customer how they may compare past bills with what they would have been charged had they received energy services from their respective distribution utility, including, the internet address of any bill calculator offered on such customer's distribution utility's website.

- g. The renewal notice must be enclosed in an envelope which states in bold lettering: "IMPORTANT: YOUR [ESCO NAME] CONTRACT RENEWAL OFFER IS ENCLOSED. THIS MAY AFFECT THE PRICE YOU PAY FOR ENERGY SUPPLY."
  - h. When a fixed-rate agreement is renewed as a fixed-rate agreement, the ESCO shall provide the customer with an additional notice before the issuance of the first billing statement under the terms of the contract as renewed, but not more than 10 days prior to the date of the issuance of that bill. This notice shall inform the customer of the new rate and of his or her opportunity to object to the renewal, without the imposition of any early termination fees, within three days of receiving the first billing statement under the terms of the contract as renewed.
- C. Provision of List of ESCOs to Customers
- Distribution utilities shall offer to provide a customer who requests initiation of delivery service with an up-to-date list of ESCOs and provide the list at any time, upon request of any customer.
- D. Customer Enrollment Procedures
1. An ESCO shall transmit:
    - a. An electric enrollment request to a distribution utility no later than 5 business days prior to the effective date of the enrollment.
    - b. A gas enrollment request to a distribution utility no later than 10 business days prior to the effective date of the enrollment.
    - c. The enrollment request shall contain at a minimum, the information required for processing set forth in Attachment 5, Enrollment Request.
  2. The distribution utility shall process enrollment requests in the order received.
  3. The distribution utility shall accept only one valid enrollment request<sup>1</sup> for each commodity per customer during a switching cycle. If the distribution utility receives multiple enrollment requests for the same customer during a switching cycle, it shall accept the first valid enrollment request and reject subsequent requests.
  4. An ESCO shall submit an enrollment request after it obtains customer authorization, and third-party verification where required, and it has provided the sales agreement to the customer. For telephonic enrollments, in which the ESCO sends the customer the sales agreement via US Mail, the ESCO shall provide for two business days for the customer to receive the sales agreement.
  5. After receipt of an enrollment request, the distribution utility shall, within one business day, acknowledge its receipt, and provide a response indicating rejection and the reason, or acceptance and the effective date for the change of provider.
  6. Upon acceptance of an enrollment request, the distribution utility shall contemporaneously send a notice to the incumbent ESCO that the customer's service with that ESCO will be terminated on the effective date of the new enrollment. In the event that the distribution utility receives notice from the pending ESCO, the incumbent ESCO (with specific customer authorization for

<sup>1</sup> Criteria for determining the validity of an EDI transaction are described in the EDI processing protocols adopted in Case 98-M-0667, Electronic Data Interchange.

each cancellation), or the customer, prior to the effective date that a pending enrollment is cancelled, the distribution utility shall transmit a request to reinstate service to the incumbent ESCO, unless the incumbent ESCO previously terminated service to the customer or the customer requests a return to full utility service.

7. With the exception of a new installation use of an interim estimate of consumption or a special meter reading,<sup>1</sup> a change of providers is effective: for an electric customer, on the next regularly scheduled meter reading date; and, for a gas customer, on the next regularly scheduled meter reading date or the first day of the month, in accordance with provisions set forth in the distribution utility's tariff.<sup>2</sup> The distribution utility shall set the effective date, which shall be no sooner than 5 business days after receipt of an enrollment request. Service to new delivery customers is effective after the installation is complete and, if necessary, inspected.
8. An off-cycle change of an electric service provider is allowed no later than 15 calendar days before the date requested for the change if a new ESCO or a customer arranges for a special meter reading or agrees to accept an interim date for estimating consumption. The ESCO or customer is required to pay the cost for any special meter reading, in accordance with provisions set forth in the distribution utility's tariff. A change based upon an interim estimate of consumption or a special meter reading is effective on the date of the interim estimate or special meter reading. Off-cycle changes of gas service providers are allowed if the incumbent and new ESCO agree on an effective date no later than 15 calendar days following the request.

#### E. Customer Notification

1. The distribution utility shall send no later than one calendar day after acceptance of an enrollment request a verification letter to the customer notifying the customer of the acceptance. The notice shall inform the customer that if the enrollment is unauthorized or the customer decides to cancel it, the customer is required immediately to so notify the distribution utility and the pending ESCO.
2. . Upon receipt of such cancellation, the distribution utility shall cancel the pending enrollment and reinstate the customer with the incumbent ESCO, if any, or the distribution utility, provided that the distribution utility is notified prior to the planned effective date. If the distribution utility is notified on or after the planned effective date, the change to the new provider shall occur and remain effective for one billing cycle. The customer shall return to full utility service at the end of the next switching cycle, unless the customer is enrolled by another ESCO in accordance with this section prior to the next switching cycle.
3. If a customer notifies the pending ESCO of such cancellation, the pending ESCO shall send a customer's drop request to the distribution utility within one business day.

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<sup>1</sup> If meters are read bimonthly and bills are issued monthly using estimated usage, the effective date for the interim months is the date usage is estimated for billing purposes.

<sup>2</sup> If meters are not read within two business days of the scheduled meter reading day, the distribution utility or MDSP shall estimate usage as of the scheduled meter reading day. The effective date for a change of provider is that date, except where changes of natural gas suppliers are scheduled for the first of the month.

#### F. Rejection of Enrollment Requests

The distribution utility may reject an enrollment request for any of the following reasons:

1. Inability to validate the transaction;
2. Missing or inaccurate data in the enrollment request;
3. ESCO's ineligibility to provide service in the specified territory;
4. No active or pending delivery service;
5. A pending valid prior enrollment request; or
6. The account is coded as ineligible for switching.

#### G. Customer Relocations Within a Service Territory

1. A customer requesting relocation of service within a distribution utility's service territory and continuation of its ESCO service, arranges for continuation at the new location of delivery service by contacting the distribution utility and of commodity service by contacting the ESCO.<sup>1</sup> Each provider contacted by the customer shall remind the customer of the need to contact the other provider to initiate the change in service or arrange for a conference call with the other provider and customer, and within two days, notify the other provider that a customer requested relocation of service.
2. The distribution utility's representative shall inform the customer, or the customer's agent, and the ESCO of the effective dates, contingent upon the customer's approval, for discontinuance of service at one location and commencement of service at the new location. The ESCO shall confirm to the distribution utility that it shall continue service to the customer at the new location.
3. In the event that the ESCO is unable or does not wish to continue service to the customer at the new location, the distribution utility shall provide full utility service to the customer.

#### H. Customers Returning to Full Utility Service

1. A customer arranges for a return to full utility service by contacting either the ESCO or the distribution utility in accordance with this paragraph. An ESCO contacted by the customer shall, within one business day, process the customer's request to return to full utility service. A utility contacted by a customer shall remind the customer to contact the ESCO about the customer's returning to full utility service provided, however, that if the customer has already contacted the ESCO or wants to proceed without contacting the ESCO, the utility shall, within one business day, process the customer's request to return to full utility service. If a change to full utility service results in restrictions on the customer's right to choose another supplier or application of a rate that is different than the one applicable to other full-service customers, the distribution utility shall provide advance notice to the customer.
2. A Direct Customer that intends to change from procuring its own supplies to full utility service shall notify the distribution utility.

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<sup>1</sup> In the Single Retailer Model, the customer contacts only its ESCO. The ESCO notifies the distribution utility of the customer's new service location and mailing address, if applicable. Direct customers contact only the distribution utility.

3. No ESCO shall transfer 5,000 or more customers during a billing cycle to full utility service, unless it provides no less than 60 calendar days' notice to the distribution utility and Department. The transfers shall occur on the customers' regularly scheduled meter reading dates, unless the distribution utility and ESCO agree to a different schedule.
  4. The following process sets forth the steps for an ESCO's return of a customer to full utility service.
    - a. An ESCO may discontinue service to a customer and return the customer to full utility service provided that the ESCO notifies the customer and the distribution utility no later than 15 calendar days before the effective date of the drop. The ESCO's right to discontinue service to any customer is subject to any limitations contained in its sales agreement.
    - b. An ESCO's notice to retail customers shall provide the following information:
      1. Effective date of the discontinuance, established by the distribution utility, unless the ESCO arranged for an off-cycle date;
      2. Statement that the customer has the option to select another ESCO receive full utility service from the distribution utility, or, if available in the distribution utility's service area and the customer is eligible, accept random assignment by the distribution utility to an ESCO; and,
      3. Statement that customer shall receive full utility service until the customer selects a new ESCO and the change in providers is effective, unless the distribution utility notified the customer that it will terminate its delivery service on or before the discontinuance date.
    - c. The ESCO shall provide a sample form of the notice it plans to send to its customers when it transfers 5,000 or more customers to the Department for review no later than five calendar days before mailing the notice to customers.
- I. New Delivery Customers
1. A customer may initiate distribution utility delivery service and subsequently enter into a customer agreement with an ESCO for commodity supply or arrange for both services at the same time.
  2. A customer may authorize an ESCO, Energy Broker, or Energy Consultant to act as the customer's agent in establishing distribution utility service. The agent shall retain, and produce upon request, documentation that the customer authorized the ESCO, Energy Broker, or Energy Consultant to act as the customer's agent.
  3. An ESCO, Energy Broker, or Energy Consultant acting as a customer's agent shall establish a new delivery account on behalf of the customer and enroll the customer with the distribution utility so that ESCO commodity service commences when distribution utility delivery service begins. The ESCO, Energy Broker, or Energy Consultant shall retain, and produce upon request, documentation that the customer authorized the ESCO, Energy Broker, or Energy Consultant to act as the customer's agent. An ESCO, Energy Broker, or Energy Consultant that is a customer's agent is authorized to submit the customer's application for new delivery service, in compliance with requirements for such applications stated in the law, rules and distribution utility tariffs. An ESCO, Energy Broker, or Energy Consultant shall provide the customer's name, service address and, if different, mailing address, telephone number, customer's requested service date for initiation of delivery service, and information about any special need customers, including any need for life support equipment. An ESCO, Energy

Broker, or Energy Consultant shall refer a customer directly to a distribution utility for arrangement of distribution related matters, such as contribution-in-aid of construction and construction of facilities necessary to provide delivery service and settling of arrears and posting security.

4. Upon a customer's application for service, the distribution utility shall provide an ESCO, Energy Broker, or Energy Consultant with the effective date for initiation of delivery service and any other customer information provided to an ESCO, Energy Broker, or Energy Consultant in an acceptance of an enrollment request. The distribution utility may notify the customer of the acceptance.

J. Multiple Assignments of Sales Agreements

1. An ESCO may assign all or a portion of its sales agreements to other ESCOs provided that the assigned sales agreements clearly authorize such assignments or the ESCO provides notice to its customers prior to the assignments and an opportunity for each customer to choose another ESCO or return to full utility service. An ESCO shall provide a written notice no later than 30 calendar days prior to the assignment or transfer date to each customer and distribution utility. The notice to the distribution utility shall include a copy of the assignment document, with financial information redacted, executed by the officers of the involved ESCOs, and a copy of the notice sent to the customer, or, if a form notice, a copy of the form and a list of recipients.
2. The assignment documents shall specify the party responsible for payment or reimbursement of any and all sums owed under any distribution utility tariff or Federal Energy Regulatory Commission tariff and any service agreements relating thereto, and under any agreements between ESCOs and distribution utilities and between ESCOs and their customers.
3. An ESCO's notices to customers shall provide the following information:
  - a. Effective date of the assignment;
  - b. The name, mailing and e-mail addresses, and telephone number of the assigned ESCO; and,
  - c. Any changes in the prices, terms and conditions of service, to the extent permitted by the sales agreement.
4. The ESCO shall provide sample forms and any major modifications of such notices to the Department for review no later than five calendar days before mailing them to customers.
5. The distribution utility shall, within two business days after receipt of an assignment request, acknowledge and initiate processing of the request and send written notice of the request to the ESCO's assigned customer.

K. Unauthorized Customer Transfers

1. A change of a customer to another energy provider without the customer's authorization, commonly known as slamming, is not permitted. The distribution utility shall report slamming allegations to the Department on at least a monthly basis.
2. An ESCO that engages in slamming shall refund to a customer the difference between charges imposed by the slamming ESCO that exceed the amount the customer would have paid its incumbent provider and pay any reasonable costs incurred by the distribution utility to change the customer's provider from the

ESCO that engaged in slamming to another provider.

3. ESCOs shall retain two years or for the length of the sales agreement whichever is longer, documentation of a customer's authorization to change providers. Such documentation shall comply with the requirements described in Attachments 1, 2 or 3.

L. Lists of ESCO Customers, Budget Billing, Charges and Fees

1. A distribution utility, upon an ESCO's request, shall provide at no charge, once each calendar quarter, a list of the ESCO's customers at the time of the request and, monthly, the number of accounts enrolled with an ESCO and the ESCO's sales (kWh and/or dekatherms). ESCOs may obtain such customer lists at other times for cost-based fees set forth in distribution utility tariffs.
2. A distribution utility shall adjust its bills rendered under a budget billing plan on the effective date for changing a provider and include the adjustments in the customer's next bill.
3. Upon enrollment of a distribution utility customer with an ESCO or return of an ESCO customer to full utility service, a distribution utility shall impose no restrictions on the number or frequency of changes of gas or electricity providers, except as provided in this paragraph. The distribution utility shall accept only one valid enrollment request for each commodity per customer during a switching cycle. If multiple requests are received for the same customer during a switching cycle, the distribution utility shall accept the first valid enrollment request and reject subsequent enrollment requests.
4. A distribution utility shall impose no charge for changing a customer's gas or electricity provider.
5. A distribution utility may establish a fee in its tariffs for a special meter reading.

**Attachment 1****Telephonic Agreement and Authorization/Third Party Verification Requirements**

- A. A voice-recorded verification is required to enter into a telephonic agreement or a door to door agreement, with a customer to initiate service and begin enrollment. Use of either an Independent Third Party or an Integrated Voice Response system to obtain customer authorization is required for any telephone solicitation or sales resulting from door-to-door marketing. Verification by an Independent Third Party or an Integrated Voice Response system shall be recorded and conducted without the ESCO marketing representative, Energy Broker, or Energy Consultant's presence, either on the telephone or in person. A voice-recorded verification shall verify the following information to substantiate the customer's agreement or authorization:
1. Do you understand that this conversation is recorded and that oral acceptance of the [ESCO name]'s offer is an agreement to initiate service and begin enrollment?
  2. Is it [specific date] at [specific time]?
  3. Do you understand that the marketing representative represents [specific ESCO] and that [specific ESCO] is not the distribution utility?
  4. If the sale was conducted through door-to-door marketing, has the marketer left the premises?
  5. Are you [specify customer's name]/Please state your name (or is your company name [specify company name]/Please state your company's name)?
  6. Do you live at [specific address]/Please state your address (or is your company located at [specify company address]/Please state your company's address)?
  7. Is your email address [specific e-mail address] /Please provide your email address (if the customer chose to provide it)?
  8. Is your distribution utility account number [specify account number]/ Please state your distribution utility account number?
  9. Are you the primary account holder or do you have authority to make changes to this account?
  10. If the sale was conducted through door-to-door marketing: did the ESCO marketing representative provide you with the sales agreement, his/her business card or contact information and leave a copy of the ESCO Consumer Bill of Rights?
  11. If the sale was conducted through telemarketing: did the ESCO marketing representative offer to mail you a copy of the ESCO Consumer Bill of Rights or did the ESCO marketing representative tell you how to find the ESCO Consumer Bill of Rights online?

12. Did you agree to the terms of service as reviewed with you by the [ESCO name] representative on [INSERT ENROLLMENT DATE]?
  - a. The price of\_\_\_(electricity and/or natural gas) under the contract is \_\_\_for\_\_\_months (years).
  - b. Or the price of\_\_\_(electricity and/or natural gas) under the contract is a variable rate and will vary month-to-month.
  - c. The early termination fee (if any) is\_\_\_(this may be a methodology instead of a dollar amount).
13. If savings is guaranteed (compared to the utility rate), a plain description of the type of savings and the conditions that must be present in order for the customer to be eligible for savings. If savings is not guaranteed (as compared to the utility supply service) a statement indicating such;
14. Please be advised that energy supply will be provided by the ESCO, and that energy delivery shall continue to be provided by your utility and the utility will also be available to respond to leaks or other emergencies should they occur;
15. Do you authorize the release of the following information from your distribution utility: [specify information] and do you understand that you may rescind this authorization at any time by calling [specify toll free number] or e-mailing [specify e-mail address]?

For residential enrollments only: Do you understand that you may rescind the agreement within three business days after its receipt by [describe how such rescission can be accomplished] and if you do not rescind the agreement, an enforceable agreement will be created?

- B. The ESCO, its agent, an Energy Broker, or an Energy Consultant shall provide a copy of any Customer Disclosure Statement and sales agreement to the customer by mail, e-mail or fax within three business daysafter the telephone agreement and independent third-party verification occurs. The sales agreement shall set forth the customer's rights and responsibilities and describethe offer in detail, including the specific prices, terms, and conditions of ESCO service. Such agreement shall be substantially the same, in form and content, as the sample contract submitted to the Department pursuant to Section 2.B.1.b.
- C. The independent third-party verification shall be conducted in the same language used in marketing or sales materials presented to the customer and communicated clearly and in plain language.
- D. An ESCO, Energy Broker, or Energy Consultant shall retain independent third-party verification records for two years from the effective date of the agreement and/or authorization or for the length of the sales agreement whichever is longer. In the event of any dispute involving agreement. authorization and/or the independent third-party verification, the ESCO, Energy Broker, or Energy Consultant shall make available the audio recording of the customer's agreement and/or authorization, including the independent third-party verification within five business days after a request from the Department.

**Attachment 2****Electronic Agreement and Authorization Requirements**

- A. To enter into an electronic agreement with a customer to initiate service and begin enrollment or to obtain customer authorization for release of information, an ESCO, its agent, an Energy Broker, or an Energy Consultant shall electronically record communications with the potential customer. As required in Section 5, the Electronic Agreement and authorization may also require an independent third-party verification call, which must include the information in Attachment 1. An ESCO, Energy Broker, or Energy Consultant shall provide the following electronic information, as applicable, to substantiate the customer's agreement and/or authorization:
1. A statement that electronic acceptance of a sales agreement is an agreement to initiate service and begin enrollment;
  2. The Customer Disclosure Statement and the sales agreement containing the prices, terms and conditions applicable to the customer, which, if printed as a physical document, would be substantially the same, in form, and content, as the sample contract submitted to the Department pursuant to Section 2.B.1.b.
  3. If savings are guaranteed, or guaranteed under only certain circumstances, the ESCO must provide a written statement which includes a plain language description of the conditions that must be present in order for the savings to be provided;
  4. An identification number and date to allow the customer to verify the specific sales agreement to which the customer assents;
  5. A statement from the ESCO that energy supply will be provided by the ESCO, and that energy delivery shall continue to be provided by the customer's utility; and that said utility will also be available to respond to leaks or other emergencies should they occur;
  6. A requirement that the customer accept or not accept the sales agreement by clicking the appropriate box, displayed as part of the terms and conditions; after the customer clicks the appropriate box to accept the sales agreement, the system shall display a conspicuous notice that the ESCO accepts the customer;
  7. Use of an electronic process that prompts a customer to print or save the sales agreement and provides an option for the customer to request a hard copy of the sales agreement; an ESCO shall send the hard copy by mail within three business days after a customer's request;
  8. A description of the types of information that the ESCO needs to obtain from a distribution utility or MDSP and the purposes of its use, a request that the customer provide authorization for release of this information, and the effective duration of the authorization;
  9. A requirement that the customer agree or not agree to provide such authorization by clicking the appropriate box, displayed as part of the terms and conditions;

10. A statement that a residential customer may rescind the agreement and authorization within three business days after electronic acceptance of the sale agreement; a statement that a customer may rescind the authorization for release of information at any time; provision of a local or toll-free telephone number, and/or an e-mail address for these purposes; upon cancellation of the agreement, the ESCO shall provide a cancellation number;
  11. Verification of the date and time of the electronic agreement and authorization; and
  12. Provision by the customer of the customer's name, address, distribution utility customer account number, and any additional information to verify the customer's identify.
- B. The ESCO, Energy Broker, or Energy Consultant shall, within three business days of any final agreement to initiate service to a customer, send an electronic confirmation notice to the customer at the customer's e-mail address.
  - C. The ESCO, Energy Broker, or Energy Consultant shall use an encryption standard that ensures the privacy of electronically transferred customer information, including information relating to enrollment, renewal, re-negotiation, and cancellation.
  - D. Upon request of a customer, the ESCO, Energy Broker, or Energy Consultant shall make available additional copies of the sales agreement throughout its duration. An ESCO, Energy Broker, or Energy Consultant shall provide a toll-free telephone number and e-mail address for a customer to request a copy of the sales agreement.
  - E. ESCOs, Energy Brokers, and Energy Consultants shall retain documentation of a customer's agreement in a retrievable format for two years from the effective date of the customer's acceptance and/or authorization or for the length of the sales agreement whichever is longer. In the event of any dispute involving an electronic agreement or authorization, the ESCO, Energy Broker, or Energy Consultant shall provide a copy of the customer's acceptance of the sales agreement and/or authorization for release of information or provide on-line access to the acceptance and/or authorization within five calendar days after a request from the Department.

**Attachment 3****Written Agreement and Authorization Requirements**

- A. An ESCO, Energy Broker, or Energy Consultant may enter into a written agreement (original or fax copy of a signed document) with a customer to initiate service and begin enrollment or to obtain customer authorization for release of information. As required in Section 5, the Electronic Agreement and authorization may also require an independent third-party verification call, which must include the information in Attachment 1. A sales agreement shall contain, in addition to the Customer Disclosure Statement discussed in UBP Section 2.B.1.b.2, the following information, as applicable:
1. A statement that a signature on a sales agreement is an agreement to initiate service and begin enrollment;
  2. A description of the specific prices, terms, and conditions of ESCO service applicable to the customer, which is substantially the same, in form and content, as the sample contract submitted to the Department pursuant to Section 2.B.1.b and, if savings are guaranteed, or guaranteed under only certain circumstances, the ESCO must provide a plain language description of the conditions that must be present in order for the savings to be provided;
  3. A description of the types of information that the ESCO needs to obtain from a distribution utility or MDSP, the purposes of its use, and effective duration of the authorization;
  4. A statement that acceptance of the agreement is an authorization for release of such information;
  5. A customer signature and date; the sales agreement shall be physically separate from any check, prize or other document that confers any benefit on the customer as a result of the customer's selection of the ESCO;
  6. A statement that a residential customer may rescind the agreement within three business days after signing the sales agreement; a statement that a customer may rescind the authorization for release of information at any time; provision of a local, toll-free telephone number, and/or e-mail address for these purposes; the customer may fax a copy of a signed sales agreement to the ESCO; upon cancellation of the agreement, the ESCO shall provide a cancellation number; and
  7. The customer's name, mail and any e-mail address (if the customer chooses to provide it), distribution utility account number, and any additional information to verify the customer's identify.
  8. A statement from the ESCO that energy supply will be provided by the ESCO, and that energy delivery shall continue to be provided by the customer's utility; and that said utility will also be available to respond to leaks or other emergencies should they occur;
- B. ESCOs, Energy Brokers, or Energy Consultants shall retain written agreements and/or authorizations for two years from the effective date of the agreement and/or authorization or for the length of the agreement whichever is longer. In the event of any dispute involving a sales agreement or authorization, the ESCO, Energy Broker, or Energy Consultant shall provide a copy

of the sales agreement and/or authorization within five business days after a request from the Department.

**Attachment 4**

**Sample Customer Disclosure Statement**

Price	
Fixed or Variable and, if variable, how the price is determined	
Length of the agreement and end date	
Process customer may use to rescind the agreement without penalty	
Amount of Early Termination Fee and method of calculation	
Amount of Late Payment Fee and method of calculation	
Provisions for renewal of the agreement	
Conditions under which savings to the customer are guaranteed	
<b>Compensation Disclosure</b>	

**Attachment 5****Enrollment and Drop Requests Information Requirements**

- A. An ESCO shall provide the following information for enrollment requests, and an ESCO or distribution utility shall provide the following information for drop requests:
1. Utility ID (DUNS# or tax ID);
  2. ESCO ID (DUNS# or tax ID);
  3. Commodity requested (electric or gas); and,
  4. Customer's utility account number (including check digit, if applicable).
- B. The following information is required for enrollment requests:
1. Customer's bill option;
  2. For distribution utility rate ready consolidated billing:
    - a. an ESCO's fixed charge, commodity price, sales and use tax rate or rate code;
    - b. ESCO customer account number;
    - c. budget billing status indicator; and,
    - d. tax exemption percent and portion taxed as residential.
  3. For Single Retailer Model: special needs indicator;
  4. For gas service: gas capacity assignment/obligation indicator, and, if applicable, gas pool ID, gas supply service options, and human needs indicator;
  5. For electric service: indicator for a partial requirements customer, if applicable.
- C. The following information is required for drop requests:
1. Reason for the drop;
  2. For distribution utility request, service end date;
  3. For ESCO initiated request, effective date of customer move, if applicable; and
  4. For ESCO initiated request in Single Retailer Model, customer's service and mailing address.

**SECTION 6: CUSTOMER INQUIRIES****A. Applicability**

This Section establishes requirements for responses by an ESCO or distribution utility to retail access customer inquiries. An ESCO or distribution utility shall respond to customer inquiries sent by means of electronic mail, telecommunication services, mail, or in meetings. The subjects raised in inquiries may result in the filing of complaints.

**B. General**

1. Distribution utilities and ESCOs shall provide consistent and fair treatment to customers.
2. Distribution utilities and ESCOs shall maintain processes and procedures to resolve customer inquiries without undue discrimination and in an efficient manner and provide an acknowledgement or response to a customer inquiry within 2 days and, if only an acknowledgement is provided, a response within 14 days.
3. Distribution utilities and ESCOs shall provide local or toll-free telephone access from the customer's service area to customer service representatives (CSRs) responsible for responding to customer inquiries and complaints.
4. CSRs shall obtain information from the customer to access and verify the account or premises information. Once verification is made, the CSR shall determine the nature of the inquiry, and, based on this determination, decide whether the distribution utility or the ESCO is responsible for assisting the customer.
5. The CSR shall follow normal procedures for responding to inquiries. If the inquiry is specific to another provider's service, the CSR shall take one of the following actions:
  - a. Forward/transfer the inquiry to the responsible party;
  - b. Direct the customer to contact the responsible party; or,
  - c. Contact the responsible party to resolve the matter and provide a response to the customer.
6. Each distribution utility and ESCO shall maintain a customer service group to coordinate and communicate information regarding customer inquiries and designate a representative to provide information relating to customer inquiries to the Department.
7. ESCOs may provide a teletypewriter (TTY) system or access to TTY number, consistent with distribution utility tariffs.

**C. Specific Requests for Information**

1. A distribution utility or ESCO shall respond directly to customer inquiries for any information that is related to commodity supply and/or delivery service, to the extent it has the necessary information to respond.
2. The entity responsible for the accuracy of meter readings shall respond to customer inquiries related to usage.

3. The distribution utility and ESCO shall respond to customer inquiries about billing and payment processing, in accordance with UBP Section 9, Billing and Payment Processing.

D. Emergency Contacts

1. An emergency call means any communication from a customer concerning an emergency situation relating to the distribution system, including, but not limited to, reports of gas odor, natural disaster, downed wires, electrical contact, or fire.
2. The ESCO CSR shall transfer emergency telephone calls directly to the distribution utility or provide the distribution utility's emergency number for direct contact to the distribution utility. If no ESCO CSR is available, the ESCO shall provide for after-hours emergency contacts, including transfer of emergency calls directly to a distribution utility or an answering machine message that includes an emergency number for direct contact to the distribution utility.
3. Each ESCO shall provide periodic notices or bill messages to its customers directing them to contact the distribution utility in emergency situations and providing the emergency number.

**SECTION 7: DISTRIBUTION UTILITY INVOICES****A. Applicability**

This Section establishes procedures for invoices of charges for services provided by the distribution utility directly to an ESCO or Direct Customer. A distribution utility and ESCO or Direct Customer may agree to establish other arrangements and procedures for presentation and collection of invoices for services rendered.

**B. Invoices**

1. An ESCO or Direct Customer shall pay the full amount due, without deduction, set-off or counterclaim, within 20 calendar days after the date of electronic transmittal or postmarked date (due date). Subsequent to the due date, charges are overdue and subject to late payment charges at the rate of 1.5% per month. The overdue charges include the amount overdue, any other arrears, and unpaid late payment charges. The distribution utility may provide, upon request, supporting or back-up data in electronic form, if available on its computer system.
2. A distribution utility shall provide interest at the rate of 1.5% on an overpayment caused by the distribution utility's erroneous billing, provided that it may, without applying interest, credit all or a portion of the overpayment to the next bill issued within 30 days and/or refund all or a portion of the overpayment, upon request, within 30 days after its receipt. The distribution utility shall refund any credit balances, upon request.
3. An ESCO or Direct Customer shall make payments by means of an electronic funds transfer. A distribution utility shall use any partial payments first to pay any arrears and second to pay current charges.

**C. Billing Inquiries and Disputes**

1. An ESCO or Direct Customer shall make any claims relating to inaccuracies of invoices in writing no later than 90 calendar days after the date of electronic transmittal or postmarked date. ESCOs and/or Direct Customers are responsible for payment of disputed charges during any pending dispute.
2. A distribution utility shall designate an employee and provide a telephone number and e-mail address for receipt of inquiries from an ESCO or Direct Customer relating to invoices. The employee shall direct an ESCO or Direct Customer that presents an inquiry or complaint to the responsible and knowledgeable person able to explain charges on an invoice.
3. A distribution utility shall acknowledge in writing receipt of an inquiry within five calendar days after its receipt. A distribution utility shall investigate and respond in writing to the inquiry within 20 calendar days after its receipt.
4. A distribution utility shall refund any overpayments, including interest, within five calendar days after it makes a determination that an ESCO or Direct Customer made an overpayment. It may provide the refund by applying a credit to any overdue amounts or making direct payment of any remainder. The distribution utility shall provide refunds by means of an electronic funds transfer. Interest is calculated at the rate of 1.5 % per month from the date of the overpayment to the refund.

5. No interest is required on overpayments voluntarily made by an ESCO or Direct Customer to an account, unless an overpayment is applied to security.

**SECTION 8: DISPUTES INVOLVING DISTRIBUTION UTILITIES,  
ESCOs, ENERGY BROKERS/CONSULTANTS, OR DIRECT  
CUSTOMERS**

A. Applicability

This Section describes the dispute resolution processes available at the Department to resolve disputes relating to competitive energy markets involving utilities, ESCOs and/or Direct Customers, including disputes alleging anti-competitive practices. This process shall also be utilized to resolve disputes between a distribution utility and an Energy Broker or Energy Consultant. The processes are not available to resolve disputes between retail customers and ESCOs or distribution utilities. They are also not applicable to matters that, in the opinion of the Department Staff, should be submitted by formal petition to the Public Service Commission for its determination or are pending before a court, state or federal agency. The availability of the processes does not limit the rights of a distribution utility, ESCO, Energy Broker, Energy Consultant, or Direct Customer to submit any dispute to another body for resolution.

B. Dispute Resolution Processes

The parties shall in good faith use reasonable efforts to resolve any dispute before invoking any of these processes. Distribution utility tariffs and operating and service agreements between the parties shall identify the processes used to resolve disputes and shall refer to the dispute resolution processes described in this Section as acceptable processes to resolve disputes.

1. Standard Process

The parties shall use a method to send documents described in this paragraph that will verify the date of receipt.

Any distribution utility, ESCO, Energy Broker, Energy Consultant, or Direct Customer may initiate a formal dispute resolution process by providing written notice to the opposing party and Department Staff. Such notice shall include a statement that the UBP dispute resolution process is initiated, a description of the dispute, and a proposed resolution with supporting rationale. Department Staff may participate in the process at this or any later point to facilitate the parties' discussions and to assist the parties in reaching a mutually acceptable resolution.

- a. No later than ten calendar days following receipt of the dispute description, if no mutually acceptable resolution is reached, the opposing party shall provide a written response containing an alternative proposal for resolution with supporting rationale and send a copy to Department Staff.
- b. No later than ten days after receipt of the response, if no mutually acceptable resolution is reached, any party or Department Staff may request that the parties schedule a meeting for further discussions. The parties shall meet no later than 15 calendar days following such request, upon advance notice to Department Staff, unless the parties and Department Staff agree upon another date. The Department may assign one or more Staff members to assist the parties in resolving the dispute.
- c. If no mutually acceptable resolution is reached within 40 calendar days after receipt of the written description of the dispute, any party may request an

initial decision from the Department. A party to the dispute may appeal the initial decision to the Public Service Commission.

- d. If the parties reach a mutually acceptable resolution of the dispute, they shall provide to Department Staff a description of the general terms of the resolution.

## 2. Expedited Process

In the event that an emergency situation arises to justify immediate resolution of a dispute, any party may file a formal dispute resolution request with the Secretary to the Public Service Commission asking for expedited resolution. An emergency situation includes, but is not limited to, a threat to public safety or system reliability or a significant financial risk to the parties or the public. The filing party shall provide a copy of the request to other involved parties and the Department Staff designated to receive information related to dispute resolution under this Section. The request shall describe in detail the emergency situation requiring expedited resolution, state in detail the facts of the dispute, and, to the extent known, set forth the positions of the parties.

## **SECTION 9: BILLING AND PAYMENT PROCESSING**

### A. Applicability

This Section establishes requirements<sup>1</sup> for billing and payment processing options offered by a distribution utility and ESCO in a multi-retailer model. This Section does not establish requirements for billing and payment processing in the single retailer model. A distribution utility and ESCO shall comply with the requirements established in this Section, unless they agree upon modifications or other procedures for billing and payment processing in a Billing Services Agreement.

### B. Billing and Payment Processing Options: General Requirements

1. A distribution utility shall offer to ESCOs without undue discrimination the billing and payment processing options available in its service territory.
2. A customer participating in a retail access program shall select from the billing and payment processing options offered by ESCOs.
3. A distribution utility shall allow its customers to select, through their ESCOs, one of the billing and payment options available in the distribution utility's service territory. An ESCO may offer to its customers billing and payment processing options available in the customer's service territory and shall maintain or provide for the capability of issuing a separate bill for its services under the dual billing option. An ESCO customer may direct the billing party to send its consolidated bills or dual bills to a third party for processing and payment.
4. A distribution utility or ESCO may perform the responsibilities of a billing party for a customer and the other provider (non-billing party) based upon the billing and payment processing options available to the customer and the customer's choice.
5. A distribution utility or MDSP shall make validated usage information available to the billing and non-billing parties at the time that the distribution utility or MDSP determines that the information is acceptable.<sup>2</sup>
6. Information on customer usage, billing, and credit is confidential. A distribution utility or MDSP may release such information, upon a customer's authorization, in accordance with the UBP Section 5, Changes in Service Providers.
7. A distribution utility and ESCO shall demonstrate the technical capability to exchange information electronically for their billing and payment processing options.
8. An ESCO shall provide 60 calendar days' notice by mail, e-mail or fax to a distribution utility of any plan to offer a billing option that is not currently offered to its customers. The distribution utility may agree to a shorter notice period preceding initiation of the option. The 60 calendar-day notice shall not impose any obligation on any party to proceed without a successful test of data exchange capability and the fulfillment of other obligations described in this Section. If an ESCO later changes its system, it shall provide adequate advance notice and conduct any additional testing required.

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<sup>1</sup> The requirements are applicable when EDI is available upon issuance by the Commission of data standards applicable to a bill model and operational upon successful completion of the testing required for a bill model.

<sup>2</sup> A distribution utility or MDSP shall provide electronic interval data in summary form (billing determinants aggregated in the rating periods under a distribution utility's tariffs) via EDI and, if requested, in detail via an acceptable alternative electronic format if retrieved from meters.

9. A distribution utility and an ESCO are responsible for separately remitting their tax payments to the appropriate taxing authorities.
10. Where the ESCO is the billing party, it may offer a customer an option of prepayment. Where a distribution utility is the consolidated billing party, the distribution utility is not required to support processing of prepayments or application of customer prepayments to ESCO charges.

C. Consolidated Billing: General Requirements

1. A distribution utility and ESCO shall establish in a billing services agreement (BSA) detailed expectations for their responsibilities, including consequences for any failure to carry out such responsibilities.
2. A distribution utility may use the bill ready or rate ready method<sup>1</sup> for issuing consolidated bills. An ESCO that offers consolidated billing shall use a bill ready method.
3. A customer receiving delivery service from a distribution utility that is a combination natural gas and electric corporation (combination retail access customer) may receive a consolidated bill for both energy services if:
  - a. The distribution utility issues the consolidated bill;
  - b. One ESCO supplies the customer with both natural gas and electricity;
  - c. An ESCO supplying only one of the commodities agrees to bill for charges for the service provided by the other ESCO; or,
  - d. Separate distribution utility accounts are established for each service.
4. A combination retail access customer may receive separate consolidated bills for each commodity or a dual bill for one commodity and a consolidated bill for the other provided that the distribution utility's system is capable of providing separate accounts for each commodity. A distribution utility shall establish bill cycles and payment due dates. A distribution utility may charge a fee, as set forth in its tariff, to an ESCO to establish, upon the ESCO's request, a separate account for one of the commodities the distribution utility provides.

D. Consolidated Billing: Functions and Responsibilities

1. A billing party shall perform the following functions and responsibilities:
  - a. If the bill ready method is used, receive bill charges and other billing information from the non-billing party;
  - b. If the rate ready method is used, receive rates, rate codes and/or prices (fixed and/or variable) and other billing information from the non-billing party;
  - c. Receive bill messages and bill inserts from the non-billing party;
  - d. If the bill ready method is used, acknowledge receipt of the non-billing party's information and accept or reject it;
  - e. If the rate ready method is used,<sup>1</sup> calculate billed charges, including sales and use taxes; the non-billing party is required to provide the customer's sales and use tax rate to the billing party;
  - f. Print or make available electronically consolidated bills that state the non-billing party's charges, including taxes, arrearages, late fees, and bill messages;

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<sup>1</sup> A distribution utility electing the rate ready method for utility consolidated billing is not obligated to calculate or bill separately for other goods and services that an ESCO may provide.

- g. Insert in bill envelopes consolidated bills and inserts required by statute, regulation or Public Service Commission order;
  - h. Stamp, sort and mail consolidated bills or, if authorized, transmit bills electronically;
  - i. Cancel and rebill charges;
  - j. Notify the non-billing party of amounts billed, by account, within two business days after rendering bills to customers;
  - k. Receive and record customer payments;
  - l. Allocate and transmit the non-billing party's share of receipts, by account, to the non-billing party;
  - m. Respond to general inquiries and complaints about the bill and its format; refer customers to the non-billing party for inquiries and complaints related to the non-billing party's rates, charges, services, or calculations; and,
  - n. Maintain records of billing information, including amounts collected, remaining and transferred, and dates.
2. If the bill ready method is used, each party shall calculate and separately state sales and use taxes applicable to its charges; if the rate ready method is used, the billing party shall calculate and separately state the state sales and use taxes applicable to its charges and the non-billing party's charges.
  3. A party that requires a customer's deposit shall administer it. If a non-billing party applies a customer deposit to an outstanding balance, it shall notify the billing party.
  4. Upon receipt of payments, a non-billing party shall notify the billing party.
  5. To initiate consolidated billing using the rate ready method, the non-billing party shall provide the billing party with the rates, rate codes, and/or prices (fixed and/or variable) and tax rates necessary to calculate the non-billing party's charges. The billing party shall specify in the BSA the number of prices for each service class per commodity accepted, deadline for transmission, effective date, and acceptable frequency of changes.<sup>2</sup>
  6. The billing party may process special handling requests from customers provided that it obtains agreement from the non-billing party for requests that affect it;
  7. The billing party is not required to calculate or provide separate statements to customers regarding gross receipts taxes applicable to a non-billing party's charges. The non-billing party may calculate and provide information on the gross receipts taxes applicable to its charges in a bill message or, if the bill ready method is used, as a line item on the bill.
  8. The non-billing party may offer special billing features, such as budget billing or average payment plans.

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<sup>1</sup> A distribution utility is not required to calculate or bill for ESCO services that are not directly related to the commodity it delivers.

<sup>2</sup> If a billing party's billing system is capable of providing the service, a billing party shall, upon request, apply a different rate, rate code, and/or price and tax rate to usage during different portions of the billing cycle to service provided after the effective date of the change. The non-billing party shall request a change in the rate, rate code, and/or price no later than four business days prior to the effective date requested.

## E. Consolidated Billing: Initiation, Changes or Discontinuance

## 1. Initiation

- a. An ESCO that proposes to issue consolidated bills shall establish and provide to a distribution utility written procedures for billing and payment processing that ensure billing accuracy and timeliness, proper distribution of a distribution utility's bill messages and inserts, and proper allocation and transfer of distribution utility funds.
- b. No distribution utility may impose a fee on an ESCO to process its application to offer consolidated billing.

## 2. Changes

A request to change a customer's billing option shall be made on or before 15 calendar days prior to the scheduled meter reading date.

## 3. Suspension and Discontinuance

- a. A distribution utility may suspend or discontinue an ESCO's right to offer consolidated billing as a billing party or a non-billing party for failure to comply with a BSA. Suspension of the right to offer consolidated billing means that the ESCO is prohibited from offering consolidated billing to new customers.
- b. Upon a determination by a distribution utility to suspend or discontinue an ESCO's right to offer consolidated billing to customers, it shall provide notice on or before 15 calendar days prior to the proposed date for the suspension or discontinuance (cure period) to the ESCO and state the reason for its determination. Upon failure of the ESCO to correct the deficiency on or before the expiration of the cure period, the distribution utility may require a change to dual billing for the ESCO's customers.
- c. Upon discontinuance of consolidated billing rights, an ESCO may reapply to the distribution utility to offer consolidated billing. A distribution utility shall expedite consideration of such requests. Customers may begin receiving consolidated bills again after requirements are satisfied, including submission of transaction requests to establish consolidated billing for customers.

## F. Consolidated Billing: Customer Requests

1. A customer may request an ESCO to change its billing option. The ESCO shall request the bill option change on or before 15 calendar days prior to the scheduled meter reading date. An EDI change request is used to request a change in a customer's bill option. After receipt of the change request, a distribution utility shall, within one business day, acknowledge receipt of the request and, within two days, provide a response indicating rejection and the reason or acceptance and the effective date.
2. No distribution utility may impose a charge on a customer or an ESCO for changing a billing option.
3. When more than one request to change a customer's billing option is transmitted for a billing cycle, a billing party shall accept the last timely request received.
4. A distribution utility may deny a request to initiate consolidated billing or discontinue consolidated billing for a customer with an amount past due for at least 38 calendar days, unless the past due amount is subject to a DPA and the customer is fulfilling DPA obligations.

## G. Consolidated Billing: Content

1. A billing party may decide upon the format for its consolidated bill provided that it states a summary of total charges and separately states distribution utility and ESCO charges in sufficient detail to allow a customer to judge their accuracy. Such separate statements shall appear in clearly separated portions of the bill and identify their source, distribution utility or ESCO. An ESCO that provides consolidated billing shall state on its consolidated bill the unadjusted distribution utility charges for delivery services provided by a distribution utility, without change.
2. A consolidated bill shall contain the information listed in Attachment 1, General Information, preferably in a summary section. The billing party may place the information on the bill in any order or location.
3. A consolidated bill shall contain the information listed in Attachment 2, Distribution Utility Content, separately stated for each distribution utility.
4. A consolidated bill shall contain the information listed in Attachment 3, ESCO Content, separately stated for each ESCO.
5. If the rate ready method is used, the ESCO shall provide to the distribution utility information listed in Attachment 3, ESCO Section Content, to the extent necessary for the distribution utility to calculate and issue bills. To initiate utility consolidated billing using the rate ready method, an ESCO shall provide the information to the distribution utility on or before 15 calendar days prior to the scheduled meter reading date. An ESCO may request a price or rate change no later than four business days prior to its effective date.
6. If a billing party and non-billing party agree to show the non-billing party's logo on the bill, the non-billing party shall provide it in an acceptable electronic format at least thirty days before its initial use.
7. If the rate ready method is used, a non-billing party is not required to provide information after it is initially submitted, except when a change is made.
8. When an ESCO issues a consolidated bill and the distribution utility transmits bill ready data, the distribution utility shall transmit to the ESCO at the appropriate time the applicable information listed in Attachment 2, Distribution Utility Content, items d – q, and the customer's name and service address.
9. When an ESCO issues consolidated bills on behalf of other ESCOs and distribution utilities and the other ESCOs provide information, the non-billing ESCOs shall provide bill ready information listed in Attachment 3, ESCO Content to the billing ESCO.
10. No party shall engage in cramming.
11. A non-billing party may display its bill messages up to 480 characters in length on the bill provided that the billing party raises no reasonable objection to the message. There is no limit in message length for the billing party. If the bill ready method is used, the non-billing party shall transmit the text of the messages or agreed upon message codes in the same EDI transaction as the billed charges. If the rate ready method is used, a non-billing party shall submit a common bill message on or before 15 calendar days before the date used. Unless a final print date is provided, the billing party shall continue to print the message on bills until

- the non-billing party transmits a different message or requests its discontinuance. In emergencies requiring printing of messages on bills, the billing party shall accommodate the needs of the non-billing party, if practicable.
12. The billing party shall, in a timely manner, print on bills or insert into bill envelopes information that a statute, regulation, or Public Service Commission order requires a distribution utility or ESCO to send to its customers. The billing party may not assess charges for inclusion of required inserts that do not exceed one-half ounce. A distribution utility may charge for any excess weight in accordance with its tariff. The party responsible for providing the information shall submit it to the billing party. If the information is provided in a bill insert, the responsible party shall deliver the inserts in preprinted bulk form in a proper size on or before 15 calendar days before the date requested for initiation of distribution to customers to a location designated by the billing party.
  13. Due dates and other general payment terms and conditions shall be identical for distribution utility and ESCO charges, unless different terms and conditions would have no impact on them. In the event of a conflict, the distribution utility's payment terms and conditions shall govern.

#### H. Consolidated Billing: Bill Issuance

1. No late charge may be applied to customers' bills for distribution utility charges, if payment is received by the billing party within the grace period.
2. If the bill ready method is used, the non-billing party shall transmit its charges and other information to the billing party on or before two business days after receipt of valid usage data for a customer account. If the rate ready method is used, the non-billing party shall transmit any revisions in rate and/or price data to the billing party on or before four business days prior to the prescribed date.
3. If the bill ready method is used, a billing party that receives a non-billing party's transaction within the prescribed time and rejects the transaction for cause shall, within one business day after receipt of the transaction, send the non-billing party an EDI reject transaction and state the reason for the rejection. The non-billing party may, if time permits, submit a corrected file containing billing charges for inclusion in the current billing statement.
4. If a non-billing party's transaction is sent to the billing party outside the prescribed time frame, the billing party may reject the transaction and shall notify the non-billing party on or before two business days after its receipt that the charges were not billed. The non-billing party may resubmit its charges the following billing period in accordance with prescribed time limits and without late charges. If the bill ready method is used, the non-billing party may submit a separate bill to the customer and notify the billing party of the action. The parties may also agree that the billing party shall hold the non-billing party's charges for inclusion in the next bill.
5. If a non-billing party's transaction is accepted using the bill ready method, the billing party shall render a bill within two business days after receipt of the transaction. If a rate ready method is used, a billing party shall render a bill in accordance with the distribution utility's regular bill issuance schedule. A bill is rendered upon transfer to the custody of the U.S. Postal Service or other delivery service or, if authorized by a customer, sent electronically to a valid e-mail address or telefax number, displayed on a secure website, or presented directly to the customer or customer's representative.

6. If the billing party has not purchased a non-billing party's accounts receivable, is able to process the non-billing party's transaction, and is unable to render a bill within the prescribed time, the billing party shall notify the non-billing party immediately. A billing party shall afford customers the same grace period to pay the bill.
  7. If the rate ready method is used, the billing party shall provide to the non-billing party within two business days after bill issuance, a statement of the accounts billed, date of issuance and amount of the non-billing party's charges shown on the bill (past due, current, and late payment charges and taxes).
- I. Consolidated Billing: Cancellations and Rebills
1. If non-billing party errors occur and are not corrected before the bill is issued, a billing party is not required to cancel bills or issue new bills. The non-billing party shall provide any necessary explanations to the customer and billing party and make any necessary adjustments on the next bill.
  2. If billing party errors cause the non-billing party charges to miss the billing window, the billing party shall cancel and reissue the bills within two business days after notification, unless the billing party and non-billing party arrange an alternative bill correction process.<sup>1</sup> A billing party shall afford customers the same grace period to pay bills.
  3. If no party errs, the parties may agree to cancel and rebill.
  4. To cancel a bill, a billing party shall:
    - a. Cancel usage by billing period;
    - b. Send consumption in the cancel transaction that matches consumption sent in the original transaction;
    - c. Send cancelled usage at the same level of detail as the original usage;
    - d. Using the rate ready method, if a bill is to be cancelled and reissued, recalculate charges and issue revised bills to customers within two business days after receipt of the revised usage data;
    - e. Using the bill ready method, if a bill is to be cancelled and reissued, issue the revised bill to customers within two business days after receipt of the revised usage data.
  5. To restate usage for a period, the distribution utility or MDSP shall first cancel usage for that period and then send the full set of restatement transactions.
- J. Consolidated Billing: Payment Processing and Remittance
1. The parties shall set forth their responsibilities, performance parameters, financial arrangements and other details associated with payment processing and remittance in a BSA, subject to the requirements in this Section.
    - a. In the Pay-as-You-Get-Paid Method, the billing party sends payments to the non-billing party, within two business days of receipt and posting of the funds and processes the payments in accordance with the required priority for application of payments established in this Section.
    - b. A BSA shall establish procedures for processing payments made on any purchased accounts receivable.

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<sup>1</sup> Such errors do not include usage-related adjustments necessary when an actual meter reading becomes available to replace an estimated reading required, for example, because a customer denies access to a meter.

## 2. Payment Processing

- a. The billing party shall notify the non-billing party that payment is received and send payments to the non-billing party, within two business days after receipt and posting, by use of Electronic Funds Transfer (EFT), Automated Clearing House (ACH), or similar means to banks or other entities as agreed upon by the parties. The notice shall include, in account detail, the payments received from customers, the date payments are posted, the date payments are transferred, and the amounts allocated to the non-billing party's charges.
- b. The billing party may impose late payment charges on unpaid amounts not in dispute for the non-billing party provided the terms of the late payment charges are stated in a tariff or a sales agreement and previously disclosed to the customers. If the bill ready method is used, each party shall calculate its late payment charges. If the rate ready method is used, the billing party shall calculate the non-billing party's late payment charges under terms agreed upon by the parties. If a customer's check is returned for any reason, the billing party may charge the customer's account for the return fee and any reasonable administrative fee.
- c. Upon failure of the billing party to pay the non-billing party its proper share of customer payments within two business days after their receipt and posting or at the time agreed upon when accounts receivable are purchased, the billing party shall pay interest on the unremitted amount. The billing party shall calculate the interest at the rate of 1.5 percent per month from the date the payment was due to be received by the non-billing party or its bank.<sup>1</sup> The payment of interest is in addition to, and not in lieu of, the rights and remedies otherwise available to the parties.

## 3. Collections

The billing party is not responsible for collection of non-billing party funds, unless agreed to in a BSA.

## 4. Application of payments

- a. The billing party<sup>2</sup> shall allocate customer payments to the following categories of charges on the bill or contained in a notice that are not in dispute in this order of priority of payment: (1) amounts owed to avoid termination, suspension or disconnection of commodity or delivery service; (2) amounts owed under a DPA, including installment payments and current charges; (3) arrears; and (4) current charges not associated with a DPA. The billing party shall pro-rate payments to the charges within each category in proportion to each party's charges in that category. After satisfaction of the charges in a category, assuming available funds, the remainder of the payment shall apply to the next highest category according to the priority of payments and in the same manner as described above until the payment is exhausted.

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<sup>1</sup> Upon request, the billing party shall provide the non-billing party with a verified copy of the posting log of payments received and transferred to the non-billing party during any calendar month specified by the non-billing party.

<sup>2</sup> Distribution utilities supplying delivery service for both natural gas and electricity to customers receiving consolidated bills shall apply the receipts to the separate services in accordance with their regular procedures. Where a consolidated bill displays delivery charges for separate gas and electric distribution utilities, the customer's payments shall be first prorated between the utility accounts in accordance with the amount each is due compared with the total amount due both distribution utilities.

- b. The billing party may retain any payment amounts in excess of the amounts due as prepayments for future charges or return the excess amounts to customers. The billing party shall, in a timely manner, combine any excess payment amounts with the customer's payment on the next bill, and allocate and pro-rate the sum as set forth in Section 9.J.4.a.<sup>1</sup>
  - c. When the billing or non-billing party enters into a multi-month payment agreement with a customer or waives any charges, that party shall notify the other party of such action.
  - d. The billing party shall hold payments received without account numbers or enough information for the billing party to identify the accounts and attempt to obtain information to identify the payer. If sufficient information is not obtained to identify the account information prior to the next bill, the billing party shall present the unpaid amount and late charge, if applicable, on the bill. If the customer contacts the billing party to inquire about the late charge and the lack of payment credit, the billing party shall resolve the matter and reverse the late charges. The billing party shall notify the non-billing party of the matter and its resolution and then allocate payments as necessary to balance the account.
5. Multiple Account Payment Processing
- Processing of a single customer payment for multiple accounts requires proactive action on the part of the billing party and the non-billing party to apply payments correctly. The parties shall set forth arrangements for multiple account payment processing in a BSA.
6. Non-billing Party's Balance
- a. Except as provided in Section 9.J.6 d., when a final bill is issued, the billing party shall maintain a current and past due balance for each account of the non-billing party until payment of the last bill issued for service provided by the non-billing party or 23 days after issuance of such bill, whichever is sooner. After such time, the account shall be considered "inactive."
  - b. Except as provided in Section 9.J.6 d., when a customer changes to a new ESCO, the billing party shall continue to receive and apply a customer's payments for the active account of the prior ESCO. If the customer does not pay the outstanding balance owed to the prior ESCO on or before 23 days after the final bill containing the prior ESCO's charges is issued, the billing party shall notify the ESCO and report the balance due.
  - c. With regard to a new distribution utility/ESCO relationship following a change of ESCOs or a change in a distribution utility, the new billing party shall, upon request of the new non-billing party, bill for the balances that may exist at the time of the change. The new billing party may include the arrears on current bills or in a separate bill if its billing system is not capable of accepting prior charges. If a change of providers occurs, a distribution utility is not required to post any arrears of the prior ESCO on consolidated bills issued after the final billing of its charges, unless the arrears become the property of the new ESCO, and it provides documentation of its property right to the distribution utility.

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<sup>1</sup> Where the customer elects to make a charitable donation, such as funding a low-income program, satisfaction of the donation shall be made prior to allocation and pro-ration of the customer's excess payment.

- d. Upon ESCO termination of the commodity supply of a residential customer due to failure to pay charges, the billing party shall maintain a current and past due balance for the account of the terminating ESCO for one year from the date of termination by the ESCO. In the event that the terminating ESCO seeks suspension of delivery service within one year of the termination, or the residential customer has a DPA, the billing party shall maintain a current and past due balance for each account of the terminating ESCO until the arrears are paid in full.
7. Customer Disputes: Initiating a Bill Complaint
    - a. A customer or authorized representative may initiate a customer complaint regarding some or all of the charges on the customer's bill at any time.
    - b. When a complaint relates to the entire bill, to only the billing party's charges or services, or, using the rate ready method, to calculation of the billing or non-billing party's charges, the customer should contact the billing party. The billing party shall resolve the complaint and, if appropriate, place the customer's account in dispute. In the event the inquiry concerns only a non-billing party's bill, charges, services, or calculations, the billing party shall refer the customer to the non-billing party.
  8. Customer Complaints: Notification
    - a. Upon a determination that a complaint affects the entire bill, the billing party shall notify the non-billing party of the subject and amount in dispute, if known.
    - b. The non-billing party shall inform the billing party of disputes related to non-billing party charges that would affect the billing process.
    - c. Once such complaints are resolved and the billed amounts are no longer in dispute, the other party shall be notified.
- K. Consolidated Billing: Call Centers
- A billing party shall provide call centers with toll-free or local telephone access available 24 hours a day and an answering machine or voice mail service during the hours when call center staff is not available. A billing party shall maintain adequate staff to respond to customers' inquiries or refer inquiries to the non-billing party, where appropriate, within two business days.
- L. Dual Billing
1. The distribution utility and ESCO, acting as separate billing parties, shall render separate bills directly to the customer or the customer's representative. The customer or its representative shall pay the distribution utility and the ESCO separately.
  2. The distribution utility's bill shall conform to the standards set by the Public Service Commission.
  3. The distribution utility or MDSP shall transmit usage data to the ESCO at the time the information is available for rendering bills to customers, which may or may not coincide with meter reading cycle dates.
  4. The ESCO may decide upon its bill format provided that it states its charges in sufficient detail to allow customers to judge the accuracy of their bills. At a minimum, an ESCO shall provide the following information:
    - a. Customer's name and billing address and, if different, service address;
    - b. Customer's account number or ID;

- c. Period or date associated with each product or service billed;
  - d. Name of the entity rendering the bill;
  - e. Address to which payments should be sent or the location where payments may be made;
  - f. Local or toll-free number for billing inquiries; if an ESCO enrolls and communicates with customers electronically, an e-mail address and telephone number with area code;
  - g. Due date for payment and a statement that late payment charges shall apply to payments received after the due date; and
  - h. Amount and date of payments received since the last bill.
5. Whenever a distribution utility or MDSP cancels consumption for an account, it shall provide a notice of cancellation and restated billing parameters for the account to an ESCO and a distribution utility, if applicable, and shall:
- a. Cancel usage by billing period;
  - b. Send consumption in the cancel transaction that matches consumption sent in the original transaction;
  - c. Send cancelled usage at the same level of detail as the original usage; and,
  - d. To restate usage for a period, cancel usage for that period and send the full set of billing parameter restatements.

**Attachment 1****General Information**

- A. Customer name
- B. Service address
- C. Billing address, if different than service address
- D. Billing party account number, if any
- E. Start of billing cycle period (prior meter reading date for metered customers)
- F. Starting period meter reading (for metered customers)
- G. End of billing cycle period (current meter reading date for metered customers)
- H. Ending period meter reading (for metered customers)
- I. Billing period metered usage, any multiplier necessary to convert usage to billing units and resulting billing units (for metered customers)
- J. Billing period demand, if applicable
- K. Indicators, if usage is estimated, actual or customer provided
- L. Total current charges (total of billing and non-billing party charges, including late charges and taxes)
- M. Total prior billed charges (total of billing and non-billing party prior bill charges, including prior late charges and taxes)
- N. Total credits since last bill (total of billing and non-billing party credits);
- O. Date through which the credits are applied
- P. Total current bill (total of billing and non-billing party charges plus prior bill charges less credits)
- Q. Billing party name (and billing party logo, if billing party wishes it shown)
- R. Billing party address
- S. Billing party toll-free or local telephone number, and for a billing party that enrolls and communicates electronically with customers, an e-mail address and telephone number with area code, in lieu of a toll-free or local telephone number
- T. Distribution utility toll free-or local telephone number and emergency telephone number
- U. Method and location for payments
- V. Date of bill
- W. Payment due date
- X. Billing party messages of any length that apply in general to the bill and services provided by billing and non-billing parties, that are not reasonably objectionable to the parties

**Attachment 2****Distribution Utility Content**

- A. Distribution utility name, and logo, if the parties agree
- B. Distribution utility address, if the distribution utility is not the billing party
- C. Distribution utility toll-free or local telephone number for inquiries about the distribution utility portion of the bill, if the distribution utility is not the billing party, and distribution utility emergency number
- D. Distribution utility customer account number, if the distribution utility is not the billing party
- E. Distribution utility rate classification identifier
- F. Distribution utility rates per billing unit, if applicable
- G. Distribution utility rates not based on billing units, if applicable, and unbundled, if applicable
- H. Distribution utility charge adjustments and adders, separately stated
- I. Taxes on distribution utility charges, if separately stated
- J. Billing period total distribution utility charges
- K. Prior billing period total distribution utility charges, including any prior late charges
- L. Credits on prior distribution utility charges
- M. Net prior distribution utility balance remaining, unless included in total prior billed charges stated in the General Information Section
- N. Late charge for unpaid prior distribution utility balance, unless included in total prior billed charges stated in the General Information Section
- O. Total amount due for distribution utility services
- P. If a budget bill, applicable billing information and resulting budget bill amount due for distribution utility services
- Q. The distribution utility's bill message, if any, up to 480 characters, if the distribution utility is not the billing party

**Attachment 3****ESCO Content**

- A. ESCO name and logo, if parties agree
- B. ESCO address, if the ESCO is not the billing party
- C. ESCO toll-free or local telephone number for billing inquiries if the ESCO is not the billing party; ESCOs that enroll and communicate electronically with customer may provide an e-mail address and telephone number with area code in lieu of a toll-free or local telephone number; if a rate ready method is used, the billing party shall include a notice directing ESCO customers to call the billing party first to clarify bill calculations
- D. ESCO account number, if the ESCO is not the billing party and has a unique account number
- E. ESCO rate classification, if applicable
- F. ESCO rate per billing unit, if applicable
- G. ESCO rate not based on distribution utility unit, if applicable
- H. ESCO charge adjustments and adders, if any, separately stated
- I. Taxes on ESCO charges, if required to be separately stated
- J. Billing period total ESCO charges
- K. Prior billing period total ESCO charges, including any prior late charges, unless included in total prior billed charges stated in the General Information Section
- L. Credits on prior ESCO charges
- M. Net prior ESCO balance remaining
- N. Total amount due for ESCO services
- O. If a budget bill, applicable billing information and resulting budget bill amount due
- P. The ESCO's bill message, if any, up to 480 characters, if the ESCO is the non-billing party.

**SECTION 10: MARKETING STANDARDS**

A. Applicability

This Section describes the standards that ESCOs and ESCO marketing representatives must follow when marketing to customers in New York.

B. Training of Marketing Representatives

1. ESCOs shall ensure that the training of their marketing representatives includes:
  - a. Knowledge of this Section and awareness of the other Sections of the New York Uniform Business Practices;
  - b. Knowledge of the ESCO's products and services;
  - c. Knowledge of ESCO rates, payment options and the customers' right to cancel, including the applicability of an early termination fee;
  - d. Knowledge of the applicable provisions of the Home Energy Fair Practices Act that pertains to residential customers; and,
  - e. The ability to provide the customer with a toll-free number from which the customer may obtain information about the ESCO's mechanisms for handling billing questions, disputes, and complaints.

C. Contact with Customers

1. In-Person Contact with Customers<sup>1</sup>

ESCO marketing representatives who contact customers in person at a location other than the ESCO's place of business for the purpose of selling any product or service offered by the ESCO shall, before making any other statements or representations to the customer:

- a. Introduce him or herself with an opening statement that identifies the ESCO which he or she represents as an Energy Services Company, identifies him or herself as a representative of that specific ESCO; explains that he or she does not represent the distribution utility; and, explains the purpose of the solicitation.
- b. Produce identification, to be visible at all times thereafter, which:
  1. Prominently displays in reasonable size type face the first name and employee identification number of the marketing representative;
  2. Displays a photograph of the marketing representative and depicts the legitimate trade name and logo of the ESCO they are representing;
  3. Provides the ESCO telephone number for inquires, verification and complaints.
- c. During the sales presentation, the marketing representative must also state that if customer purchases natural gas and/or electricity from the ESCO, that the customer's utility will continue to deliver their energy and will respond to any leaks or emergencies. This requirement may be fulfilled either (a) by an oral statement by the ESCO marketing representative, or (b) written material left by the ESCO marketing representative. Further, ESCOs that are affiliates of distribution utilities should not describe or disclose their relationship to the distribution utility unless such information is specifically requested by the customer.

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<sup>1</sup> Including but not limited to marketing encompassed in the definition of door to door sales.

- d. An ESCO marketing representative must provide each prospective residential customer a business card or similar tangible object with the ESCO marketing representative's first name and employee identification number; ESCO's name, address, and phone number; date and time of visit and website information for inquiries, verification and complaints.
- e. An ESCO marketing representative must provide each prospective residential customer or customer that is marketed to via door to door marketing, with a copy of the ESCO Consumers Bill of Rights, before the ESCO marketing representative makes his or her sales presentation.
- f. An ESCO marketing representative must provide the customer with written information regarding ESCO products and services immediately upon request which must include the ESCOs name and telephone number for inquiries, verification and complaints. Any written materials, including contracts, sales agreements, marketing materials and the ESCO Consumers Bill of Rights, must be provided to the customer in the same language utilized to solicit the customer.
- g. Where it is apparent that the customer's English language skills are insufficient to allow the customer to understand and respond to the information conveyed by the ESCO marketing representative or where the customer or another third party informs the ESCO marketing representative of this circumstance, the ESCO marketing representative shall either find a representative in the area who is fluent in the customer's language to continue the marketing activity in his/her stead or terminate the in-person contact with the customer. The use of translation services and language identification cards is permitted.
- h. An ESCO marketing representative must leave the premises of a customer when requested to do so by the customer or the owner/occupant of the premises.
- i. As stated in Section 5.B.2, for any sale resulting from door-to-door marketing, each enrollment is only valid with an independent third-party verification in conformance with Section 5, Attachment 1. The verification must occur after the marketing agent has left the customer's premises and must be completed before the ESCO may enroll a customer.
- j. All ESCOs who have ESCO marketing representatives conducting door-to-door marketing must maintain a daily record, by zip code, of the territories in which the ESCO's marketing representatives have conducted door-to-door marketing. The information should be in a form that can be reported to Staff upon request and should be retained by the ESCO for a minimum of six months.

## 2. Telephone Contact with Customers

ESCO marketing representatives who contact customers by telephone for the purpose of selling any product or service offered by the ESCO shall:

- a. Provide the ESCO marketing representative's first name and, on request, the identification number;
- b. State the name of the ESCO on whose behalf the call is being made;
- c. Never represent that the ESCO marketing representative is an employee or representative or acting on behalf of a distribution utility. In addition, the ESCO marketing representative must clearly indicate that taking service from an ESCO will not affect the customer's distribution service and such service will continue to be provided by the customer's distribution utility;

- d. State the purpose of the telephone call;
  - e. Where it is apparent that the customer's English language skills are insufficient to allow the customer to understand and respond to the information conveyed by the ESCO representative or where the customer or another third party informs the ESCO marketing representative of this circumstance, the ESCO marketing representative will immediately transfer the customer to a representative who speaks the customer's language, if such a representative is available, or terminate the call; and,
  - f. Remove Customers' names from the marketing database upon Customers' request.
  - g. When marketing to residential customers the ESCO marketing representative must also:
    1. Explain that he or she does not represent the distribution utility;
    2. Explain the purpose of the solicitation;
    3. Notify each prospective customer of the ESCO Consumer Bill of Rights, where they can find it, and also provide a copy of the ESCO Consumer Bill of Rights with any written material sent to the customer including the sales agreement; and,
    4. Provide any written materials, including contracts, sales agreements, marketing materials and the ESCO Consumers Bill of Rights, must be provided to the customer in the same language utilized to solicit the customer.
  - h. As stated in Section 5.B.2, for any sale resulting from telephonic marketing, each enrollment is only valid with an independent third-party verification in conformance with Section 5, Attachment 1. The verification must be completed before the ESCO may enroll a customer.
3. Electronic Enrollments
- a. When marketing to residential customers the ESCO Consumer Bill of Rights should be provided to prospective customers as a non-avoidable screen, which a customer must affirmatively acknowledge to verify they have seen the document, prior to effecting an enrollment.
4. Conduct
- ESCOs shall:
- a. Not engage in misleading or deceptive conduct as defined by State or federal law, or by Commission rule, regulation, or Order;
  - b. Not make false or misleading representations including misrepresenting rates or savings offered by the ESCO;
  - c. Provide the customer with written information, upon request, or with a website address at which information can be obtained, if the customer requests such information via the internet;
  - d. Use reasonable efforts to provide accurate and timely information about services and products. Such information will include information about rates, contract terms, early termination fees and right of cancellation consistent with Section 2 of the UBP and any other relevant Section;
  - e. Ensure that any product or service offerings that are made by an ESCO contain information written in plain language that is designed to be understood by the customer. This shall include providing any written information to the customer in a language in which the ESCO representative has substantive discussions with the customer or in which a contract is negotiated;

- f. Investigate customer inquiries and complaints concerning marketing practices within five days of receipt of the complaint; and,
  - g. Cooperate with the Department and PSC regarding marketing practices proscribed by the UBP and with local law enforcement in investigations concerning deceptive marketing practices.
  - h. Not contract with or otherwise do business with Energy Brokers and Energy Consultants that are not registered with the Commission pursuant to UBP Section 11. Customer enrollments facilitated by an unregistered Energy Broker or Energy Consultant shall be invalid.
5. Dispute Resolution
- ESCOs will maintain an internal process for handling customer complaints and resolving disputes arising from marketing activities and shall respond promptly to complaints forwarded by the Department.

**SECTION 11: ENERGY BROKERS AND ENERGY CONSULTANTS****A. Applicability**

This Section sets forth the process that an Energy Broker or Energy Consultant is required to follow in order to register with the Department of Public Service (Department) to provide services as an Energy Broker or Energy Consultant in New York State.

**B. Registration Requirements**

1. Applicants seeking to act as an Energy Broker or Energy Consultant in New York State are required to register with the Department by submitting a registration package containing the following information and attachments:
  - a. A completed Energy Broker/Consultant Registration Form (Registration Form), available on the Department website ([www.dps.ny.gov](http://www.dps.ny.gov)). The Registration Form shall require the applicant to:
    - i. identify the name, postal and e-mail addresses, and telephone and fax numbers for the applicant's main office;
    - ii. identify the names and addresses of any entities that hold ownership interests of 10% or more in the Energy Broker or Energy Consultant, including a contact name for corporate entities and partnerships;
    - iii. identify the methods by which it intends to market energy products and services to customers;
    - iv. identify the category/categories of energy products it intends to market to customers (e.g. commodity service, distributed solar, or demand response);
    - v. disclose each state in which the applicant operates, or has operated, as an Energy Broker or Energy Consultant and provide any data in its possession regarding complaint history;
    - vi. disclose any criminal or regulatory sanctions imposed during the previous 36 months against the applicant, any senior officers of the applicant, or any entities holding ownership interests of 10% or more in the applicant;
    - vii. disclose any other trade names used by the applicant and the state in which the trade name was/is used;
    - viii. disclose and describe any data breaches associated with customer proprietary information that occurred in any jurisdiction within the 36 months preceding the date of registration, as well as any actions taken by the applicant in response to the incident(s);
    - ix. disclose and describe specific policies and procedures established by the applicant to secure customer data; and
    - x. disclose any history of bankruptcy, dissolution, merger, or acquisition activities in the 36 months preceding the date of registration, including data for affiliates of the Energy Broker or Energy Consultant applicant and upstream owners and subsidiaries.
  - b. A sample standard agreement between the Energy Broker or Energy Consultant and the customer;
  - c. Sample forms of the notices sent upon assignment of sales agreements, discontinuance of service, or transfer of customers to other providers;
  - d. Procedures used to obtain customer authorization for access to a customers' historic usage or credit information;

- e. Sample copies of informational and promotional materials that the applicant uses for mass marketing purposes;
  - f. Sample disclosures of compensation;
  - g. Proof of registration with the New York State Department of State or proof of an assumed name certificate (DBA) filed with the county clerk;
  - h. Proof of registration to act as a marketer in any municipality where such registration is required;
  - i. An annual \$500 registration fee;
  - j. An irrevocable standby letter of credit issued by a reputable financial institution in the amount of \$100,000 for registering Energy Brokers; and \$50,000 for registering Energy Consultants, that meet the following conditions:
    - i. The New York State Department of Public Service shall be named as beneficiary and the letter of credit applicant shall be clearly named;
    - ii. Any number of partial drawings shall be permitted from time to time;
    - iii. The process for making a drawing, including any required forms and communications or delivery instructions shall be stated;
    - iv. If a drawing is made, payment shall be made to the beneficiary within 5 business days;
    - v. Any expiration date shall be specified and options for renewal, including automatic renewal, shall be stated.
    - vi. The applicant's filing for bankruptcy, receivership, or any other debt-relief petition shall in no way affect the issuer's liability to the beneficiary under the letter of credit.
    - vii. All commissions, fees, and other charges with respect to the letter of credit shall be paid by the applicant;
    - viii. Except for increases to the amount, the letter of credit shall not be amended, changed, or modified without express written consent of the beneficiary;
    - ix. The beneficiary shall not be deemed to have waived any rights under the letter of credit unless an authorized representative thereof has signed a dated written waiver. No such waiver, unless expressly stated therein, shall be effective as to any subsequent transaction, nor to any continuance of a breach; and
    - x. If the beneficiary should require a replacement of the letter of credit due to loss or destruction of the original, the issuer will provide one upon request.
  - k. A completed Service Provider Contact Form, which can be found on the Department's website <http://www.dps.ny.gov>, identifying the Energy Broker or Energy Consultant's employee(s) responsible for resolving consumer complaints received by the Department and referred to the Energy Broker or Energy Consultant; and
  - l. An Officer Certification document sworn to by a high-level officer of the applicant, such as the Chief Executive Officer, President, or the equivalent, in which the officer affirms that the information contained in the registration package is accurate and truthful, and that the applicant is willing and able to comply with all applicable laws and regulations, including these UBPs.
2. An applicant that knowingly makes false statements in its registration package is subject to denial or revocation of approval.

3. If the registration package contains information that is a trade secret or sensitive for security reasons, the applicant may request that the Department withhold disclosure of the information, pursuant to the Freedom of Information Law (Public Officers Law Article 6) and Public Service Commission regulations (16 NYCRR §6-1.3).
- C. Department Review Process
1. The Department shall review the Registration Form information and documentation submitted by each applicant and make a determination as to the applicant's likelihood of compliance with the Uniform Business Practices (UBP) if the applicant's registration was approved. To enable the Department to make a thorough assessment of a registration, an applicant shall notify the Department of any major changes in the information submitted in the Registration Form and/or registration package that occurs during the Department review process.
  2. Following its review of the registration information and documentation, the Department shall advise the applicant, in writing, if the registration package is approved and the applicant is registered to operate in the State.
  3. If following its review of the registration package information and documentation the Department determines that the applicant is not likely to comply with the UBP if the applicant were deemed eligible, the Department may recommend to the Commission that, for good cause shown, the Commission deny the applicant's registration.
  4. In any instance that the Department recommends to the Commission that an applicant's registration be denied, the applicant shall be afforded an opportunity to provide the Commission with a response in rebuttal to the Department's recommendation and in support of its registration before the Commission renders a final determination.
  5. The Department shall periodically review the registration packages of each Energy Broker and Energy Consultant operating in New York State and make a recommendation to the Commission if the Department finds that the Energy Broker or Energy Consultant should not be permitted to continue operating in New York State.
- D. Maintaining and Updating Registration
1. An Energy Broker or Energy Consultant shall submit by August 31<sup>st</sup> each year:
    - a. a statement that the information and attachments in its Registration Form and registration package are current; or
    - b. a description of revisions to the Registration Form and registration package and a copy of the revised portions or, at the Energy Broker or Energy Consultant's option, a copy of the revised portions identifying the revisions by highlighting or other means;
    - c. An Officer Certification document, as required by Sub-section B.1.1 of this Section; and
    - d. The required annual registration fee.
  2. An Energy Broker or Energy Consultant shall submit at other times during the year:
    - a. A description of any major change in the Registration Form and/or application package and a copy of the revised portions or, at the Energy Broker or Energy Consultant's option, a copy of the revised portions identifying the revisions by highlighting or other means. For purposes of this Section, the term, "major change," means a revision in the terms and conditions applicable to the business relationship between the Energy Broker or Energy Consultant and its customers.

- b. Changes in marketing plans, including changes to the list required in sub-section B.1.a.iii of this Section.
- c. Changes in the Energy Broker or Energy Consultant's business and customer service information displayed on the Department's Website.
- d. Changes in personnel responsible for resolving consumer complaints received by the Department and referred to the Energy Broker or Energy Consultant.

E. Marketing

- 1. This sub-section describes the standards that Energy Brokers and Energy Consultants must follow when marketing to customers in New York State. Nothing in this Section shall be read to modify or remove the marketing standards contained in UBP Section 10.
  - a. Energy Brokers and Energy Consultants shall ensure that the training of their employees and/or marketing representatives includes:
    - i. Knowledge of this Section and awareness of the other Sections of the UBP;
    - ii. Knowledge of the products and services for which the Energy Broker or Energy Consultant is marketing;
    - iii. Knowledge of product rates/cost, payment options and the customers' right to cancel, including the applicability of an early termination fee;
    - iv. Knowledge of the applicable provisions of the Home Energy Fair Practices Act that pertains to residential customers; and,
    - v. The ability to provide the customer with a toll-free number from which the customer may obtain information about the Energy Broker or Energy Consultant's mechanisms for handling billing questions, disputes, and complaints.
  - b. In-Person Contact with Customers: Energy Brokers or Energy Consultants who contact customers in person at a location other than the Energy Broker or Energy Consultant's place of business, or the place of business of the third party on whose behalf the Energy Broker or Energy Consultant is marketing, for the purpose of selling any product or service offered by the Energy Broker or Energy Consultant, or offered by the third party on whose behalf the Energy Broker or Energy Consultant is marketing, shall, before making any other statements or representations to the customer:
    - i. Introduce him or herself with an opening statement that identifies the entity which he or she represents, identifies him or herself as a representative of that specific entity; explains that he or she does not represent the distribution utility; and, explains the purpose of the solicitation.
    - ii. Produce identification, to be visible at all times thereafter, which: (1) prominently displays in reasonable size type face the first name and employee identification number of the marketing representative; (2) displays a photograph of the marketing representative and depicts the legitimate trade name and logo of the entity they are representing; (3) provides the Energy Broker or Energy Consultant telephone number, or the telephone number of the third party on whose behalf the Energy Broker or Energy Consultant is marketing, for inquires, verification, and complaints.
    - iii. An Energy Broker or Energy Consultant must provide each prospective residential customer a business card or similar tangible object with the marketing representative's first name and employee identification number;

- Energy Broker or Energy Consultant's name, address, and phone number, or the name, address, and phone number of the third party on whose behalf the Energy Broker or Energy Consultant is marketing; date and time of visit, and website information for inquires, verification and complaints.
- iv. An Energy Broker or Energy Consultant must provide the customer with written information regarding the marketed products and services immediately upon request which must include the name and telephone number of the third party on whose behalf the Energy Broker or Energy Consultant is marketing for inquires, verification, and complaints. Any written materials, including but not limited to contracts, sales agreements, and marketing materials, must be provided to the customer in the same language utilized to solicit the customer.
  - v. Where it is apparent that the customer's English language skills are insufficient to allow the customer to understand and respond to the information conveyed by the Energy Broker or Energy Consultant or where the customer or another third party informs the Energy Broker or Energy Consultant of this circumstance, the Energy Broker or Energy Consultant shall either find a representative in the area who is fluent in the customer's language to continue the marketing activity in his/her stead, or terminate the in-person contact with the customer. The use of translation services and language identification cards is permitted.
  - vi. An Energy Broker or Energy Consultant must leave the premises of a customer when requested to do so by the customer or the owner/occupant of the premises.
  - vii. All Energy Brokers or Energy Consultants conducting door-to-door marketing must maintain a daily record, by zip code, of the territories in which the Energy Broker or Energy Consultant has conducted door-to-door marketing. This information should be in a form that can be reported to Staff upon request and should be retained by the Energy Broker or Energy Consultant for a minimum of six months.
  - viii. Specifically, when an Energy Broker or Energy Consultant markets on behalf of an ESCO:
    1. An Energy Broker or Energy Consultant must provide each prospective residential customer or customer that is marketed to via door-to-door marketing, with a copy of the ESCO Consumers Bill of Rights, before the Energy Broker or Energy Consultant makes his or her sales presentation.
    2. During the sales presentation, the marketing representative must also state that if customer purchases natural gas and/or electricity from the ESCO, that the customer's utility will continue to deliver their energy and will respond to any leaks or emergencies. This requirement may be fulfilled either (a) by an oral statement by the Energy Broker or Energy Consultant, or (b) written material left by the Energy Broker or Energy Consultant.
    3. For any sale resulting from door-to-door marketing, each enrollment is only valid with an independent third-party verification in

conformance with UBP Section 5, Attachment 1. The verification must occur after the Energy Broker or Energy Consultant has left the customer's premises and must be completed before the ESCO may enroll a customer.

- c. Telephone Contact with Customers: Energy Brokers and Energy Consultants who contact customers by telephone for the purpose of selling any product or service shall:
- i. Provide the Energy Broker or Energy Consultant's first name and, on request, the identification number;
  - ii. State the name of the third party on whose behalf the call is being made, if applicable;
  - iii. State the purpose of the telephone call;
  - iv. Explain that he or she does not represent the distribution utility.
  - v. Where it is apparent that the customer's English language skills are insufficient to allow the customer to understand and respond to the information conveyed by the Energy Broker or Energy Consultant or where the customer or another third party informs the Energy Broker or Energy Consultant of this circumstance, the Energy Broker or Energy Consultant will immediately transfer the customer to a representative who speaks the customer's language, if such a representative is available, or terminate the call;
  - vi. Remove Customers' names from the marketing database upon Customers' request.
  - vii. Provide any written materials, including but not limited to contracts, sales agreements, and marketing materials to the customer in the same language utilized to solicit the customer.
  - viii. Specifically, when an Energy Broker or Energy Consultant markets on behalf of an ESCO:
    1. the Energy Broker or Energy Consultant must clearly indicate that taking service from an ESCO will not affect the customer's distribution service and such service will continue to be provided by the customer's distribution utility;
    2. the Energy Broker or Energy Consultant must notify each prospective residential customer of the ESCO Consumer Bill of Rights, where they can find it, and also provide a copy of the ESCO Consumer Bill of Rights with any written material sent to the customer including the sales agreement;
    3. For any sale resulting from telephonic marketing, each enrollment is only valid with an independent third-party verification in conformance with Section 5, Attachment 1. The verification must be completed before the ESCO may enroll a customer.
- d. Electronic Enrollments
- i. When marketing to residential customers on behalf of an ESCO, the ESCO Consumer Bill of Rights should be provided to prospective customers as a non-avoidable screen, which a customer must affirmatively acknowledge to verify they have seen the document, prior to effecting an enrollment.

- e. Conduct when Marketing: Energy Brokers and Energy Consultants shall:
    - i. Not engage in misleading or deceptive conduct as defined by State or federal law, or by Commission rule, regulation, or Order;
    - ii. Not make false or misleading representations including misrepresenting rates or savings of certain energy products and services;
    - iii. Provide the customer with written information, upon request, or with a website address at which information can be obtained, if the customer requests such information via the internet;
    - iv. Use reasonable efforts to provide accurate and timely information about services and products. Such information will include information about rates, contract terms, early termination fees, and right of cancellation consistent with this Section, UBP Section 2, and any other relevant Section;
    - v. Ensure that any product or service offerings marketed by an Energy Broker or Energy Consultant contain information written in plain language that is designed to be understood by the customer. This shall include providing any written information to the customer in a language in which the Energy Broker or Energy Consultant has substantive discussions with the customer or in which a contract is negotiated;
    - vi. Investigate customer inquiries and complaints concerning marketing practices within five days of receipt of the complaint; and,
    - vii. Cooperate with the Department and Commission regarding marketing practices proscribed by the UBP and with local law enforcement in investigations concerning deceptive marketing practices.
  - f. Dispute Resolution: Energy Brokers and Energy Consultants shall maintain an internal process for handling customer complaints and resolving disputes arising from marketing activities and shall respond promptly to complaints forwarded by the Department.
2. Disclosure of compensation
    - a. Energy Brokers and Energy Consultants shall disclose to customers the form and amount of compensation via a conspicuous statement on any contract or agreement between the energy agent, consultant, broker, or intermediary and its customer.
    - b. All such disclosures shall include any dollar amount paid, the form in which the compensation was given to the Energy Broker or Energy Consultant, the entity which made the payment, and any broker fee or margin which was added to the energy product or service the customer enrolled in. This disclosure must include anything of value that was given as compensation to the Energy Broker or Energy Consultant for their work, including commissions, bonuses, and any non-financial compensation.
    - c. In instances where the Energy Broker or Energy Consultant has a direct contractual relationship with the customer, this disclosure shall be included on the first page of the customer agreement, must be in plain language, and appear in 12-point font size or larger.
    - d. In instances where the Energy Broker or Energy Consultant does not have a direct contractual relationship with the customer, an Energy Broker or Energy Consultant shall disclose to the customer in a separate, written communication any fee splitting

arrangement, including the third party receiving the fee and the amount or percentage of fee that the third party will receive.

- e. If a third party, such as an ESCO or DERS, collects compensation on behalf of the Energy Broker or Energy Consultant or provides compensation to the Energy Broker or Energy Consultant, such compensation shall be added to the Customer Disclosure Statement in the third party's customer agreement and reflect the form, amount and/or method. In this instance, the Energy Broker or Energy Consultant shall still disclose this information at the time of marketing to the customer.
3. Prohibition on Rebates
    - a. No Energy Broker, Energy Consultant or any other person acting for or on behalf of the Energy Broker or Energy Consultant shall offer or make, directly or indirectly, any rebate of any portion of the fee, premium or charge made, or pay or give to any applicant, or to any person, firm, or corporation acting as agent, representative, attorney, or employee of the energy ratepayer or any interest therein, either directly or indirectly, any commission, any part of its fees or charges, or any other consideration or valuable thing, as an inducement for, or as compensation for, any energy supply or energy-related business.
      - i. An applicant; any person, firm, or corporation acting as agent, representative, attorney, or employee of the energy ratepayer or of the prospective energy ratepayer; or anyone having any interest in the real property shall not knowingly receive, directly or indirectly, any such rebate or other consideration or valuable thing.
      - ii. Any person or entity who violates these prohibitions is subject to a penalty equal to the greater of \$5,000 or up to ten times the amount of compensation or rebate received or paid.

#### F. Customer Inquiries

1. This sub-section establishes requirements for responses by an Energy Broker or Energy Consultant to retail access customer inquiries. An Energy Broker or Energy Consultant shall respond to customer inquiries sent by means of electronic mail, telecommunication services, mail, or in meetings. The subjects raised in inquiries may result in the filing of complaints.
2. General Requirements:
  - a. Energy Brokers and Energy Consultants shall provide consistent and fair treatment to customers.
  - b. Energy Brokers and Energy Consultants shall maintain processes and procedures to resolve customer inquiries without undue discrimination and in an efficient manner and provide an acknowledgement or response to a customer inquiry within 2 days and, if only an acknowledgement is provided, a response within 14 days.
  - c. Energy Brokers and Energy Consultants shall provide local or toll-free telephone access from the customer's service area to customer service representatives (CSRs) responsible for responding to customer inquiries and complaints. This shall either be the local or toll-free telephone number of the Energy Broker or Energy Consultant or the local or toll-free telephone number of the third-party on whose behalf of the Energy Broker or Energy Consultant is marketing.
  - d. CSRs shall obtain information from the customer to access and verify the account or premises information. Once verification is made, the CSR shall determine the nature

of the inquiry, and, based on this determination, decide whether the distribution utility, the ESCO, or the Energy Broker/Consultant is responsible for assisting the customer.

- e. The CSR shall follow normal procedures for responding to inquiries. If the inquiry is specific to another provider's service, the CSR shall take one of the following actions:
  - i. Forward/transfer the inquiry to the responsible party;
  - ii. Direct the customer to contact the responsible party; or,
  - iii. Contact the responsible party to resolve the matter and provide a response to the customer.
- f. Energy Brokers and Energy Consultants may provide a teletypewriter (TTY) system or access to TTY number, consistent with distribution utility tariffs.

### 3. Specific Requests for Information

- a. An Energy Broker or Energy Consultant shall respond directly to customer inquiries for any information that is related to commodity supply and/or delivery service, to the extent it has the necessary information to respond.
- b. The entity responsible for the accuracy of meter readings shall respond to customer inquiries related to usage.
- c. The distribution utility and ESCO shall respond to customer inquiries about billing and payment processing, in accordance with UBP Section 9, Billing and Payment Processing.

### 4. Emergency Contacts

- a. An emergency call means any communication from a customer concerning an emergency situation relating to the distribution system, including, but not limited to, reports of gas odor, natural disaster, downed wires, electrical contact, or fire.
- b. If contacted with an emergency telephone call, the Energy Broker or Energy Consultant CSR shall transfer emergency telephone calls directly to the distribution utility or provide the distribution utility's emergency number for direct contact to the distribution utility. If no Energy Broker or Energy Consultant CSR is available, the Energy Broker or Energy Consultant shall provide for after-hours emergency contacts, including transfer of emergency calls directly to a distribution utility or an answering machine message that includes an emergency number for direct contact to the distribution utility.

## G. Customer Data

1. Energy Brokers and Energy consultants must protect against the unauthorized disclosure of confidential customer information.
2. Energy Brokers and Energy Consultants are prohibited from selling, disclosing or providing any customer information obtained from a distribution utility or from the customer themselves to others, including their affiliates, unless such sale, disclosure or provision is required to facilitate or maintain service to the customer, or is specifically authorized by the customer, or required by legal authority. If such authorization is requested from the customer, the Energy Broker and Energy Consultant shall, prior to authorization, describe to the customer the information it intends to release and the recipient of the information.
3. NIST Cybersecurity Framework. Energy Brokers and Energy Consultants that obtain customer information from the distribution utility must have processes and procedures in place regarding cybersecurity consistent with the National Institute of Standards and

Technology Cybersecurity Framework.

4. Data Security. Energy Brokers and Energy Consultants that obtain customer information from the distribution utility must comply with any data security requirements imposed by Commission rules.

#### H. Enforcement

1. An Energy Broker or Energy Consultant may be subject to consequences for reasons, including, but not limited to:
  - a. false or misleading information in the registration package;
  - b. failure to adhere to the policies and procedures described in any contract with customers;
  - c. failure to comply with required customer protections;
  - d. failure to comply with applicable New York Independent System Operator (NYISO) requirements, reporting requirements, or Department oversight requirements;
  - e. failure to provide notice to the Department of any material changes in the information contained in the Registration Form or registration package;
  - f. failure to comply with the UBP terms and conditions, including discontinuance requirements;
  - g. failure to comply with the Commission's Environmental Disclosure Requirements or failure to comply with other Commission Orders, Rules, or Regulations;
  - h. failure to reply to a complaint filed with the Department and referred to the Energy Broker or Energy Consultant within the timeframe established by the Department's Office of Consumer Services which is not less than five days;
  - i. a material pattern of consumer complaints on matters within the Energy Broker or Energy Consultant's control;
  - j. failure to comply with any federal, state, or local laws, rules, or regulations related to sales or marketing; or 'No Solicitation' signage on the premises; or
  - k. failure to comply with any of the Marketing Standards set forth in Section 10 of the UBP.
2. In determining the appropriate consequence for a failure or non-compliance in one or more of the categories set forth in this Section, the Commission or Department may take into account the nature, the circumstances, including the scope of harm to individual customers, and the gravity of the failure or non-compliance, as well as the Energy Broker or Energy Consultant's history of previous violations.
  - a. Enforcement Procedures:
    - i. The Commission or Department shall either: (a) notify the Energy Broker or Energy Consultant in writing of its failure to comply and request that the Energy Broker or Energy Consultant take appropriate corrective action or provide remedies within the directed cure period, which will be based on a reasonable amount of time given the nature of the issue to be cured; or (b) order that the Energy Broker or Energy Consultant show cause why a consequence should not be imposed.
    - ii. The Commission may impose the consequences listed in UBP Sub-section H.2.b. of this Section if (a) Energy Broker or Energy Consultant fails to take corrective actions or provide remedies within the cure period; or (b) the Commission determines that the incident or incidents of non-compliance are substantiated and the consequence is appropriate.

- iii. Consequences shall not be imposed until after the Energy Broker or Energy Consultant is provided notice and an opportunity to respond.
    - iv. Notwithstanding the requirements of Sub-sections i., ii., and iii. of this paragraph, an Energy Broker or Energy Consultant is subject to revocation of its registration if it fails to provide the required annual registration fee.
    - v. The notice of consequences imposed by the Commission will be published on the Department's website.
  - b. Consequences for non-compliance in one or more of the categories set forth in this Section may include one or more of the following restrictions on an Energy Broker or Energy Consultant's opportunity to do business as an Energy Broker or Energy Consultant in New York State:
    - i. Suspension from a specific Commission approved program in either a specific service territory or all territories in New York State;
    - ii. Suspension of the ability to enroll new customers in either a specific service territory or all service territories in New York State;
    - iii. Imposition of a requirement to record all telephonic and door-to-door marketing presentations, which shall be made available to the Department for review;
    - iv. Reimbursements to customers who did not receive savings promised in the Energy Broker or Energy Consultant's sales agreement/Customer Disclosure Statement or included in the Energy Broker or Energy Consultant's marketing presentation, or to customers who incurred costs as a result of the Energy Broker or Energy Consultant's failure to comply with the marketing standards set forth in UBP Section 10;
    - v. Release of customers from sales agreements without imposition of early termination fees;
    - vi. Revocation of an Energy Broker or Energy Consultant's registration and ability to operate in New York State; and,
    - vii. Any other measures that the Commission may deem appropriate.
  - c. In addition to the consequences identified at UBP Section 11.H.2.b., any person, firm, association, or corporation who or which acts in violation of Public Service Law §66-t(2), and codified in this Section, will be subject to a penalty not to exceed \$5,000 for each violation.
3. An Energy Broker or Energy Consultant's registration is valid unless: the Energy Broker or Energy Consultant fails to pay its annual registration fee; the Energy Broker or Energy Consultant abandons its registration; or such registration is revoked by the Commission through a final order. Additionally, any person or entity who violates this Section's prohibitions on rebates is subject to a penalty equal to the greater of \$5,000 or up to ten times the amount of compensation or rebate received or paid.
4. The Department shall maintain a list of registered Energy Brokers and Energy Consultants for the benefit of third parties who do business with such Energy Brokers and Energy Consultants. As stated in UBP Section 10, ESCOs are prohibited from doing business with unregistered Energy Brokers and Energy Consultants.

P.S.C. NO: 10 – Electricity  
Consolidated Edison Company of New York, Inc.  
Initial Effective Date: 07/31/2024  
Issued in compliance with order dated 04/18/2024 in Cases 23-M-0106, et al.

Addendum Type: UBP-DERS  
Addendum Number: 3

STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION

UNIFORM BUSINESS PRACTICES  
FOR DISTRIBUTED ENERGY  
RESOURCE SUPPLIERS  
CASE 15-M-0180

June 2024

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**SECTION 1: DEFINITIONS**

As used in these Uniform Business Practices for Distributed Energy Resource Suppliers (UBP-DERS), the following terms shall have the following meanings:

CDG Provider - An entity that is acting or planning to act as a CDG Sponsor for one or more CDG projects, or that is otherwise engaged in soliciting customers, members, or subscribers for a CDG project or CDG projects, through its own employees or agents, on its own behalf. A CDG Sponsor is the entity that organizes, owns, and/or operates a CDG project.

CDG Marketing Representative - An entity that is either a CDG Provider or an agent conducting, on behalf of the CDG Provider, Energy Broker, Energy Consultant, or any marketing activity that is designed to result in the enrollment of customers with the CDG Provider.

Commission - The New York State Public Service Commission (PSC).

Customer Inquiry - A question or request for information from a customer relating to a rate, term, or condition of service provided by a DER supplier, distribution utility, DSP, or other service provider.

Customer Service Representative (CSR) - An employee or agent of a CDG Provider responsible for responding to customer inquiries and complaints.

Department - The New York State Department of Public Service.

Distributed Energy Resources (DER) - A broad category of resources including end-use energy efficiency, demand response, distributed storage, and distributed generation.

Distributed Energy Resource (DER) Supplier - A supplier of one or more DERs that participates in a Commission-authorized and/or utility or DSP-operated program or market. Suppliers may choose to provide DERs as stand-alone products or services, or may choose to bundle them with energy commodity. CDG Providers and On-Site Mass Market DG Providers are included within the definition of DER suppliers. Entities which sell both DERs and energy commodity are both DER suppliers and ESCOs.

Distributed Energy Resource (DER) Supplier Marketing Representative - An entity that is either the DER supplier or an agent conducting, on behalf of the DER supplier, any marketing activity that is designed to enroll customers with the DER supplier. CDG Marketing Representatives and On-Site Mass Market DG Marketing Representatives are also a DER Supplier Marketing Representatives.

Distributed System Platform (DSP) - The DSP is an intelligent network platform that will provide safe, reliable and efficient electric services by integrating diverse resources to meet customers' and society's evolving needs. The DSP fosters broad market activity that monetizes system and social values, by enabling active customer and third party engagement that is aligned with the wholesale market and bulk power system.

Distribution Utility - A gas or electric corporation within the Commission's jurisdiction owning, operating or managing electric or gas facilities for the purpose of distributing gas or electricity to end-users.

Distribution Utility Customer Account Number - A number used by a distribution utility to identify the account of a utility customer.

Distribution Utility Tariff - A schedule of rates, terms and conditions of services provided by a distribution utility.

Electronic Data Interchange (EDI) - The computer-to-computer exchange of routine information in a standard format using established data processing protocols. EDI transactions are used in retail access programs to switch customers from one supplier to another or to exchange customers' history, usage or billing data between a distribution utility or Meter Data Service Provider and an ESCO. Transaction set standards, processing protocols, and test plans are authorized in orders issued by the Public Service Commission in Case 98-M-0667, In the Matter of Electronic Data Interchange, and available on the Department of Public Service website at:  
<http://documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?MatterCaseNo=98-m-0667&submit=Search+by+Case+Number>.

Energy broker - A non-utility entity that performs energy management or procurement functions on behalf of customers, ESCOs or DER Suppliers, and (1) that assumes the contractual and legal responsibility for the sale of electric supply service, transmission or other services to end-use retail customers, but does not take title to any of the electricity sold, and does not make retail energy sales to customers or (2) that assumes the contractual and legal obligation to provide for the sale of natural gas supply service, transportation or other services to end-use retail customers, but does not take title to any of the natural gas sold, and but does not make retail energy sales to customers.

Energy consultant - any person, firm, association or corporation who acts as broker in soliciting, negotiating or advising any electric or natural gas contract, or acts as an agent in accepting any electric or natural gas contract on behalf of a DER Supplier.

Energy Services Company (ESCO) - An entity eligible to sell electricity and/or natural gas to end-use customers using the transmission or distribution system of a utility. ESCOs may perform other retail service functions.

Interval Data - Actual energy usage for a specific time interval for a specific period recorded by a meter or other measurement device.

Large Customer - A customer that is within a distribution electric utility's non-residential demand-based or mandatory hourly pricing (MHP) service classification. Where a DER supplier or DER supplier marketing representative does not have sufficient information to determine whether a customer is a mass market or a large customer, that customer should be treated as a mass market customer unless and until the DER supplier or DER supplier marketing representative acquires sufficient information and determines that the customer is a large customer.

Load Profile - Actual or estimated customer energy usage by interval over a period representing usage for a customer or average usage for a customer class.

Mass Market Customer - A customer that is within a distribution electric utility's residential or small commercial service class and is not billed based on peak demand. Where a DER supplier or DER supplier marketing

representative does not have sufficient information to determine whether a customer is a mass market or a large customer, that customer should be treated as a mass market customer unless and until the DER supplier or DER supplier marketing representative acquires sufficient information and determines that the customer is a large customer.

Marketing - The publication, dissemination or distribution of informational or advertising materials regarding a DER supplier's services and products to the public by print, broadcast, electronic media, direct mail or by telecommunication.

Meter - A device that measures the units of electric or natural gas service supplied to consumers.

New York State Independent System Operator (NYISO) - An independent management organization, authorized by the

Federal Energy Regulatory Commission, operating the bulk electric transmission system and wholesale electric market.

Office of Consumer Services (OCS) - Office within the Department of Public Service that receives consumer complaints and makes determinations concerning customer complaints. OCS identifies the exiting Office or its successor in the event that the Office name is changed.

On-Site Mass Market DG Provider - An entity that is engaged in soliciting mass market customers for a project or service that involves the installation of distributed generation equipment, such as solar panels, on the property of those mass market customers, through its own employees or contractors, on its own behalf rather than as a contractor.

On-Site Mass Market DG Marketing Representative - An entity that is either an On-Site Mass Market DG Provider or an agent conducting, on behalf of the Provider, any marketing activity that is designed to result in the enrollment of customers with the Provider.

Plain Language - Clear and coherent language using words with common and everyday meanings and avoiding legal or energy industry terms, acronyms and abbreviations that a person of ordinary circumstances should not be expected to understand. If the use of a technical term is necessary, the term must be clearly defined in the portion of the text where it is used.

Residential Customer - A person receiving commodity supply at a premises used as a residence as defined in 16 NYCRR Part 11.2(a)(2).

Sales Agreement - An agreement between a customer and a DER supplier that contains the terms and conditions governing the provision of products and services by a DER supplier. The agreement may be a written contract signed by the customer or a statement supporting a customer's verifiable verbal or electronic authorization to enter into an agreement with the DER supplier for the products and services specified.

Termination Fee - A fee specified in a DER supplier sales agreement that may be charged to a customer for terminating the sales agreement before the end of the term described in

that agreement, regardless of whether the assessed amount is identified as a fee, a charge, liquidated damages or a methodology for the calculation of damages, and regardless of whether it is fixed, scaled or subject to calculation based on market factors.

Utility Dynamic Load Management Program - A program designed to reduce load in periods or places of high demand, including but not limited to peak shaving programs, local distribution reliability programs to address local reliability needs, and direct load control programs. These programs are further described in Case 14-E-0423 et al., Order Adopting Dynamic Load Management Filings with Modifications, issued June 18, 2015.

**SECTION 2: GENERALLY APPLICABLE PROVISIONS FOR DER SUPPLIERS**

Applicability. The provisions of these sections apply to all DER suppliers that participate in a Commission-authorized and/or utility or DSP-operated program or market with respect to transactions between the DER supplier and the customer of a distribution utility in New York state, excluding the Long Island Power Authority and its utility contractor. These provisions are designed to ensure that accurate information is provided to customers and will require minimal or no changes to existing DER supplier business practices.

**SECTION 2A: SALES AGREEMENTS**  
**(Generally Applicable)**

- A. A DER supplier shall obtain a customer's consent to a sales agreement prior to billing a customer or enrolling a customer in a DSP, utility, NYSEDA, Commission, or Department-run or authorized program.
1. The sales agreement may be a written contract signed by the customer or the customer's verbal or electronic authorization to enter into an agreement with the DER supplier for the products and services specified.
  2. A DER supplier entering into a sales agreement for a large or ongoing transaction shall retain the sales agreement and record of customer consent for at least two years or the length of the agreement, whichever is longer.
    - a. A large transaction is any transaction in which a customer makes a payment to a DER supplier of \$500 or more.
    - b. An ongoing transaction is any transaction which, regardless of the size of the transaction, either (a) results in the DER supplier billing the customer for a period of three or more months or (b) results in the DER supplier enrolling the customer in a program through which the customer or the DER supplier will receive compensation, including bill credits, for a period of three or more months.

**SECTION 2B: GENERAL MARKETING STANDARDS**  
**(Generally Applicable)**

- A. DER supplier shall:
1. Not engage in misleading or deceptive conduct as defined by state or federal law, or by Commission rule, regulation, or Order;

2. Not make false or misleading representations including misrepresenting rates or savings offered by the DER supplier;
3. Provide a mass market customer upon request with written information regarding the DER supplier and its products or services or with a website address at which information can be obtained;
4. Use reasonable efforts to provide accurate and timely information about services and products. Such information will include information about rates, contract terms, termination fees and right of cancellation;
5. Ensure that any product or service offering that is made by a DER supplier in a transaction with a mass market customer contains information written in plain language that is designed to be understood by the customer. This shall include providing any written information to the customer in a language in which the DER supplier representative has substantive discussions with the customer or in which a contract is negotiated;
6. Comply with local laws and regulations regarding door-to-door marketing;
7. Comply with the state and federal laws regarding telemarketing, including the Do-Not-Call law;
8. Cooperate with the Department and PSC regarding the practices prescribed by these UBP-DERS and with other regulatory entities, including law enforcement, in investigations concerning deceptive marketing practices.
9. Not contract with or otherwise do business with Energy Brokers and Energy Consultants that are not registered with the Commission pursuant to UBP-DERS Section 4. Customer enrollments facilitated by an unregistered Energy Broker or Energy Consultant shall be invalid.

**SECTION 2C: CUSTOMER DATA**  
**(Generally Applicable)**

- A. Applicability. This Section establishes practices for release and protection of customer information by distribution utilities or DSPs to DER suppliers using EDI. It also identifies the content of information sets transmitted using EDI standards. The distribution utility or DSP and a DER supplier shall use standards, systems, and protocols developed for these purposes for transmittal of customer information. This section does not impose any obligations on DER suppliers that do not request or receive data using EDI.
- B. Customer Authorization Process. The distribution utility or DSP shall provide information about a specific customer

requested by an EDI-eligible DER supplier authorized by the customer to receive the information.

1. In obtaining customer authorization, a DER supplier shall inform the customer of the types of information to be obtained, to whom it will be given, how it will be used, and how long the authorizations will be valid. The authorization is valid for no longer than six months unless the sales agreement provides for a longer time.
2. A distribution utility or DSP shall assume that a DER supplier obtained proper customer authorization if the DER supplier submits a valid information request, as defined in EDI rules.
3. A DER supplier shall retain, for a minimum of two years or for the length of the sales agreement, whichever is longer, verifiable proof, including but not limited to a recording or signed writing, of authorization for each customer. Verification records shall be provided by a DER supplier, upon request of the Department, within five calendar days after a request is made. Locations for storage of the records shall be at the discretion of the DER supplier.
4. Upon request by a customer, a distribution utility or DSP shall block access by DER suppliers to information about the customer.
5. A DER supplier and its agent shall comply with statutory and regulatory requirements pertaining to applicable state and federal do-not-call registries.

C. Customer Information Provided to DER suppliers

1. Release of Information. The distribution utility or MDSP shall respond within two business days to valid requests for information as established in EDI transaction standards and within five business days to requests for data and information for which an EDI transaction standard is not available. The distribution utility or MDSP shall provide the reason for rejection of any valid information request.
2. Customer Contact Information Set. The distribution utility or DSP, to the extent it possesses the information, shall provide, upon a DER supplier request, consumption history for an electric account and consumption history and/or<sup>16</sup> a gas profile for a gas account.
  - a. Consumption history<sup>17</sup> for an electric account shall include:
    1. Customer's service address;
    2. Electric account number;

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<sup>16</sup> If a distribution utility or DSP offers a gas profile and consumption history, a DER supplier may choose either option. A distribution utility or DSP shall make available, upon

request, class average load profiles for electric customers.

<sup>17</sup> A distribution utility, in addition to EDI transmittal, may provide web-based access to customer history information

3. Sales tax district used by the distribution utility and whether the utility identifies the customer as tax exempt;
  4. Rate service class and subclass or rider by account and by meter, where applicable;
  5. Electric load profile reference category or code, if not based on service class, whether the customer's account is settled with the NYISO utilizing an actual 'hourly' or a 'class shape' methodology, or Installed Capacity (ICAP) tag, which indicates the customer's peak electricity demand;
  6. Customer's number of meters and meter numbers;
  7. Whether the customer receives any special delivery or commodity "first through the meter" incentives, or incentives from the New York Power Authority;
  8. The customer's Standard Industrial Classification (SIC) code;
  9. Usage type (e.g., kWh), reporting period, and type of consumption (actual, estimated, or billed);
  10. Whether the customer's commodity service is currently provided by the utility;
  11. 12 months, or the life of the account, whichever is less, of customer data and, upon separate request, an additional 12 months, or the life of the account, whichever is less, of customer data, and, where applicable, demand information;<sup>18</sup> if the customer has more than one meter associated with an account, the distribution utility or DSP shall provide the applicable information, if available, for each meter; and
  12. Electronic interval data in summary form (billing determinants aggregated in the rating periods under a distribution utility's tariffs), and if requested in detail, an acceptable alternative format.
- b. A gas profile for a gas account shall include:
1. Customer's service address;
  2. Gas account number;
  3. Customer's number of meters and meter numbers;
  4. Sales tax district used by the distribution utility for billing and whether the utility identifies the customer as tax exempt;
  5. The customer's Standard Industrial Classification (SIC) code;

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<sup>18</sup> A distribution utility may provide data for a standard 24

months or life of the account, whichever is less, as part of its Customer Contact Information Set.

6. Whether the customer's commodity service is currently provided by the utility;
7. Rate service class and subclass or rider, by account and by meter, where applicable;
8. Date of gas profile; and,
9. Weather normalization forecast of the customer's gas consumption for the most recent 12 months or life of the account, whichever is less, and the factors used to develop the forecast.

- D. Charges for Customer Data. No distribution utility or DSP shall impose charges upon DER suppliers for provision of the information described in this Section through EDI.
- E. Unauthorized Information Release. A DER supplier, its employees, agents, and designees, is prohibited from selling, disclosing or providing any customer information obtained from a distribution utility or DSP, in accordance with this Section, to others, including their affiliates, unless such sale, disclosure or provision is required to facilitate or maintain service to the customer or is specifically authorized by the customer or required by legal authority. If such authorization is requested from the customer, the DER supplier shall, prior to authorization, describe to the customer the information it intends to release and the recipient of the information.
- F. NIST Cybersecurity Framework. DER suppliers that obtain customer information from the distribution utility or DSP must have processes and procedures in place regarding cybersecurity consistent with the National Institute of Standards and Technology Cybersecurity Framework.
- G. Data Security. DER suppliers that obtain customer information from the distribution utility or DSP must comply with any data security requirements imposed by that utility or by Commission rules on ESCOs and/or any data security requirements associated with EDI eligibility.

**SECTION 2D: RESPONSIBILITY FOR CONTRACTORS AND OTHER THIRD  
PARTY AGENTS  
(Generally Applicable)**

- A. If a DER supplier enlists a third party to assist them in marketing, data collection or analysis, billing, or any other activity, that DER supplier is responsible for making commercially reasonable efforts to ensure that the third

party's activities conform with the relevant regulations and requirements.

- B. The provisions of the preceding subsection also apply when a DER supplier purchases a list of potential customers or similar information from a third party that assembled that list through its own advertising. In such cases, the DER supplier purchasing the list is responsible for making reasonable efforts to ensure that the list was not assembled through deceptive marketing.

**SECTION 2E: CUSTOMER INQUIRIES AND COMPLAINTS**  
**(Generally Applicable)**

- A. Department Staff will accept inquiries and complaints related to DER suppliers and will make efforts to investigate and resolve those complaints and, if necessary, bring those complaints to the Commission for consideration.
- B. For customers of large or ongoing transactions, as defined in Section 2A.A.2, DER suppliers must retain summary complaint records for at least two years from the date of the transaction or for the length of the agreement, whichever is longer.

**SECTION 2F: CONSEQUENCES FOR VIOLATIONS**  
**(Generally Applicable)**

- A. A DER supplier may be held responsible for actions by its officers, its employees, and contractors or other third-party agents acting on its behalf or under its direction. In addition, a DER supplier purchasing a customer list or similar information or services from a third-party marketer is responsible for making reasonable efforts to ensure that the list was not assembled in a manner inconsistent with the UBP-DERS.
- B. A DER supplier may be subject to the consequences listed in UBP-DERS Section 2F.C.2. for reasons, including, but not limited to:
  - 1. False or misleading information in the registration package required of CDG and On-Site Mass Market DG Providers;
  - 2. Failure to adhere to the policies and procedures described in its sales agreement;

3. Enrolling a customer in a DSP, utility, NYSEERDA, Commission, or Department-run or authorized program or billing a customer without obtaining that customer's consent through a sales agreement or similar method;
4. Failure to comply with required customer protections;
5. Failure to comply with relevant reporting requirements or Department oversight requirements;
6. Failure to provide notice to the Department of any material changes in the information contained in the Registration Form or registration package, if required;
7. Failure to comply with the UBP-DERS;
8. Failure to comply with procedures, protocols or practices for communicating with distribution utilities or DSPs as required by the Commission;
9. Failure to comply with other Commission Orders, Rules or Regulations; or
10. A material pattern of consumer complaints on matters within the DER supplier's control.

C. In determining the appropriate consequence for a failure or non-compliance in one or more of the categories set forth in UBP-DERS Section 2F.B., the Commission or Department may take into account the nature, the circumstances, including the scope of harm to individual customers, and the gravity of the failure or non-compliance, as well as the DER supplier's history of previous violations and whether the DER supplier has taken any actions or made any commitment to remediate any harm caused by the violation.

1. The Commission or Department shall:
  - a. Either (a) notify the DER supplier in writing of its failure to comply and request that the DER supplier take appropriate corrective action or provide remedies within the directed cure period, which will be based on a reasonable amount of time given the nature of the issue to be cured; or (b) order that the DER supplier show cause why a consequence should not be imposed.
  - b. The Commission may impose the consequences listed in subparagraph b of this paragraph if (a) the DER supplier fails to take corrective actions or provide remedies within the cure period; or (b) the Commission determines that the incident or incidents of non-compliance are substantiated and the consequence is appropriate.
  - c. Consequences shall not be imposed until after the DER supplier is provided notice and an opportunity to respond.
  - d. The notice of consequences imposed by the Commission will be published on the Department's website.

2. Consequences for non-compliance in one or more of the categories set forth in UBP-DERS Section 2F.B. may include one or more of the following restrictions on a DER supplier's access to programs, tariffs, or solicitations initiated or controlled by the Commission, Department Staff, a utility, or NYSEERDA:
  - a. Suspension from selling products or services to a specific distribution utility or DSP or to all distribution utilities or DSPs in New York State;
  - b. Suspension from enrolling new customers;
  - c. Suspension of the ability to acquire customer data by means established by the Commission in either a specific service territory or all service territories in New York State;
  - d. Imposition of requirements to modify procedures to obtain customer authorization for purchase, and to verify such customer authorization;
  - e. Imposition of requirements to modify procedures regarding the protection of consumer information;
  - f. Imposition of a requirement to file a customer service improvement plan identifying actions to be taken and timelines to improve customer service, and/or a requirement to file periodic reports identifying the extent to which the customer service improvement plan is achieving its objectives;
  - g. Revocation of a DER supplier's eligibility to access programs, tariffs, or solicitations initiated or controlled by the Commission, Department Staff, a utility, or NYSEERDA and/or acquire customer data by means established by the Commission; and
  - h. Any other measures that the Commission may deem appropriate.
3. The Commission may give a DER supplier the option to avoid consequences or face lesser consequences on the condition that it provide refunds, corrective pricing, or other remedies to customers impacted by its violation.

**SECTION 2G: OVERSIGHT REQUIREMENTS**  
**(Generally Applicable)**

- A. Applicability. This Section establishes requirements for DER suppliers to assist the Department in monitoring the development, conduct and performance of New York's energy markets.
- B. All DER suppliers shall:
  1. Provide information on complaints received regarding DER products and services, as requested by the Department.

2. Provide information as requested by Department Staff, in relation to its efforts in monitoring the development, conduct and performance of energy markets. Such information requests may be through informal requests or interrogatories, including but not limited to, information regarding the DER supplier's business operations and financials.
3. Permit Department Staff to examine the books, accounts, contracts, records, and documents of the DER supplier.
4. Permit Department Staff to access any information needed to audit the DER supplier and cooperate with Department Staff's conducting of such an audit.

**SECTION 3: PROVISIONS SPECIFIC TO CDG AND ON-SITE MASS MARKET  
DG PROVIDERS**

Applicability. The provisions of these sections apply to all CDG Providers and On-Site Mass Market Distributed Generation (DG) providers.

**SECTION 3A: REGISTRATION REQUIREMENTS  
(CDG and On-Site Mass Market DG Providers)**

- A. Applicability. This Section sets forth the process that CDG Providers and On-Site Mass Market DG Providers are required to follow to register with the Department.
- B. Registration Package.
  1. Registrants planning to become CDG or On-Site Mass Market DG Providers are required to submit to the Department a registration package containing the following information and attachments:
    - a. A completed Registration Form. The registration form is available on the Department's website at <https://dps.ny.gov/distributed-energy-resource-der-regulation-and-oversight>. Information that must be provided on or attached to the registration form includes:
      1. Name, postal and e-mail addresses, and telephone and fax numbers for the registrant's main office;
      2. Names and addresses of any entities that hold ownership interests of 10% or more in the CDG or On-Site Mass Market DG Provider, including a contact name for corporate entities and partnerships;
      3. Detailed explanation of any criminal or regulatory sanctions imposed during the previous 24 months against the CDG or On-Site Mass Market DG Provider, any senior officers of the DER supplier, or any

- entities holding ownership interests of 10% or more in the CDG or On-Site Mass Market DG Provider;
  4. Disclosure of any decisions or pending escalated regulatory actions in other states that affect the CDG or On-Site Mass Market DG Provider's ability to operate, such as suspension, revocation, or limitation of operating authority;
  5. A list and description of current investigations involving the CDG or On-Site Mass Market DG Provider being conducted by law enforcement or regulatory entities.
  6. A summary of the registrant's history of bankruptcy, dissolution, merger, or acquisition in the 24 months immediately preceding the date of application;
  7. Detailed explanation regarding ongoing investigations by the US Securities and Exchange Commission, the US Department of Justice, or the US Federal Energy Regulatory Commission;
  8. Identification of the employee(s) responsible for resolving consumer complaints received by the Department;
  9. A list of material categories of CDG or On-Site Mass Market products or services that will be offered and the customer classifications (i.e., residential, small/mid-sized non-residential) to whom they will be offered;
  10. A list and description of any security breaches associated with customer proprietary information in the last 24 months, as well as a thorough description of the actions taken in response to any such instances.
- b. Sample sales agreements and sample bills for each customer class for each material category of the CDG or On-Site Mass Market products or services that will be offered; and
  - c. Proof of registration with the New York State Department of State.
2. The Department shall maintain a list of CDG and On-Site Mass Market DG Providers that successfully complete these requirements.
  3. A CDG Provider On-Site Mass Market DG Provider that knowingly makes false statements in its registration package shall be subject to denial or revocation of eligibility.
  4. If the registration package contains information that is a trade secret or sensitive for security reasons, the registrant may request that the Department withhold disclosure of the information, pursuant to the New York

State Freedom of Information Law (Public Officers Law Article 6) and Public Service Commission regulations (16 NYCRR §6-1.3).

C. Department Review Process

1. The Department shall review each registration package submitted. The CDG Provider or On-Site Mass Market DG Provider shall immediately notify the Department of any material changes in the information submitted in the Registration Form and/or registration package that occurs during the Department review process. The Department shall notify the registrant, in writing, of any deficiencies in the registration package. The CDG Provider must modify the registration package in response to such a notification within 30 days.
2. If the modified package does not remedy the deficiency identified by Staff, the Department shall notify the CDG or On-Site Mass Market DG Provider in writing and shall refer the matter to the Commission for its consideration. The CDG or On-Site Mass Market DG Provider will have the opportunity to present information to the Commission in support of its registration.
3. For CDG Providers or On-Site Mass Market DG Providers that begin operating in New York State after December 1, 2017, a registration package must be submitted and approved before the CDG Provider or On-Site Mass Market DG Provider begins marketing to customers. Department Staff will review the registration package within 30 days of submittal and notify the registrant, in writing, either that the registration is accepted as complete or that deficiencies exist in the registration package.

D. Maintaining Active Status

1. CDG Providers and On-Site Mass Market DG Providers shall submit by March 31 of each year (March 31 Statement):
  - a. A statement that the information and attachments in its Registration Form and registration package are current; or
  - b. A description of revisions to the Registration Form and registration package along with a copy of the revised portions; and
2. A CDG or On-Site Mass Market DG Provider shall update all the information it submitted in its original registration package to the Department every three years, starting from the filing date of its registration package. A Provider's status as an eligible provider is continuous from the filing date of its registration package, unless revoked or otherwise limited in accordance with UBP-DERS Section 2F.

If the three-year anniversary falls within one month of April 1, the Provider shall resubmit its registration package in lieu of the April 1 statement.

3. A CDG or On-Site Mass Market DG Provider shall submit at other times during the year:
  - a. A description of any material revision in the terms and conditions applicable to the business relationship between the Provider and its customers, including provisions governing the process for termination of sales agreements. For any such revisions, the Provider shall provide a copy of the revised portions. This provision does not require CDG Providers to file sample sales agreements based individually negotiated sales agreements with large customers or to update sample sales agreements based on changes made for individual customers.
  - b. Material Change in Financial Status including (1) bankruptcy or insolvency filings, (2) initiation of lawsuits which could materially and adversely impact the current or future ability of the Provider to meet its financial obligations.
  - c. Changes in the Provider's business and customer service information provided in the application.
  - d. Changes in personnel identified in the registration package as responsible for resolving consumer complaints received by the Department and referred to the Provider.

**SECTION 3B: ENHANCED MARKETING AND ADVERTISING STANDARDS**  
**(CDG and On-Site Mass Market DG Providers)**

- A. Applicability. This Section describes the enhanced standards that CDG Providers, On-Site Mass Market DG Providers and their marketing representatives must follow when marketing and advertising products and services to potential mass market customers in New York.
- B. Training of Marketing Representatives
  1. Providers shall ensure that the training of their marketing representatives includes:
    - a. Knowledge of this Section and awareness of the other Sections of the UBP-DERS;
    - b. Knowledge of the Provider's products and services;
    - c. Knowledge of the Provider's rates and payment options and the customers' right to cancel, including the applicability of a termination fee;
    - d. Knowledge of the applicable provisions of the Home Energy Fair Practices Act that pertains to residential customers; and,

- e. The ability to provide the customer with a toll-free number from which the customer may obtain information about the Provider's mechanisms for handling billing questions, disputes, and complaints.
- C. When marketing materials or information conveyed to mass market customers or potential mass market customers includes savings estimates, CDG and mass market on-site DG providers must include, in addition to any other forecasts used, a forecast using the following baseline: a three-year average of actual historical utility rates for the three most recent calendar years for which data is available, for the customer's actual utility and service class. The provider may choose to apply an assumed escalation rate of up to 3% per year to this baseline in generating a forecast; if the provider does so, it must disclose the escalation rate used. The forecast generated must estimate savings for the same potential contract term as any other forecast provided. This forecast must be presented with similar prominence to other forecasts and all forecasts must be appropriately labeled to permit customers to understand their source.

Example: A CDG Provider prepares marketing materials for SC-1 customers, showing their expected savings over a 10-year contract term. Over the past 3 calendar years, SC-1 customers in that utility territory have had average utility rates of \$0.10/kWh, \$0.09/kWh, and \$0.08/kWh. In addition to any other savings forecasts, the CDG developer must provide a 10-year savings estimate to the customer based on a utility rate of \$0.09/kWh, with no more than a 3% annual escalation rate, and identify the escalation rate used.

- D. Contact with Customers
1. This subsection applies only to contacts with Mass Market Customers.
  2. In-Person Contact with Mass Market Customers  
Marketing representatives who contact mass market customers in person at a location other than the Provider's place of business for the purpose of selling any product or service shall, before making any other statements or representations to the customer:
    - a. Introduce him or herself with an opening statement that identifies the Provider which he or she represents; identifies him or herself as a representative of that specific Provider; explains that he or she does not represent the distribution utility; and, explains the purpose of the solicitation.

- b. Produce identification, to be visible at all times thereafter, which:
    - 1. Prominently displays in reasonably sized type face the first name and employee identification number of the marketing representative;
    - 2. Displays a photograph of the marketing representative and depicts the legitimate trade name and logo of the Provider they are representing; and,
    - 3. Provides the Provider's telephone number for inquires, verification and complaints.
  - c. A CDG or On-Site Mass Market DG Provider marketing representative must provide each prospective mass market customer with a business card or similar tangible object with the marketing representative's first name and employee identification number; Provider's name, address, and phone number; date and time of visit and website information for inquires, verification and complaints.
  - d. A CDG or On-Site Mass Market DG Provider marketing representative must provide the customer with written information regarding the Provider's products and services immediately upon request which must include the Provider's name and telephone number for inquires, verification and complaints. Any written materials, including contracts, sales agreements, and marketing materials must be provided to the customer in the same language utilized to solicit the customer.
  - e. When it is apparent that the customer's English language skills are insufficient to allow the customer to understand and respond to the information conveyed by the marketing representative or when the customer or another third party informs the marketing representative of this circumstance, the marketing representative shall either find a representative in the area who is fluent in the customer's language to continue the marketing activity in his/her stead or terminate the in-person contact with the customer. The use of translation services and language identification cards is permitted.
  - f. A marketing representative must leave the premises of a customer when requested to do so by the customer or the owner/occupant of the premises.
  - g. All Providers who have marketing representatives conducting door-to-door marketing must maintain a daily record, by zip code, of the territories in which the Provider's marketing representatives have conducted door-to-door marketing. The information should be in a form that can be reported to Staff upon request, and should be retained by the Provider for a minimum of six months.
3. Telephone Contact with Mass Market Customers

Marketing representatives who contact mass market customers by telephone for the purpose of selling any product or service offered by the Providers shall:

- a. Provide the marketing representative's first name and, on request, the identification number;
- b. State the name of the Provider on whose behalf the call is being made;
- c. State the purpose of the telephone call;
- d. When it is apparent that the customer's English language skills are insufficient to allow the customer to understand and respond to the information conveyed by the marketing representative or when the customer or another third party informs the CDG marketing representative of this circumstance, the marketing representative will immediately transfer the customer to a representative who speaks the customer's language, if such a representative is available, or terminate the call; and,
- e. Remove customers' names from the marketing database upon customers' request.
- f. When marketing to residential customers, the marketing representative must also:
  1. Explain that he or she does not represent the distribution utility;
  2. Explain the purpose of the solicitation; and,
  3. Provide any written materials, including contracts, sales agreements, and marketing materials to the customer in the same language utilized to solicit the customer.

**SECTION 3C: MINIMUM STANDARDS FOR SALES AGREEMENTS**  
**(CDG and On-Site Mass Market DG Providers)**

- A. Applicability. This Section establishes minimum standards for sales agreements between CDG and On-Site Mass Market DG Providers (Providers) and mass market customers.
- B. A Provider, or its agent, may solicit and enter into a sales agreement with a customer subject to the following requirements.
  1. The DER supplier shall obtain a customer agreement to purchase the product or service and customer authorization to release information to the DER supplier, and retain verifiable proof of such authorization for at least two years or the length of the agreement, whichever is longer.
  2. Sales agreements shall include the following information written in plain language in the same language that the Provider has used to market to the customer:

- A. Terms and conditions applicable to the business relationship between the Provider and the customer which includes:
1. Provisions governing the process for rescinding or terminating an agreement by the Provider or the customer including provisions stating that a residential customer may rescind the agreement within three business days after its receipt without charge or penalty;
  2. The price, the terms and conditions of the agreement, including the term and end date, if any, of the agreement, the amount of the termination fee and the method of calculating the termination fee, if any, the amount of late payment fees, if applicable, and the provisions, if any, for the renewal of the agreement;
  3. A clear description of the conditions, if any, that must be present in order for savings to be provided to the customer, if savings are guaranteed.
  4. Information for residential customers of their rights under HEFPA; and
  5. Information regarding contacting the Department for dispute resolution.
  6. DER supplier contact information, including a local or toll-free number from the customer's service location.
  7. A clear description of any escalation of pricing over term of the contract, including the full details of any methodology used for determining that escalation.
- C. In addition to the requirements of subsection B, contracts for on-site mass market distributed generation must include a description of the distributed generation system, including the make and model of major system components, and an outline of system specifications. All contracts shall include, at a minimum:
1. For purchased systems, the total system purchase price, itemized costs of system components, and any other taxes, fees or overheads that are the responsibility of the customer; or
  2. For leases or purchased power agreements (PPAs), the total number of payments, amount of payments, payment frequency, and due date;
  3. An estimate of annual energy output, including loss analysis (e.g. in the case of a solar system, the percentage of the available solar resource that the solar electric system will receive, accounting for losses from shading, array azimuth, and tilt);
  4. The rate at which the customer can be compensated for any electricity sold to the utility;

5. The installation location;
6. Installation schedule;
7. The potential value of all federal, state, and local tax credits, electric utility rate credits, Renewable Energy Credits, incentives, or rebates that the customer may receive and/or be required to sign over to the DER provider;
8. Disclosure of any restrictions on the customer's ability to sell the system and/or his/her property;
9. System and/or production warranties;
10. Disclosure of any binding arbitration clauses or other terms that limit the customer's right to enforce the contract or seek damages from the courts; and
11. Assignment of responsibilities (e.g., for maintenance and repairs, insurance coverage, etc.), including whether such maintenance or repairs may be sold or transferred to a third party.

D. Early Termination Fees

1. In addition to the requirements of subsection B, CDG contracts that contain an early termination fee:
  1. Must contain an early termination fee of \$200 or less;
  2. Must include a notification period of 90 days or less;
  3. Must include waiver of the early termination fee if the notification requirement is fulfilled and the customer finds their own replacement, subject to the customer eligibility requirements set by the DERS; or, where the customer is not offered the option to find their own replacement, must include waiver of the early termination fee if the notification requirement is fulfilled.

E. Production Guarantees

1. In addition to the requirements of subsection B and, where applicable, subsection C, all purchase contracts or other contracts where bills are not based on actual system production must include a production guarantee.

**SECTION 3D: STANDARD CUSTOMER DISCLOSURE STATEMENTS**  
**(CDG and On-Site Mass Market DG Providers)**

A. A completed Standard Customer Disclosure Statement shall be provided to all customers of CDG or On-Site Mass Market DG Providers as part of the sales agreement. Standard Customer Disclosure Statements are available on the Department's website at <https://dps.ny.gov/distributed-energy-resource-der-regulation-and-oversight>.

B. In the event that the text in the Standard Customer Disclosure

Statement differs from or is in conflict with a term stated elsewhere in the agreement, the term described by the text in the Standard Customer Disclosure Statement shall constitute the agreement with the customer notwithstanding a conflicting term expressed elsewhere.

**SECTION 3E: CUSTOMER INQUIRIES AND COMPLAINTS**  
**(CDG and On-Site Mass Market DG Providers)**

- A. Applicability. This Section establishes requirements for responses by a CDG or On-Site Mass Market DG Provider (Provider) to customer inquiries concerning CDG products or services. Providers shall respond to customer inquiries sent by means of electronic mail, telecommunication services, mail, or in meetings. The subjects raised in inquiries may result in the filing of complaints.
- B. General
1. Providers shall provide consistent and fair treatment to customers.
  2. Providers shall maintain processes and procedures to resolve customer inquiries without undue discrimination and in an efficient manner and provide an acknowledgement or response to a customer inquiry within 2 days and, if only an acknowledgement is provided, a response within 14 days.
  3. Providers shall provide local or toll-free telephone access from the customer's service area to customer service representatives (CSRs) responsible for responding to customer inquiries and complaints. The Provider's customer service center should be operational at least eight hours per day Monday through Friday except holidays, starting no earlier than 7 AM EST.
  4. If the inquiry is specific to utility service, the CSR shall take one of the following actions:
    - a. Forward/transfer the inquiry to the utility;
    - b. Direct the customer to contact the utility; or,
    - c. Contact the utility to resolve the matter and provide a response to the customer.
  5. Each Provider shall maintain information regarding customer inquiries and complaints pertaining to its products and services and designate a representative to provide information relating to customer inquiries and complaints to the Department.
- C. Emergency Contacts
1. An emergency call means any communication from a customer concerning an emergency situation relating to the distribution system, including, but not limited to, reports

of gas odor, natural disaster, downed wires, electrical contact, or fire.

2. A Provider's CSR shall transfer emergency calls directly to the distribution utility or provide the distribution utility's emergency number for direct contact to the distribution utility.

**SECTION 3F: REPORTING REQUIREMENTS**  
**(CDG and On-Site Mass Market DG Providers)**

- A. Applicability. This Section establishes requirements for reporting by a CDG or On-Site Mass Market DG Provider (Provider).
- B. Each Provider shall file an annual report by March 31 containing information for the previous calendar year including aggregate number of customers served, a summary of services provided, and information on the number and classification of complaints received in a format to be

established by the Department, to assist the Department in monitoring CDG and On-Site Mass Market DG markets.

- C. Each CDG Sponsor shall send an annual report for each calendar year to each of its subscribers by March 31 of the following year. The annual report must include the amount of credits that the member has received, expressed both in kWh and dollars, as well as the total amount the customer has paid in subscription fees and any other payments to the Sponsor. The report shall follow the standard format available on the Department's website at <https://dps.ny.gov/distributed-energy-resource-der-regulation-and-oversight>.
- D. A CDG Sponsor that generates or allocates banked credits in a calendar year must file a report by March 31 of the following year detailing how many credits were banked, how many banked credits were allocated, what percentage of that allocation was provided to mass market customers, and what percentage was allocated to large customers.

#### **SECTION 4: ENERGY BROKERS AND ENERGY CONSULTANTS**

A. Applicability

This Section sets forth the process that an Energy Broker or Energy Consultant is required to follow in order to register with the Department of Public Service (Department) to provide services as an Energy Broker or Energy Consultant in New York State.

B. Registration Requirements

1. Applicants seeking to act as an Energy Broker or Energy Consultant in New York State are required to register with the Department by submitting a registration package containing the following information and attachments:
  - a. A completed Energy Broker/Consultant Registration Form (Registration Form), available on the Department website ([www.dps.ny.gov](http://www.dps.ny.gov)). The Registration Form shall require the applicant to:
    - i. identify the name, postal and e-mail addresses, and telephone and fax numbers for the applicant's main office;
    - ii. identify the names and addresses of any entities that hold ownership interests of 10% or more in the Energy Broker or Energy Consultant, including a contact name for corporate entities and partnerships;
    - iii. identify the methods by which it intends to market energy products and services to customers;

- iv. identify the category/categories of energy products it intends to market to customers (e.g. commodity service, distributed solar, or demand response);
  - v. disclose each state in which the applicant operates, or has operated, as an Energy Broker or Energy Consultant and provide any data in its possession regarding complaint history;
  - vi. disclose any criminal or regulatory sanctions imposed during the previous 36 months against the applicant, any senior officers of the applicant, or any entities holding ownership interests of 10% or more in the applicant;
  - vii. disclose any other trade names used by the applicant and the state in which the trade name was/is used;
  - viii. disclose and describe any data breaches associated with customer proprietary information that occurred in any jurisdiction within the 36 months preceding the date of registration, as well as any actions taken by the applicant in response to the incident(s);
  - ix. disclose and describe specific policies and procedures established by the applicant to secure customer data; and
  - x. disclose any history of bankruptcy, dissolution, merger, or acquisition activities in the 36 months preceding the date of registration, including data for affiliates of the Energy Broker or Energy Consultant applicant and upstream owners and subsidiaries.
- b. A sample standard agreement between the Energy Broker or Energy Consultant and the customer;
  - c. Sample forms of the notices sent upon assignment of sales agreements, discontinuance of service, or transfer of customers to other providers;
  - d. Procedures used to obtain customer authorization for access to a  
customers' historic usage or credit information;
  - e. Sample copies of informational and promotional materials that the applicant uses for mass marketing purposes;
  - f. Sample disclosures of compensation;
  - g. Proof of registration with the New York State Department of State or proof of an assumed name certificate (DBA) filed with the county clerk.
  - h. Proof of registration to act as a marketer in any municipality where such registration is required;
  - i. An annual \$500 registration fee;

- j. An irrevocable standby letter of credit issued by a reputable financial institution in the amount of \$100,000 for registering Energy Brokers and \$50,000 for registering Energy Consultants, that meets the following conditions:
  - i. The New York State Department of Public Service shall be named as beneficiary and the letter of credit applicant shall be clearly named;
  - ii. Any number of partial drawings shall be permitted from time to time;
  - iii. The process for making a drawing, including any required forms and communications or delivery instructions shall be stated;
  - iv. If a drawing is made, payment shall be made to the beneficiary within 5 business days;
  - v. Any expiration date shall be specified and options for renewal, including automatic renewal, shall be stated.
  - vi. The applicant's filing for bankruptcy, receivership, or any other debt-relief petition shall in no way affect the issuer's liability to the beneficiary under the letter of credit.
  - vii. All commissions, fees, and other charges with respect to the letter of credit shall be paid by the applicant;
  - viii. Except for increases to the amount, the letter of credit shall not be amended, changed, or modified without express written consent of the beneficiary;
  - ix. The beneficiary shall not be deemed to have waived any rights under the letter of credit unless an authorized representative thereof has signed a dated written waiver. No such waiver, unless expressly stated therein, shall be effective as to any subsequent transaction, nor to any continuance of a breach; and
  - x. If the beneficiary should require a replacement of the letter of credit due to loss or destruction of the original, the issuer will provide one upon request.
- k. A completed Service Provider Contact Form, which can be found on the Department's website <http://www.dps.ny.gov>, identifying the Energy Broker or Energy Consultant's employee(s) responsible for resolving consumer complaints received by the Department and referred to the Energy Broker or Energy

Consultant; and

1. An Officer Certification document sworn to by a high-level officer of the applicant, such as the Chief Executive Officer, President, or the equivalent, in which the officer affirms that the information contained in the registration package is accurate and truthful, and that the applicant is willing and able to comply with all applicable laws and regulations, including these UBPs.
2. An applicant that knowingly makes false statements in its registration package is subject to denial or revocation of approval.
3. If the registration package contains information that is a trade secret or sensitive for security reasons, the applicant may request that the Department withhold disclosure of the information, pursuant to the Freedom of Information Law (Public Officers Law Article 6) and Public Service Commission regulations (16 NYCRR §6-1.3).

C. Department Review Process

1. The Department shall review the Registration Form information and documentation submitted by each applicant and make a determination as to the applicant's likelihood of compliance with the Uniform Business Practices (UBP) if the applicant's registration was approved. To enable the Department to make a thorough assessment of a registration, an applicant shall notify the Department of any major changes in the information submitted in the Registration Form and/or registration package that occurs during the Department review process.
2. Following its review of the registration information and documentation, the Department shall advise the applicant, in writing, if the registration package is approved and the applicant is registered to operate in the State.
3. If following its review of the registration package information and documentation the Department determines that the applicant is not likely to comply with the UBP if the applicant were deemed eligible, the Department may recommend to the Commission that, for good cause shown, the Commission deny the applicant's registration.
4. In any instance that the Department recommends to the Commission that an applicant's registration be denied, the applicant shall be afforded an opportunity to provide the Commission with a response in rebuttal to the Department's recommendation and in support of its registration before the Commission renders a final determination.
5. The Department shall periodically review the registration packages of each Energy Broker and Energy Consultant operating in New York State and make a recommendation to the Commission if the Department finds that the Energy Broker or Energy Consultant should not be permitted to

continue operating in New York State.

D. Maintaining and Updating Registration

1. An Energy Broker or Energy Consultant shall submit by August 31<sup>st</sup> each year:
  - a. a statement that the information and attachments in its Registration Form and registration package are current; or
  - b. a description of revisions to the Registration Form and registration package and a copy of the revised portions or, at the Energy Broker or Energy Consultant's option, a copy of the revised portions identifying the revisions by highlighting or other means;
  - c. An Officer Certification document, as required by Sub-section B.1.1 of this Section; and
  - d. The required annual registration fee.
2. An Energy Broker or Energy Consultant shall submit at other times during the year:
  - a. A description of any major change in the Registration Form and/or application package and a copy of the revised portions or, at the Energy Broker or Energy Consultant's option, a copy of the revised portions identifying the revisions by highlighting or other means. For purposes of this Section, the term, "major change," means a revision in the terms and conditions applicable to the business relationship between the Energy Broker or Energy Consultant and its customers.
  - b. Changes in marketing plans, including changes to the list required in Sub-section B.1.a.iii of this Section.
  - c. Changes in the Energy Broker or Energy Consultant's business and customer service information displayed on the Department's Website.
  - d. Changes in personnel responsible for resolving consumer complaints received by the Department and referred to the Energy Broker or Energy Consultant.

E. Marketing

1. This sub-section describes the standards that Energy Brokers and Energy Consultants must follow when marketing to customers in New York State. Nothing in this Section shall be read to modify or remove the marketing standards contained in UBP Section 10.
  - a. Energy Brokers and Energy Consultants shall ensure that the training of their employees and/or marketing representatives includes:
    - i. Knowledge of this Section and awareness of the other Sections of the UBP;
    - ii. Knowledge of the products and services for which the Energy Broker or Energy Consultant is marketing;

- iii. Knowledge of product rates/cost, payment options and the customers' right to cancel, including the applicability of an early termination fee;
  - iv. Knowledge of the applicable provisions of the Home Energy Fair Practices Act that pertains to residential customers; and,
  - v. The ability to provide the customer with a toll-free number from which the customer may obtain information about the Energy Broker or Energy Consultant's mechanisms for handling billing questions, disputes, and complaints.
- b. In-Person Contact with Customers: Energy Brokers or Energy Consultants who contact customers in person at a location other than the Energy Broker or Energy Consultant's place of business, or the place of business of the third party on whose behalf the Energy Broker or Energy Consultant is marketing, for the purpose of selling any product or service offered by the Energy Broker or Energy Consultant, or offered by the third party on whose behalf the Energy Broker or Energy Consultant is marketing, shall, before making any other statements or representations to the customer:
- i. Introduce him or herself with an opening statement that identifies the entity which he or she represents, identifies him or herself as a representative of that specific entity; explains that he or she does not represent the distribution utility; and, explains the purpose of the solicitation.
  - ii. Produce identification, to be visible at all times thereafter, which: (1) prominently displays in reasonable size type face the first name and employee identification number of the marketing representative; (2) displays a photograph of the marketing representative and depicts the legitimate trade name and logo of the entity they are representing; (3) provides the Energy Broker or Energy Consultant telephone number, or the telephone number of the third party on whose behalf the Energy Broker or Energy Consultant is marketing, for inquires, verification, and complaints.
  - iii. An Energy Broker or Energy Consultant must provide each prospective residential customer a business card or similar tangible object with the marketing representative's first name and employee identification number; Energy Broker or Energy Consultant's name, address, and phone

- number, or the name, address, and phone number of the third party on whose behalf the Energy Broker or Energy Consultant is marketing; date and time of visit, and website information for inquires, verification and complaints.
- iv. An Energy Broker or Energy Consultant must provide the customer with written information regarding the marketed products and services immediately upon request which must include the name and telephone number of the third party on whose behalf the Energy Broker or Energy Consultant is marketing for inquires, verification, and complaints. Any written materials, including but not limited to contracts, sales agreements, and marketing materials, must be provided to the customer in the same language utilized to solicit the customer.
  - v. Where it is apparent that the customer's English language skills are insufficient to allow the customer to understand and respond to the information conveyed by the Energy Broker or Energy Consultant or where the customer or another third party informs the Energy Broker or Energy Consultant of this circumstance, the Energy Broker or Energy Consultant shall either find a representative in the area who is fluent in the customer's language to continue the marketing activity in his/her stead, or terminate the in-person contact with the customer. The use of translation services and language identification cards is permitted.
  - vi. An Energy Broker or Energy Consultant must leave the premises of a customer when requested to do so by the customer or the owner/occupant of the premises.
  - vii. All Energy Brokers or Energy Consultants conducting door-to-door marketing must maintain a daily record, by zip code, of the territories in which the Energy Broker or Energy Consultant has conducted door-to-door marketing. This information should be in a form that can be reported to Staff upon request and should be retained by the Energy Broker or Energy Consultant for a minimum of six months.
- c. Telephone Contact with Customers: Energy Brokers and Energy Consultants who contact customers by telephone for the purpose of selling any product or service shall:
- i. Provide the Energy Broker or Energy

- Consultant's first name and, on request, the identification number;
- ii. State the name of the third party on whose behalf the call is being made, if applicable;
  - iii. State the purpose of the telephone call;
  - iv. Explain that he or she does not represent the distribution utility.
  - v. Where it is apparent that the customer's English language skills are insufficient to allow the customer to understand and respond to the information conveyed by the Energy Broker or Energy Consultant or where the customer or another third party informs the Energy Broker or Energy Consultant of this circumstance, the Energy Broker or Energy Consultant will immediately transfer the customer to a representative who speaks the customer's language, if such a representative is available, or terminate the call;
  - vi. Remove Customers' names from the marketing database upon Customers' request.
  - vii. Provide any written materials, including but not limited to contracts, sales agreements, and marketing materials to the customer in the same language utilized to solicit the customer.
- d. Conduct when Marketing: Energy Brokers and Energy Consultants shall:
- i. Not engage in misleading or deceptive conduct as defined by State or federal law, or by Commission rule, regulation, or Order;
  - ii. Not make false or misleading representations including misrepresenting rates or savings of certain energy products and services;
  - iii. Provide the customer with written information, upon request, or with a website address at which information can be obtained, if the customer requests such information via the internet;
  - iv. Use reasonable efforts to provide accurate and timely information about services and products. Such information will include information about rates, contract terms, early termination fees, and right of cancellation consistent with this Section, UBP Section 2, and any other relevant Section;
  - v. Ensure that any product or service offerings marketed by an Energy Broker or Energy Consultant contain information written in plain language that is designed to be understood by the customer. This shall include providing any

- written information to the customer in a language in which the Energy Broker or Energy Consultant has substantive discussions with the customer or in which a contract is negotiated;
- vi. Investigate customer inquiries and complaints concerning marketing practices within five days of receipt of the complaint; and,
  - vii. Cooperate with the Department and Commission regarding marketing practices proscribed by the UBP and with local law enforcement in investigations concerning deceptive marketing practices.
- e. Dispute Resolution: Energy Brokers and Energy Consultants shall maintain an internal process for handling customer complaints and resolving disputes arising from marketing activities and shall respond promptly to complaints forwarded by the Department.
2. Disclosure of compensation
- a. Energy Brokers and Energy Consultants shall disclose to customers the form and amount of compensation via a conspicuous statement on any contract or agreement between the energy agent, consultant, broker, or intermediary and its customer.
  - b. All such disclosures shall include any dollar amount paid, the form in which the compensation was given to the Energy Broker or Energy Consultant, the entity which made the payment, and any broker fee or margin which was added to the energy product or service the customer enrolled in. This disclosure must include anything of value that was given as compensation to the Energy Broker or Energy Consultant for their work, including commissions, bonuses, and any non-financial compensation.
  - c. In instances where the Energy Broker or Energy Consultant has a direct contractual relationship with the customer, this disclosure shall be included on the first page of the customer agreement, must be in plain language, and appear in 12-point font size or larger.
  - d. In instances where the Energy Broker or Energy Consultant does not have a direct contractual relationship with the customer, an Energy Broker or Energy Consultant shall disclose to the customer in a separate, written communication any fee splitting arrangement, including the third party receiving the fee and the amount or percentage of fee that the third party will receive.
  - e. If a third party, such as an ESCO or DERS, collects compensation on behalf of the Energy Broker or Energy Consultant or provides compensation to the Energy

Broker or Energy Consultant, such compensation shall be added to the Customer Disclosure Statement in the third party's customer agreement and reflect the amount and method. In this instance, the Energy Broker or Energy Consultant shall still disclose this information at the time of marketing to the customer.

3. Prohibition on Rebates

a. No Energy Broker, Energy Consultant or any other person acting for or on behalf of the Energy Broker or Energy Consultant shall offer or make, directly or indirectly, any rebate of any portion of the fee, premium or charge made, or pay or give to any applicant, or to any person, firm, or corporation acting as agent, representative, attorney, or employee of the energy rate payer or any interest therein, either directly or indirectly, any commission, any part of its fees or charges, or any other consideration or valuable thing, as an inducement for, or as compensation for, any energy supply or energy-related business.

i. An applicant; any person, firm, or corporation acting as agent, representative, attorney, or employee of the energy rate payer or of the prospective energy rate payer; or anyone having any interest in the real property shall not knowingly receive, directly or indirectly, any such rebate or other consideration or valuable thing.

ii. Any person or entity who violates these prohibitions is subject to a penalty equal to the greater of \$5,000 or up to ten times the amount of compensation or rebate received or paid.

F. Customer Inquires

1. This sub-section establishes requirements for responses by an Energy Broker or Energy Consultant to retail access customer inquiries. An Energy Broker or Energy Consultant shall respond to customer inquiries sent by means of electronic mail, telecommunication services, mail, or in meetings. The subjects raised in inquiries may result in the filing of complaints.

2. General Requirements:

a. Energy Brokers and Energy Consultants shall provide consistent and fair treatment to customers.

b. Energy Brokers and Energy Consultants shall maintain processes and procedures to resolve customer inquiries without undue discrimination and in an efficient manner and provide an acknowledgement or response to a customer inquiry within 2 days and, if only an acknowledgement is provided, a response within 14

days.

- c. Energy Brokers and Energy Consultants shall provide local or toll-free telephone access from the customer's service area to customer service representatives (CSRs) responsible for responding to customer inquiries and complaints. This shall either be the local or toll-free telephone number of the Energy Broker or Energy Consultant or the local or toll-free telephone number of the third-party on whose behalf of the Energy Broker or Energy Consultant is marketing.
  - d. CSRs shall obtain information from the customer to access and verify the account or premises information. Once verification is made, the CSR shall determine the nature of the inquiry, and, based on this determination, decide whether the distribution utility, the ESCO, or the Energy Broker/Consultant is responsible for assisting the customer.
  - e. The CSR shall follow normal procedures for responding to inquiries. If the inquiry is specific to another provider's service, the CSR shall take one of the following actions:
    - i. Forward/transfer the inquiry to the responsible party;
    - ii. Direct the customer to contact the responsible party; or,
    - iii. Contact the responsible party to resolve the matter and provide a response to the customer.
  - f. Energy Brokers and Energy Consultants may provide a teletypewriter (TTY) system or access to TTY number, consistent with distribution utility tariffs.
3. Specific Requests for Information
- a. An Energy Broker or Energy Consultant shall respond directly to customer inquiries for any information that is related to commodity supply and/or delivery service, to the extent it has the necessary information to respond.
  - b. The entity responsible for the accuracy of meter readings shall respond to customer inquiries related to usage.
4. Emergency Contacts
- a. An emergency call means any communication from a customer concerning an emergency situation relating to the distribution system, including, but not limited to, reports of gas odor, natural disaster, downed wires, electrical contact, or fire.
  - b. If contacted with an emergency telephone call, the Energy Broker or Energy Consultant CSR shall transfer emergency telephone calls directly to the distribution utility or provide the distribution utility's

emergency number for direct contact to the distribution utility. If no Energy Broker or Energy Consultant CSR is available, the Energy Broker or Energy Consultant shall provide for after-hours emergency contacts, including transfer of emergency calls directly to a distribution utility or an answering machine message that includes an emergency number for direct contact to the distribution utility.

G. Customer Data

1. Energy Brokers and Energy consultants must protect against the unauthorized disclosure of confidential customer information.
2. Energy Brokers and Energy Consultants are prohibited from selling, disclosing or providing any customer information obtained from a distribution utility or from the customer themselves to others, including their affiliates, unless such sale, disclosure or provision is required to facilitate or maintain service to the customer, or is specifically authorized by the customer, or required by legal authority. If such authorization is requested from the customer, the Energy Broker and Energy Consultant shall, prior to authorization, describe to the customer the information it intends to release and the recipient of the information.
3. NIST Cybersecurity Framework. Energy Brokers and Energy Consultants that obtain customer information from the distribution utility must have processes and procedures in place regarding cybersecurity consistent with the National Institute of Standards and Technology Cybersecurity Framework.
4. Data Security. Energy Brokers and Energy Consultants that obtain customer information from the distribution utility must comply with any data security requirements imposed by Commission rules.

H. Enforcement

1. An Energy Broker or Energy Consultant may be subject to consequences for reasons, including, but not limited to:
  - a. false or misleading information in the registration package;
  - b. failure to adhere to the policies and procedures described in any contract with customers;
  - c. failure to comply with required customer protections;
  - d. failure to comply with applicable New York Independent System Operator (NYISO) requirements, reporting requirements, or Department oversight requirements;
  - e. failure to provide notice to the Department of any material changes in the information contained in the Registration Form or registration package;
  - f. failure to comply with the UBP terms and conditions, including discontinuance requirements;

- g. failure to comply with the Commission's Environmental Disclosure Requirements or failure to comply with other Commission Orders, Rules, or Regulations;
  - h. failure to reply to a complaint filed with the Department and referred to the Energy Broker or Energy Consultant within the timeframe established by the Department' Office of Consumer Services which is not less than five days;
  - i. a material pattern of consumer complaints on matters within the Energy Broker or Energy Consultant's control;
  - j. failure to comply with any federal, state, or local laws, rules, or regulations related to sales or marketing; or 'No Solicitation' signage on the premises; or
  - k. failure to comply with any of the Marketing Standards set forth in Section 10 of the UBP.
2. In determining the appropriate consequence for a failure or non-compliance in one or more of the categories set forth in this Section, the Commission or Department may take into account the nature, the circumstances, including the scope of harm to individual customers, and the gravity of the failure or non-compliance, as well as the Energy Broker or Energy Consultant's history of previous violations.
- a. Enforcement Procedures:
    - i. The Commission or Department shall either: (a) notify the Energy Broker or Energy Consultant in writing of its failure to comply and request that the Energy Broker or Energy Consultant take appropriate corrective action or provide remedies within the directed cure period, which will be based on a reasonable amount of time given the nature of the issue to be cured; or (b) order that the Energy Broker or Energy Consultant show cause why a consequence should not be imposed.
    - ii. The Commission may impose the consequences listed in UBP Section H.2.b. if (a) Energy Broker or Energy Consultant fails to take corrective actions or provide remedies within the cure period; or (b) the Commission determines that the incident or incidents of non-compliance are substantiated and the consequence is appropriate.
    - iii. Consequences shall not be imposed until after the Energy Broker or Energy Consultant is provided notice and an opportunity to respond.
    - iv. Notwithstanding the requirements of sub-sections i., ii., and iii. of this paragraph, an Energy Broker or Energy Consultant is

subject to immediate revocation of its registration if it fails to provide the required annual registration fee.

- v. The notice of consequences imposed by the Commission will be published on the Department's website.
- b. Consequences for non-compliance in one or more of the categories set forth in this Section may include one or more of the following restrictions on an Energy Broker or Energy Consultant's opportunity to do business as an Energy Broker or Energy Consultant in New York State:
  - i. Suspension from a specific Commission approved program in either a specific service territory or all territories in New York State;
  - ii. Suspension of the ability to enroll new customers in either a specific service territory or all service territories in New York State;
  - iii. Imposition of a requirement to record all telephonic and door-to-door marketing presentations, which shall be made available to the Department for review;
  - iv. Reimbursements to customers who did not receive savings promised in the Energy Broker or Energy Consultant's sales agreement/Customer Disclosure Statement or included in the Energy Broker or Energy Consultant's marketing presentation, or to customers who incurred costs as a result of the Energy Broker or Energy Consultant's failure to comply with the marketing standards set forth in UBP Section 10;
  - v. Release of customers from sales agreements without imposition of early termination fees;
  - vi. Revocation of an Energy Broker or Energy Consultant's registration and ability to operate in New York State; and,
  - vii. Any other measures that the Commission may deem appropriate.
- c. In addition to the consequences identified at UBP Section 11.H.2.b., any person, firm, association, or corporation who or which acts in violation of Public Service Law §66-t(2), and codified in this Section, will be subject to a penalty not to exceed \$5,000 for each violation.
3. An Energy Broker or Energy Consultant's registration is valid unless: the Energy Broker or Energy Consultant fails to pay its annual registration fee; the Energy Broker or Energy Consultant abandons its registration;

or such registration is revoked by the Commission through a final order. Additionally, any person or entity who violates this Section's prohibitions on rebates is subject to a penalty equal to the greater of \$5,000 or up to ten times the amount of compensation or rebate received or paid.

4. The Department shall maintain a list of registered Energy Brokers and Energy Consultants for the benefit of third parties who do business with such Energy Brokers and Energy Consultants. As stated in UBP Section 2B, DER suppliers are prohibited from doing business with unregistered Energy Brokers and Energy Consultants.

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<sup>19</sup><http://documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?MatterCaseNo=15-M-0180&submit=Search+by+Case+Number>