

SETTLEMENT AND BILLING PROTOCOL

ANNEX 1

ANNEX 1
SETTLEMENT AND BILLING OF
RELIABILITY MUST-RUN CHARGES AND PAYMENTS

1 Objectives, Definitions and Scope

1.1 Objectives

The objective of this Annex 1 is to inform RMR Owners which are responsible for preparation of invoices, and Responsible Utilities, which are responsible for payment of Reliability Must-Run Charges pursuant to Section 5.2.8 of the ISO Tariff, of the manner in which the RMR Charges referred to in Section 5.2.7 of the ISO Tariff shall be verified and settled and of the procedures regarding the billing, invoicing and payment of these RMR Charges.

1.2 Definitions

1.2.1 Master Definitions Supplement

Unless the context otherwise requires, any word or expression defined in the Master Definitions Supplement to the ISO Tariff shall have the same meaning where used in this Annex 1. A reference to a paragraph is to a paragraph of this Annex. References to SABP are to the Settlement and Billing Protocol or to the stated paragraph of that Protocol. References to Appendices are to Appendices of SABP.

1.2.2 Definitions of SABP

Unless otherwise specified, any word or expression defined in SABP shall have the same meaning where used in this Annex.

1.2.3 Special Definitions for this Annex

In this Annex the following words and expressions shall have the following meanings:

“Adjusted RMR Invoice” means the monthly invoice issued by the RMR Owner to the ISO for adjustments made to the Revised Estimated RMR Invoice pursuant to the RMR Contract, reflecting actual data for the billing month.

“Business Day” shall have the meaning ascribed to it in the RMR Contract.

“Estimated RMR Invoice” means the monthly invoice issued by the RMR Owner to the ISO for estimated RMR Payments or Refunds pursuant to the RMR Contract.

“Facility Trust Account” means, for each RMR Contract, the account established and operated by the ISO to and from which all payments under this Annex shall be made. Each Facility Trust Account will have two segregated commercial bank accounts, a RMR Owner Facility Trust Account and a Responsible Utility Facility Trust Account.

“Prior Period Change” means any correction, surcharge, credit, refund or other adjustment pertaining to a billing month which is discovered after the Revised Adjusted RMR Invoice for such billing month has been issued.

“Prior Period Change Worksheet” means a worksheet prepared by the RMR Owner and submitted to the ISO following discovery of a necessary change to an RMR invoice after the Revised Adjusted RMR Invoice for the billing month has been issued.

“Responsible Utility Facility Trust Account” means a segregated commercial bank account under the Facility Trust Account containing funds held in trust for the Responsible Utility.

“RMR Invoice” means any Estimated RMR Invoice, Revised Estimated RMR Invoice, Adjusted RMR Invoice, or Revised Adjusted RMR Invoice.

“RMR Owner Facility Trust Account” means a segregated commercial bank account under the Facility Trust Account containing funds held in trust for the RMR Owner.

“RMR Payment” means any amounts which the ISO is obligated to pay to RMR Owners under RMR Contracts, net of any applicable credits under RMR Contracts.

“RMR Payments Calendar” means the Payments Calendar issued by the ISO pursuant to Section 3 of this Annex 1.

“RMR Refund” means any amounts which RMR Owners are obligated to pay the ISO and the ISO is obligated to pay Responsible Utilities under RMR Contracts, or resulting from an order by the Federal Energy Regulatory Commission, for deposit into the Responsible Utility Facility Trust Account.

“RMR Security” means the form of security provided by a Responsible Utility to cover its liability under this Annex pursuant to Section 5.2.7.3 of the ISO Tariff.

1.2.4 Rules of Interpretation and Other Terms and Conventions

The rules of interpretation set out in SABP 1.2.3, and the provisions of SABP 1.2.4, 1.2.5 and 1.2.6 shall apply to this Annex.

1.3 Scope of Application to Parties

This Annex applies to the RMR Payments owed RMR Owners by the ISO, the RMR Charges owed by the Responsible Utilities to the ISO and the RMR Refunds owed to the ISO by RMR Owners and owed to

the Responsible Utilities by the ISO for costs incurred under the RMR Contract.

For the avoidance of doubt, this Annex shall not apply to charges for Energy or Ancillary Services which are payable by the ISO under Sections 2.5 and 11 of the ISO Tariff to Scheduling Coordinators representing RMR Owners. Such payments shall be made by the ISO to such Scheduling Coordinators pursuant to Section 11 of the ISO Tariff and the provisions of SABP. The RMR Owners shall account for such payments received by or due to their Scheduling Coordinators in each RMR Invoice.

1.4 Relationship of this Annex with SABP

Appendices B, G and H of SABP shall apply as appropriate to this Annex. Unless otherwise specified, other provisions of SABP shall not apply to this Annex.

1.5 Relationship of this Annex with the ISO Tariff

For the avoidance of doubt, Sections 11.3 to 11.24 inclusive of the ISO Tariff shall not apply to this Annex.

2 Accounts

2.1 Facility Trust Account

The ISO shall establish a Facility Trust Account for each RMR Contract. Each Facility Trust Account shall consist of two segregated commercial bank accounts: an RMR Owner Facility Trust Account, which will be held in trust for the RMR Owner, and a Responsible Utility Facility Trust Account, which will be held in trust for the Responsible Utility. RMR Charges paid by the Responsible Utility to the ISO in connection with the RMR Contract will be deposited into the RMR Owner Facility Trust Account and RMR Payments from the ISO to the RMR Owner will be withdrawn from such Account, all in accordance with this Annex 1, Section 5.2.7 of the ISO Tariff and the RMR Contract. RMR Refunds received by the ISO from the RMR Owner in accordance with the RMR Contract will be deposited into the Responsible Utility Facility Trust Account and such RMR Refunds will be withdrawn from such Account and paid to the Responsible Utility in accordance with this Annex 1, Section 5.2.7 of the ISO Tariff, and the RMR Contract. The RMR Owner Facility Trust Account and the Responsible Utility Facility Trust Account shall have no other funds commingled in them at any time.

2.2 RMR Owner's Settlement Accounts

Each RMR Owner shall establish and maintain a settlement account at a commercial bank located in the United States and reasonably acceptable to the ISO which can effect money transfers via Fed-Wire where payments to and from the Facility Trust Accounts shall be made in accordance with this Annex. Each RMR Owner shall notify the ISO of its settlement account details upon entering into its RMR Contract with the ISO and may notify the ISO from time to time of any changes by giving at least 15 days notice before the new account becomes operational.

3 RMR Payments Calendar

The ISO shall issue an RMR Payments Calendar for the purposes of this Annex which shall contain those dates set forth in Section 9.1 (b) of the RMR Contract and the following information:

- (a) the date on which RMR Owners are required to issue to the ISO, with a copy to the Responsible Utility, their Estimated RMR Invoice pursuant to their RMR Contract;
- (b) the date on which the ISO is required to initiate proposed adjustments to the Estimated RMR Invoice to the Responsible Utility and to the RMR Owner;
- (c) the date by which the RMR Owners are required to issue their Revised Estimated RMR Invoice reflecting appropriate revisions to the original Estimated RMR Invoice agreed upon by the Responsible Utility and the RMR Owner (In the event no revisions are required, Owner shall submit an e-mail to the ISO and Responsible Utility stating there are no revisions and the Estimated RMR Invoice should be deemed as the Revised Estimated RMR Invoice.);
- (d) the date on which the ISO is required to issue to the Responsible Utility or RMR Owner, with an e-mail notification to both parties, the ISO Invoice based on the Revised Estimated RMR Invoice;
- (e) the date on which RMR Owners are required to issue to the ISO, with a copy to the Responsible Utility, their Adjusted RMR Invoice pursuant to their RMR Contract;
- (f) the date on which the ISO is required to initiate proposed adjustments to the Adjusted RMR Invoice to the Responsible Utility and the RMR Owner;
- (g) the date by which the RMR Owners are required to issue their Revised Adjusted RMR Invoice reflecting appropriate revisions to the original Adjusted RMR Invoice agreed upon by the Responsible Utility and the RMR Owner. (In the event no revisions are required, Owner shall submit an e-mail to the ISO and Responsible Utility stating there are no revisions and the Adjusted RMR Invoice should be deemed as the Revised Adjusted RMR Invoice.);
- (h) the date on which the ISO is required to issue to the Responsible Utility or the RMR Owner, with an e-mail notification to both parties, the ISO Invoice based on the Revised Adjusted RMR Invoice;
- (i) the dates by which the Responsible Utility and RMR Owner must have notified the ISO of any dispute in relation to the ISO Invoice, Estimated or Adjusted RMR Invoices (including the Revised Estimated and Revised Adjusted RMR Invoice) or the ISO's proposed adjustments;
- (j) the date and time by which Responsible Utilities or RMR Owners are required to have made payments into the RMR Owner Facility Trust Account or Responsible Utility Facility Trust Account in payment of the ISO Invoices relating

to each Revised Estimated RMR Invoice and each Revised Adjusted RMR Invoice;

- (k) the date and time by which the ISO is required to have made payments into the RMR Owners' Facility Trust Accounts or Responsible Utilities' Facility Trust Accounts in payment of the Revised Estimated RMR Invoice and the Revised Adjusted RMR Invoice pursuant to their RMR Contract;

If the day on which any ISO Invoice, any RMR Invoice, or payment is due, is not a Business Day, such statement or invoice shall be issued or payment shall be due on the next succeeding Business Day.

Information relating to charges for Energy or Ancillary Services which are payable by the ISO pursuant to Sections 2.5 and 11 of the ISO Tariff and SABP to the Scheduling Coordinators representing the RMR Owners will be contained in the RMR Payments Calendar pursuant to SABP 2.3.

4 Information to be provided by RMR Owners to the ISO

Each RMR Invoice and any Prior Period Change Worksheet shall include, or be accompanied by, information about RMR Payments and RMR Refunds in sufficient detail to enable the ISO to verify all RMR Charges and all RMR Refunds, and such information shall be copied to the Responsible Utility. Each RMR Invoice shall separately show the amounts due for services from each Reliability Must-Run Unit.

This information shall be provided in an electronic form in accordance with the RMR Invoice template developed jointly and agreed to by the ISO, Responsible Utilities and RMR Owners in accordance with the RMR Contracts and the principles in Schedule O to those Contracts, and maintained on the ISO Home Page.

5 Validation of RMR Charges and RMR Refunds

The ISO shall validate, based on information provided by each RMR Owner pursuant to paragraph 4, the amount due from the relevant Responsible Utility for RMR Charges and the amount due to the relevant Responsible Utility for RMR Refunds applicable to the Reliability Must-Run Generation and Ancillary Services of that RMR Owner, but shall not represent or warrant the accuracy or completeness of the information provided by the RMR Owner. The ISO shall provide copies of its exception report and information to the relevant Responsible Utility and RMR Owner.

The ISO shall not be obligated to pay the Responsible Utility any RMR Refunds unless and until the ISO has received corresponding RMR Refunds into the Responsible Utility Facility Trust Account from the RMR Owner.

6 Description of the Billing Process

6.1 Issuance of RMR Invoices by the RMR Owner

Each RMR Owner shall provide any RMR Invoice to the ISO in the electronic form, mutually agreed by the parties, which may be updated

by agreement of the ISO, Responsible Utilities and RMR Owners from time to time in accordance with the requirements of Schedule O of the RMR Contract, on each of the days specified in the RMR Payments Calendar, and shall send to the relevant Responsible Utility a copy of that invoice on the day of issue.

6.2 Review of the RMR Invoice by the ISO

The ISO shall review each RMR Invoice within the period specified in the RMR Payments Calendar and is required to initiate proposed adjustments to that invoice to the RMR Owner and the relevant Responsible Utility. Once the ISO initiates proposed adjustments, the RMR Owner shall issue a Revised Estimated RMR Invoice or Revised Adjusted RMR Invoice.

6.3 Issuance of ISO Invoices by the ISO

The ISO shall provide to the Responsible Utility and the RMR Owner on the dates specified in the RMR Payments Calendar ISO Invoices showing:

- (a) the amounts which, on the basis of the Revised Estimated RMR Invoice or the Revised Adjusted RMR Invoice, as the case may be, and pursuant to paragraph 5 of this Annex 1, are to be paid by or to the relevant Responsible Utility and RMR Owner;
- (b) the Payment Date, being the date on which such amounts are to be paid and the time for such payment;
- (c) details (including the account number, bank name and Fed-Wire transfer instructions) of the RMR Owner Facility Trust Account to which any amounts owed by the Responsible Utility are to be paid, or of the RMR Responsible Utility Facility Trust Account to which any amounts owed by the RMR Owner are to be paid.

6.4 Resolving Disputes Relating to Invoices

6.4.1 Review of the Invoices by the Responsible Utility

Each Responsible Utility shall have the review period specified in the RMR Payments Calendar to review RMR Invoices, and ISO Invoices, validate, and propose adjustments to such invoices and notify the ISO of any dispute. Notwithstanding the above, each Responsible Utility shall have the review time specified in ISO Tariff Section 5.27 to dispute such invoice.

6.4.2 Dispute Notice

If a Responsible Utility disputes any item or calculation relating to any Revised RMR Invoice, or any ISO Invoice, it shall provide the ISO, with a copy to the RMR Owner, via email or such other communication mode as the parties may mutually agree upon, a notice of dispute at any time from the receipt of the copy of such invoice from the RMR Owner or the ISO to the expiration of the period for review set out in Section 6.4.1. The ISO shall initiate a corresponding dispute with the RMR Owner under the RMR Contract.

6.4.3 Contents of Dispute Notice

The notice of dispute shall state clearly the Revised Estimated RMR Invoice, Revised Adjusted RMR Invoice, or ISO Invoice in dispute, the item disputed (identifying specific Reliability Must-Run Units and time periods), the reasons for the dispute, and the proposed amendment (if appropriate) and shall be accompanied by all available evidence reasonably required to support the claim.

6.4.4 Prior Period Change Agreed to by the RMR Owner

Subject to paragraph 6.4.5 or 6.4.6 of this Annex 1, if the RMR Owner agrees with the proposed change, the change shall be shown in a Prior Period Change Worksheet and included in the next appropriate May or December Estimated RMR Invoice as specified in Article 9.1 of the RMR Contract.

6.4.5 Dispute Involving the RMR Owner

If the dispute relates to an item originating in any RMR Invoice the applicable provisions of the RMR Contract and Section 5.2.7.1 of the ISO Tariff shall apply.

6.4.6 Dispute Involving an Alleged Error or Breach or Default of the ISO's Obligations Under Section 5.2.7 of the ISO Tariff

If the dispute relates to an alleged error or breach or default of the ISO's obligations under Section 5.2.7 of the ISO Tariff, the applicable provisions of the RMR Contract and Section 5.2.7.1 of the ISO Tariff shall apply.

6.4.7 Payment Pending Dispute

Subject to Section 5.2.7.1 of the ISO Tariff, if there is any dispute relating to an item originating in an RMR Invoice that is not resolved prior to the Payment Date, the Responsible Utility shall be obligated to pay any amounts shown in the relevant ISO Invoice on the Payment Date irrespective of whether any such dispute has been resolved or is still pending. The Responsible Utility may notify the ISO that the payment is made under protest, in which case the ISO shall notify the RMR Owner that payment is made under protest. In accordance with Section 9.6 of the RMR Contract, if such dispute is subsequently resolved in favor of the Responsible Utility that made the payment under protest, then any amount agreed or determined to be owed by the RMR Owner to the ISO shall be repaid by the RMR Owner to the ISO, with interest at the interest rate specified in the RMR Contract from the date of payment by the ISO to the RMR Owner of the disputed amount to the date of repayment by the RMR Owner, as specified in Section 6.4.4 of this Annex 1. If RMR Owner does not agree to make the change pursuant to Section 6.4.4, then such repayment shall be made by ISO's deduction of such amount from the next ISO Invoices

until extinguished, or if the RMR Contract has terminated, by paying a RMR Refund in such amount to the Responsible Utility Facility Trust Account, subject to the limitation of Section 5.2.7.1.1 of the ISO Tariff.

7 Payment Procedures

7.1 Payment Date

The Payment Date for RMR Payments to and RMR Refunds from RMR Owners shall be the Due Date specified in the RMR Contract and in the RMR Payments Calendar and the same shall be the Payment Date for the ISO and Responsible Utilities in relation to RMR Charges, provided that the RMR Owner has furnished the Responsible Utility and the ISO with the Revised Estimated RMR Invoice or the Revised Adjusted RMR Invoice no less than 9 calendar days before the Due Date. The Payment Date shall be stated on the ISO Invoice.

7.2 Payment Method

All payments and refunds by the ISO to RMR Owners and Responsible Utilities shall be made via Fed-Wire.

However, if the RMR Owner is also the Responsible Utility, at the discretion of the RMR Owner, payments and refunds may be made by memorandum account instead of wire transfer.

7.3 Payment by RMR Owners and Responsible Utilities

Each RMR Owner shall remit to the Responsible Utility Facility Trust Account the amount shown on the relevant ISO Invoice as payable by that RMR Owner not later than 10:00 am on the Payment Date.

Subject to Section 5.2.7 of the ISO Tariff, each Responsible Utility shall remit to the RMR Owner Facility Trust Account the amount shown on the relevant ISO Invoice not later than 10:00 am on the Payment Date.

7.4 Payment by the ISO

The ISO shall verify the amounts available for distribution to Responsible Utilities and/or RMR Owners on the Payment Date and shall give instructions to the ISO Bank to remit from the relevant Facility Trust Account to the relevant settlement account maintained by each Responsible Utility or RMR Owner the amounts determined by the ISO to be available for payment to each Responsible Utility or RMR Owner.

7.5 Payment Default by RMR Owner or Responsible Utility

If by 10.00 am on a Payment Date the ISO, in its reasonable opinion, believes that all or any part of any amount due to be remitted to the relevant Facility Trust Account by the RMR Owner or the Responsible Utility will not or has not been remitted ("the Default Amount") the ISO shall immediately notify the RMR Owner and the Responsible Utility. Where the Default Amount was due from the Responsible Utility, the ISO and RMR Owner shall proceed as set forth in Section 5.2.7 of the ISO Tariff and the applicable provision of the RMR Contract. Where the Default Amount was due from the RMR Owner, the ISO and the

Responsible Utility shall proceed as set forth in the applicable provision of the RMR Contract.

7.5.1 Default relating to Market Payments

For the avoidance of doubt, non payment to RMR Owners, or their respective Scheduling Coordinators, of charges for Energy or Ancillary Services which are payable by the ISO to Scheduling Coordinators representing such RMR Owners shall be dealt with pursuant to Sections 11.3 to 11.24 (inclusive) of the ISO Tariff and the provisions of SABP.

7.6 Set-off

7.6.1 Set-off in the case of a defaulting Responsible Utility

The ISO is authorized to apply any amount to which any defaulting Responsible Utility is or will be entitled from the Responsible Utility Facility Trust Account in or towards the satisfaction of any amount owed by that Responsible Utility to the RMR Owner Facility Trust Account arising under the settlement and billing process set out in this Annex.

For the avoidance of doubt, neither the ISO nor any Responsible Utility will be authorized to set off any amounts owed by that Responsible Utility in respect of one Facility Trust Account against amounts owed to that Responsible Utility in respect of another Facility Trust Account or any amounts owed by that Responsible Utility under this Annex against amounts owed to that Responsible Utility except as provided by Sections 2.5.27.7 and 5.2.7 of the ISO Tariff.

7.6.2 Set-off in the case of a defaulting RMR Owner

The ISO is authorized to apply any amount to which any defaulting RMR Owner is or will be entitled from the RMR Owner Facility Trust Account in or towards the satisfaction of any amount owed by that RMR Owner to the Responsible Utility Facility Trust Account in accordance with Article 9 of the RMR Contract and Sections 5.2.7 and 2.5.28 of the ISO Tariff.

For the avoidance of doubt, neither the ISO nor any RMR Owner will be authorized to set off any amounts owed by that RMR Owner in respect of one Facility Trust Account against amounts owed to that RMR Owner in respect of another Facility Trust Account or any amounts owed by that RMR Owner under this Annex against amounts owed to that RMR Owner under the RMR Contract.

7.7 Default Interest

Responsible Utilities shall pay interest on Default Amounts to the ISO at the interest rate specified in the RMR Contract for the period from the relevant Payment Date to the date on which the payment is received by the ISO.

RMR Owners shall pay interest to the ISO on Default Amounts at the interest rate specified in the RMR Contract for the period from the date on which payment was due to the date on which the payment is received by the ISO.

The ISO shall pay interest to RMR Owners at the interest rate specified in the RMR Contract for the period from the date on which payment is due under the RMR Contract to the date on which the payment is received by the RMR Owner.

The ISO shall pay interest to Responsible Utilities at the interest rate specified in the relevant RMR Contract for the period from the date following the date it received an RMR Refund from the relevant RMR Owner to the date in which the payment is received by the relevant Responsible Utility.

Where payment of a Default Amount is made by exercise of a right of set-off or deduction, payments shall be deemed received when payment of the sum which takes that set-off or deduction into account is made.

8 Overpayments

The provisions of SABP 7.1.1, 7.1.2 and 7.1.3 shall apply to RMR Owners and Responsible Utilities which have been overpaid by the ISO and references to "ISO Creditors" in these sections and in the relevant Sections of the ISO Tariff shall be read, for the purposes of this Annex, to mean RMR Owners and Responsible Utilities as applicable. Disputed amounts shall not be considered to be overpayments until and unless the dispute is resolved.

9 Communications

9.1 Method of Communication

ISO Invoices will be issued by the ISO via Electronic Data Interchange ("EDI"). RMR Invoices and Prior Period Change Worksheets will be issued by the RMR Owner in an electronic form mutually agreed by the parties and maintained on the ISO's Home Page. ISO shall also post prior period change examples and prior period change guidelines as specified in Article 9.1 of the RMR Contract.

9.2 Emergency Procedures

9.2.1 Emergency Affecting the ISO

In the event of an emergency or a failure of any of the ISO software or business systems, the ISO may deem any Estimated RMR Invoice or any Adjusted RMR Invoice to be correct without thorough verification and may implement any temporary variation of the timing requirements relating to the settlement and billing process contained in this Annex.

9.2.2 Emergency Affecting the RMR Owner

In the event of an emergency or a failure of any of the RMR Owner's systems, the RMR Owner may use Estimated RMR Invoices as provided in the applicable section of the RMR Contract or may implement any temporary variation of the timing requirements relating to the settlement and billing process

contained in this Annex and its RMR Contract. Details of the variation will be published on the ISO Home Page.

Communications of an emergency nature on a Due Date or a Payment Date relating to payments shall be made by the fastest practical means including by telephone.

10 Confidentiality

The provisions of SABP 9, 10 and 11 shall apply to this Annex between and among the RMR Owners, the ISO and Responsible Utilities.

Except as may otherwise be required by applicable Law, all information and data provided by RMR Owner or the ISO to the Responsible Utility pursuant to the RMR Contract, Section 5.2.7 of the ISO Tariff or this Annex 1 ("confidential information") shall be treated as confidential and proprietary to the providing party to the extent required by Section 12.5 and Schedule N of the RMR Contract and will be used by the receiving party only as permitted by such Section 12.5 and Schedule N.

11 Amendments to this Annex

If the ISO determines a need for an amendment to this Annex 1, the ISO shall follow the requirements as set forth in Section 16 of the ISO Tariff, provided that ISO may not modify Annex 1 as it applies to any RMR contract without the consent of the relevant RMR Owner and Responsible Utility.