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May 11, 2017

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor  
Harrisburg, PA 17120

**VIA ELECTRONIC FILING**

**RE: National Railroad Passenger Corporation v. PPL Electric Utilities Corporation;  
Docket No. C-2016-2580526**

**PPL Electric Utilities Corporation Supplement No. 213 to Tariff Electric P.A. PUC No. 201  
for Rate Schedule LPEP; Docket No. R-2016-2569975**

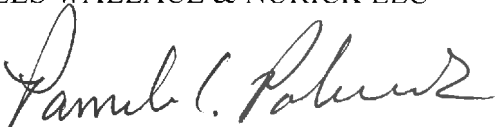
Dear Secretary Chiavetta:

Attached please find for filing with the Pennsylvania Public Utility Commission the Motion to Dismiss of the National Railroad Passenger Corporation ("Amtrak") in the above-referenced proceedings. As shown on the attached Certificate of Service, all parties to this proceeding are being duly served. Thank you.

Very truly yours,

McNEES WALLACE & NURICK LLC

By

  
Pamela C. Polacek

Counsel to National Railroad Passenger Corporation ("Amtrak")

Enclosures

c: Certificate of Service  
Administrative Law Judge David A. Salapa (via Email and First Class Mail)

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**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true copy of the foregoing document upon the participants listed below in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

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\_\_\_\_\_  
Pamela C. Polacek

Counsel to National Railroad Passenger  
Corporation

Dated this 11<sup>th</sup> day of May, 2017, at Harrisburg, Pennsylvania.

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>NATIONAL RAILROAD PASSENGER CORPORATION,</b>	:	
	:	
<b>COMPLAINANT</b>	:	<b>Docket No. C-2016-2580526</b>
	:	
<b>v.</b>	:	
	:	
<b>PPL ELECTRIC UTILITIES CORPORATION,</b>	:	
	:	
<b>RESPONDENT</b>	:	
	:	
<b>PPL ELECTRIC UTILITIES CORPORATION SUPPLEMENT NO. 213 TO TARIFF ELECTRIC PA PUC NO. 201 FOR RATE SCHEDULE LPEP</b>	:	<b>Docket No. R-2016-2569975</b>
	:	

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**NOTICE TO PLEAD**


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TO: PPL Electric Utilities Corporation  
Two North Ninth Street  
Allentown, PA 18101

Pursuant to 52 Pa. Code §5.103(c), you are hereby notified that National Railroad Passenger Corporation has filed its Motion to Dismiss, which you are hereby notified to file a written response to within twenty (20) days of the date of service of this Motion unless otherwise provided in Chapter 5 of Title 52 of the Pennsylvania Administrative Code. Your failure to answer will allow the presiding officer to rule on the Motion to Dismiss without a response from you, thereby requiring no proof. All Pleadings such as a Motion to Dismiss must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy served on the undersigned counsel for National Railroad Passenger Corporation.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By:   
\_\_\_\_\_  
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Counsel to National Railroad Passenger  
Corporation

Dated: May 11, 2017

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>NATIONAL RAILROAD PASSENGER CORPORATION,</b>	:	
	:	
<b>COMPLAINANT</b>	:	<b>Docket No. C-2016-2580526</b>
	:	
<b>v.</b>	:	
	:	
<b>PPL ELECTRIC UTILITIES CORPORATION,</b>	:	
	:	
<b>RESPONDENT</b>	:	
	:	
<b>PPL ELECTRIC UTILITIES CORPORATION SUPPLEMENT NO. 213 TO TARIFF ELECTRIC PA PUC NO. 201 FOR RATE SCHEDULE LPEP</b>	:	<b>Docket No. R-2016-2569975</b>
	:	

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**MOTION TO DISMISS OF THE NATIONAL RAILROAD PASSENGER CORPORATION**

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Pursuant to 52 Pa. Code §5.103, National Railroad Passenger Corporation ("Amtrak") hereby submits this Motion to Dismiss ("Motion") the above-captioned proceeding for lack of subject matter jurisdiction and federal preemption.

As set forth below, on April 17, 2017, pursuant to 49 U.S.C. § 24311, Amtrak initiated an eminent domain proceeding at the United States District Court for the Eastern District of Pennsylvania ("District Court") to acquire certain facilities and equipment used by PPL Electric Utilities Corporation ("PPL") to provide service to Amtrak under PPL's Tariff Electric Pa. P.U.C. No. 201. Once Amtrak completed its eminent domain filing with the District Court, title to the facilities and equipment vested in Amtrak in fee simple absolute. Accordingly, as of April 18, 2017, PPL no longer owns the facilities and equipment which form the basis for the above-captioned rate proceeding. Pursuant to the terms of 49 U.S.C. § 24311 and the Supremacy Clause

in Article VI, clause 2 of the United States Constitution, the District Court, and not the Pennsylvania Public Utility Commission ("PUC" or "Commission"), possesses jurisdiction over the facilities and equipment in question. Because the proposed rate for upgrades to Conestoga Substation is the sole basis for PPL's rate schedule action and Amtrak's complaint, and PPL no longer owns the Conestoga Substation, there is no further basis for PUC jurisdiction over Docket Numbers R-2016-2569975 and C-2016-2580526, and these proceedings should be dismissed.

Because granting this Motion will immediately terminate the proceeding, Amtrak also requests, pursuant to 52 Pa. Code §5.103(d)(1)(i), that the Presiding Officer immediately suspend the current procedural schedule until such time as the Presiding Officer rules on this Motion and the parties pursue any desired appeals of the decision. In support of its Motion, Amtrak avers as follows:

## **I. INTRODUCTION**

### **A. Rate Proceeding at the PUC**

On October 5, 2016, PPL filed Supplement No. 213 to Tariff Electric Pa. P.U.C. No. 201 ("Supplement No. 213") for Rate LPEP – Power Service to Electric Propulsion ("Rate LPEP") with the PUC at Docket Number R-2016-2569975 requesting to add the following language to Rate Schedule LPEP:

Effective on the date that the Conestoga Substation upgrade is completed and placed in service, the distribution charge will be \$319,671.00 per month (Customer Charge). Customers under Rate Schedule LPEP will be given written notice 30 days before the effective date of the new distribution charge.

Supplement No. 213, Twenty-Sixth Revised Page No. 29. As of October 5, 2016, PPL owned four of the transformers at the Conestoga Substation and Amtrak owned three of the transformers at the

Conestoga Substation.<sup>1</sup> Each party also owned other related equipment at the Conestoga Substation. At that time, PPL provided Amtrak with Commission-regulated electric distribution service pursuant to Rate LPEP. PPL's Rate LPEP proceeding was limited to rates charged to Amtrak and not to any other electric customer.<sup>2</sup> If implemented, Supplement No. 213 would have increased the Rate LPEP monthly charge significantly while providing no projected in-service date for the potential equipment upgrade at the Conestoga Substation.

On December 19, 2016, Amtrak filed a Complaint and New Matter under Docket No. C-2016-2580526 opposing Supplement No. 213.<sup>3</sup> Amtrak challenged PPL's proposed tariff change as premature because there was no projected in-service date for the new rate, and challenged the proposed rate in the new tariff as excessive, unjust and unreasonable. As indicated in Amtrak's Complaint, this proceeding represents a continuation of a dispute between Amtrak and PPL that began in PPL's 2015 base rate proceeding regarding the cost, scope, timing and payment for upgrades to the Conestoga Substation. Two separate settlement agreements, the Mutual Settlement Agreement Among PPL Electric Utilities Corporation and National Railroad Passenger Corporation ("Mutual Settlement Agreement")<sup>4</sup> and the Joint Petition for Approval of Settlement

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<sup>1</sup> The "Conestoga Substation" is the substation that connects Amtrak to the Safe Harbor Power Corporation's ("Safe Harbor") hydroelectric generation facility.

<sup>2</sup> Amtrak is the only customer served by the Conestoga Substation and is the only PPL customer that receives service at 25 Hertz (rather than 60 Hertz). Safe Harbor produces power for Amtrak at 25 Hertz, which is necessary to operate Amtrak's electric traction system. Safe Harbor delivers the 25 Hertz power to the Conestoga Substation, which was owned partly by PPL and partly by Amtrak when Supplement No. 213 was filed. PPL has no other 25 Hertz substations on its system. Amtrak, on the other hand, operates multiple 25 Hertz substations along the Northeast Corridor.

<sup>3</sup> Amtrak's Complaint addressed the propriety of Supplement No. 213, while Amtrak's New Matter asserted that PPL improperly charged Amtrak for service rendered as of September 1, 2016, and requested a refund and/or credit for Amtrak's overpayments after September 1, 2016. In an Order issued by the PUC on January 19, 2017, Administrative Law Judge David A. Salapa denied Amtrak's New Matter. As a result, the proceeding carried forward and solely focused on Supplement No. 213.

<sup>4</sup> See Complaint and New Matter of National Railroad Passenger Corporation, Exhibit B, *Nat'l. R.R. Passenger Corp. v. PPL Elec. Utils. Corp.*, Docket No. C-2016-2580526 & *PPL Elec. Utils. Corp. Supplement No. 213 to Tariff Electric Pa. P.U.C. No. 201*, Docket No. R-2016-2569975 (filed Dec. 19, 2016).

of All Issues ("2015 Settlement")<sup>5</sup>, were executed and collectively defined a process for continued negotiation between Amtrak and PPL regarding the disputes over the proposed substation upgrades. The Mutual Settlement Agreement terminated on September 1, 2016, however, when negotiations concluded, the parties had not achieved a mutually-acceptable resolution. Paragraph 31 of the 2015 Settlement required PPL to submit a tariff filing for Rate LPEP "to reflect (i) the negotiated agreement ultimately reached by PPL Electric and Amtrak or (ii) the fact that PPL Electric and Amtrak were unable to reach an agreement by September 1, 2016." 2015 Settlement, *supra* n. 5, Paragraph ¶31. By submitting Supplement No. 213, PPL conceded that the Mutual Settlement Agreement expired with no mutually-acceptable resolution. Pursuant to Paragraph 9 of the Mutual Settlement Agreement, Amtrak specifically reserved all rights and arguments regarding any filing submitted by PPL. Mutual Settlement Agreement, ¶ 9.<sup>6</sup>

In multiple pleadings submitted by Amtrak in this proceeding, Amtrak provided PPL and the PUC with notice that Amtrak intended to acquire the PPL-owned property and equipment at the Conestoga Substation, and Amtrak's willingness to invoke its Federal eminent domain rights if a voluntary transaction did not occur. *See e.g.*, Complaint and New Matter of National Railroad Passenger Corporation, Docket Nos. R-2016-2569975 and C-2016-2580526, p. 8 (Dec. 19, 2016); Prehearing Memorandum of the National Railroad Passenger Corporation, Docket Nos. R-2016-2569975 and C-2016-2580526, p. 3 (Jan. 3, 2017); Petition of the National Passenger Railroad Corporation for Amendment of December 22, 2016 Order to Suspend These Proceedings, Docket Nos. R-2016-2569975 and C-2016-2580526, p. 2 (Jan. 3, 2017); Petition of the National Passenger

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<sup>5</sup> 2015 Settlement, *Pa. Pub. Util. Comm'n. v. PPL Elec. Utils. Corp.*, Docket Nos. R-2015-2469275, *et al.* (Sep. 3, 2015).

<sup>6</sup> Complaint and New Matter of National Railroad Passenger Corporation, Exhibit B, *Nat'l. R.R. Passenger Corp. v. PPL Elec. Utils. Corp.*, Docket No. C-2016-2580526 & *PPL Elec. Utils. Corp. Supplement No. 213 to Tariff Electric Pa. P.U.C. No. 201*, Docket No. R-2016-2569975 (filed Dec. 19, 2016).



Railroad Corporation for Amendment of December 22, 2016 Order to Suspend These Proceedings (Updated to Reflect PUC Order Errata), Docket Nos. R-2016-2569975 and C-2016-2580526, p. 2 (Jan. 4, 2017). For example, Amtrak asserted that a suspension was appropriate because of "Amtrak's current plans to acquire the Conestoga Substation equipment and property by purchasing the facility from PPL, or if that is not possible, to take the Conestoga Substation pursuant to Amtrak's federal eminent domain authority [under] 49 U.S.C. § 24311." Petition of the National Passenger Railroad Corporation for Amendment of December 22, 2016, Order to Suspend These Proceedings (Updated to Reflect PUC Order Errata), Docket Nos. R-2016-2569975 and C-2016-2580526, p. 2 (Jan. 4, 2017). Amtrak averred the suspension would enable the PUC, the PUC's presiding officer, and parties to:

[A]void the prospect of judicial waste by proceeding with haste to resolve issues that may very well be rendered moot by Amtrak's acquisition of the Conestoga facility by purchase or pursuant to a Federal court eminent domain proceeding, to avoid rulings that may conflict with the jurisdiction of a federal court, and to have sufficient time to evaluate the multitude of unique legal issues that would arise as a result of Amtrak's current plans to acquire the Conestoga Substation equipment and property by purchasing the facility from PPL, or if that is not possible, to take the Conestoga Substation pursuant to Amtrak's federal eminent domain authority. [*Id.*]

On March 3, 2017, Amtrak made PPL a good faith offer to purchase the Conestoga Substation in lieu of condemnation for two million dollars (\$2,000,000.00), an amount estimated by a certified real estate appraiser to be the fair market value of the Conestoga Substation. Amtrak's offer to purchase the Conestoga Substation exceeded the value PPL ascribed to it in Docket Number R-2016-2569975.<sup>7</sup>

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<sup>7</sup> See PPL Cost of Service study for the historic test year (2014), which was entered into the record in Docket No. R-2016-2569975 as Exhibit JDT 1. Page 7 of 188, which provides the summary of the study and shows Plant in Service for LPEP of \$3.15 million, with accumulated reserves of \$1.9 million, gives us a net book value of approximately \$1.23 million.

On March 17, 2017, PPL proposed that Amtrak refrain from filing a condemnation action and that the parties request a 60-day stay of the proceedings before the PUC so that the parties could engage in meaningful settlement negotiations. Amtrak agreed to this proposal. The ALJ revised the scheduling order to allow the parties 60 days to discuss settlement.

On March 17, 2017, PPL promised Amtrak that a settlement proposal would be forthcoming. To date, Amtrak has not received such a proposal.

Rather than providing a counter-proposal, on or about April 12, 2017, contractors employed by PPL were conducting activities at the Conestoga Substation to modify the PPL-owned equipment.<sup>8</sup>

#### **B. Initiation of Eminent Domain Proceeding in Federal Court**

On April 17, 2017, Amtrak filed a Complaint for Condemnation and Declaration of Taking, along with other supporting documentation, with the District Court pursuant to Amtrak's federal eminent domain authority under 49 U.S.C. § 24311 and Federal Rule of Civil Procedure (F.R.C.P.) 71.1. *National Railroad Passenger Corporation (AMTRAK) v. 4.0446 Acres More or Less of Land and Fixtures and PPL Electric Utilities Corp.*, Docket No. 17-CV-1752, Civil Action – Law (E.D. Pa. 2017) (See Eminent Domain Filings in "Appendix A").

On April 18, 2017, Amtrak submitted to the District Court a Notice of Condemnation and a deposit in the amount of Amtrak's estimate of the just compensation for the property and equipment that was specified in the Declaration of Taking. 49 U.S.C. § 24311(b)(1) notes "[a]n interest is condemned and taken by Amtrak for its use when a declaration of taking is filed... and an amount of money estimated in the declaration to be just compensation for the interest is deposited in the court." 49 U.S.C. § 24311(b)(2) adds:

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<sup>8</sup> See Appendix A, *infra*, at pp. 331-35 (Mull Declaration).

When the declaration is filed and the deposit is made under paragraph (1) of this subsection, title to the property vests in Amtrak in fee simple absolute or in the lesser interest shown in the declaration, and the right to the money vests in the person entitled to the money. When the declaration is filed, the court may decide – (A) the time by which, and the terms under which, possession of the property is given to Amtrak; and (B) the disposition of outstanding charges related to the property. [Emphasis added.]

By operation of law, fee title to the Conestoga Substation transferred to Amtrak, subject only to the floating easement Amtrak preserved for PPL to ensure PPL's continued ability to perform PPL's obligations under (1) the Transmission Contract between PPL, Safe Harbor, and Baltimore Gas and Electric Company ("Transmission Contract") and (2) the Interconnection Service Agreement among PJM Interconnection, L.L.C. and Safe Harbor and PPL ("Interconnection Service Agreement").<sup>9</sup>

On April 18, 2017, Amtrak submitted to the District Court a Motion for a Temporary Restraining Order to enjoin PPL from any activities at the Conestoga Substation except routine operations and maintenance.<sup>10</sup> On April 28, 2017, PPL responded to the Motion for a Temporary Restraining Order.

Also on April 28, 2017, United States District Judge Jeffrey L. Schmehl conducted a telephonic conference with the parties to discuss the schedule and process to address the Motion for a Temporary Restraining Order, Amtrak's request for a permanent injunction, and Amtrak's Complaint and Declaration of Taking.<sup>11</sup> Counsel for PPL represented to the District Court in that hearing that PPL would take no further action to alter the Conestoga Substation. Judge Schmehl

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<sup>9</sup> Copies of the Transmission Contract and the Interconnection Service Agreement were attached as Exhibits D and E, respectively, to Amtrak's Declaration of Taking and filed with the District Court. See Appendix A herein for copies of those agreements. Both contracts are filed with the Federal Energy Regulatory Commission and are not within the Commission's jurisdiction.

<sup>10</sup> Appendix A, *infra*, at pp. 303-306.

<sup>11</sup> PPL has retained the following counsel from Duane Morris, L.L.P., for the eminent domain proceeding in the District Court at Docket No. 17-CV-1752: Patrick J. Loftus, George J. Kroclic, Meredith E. Carpenter, and Sean P. McConnell.

ordered the parties to submit a stipulated Temporary Restraining Order. Amtrak and PPL are currently negotiating the terms of the stipulated Temporary Restraining Order. The District Court also will be holding a hearing on Amtrak's request for an injunction.

The Commission no longer has subject matter jurisdiction over the Conestoga Substation, and its state jurisdiction is preempted by federal law. Accordingly, the Commission's jurisdiction over the Conestoga Substation and claims and defenses relating to it previously raised before the Commission by PPL and Amtrak is preempted by Federal law. Therefore, the PUC should dismiss Docket Numbers R-2016-2569975 and C-2016-2580526.

## **II. JURISDICTION**

"As an administrative agency created by statute, the PUC has only those powers expressly conferred on it by statute or those powers which are necessarily implied from its express powers." *Norfolk S. Ry. Co. v. Pa. Pub. Util. Comm'n.*, 875 A.2d 1243, 1249 (Pa. Commw. Ct. 2005) (citing *Peoples Natural Gas Co. v. Pa. Pub. Util. Comm'n.*, 664 A.2d 664 (Pa. Commw. Ct. 1995)). The law clearly indicates that the PUC cannot exceed its jurisdiction, and instead must act within it. *City of Pittsburgh v. Pa. Pub. Util. Comm'n.*, 43 A.2d 348, 350 (Pa. Super. Ct. 1945). Jurisdiction may not be conferred by the parties where none exists. *Roberts v. Martorano*, 235 A.2d 602, 604 (Pa. 1967) (citing *Commonwealth v. Yorktowne Paper Mills, Inc.*, 214 A.2d 203 (Pa. 1965)). Subject matter jurisdiction permits a court to decide a controversy. *Hughes v. Pa. State Police*, 619 A.2d 390, 393 (Pa. Commw. Ct. 1992) (citing *Am. Labor Party Case*, 44 A.2d 48 (Pa. 1945); *Lashe v. Northern York Cnty. School Dist.*, 417 A.2d 260 (Pa. Commw. 1980)). "Questions of jurisdiction can never be waived, and may be raised at any time by the parties or *sua sponte* by an appellate court." *Pennhurst Med. Grp., P.C. v. Dep't of Pub. Welfare*, 796 A.2d 423, n. 2 (Pa. Commw. 2002) (citing *Commonwealth v. Little*, 314 A.2d 270 (Pa. 1974); *Pennsylvania Liquor Control Bd. v. Kohn*, 520 A.2d 534 (Pa. Commw. Ct. 1987)).

Article VI of the United States Constitution establishes the doctrine of federal preemption. U.S. Const. art VI, § 2 (the "Supremacy Clause"). "Federal law preempts, and thereby displaces, state law in three different situations: (1) 'express preemption,' (2) 'field preemption'... , or (3) 'conflict preemption'." *Green v. Fund Asset Mgmt., L.P.*, 245 F.3d 214, 222 (3d Cir. 2001) (citing *Orson, Inc. v. Miramax Film Corp.*, 189 F.3d 377, 381-82 (3d Cir. 1999) (*en banc*)). The United States Supreme Court described the potential types of federal preemption as follows:

[A] federal statute implicitly overrides state law either when the scope of a statute indicates that Congress intended federal law to occupy a field exclusively, *English v. General Elec. Co.*, 496 U.S. 72, 78-79, 110 S.Ct. 2270, 110 L. Ed. 2d 65 (1990), or when state law is in actual conflict with federal law. We have found implied conflict pre-emption where it is "impossible for a private party to comply with both state and federal requirements," *id* at 79, or where state law "stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress." *Hines v. Davidowitz*, 312 U.S. 52, 67, 85 L. Ed. 581, 61 S. Ct. 399 (1941).

*Freightliner Corp. v. Myrick*, 514 U.S. 280, 287 (1995) ("*Freightliner*").

### III. ARGUMENT

#### A. **Because Amtrak Obtained Title To The Conestoga Substation On April 18, 2017, The Commission's Jurisdictional Basis for Current Proceeding is Eliminated and the Proceeding Should be Dismissed.**

On April 17, 2017, pursuant to Federal Rule of Civil Procedure 71.1(d), Amtrak commenced an action to condemn property in the District Court by filing a Complaint for Condemnation, Declaration of Taking, and other related filings (*see* Appendix A). Amtrak's authority to acquire the property and equipment at the Conestoga Substation by eminent domain derived from 49 U.S.C. § 24311. On April 18, 2017, Amtrak submitted the Notice of Condemnation and a deposit to the District Court. Thus, as of April 18, 2017, Amtrak owns fee title in the Conestoga Substation as a matter of federal law.

The Commission initially had jurisdiction over the current proceeding because PPL, a PUC-regulated public utility, was seeking to change the rate that it would charge to Amtrak for the electric distribution service that PPL was providing to Amtrak through the equipment that PPL owned at the Conestoga Substation. 66 Pa. C.S. § 1308(a) ("[u]nless the commission otherwise orders, no public utility shall make any change in any existing and duly established rate, except after 60 days notice to the commission"). Amtrak filed a Complaint against the tariff and rate change, and the Commission thus suspended the tariff supplement, establishing this proceeding for adjudication of whether the proposed change is just and reasonable. *See id.* at § 1308(b).

As of April 18, 2017, Amtrak owns the property and equipment at the Conestoga Substation by operation of federal law; PPL no longer owns anything other than the previously-mentioned floating easements to perform under the FERC contracts, which do not impact Amtrak. PPL no longer owns any equipment to provide PUC-regulated distribution service to Amtrak, and the proposed basis for the rate change (*i.e.*, the substation upgrade) will be performed by Amtrak, not PPL. As such, their tariff supplement is moot, and the proceedings at this docket are moot.

Further, Amtrak is not a "public utility" subject to the Commission's jurisdiction. *See* 66 Pa.C.S. § 102 (definition of "public utility"). Amtrak is not distributing electricity "to or for the public" and, instead, provides service only to itself. *See id.* ("The term [public utility] does not include: (i) Any person or corporation, not otherwise a public utility, who or which furnishes service only to himself or itself."); *see also Bethlehem Steel Corp. v. Pa. P.U.C.*, 713 A.2d 1110, 1114 (Pa. 1998); *Drexelbrook Assocs. v. Pa. Pub. Util. Comm'n.*, 212 A.2d 237, 239 (Pa. 1965). As such, the Commission no longer has a jurisdictional basis upon which to continue the current proceeding addressing PPL's request for a prospective electric rate increases to Rate LPEP<sup>12</sup>.

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<sup>12</sup> Amtrak is not asserting that the PUC does not have jurisdiction over PPL or its service to other customers, but that those other services are not at issue in this proceeding.

Accordingly, the Commission must dismiss the proceeding from a lack of jurisdiction. Any attempt to continue this litigation concurrent with the federal court eminent domain action raises potential for judicial waste by devoting PUC resources to resolving issues regarding PPL's proposed rate and tariff language that have become moot since Amtrak condemned the Conestoga Substation on April 17, 2017, and took ownership of the Conestoga Substation on April 18, 2017.

**B. The Federal Court, Not The PUC, Now Has Exclusive Jurisdiction Over Matters Relating To the Conestoga Substation.**

Section 24311(a)(1)(A) of Title 49 of the United States Code authorizes Amtrak to acquire by eminent domain property, such as the Conestoga Substation, that is "necessary for intercity rail passenger transportation." 49 U.S.C. 24311(a)(1)(A). Section 24311(b)(1) also prescribes that the "district court of the United States for the judicial district in which the property is located" has jurisdiction over all matters relating to the condemned property. *Id.* at § 24311(b)(1).

In addition, the District Court has original jurisdiction over this civil action pursuant to 28 U.S.C. § 1331 (because the authority for Amtrak to acquire an interest in property by eminent domain is a federal question arising under the laws of the United States) and has subject matter jurisdiction pursuant to 28 U.S.C. § 1349 (because the United States Government owns a majority of Amtrak's stock).

In addition, Fed. R. Civ. P. 71.1 (a) states that it "govern[s] proceedings to condemn real and personal property by eminent domain, except as this rule provides otherwise." Subsection (h)(1) of Fed. R. Civ. P. 71.1 makes clear that "[i]n an action involving eminent domain under federal law, the [federal] court tries all issues, including compensation."<sup>13</sup>

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<sup>13</sup> Omitting references to non-judicial procedural exceptions relating to trial of compensation issues.

Pursuant to the doctrine of federal preemption, which derives from Article VI, clause 2 of the U.S. Constitution,<sup>14</sup> a state public utility commission cannot act contrary to federal law that grants jurisdiction to the federal court to make determinations regarding Amtrak's exercise of federal eminent domain over the Conestoga Substation. 49 U.S.C. §24311 and Fed. R. Civ. P. 71.1. This interpretation comports with other general provisions on condemnation proceedings initiated by the federal government. *See also*, 40 U.S.C. §§ 3113-3114 (indicating that federal courts have a right to review declarations of taking by the federal government once eminent domain proceedings are initiated at the federal court level) and *AA Am. Dev. Corp. v. United States*, 2007 U.S. Dist. LEXIS 59692, \*7-11 (2007) (holding that when the federal government files a Declaration of Taking, Notice of Condemnation, and deposit with the district court pursuant to 40 U.S.C. § 3114, the federal preemption doctrine applies and overrides conflicting state law).

When a federal court of competent jurisdiction obtains possession, custody and control over a property in an *in rem* proceeding such as eminent domain, that authority and power may not be disturbed by any other court. *United States v. Sid-Mars Restaurant & Lounge, Inc.*, 644 F. 3d 270, 275 (5<sup>th</sup> Cir 2011) ("*Sid-Mars Restaurant*"). In eminent domain actions under Federal authority, the condemnor may obtain an injunction to ensure that the federal District Court retains the first priority to decide title issues, even if the *in rem* state court proceeding regarding the particular property started before the federal proceeding.<sup>15</sup>

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<sup>14</sup> "This Constitution, and the Laws of the United States which shall be made in Pursuance thereof... shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding." U.S. Const. art VI., § 2.

<sup>15</sup> Amtrak is not an ordinary private corporation, it is a federal actor. *Lebron v. Nat'l R.R. Passenger Corp.*, 513 U.S. 374, 394 (1995) ("Facing the question of Amtrak's status for the first time, we conclude that it is an agency or instrumentality of the United States for the purpose of individual rights guaranteed against the Government by the Constitution"). Congress formed Amtrak to address a public transportation issue and "provide modern and efficient intercity and commuter rail passenger service." *Nat'l. R.R. Passenger Corp. v. Boston and Maine Corp.*, 503 U.S. 407, 410 (1992). In recognition of Amtrak's status as a federal actor with statutory obligations, Congress passed several pieces of legislation to enable Amtrak to fulfill its statutory duties, including the ability to acquire property by eminent domain. 49 U.S.C. § 24311.



The pending proceeding here is based on the Commission's jurisdiction to review a proposed tariff change for PPL; the proceeding is not an *in rem* proceeding regarding the Conestoga Substation.<sup>16</sup> As a result, the District Court is the first court to have possession, custody and control over the Conestoga Substation.

Controlling federal precedent also demonstrates that the Commission lacks authority to act contrary to federal laws governing Amtrak. *See, Nat'l. R.R. Passenger Corp. v. Commonwealth of Pa. Pub. Util. Comm'n.*, 848 F.2d 436 (3d Cir. 1988) (injunction entered in Amtrak's favor against impositions by the PUC for public highway bridge costs); *Nat'l. R.R. Passenger Corp. v. Caln Twp.*, 2010 U.S. Dist. LEXIS 1876 (E.D. Pa. 2010) (injunction entered in Amtrak's favor against a Pennsylvania township's imposition of local ordinances against Amtrak); *UGI Utils., Inc. v. Nat'l. R.R. Passenger Corp.*, 2004 U.S. Dist. LEXIS 29305 (M.D. Pa. 2004) (holding that a Pennsylvania public utility's actions under state law to take Amtrak's property were preempted by federal law); *Nat'l. R.R. Passenger Corp. v. Colonial Pipeline*, No. 05-2267, 2006 WL 236788 (D. Md. 2006) (holding that a utility's actions under state law to take Amtrak's property were preempted by federal law).

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<sup>16</sup> *In rem* proceedings are actions "determining the title to property and the rights of the parties not merely among themselves, but also against all persons at any time claiming an interest in that property; a real action." Black's Law Dictionary 32 (8<sup>th</sup> ed 2004). In other words, eminent domain cases are *in rem* proceedings because the action is not against the owner, but against the land or property interest to be acquired. With regard to the PUC in particular, Pennsylvania courts have held that the PUC lacks jurisdiction resolve real property issues, which are matters for a court of general jurisdiction. *Redding v. Atlantic City Elec. Co.*, 269 A.2d 680, 681-84 (Pa. 1970) (holding that a court of equity may determine the validity and scope of a proposed condemnation once the necessity of the service has been determined); *see also Fairview Water Co. v. Pa. Pub. Util. Comm'n.*, 502 A.2d 162, 167 (Pa. 1985) (holding that the PUC does not have jurisdiction to determine the scope and validity of an easement); Opinion and Order, *Perrige v. Metropolitan Edison Co.*, Pennsylvania Public Utility Commission Docket No. C-00004110, p. 6 (2003).

**C. The PUC Is Preempted From Addressing Issues Regarding The Transfer Of Possession And The Disposition Of Outstanding Charges Related To The Conestoga Substation.**

Amtrak now owns the Conestoga Substation because "a declaration of taking [wa]s filed under this subsection and an amount of money estimated in the declaration to be just compensation for the interest [wa]s deposited in the court." 49 U.S.C. § 24311(b)(1). Now that the declaration has been filed, the District Court may decide – (A) the time by which, and the terms under which, possession of the property is given to Amtrak; and (B) the disposition of outstanding charges related to the property. *See id.* at § 24311(b)(2)(A)-(B).

Therefore, 49 U.S.C. § 24311(b) vests jurisdiction exclusively in the District Court to determine issues of possession, outstanding charges and any challenges that PPL may wish to assert against the taking or the just compensation. Congress intended for ownership to transfer to Amtrak upon the filing of the declaration and the deposit, thus expressly preempting any state or local jurisdiction to review the taking and also to make rulings regarding any outstanding charges relating to the condemned property. Continued Commission jurisdiction here, contrary to 49 U.S.C. § 24311 and Fed. R. Civ. P. 71.1, would be contrary to the Supreme Court's ruling in *Freightliner*:

a federal statute implicitly overrides state law either when the scope of a statute indicates that Congress intended federal law to occupy a field exclusively, *English v. General Elec. Co.*, 496 U.S. 72, 78-79, 110 S.Ct. 2270, 110 L. Ed. 2d 65 (1990), or when state law is in actual conflict with federal law. We have found implied conflict pre-emption where it is "impossible for a private party to comply with both state and federal requirements," *id* at 79, or where state law "stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress." *Hines v. Davidowitz*, 312 U.S. 52, 67, 85 L. Ed. 581, 61 S. Ct. 399 (1941).

*Freightliner* 514 U.S. 280, 287 (1995). See also, *Union Ctr. Redevelopment Corp. v. Nat'l. R.R. Passenger Corp.*, 103 F.3d 62 (8<sup>th</sup> Cir. 1997) (state law preempted by Amtrak taking under federal authority).

Congress expressly granted the federal courts with the jurisdiction over Amtrak federal eminent domain actions. Therefore, continuing Commission jurisdiction would be in actual conflict with the jurisdiction of the District Court and would stand as an obstacle to the accomplishment and execution of the full purposes and objective of Congress under 49 U.S.C. §24311 and Fed. R. Civ. P. 71.1.

Furthermore, as noted above, continuation of Commission jurisdiction over any charges related to the Conestoga Substation also is preempted. The language in Section 24311(b) clearly places those issues within the jurisdiction of the District Court. Under the standard set forth by the Supreme Court in *Freightliner*, the Commission is preempted from further consideration of this proceeding, and it should be dismissed. *Freightliner*, 514 U.S. 280 (1995). Even the review of PPL's proposed rate increase for Rate LPEP for the period prior to Amtrak's ownership would be the equivalent of addressing the "disposition of any outstanding charges related to" the property and equipment that PPL formerly owned at the Conestoga Substation. This continuation would contradict the clear language and Congressional intent behind Section 24311(b).

As previously explained, the precedent in *Sid-Mars Restaurant* also establish that the federal courts should be given primacy when the state court cannot make a full determination of the basic issue of title and when confusion may be caused by inconsistent judgments. Congress determined that the federal courts should have exclusive jurisdiction to determine issues regarding possession and any ongoing charges once Amtrak's eminent domain action is filed and the deposit made with the District Court. Further action by the Commission is expressly preempted.

#### IV. REQUEST FOR SUSPENSION OF PROCEDURAL SCHEDULE

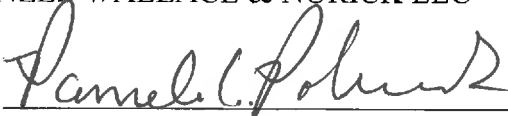
Pursuant to 52 Pa. Code § 5.103(d)(1)(i), Amtrak also requests that the Presiding Officer immediately suspend the current procedural schedule until such time as the Presiding Officer rules on this Motion and the parties pursue any desired appeals of the decision. Suspension of the procedural schedule is appropriate because it will avoid the prospect of judicial waste by proceeding with haste to resolve issues in this proceeding that will be rendered moot by this Motion and will avoid rulings that may conflict with the jurisdiction of the District Court.

#### V. CONCLUSION

Based on the foregoing, Amtrak respectfully requests that the Commission dismiss the above-captioned proceeding for lack of subject matter jurisdiction. While the Presiding Officer decides this Motion, Amtrak requests that the filing of any further testimony be immediately suspended pursuant to 52 Pa. Code §5.103(d)(1)(i).

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By 

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Adeolu A. Bakare (Pa I.D. No. 208541)  
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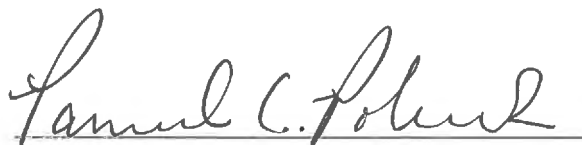
Counsel to National Railroad Passenger  
Corporation

Dated: May 11, 2017

**AFFIDAVIT**

COMMONWEALTH OF PENNSYLVANIA :  
 : SS:  
COUNTY OF DAUPHIN :

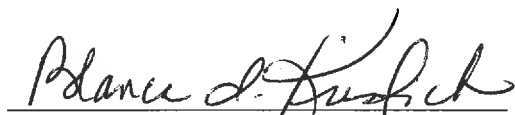
Pamela C. Polacek, being duly sworn according to law, deposes and says that she is Counsel to National Railroad Passenger Corporation, that in this capacity she is authorized to and does make this affidavit for them, and that the facts set forth in the foregoing Motion to Dismiss filed by National Railroad Passenger Corporation are true and correct to the best of her knowledge, information, and belief.



Pamela C. Polacek

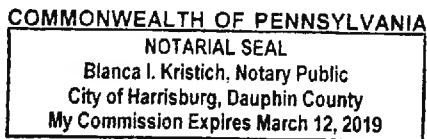
Sworn to and Subscribed before me

this 11<sup>th</sup> day of May, 2017.



Notary Public

(SEAL)



# APPENDIX A

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

NATIONAL RAILROAD PASSENGER	:	
CORPORATION (AMTRAK)	:	NO.
60 Massachusetts Avenue, NE	:	
Washington, DC 20020	:	
	:	
Plaintiff	:	
	:	
v.	:	CIVIL ACTION – LAW
	:	
4.0446 ACRES MORE OR LESS OF	:	
LAND AND FIXTURES located at	:	
Powerhouse Road, Manor Township	:	
Lancaster County, PA 17516	:	
	:	
and	:	
	:	
PPL ELECTRIC UTILITIES CORP.	:	
Two North Ninth Street	:	
Allentown, PA 18101	:	

**COMPLAINT FOR CONDEMNATION**

Plaintiff National Railroad Passenger Corporation, also known as Amtrak (“Amtrak”), by and through its undersigned counsel, files this Complaint for Condemnation, pursuant to authority provided by 49 U.S.C. § 24311, and in compliance with Federal Rule of Civil Procedure 71.1, and states as follows:

**I. PARTIES, JURISDICTION, AND VENUE**

1. Amtrak is a corporation authorized to be created by the Rail Passenger Service Act, currently set forth at 49 U.S.C. § 24101 *et seq.* Amtrak’s principal

place of business is located at 60 Massachusetts Avenue, NE, Washington, DC 20002.

2. Amtrak is authorized under federal law, specifically 49 U.S.C. § 24311, to acquire through eminent domain interests in property necessary for intercity rail passenger transportation.

3. “An interest is condemned and taken by Amtrak for its use when a declaration of taking is filed ... and an amount of money estimated in the declaration to be just compensation for the interest is deposited in the court.” 49 U.S.C. § 24311(b)(1).

4. The United States District Court for the Eastern District of Pennsylvania has original jurisdiction over this civil action pursuant to 28 U.S.C. § 1331 because the authority for Amtrak to acquire an interest in property by eminent domain arises under the laws of the United States.

5. This Court also has subject matter jurisdiction pursuant to 28 U.S.C. § 1349 because a majority of Amtrak’s stock is owned by the United States.

6. Upon information and belief, PPL Electric Utilities Corp (referred to herein as “PPL” or as the “Condemnee”) is a limited liability company organized under the laws of Pennsylvania with its principal place of business at 2 North Ninth Street, Allentown, Pennsylvania 18101.



7. Amtrak is informed and believes that PPL is the owner in fee simple of the land parcel and the improvements thereon at Powerhouse Road, Manor Township, Lancaster County, Pennsylvania, tax parcel 410-11106-0-0000, and conveyed to PPL in the Special Warranty Deed dated May 21, 2015 and recorded as Instrument number 6206115 (the "Tax Parcel"). A copy of this deed is attached hereto as Exhibit A.

8. The premises to be acquired is that portion of the Tax Parcel which is approximately 575 feet in width and 380 feet in depth, comprising 4.0446 acres, and which comprises the Conestoga Substation power station (the "Subject Property"). The Subject Property is separated from the remainder of the Tax Parcel by an approximately 70 feet high vertical cliff. A diagram showing the Tax Parcel and the section of it constituting the Subject Property is attached hereto as Exhibit B. The Subject Property includes all improvements, as well as the fixtures on the premises currently owned by PPL and depicted on the diagram attached hereto as Exhibit C.

9. Amtrak reserves to PPL a floating easement sufficient for PPL's fulfillment of its obligation to transmit power through the Conestoga Substation pursuant to the Transmission Contract between PPL, Safe Harbor Water and Power Corporation, and Baltimore Gas and Electric Company dated October 1, 1960, as

amended by Supplemental Agreement dated March 13, 1989 (the “Transmission Contract”). A copy the Transmission Contract is attached hereto as Exhibit D.

10. Amtrak reserves to PPL a floating easement sufficient for PPL’s fulfillment of its obligation to transmit power through the Conestoga Substation pursuant to the Interconnection Service Agreement among PJM Interconnection, L.L.C. and Safe Harbor Water Power Corporation and PPL Electric Utilities Corporation effective January 7, 2013 (the “Interconnection Service Agreement”). A copy the Interconnection Service Agreement is attached hereto as Exhibit E.

11. Venue in the United States District Court for the Eastern District of Pennsylvania is proper pursuant to 49 U.S.C. § 24311(b), which requires that actions brought by Amtrak to acquire interests in real property must be brought in the United States District Court for the judicial district in which the property to be acquired is located. The Subject Property is located in the judicial district for the Eastern District of Pennsylvania.

12. Amtrak hereby exercises its power of eminent domain pursuant to 49 U.S.C. § 24311(a)(2), having been unable to acquire the interest in the Subject Property either by contract or by agreement with PPL for a purchase upon an agreed upon price.

13. Amtrak has complied with all the requirements of 49 U.S.C. § 24311 *et seq.*, entitling it to exercise the right of condemnation to obtain the Subject Property.

**II. THE SUBJECT PROPERTY IS NECESSARY FOR INTERCITY RAIL PASSENGER TRANSPORTATION**

14. The acquisition of a fee interest in the Property is necessary for intercity rail passenger transportation within the Northeast Corridor (sometimes, “NEC”).

15. Amtrak’s Northeast Corridor is an essential rail artery serving major cities in the Northeast region, connecting Washington, D.C. to Boston, Massachusetts and with connecting corridors to Harrisburg, Pennsylvania, Springfield, Massachusetts, Albany, New York and Richmond, Virginia. Amtrak runs 157 trains on the Northeast Corridor every day. In 2013, Amtrak’s NEC carried 11.4 million passengers and Amtrak’s Washington-Richmond-Newport News corridor trains carried an additional 6 million passengers.

16. Amtrak’s NEC is the busiest passenger rail line in the United States as measured by its ridership and service frequency. The Northeast’s five major metropolitan regions – Boston, New York, Philadelphia, Baltimore and Washington, D.C. – rely on Amtrak services for a significant and growing share of business and leisure travel and on NEC infrastructure for the daily commuting needs of their workforces.

17. Congress has acknowledged the critical importance of the NEC in Amtrak's authorizing statute stating, "The Northeast Corridor is a valuable resource of the United States used by intercity and commuter rail passenger transportation and freight transportation." 49 U.S.C. § 24101(a)(7).

18. Amtrak owns and serves as the infrastructure manager for the majority of the NEC, providing dispatching services and electric propulsion power and maintaining and improving the infrastructure and facilities that are used not only by Amtrak, but also by the commuter and freight rail services. Indeed, Amtrak owns outright several other electric substations that help to power the NEC.

19. The Conestoga Substation, an electrical power substation, is located on the Subject Property.

20. Acquisition of the Subject Property, including associated improvements, fixtures, and easements held by PPL, is necessary because Amtrak powers the NEC through a traction power network using 25 Hertz power, and the Conestoga Substation on the Subject Property is the only source that directly produces 25 Hertz power without needing a frequency converter. This makes the Conestoga Substation critical to Amtrak's operation of the NEC.

21. Although the acquisition of the Conestoga Substation is critical to Amtrak's operation of the NEC, the acquisition has no impact on any other

purchaser of electricity because Amtrak is the only user of the 25 Hertz power produced by the Conestoga Substation.

22. Approximately 22% of Amtrak's total installed power capacity comes from the Safe Harbor Water Power Station via the Conestoga Substation. The Conestoga Substation is strategically located to supply power to three different areas of Amtrak's traction power network. Four lines exiting the Conestoga Substation feed Amtrak's Northeast Corridor mainline at Perryville, Maryland, two lines feed Amtrak's Harrisburg line at Parkesburg, Pennsylvania, and one line feeds Amtrak's Harrisburg line at Harrisburg, Pennsylvania. The ownership and operation of the four lines exiting the Conestoga Substation are unaffected by this Declaration of Taking.

23. Amtrak uses the 25 Hertz power from the Conestoga Substation, distributed through the traction power network, for many of its NEC operations, including Amtrak, New Jersey Transit, MARC, and SEPTA routes. Control of the operation and maintenance of the Conestoga Substation is necessary because of the critical strategic importance of the power source to the operation of the NEC.

24. Although the acquisition of the Conestoga Substation is critical to Amtrak's operation of the NEC, the acquisition has no impact on any other purchaser of electricity because Amtrak is the only user of the 25 Hertz power produced by the Conestoga Substation.

### **III. DESCRIPTION OF THE PROPERTY**

25. The Subject Property is a described in Paragraphs 6 through 10, above.

26. The acquisition by condemnation of the Subject Property shall be in fee simple and shall include any and all rights that run with the Subject Property including, but not limited to, any easements and/or rights held by PPL.

27. Any and all secured interest and rights in the Subject Property are terminated and extinguished by operation of law through this eminent domain proceeding.

### **IV. STATEMENT OF INTEREST IN PROPERTY TAKEN**

28. Amtrak is filing a Declaration of Taking contemporaneously herewith and is depositing the money estimated as just compensation as described in Paragraph 23 hereof. Amtrak is vested with title when a declaration of taking is filed and an amount of money estimated in the declaration to be just compensation for the interest is deposited in the court. *See* 49 U.S.C. § 24311(b)(1).

### **V. STATEMENT OF MONEY ESTIMATED FOR JUST COMPENSATION**

29. At or about the time of the filing of this action, Amtrak is depositing into the Court the amount which it estimates to be just compensation for the interests taken pursuant to 49 U.S.C. §§ 24311(b)(1)-(b)(2), namely Two Million Dollars and No Cents (\$2,000,000.00) (the “Deposit”), which is prerequisite to the

filing of the Declaration of Taking and the vesting of title to the Subject Property in Amtrak.

30. Amtrak has obtained from a certified real estate appraiser a valuation of the estimated just compensation for the Subject Property.

31. The certified real estate appraiser ascertained that the fair market value of the Subject Property is Two Million Dollars and No Cents (\$2,000,000.00).

32. Prior to the date of the filing of this Complaint, Amtrak attempted in good faith to negotiate a purchase price for the Subject Property with PPL pursuant to 49 U.S.C. § 24311(a)(2).

33. Amtrak offered to purchase the Subject Property for the sum of Two Million Dollars and No Cents (\$2,000,000.00) (the “Offer”), which is the amount that Amtrak is depositing into this Court.

34. PPL rejected Amtrak’s offer to acquire the Subject Property.

35. Pursuant to 49 U.S.C. § 24311(b)(3), this Court shall make a finding on the amount that is just compensation for the interest taken in the Subject Property. Alternatively, Amtrak requests that the determination of the value of just compensation be referred to a duly appointed commission pursuant to Federal Rule of Civil Procedure 71.1(h)(2).

WHEREFORE, Plaintiff, National Railroad Passenger Corporation, also known as Amtrak, respectfully prays for judgment that the Subject Property be and is condemned; that Amtrak be granted the property rights described herein, and that the Court grant such other relief as may be just, including but not limited to an order fixing the value of the interest in the Subject Property.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By

  
Kandice Kerwin Hull

PA I.D. No. 86345

Dana W. Chilson

PA I.D. No. 208718

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Dated: April 17, 2017

*Attorneys for Plaintiff National Railroad  
Passenger Corporation ("Amtrak")*



## **EXHIBIT A**

06/01/2015 04:04:24 PM

Document #6206115

LANCASTER COUNTY

**Prepared by and  
Return to:**

Marc A. Jackson  
PPL Holtwood, LLC  
Manager - Real Estate Services (GENPL6)  
835 Hamilton Street, Suite 150  
Allentown, PA 18101

**Parcel ID#:** 4101110600000

**SPECIAL WARRANTY DEED**

**THIS DEED** dated May 21, 2015, to be effective as of the 1<sup>st</sup> day of June in the year of our Lord Two Thousand fifteen (2015)

**BETWEEN**

**PPL HOLTWOOD, LLC**, a Delaware limited liability company, with offices at 835 Hamilton Street, Suite 150, Allentown, Pennsylvania, hereinafter sometimes called "Grantor," and **PPL ELECTRIC UTILITIES CORPORATION**, a corporation organized and existing under the laws of the Commonwealth of Pennsylvania, with offices at 2 North Ninth St., Allentown, Pennsylvania, hereinafter sometimes called "Grantee."

**WITNESSETH**, that in consideration of the sum of One dollar (\$1.00) lawful money of the United States of America, in hand paid, the receipt whereof is hereby acknowledged, the said Grantor does hereby grant and convey to the said grantee:

**ALL THOSE CERTAIN** eight (8) lots or pieces of land situate in the Township of Manor, County of Lancaster and State of Pennsylvania, bounded and described as follows, to wit:

**Tract 1**

**BEGINNING** at a stake at the Conestoga Creek thence by the Conestoga Creek North eighteen degrees East thirty-three feet; thence by Lot No. 10 North seventy-two degrees West four hundred and eighty-one and one tenth feet to a point at land of the Pennsylvania Railroad Company; thence by land of the Pennsylvania Railroad Company South fifteen degrees and four minutes West thirty-three and four tenths feet to a point; thence South seventy-two degrees East four hundred and seventy-eight and one tenth feet to the place of beginning.

**CONTAINING** three hundred and sixty-three one-thousandths of an acre.

**BEING** the same premises which PPL Electric Utilities Corporation by Deed dated July 1, 2000, and recorded in the Office of the Recorder of Deeds in and for Lancaster County, Pennsylvania, in Deed Book 7102, Page 0122, granted and conveyed unto PPL Holtwood, LLC, Grantor herein.

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LANCASTER COUNTY

**Tracts 2 and 3**

**BEGINNING** at a stake at the Conestoga Creek; thence along the same North eighteen degrees East thirty three feet to a stake; thence by land of Georgiana Ellse North seventy-two degrees West four hundred and seventy two and one tenth feet to a point in the Pennsylvania Railroad Co. land thence by the latter South fifteen degrees and four minutes West thirty three feet to lot No. 8 on the Plan of lots of the Village of Safe Harbor; thence by said lot No. 8 South seventy two degrees East four hundred and seventy eight and one tenth feet to the place of Beginning.

**CONTAINING** three hundred and sixty three one-thousandths of an acre.

**and**

**BEGINNING** at a stake at the Conestoga Creek thence along the same North eighteen degrees East thirty-three feet to a point thence by land now or late of George Fayol North seventy two degrees West five hundred and fifty two and six tenths feet to a point in the Pennsylvania Railroad land; thence by the latter South fifteen degrees and four minutes West thirty three feet; thence by land of Theodore D. Ellse South seventy two degrees East five hundred and sixty and six tenths feet to the place of Beginning.

**BEING** the same premises which PPL Electric Utilities Corporation by Deed dated July 1, 2000, and recorded in the Office of the Recorder of Deeds in and for Lancaster County, Pennsylvania, in Deed Book 7110, Page 0677, granted and conveyed unto PPL Holtwood, LLC, Grantor herein.

**Tract 4**

**BEGINNING** at a post on the bank of the Conestoga Creek the corner late of H. M. Stauffer and Company and by same North sixty-seven degrees and fifty minutes West one hundred and eighty-three feet to a point; thence by and through land of grantor at the contour line one hundred and ninety feet above the sea level North twenty-two degrees and fifteen minutes east thirty-three and six tenths feet and by same South sixty-seven degrees and fifty minutes East six and seven tenths feet and by same North forty-two degrees and thirty minutes East thirty-three feet to a point and by same along a stone wall North twenty-two degrees and fifteen minutes East one hundred and twenty-four feet to a point; thence by lands formerly of Mary Johnson South sixty-six degrees and fifteen minutes East one hundred and twenty-one feet to a point on the Bank of the Conestoga Creek; thence down the Conestoga Creek South eleven degrees and ten minutes West one hundred and ninety-five feet to the place of Beginning.

**CONTAINING** six hundred and fifty-one one-thousandths of an acre.

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LANCASTER COUNTY

**BEING** the same premises which PPL Electric Utilities Corporation by Deed dated July 1, 2000, and recorded in the Office of the Recorder of Deeds in and for Lancaster County, Pennsylvania, in Deed Book 7091, Page 0295, granted and conveyed unto PPL Holtwood, LLC, Grantor herein.

**Tract 5**

**BEGINNING** at a post on the West side of the Big Conestoga Creek and extending thence by land of Benjamin Markley the following two courses and distances to wit: North seventy-two degrees West sixteen perches to a post and North eighteen degrees East two perches to a post thence by land now or late of Jackson Campbell South seventy-two degrees East sixteen perches to said creek thence down said creek two perches to the place of Beginning.

**CONTAINING** thirty-two perches, more or less.

**BEING** the same premises which PPL Electric Utilities Corporation by Deed dated July 1, 2000, and recorded in the Office of the Recorder of Deeds in and for Lancaster County, Pennsylvania, in Deed Book 7091, Page 0301, granted and conveyed unto PPL Holtwood, LLC, Grantor herein.

**Tract 6**

**BEGINNING** on the North side of a public road and extending thence by lands of Edward Hess the following two courses and distances to wit: North seventy degrees West twelve perches to a post and North twenty degrees East three perches to a post; thence by land late of William Rorr South seventy degrees East twelve perches to a post at the aforesaid public road and thence by said road South twenty degrees West three perches to the place of Beginning.

**CONTAINING** thirty-six square perches strict measure.

**BEING** the same premises which PPL Electric Utilities Corporation by Deed dated July 1, 2000, and recorded in the Office of the Recorder of Deeds in and for Lancaster County, Pennsylvania, in Deed Book 7091, Page 0307, granted and conveyed unto PPL Holtwood, LLC, Grantor herein.

**Tract 7**

**ALL THAT CERTAIN** tract of land and premises situated in Safe Harbor, Manor Township, Lancaster County, Pennsylvania, which was conveyed by Paul Heine and Emma Heine and Emma Heine, his wife, to Milton B. Hess, by Deed dated October 11, 1929 and recorded in the Office for the Recording of Deeds in and for Lancaster County in Deed Book T, Volume 29, Page 157, and which became vested in Safe Harbor Water Power Corporation by Deed from Marvin E.

06/01/2015 04:04:24 PM

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LANCASTER COUNTY

Bushong and Lydia R. Bushong, his wife, dated February 17, 1930 and recorded in said Recorder's Office in Deed Book X, Volume 29, Page 368.

**CONTAINING** three acres and fifty-eight perches, more or less, (3 A. 58 P.±), excepting the following two parcels:

- (i) one containing one and nine hundred seventy-two one-thousandths acres (1.972 A.), conveyed by Reuben L. Herr et ux to Pennsylvania Railroad Company by Deed dated June 22, 1905 and recorded in said Recorder's Office in Deed Book Y, Volume 17, Page 175; and
- (ii) one other containing six hundred fifty one-thousandths acre (0.650 A.) conveyed by Paul Heine et ux to John E. Malone by Deed dated April 30, 1913 and recorded in the said Recorder's Office in Deed Book K, Volume 21, Page 552.

**BEING** the same premises which PPL Electric Utilities Corporation by Deed dated July 1, 2000, and recorded in the Office of the Recorder of Deeds in and for Lancaster County, Pennsylvania, in Deed Book 7091, Page 0313, granted and conveyed unto PPL Holtwood, LLC, Grantor herein.

**Tract 8**

**CONTAINING** two acres, more or less (2 A. ±), an undivided one-half interest in which was conveyed by Elizabeth Bair et al to John E. Malone by Deed dated January 3, 1913 and recorded in the Office of Recording of Deeds in and for Lancaster County in Deed Book I, Volume 21, Page 51, and the other undivided one-half interest in which was conveyed by H. M. Stauffer & Co. to John E. Malone by Deed dated March 25, 1913 and recorded in said Recorder's Office in Deed Book G, Volume 21, Page 440; and which became vested in Safe Harbor Water Power Corporation by Deed from Pennsylvania Water & Power Company dated June 19, 1930 and recorded in said Recorder's Office in Deed Book B, Volume 30, Page 452.

**BEING** the same premises which PPL Electric Utilities Corporation by Deed dated July 1, 2000, and recorded in the Office of the Recorder of Deeds in and for Lancaster County, Pennsylvania, in Deed Book 7091, Page 0319, granted and conveyed unto PPL Holtwood, LLC, Grantor herein.

**Tracts 1, 3 and 5 ARE UNDER AND SUBJECT TO** a Utility Easement Agreement between PPL Holtwood, LLC, Grantor within, and Safe Harbor Water Power Corporation, hereinafter called "Safe Harbor", dated August 26, 2011 and recorded in Lancaster County, Instrument Number 5953671 on September 29, 2011. Easement agreement provides approval to Safe Harbor to allow for the placement, operation, maintenance, repair, replacement and reconstruction of water, sewer, electrical and communication utility facilities on the property, as well as the right of ingress and egress over the property to access the facilities.

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LANCASTER COUNTY

**Tracts 1, 2, 3, 4, 5, 6, 7 and 8 ARE UNDER AND SUBJECT TO** a Reciprocal Access Easement Agreement for Warehouse Road between PPL Holtwood, LLC, Grantor within, and Safe Harbor, dated August 26, 2011 and recorded in Lancaster County, Instrument Number 5953672 on September 29, 2011, and all existing exceptions and reservations of record in the chains of title to the above-described Premises as they may now or hereafter affect said Premises, as well as easements visible from an inspection of the premises.

**EXCEPTING AND RESERVING TO** Grantor perpetual ingress and egress rights over the properties conveyed herein.

**TOGETHER** with all and singular the buildings, improvements, ways, waters, water courses, rights, liberties, privileges, hereditaments and appurtenances whatsoever thereunto belonging, or in anywise appertaining, and the reversions and remainders, rents, issues and profits thereof; and all the estate, right, title, interest, property, claim and demand whatsoever of the Grantor, its successors and assigns, in law, equity or otherwise, of, in and to the same, and every part thereof.

**AND** the said Grantor does hereby covenant and agree that it will warrant specially the property hereby conveyed.

NOTE: Portions of Tracts 4, 5, 6, 7 and 8 may have been used as a fossil-fuel fired power generation site with operations normally incident thereto located on the property, including one or more wastewater treatment basins, fuel oil tanks and pipelines, coal piles, ash piles/basins and substations/switchyards. In addition, on site operations may have resulted in incidental spills over time.

[Signature page follows.]

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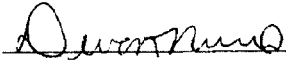
LANCASTER COUNTY

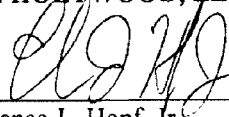
**IN WITNESS WHEREOF, PPL HOLTWOOD, LLC** has caused this Deed to be executed the day and year first above written.

**WITNESS:**

**PPL HOLTWOOD, LLC**

By:

  
\_\_\_\_\_

  
\_\_\_\_\_

Clarence J. Hopf, Jr.  
Senior Vice President

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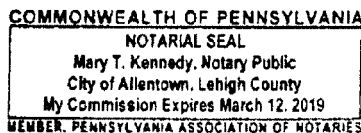
LANCASTER COUNTY

COMMONWEALTH OF PENNSYLVANIA )  
 : SS  
COUNTY OF LEHIGH )

On this the 21 day of May, 2015 before me, a Notary Public in and for the Commonwealth of Pennsylvania, the undersigned officer, personally appeared Clarence J. Hopf, Jr., who acknowledged himself to be the Senior Vice President of PPL Holtwood, LLC, a Delaware limited liability company, and that he as such Senior Vice President, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the limited liability company by himself as Clarence J. Hopf, Jr.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Mary T. Kennedy  
Notary Public



I HEREBY CERTIFY that the precise address of the Grantee within named is:

PPL Electric Utilities Corporation  
C/O Tom Martino, Facility Management  
Two North Ninth Street  
Allentown, PA 18101

Tom Martino



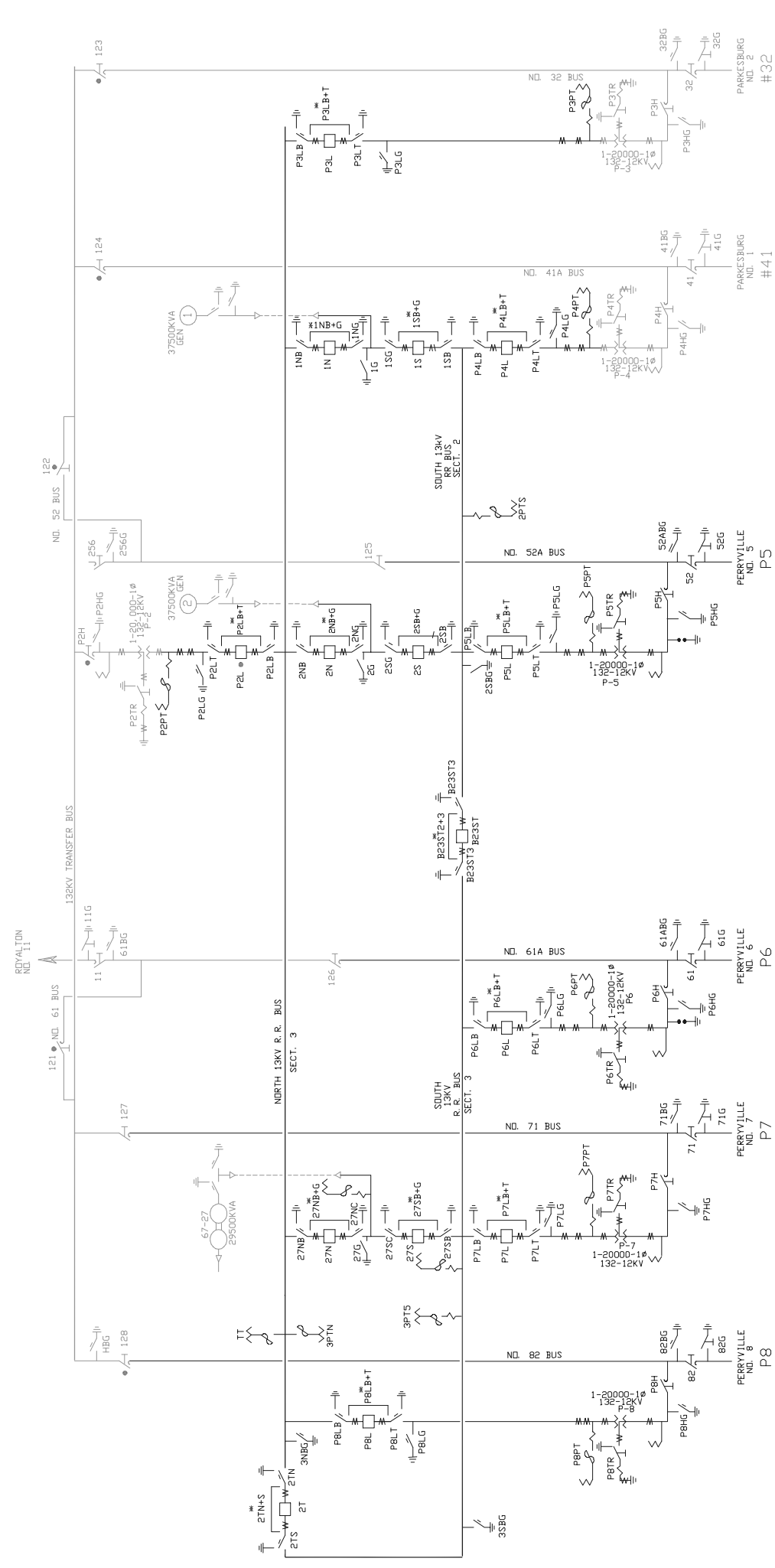
## **EXHIBIT B**

### Picture Location Map



The parcel outlined in darker blue includes the subject parcel (right side of outlined parcel) and the tax parcel (including the left side of outlined parcel) is highlighted in lighter blue.

## **EXHIBIT C**



CONESTOGA

- DCB disconnects are single throw
- One handle operates both disconnects
- Simultaneously
- Disconnect Positions:
  - 1. Closed
  - 2. Open / Grounded



REV CDS 09/23/11

## **EXHIBIT D**

**PJM Service Agreement No. 3880**  
**PPL Electric Utilities Corporation, FERC Rate Schedule No. 23**  
**Effective Date: October 1, 1960**

**TRANSMISSION CONTRACT**

**between**

**PENNSYLVANIA POWER & LIGHT COMPANY**

**SAFE HARBOR WATER POWER CORPORATION**

**and**

**BALTIMORE GAS AND ELECTRIC COMPANY**

**Effective as of October 1, 1960**

**Superseding Transmission Contract**  
**made as of May 18, 1955, and all**  
**Amendments and Supplements thereto**

**TRANSMISSION CONTRACT**

**TABLE OF CONTENTS**

		<u>Page</u>
Article 1	Effective Date and Duration of Agreement	1
Article 2	Transmission Facilities	2
Article 3	Transmission of Power and Energy	3
Article 4	Metering and Transmission Losses	4
Article 5	Transmission Charges and Payment	5
Article 6	Causes Beyond Control	5
Article 7	Waiver of Rights	6
Article 8	Assignment	7
Article 9	Prior Agreements Superseded	7

## TRANSMISSION CONTRACT

AGREEMENT, made as of the 20th day of July, 1960, by and between PENNSYLVANIA POWER & LIGHT COMPANY (hereinafter called Pennsylvania), a Pennsylvania corporation, party of the first part, SAFE HARBOR WATER POWER CORPORATION (hereinafter called Safe Harbor), a Pennsylvania corporation, party of the second part, and BALTIMORE GAS AND ELECTRIC COMPANY (herein-after called Baltimore Company), a Maryland corporation, party of the third part.

WHEREAS, Pennsylvania owns and operates certain transmission facilities that are available for the transmission of a portion of Safe Harbor's output to Baltimore Company at various points on the Pennsylvania-Maryland State Line, and Baltimore Company and Safe Harbor desire Pennsylvania to transmit to such points the power and energy sold by Safe Harbor to Baltimore Company.

NOW, THEREFORE, THIS AGREEMENT WITNESSETH, that in consideration of the premises and of the mutual covenants and agreements herein contained, the parties hereto do each agree with the other as follows:

### ARTICLE 1

#### Effective Date and Duration of Agreement

1.1 This contract shall become effective on October 1, 1960 and shall continue in effect so long as Baltimore Company purchases power and energy from Safe Harbor, except it shall continue in effect with respect to facilities described in Section 2.1 (c) and (d) and with respect to that payment provided for in Section 5.1 (b) only so long as Baltimore Company supplies 25 cycle power and energy to The Pennsylvania Railroad Company at Conowingo or Perryville, Maryland.



## ARTICLE 2

### Transmission Facilities

2.1 Pennsylvania has available and shall operate and maintain in good operating condition for the transmission of power and energy sold by Safe Harbor to Baltimore Company and for other purposes:

(a) A 220 kv switching station adjacent to the Safe Harbor hydroelectric plant, commonly known as Manor 220 kv switching station., with connections therefrom to the Safe Harbor plant and to Pennsylvania's transmission system;

(b) Two single circuit, 220 kv transmission lines connecting Manor 220 kv switching station to similar transmission lines owned by Baltimore Company at the Pennsylvania-Maryland State Line;

(c) A 25 cycle, single phase, step-up transformer and switching station, commonly known as Conestoga substation, adjacent to the Safe Harbor hydroelectric plant; and

(d) A four circuit, single phase, 132 kv transmission line, commonly known as the Perryville line, connecting Conestoga substation with the similar transmission line of Baltimore Company at the Pennsylvania Maryland State Line.

2.2 Each of the parties hereto shall advise each of the other parties hereto before proceeding with any substantial changes, physical or otherwise, other than due to ordinary maintenance and replacements, that would affect the delivery of power and energy as provided for hereunder.

2.3 The parties hereto shall cooperate in scheduling the outages of their transmission facilities for inspection, maintenance, or other proper causes in such a manner as to permit the optimum utilization of Safe Harbor's capacity and energy resources.



### ARTICLE 3

#### Transmission of Power and Energy

3.1 Pennsylvania shall transmit all of the power and energy delivered by Safe Harbor to Pennsylvania for delivery to Baltimore Company or for Baltimore Company's account. Pennsylvania shall deliver such power and energy (less transmission losses):

(a) As 60 cycle, 3 phase at a nominal potential of 220 kv to Baltimore Company's 220 kv transmission facilities at the Pennsylvania-Maryland State Line;

(b) As 25 cycle, single phase at a nominal potential of 132 kv to Baltimore Company's 132 kv transmission facilities at the Pennsylvania-Maryland State Line; and

(c) Of such character and at such other points as may be agreed upon from time to time.

3.2 Pennsylvania shall transmit over its facilities described in Section 2.1 such power and energy from sources other than Safe Harbor as may be delivered by Baltimore Company to the Pennsylvania-Maryland State Line ends of the three lines described in Section 2.1 (b) and (d), respectively, for delivery to Baltimore Company at either one or both of the other of these same points or to the Safe Harbor plant, provided such use shall not adversely affect the performance of the obligations of Pennsylvania under Section 3.1 hereof.

3.3 Safe Harbor shall, so far as possible within the limits of good operating practices, permit the flow of power and energy and reactive kilovolt-amperes through its facilities between any of the several connections with adjacent transmission facilities of Pennsylvania.



3.4 Pennsylvania shall have the right to use its facilities herein described for purposes other than those herein provided for so long as such use shall not adversely affect the performance of its obligations provided for in this Article. If and when any such use made by Pennsylvania of its facilities herein described other than for delivery of power and energy to or from Baltimore Company or for Baltimore Company's account is substantial, an appropriate adjustment shall be made in the charges provided for in Section 5.1 hereof.

#### ARTICLE 4

##### Metering and Transmission Losses

4.1 Metering facilities for measurement of energy delivered to the facilities of Baltimore Company and of others for the account of Baltimore Company shall be as agreed upon by the parties hereto.

4.2 Procedure in respect to maintenance, testing, calibrating, correction, and registration records and precision tolerance of all metering equipment shall be in accordance with good practice and as may be agreed upon between the parties hereto from time to time.

4.3 Baltimore Company shall assume the actual losses for 60 cycle energy delivered by Pennsylvania hereunder applicable to transmission in the State of Pennsylvania between Safe Harbor and the Pennsylvania-Maryland State Line excluding step-up transformer losses at Safe Harbor. Baltimore Company shall also assume the actual losses for 25 cycle energy delivered by Pennsylvania hereunder applicable to



transmission in the State of Pennsylvania via circuits designated as P7 and P8 between Conestoga substation and the Pennsylvania-Maryland State Line, including step-up transformer losses at Conestoga substation.

## ARTICLE 5

### Transmission Charges and Payment

5.1 Baltimore Company shall pay Pennsylvania:

(a) For the delivery of power and energy as specified in Sections 3.1 (a) and 3.2 hereof, as related to the facilities described in Sections 2.1 (a) and (b), \$13,200 per month and

(b) For the delivery of power and energy as specified in Sections 3.1 (b) and 3.2 hereof, as related to the facilities described in Sections 2.1 (c) and (d), \$8,400 per month.

5.2 A monthly bill for the charges specified in Section 5.1 hereof for the delivery of power and energy shall be rendered to Baltimore Company by Pennsylvania on or about the twenty-fifth day of the calendar month for which the bill is rendered, and Baltimore Company shall pay to Pennsylvania the amount so billed within twenty (20) days of receipt thereof.

## ARTICLE 6

### Causes Beyond Control

6.1 Whenever Pennsylvania is prevented from delivering or Baltimore Company is prevented from receiving power and energy as herein provided for by reason of war, rebellion, civil disturbances, strike, serious epidemic, flood, ice, fire, explosion, breakdown, storm,

- 5 -

lightning, catastrophe, requirement or restriction of governmental authorities, or any other causes beyond the control of the parties hereto, whether in respect of their respective facilities or the facilities of others, the obligation of Pennsylvania to deliver power and energy hereunder or Baltimore Company's obligation to receive the same will cease to the extent that delivery is so prevented, until such time as such delivery can be resumed. Pennsylvania and Baltimore shall be prompt and diligent in the restoring of their respective facilities to service for such delivery.

6.2 Whenever transmission of power and energy by Pennsylvania to the facilities of Baltimore Company at the Pennsylvania-Maryland State Line by one or more of the transmission lines described in Section 2.1 (b) or 2.1 (d) is prevented for a continuous period exceeding forty-eight (48) hours in length by reason of any of the causes described in Section 6.1 relating to its facilities, a reasonable abatement of the charges provided for in Section 5.1 shall be made.

## ARTICLE 7

### Waiver of Rights

7.1 The failure of any party hereto to enforce from time to time a strict performance of any of the covenants and agreements herein contained, or the waiver from time to time of default on the part of any party hereto, shall not be construed as a waiver of any continued, continuing, or subsequent default, or defaults, nor impair the rights of the other parties hereto subsequently to require the strict performance of each and every covenant, agreement and understanding herein contained.





## ARTICLE 8

### Assignment

8.1 No party hereto shall, without the written consent of the others, assign or otherwise transfer this agreement but this agreement shall be binding upon and shall inure to the benefit of any successor corporation or corporations with, or into which, any of the parties hereto may hereafter become consolidated or merged, and to any successor corporation; or corporations to any of the parties hereto or to any corporation or corporations with, or into which, any of the parties hereto may have been consolidated or merged, created by, or arising out of, reorganization or receivership proceedings, or otherwise by law, and to any receiver, trustee in bankruptcy or other legally appointed assignee of the assets, property and business of any of the parties hereto, or of such successor corporation or corporations.

## ARTICLE 9

### Prior Agreements Superseded

9.1 This contract terminates and supersedes the contract between Pennsylvania Water & Power Company (to which Company Pennsylvania is successor by merger), Susquehanna Transmission Company of Maryland (to which Company Baltimore Company is successor by Articles of Transfer), Safe Harbor and Baltimore Company, made as of May 18, 1955, and the supplement thereto between Baltimore Company, Pennsylvania, Susquehanna Transmission Company of Maryland and Safe Harbor, made as of June 1, 1955.



IN WITNESS WHEREOF, the parties hereto have caused these presents to be duly executed by their respective officers, thereunto duly authorized and their respective corporate seals to be hereunto affixed as of the day and year first above written.

ATTEST: PENNSYLVANIA POWER & LIGHT COMPANY

\_\_\_\_\_ By \_\_\_\_\_  
President

ATTEST: SAFE HARBOR WATER POWER CORPORATION

\_\_\_\_\_ By \_\_\_\_\_  
President

ATTEST: BALTIMORE GAS AND ELECTRIC COMPANY

\_\_\_\_\_ By \_\_\_\_\_  
President



**PJM Service Agreement No. 3880**  
**PPL Electric Utilities Corporation, FERC Rate Schedule No. 23**  
**Effective Date: June 1, 1987**

**SUPPLEMENTAL AGREEMENT**

**between**

**Pennsylvania Power & Light Company,**

**Safe Harbor Water Power Corporation**

**And**

**Baltimore Gas and Electric Company**

**PJM Service Agreement No. 3880**  
**PPL Electric Utilities Corporation, FERC Rate Schedule No. 23**  
**Effective Date: June 1, 1987**

SUPPLEMENTAL AGREEMENT

Supplemental Agreement made this 13th day of March, 1989, by and among Pennsylvania Power & Light Company (PP&L) of Allentown, Pennsylvania, Safe Harbor Water Power Corporation (SHWP) of Conestoga, Pennsylvania, and Baltimore Gas and Electric Company (BG&E) of Baltimore, Maryland.

WHEREAS, the parties entered into a Transmission Contract on July 20, 1960; and

WHEREAS, PP&L owns and operates certain transmission facilities that are used, in part, for the transmission of BG&E's share of output from SHWP to BG&E's facilities at the Pennsylvania-Maryland State Line; and

WHEREAS, the Transmission Contract provides, in part, for transmission charges to be paid by BG&E to PP&L; and

WHEREAS, SHWP has completed an expansion program adding generators; and

WHEREAS, PP&L has made changes and improvements to its Manor 230 kV Substation to accommodate the increased output from SHWP and to increase reliability;

NOW, THEREFORE, in consideration of the premises contained herein, and intending to be legally bound, the signatories hereto agree as follows:

1. The Transmission Contract is hereby amended by increasing the monthly transmission charge (60 hertz) In ARTICLE 5, paragraph 5.1(a) from \$13,200 to \$18,195, effective June 1, 1987.
2. In all other respects, the Transmission Contract remains in full force and

effect.



IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Agreement to be executed by duly authorized officers as of the date first written above.

ATTEST: PENNSYLVANIA POWER & LIGHT COMPANY

\_\_\_\_\_/s/\_\_\_\_\_

Assistant Secretary

By: \_\_\_\_/s/\_\_\_\_\_

(signature)

Name: Grayson E. McNair

Title: Vice-President-System Power

ATTEST: SAFE HARBOR WATER POWER CORPORATION

\_\_\_\_\_/s/\_\_\_\_\_

Secretary

By: \_\_\_\_/s/\_\_\_\_\_

(signature)

Name: Donald B. Chubb

Title: President and Chief Executive Officer

ATTEST: BALTIMORE GAS AND ELECTRIC COMPANY

\_\_\_\_\_/s/\_\_\_\_\_

Assistant Secretary

By: \_\_\_\_/s/\_\_\_\_\_

(signature)

Name: J.W. Gore

Title: Vice-President-Electric Interconnection & Operations

**EXHIBIT E**

Original Service Agreement No. 3504  
Effective Date: January 7, 2013

(PJM Queue #Non-Queue 69)

**INTERCONNECTION SERVICE AGREEMENT**  
**Among**  
**PJM INTERCONNECTION, L.L.C.**  
**And**  
**SAFE HARBOR WATER POWER CORPORATION**  
**And**  
**PPL ELECTRIC UTILITIES CORPORATION**

Original Service Agreement No. 3504

**INTERCONNECTION SERVICE AGREEMENT**

**By and Among**

**PJM Interconnection, L.L.C.**

**And**

**Safe Harbor Water Power Corporation**

**And**

**PPL Electric Utilities Corporation**

**(PJM Queue Position #Non-Queue 69)**

- 1.0 **Parties.** This Interconnection Service Agreement (“ISA”) including the Specifications, Schedules and Appendices attached hereto and incorporated herein, is entered into by and between PJM Interconnection, L.L.C., the Regional Transmission Organization for the PJM Region (hereinafter “Transmission Provider” or “PJM”), Safe Harbor Water Power Corporation (“Interconnection Customer” or “Safe Harbor”) and PPL Electric Utilities Corporation (“Interconnected Transmission Owner” or “PPL EU”). All capitalized terms herein shall have the meanings set forth in the appended definitions of such terms as stated in Part I of the PJM Open Access Transmission Tariff (“Tariff”).
- 2.0 **Authority.** This ISA is entered into pursuant to Part VI of the Tariff. Interconnection Customer has requested an Interconnection Service Agreement under the Tariff, and Transmission Provider has determined that Interconnection Customer is eligible under the Tariff to obtain this ISA. The standard terms and conditions for interconnection as set forth in Appendix 2 to this ISA are hereby specifically incorporated as provisions of this ISA. Transmission Provider, Interconnected Transmission Owner and Interconnection Customer agree to and assume all of the rights and obligations of the Transmission Provider, Interconnected Transmission Owner and Interconnection Customer, respectively, as set forth in Appendix 2 to this ISA.
- 3.0 **Customer Facility Specifications.** Attached are Specifications for the Customer Facility that Interconnection Customer proposes to interconnect with the Transmission System. Interconnection Customer represents and warrants that, upon completion of construction of such facilities, it will own or control the Customer Facility identified in section 1.0 of the Specifications attached hereto and made a part hereof. In the event that Interconnection Customer will not own the Customer Facility, Interconnection Customer represents and warrants that it is authorized by the owner(s) thereof to enter into this ISA and to represent such control.
- 4.0 **Effective Date.** Subject to any necessary regulatory acceptance, this ISA shall become effective on the date it is executed by all Interconnection Parties, or, if the agreement is filed with FERC unexecuted, upon the date specified by FERC. This ISA shall terminate on such date as mutually agreed upon by the parties, unless earlier terminated in accordance with the terms set forth in Appendix 2 to this ISA. The term of the ISA shall be as provided in Section 1.3 of Appendix 2 to this ISA. Interconnection Service shall commence as provided in Section 1.2 of Appendix 2 to this ISA.

- 5.0 Security. In accord with Section 212.4 of the Tariff, Interconnection Customer shall provide the Transmission Provider (for the benefit of the Interconnected Transmission Owner) with a letter of credit from an agreed provider or other form of security reasonably acceptable to the Transmission Provider and that names the Transmission Provider as beneficiary ("Security") in the amount of \$0. This amount represents the sum of the estimated Costs, determined in accordance with Sections 212 and 217 of the Tariff, for which the Interconnection Customer will be responsible, less any Costs already paid by Interconnection Customer. Interconnection Customer acknowledges that its ultimate cost responsibility in accordance with Section 217 of the Tariff will be based upon the actual Costs of the facilities described in the Specifications, whether greater or lesser than the amount of the payment security provided under this section.

Should Interconnection Customer fail to provide security at the time the Interconnection Customer executes this ISA, or, if deferred, by the end of the 120-day period, this ISA shall be terminated.

- 6.0 Project Specific Milestones. In addition to the milestones stated in Section 212.5 of the Tariff, as applicable, during the term of this ISA, Interconnection Customer shall ensure that it meets each of the following development milestones:

- 6.1 Interconnection Customer shall install an RTU at the Interconnection Customer Facility by September 1, 2013.

Interconnection Customer shall demonstrate the occurrence of each of the foregoing milestones to Transmission Provider's reasonable satisfaction. Transmission Provider may reasonably extend any such milestone dates, in the event of delays that Interconnection Customer (i) did not cause and (ii) could not have remedied through the exercise of due diligence. The milestone dates stated in this ISA shall be deemed to be extended coextensively with any suspension of work initiated by Interconnection Customer in accordance with the Interconnection Construction Service Agreement.

- 7.0 Provision of Interconnection Service. Transmission Provider and Interconnected Transmission Owner agree to provide for the interconnection to the Transmission System in the PJM Region of Interconnection Customer's Customer Facility identified in the Specifications in accordance with Part IV and Part VI of the Tariff, the Operating Agreement of PJM Interconnection, L.L.C. ("Operating Agreement"), and this ISA, as they may be amended from time to time.

- 8.0 Assumption of Tariff Obligations. Interconnection Customer agrees to abide by all rules and procedures pertaining to generation and transmission in the PJM Region, including but not limited to the rules and procedures concerning the dispatch of generation or scheduling transmission set forth in the Tariff, the Operating Agreement and the PJM Manuals.

- 9.0 Facilities Study. Since the generation facility is already operational and interconnected to

the Transmission System, no Facilities Study or System Impact Study was required. In designing and constructing the Attachment Facilities, Local Upgrades and/or Network Upgrades described in the Specifications attached to this ISA, Transmission Provider, the Interconnected Transmission Owner(s), and any other subcontractors employed by Transmission Provider have had to, and shall have to, rely on information provided by Interconnection Customer and possibly by third parties and may not have control over the accuracy of such information. Accordingly, NEITHER TRANSMISSION PROVIDER, THE INTERCONNECTED TRANSMISSION OWNER(s), NOR ANY OTHER SUBCONTRACTORS EMPLOYED BY TRANSMISSION PROVIDER OR INTERCONNECTED TRANSMISSION OWNER MAKES ANY WARRANTIES, EXPRESS OR IMPLIED, WHETHER ARISING BY OPERATION OF LAW, COURSE OF PERFORMANCE OR DEALING, CUSTOM, USAGE IN THE TRADE OR PROFESSION, OR OTHERWISE, INCLUDING WITHOUT LIMITATION IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WITH REGARD TO THE ACCURACY, CONTENT, OR CONCLUSIONS OF THE FACILITIES STUDY OR THE SYSTEM IMPACT STUDY IF A FACILITIES STUDY WAS NOT REQUIRED OR OF THE ATTACHMENT FACILITIES, THE LOCAL UPGRADES AND/OR THE NETWORK UPGRADES, PROVIDED, HOWEVER, that Transmission Provider warrants that the Transmission Owner Interconnection Facilities and any Merchant Transmission Upgrades described in the Specifications will be designed and constructed (to the extent that Interconnected Transmission Owner is responsible for design and construction thereof) and operated in accordance with Good Utility Practice, as such term is defined in the Operating Agreement. Interconnection Customer acknowledges that it has not relied on any representations or warranties not specifically set forth herein and that no such representations or warranties have formed the basis of its bargain hereunder.

#### 10.0 Construction of Transmission Owner Interconnection Facilities

- 10.1. **Cost Responsibility.** Interconnection Customer shall be responsible for and shall pay upon demand all Costs associated with the interconnection of the Customer Facility as specified in the Tariff. These Costs may include, but are not limited to, an Attachment Facilities charge, a Local Upgrades charge, a Network Upgrades charge and other charges, as well as Costs of any Merchant Network Upgrades constructed on behalf of Interconnection Customer. A description of the facilities required and an estimate of the Costs of these facilities are included in Sections 3.0 and 4.0 of the Specifications to this ISA.
- 10.2. **Billing and Payments.** Transmission Provider shall bill the Interconnection Customer for the Costs associated with the facilities contemplated by this ISA, estimates of which are set forth in the Specifications to this ISA, and the Interconnection Customer shall pay such Costs, in accordance with Section 11 of Appendix 2 to this ISA and the applicable Interconnection Construction Service Agreement. Upon receipt of each of Interconnection Customer's payments of such bills, Transmission Provider shall reimburse the applicable Interconnected Transmission Owner. Pursuant to Section 212.4 of the Tariff, Interconnection

Customer requests that Transmission Provider provide a quarterly cost reconciliation:

\_\_\_\_\_ Yes

X  No

10.3. **Contract Option.** In the event that the Interconnection Customer and Interconnected Transmission Owner agree to utilize the Negotiated Contract Option provided by the Interconnection Construction Service Agreement to establish, subject to FERC acceptance, non-standard terms regarding cost responsibility, payment, billing and/or financing, the terms of Sections 10.1 and/or 10.2 of this Section 10.0 shall be superseded to the extent required to conform to such negotiated terms, as stated in a schedule attached to the parties' Interconnection Construction Service Agreement relating to interconnection of the Customer Facility.

10.4 In the event that the Interconnection Customer elects to construct some or all of the Transmission Owner Interconnection Facilities and/or of any Merchant Network Upgrades under the Option to Build of the Interconnection Construction Service Agreement, billing and payment for the Costs associated with the facilities contemplated by this ISA shall relate only to such portion of the Interconnection Facilities and/or any Merchant Network Upgrades as the Interconnected Transmission Owner is responsible for building.

#### 11.0 Interconnection Specifications

11.1 **Point of Interconnection.** The Point of Interconnection shall be as identified on the one-line diagram attached as Schedule B to this ISA.

11.2 **List and Ownership of Interconnection Facilities.** The Interconnection Facilities to be constructed and ownership of the components thereof are identified in Section 3.0 of the Specifications attached to this ISA.

11.2A **List and Ownership of Merchant Network Upgrades.** If applicable, Merchant Network Upgrades to be constructed and ownership of the components thereof are identified in Section 3.0 of the Specifications attached to this ISA.

11.3 **Ownership and Location of Metering Equipment.** The Metering Equipment to be constructed, the capability of the Metering Equipment to be constructed, and the ownership thereof, are identified on the attached Schedule C to this ISA.

11.4 **Applicable Technical Standards.** The Applicable Technical Requirements and Standards that apply to the Customer Facility and the Interconnection Facilities are identified in Schedule D to this ISA.

12.0 Power Factor Requirement.

The power factor requirement is as provided in Schedule F

13.0 Charges. In accordance with Sections 10 and 11 of Appendix 2 to this ISA, the Interconnection Customer shall pay to the Transmission Provider the charges applicable after Initial Operation, as set forth in Schedule E to this ISA. Promptly after receipt of such payments, the Transmission Provider shall forward such payments to the appropriate Interconnected Transmission Owner.

14.0 Third Party Beneficiaries. No third party beneficiary rights are created under this ISA, except, however, that, subject to modification of the payment terms stated in Section 10 of this ISA pursuant to the Negotiated Contract Option, payment obligations imposed on Interconnection Customer under this ISA are agreed and acknowledged to be for the benefit of the Interconnected Transmission Owner(s). Interconnection Customer expressly agrees that the Interconnected Transmission Owner(s) shall be entitled to take such legal recourse as it deems appropriate against Interconnection Customer for the payment of any Costs or charges authorized under this ISA or the Tariff with respect to Interconnection Service for which Interconnection Customer fails, in whole or in part, to pay as provided in this ISA, the Tariff and/or the Operating Agreement.

15.0 Waiver. No waiver by either party of one or more defaults by the other in performance of any of the provisions of this ISA shall operate or be construed as a waiver of any other or further default or defaults, whether of a like or different character.

16.0 Amendment. This ISA or any part thereof, may not be amended, modified, or waived other than by a written document signed by all parties hereto.

17.0 Construction With Other Parts Of The Tariff. This ISA shall not be construed as an application for service under Part II or Part III of the Tariff.

18.0 Notices. Any notice or request made by either party regarding this ISA shall be made, in accordance with the terms of Appendix 2 to this ISA, to the representatives of the other party and as applicable, to the Interconnected Transmission Owner(s), as indicated below:

Transmission Provider:

PJM Interconnection, L.L.C.  
955 Jefferson Avenue  
Valley Forge Corporate Center  
Norristown, PA 19403-2497

Interconnection Customer:

Safe Harbor Water Power Corporation  
1 Powerhouse Road



Conestoga, PA 17516-9651  
Attn: Supervisor of Operations  
Interconnected Transmission Owner:

PPL Electric Utilities Corporation (PPL EU)  
2 North Ninth Street  
Allentown, PA 18101-1170  
Attn: Transmission Regulatory Affairs Manager

- 19.0 Incorporation Of Other Documents. All portions of the Tariff and the Operating Agreement pertinent to the subject matter of this ISA and not otherwise made a part hereof are hereby incorporated herein and made a part hereof.
- 20.0 Addendum of Non-Standard Terms and Conditions for Interconnection Service. Subject to FERC approval, the parties agree that the terms and conditions set forth in Schedule F hereto are hereby incorporated herein by reference and be made a part of this ISA. In the event of any conflict between a provision of Schedule F that FERC has accepted and any provision of Appendix 2 to this ISA that relates to the same subject matter, the pertinent provision of Schedule F shall control.
- 21.0 Addendum of Interconnection Customer's Agreement to Conform with IRS Safe Harbor Provisions for Non-Taxable Status. To the extent required, in accordance with Section 24.1 of Appendix 2 to this ISA, Schedule G to this ISA shall set forth the Interconnection Customer's agreement to conform with the IRS safe harbor provisions for non-taxable status.
- 22.0 Addendum of Interconnection Requirements for a Wind Generation Facility. To the extent required, Schedule H to this ISA sets forth interconnection requirements for a wind generation facility and is hereby incorporated by reference and made a part of this ISA.
- 23.0 Infrastructure security of electric system equipment and operations and control hardware and software is essential to ensure day-to-day reliability and operational security. All Transmission Providers, Interconnected Transmission Owners, market participants, and Interconnection Customers interconnected with electric systems are to comply with the recommendations offered by the President's Critical Infrastructure Protection Board and best practice recommendations from the electric reliability authority. All public utilities are expected to meet basic standards for electric system infrastructure and operational security, including physical, operational, and cyber-security practices.

IN WITNESS WHEREOF, Transmission Provider, Interconnection Customer and Interconnected Transmission Owner have caused this ISA to be executed by their respective authorized officials.

(PJM Queue Position #Non-Queue 69)

Transmission Provider: PJM Interconnection, L.L.C.

By: /s/ Alan Elmy Manager, Interconnection Planning 1/7/13  
 Name Title Date

Printed name of signer: Alan Elmy

Interconnection Customer: **Safe Harbor Water Power Corporation**

By: /s/ Juan A. Kimble, P.E. President & CEO December 19, 2012  
 Name Title Date

Printed name of signer: Juan A. Kimble, P.E.

Interconnected Transmission Owner: **PPL Electric Utilities Corporation**

By: /s/ Dennis Urban Sr. Director 1/2/2013  
 Name Title Date

Printed name of signer: Dennis Urban

**SPECIFICATIONS FOR  
INTERCONNECTION SERVICE AGREEMENT  
By and Among  
PJM INTERCONNECTION, L.L.C.  
And  
SAFE HARBOR WATER POWER CORPORATION  
And  
PPL ELECTRIC UTILITIES CORPORATION  
(PJM Queue Position #Non-Queue 69)**

1.0 Description of generating unit(s) (the Customer Facility) to be interconnected with the Transmission System in the PJM Region:

a. Name of Customer Facility:

Safe Harbor Hydroelectric FERC Project No. 1025

b. Location of Customer Facility:

1 Powerhouse Road  
Conestoga, PA 17516-9651

c. Size in megawatts of Customer Facility:

For Generation Interconnection Customer:

Maximum Facility Output of 416.5 MW

- Unit 1 Maximum Facility Output 32.0 MW
- Unit 2 Maximum Facility Output 32.0 MW
- Unit 3 Maximum Facility Output 32.5 MW
- Unit 4 Maximum Facility Output 32.0 MW
- Unit 5 Maximum Facility Output 32.5 MW
- Unit 6 Maximum Facility Output 32.0 MW
- Unit 7 Maximum Facility Output 32.5 MW
- Unit 8 Maximum Facility Output 37.5 MW
- Unit 9 Maximum Facility Output 38.5 MW
- Unit 10 Maximum Facility Output 38.5 MW
- Unit 11 Maximum Facility Output 38.0 MW
- Unit 12 Maximum Facility Output 38.5 MW

d. Description of the equipment configuration:

The Customer Facility is a hydroelectric generating facility located on the Susquehanna River near Conestoga PA. The facility produces single phase 25

cycle electricity with two Kaplan turbine/generators and a frequency converter connected by cables in tunnels to PPL EU's Conestoga Substation. The facility also produces three phase 60 cycle electricity with five Kaplan, five mixed flow and two house unit turbine/generators connected by generator leads consisting of two spans at 69kV and two spans at 230kV to PPL EU's Manor Substation.

## 2.0 Rights

### 2.1 Capacity Interconnection Rights:

For Unit 1: Pursuant to and subject to the applicable terms of the Tariff, the Interconnection Customer shall have Capacity Interconnection Rights at the Point(s) of Interconnection specified in this Interconnection Service Agreement in the amount of 32.0 MW.

For Unit 2: Pursuant to and subject to the applicable terms of the Tariff, the Interconnection Customer shall have Capacity Interconnection Rights at the Point(s) of Interconnection specified in this Interconnection Service Agreement in the amount of 32.0 MW.

For Unit 3: Pursuant to and subject to the applicable terms of the Tariff, the Interconnection Customer shall have Capacity Interconnection Rights at the Point(s) of Interconnection specified in this Interconnection Service Agreement in the amount of 32.5 MW.

For Unit 4: Pursuant to and subject to the applicable terms of the Tariff, the Interconnection Customer shall have Capacity Interconnection Rights at the Point(s) of Interconnection specified in this Interconnection Service Agreement in the amount of 32.0 MW.

For Unit 5: Pursuant to and subject to the applicable terms of the Tariff, the Interconnection Customer shall have Capacity Interconnection Rights at the Point(s) of Interconnection specified in this Interconnection Service Agreement in the amount of 32.5 MW.

For Unit 6: Pursuant to and subject to the applicable terms of the Tariff, the Interconnection Customer shall have Capacity Interconnection Rights at the Point(s) of Interconnection specified in this Interconnection Service Agreement in the amount of 32.0 MW.

For Unit 7: Pursuant to and subject to the applicable terms of the Tariff, the Interconnection Customer shall have Capacity Interconnection Rights at the Point(s) of Interconnection specified in this Interconnection Service Agreement in the amount of 32.5 MW.

For Unit 8: Pursuant to and subject to the applicable terms of the Tariff, the

Interconnection Customer shall have Capacity Interconnection Rights at the Point(s) of Interconnection specified in this Interconnection Service Agreement in the amount of 37.5 MW.

For Unit 9: Pursuant to and subject to the applicable terms of the Tariff, the Interconnection Customer shall have Capacity Interconnection Rights at the Point(s) of Interconnection specified in this Interconnection Service Agreement in the amount of 38.5 MW.

For Unit 10: Pursuant to and subject to the applicable terms of the Tariff, the Interconnection Customer shall have Capacity Interconnection Rights at the Point(s) of Interconnection specified in this Interconnection Service Agreement in the amount of 38.5 MW.

For Unit 11: Pursuant to and subject to the applicable terms of the Tariff, the Interconnection Customer shall have Capacity Interconnection Rights at the Point(s) of Interconnection specified in this Interconnection Service Agreement in the amount of 38.0 MW.

For Unit 12: Pursuant to and subject to the applicable terms of the Tariff, the Interconnection Customer shall have Capacity Interconnection Rights at the Point(s) of Interconnection specified in this Interconnection Service Agreement in the amount of 38.5 MW.

2.1a To the extent that any portion of the Customer Facility described in section 1.0 is not a Capacity Resource with Capacity Interconnection Rights, such portion of the Customer Facility shall be an Energy Resource. PJM reserves the right to limit total injections to the Maximum Facility Output in the event reliability would be affected by output greater than such quantity.

2.3 Incremental Deliverability Rights:

Pursuant to Section 235 of the Tariff, Interconnection Customer shall have Incremental Deliverability Rights at each indicated Point of Interconnection in the following quantity(ies): None

2.4 Incremental Available Transfer Capability Revenue Rights:

Pursuant to Section 233 of the Tariff, Interconnection Customer shall have Incremental Available Transfer Capability Revenue Rights at each indicated Point of Interconnection in the following quantities: None

2.5 Incremental Auction Revenue Rights:

Pursuant to Section 231 of the Tariff, Interconnection Customer shall have

Incremental Auction Revenue Rights in the following quantities: None

2.6 Incremental Capacity Transfer Rights:

Pursuant to Section 234 of the Tariff, Interconnection Customer shall have Incremental Capacity Transfer Rights between the following associated source(s) and sink(s) in the indicated quantities: None

3.0 Construction Responsibility and Ownership of Interconnection Facilities

a. Interconnection Customer.

(1) Interconnection Customer shall construct and, unless otherwise indicated, shall own, the following Interconnection Facilities:

Safe Harbor will install a RTU as specified by PPL EU.

(2) In the event that, in accordance with the Interconnection Construction Service Agreement, Interconnection Customer has exercised the Option to Build, it is hereby permitted to build in accordance with and subject to the conditions and limitations set forth in that Section, the following portions (1) of the Transmission Owner Interconnection Facilities and/or (2) of any Merchant Network Upgrades which constitute or are part of the Customer Facility:

None

Ownership of the facilities built by Interconnection Customer pursuant to the Option to Build shall be as provided in the Interconnection Construction Service Agreement

b. Interconnected Transmission Owner

None

4.0 Subject to modification pursuant to the Negotiated Contract Option and/or the Option to Build under the Interconnection Construction Service Agreement, Interconnection Customer shall be subject to the estimated charges detailed below, which shall be billed and paid in accordance with Appendix 2, Section 11 of this ISA and the applicable Interconnection Construction Service Agreement.

4.1 Attachment Facilities Charge: \$0

4.2 Network Upgrades Charge: \$0

4.3 Local Upgrades Charge: \$0

4.4 Other Charges: \$0

4.5 Cost of Merchant Network Upgrades: \$0

4.6 Cost breakdown:

\$	0	Direct Labor
\$	0	Direct Material
\$	0	Indirect Labor
\$	0	Indirect Material
\$	0	Total

4.7 Security Amount Breakdown:

\$ 0 Estimated Cost of Non-Direct Connection Local Upgrades and/or  
Non-Direct Connection Network Upgrades

plus \$ 0 Estimated Cost of any Merchant Network Upgrades that  
Interconnected Transmission Owner is responsible for building

plus \$ 0 Estimated cost of the work (for the first three months) on the  
required Attachment Facilities, Direct Connection Local Upgrades, and Direct  
Connection Network Upgrades

plus \$ 0 Option to Build Security for Attachment Facilities, Direct  
Connection Local Upgrades, and Direct Connection Network Upgrades (including  
Cancellation Costs)

less \$ 0 Costs already paid by Interconnection Customer

\$ 0 Total Security required with ISA

**APPENDICES:**

- **APPENDIX 1 - DEFINITIONS**
- **APPENDIX 2 - STANDARD TERMS AND CONDITIONS FOR INTERCONNECTIONS**

**SCHEDULES:**

- **SCHEDULE A - CUSTOMER FACILITY LOCATION/SITE PLAN**
- **SCHEDULE B - SINGLE-LINE DIAGRAM**
- **SCHEDULE C - LIST OF METERING EQUIPMENT**
- **SCHEDULE D - APPLICABLE TECHNICAL REQUIREMENTS AND STANDARDS**
- **SCHEDULE E - SCHEDULE OF CHARGES**
- **SCHEDULE F - SCHEDULE OF NON-STANDARD TERMS & CONDITIONS**
- **SCHEDULE G - INTERCONNECTION CUSTOMER'S AGREEMENT TO CONFORM WITH IRS SAFE HARBOR PROVISIONS FOR NON-TAXABLE STATUS**
- **SCHEDULE H - INTERCONNECTION REQUIREMENTS FOR A WIND GENERATION FACILITY**



**APPENDIX 1**

**DEFINITIONS**

**From the PJM Tariff accepted for filing by the Commission  
as of the effective date of this agreement**

## **1. Definitions**

### **1.01 Abnormal Condition:**

Any condition on the Interconnection Facilities which, determined in accordance with Good Utility Practice, is: (i) outside normal operating parameters such that facilities are operating outside their normal ratings or that reasonable operating limits have been exceeded; and (ii) could reasonably be expected to materially and adversely affect the safe and reliable operation of the Interconnection Facilities; but which, in any case, could reasonably be expected to result in an Emergency Condition. Any condition or situation that results from lack of sufficient generating capacity to meet load requirements or that results solely from economic conditions shall not, standing alone, constitute an Abnormal Condition.

### **1.0A Affected System:**

An electric system other than the Transmission Provider's Transmission System that may be affected by a proposed interconnection or on which a proposed interconnection or addition of facilities or upgrades may require modifications or upgrades to the Transmission System.

#### **1.0A.01 Affiliate:**

With respect to a corporation, partnership or other entity, each such other corporation, partnership or other entity that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such corporation, partnership or other entity.

### **1.0B Affected System Operator:**

An entity that operates an Affected System or, if the Affected System is under the operational control of an independent system operator or a regional transmission organization, such independent entity.

### **1.1 Ancillary Services:**

Those services that are necessary to support the transmission of capacity and energy from resources to loads while maintaining reliable operation of the Transmission Provider's Transmission System in accordance with Good Utility Practice.

### **1.2 Annual Transmission Costs:**

The total annual cost of the Transmission System for purposes of Network Integration Transmission Service shall be the amount specified in Attachment H for each Zone until amended by the applicable Transmission Owner or modified by the Commission.

#### **1.2.01 Applicable Laws and Regulations:**

All duly promulgated applicable federal, state and local laws, regulations, rules, ordinances,

codes, decrees, judgments, directives, or judicial or administrative orders, permits and other duly authorized actions of any Governmental Authority having jurisdiction over the relevant parties, their respective facilities, and/or the respective services they provide.

**1.2A Applicable Regional Entity:**

The Regional Entity for the region in which a Network Customer, Transmission Customer, Interconnection Customer, or Transmission Owner operates.

**1.2B Applicable Standards:**

The requirements and guidelines of NERC, the Applicable Regional Entity, and the Control Area in which the Customer Facility is electrically located; the PJM Manuals; and Applicable Technical Requirements and Standards.

**1.2C Applicable Technical Requirements and Standards:**

Those certain technical requirements and standards applicable to interconnections of generation and/or transmission facilities with the facilities of an Interconnected Transmission Owner or, as the case may be and to the extent applicable, of an Electric Distributor (as defined in Section 1.8 of the Operating Agreement), as published by Transmission Provider in a PJM Manual provided, however, that, with respect to any generation facilities with maximum generating capacity of 2 MW or less for which the Interconnection Customer executes a Construction Service Agreement or Interconnection Service Agreement on or after March 19, 2005, "Applicable Technical Requirements and Standards" shall refer to the "PJM Small Generator Interconnection Applicable Technical Requirements and Standards." All Applicable Technical Requirements and Standards shall be publicly available through postings on Transmission Provider's internet website.

**1.3 Application:**

A request by an Eligible Customer for transmission service pursuant to the provisions of the Tariff.

**1.3A Attachment Facilities:**

The facilities necessary to physically connect a Customer Facility to the Transmission System or interconnected distribution facilities.

**1.3AA Attachment H:**

Attachment H shall refer collectively to the Attachments to the PJM Tariff with the prefix "H-" that set forth, among other things, the Annual Transmission Rates for Network Integration Transmission Service in the PJM Zones.

**1.3B Behind The Meter Generation:**

Behind The Meter Generation refers to a generation unit that delivers energy to load without using the Transmission System or any distribution facilities (unless the entity that owns or leases the distribution facilities has consented to such use of the distribution facilities and such consent has been demonstrated to the satisfaction of the Office of the Interconnection); provided, however, that Behind The Meter Generation does not include (i) at any time, any portion of such generating unit's capacity that is designated as a Generation Capacity Resource; or (ii) in an hour, any portion of the output of such generating unit[s] that is sold to another entity for consumption at another electrical location or into the PJM Interchange Energy Market.

**1.3BB Black Start Service:**

Black Start Service is the capability of generating units to start without an outside electrical supply or the demonstrated ability of a generating unit with a high operating factor (subject to Transmission Provider concurrence) to automatically remain operating at reduced levels when disconnected from the grid.

**1.3BB.01 Breach:**

The failure of a party to perform or observe any material term or condition of Part IV or Part VI of the Tariff, or any agreement entered into thereunder as described in the relevant provisions of such agreement.

**1.3BB.02 Breaching Party:**

A party that is in Breach of Part IV or Part VI and/or an agreement entered into thereunder.

**1.3BB.03 Cancellation Costs:**

The Costs and liabilities incurred in connection with: (a) cancellation of supplier and contractor written orders and agreements entered into to design, construct and install Attachment Facilities, Direct Assignment Facilities and/or Customer-Funded Upgrades, and/or (b) completion of some or all of the required Attachment Facilities, Direct Assignment Facilities and/or Customer-Funded Upgrades, or specific unfinished portions and/or removal of any or all of such facilities which have been installed, to the extent required for the Transmission Provider and/or Transmission Owner(s) to perform their respective obligations under Part IV and/or Part VI of the Tariff.

**1.3C Capacity Interconnection Rights:**

The rights to input generation as a Generation Capacity Resource into the Transmission System at the Point of Interconnection where the generating facilities connect to the Transmission System.

**1.3D Capacity Resource:**

Shall have the meaning provided in the Reliability Assurance Agreement.

**1.3E Capacity Transmission Injection Rights:**

The rights to schedule energy and capacity deliveries at a Point of Interconnection (as defined in Section 1.33A) of a Merchant Transmission Facility with the Transmission System. Capacity Transmission Injection Rights may be awarded only to a Merchant D.C. Transmission Facility and/or Controllable A.C. Merchant Transmission Facilities that connects the Transmission System to another control area. Deliveries scheduled using Capacity Transmission Injection Rights have rights similar to those under Firm Point-to-Point Transmission Service or, if coupled with a generating unit external to the PJM Region that satisfies all applicable criteria specified in the PJM Manuals, similar to Capacity Interconnection Rights.

**1.3F Commencement Date:**

The date on which Interconnection Service commences in accordance with an Interconnection Service Agreement.

**1.4 Commission:**

The Federal Energy Regulatory Commission.

**1.5 Completed Application:**

An Application that satisfies all of the information and other requirements of the Tariff, including any required deposit.

**1.5.01 Confidential Information:**

Any confidential, proprietary, or trade secret information of a plan, specification, pattern, procedure, design, device, list, concept, policy, or compilation relating to the present or planned business of a New Service Customer, Transmission Owner, or other Interconnection Party or Construction Party, which is designated as confidential by the party supplying the information, whether conveyed verbally, electronically, in writing, through inspection, or otherwise, and shall include, without limitation, all information relating to the producing party's technology, research and development, business affairs and pricing, and any information supplied by any New Service Customer, Transmission Owner, or other Interconnection Party or Construction Party to another such party prior to the execution of an Interconnection Service Agreement or a Construction Service Agreement.

**1.5A Consolidated Transmission Owners Agreement:**

The certain Consolidated Transmission Owners Agreement dated as of December 15, 2005, by and among the Transmission Owners and by and between the Transmission Owners and PJM Interconnection, L.L.C.

**1.5B Constructing Entity:**

Either the Transmission Owner or the New Services Customer, depending on which entity has the construction responsibility pursuant to Part VI and the applicable Construction Service Agreement; this term shall also be used to refer to an Interconnection Customer with respect to the construction of the Customer Interconnection Facilities.

**1.5C Construction Party:**

A party to a Construction Service Agreement. "Construction Parties" shall mean all of the Parties to a Construction Service Agreement.

**1.5D Construction Service Agreement:**

Either an Interconnection Construction Service Agreement or an Upgrade Construction Service Agreement.

**1.6 Control Area:**

An electric power system or combination of electric power systems to which a common automatic generation control scheme is applied in order to:

(1) match, at all times, the power output of the generators within the electric power system(s) and capacity and energy purchased from entities outside the electric power system(s), with the load within the electric power system(s);

(2) maintain scheduled interchange with other Control Areas, within the limits of Good Utility Practice;

(3) maintain the frequency of the electric power system(s) within reasonable limits in accordance with Good Utility Practice; and

(4) provide sufficient generating capacity to maintain operating reserves in accordance with Good Utility Practice.

**1.6A Control Zone:**

Shall have the meaning given in the Operating Agreement.

**1.6B Controllable A.C. Merchant Transmission Facilities:**

Transmission facilities that (1) employ technology which Transmission Provider reviews and verifies will permit control of the amount and/or direction of power flow on such facilities to such extent as to effectively enable the controllable facilities to be operated as if they were direct current transmission facilities, and (2) that are interconnected with the Transmission System pursuant to Part IV and Part VI of the Tariff.

**1.6C Costs:**

As used in Part IV, Part VI and related attachments to the Tariff, costs and expenses, as estimated or calculated, as applicable, including, but not limited to, capital expenditures, if applicable, and overhead, return, and the costs of financing and taxes and any Incidental Expenses.

**1.6D Counterparty:**

PJM Settlement as the contracting party, in its name and own right and not as an agent, to an agreement or transaction with a market participant or other customer.

**1.7 Curtailment:**

A reduction in firm or non-firm transmission service in response to a transfer capability shortage as a result of system reliability conditions.

**1.7A Customer Facility:**

Generation facilities or Merchant Transmission Facilities interconnected with or added to the Transmission System pursuant to an Interconnection Request under Subparts A of Part IV of the Tariff.

**1.7A.01 Customer-Funded Upgrade:**

Any Network Upgrade, Local Upgrade, or Merchant Network Upgrade for which cost responsibility (i) is imposed on an Interconnection Customer or an Eligible Customer pursuant to Section 217 of the Tariff, or (ii) is voluntarily undertaken by a market participant in fulfillment of an Upgrade Request pursuant to Section 7.8 of Schedule 1 of the Operating Agreement. No Network Upgrade, Local Upgrade or Merchant Network Upgrade or other transmission expansion or enhancement shall be a Customer-Funded Upgrade if and to the extent that the costs thereof are included in the rate base of a public utility on which a regulated return is earned.

**1.7A.02 Customer Interconnection Facilities:**

All facilities and equipment owned and/or controlled, operated and maintained by Interconnection Customer on Interconnection Customer's side of the Point of Interconnection identified in the appropriate appendices to the Interconnection Service Agreement and to the Interconnection Construction Service Agreement, including any modifications, additions, or upgrades made to such facilities and equipment, that are necessary to physically and electrically interconnect the Customer Facility with the Transmission System.

**1.7B Daily Capacity Deficiency Rate:**

Daily Capacity Deficiency Rate is as defined in Schedule 11 of the Reliability Assurance Agreement.

**1.7C Deactivation:**

The retirement or mothballing of a generating unit governed by Part V of this Tariff.

**1.7D Deactivation Avoidable Cost Credit:**

The credit paid to Generation Owners pursuant to section 114 of this Tariff.

**1.7E Deactivation Avoidable Cost Rate:**

The formula rate established pursuant to section 115 of this Tariff.

**1.7F Deactivation Date:**

The date a generating unit within the PJM Region is either retired or mothballed and ceases to operate.

**1.7G Default:**

As used in the Interconnection Service Agreement and Construction Service Agreement, the failure of a Breaching Party to cure its Breach in accordance with the applicable provisions of an Interconnection Service Agreement or Construction Service Agreement.

**1.8 Delivering Party:**

The entity supplying capacity and energy to be transmitted at Point(s) of Receipt.

**1.9 Designated Agent:**

Any entity that performs actions or functions on behalf of the Transmission Provider, a Transmission Owner, an Eligible Customer, or the Transmission Customer required under the Tariff.

**1.10 Direct Assignment Facilities:**

Facilities or portions of facilities that are constructed for the sole use/benefit of a particular Transmission Customer requesting service under the Tariff. Direct Assignment Facilities shall be specified in the Service Agreement that governs service to the Transmission Customer and shall be subject to Commission approval.

**1.10A [RESERVED]**

**1.10B Economic Minimum:**

The lowest incremental MW output level a unit can achieve while following economic dispatch.

**1.11 Eligible Customer:**



(i) Any electric utility (including any Transmission Owner and any power marketer), Federal power marketing agency, or any person generating electric energy for sale for resale is an Eligible Customer under the Tariff. Electric energy sold or produced by such entity may be electric energy produced in the United States, Canada or Mexico. However, with respect to transmission service that the Commission is prohibited from ordering by Section 212(h) of the Federal Power Act, such entity is eligible only if the service is provided pursuant to a state requirement that the Transmission Provider or Transmission Owner offer the unbundled transmission service, or pursuant to a voluntary offer of such service by a Transmission Owner.

(ii) Any retail customer taking unbundled transmission service pursuant to a state requirement that the Transmission Provider or a Transmission Owner offer the transmission service, or pursuant to a voluntary offer of such service by a Transmission Owner, is an Eligible Customer under the Tariff. As used in Part VI, Eligible Customer shall mean only those Eligible Customers that have submitted a Completed Application.

**1.11.01 Emergency Condition:**

A condition or situation (i) that in the judgment of any Interconnection Party is imminently likely to endanger life or property; or (ii) that in the judgment of the Interconnected Transmission Owner or Transmission Provider is imminently likely (as determined in a non-discriminatory manner) to cause a material adverse effect on the security of, or damage to, the Transmission System, the Interconnection Facilities, or the transmission systems or distribution systems to which the Transmission System is directly or indirectly connected; or (iii) that in the judgment of Interconnection Customer is imminently likely (as determined in a non-discriminatory manner) to cause damage to the Customer Facility or to the Customer Interconnection Facilities. System restoration and black start shall be considered Emergency Conditions, provided that a Generation Interconnection Customer is not obligated by an Interconnection Service Agreement to possess black start capability. Any condition or situation that results from lack of sufficient generating capacity to meet load requirements or that results solely from economic conditions shall not constitute an Emergency Condition, unless one or more of the enumerated conditions or situations identified in this definition also exists.

**1.11A Energy Resource:**

A generating facility that is not a Capacity Resource.

**1.11A.01 Energy Settlement Area:**

The bus or distribution of busses that represents the physical location of Network Load and by which the obligations of the Network Customer to PJM are settled.

**1.11B Energy Transmission Injection Rights:**

The rights to schedule energy deliveries at a specified point on the Transmission System. Energy Transmission Injection Rights may be awarded only to a Merchant D.C. Transmission Facility

that connects the Transmission System to another control area. Deliveries scheduled using Energy Transmission Injection Rights have rights similar to those under Non-Firm Point-to-Point Transmission Service.

**1.11C Environmental Laws:**

Applicable Laws or Regulations relating to pollution or protection of the environment, natural resources or human health and safety.

**1.12 Facilities Study:**

An engineering study conducted by the Transmission Provider (in coordination with the affected Transmission Owner(s)) to determine the required modifications to the Transmission Provider's Transmission System, including the cost and scheduled completion date for such modifications, that will be required to provide the requested transmission service or to accommodate an Interconnection Request or Upgrade Request. As used in the Interconnection Service Agreement or Construction Service Agreement, Facilities Study shall mean that certain Facilities Study conducted by Transmission Provider (or at its direction) to determine the design and specification of the Interconnection Facilities necessary to accommodate the New Service Customer's New Service Request in accordance with Section 207 of Part VI of the Tariff.

**1.12A Federal Power Act:**

The Federal Power Act, as amended, 16 U.S.C. §§ 791a, et seq.

**1.12B FERC:**

The Federal Energy Regulatory Commission or its successor.

**1.13 Firm Point-To-Point Transmission Service:**

Transmission Service under this Tariff that is reserved and/or scheduled between specified Points of Receipt and Delivery pursuant to Part II of this Tariff.

**1.13A Firm Transmission Withdrawal Rights:**

The rights to schedule energy and capacity withdrawals from a Point of Interconnection (as defined in Section 1.33A) of a Merchant Transmission Facility with the Transmission System. Firm Transmission Withdrawal Rights may be awarded only to a Merchant D.C. Transmission Facility that connects the Transmission System with another control area. Withdrawals scheduled using Firm Transmission Withdrawal Rights have rights similar to those under Firm Point-to-Point Transmission Service.

**1.13A.01 Force Majeure:**

Any cause beyond the control of the affected Interconnection Party or Construction Party,

including but not restricted to, acts of God, flood, drought, earthquake, storm, fire, lightning, epidemic, war, riot, civil disturbance or disobedience, labor dispute, labor or material shortage, sabotage, acts of public enemy, explosions, orders, regulations or restrictions imposed by governmental, military, or lawfully established civilian authorities, which, in any of the foregoing cases, by exercise of due diligence such party could not reasonably have been expected to avoid, and which, by the exercise of due diligence, it has been unable to overcome. Force Majeure does not include (i) a failure of performance that is due to an affected party's own negligence or intentional wrongdoing; (ii) any removable or remediable causes (other than settlement of a strike or labor dispute) which an affected party fails to remove or remedy within a reasonable time; or (iii) economic hardship of an affected party.

**1.13A.02 Generation Capacity Resource:**

"Generation Capacity Resource" shall have the meaning specified in the Reliability Assurance Agreement.

**1.13B Generation Interconnection Customer:**

An entity that submits an Interconnection Request to interconnect a new generation facility or to increase the capacity of an existing generation facility interconnected with the Transmission System in the PJM Region.

**1.13C Generation Interconnection Facilities Study:**

A Facilities Study related to a Generation Interconnection Request.

**1.13D Generation Interconnection Feasibility Study:**

A study conducted by the Transmission Provider (in coordination with the affected Transmission Owner(s)) in accordance with Section 36.2 of this Tariff.

**1.13E Generation Interconnection Request:**

A request by a Generation Interconnection Customer pursuant to Subpart A of Part IV of the Tariff to interconnect a generating unit with the Transmission System or to increase the capacity of a generating unit interconnected with the Transmission System in the PJM Region.

**1.13F Generation Owner:**

An entity that owns or otherwise controls and operates one or more operating generating units in the PJM Region.

**1.14 Good Utility Practice:**

Any of the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry during the relevant time period, or any of the practices, methods and acts

which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in the region; including those practices required by Federal Power Act Section 215(a)(4).

**1.14.01 Governmental Authority:**

Any federal, state, local or other governmental, regulatory or administrative agency, court, commission, department, board, or other governmental subdivision, legislature, rulemaking board, tribunal, arbitrating body, or other governmental authority having jurisdiction over any Interconnection Party or Construction Party or regarding any matter relating to an Interconnection Service Agreement or Construction Service Agreement, as applicable.

**1.14.02 Hazardous Substances:**

Any chemicals, materials or substances defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "hazardous constituents," "restricted hazardous materials," "extremely hazardous substances," "toxic substances," "radioactive substances," "contaminants," "pollutants," "toxic pollutants" or words of similar meaning and regulatory effect under any applicable Environmental Law, or any other chemical, material or substance, exposure to which is prohibited, limited or regulated by any applicable Environmental Law.

**1.14A IDR Transfer Agreement:**

An agreement to transfer, subject to the terms of Section 49B of the Tariff, Incremental Deliverability Rights to a party for the purpose of eliminating or reducing the need for Local or Network Upgrades that would otherwise have been the responsibility of the party receiving such rights.

**1.14A.01 Incidental Expenses:**

Shall mean those expenses incidental to the performance of construction pursuant to an Interconnection Construction Service Agreement, including, but not limited to, the expense of temporary construction power, telecommunications charges, Interconnected Transmission Owner expenses associated with, but not limited to, document preparation, design review, installation, monitoring, and construction-related operations and maintenance for the Customer Facility and for the Interconnection Facilities.

**1.14B Incremental Auction Revenue Rights:**

The additional Auction Revenue Rights (as defined in Section 1.3.1A of Schedule 1 of the Operating Agreement), not previously feasible, created by the addition of Incremental Rights-Eligible Required Transmission Enhancements, Merchant Transmission Facilities, or of

one or more Customer-Funded Upgrades.

**1.14B.01 Incremental Rights-Eligible Required Transmission Enhancements:**

Regional Facilities and Necessary Lower Voltage Facilities or Lower Voltage Facilities (as defined in Schedule 12 of the Tariff) and meet one of the following criteria: (1) cost responsibility is assigned to non-contiguous Zones that are not directly electrically connected; or (2) cost responsibility is assigned to Merchant Transmission Providers that are Responsible Customers.

**1.14C Incremental Available Transfer Capability Revenue Rights:**

The rights to revenues that are derived from incremental Available Transfer Capability created by the addition of Merchant Transmission Facilities or of one or more Customer-Funded Upgrades.

**1.14D Incremental Deliverability Rights (IDRs):**

The rights to the incremental ability, resulting from the addition of Merchant Transmission Facilities, to inject energy and capacity at a point on the Transmission System, such that the injection satisfies the deliverability requirements of a Capacity Resource. Incremental Deliverability Rights may be obtained by a generator or a Generation Interconnection Customer, pursuant to an IDR Transfer Agreement, to satisfy, in part, the deliverability requirements necessary to obtain Capacity Interconnection Rights.

**1.14Da Initial Operation:**

The commencement of operation of the Customer Facility and Customer Interconnection Facilities after satisfaction of the conditions of Section 1.4 of Appendix 2 of an Interconnection Service Agreement.

**1.14Db Initial Study:**

A study of a Completed Application conducted by the Transmission Provider (in coordination with the affected Transmission Owner(s)) in accordance with Section 19 or Section 32 of the Tariff.

**1.14Dc Interconnected Entity:**

Either the Interconnection Customer or the Interconnected Transmission Owner; Interconnected Entities shall mean both of them.

**1.14D.01 Interconnected Transmission Owner:**

The Transmission Owner to whose transmission facilities or distribution facilities Customer Interconnection Facilities are, or as the case may be, a Customer Facility is, being directly connected. When used in an Interconnection Construction Service Agreement, the term may refer to a Transmission Owner whose facilities must be upgraded pursuant to the Facilities Study, but

whose facilities are not directly interconnected with those of the Interconnection Customer.

**1.14D.02 Interconnection Construction Service Agreement:**

The agreement entered into by an Interconnection Customer, Interconnected Transmission Owner and the Transmission Provider pursuant to Subpart B of Part VI of the Tariff and in the form set forth in Attachment P of the Tariff, relating to construction of Attachment Facilities, Network Upgrades, and/or Local Upgrades and coordination of the construction and interconnection of an associated Customer Facility. A separate Interconnection Construction Service Agreement will be executed with each Transmission Owner that is responsible for construction of any Attachment Facilities, Network Upgrades, or Local Upgrades associated with interconnection of a Customer Facility.

**1.14E Interconnection Customer:**

A Generation Interconnection Customer and/or a Transmission Interconnection Customer.

**1.14F Interconnection Facilities:**

The Transmission Owner Interconnection Facilities and the Customer Interconnection Facilities.

**1.14G Interconnection Feasibility Study:**

Either a Generation Interconnection Feasibility Study or Transmission Interconnection Feasibility Study.

**1.14G.01 Interconnection Party:**

Transmission Provider, Interconnection Customer, or the Interconnected Transmission Owner. Interconnection Parties shall mean all of them.

**1.14H Interconnection Request:**

A Generation Interconnection Request, a Transmission Interconnection Request and/or an IDR Transfer Agreement.

**1.14H.01 Interconnection Service:**

The physical and electrical interconnection of the Customer Facility with the Transmission System pursuant to the terms of Part IV and Part VI and the Interconnection Service Agreement entered into pursuant thereto by Interconnection Customer, the Interconnected Transmission Owner and Transmission Provider.

**1.14I Interconnection Service Agreement:**

An agreement among the Transmission Provider, an Interconnection Customer and an

Interconnected Transmission Owner regarding interconnection under Part IV and Part VI of the Tariff.

**1.14J Interconnection Studies:**

The Interconnection Feasibility Study, the System Impact Study, and the Facilities Study described in Part IV and Part VI of the Tariff.

**1.15 Interruption:**

A reduction in non-firm transmission service due to economic reasons pursuant to Section 14.7.

**1.15A List of Approved Contractors:**

A list developed by each Transmission Owner and published in a PJM Manual of (a) contractors that the Transmission Owner considers to be qualified to install or construct new facilities and/or upgrades or modifications to existing facilities on the Transmission Owner's system, provided that such contractors may include, but need not be limited to, contractors that, in addition to providing construction services, also provide design and/or other construction-related services, and (b) manufacturers or vendors of major transmission-related equipment (e.g., high-voltage transformers, transmission line, circuit breakers) whose products the Transmission Owner considers acceptable for installation and use on its system.

**1.16 Load Ratio Share:**

Ratio of a Transmission Customer's Network Load to the Transmission Provider's total load.

**1.17 Load Shedding:**

The systematic reduction of system demand by temporarily decreasing load in response to transmission system or area capacity shortages, system instability, or voltage control considerations under Part II or Part III of the Tariff.

**1.17A Local Upgrades:**

Modifications or additions of facilities to abate any local thermal loading, voltage, short circuit, stability or similar engineering problem caused by the interconnection and delivery of generation to the Transmission System. Local Upgrades shall include:

(i) Direct Connection Local Upgrades which are Local Upgrades that only serve the Customer Interconnection Facility and have no impact or potential impact on the Transmission System until the final tie-in is complete; and

(ii) Non-Direct Connection Local Upgrades which are parallel flow Local Upgrades that are not Direct Connection Local Upgrades.

**1.18 Long-Term Firm Point-To-Point Transmission Service:**

Firm Point-To-Point Transmission Service under Part II of the Tariff with a term of one year or more.

**1.18A [RESERVED]****1.18A.01 [RESERVED]****1.18A.02 Material Modification:**

Any modification to an Interconnection Request that has a material adverse effect on the cost or timing of Interconnection Studies related to, or any Network Upgrades or Local Upgrades needed to accommodate, any Interconnection Request with a later Queue Position.

**1.18A.03 Maximum Facility Output:**

The maximum (not nominal) net electrical power output in megawatts, specified in the Interconnection Service Agreement, after supply of any parasitic or host facility loads, that a Generation Interconnection Customer's Customer Facility is expected to produce, provided that the specified Maximum Facility Output shall not exceed the output of the proposed Customer Facility that Transmission Provider utilized in the System Impact Study.

**1.18B Merchant A.C. Transmission Facilities:**

Merchant Transmission Facilities that are alternating current (A.C.) transmission facilities, other than those that are Controllable A.C. Merchant Transmission Facilities.

**1.18C Merchant D.C. Transmission Facilities:**

Direct current (D.C.) transmission facilities that are interconnected with the Transmission System pursuant to Part IV and Part VI of the Tariff.

**1.18D Merchant Network Upgrades:**

Merchant A.C. Transmission Facilities that are additions to, or modifications or replacements of, physical facilities of the Interconnected Transmission Owner that, on the date of the pertinent Transmission Interconnection Customer's Interconnection Request, are part of the Transmission System or are included in the Regional Transmission Expansion Plan.

**1.18E Merchant Transmission Facilities:**

A.C. or D.C. transmission facilities that are interconnected with or added to the Transmission System pursuant to Part IV and Part VI of the Tariff and that are so identified on Attachment T to the Tariff, provided, however, that Merchant Transmission Facilities shall not include (i) any Customer Interconnection Facilities, (ii) any physical facilities of the Transmission System that



were in existence on or before March 20, 2003 ; (iii) any expansions or enhancements of the Transmission System that are not identified as Merchant Transmission Facilities in the Regional Transmission Expansion Plan and Attachment T to the Tariff, or (iv) any transmission facilities that are included in the rate base of a public utility and on which a regulated return is earned.

**1.18F Merchant Transmission Provider:**

An Interconnection Customer that (1) owns, controls, or controls the rights to use the transmission capability of, Merchant D.C. Transmission Facilities and/or Controllable A.C. Merchant Transmission Facilities that connect the Transmission System with another control area, (2) has elected to receive Transmission Injection Rights and Transmission Withdrawal Rights associated with such facility pursuant to Section 36 of the Tariff, and (3) makes (or will make) the transmission capability of such facilities available for use by third parties under terms and conditions approved by the Commission and stated in the Tariff, consistent with Section 38 below.

**1.18G Metering Equipment:**

All metering equipment installed at the metering points designated in the appropriate appendix to an Interconnection Service Agreement.

**1.19 Native Load Customers:**

The wholesale and retail power customers of a Transmission Owner on whose behalf the Transmission Owner, by statute, franchise, regulatory requirement, or contract, has undertaken an obligation to construct and operate the Transmission Owner's system to meet the reliable electric needs of such customers.

**1.19A NERC:**

The North American Electric Reliability Council or any successor thereto.

**1.19B Neutral Party:**

Shall have the meaning provided in Section 9.3(v).

**1.20 Network Customer:**

An entity receiving transmission service pursuant to the terms of the Transmission Provider's Network Integration Transmission Service under Part III of the Tariff.

**1.21 Network Integration Transmission Service:**

The transmission service provided under Part III of the Tariff.

**1.22 Network Load:**

The load that a Network Customer designates for Network Integration Transmission Service under Part III of the Tariff. The Network Customer's Network Load shall include all load (including losses) served by the output of any Network Resources designated by the Network Customer. A Network Customer may elect to designate less than its total load as Network Load but may not designate only part of the load at a discrete Point of Delivery. Where an Eligible Customer has elected not to designate a particular load at discrete points of delivery as Network Load, the Eligible Customer is responsible for making separate arrangements under Part II of the Tariff for any Point-To-Point Transmission Service that may be necessary for such non-designated load.

#### **1.23 Network Operating Agreement:**

An executed agreement that contains the terms and conditions under which the Network Customer shall operate its facilities and the technical and operational matters associated with the implementation of Network Integration Transmission Service under Part III of the Tariff.

#### **1.24 Network Operating Committee:**

A group made up of representatives from the Network Customer(s) and the Transmission Provider established to coordinate operating criteria and other technical considerations required for implementation of Network Integration Transmission Service under Part III of this Tariff.

#### **1.25 Network Resource:**

Any designated generating resource owned, purchased, or leased by a Network Customer under the Network Integration Transmission Service Tariff. Network Resources do not include any resource, or any portion thereof, that is committed for sale to third parties or otherwise cannot be called upon to meet the Network Customer's Network Load on a non-interruptible basis, except for purposes of fulfilling obligations under a reserve sharing program.

#### **1.26 Network Upgrades:**

Modifications or additions to transmission-related facilities that are integrated with and support the Transmission Provider's overall Transmission System for the general benefit of all users of such Transmission System. Network Upgrades shall include:

(i) **Direct Connection Network Upgrades** which are Network Upgrades that only serve the Customer Interconnection Facility and have no impact or potential impact on the Transmission System until the final tie-in is complete; and

(ii) **Non-Direct Connection Network Upgrades** which are parallel flow Network Upgrades that are not Direct Connection Network Upgrades.

#### **1.26A New PJM Zone(s):**

The Zone included in this Tariff, along with applicable Schedules and Attachments, for Commonwealth Edison Company, The Dayton Power and Light Company and the AEP East Operating Companies (Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company and Wheeling Power Company).

**1.26B New Service Customers:**

All customers that submit an Interconnection Request, a Completed Application, or an Upgrade Request that is pending in the New Services Queue.

**1.26C New Service Request:**

An Interconnection Request, a Completed Application, or an Upgrade Request.

**1.26D New Services Queue:**

All Interconnection Requests, Completed Applications, and Upgrade Requests that are received within each three-month period ending on January 31, April 30, July 31, and October 31 of each year shall collectively comprise a New Services Queue.

**1.26E New Services Queue Closing Date:**

Each January 31, April 30, July 31, and October 31 shall be the Queue Closing Date for the New Services Queue comprised of Interconnection Requests, Completed Applications, and Upgrade Requests received during the three-month period ending on such date.

**1.26F Nominal Rated Capability:**

The nominal maximum rated capability in megawatts of a Transmission Interconnection Customer's Customer Facility or the nominal increase in transmission capability in megawatts of the Transmission System resulting from the interconnection or addition of a Transmission Interconnection Customer's Customer Facility, as determined in accordance with pertinent Applicable Standards and specified in the Interconnection Service Agreement.

**1.27 Non-Firm Point-To-Point Transmission Service:**

Point-To-Point Transmission Service under the Tariff that is reserved and scheduled on an as-available basis and is subject to Curtailment or Interruption as set forth in Section 14.7 under Part II of this Tariff. Non-Firm Point-To-Point Transmission Service is available on a stand-alone basis for periods ranging from one hour to one month.

**1.27.01 Non-Firm Sale:**

An energy sale for which receipt or delivery may be interrupted for any reason or no reason, without liability on the part of either the buyer or seller.

**1.27A Non-Firm Transmission Withdrawal Rights:**

The rights to schedule energy withdrawals from a specified point on the Transmission System. Non-Firm Transmission Withdrawal Rights may be awarded only to a Merchant D.C. Transmission Facility that connects the Transmission System to another control area. Withdrawals scheduled using Non-Firm Transmission Withdrawal Rights have rights similar to those under Non-Firm Point-to-Point Transmission Service.

**1.27AA Non-Retail Behind The Meter Generation:**

Behind the Meter Generation that is used by municipal electric systems, electric cooperatives, or electric distribution companies to serve load.

**1.27B Non-Zone Network Load:**

Network Load that is located outside of the PJM Region.

**1.27C Office of the Interconnection:**

Office of the Interconnection shall have the meaning set forth in the Operating Agreement.

**1.28 Open Access Same-Time Information System (OASIS):**

The information system and standards of conduct contained in Part 37 and Part 38 of the Commission's regulations and all additional requirements implemented by subsequent Commission orders dealing with OASIS.

**1.28A Operating Agreement of the PJM Interconnection, L.L.C. or Operating Agreement:**

That agreement dated as of April 1, 1997 and as amended and restated as of June 2, 1997 and as amended from time to time thereafter, among the members of the PJM Interconnection, L.L.C.

**1.28A.01 Option to Build:**

The option of the New Service Customer to build certain Customer-Funded Upgrades, as set forth in, and subject to the terms of, the Construction Service Agreement.

**1.28B Optional Interconnection Study:**

A sensitivity analysis of an Interconnection Request based on assumptions specified by the Interconnection Customer in the Optional Interconnection Study Agreement.

**1.28C Optional Interconnection Study Agreement:**

The form of agreement for preparation of an Optional Interconnection Study, as set forth in

Attachment N-3 of the Tariff.

**1.29 Part I:**

Tariff Definitions and Common Service Provisions contained in Sections 2 through 12.

**1.30 Part II:**

Tariff Sections 13 through 27 pertaining to Point-To-Point Transmission Service in conjunction with the applicable Common Service Provisions of Part I and appropriate Schedules and Attachments.

**1.31 Part III:**

Tariff Sections 28 through 35 pertaining to Network Integration Transmission Service in conjunction with the applicable Common Service Provisions of Part I and appropriate Schedules and Attachments.

**1.31A Part IV:**

Tariff Sections 36 through 112 pertaining to generation or merchant transmission interconnection to the Transmission System in conjunction with the applicable Common Service Provisions of Part I and appropriate Schedules and Attachments.

**1.31B Part V:**

Tariff Sections 113 through 122 pertaining to the deactivation of generating units in conjunction with the applicable Common Service Provisions of Part I and appropriate Schedules and Attachments.

**1.31C Part VI:**

Tariff Sections 200 through 237 pertaining to the queuing, study, and agreements relating to New Service Requests, and the rights associated with Customer-Funded Upgrades in conjunction with the applicable Common Service Provisions of Part I and appropriate Schedules and Attachments.

**1.32 Parties:**

The Transmission Provider, as administrator of the Tariff, and the Transmission Customer receiving service under the Tariff. PJMSettlement shall be the Counterparty to Transmission Customers.

**1.32.01 PJM:**

PJM Interconnection, L.L.C.

**1.32A PJM Administrative Service:**

The services provided by PJM pursuant to Schedule 9 of this Tariff.

**1.32B PJM Control Area:**

The Control Area that is recognized by NERC as the PJM Control Area.

**1.32C PJM Interchange Energy Market:**

The regional competitive market administered by the Transmission Provider for the purchase and sale of spot electric energy at wholesale interstate commerce and related services, as more fully set forth in Attachment K – Appendix to the Tariff and Schedule 1 to the Operating Agreement.

**1.32D PJM Manuals:**

The instructions, rules, procedures and guidelines established by the Transmission Provider for the operation, planning, and accounting requirements of the PJM Region and the PJM Interchange Energy Market.

**1.32E PJM Region:**

Shall have the meaning specified in the Operating Agreement.

**1.32F [RESERVED]****1.32.F.01 PJM Settlement:**

PJM Settlement, Inc. (or its successor).

**1.32G [RESERVED]****1.33 Point(s) of Delivery:**

Point(s) on the Transmission Provider's Transmission System where capacity and energy transmitted by the Transmission Provider will be made available to the Receiving Party under Part II of the Tariff. The Point(s) of Delivery shall be specified in the Service Agreement for Long-Term Firm Point-To-Point Transmission Service.

**1.33A Point of Interconnection:**

The point or points, shown in the appropriate appendix to the Interconnection Service Agreement and the Interconnection Construction Service Agreement, where the Customer Interconnection Facilities interconnect with the Transmission Owner Interconnection Facilities or the Transmission System.

**1.34 Point(s) of Receipt:**

Point(s) of interconnection on the Transmission Provider's Transmission System where capacity and energy will be made available to the Transmission Provider by the Delivering Party under Part II of the Tariff. The Point(s) of Receipt shall be specified in the Service Agreement for Long-Term Firm Point-To-Point Transmission Service.

**1.35 Point-To-Point Transmission Service:**

The reservation and transmission of capacity and energy on either a firm or non-firm basis from the Point(s) of Receipt to the Point(s) of Delivery under Part II of the Tariff.

**1.36 Power Purchaser:**

The entity that is purchasing the capacity and energy to be transmitted under the Tariff.

**1.36.01 PRD Curve:**

PRD Curve shall have the meaning provided in the Reliability Assurance Agreement.

**1.36.02 PRD Provider:**

PRD Provider shall have the meaning provided in the Reliability Assurance Agreement.

**1.36.03 PRD Reservation Price:**

PRD Reservation Price shall have the meaning provided in the Reliability Assurance Agreement.

**1.36.04 PRD Substation:**

PRD Substation shall have the meaning provided in the Reliability Assurance Agreement.

**1.36.05 Pre-Confirmed Application:**

An Application that commits the Eligible Customer to execute a Service Agreement upon receipt of notification that the Transmission Provider can provide the requested Transmission Service.

**1.36A Pre-Expansion PJM Zones:**

Zones included in this Tariff, along with applicable Schedules and Attachments, for certain Transmission Owners – Atlantic City Electric Company, Baltimore Gas and Electric Company, Delmarva Power and Light Company, Jersey Central Power and Light Company, Metropolitan Edison Company, PECO Energy Company, Pennsylvania Electric Company, Pennsylvania Power & Light Group, Potomac Electric Power Company, Public Service Electric and Gas Company, Allegheny Power, and Rockland Electric Company.

**1.36A.01 Price Responsive Demand:**

Price Responsive Demand shall have the meaning provided in the Reliability Assurance Agreement.

**1.36A.02 Project Financing:**

Shall mean: (a) one or more loans, leases, equity and/or debt financings, together with all modifications, renewals, supplements, substitutions and replacements thereof, the proceeds of which are used to finance or refinance the costs of the Customer Facility, any alteration, expansion or improvement to the Customer Facility, the purchase and sale of the Customer Facility or the operation of the Customer Facility; (b) a power purchase agreement pursuant to which Interconnection Customer's obligations are secured by a mortgage or other lien on the Customer Facility; or (c) loans and/or debt issues secured by the Customer Facility.

**1.36A.03 Project Finance Entity:**

Shall mean: (a) a holder, trustee or agent for holders, of any component of Project Financing; or (b) any purchaser of capacity and/or energy produced by the Customer Facility to which Interconnection Customer has granted a mortgage or other lien as security for some or all of Interconnection Customer's obligations under the corresponding power purchase agreement.

**1.36B Queue Position:**

The priority assigned to an Interconnection Request, a Completed Application, or an Upgrade Request pursuant to applicable provisions of Part VI.

**1.36C Reasonable Efforts:**

With respect to any action required to be made, attempted, or taken by an Interconnection Party or by a Construction Party under Part IV or Part VI of the Tariff, an Interconnection Service Agreement, or a Construction Service Agreement, such efforts as are timely and consistent with Good Utility Practice and with efforts that such party would undertake for the protection of its own interests.

**1.37 Receiving Party:**

The entity receiving the capacity and energy transmitted by the Transmission Provider to Point(s) of Delivery.

**1.37A.01 Regional Entity:**

Shall have the same meaning specified in the Operating Agreement.

**1.37A Regional Transmission Expansion Plan:**



The plan prepared by the Office of the Interconnection pursuant to Schedule 6 of the Operating Agreement for the enhancement and expansion of the Transmission System in order to meet the demands for firm transmission service in the PJM Region.

**1.38 Regional Transmission Group (RTG):**

A voluntary organization of transmission owners, transmission users and other entities approved by the Commission to efficiently coordinate transmission planning (and expansion), operation and use on a regional (and interregional) basis.

**1.38.01 Regulation Zone:**

Any of those one or more geographic areas, each consisting of a combination of one or more Control Zone(s) as designated by the Office of the Interconnection in the PJM Manuals, relevant to provision of, and requirements for, regulation service.

**1.38.01A Relevant Electric Retail Regulatory Authority:**

An entity that has jurisdiction over and establishes prices and policies for competition for providers of retail electric service to end-customers, such as the city council for a municipal utility, the governing board of a cooperative utility, the state public utility commission or any other such entity.

**1.38A Reliability Assurance Agreement:**

The Reliability Assurance Agreement Among Load Serving Entities in the PJM Region, Rate Schedule No. 44, dated as of May 28, 2009, and as amended from time to time thereafter.

**1.38B [RESERVED]**

**1.38C Required Transmission Enhancements:**

Enhancements and expansions of the Transmission System that (1) a Regional Transmission Expansion Plan developed pursuant to Schedule 6 of the Operating Agreement or (2) the Coordinated System Plan periodically developed pursuant to the Joint Operating Agreement Between the Midwest Independent Transmission System Operator, Inc. and PJM Interconnection, L.L.C. designates one or more of the Transmission Owner(s) or the transmission owners within the Midwest Independent System Operator to construct and own or finance.

**1.38C.01 Reserve Sub-zone:**

Any of those geographic areas wholly contained within a Reserve Zone, consisting of a combination of a portion of one or more Control Zone(s) as designated by the Office of the Interconnection in the PJM Manuals, relevant to provision of, and requirements for, reserve service.

**1.38D Reserve Zone:**

Any of those geographic areas consisting of a combination of one or more Control Zone(s), as designated by the Office of the Interconnection in the PJM Manuals, relevant to provision of, and requirements for, reserve service.

**1.39 Reserved Capacity:**

The maximum amount of capacity and energy that the Transmission Provider agrees to transmit for the Transmission Customer over the Transmission Provider's Transmission System between the Point(s) of Receipt and the Point(s) of Delivery under Part II of the Tariff. Reserved Capacity shall be expressed in terms of whole megawatts on a sixty (60) minute interval (commencing on the clock hour) basis.

**1.39A Schedule of Work:**

Shall mean that schedule attached to the Interconnection Construction Service Agreement setting forth the timing of work to be performed by the Constructing Entity pursuant to the Interconnection Construction Service Agreement, based upon the Facilities Study and subject to modification, as required, in accordance with Transmission Provider's scope change process for interconnection projects set forth in the PJM Manuals.

**1.39B Scope of Work:**

Shall mean that scope of the work attached as a schedule to the Interconnection Construction Service Agreement and to be performed by the Constructing Entity(ies) pursuant to the Interconnection Construction Service Agreement, provided that such Scope of Work may be modified, as required, in accordance with Transmission Provider's scope change process for interconnection projects set forth in the PJM Manuals.

**1.39C Secondary Systems:**

Control or power circuits that operate below 600 volts, AC or DC, including, but not limited to, any hardware, control or protective devices, cables, conductors, electric raceways, secondary equipment panels, transducers, batteries, chargers, and voltage and current transformers.

**1.39D Security:**

The security provided by the New Service Customer pursuant to Section 212.4 or Section 213.4 of the Tariff to secure the New Service Customer's responsibility for Costs under the Interconnection Service Agreement or Upgrade Construction Service Agreement and Section 217 of the Tariff.

**1.40 Service Agreement:**

The initial agreement and any amendments or supplements thereto entered into by the

Transmission Customer and the Transmission Provider for service under the Tariff.

**1.41 Service Commencement Date:**

The date the Transmission Provider begins to provide service pursuant to the terms of an executed Service Agreement, or the date the Transmission Provider begins to provide service in accordance with Section 15.3 or Section 29.1 under the Tariff.

**1.42 Short-Term Firm Point-To-Point Transmission Service:**

Firm Point-To-Point Transmission Service under Part II of the Tariff with a term of less than one year.

**1.42a Site:**

All of the real property, including but not limited to any leased real property and easements, on which the Customer Facility is situated and/or on which the Customer Interconnection Facilities are to be located.

**1.42.01 Small Inverter Facility:**

An Energy Resource that is a certified small inverter-based facility no larger than 10 kW.

**1.42.02 Small Inverter ISA:**

An agreement among Transmission Provider, Interconnection Customer, and Interconnected Transmission Owner regarding interconnection of a Small Inverter Facility under section 112B of Part IV of the Tariff.

**1.42A [RESERVED]**

**1.42B [RESERVED]**

**1.42C [RESERVED]**

**1.42D State:**

The term "state" shall mean a state of the United States or the District of Columbia.

**1.42D.01 Switching and Tagging Rules:**

The switching and tagging procedures of Interconnected Transmission Owners and Interconnection Customer as they may be amended from time to time.

**1.42E [RESERVED]**

**1.42F System Condition:**

A specified condition on the Transmission Provider's system or on a neighboring system, such as a constrained transmission element or flowgate, that may trigger Curtailment of Long-Term Firm Point-to-Point Transmission Service using the curtailment priority pursuant to Section 13.6. Such conditions must be identified in the Transmission Customer's Service Agreement.

**1.43 System Impact Study:**

An assessment by the Transmission Provider of (i) the adequacy of the Transmission System to accommodate a Completed Application, an Interconnection Request or an Upgrade Request, (ii) whether any additional costs may be incurred in order to provide such transmission service or to accommodate an Interconnection Request, and (iii) with respect to an Interconnection Request, an estimated date that an Interconnection Customer's Customer Facility can be interconnected with the Transmission System and an estimate of the Interconnection Customer's cost responsibility for the interconnection; and (iv) with respect to an Upgrade Request, the estimated cost of the requested system upgrades or expansion, or of the cost of the system upgrades or expansion, necessary to provide the requested incremental rights.

**1.43.01 System Protection Facilities:**

The equipment required to protect (i) the Transmission System, other delivery systems and/or other generating systems connected to the Transmission System from faults or other electrical disturbance occurring at or on the Customer Facility, and (ii) the Customer Facility from faults or other electrical system disturbance occurring on the Transmission System or on other delivery systems and/or other generating systems to which the Transmission System is directly or indirectly connected. System Protection Facilities shall include such protective and regulating devices as are identified in the Applicable Technical Requirements and Standards or that are required by Applicable Laws and Regulations or other Applicable Standards, or as are otherwise necessary to protect personnel and equipment and to minimize deleterious effects to the Transmission System arising from the Customer Facility.

**1.43A Tariff:**

This document, the "PJM Open Access Transmission Tariff."

**1.44 Third-Party Sale:**

Any sale for resale in interstate commerce to a Power Purchaser that is not designated as part of Network Load under the Network Integration Transmission Service but not including a sale of energy through the PJM Interchange Energy Market established under the PJM Operating Agreement.

**1.45 Transmission Customer:**

Any Eligible Customer (or its Designated Agent) that (i) executes a Service Agreement, or (ii)

requests in writing that the Transmission Provider file with the Commission, a proposed unexecuted Service Agreement to receive transmission service under Part II of the Tariff. This term is used in the Part I Common Service Provisions and in Part VI to include customers receiving transmission service under Part II and Part III of this Tariff.

**1.45.01 Transmission Facilities:**

Transmission Facilities shall have the meaning set forth in the Operating Agreement.

**1.45A Transmission Injection Rights:**

Capacity Transmission Injection Rights and Energy Transmission Injection Rights.

**1.45B Transmission Interconnection Customer:**

An entity that submits an Interconnection Request to interconnect or add Merchant Transmission Facilities to the Transmission System or to increase the capacity of Merchant Transmission Facilities interconnected with the Transmission System in the PJM Region.

**1.45C Transmission Interconnection Facilities Study:**

A Facilities Study related to a Transmission Interconnection Request.

**1.45D Transmission Interconnection Feasibility Study:**

A study conducted by the Transmission Provider in accordance with Section 36.2 of the Tariff.

**1.45E Transmission Interconnection Request:**

A request by a Transmission Interconnection Customer pursuant to Part IV of the Tariff to interconnect or add Merchant Transmission Facilities to the Transmission System or to increase the capacity of existing Merchant Transmission Facilities interconnected with the Transmission System in the PJM Region.

**1.45F Transmission Owner:**

Each entity that owns, leases or otherwise has a possessory interest in facilities used for the transmission of electric energy in interstate commerce under the Tariff. The Transmission Owners are listed in Attachment L.

**1.45G Transmission Owner Attachment Facilities:**

That portion of the Transmission Owner Interconnection Facilities comprised of all Attachment Facilities on the Interconnected Transmission Owner's side of the Point of Interconnection.

**1.45H Transmission Owner Interconnection Facilities:**

All Interconnection Facilities that are not Customer Interconnection Facilities and that, after the transfer under Section 5.5 of Appendix 2 to Attachment P of the PJM Tariff to the Interconnected Transmission Owner of title to any Transmission Owner Interconnection Facilities that the Interconnection Customer constructed, are owned, controlled, operated and maintained by the Interconnected Transmission Owner on the Interconnected Transmission Owner's side of the Point of Interconnection identified in appendices to the Interconnection Service Agreement and to the Interconnection Construction Service Agreement, including any modifications, additions or upgrades made to such facilities and equipment, that are necessary to physically and electrically interconnect the Customer Facility with the Transmission System or interconnected distribution facilities.

**1.46 Transmission Provider:**

The Transmission Provider shall be the Office of the Interconnection for all purposes, provided that the Transmission Owners will have the responsibility for the following specified activities:

- (a) The Office of the Interconnection shall direct the operation and coordinate the maintenance of the Transmission System, except that the Transmission Owners will continue to direct the operation and maintenance of those transmission facilities that are not listed in the PJM Designated Facilities List contained in the PJM Manual on Transmission Operations;
- (b) Each Transmission Owner shall physically operate and maintain all of the facilities that it owns; and
- (c) When studies conducted by the Office of the Interconnection indicate that enhancements or modifications to the Transmission System are necessary, the Transmission Owners shall have the responsibility, in accordance with the applicable terms of the Tariff, Operating Agreement and/or the Consolidated Transmission Owners Agreement to construct, own, and finance the needed facilities or enhancements or modifications to facilities.

**1.47 Transmission Provider's Monthly Transmission System Peak:**

The maximum firm usage of the Transmission Provider's Transmission System in a calendar month.

**1.48 Transmission Service:**

Point-To-Point Transmission Service provided under Part II of the Tariff on a firm and non-firm basis.

**1.48A Transmission Service Request:**

A request for Firm Point-To-Point Transmission Service or a request for Network Integration Transmission Service.

**1.49 Transmission System:**

The facilities controlled or operated by the Transmission Provider within the PJM Region that are used to provide transmission service under Part II and Part III of the Tariff.

**1.49A Transmission Withdrawal Rights:**

Firm Transmission Withdrawal Rights and Non-Firm Transmission Withdrawal Rights.

**1.49A.01 Upgrade Construction Service Agreement:**

That agreement entered into by a New Service Customer (other than an Interconnection Customer whose project includes generation capability or Merchant Transmission Facilities other than Merchant Network Upgrades), a Transmission Owner, and the Transmission Provider, pursuant to Subpart B of Part VI of the Tariff, and in the form set forth in Attachment GG of the Tariff.

**1.49A.02 Upgrade Customer:**

A customer that submits an Upgrade Request.

**1.49A.03 Upgrade-Related Rights:**

Incremental Auction Revenue Rights, Incremental Available Transfer Capability Revenue Rights, Incremental Deliverability Rights, and Incremental Capacity Transfer Rights (as defined in Section 2.35 of Attachment DD of the Tariff).

**1.49A.04 Upgrade Request:**

A request pursuant to Section 7.8 of Schedule 1 of the Operating Agreement, submitted in the form prescribed in Attachment EE of the Tariff, for evaluation by the Transmission Provider of the feasibility and estimated costs of, (a) a particular proposed Customer-Funded Upgrade or (b) the Customer-Funded Upgrades that would be needed to provide the Incremented Auction Revenue Rights specified in the request.

**1.49B [RESERVED]**

**1.49C [RESERVED]**

**1.49D [RESERVED]**

**1.49E [RESERVED]**

**1.49F [RESERVED]**

**1.49G Wholesale Transaction:**

As used in Part IV, means any transaction involving the transmission or sale for resale of electricity in interstate commerce that utilizes any portion of the Transmission System.

**1.49H Zone:**

An area within the PJM Region, as set forth in Attachment J.

**1.50 Zone Network Load:**

Network Load that is located inside of the area comprised of the PJM Region.



**APPENDIX 2**

**STANDARD TERMS AND CONDITIONS FOR INTERCONNECTIONS**

## **1 Commencement, Term of and Conditions Precedent to Interconnection Service**

### **1.1 Commencement Date:**

The effective date of an Interconnection Service Agreement shall be the date provided in Section 4.0 of the Interconnection Service Agreement. Interconnection Service under this Interconnection Service Agreement shall commence upon the satisfaction of the conditions precedent set forth in Section 1.2 below.

### **1.2 Conditions Precedent:**

The following conditions must be satisfied prior to the commencement of Interconnection Service under this Interconnection Service Agreement:

(a) This Interconnection Service Agreement, if filed with FERC, shall have been accepted for filing by the FERC;

(b) All requirements for Initial Operation as specified in Section 1.4 below shall have been met and Initial Operation of the Customer Facility shall have been completed.

(c) Interconnection Customer shall be in compliance with all Applicable Technical Requirements and Standards for interconnection under the Tariff (as determined by the Transmission Provider).

### **1.3 Term:**

This Interconnection Service Agreement shall remain in full force and effect until it is terminated in accordance with Section 16 of this Appendix 2.

### **1.4 Initial Operation:**

The following requirements shall be satisfied prior to Initial Operation of the Customer Facility:

**1.4.1** The construction of all Interconnection Facilities necessary for the interconnection of the Customer Facility has been completed;

**1.4.2** The Interconnected Transmission Owner has accepted any Interconnection Facilities and/or Merchant Network Upgrades constructed by Interconnection Customer pursuant to the Interconnection Construction Service Agreement;

**1.4.3** The Interconnection Customer and the Interconnected Transmission Owner have all necessary systems and personnel in place to allow for parallel operation of their respective facilities;

**1.4.4** The Interconnected Transmission Owner has received all applicable documentation for the Interconnection Facilities and/or Merchant Network Upgrades built by the Interconnection

Customer, certified as correct, including, but not limited to, access to the field copy of marked-up drawings reflecting the as-built condition, pre-operation test reports, and instruction books; and

**1.4.5 Interconnection** Customer shall have received any necessary authorization from Transmission Provider to synchronize with the Transmission System or to energize, as applicable per the determination of Transmission Provider, the Customer Facility and Interconnection Facilities.

**1.4A Limited Operation:**

If any of the Transmission Owner Interconnection Facilities are not reasonably expected to be completed prior to the Interconnection Customer's planned date of Initial Operation, and provided that the Interconnected Transmission Owner has accepted the Customer Interconnection Facilities pursuant to the Interconnection Construction Service Agreement, Transmission Provider shall, upon the request and at the expense of Interconnection Customer, perform appropriate power flow or other operating studies on a timely basis to determine the extent to which the Customer Facility and the Customer Interconnection Facilities may operate prior to the completion of the Transmission Owner Interconnection Facilities consistent with Applicable Laws and Regulations, Applicable Reliability Standards, Good Utility Practice, and the Interconnection Service Agreement. In accordance with the results of such studies and subject to such conditions as Transmission Provider determines to be reasonable and appropriate, Transmission Provider shall (a) permit Interconnection Customer to operate the Customer Facility and the Customer Interconnection Facilities, and (b) grant Interconnection Customer limited, interim Interconnection Rights commensurate with the extent to which operation of the Customer Facility is permitted.

**1.5 Survival:**

The Interconnection Service Agreement shall continue in effect after termination to the extent necessary to provide for final billings and payments; to permit the determination and enforcement of liability and indemnification obligations arising from acts or events that occurred while the Interconnection Service Agreement was in effect; and to permit each Interconnection Party to have access to the real property, including but not limited to leased property and easements of the other Interconnection Parties pursuant to Section 16 of this Appendix 2 to disconnect, remove or salvage its own facilities and equipment.

**2 Interconnection Service**

**2.1 Scope of Service:**

Interconnection Service shall be provided to the Interconnection Customer at the Point of Interconnection (a), in the case of interconnection of the Customer Facility of a Generation Interconnection Customer, up to the Maximum Facility Output, and (b), in the case of interconnection of the Customer Facility of a Transmission Interconnection Customer, up to the Nominal Rated Capability. The location of the Point of Interconnection shall be mutually agreed by the Interconnected Entities, provided, however, that if the Interconnected Entities are unable

to agree on the Point of Interconnection, the Transmission Provider shall determine the Point of Interconnection, provided that Transmission Provider shall not select a Point of Interconnection that would impose excessive costs on either of the Interconnected Entities and shall take material system reliability considerations into account in such selection. Specifications for the Customer Facility and the location of the Point of Interconnection shall be set forth in an appendix to the Interconnection Service Agreement and shall conform to those stated in the Facilities Study.

## **2.2 Non-Standard Terms:**

The standard terms and conditions of this Appendix 2 shall not apply, to such extent as Transmission Provider determines to be reasonably necessary to accommodate such circumstances, in the event that the Interconnection Customer acquires an ownership interest in facilities which, under the standard terms and conditions of the Interconnection Construction Service Agreement would be part of the Transmission Owner Interconnection Facilities. In such circumstances and to the extent determined by Transmission Provider to be reasonably necessary, non-standard terms and conditions mutually agreed upon by all Interconnection Parties shall apply, subject to FERC and any other necessary regulatory acceptance or approval. In addition, a Generation Interconnection Customer that acquires an ownership interest in such facilities shall become, and shall remain for so long as it retains such interest, a signatory to the Consolidated Transmission Owners Agreement.

## **2.3 No Transmission Services:**

The execution of an Interconnection Service Agreement does not constitute a request for transmission service, or entitle Interconnection Customer to receive transmission service, under Part II or Part III of the Tariff. Nor does the execution of an Interconnection Service Agreement obligate the Interconnected Transmission Owner or Transmission Provider to procure, supply or deliver to Interconnection Customer or the Customer Facility any energy, capacity, Ancillary Services or Station Power (and any associated distribution services).

## **2.4 Use of Distribution Facilities:**

To the extent that a Generation Interconnection Customer uses distribution facilities for the purpose of delivering energy to the Transmission System, Interconnection Service under this Tariff shall include the construction and/or use of such distribution facilities. In such cases, to such extent as Transmission Provider determines to be reasonably necessary to accommodate such circumstances, the Interconnection Service Agreement may include non-standard terms and conditions mutually agreed upon by all Interconnection Parties as needed to conform with Applicable Laws and Regulations and Applicable Standards relating to such distribution facilities.

## **2.5 Election by Behind The Meter Generation:**

In the event that a Generation Interconnection Customer's Customer Facility is Behind The Meter Generation, the Generation Interconnection Customer may elect from time to time, subject to the terms of this section, whether to operate all or a portion of its Customer Facility's generating capacity as a Capacity Resource under the Tariff and the Operating Agreement.

### **2.5.1 Capacity Resource Election:**

The Generation Interconnection Customer may elect to operate all or a portion of its Customer Facility as a Capacity Resource only to the extent that the Interconnection Service Agreement grants Capacity Interconnection Rights. Such an election may include all or any portion of the Customer Facility's capacity for which Capacity Interconnection Rights have been granted.

### **2.5.2 Timing and Duration of Election:**

The Generation Interconnection Customer shall make an initial election under this section no later than 30 days prior to the commencement of Interconnection Service. Thereafter, the Generation Interconnection Customer may make the election authorized by this Section 2.5 only once in each calendar year and must notify Transmission Provider of such an election no later than May 1, and no sooner than March 15, of each year. Each such election shall be effective commencing on June 1 following Transmission Provider's receipt of notice of the election. An election under this Section 2.5 shall remain in effect unless and until the Generation Interconnection Customer modifies or terminates it in a subsequent election made in accordance with the terms of this section.

## **3 Modification Of Facilities**

### **3.1 General:**

Subject to Applicable Laws and Regulations and to any applicable requirements or conditions of the Tariff and the Operating Agreement, either Interconnected Entity may undertake modifications to its facilities. In the event that an Interconnected Entity plans to undertake a modification that reasonably may be expected upon completion to have a permanent material impact on the other Interconnected Entity's facilities, that Interconnected Entity, in accordance with Good Utility Practice, shall provide the other Interconnection Parties with sufficient information regarding such modification, so that the other Interconnection Parties may evaluate the potential impact of such modification prior to commencement of the work. The Interconnected Entity desiring to perform such modification shall provide the relevant drawings, plans, and specifications to the other Interconnection Parties at least ninety days, or such shorter period to which the Interconnection Parties receiving the information may agree (which agreement shall not unreasonably be withheld, conditioned, or delayed), in advance of the beginning of the work. The Interconnection Customer shall notify Transmission Provider and Interconnected Transmission Owner of the proposed modifications and Transmission Provider shall provide, within sixty days of receipt of the relevant drawings and specifications (or within such other time upon which the Interconnection Parties may agree), an estimate of any modifications to the Transmission System that would be necessary to accommodate the proposed modifications by Interconnection Customer and a good faith estimate of the costs thereof.

### **3.2 Interconnection Request:**

This Section 3 shall not apply to any proposed modifications by Interconnection Customer to its

facilities for which Interconnection Customer must make an Interconnection Request under the Tariff. In such circumstances, the Interconnection Customer and Transmission Provider shall follow the requirements of Subpart A of Part IV of the Tariff.

### **3.3 Standards:**

Any additions, modifications, or replacements made to an Interconnected Entity's facilities shall be constructed and operated in accordance with Good Utility Practice, Applicable Standards and Applicable Laws and Regulations.

### **3.4 Modification Costs:**

Unless otherwise required by Applicable Laws and Regulations or this Appendix 2 and, with respect to a Transmission Interconnection Customer, subject to the terms of Section 236.2 of the Tariff:

(a) Interconnection Customer shall not be responsible for the costs of any additions, modifications, or replacements that the Interconnected Transmission Owner in its discretion or at the direction of Transmission Provider makes to the Interconnection Facilities or the Transmission System in order to facilitate the interconnection of a third party to the Interconnection Facilities or the Transmission System, or to provide transmission service under the Tariff to a third party.

(b) Interconnection Customer shall be responsible for the costs of any additions, modifications, or replacements to the Interconnection Facilities or the Transmission System that are required, in accord with Good Utility Practice and/or to maintain compliance with Applicable Laws and Regulations or Applicable Standards, in order to accommodate additions, modifications, or replacements made by Interconnection Customer to the Customer Facility or to the Customer Interconnection Facilities.

(c) Interconnection Customer shall be responsible for the costs of any additions, modifications, or replacements to the Customer Interconnection Facilities or the Customer Facility that are required, in accord with Good Utility Practice and/or to maintain compliance with Applicable Laws and Regulations or Applicable Standards, in order to accommodate additions, modifications, or replacements that Transmission Provider or the Interconnected Transmission Owner makes to the Transmission System or to the Transmission Owner Interconnection Facilities, but only to the extent that Transmission Provider's or the Interconnected Transmission Owner's changes to the Transmission System or the Transmission Owner Interconnection Facilities are made pursuant to Good Utility Practice and/or to maintain compliance with Applicable Laws and Regulations or Applicable Standards.

## **4 Operations**

### **4.1 General:**

Each Interconnected Entity shall operate, or shall cause operation of, its facilities in a safe and

reliable manner in accord with (i) the terms of this Appendix 2; (ii) Applicable Standards; (iii) applicable rules, procedures and protocols set forth in the Tariff and the Operating Agreement, as any or all may be amended from time to time; (iv) Applicable Laws and Regulations, and (v) Good Utility Practice.

#### **4.1.1 Interconnection Customer Drawings:**

Within one hundred twenty (120) days after the date of Initial Operation, unless the Interconnection Parties agree on another mutually acceptable deadline, the Interconnection Customer shall deliver to the Transmission Provider and the Interconnected Transmission Owner final, "as-built" drawings, information and documents regarding the Customer Interconnection Facilities, including, as and to the extent applicable: a one-line diagram, a site plan showing the Customer Facility and the Customer Interconnection Facilities, plan and elevation drawings showing the layout of the Customer Interconnection Facilities, a relay functional diagram, relaying AC and DC schematic wiring diagrams and relay settings for all facilities associated with the Interconnection Customer's step-up transformers, the facilities connecting the Customer Facility to the step-up transformers and the Customer Interconnection Facilities, and the impedances (determined by factory tests) for the associated step-up transformers and the Customer Facility. As applicable, the Interconnection Customer shall provide Transmission Provider and the Interconnected Transmission Owner specifications for the excitation system, automatic voltage regulator, Customer Facility control and protection settings, transformer tap settings, and communications.

#### **4.2 Operation of Merchant Network Upgrades:**

Unless otherwise provided in the Interconnection Service Agreement, the Interconnected Transmission Owner that owns Transmission System facilities to which any Merchant Network Upgrades are connected shall operate such Merchant Network Upgrades (a) on behalf and at the expense of the Interconnection Customer that constructed or caused construction of the pertinent Merchant Network Upgrades and (b) in accordance with this Appendix 2 and with an agreement between the Interconnected Transmission Owner and the Interconnection Customer regarding such operation.

#### **4.3 Interconnection Customer Obligations:**

Interconnection Customer shall obtain Transmission Provider's approval prior to either synchronizing with the Transmission System or energizing, as applicable per the determination of Transmission Provider, the Customer Facility or, except in an Emergency Condition, disconnecting the Customer Facility from the Transmission System, and shall coordinate such synchronizations, energizations, and disconnections with the Interconnected Transmission Owner.

#### **4.4 [Reserved.]**

#### **4.5 Permits and Rights-of-Way:**

Each Interconnected Entity at its own expense shall maintain in full force and effect all permits, licenses, rights-of-way and other authorizations as may be required to maintain the Customer Facility and the Interconnection Facilities that the entity owns, operates and maintains and, upon reasonable request of the other Interconnected Entity, shall provide copies of such permits, licenses, rights-of-way and other authorizations at its own expense to the requesting party.

#### **4.6 No Ancillary Services:**

Except as provided in Section 4.7 of this Appendix 2, nothing in this Appendix 2 is intended to obligate the Interconnection Customer to supply Ancillary Services to either Transmission Provider or the Interconnected Transmission Owner.

#### **4.7 Reactive Power**

##### **4.7.1 Reactive Power Design Criteria**

###### **4.7.1.1 New Facilities:**

For all new generating facilities to be interconnected pursuant to the Tariff, other than wind-powered and other non-synchronous generation facilities, the Generation Interconnection Customer shall design its Customer Facility to maintain a composite power delivery at continuous rated power output at a power factor of at least 0.95 leading to 0.90 lagging. For all new wind-powered and other non-synchronous generation facilities, if determined in the system impact study to be required for the safety or reliability of the Transmission System, the Generation Interconnection Customer shall design its Customer Facility with the ability to maintain a composite power delivery at continuous rated power output at a power factor of at least 0.95 leading to 0.95 lagging. For new generation resources of more than 20 MW, other than wind-powered and other non-synchronous generating facilities, the power factor requirement shall be measured at the generator's terminals. For new generation resources of 20 MW or less, and all wind-powered and other non-synchronous generation facilities, the power factor requirement shall be measured at the Point of Interconnection. Any different reactive power design criteria that Transmission Provider determines to be appropriate for a wind-powered or other non-synchronous generation facility shall be stated in the Interconnection Service Agreement. A Transmission Interconnection Customer interconnecting Merchant D.C. Transmission Facilities and/ or Controllable A.C. Merchant Transmission Facilities shall design its Customer Facility to maintain a power factor at the Point of Interconnection of at least 0.95 leading and 0.95 lagging, when the Customer Facility is operating at any level within its approved operating range.

###### **4.7.1.2 Increases in Generating Capacity or Energy Output:**

All increases in the capacity or energy output of any generation facility interconnected with the Transmission System, other than wind-powered and other non-synchronous generating facilities, shall be designed with the ability to maintain a composite power delivery at continuous rated power output at a power factor for all incremental MW of capacity or energy output, of at least 1.0 (unity) to 0.90 lagging. Wind-powered generation facilities and other non-synchronous



generation facilities, if determined in the System Impact Study to be required for the safety or reliability of the Transmission System, shall be designed with the ability to maintain a composite power delivery at continuous rated power output at a power factor for all incremental MW of capacity or energy output, of at least 1.0 (unity) to 0.95 lagging. The power factor requirement associated with increases in capacity or energy output of more than 20 MW to synchronous generation facilities interconnected with the Transmission System shall be measured at the generator's terminals. The power factor requirement associated with increases in capacity or energy output of 20 MW or less to synchronous generation facilities and all increases to wind-powered and non-synchronous generation facilities interconnected to the Transmission System shall be measured at the Point of Interconnection.

#### **4.7.2 Obligation to Supply Reactive Power:**

Interconnection Customer agrees, as and when so directed by Transmission Provider or when so directed by the Interconnected Transmission Owner acting on behalf or at the direction of Transmission Provider, to operate the Customer Facility to produce reactive power within the design limitations of the Customer Facility pursuant to voltage schedules, reactive power schedules or power factor schedules established by Transmission Provider or, as appropriate, the Interconnected Transmission Owner. Transmission Provider shall maintain oversight over such schedules to ensure that all sources of reactive power in the PJM Region, as applicable, are treated in an equitable and not unduly discriminatory manner. Interconnection Customer agrees that Transmission Provider and the Interconnected Transmission Owner, acting on behalf or at the direction of Transmission Provider, may make changes to the schedules that they respectively establish as necessary to maintain the reliability of the Transmission System.

#### **4.7.3 Deviations from Schedules:**

In the event that operation of the Customer Facility of an Interconnection Customer causes the Transmission System or the Interconnected Transmission Owner's facilities to deviate from appropriate voltage schedules and/or reactive power schedules as specified by Transmission Provider or the Interconnected Transmission Owner's operations control center (acting on behalf or at the direction of Transmission Provider), or that otherwise is inconsistent with Good Utility Practice and results in an unreasonable deterioration of the quality of electric service to other customers of Transmission Provider or the Interconnected Transmission Owner, the Interconnection Customer shall, upon discovery of the problem or upon notice from Transmission Provider or the Interconnected Transmission Owner, acting on behalf or at the direction of Transmission Provider, take whatever steps are reasonably necessary to alleviate the situation at its expense, in accord with Good Utility Practice and within the reactive capability of the Customer Facility. In the event that the Interconnection Customer does not alleviate the situation within a reasonable period of time following Transmission Provider's or the Interconnected Transmission Owner's notice thereof, the Interconnected Transmission Owner, with Transmission Provider's approval, upon notice to the Interconnection Customer and at the Interconnection Customer's expense, may take appropriate action, including installation on the Transmission System of power factor correction or other equipment, as is reasonably required, consistent with Good Utility Practice, to remedy the situation cited in Transmission Provider's or the Interconnected Transmission Owner's notice to the Interconnection Customer under this

section.

#### **4.7.4 Payment for Reactive Power:**

Any payments to the Interconnection Customer for reactive power shall be in accordance with Schedule 2 of the Tariff.

#### **4.8 Under- and Over-Frequency Conditions:**

The Transmission System is designed to automatically activate a load-shed program as required by NERC and each Applicable Regional Entity in the event of an under-frequency system disturbance. A Generation Interconnection Customer shall implement under-frequency and over-frequency relay set points for the Customer Facility as required by NERC and each Applicable Regional Entity to ensure "ride through" capability of the Transmission System. The response of a Generation Interconnection Customer's Customer Facility to frequency deviations of predetermined magnitudes, both under-frequency and over-frequency deviations shall be studied and coordinated with the Transmission Provider in accordance with Good Utility Practice. The term "ride through" as used herein shall mean the ability of a Generation Interconnection Customer's Customer Facility to stay connected to and synchronized with the Transmission System during system disturbances within a range of under-frequency and over-frequency conditions, in accordance with Good Utility Practice.

#### **4.9 Protection and System Quality**

##### **4.9.1 System Protection:**

Interconnection Customer shall, at its expense, install, operate and maintain such System Protection Facilities as may be required in connection with operation of the Customer Facility and the Customer Interconnection Facilities consistent with Applicable Technical Requirements and Standards. Interconnected Transmission Owner shall install any System Protection Facilities that may be required, as determined by Transmission Provider, on the Transmission Owner Interconnection Facilities or the Transmission System in connection with the operation of the Customer Facility and the Customer Interconnection Facilities. Responsibility for the cost of any System Protection Facilities required on the Transmission Owner Interconnection Facilities or the Transmission System shall be allocated as provided in Section 217 of the Tariff.

##### **4.9.2 Power Quality:**

The Customer Facility and Customer Interconnection Facilities shall not cause excessive deviations from the power quality criteria set forth in the Applicable Technical Requirements and Standards.

##### **4.10 Access Rights:**

Each Interconnected Entity shall provide the other Interconnected Entity access to areas under its control as reasonably necessary to permit the other Interconnected Entity to perform its

obligations under this Appendix 2, including operation and maintenance obligations. An Interconnected Entity that obtains such access shall comply with all safety rules applicable to the area to which access is obtained. Each Interconnected Entity agrees to inform the other Interconnected Entity's representatives of safety rules applicable to an area.

#### **4.11 Switching and Tagging Rules:**

The Interconnected Entities shall comply with applicable Switching and Tagging Rules in obtaining clearances for work or for switching operations on equipment. Such Switching and Tagging Rules shall be developed in accordance with OSHA standards codified at 29 C.F.R. Part 1910, or successor standards. Each Interconnected Entity shall provide the other Interconnected Entity a copy of its Switching and Tagging Rules that are applicable to the other Interconnected Entity's activities.

#### **4.12 Communications and Data Protocol:**

The Interconnected Entities shall comply with any communications and data protocol that the Transmission Provider may establish.

#### **4.13 Nuclear Generating Facilities:**

In the event that the Customer Facility is a nuclear generating facility, the Interconnection Parties shall agree to such non-standard terms and conditions as are reasonably necessary to accommodate the Interconnection Customer's satisfaction of Nuclear Regulatory Commission requirements relating to the safety and reliability of operations of such facilities.

### **5 Maintenance**

#### **5.1 General:**

Each Interconnected Entity shall maintain, or shall cause the maintenance of, its facilities in a safe and reliable manner in accord with (i) the terms of this Appendix 2; (ii) Applicable Standards; (iii) applicable rules, procedures and protocols set forth in the Tariff and the Operating Agreement, as any or all may be amended from time to time; (iv) Applicable Laws and Regulations, and (v) Good Utility Practice.

#### **5.2 Maintenance of Merchant Network Upgrades:**

Unless otherwise provided in the Interconnection Service Agreement, the Interconnected Transmission Owner that owns Transmission System facilities to which any Merchant Network Upgrades are connected shall maintain such Merchant Network Upgrades (a) on behalf and at the expense of the Interconnection Customer that constructed or caused construction of the pertinent Merchant Network Upgrades and (b) in accordance with this Appendix 2 and with an agreement between the Interconnected Transmission Owner and the Interconnection Customer regarding such maintenance.

### **5.3 Outage Authority and Coordination**

#### **5.3.1 Coordination:**

The Interconnection Parties agree to confer regularly to coordinate the planning, scheduling and performance of preventive and corrective maintenance on the Customer Facility, the Customer Interconnection Facilities and any Attachment Facilities owned by the Interconnected Transmission Owner.

#### **5.3.2 Authority:**

Each Interconnected Entity may, in accordance with Good Utility Practice, remove from service its facilities that may affect the other Interconnected Entity's facilities in order to perform maintenance or testing or to install or replace equipment. Except in the event of an Emergency Condition, the Interconnection Customer proposing to remove such facilities from service shall provide prior notice of such activities to the Transmission Provider and the Interconnected Transmission Owner, and the Interconnected Entities shall coordinate all scheduling of planned facility outages with Transmission Provider, in accordance with applicable sections of the Operating Agreement, the PJM Manuals and any other applicable operating guidelines or directives of the Transmission Provider. Subject to the foregoing, the Interconnected Entity scheduling a facility outage shall use Reasonable Efforts to coordinate such outage with the other Interconnected Entity's scheduled outages.

#### **5.3.3 Outages Required for Maintenance:**

Subject to any necessary approval by Transmission Provider, each Interconnected Entity shall provide necessary equipment outages to allow the other Interconnected Entity to perform periodic maintenance, repair or replacement of its facilities and such outages shall be provided at mutually agreeable times, unless conditions arise which an Interconnected Entity believes, in accordance with Good Utility Practice, may endanger persons or property.

#### **5.3.4 Rescheduling of Planned Outages:**

To the extent so provided by the Tariff, the Operating Agreement, and the PJM Manuals, an Interconnected Entity may seek compensation from Transmission Provider for any costs related to rejection by Transmission Provider of a request of such Interconnected Entity for a planned maintenance outage.

#### **5.3.5 Outage Restoration:**

If an outage on an Interconnected Entity's facilities adversely affects the other Interconnected Entity's facilities, the Interconnected Entity that owns or controls the facility that is out of service shall use Reasonable Efforts to restore the facility to service promptly.

### **5.4 Inspections and Testing:**

Each Interconnected Entity shall perform routine inspection and testing of its facilities and equipment in accordance with Good Utility Practice as may be necessary to ensure the continued interconnection of the Customer Facility with the Transmission System in a safe and reliable manner. Each Interconnected Entity shall have the right, upon advance written notice, to request reasonable additional testing of an Interconnected Entity's facilities for good cause, as may be in accordance with Good Utility Practice.

#### **5.5 Right to Observe Testing:**

Each Interconnected Entity shall notify the other Interconnected Entity in advance of its performance of tests of its portion of the Interconnection Facilities or of any Merchant Network Upgrades. The other Interconnected Entity shall, at its own expense, have the right to observe such testing.

#### **5.6 Secondary Systems:**

Each Interconnected Entity agrees to cooperate with the other in the inspection, maintenance, and testing of those Secondary Systems directly affecting the operation of an Interconnected Entity's facilities and equipment which may reasonably be expected to affect the other Interconnected Entity's facilities. Each Interconnected Entity shall provide advance notice to the other Interconnected Entity before undertaking any work on such equipment, especially in electrical circuits involving circuit breaker trip and close contacts, current transformers, or potential transformers.

#### **5.7 Access Rights:**

Each Interconnected Entity shall provide the other Interconnected Entity access to areas under its control as reasonably necessary to permit the other Interconnected Entity to perform its obligations under this Appendix 2, including operation and maintenance obligations. An Interconnected Entity that obtains such access shall comply with all safety rules applicable to the area to which access is obtained. Each Interconnected Entity agrees to inform the other Interconnected Entity's representatives of safety rules applicable to an area.

#### **5.8 Observation of Deficiencies:**

If an Interconnection Party observes any Abnormal Condition on, or becomes aware of a lack of scheduled maintenance and testing with respect to, an Interconnection Party's facilities and equipment that might reasonably be expected to adversely affect the observing Interconnection Party's facilities and equipment, the observing Interconnection Party shall provide prompt notice under the circumstances to the appropriate Interconnection Party, and such Interconnection Party shall consider such notice in accordance with Good Utility Practice. Any Interconnection Party's review, inspection, and approval related to the other Interconnection Party's facilities and equipment shall be limited to the purpose of assessing the safety, reliability, protection and control of the Transmission System and shall not be construed as confirming or endorsing the design of such facilities and equipment, or as a warranty of any type, including safety, durability or reliability thereof. Notwithstanding the foregoing, the observing Interconnection Party shall

have no liability whatsoever for failure to give a deficiency notice to the other Interconnection Party and the Interconnected Entity that owns the relevant Interconnection Facilities shall remain fully liable for its failure to determine and correct deficiencies and defects in its facilities and equipment.

## **6 Emergency Operations**

### **6.1 Obligations:**

Subject to Applicable Laws and Regulations, each Interconnection Party shall comply with the Emergency Condition procedures of NERC, the Applicable Regional Entity, Transmission Provider, the Interconnected Transmission Owner and Interconnection Customer.

### **6.2 Notice:**

Each Interconnection Party shall notify the other parties promptly when it becomes aware of an Emergency Condition that may reasonably be expected to affect operation of the Customer Facility, the Customer Interconnection Facilities, the Transmission Owner Interconnection Facilities, or the Transmission System. To the extent information is known, the notification shall describe the Emergency Condition, the extent of the damage or deficiency, the expected effect on the facilities and/or operation thereof, its anticipated duration and the corrective action taken and/or to be taken. The initial notice shall be followed as soon as practicable with written notice.

### **6.3 Immediate Action:**

An Interconnection Party becoming aware of an Emergency Condition may take such action, including disconnection of the Customer Facility from the Transmission System, as is reasonable and necessary in accord with Good Utility Practice (i) to prevent, avoid, or mitigate injury or danger to, or loss of, life or property; (ii) to preserve the reliability of, in the case of Interconnection Customer, the Customer Facility, or, in the case of Transmission Provider or the Interconnected Transmission Owner, the Transmission System and interconnected sub-transmission and distribution facilities; or (iii) to expedite restoration of service. Unless, in Interconnection Customer's reasonable judgment, immediate action is required to prevent imminent loss of life or property, Interconnection Customer shall obtain the consent of Transmission Provider and the Interconnected Transmission Owner prior to performing any manual switching operations at the Customer Facility or the Generation Interconnection Facilities. Each Interconnection Party shall use Reasonable Efforts to minimize the effect of its actions during an Emergency Condition on the facilities and operations of the other Interconnection Parties.

### **6.4 Record-Keeping Obligations:**

Each Interconnection Party shall keep and maintain records of actions taken during an Emergency Condition that may reasonably be expected to affect the other parties' facilities and make such records available for audit in accordance with Section 19.3 of this Appendix 2.

## **7 Safety**

### **7.1 General:**

Each Interconnected Entity shall perform all work under this Appendix 2 that may reasonably be expected to affect the other Interconnected Entity in accordance with Good Utility Practice and all Applicable Laws and Regulations pertaining to the safety of persons or property. An Interconnected Entity performing work within the boundaries of the other Interconnected Entity's facilities must abide by the safety rules applicable to the site. Each party agrees to inform the other party's representatives of applicable safety rules that must be obeyed on the premises.

### **7.2 Environmental Releases:**

Each Interconnected Entity shall notify the other Interconnection Parties, first orally and promptly thereafter in writing, of the release of any Hazardous Substances, any asbestos or lead abatement activities, or any type of remediation activities, related to the Customer Facility or the Interconnection Facilities, any of which may reasonably be expected to affect one or both of the other parties. The notifying party shall (i) provide the notice as soon as possible; (ii) make a good faith effort to provide the notice within twenty-four (24) hours after the party becomes aware of the occurrence; and (iii) promptly furnish to the other parties copies of any publicly available reports filed with any governmental agencies addressing such events.

## **8 Metering**

### **8.1 General:**

Interconnection Customer shall have the right to install, own, operate, test and maintain the necessary Metering Equipment. In the event that Interconnection Customer exercises this option, the Interconnected Transmission Owner shall have the right to install its own check meter(s), at its own expense, at or near the location of the Metering Equipment. If both Interconnection Customer and Interconnected Transmission Owner install meters, the meter installed by the Interconnection Customer shall control unless it is determined by testing to be inaccurate. If the Interconnection Customer does not exercise the option provided by the first sentence of this section, the Interconnected Transmission Owner shall have the option to install, own, operate, test and maintain all necessary Metering Equipment at Interconnection Customer's expense. If the Interconnected Transmission Owner does not exercise this option, the Interconnection Customer shall install, own, operate, test and maintain all necessary Metering Equipment. Transmission Provider shall determine the location where the Metering Equipment shall be installed, after consulting with Interconnection Customer and the Interconnected Transmission Owner. All Metering Equipment shall be tested prior to any operation of the Customer Facility. Power flows to and from the Customer Facility shall be compensated to the Point of Interconnection, or, upon the mutual agreement of the Interconnected Transmission Owner and the Interconnection Customer, to another location.

### **8.2 Standards:**

All Metering Equipment installed pursuant to this Appendix 2 to be used for billing and payments

shall be revenue quality Metering Equipment and shall satisfy applicable ANSI standards and Transmission Provider's metering standards and requirements. Nothing in this Appendix 2 precludes the use of Metering Equipment for any retail services of the Interconnected Transmission Owner provided, however, that in such circumstances Applicable Laws and Regulations shall control.

### **8.3 Testing of Metering Equipment:**

The Interconnected Entity that, pursuant to Section 8.1 of this Appendix 2, owns the Metering Equipment shall operate, maintain, inspect and test all Metering Equipment upon installation and at least once every two years thereafter. Upon reasonable request by the other Interconnected Entity, the owner of the Metering Equipment shall inspect or test the Metering Equipment more frequently than every two years, but in no event more frequently than three times in any 24-month period. The owner of the Metering Equipment shall give reasonable notice to the Interconnection Parties of the time when any inspection or test of the owner's Metering Equipment shall take place, and the other parties may have representatives present at the test or inspection. If Metering Equipment is found to be inaccurate or defective, it shall be adjusted, repaired or replaced in order to provide accurate metering. Where the Interconnected Transmission Owner owns the Metering Equipment, the expense of such adjustment, repair or replacement shall be borne by the Interconnection Customer, except that the Interconnection Customer shall not be responsible for such expenses where the inaccuracy or defect is caused by the Interconnected Transmission Owner. If Metering Equipment fails to register, or if the measurement made by Metering Equipment during a test varies by more than one percent from the measurement made by the standard meter used in the test, the owner of the Metering Equipment shall inform Transmission Provider, and the Transmission Provider shall inform the other Interconnected Entity, of the need to correct all measurements made by the inaccurate meter for the period during which the inaccurate measurements were made, if the period can be determined. If the period of inaccurate measurement cannot be determined, the correction shall be for the period immediately preceding the test of the Metering Equipment that is equal to one-half of the time from the date of the last previous test of the Metering Equipment, provided that the period subject to correction shall not exceed nine (9) months.

### **8.4 Metering Data:**

At Interconnection Customer's expense, the metered data shall be telemetered (a) to a location designated by Transmission Provider; (b) to a location designated by the Interconnected Transmission Owner, unless the Interconnected Transmission Owner agrees otherwise; and (c) to a location designated by Interconnection Customer. Data from the Metering Equipment at the Point of Interconnection shall be used, under normal operating conditions, as the official measurement of the amount of energy delivered from or to the Customer Facility to the Point of Interconnection, provided that the Transmission Provider's rules applicable to Station Power shall control with respect to a Generation Interconnection Customer's consumption of Station Power.

### **8.5 Communications**

#### **8.5.1 Interconnection Customer Obligations:**



Interconnection Customer shall install and maintain satisfactory operating communications with Transmission Provider's system dispatcher or its other designated representative and with the Interconnected Transmission Owner. Interconnection Customer shall provide standard voice line, dedicated voice line and facsimile communications at its Customer Facility control room through use of the public telephone system. Interconnection Customer also shall provide and maintain backup communication links with both Transmission Provider and Interconnected Transmission Owner for use during abnormal conditions as specified by Transmission Provider and Interconnected Transmission Owner, respectively. Interconnection Customer further shall provide the dedicated data circuit(s) necessary to provide Interconnection Customer data to the Transmission Provider and Interconnected Transmission Owner as necessary to conform with Applicable Technical Requirements and Standards.

#### **8.5.2. Remote Terminal Unit:**

Unless otherwise deemed unnecessary by Transmission Provider and Interconnected Transmission Owner, as indicated in the Interconnection Service Agreement, prior to any operation of the Customer Facility, a remote terminal unit, or equivalent data collection and transfer equipment acceptable to the Interconnection Parties, shall be installed by Interconnection Customer, or by the Interconnected Transmission Owner at Interconnection Customer's expense, to gather accumulated and instantaneous data to be telemetered to the location(s) designated by Transmission Provider and Interconnected Transmission Owner through use of a dedicated point-to-point data circuit(s) as indicated in Section 8.5.1 of this Appendix 2. Instantaneous, bi-directional real power and, with respect to a Generation Interconnection Customer's Customer Facility, reactive power flow information, must be telemetered directly to the location(s) specified by Transmission Provider and the Interconnected Transmission Owner.

### **9 Force Majeure**

#### **9.1 Notice:**

An Interconnection Party that is unable to carry out an obligation imposed on it by this Appendix 2 due to Force Majeure shall notify the other parties in writing or by telephone within a reasonable time after the occurrence of the cause relied on.

#### **9.2 Duration of Force Majeure:**

An Interconnection Party shall not be responsible, or considered to be in Breach or Default under this Interconnection Service Agreement, for any non-performance, any interruption or failure of service, deficiency in the quality or quantity of service, or any other failure to perform any obligation hereunder to the extent that such failure or deficiency is due to Force Majeure. An Interconnection Party shall be excused from whatever performance is affected only for the duration of the Force Majeure and while the Interconnection Party exercises Reasonable Efforts to alleviate such situation. As soon as the non-performing Interconnection Party is able to resume performance of its obligations excused because of the occurrence of Force Majeure, such Interconnection Party shall resume performance and give prompt notice thereof to the other

parties.

### **9.3 Obligation to Make Payments:**

Any Interconnection Party's obligation to make payments for services shall not be suspended by Force Majeure.

## **10 Charges**

### **10.1 Specified Charges:**

If and to the extent required by the Interconnected Transmission Owner, after the Initial Operation of the Customer Facility, Interconnection Customer shall pay one or more of the types of recurring charges described in this section to compensate the Interconnected Transmission Owner for costs incurred in performing certain of its obligations under this Appendix 2. All such charges shall be stated in Schedule E of the Interconnection Service Agreement. Interconnected Transmission Owner shall provide Transmission Provider and Interconnection Customer with appropriate cost data, schedules and/or written testimony in support of any charges under this section in such manner and at such time as to allow Transmission Provider to include such materials in its filing of the Interconnection Service Agreement with the FERC. Transmission Provider will deliver a copy of such filing to Interconnection Customer. Permissible charges under this section may include:

(a) **Administration Charge** — Any such charge may recover only the costs and expenses incurred by the Interconnected Transmission Owner in connection with administrative obligations such as the preparation of bills, the processing of Customer Facility-specific data on energy delivered at the Point of Interconnection and costs incurred in similar types of administrative processes related to Interconnection Customer's Interconnection Service. An Administration Charge shall not be permitted to the extent that the Interconnected Transmission Owner's other charges to the Interconnection Customer under the same Interconnection Service Agreement include an allocation of Interconnected Transmission Owner's administrative and general expenses and/or other corporate overhead costs.

(b) **Metering Charge** — Any such charge may recover only the Interconnected Transmission Owner's costs and expenses associated with operation, maintenance, inspection, testing, and carrying or capital replacement charges for any Metering Equipment that is owned by the Interconnected Transmission Owner.

(c) **Telemetry Charge** — Any such charge may recover only the Interconnected Transmission Owner's costs and expenses associated with operation, maintenance, inspection, testing, and carrying or capital replacement charges for any telemetry equipment that is owned by the Interconnected Transmission Owner and that is used exclusively in conjunction with Interconnection Service for the Interconnection Customer.

(d) **Customer Facility Operations and Maintenance Charge** — Any such charge may recover only the Interconnected Transmission Owner's costs and expenses associated with

operation, maintenance, inspection, testing, modifications, taxes and carrying or capital replacement charges for Attachment Facilities related to the Interconnection Customer's Interconnection Service and that are owned by the Interconnected Transmission Owner, provided that

(i) any such charge shall exclude costs and expenses associated with Transmission Owner Interconnection Facilities owned by the Interconnected Transmission Owner that are radial line facilities that serve load in addition to an Interconnection Customer; and

(ii) except as otherwise provided by Applicable Laws and Regulations, any such charge may include only an allocated share, derived in accordance with the allocations contained in the Facilities Study, of costs and expenses associated with Transmission Owner Interconnection Facilities owned by the Interconnected Transmission Owner that are radial line facilities that serve more than one Interconnection Customer. At the discretion of the affected Interconnected Entities, a Customer Facility Operations and Maintenance Charge authorized under this section may apply on a per-incident basis or on a monthly or other periodic basis.

(e) **Other Charges** — Any other charges applicable to the Interconnection Customer, as mutually agreed upon by the Interconnection Customer and the Interconnected Transmission Owner and as accepted by the FERC as part of an Interconnection Service Agreement.

## **10.2 FERC Filings:**

To the extent required by law or regulation, each Interconnection Party shall seek FERC acceptance or approval of its respective charges or the methodology for the calculation of such charges.

## **11 Security, Billing And Payments**

### **11.1 Recurring Charges Pursuant to Section 10:**

The following provisions shall apply with respect to recurring charges applicable to Interconnection Service after Initial Operation of the Customer Facility pursuant to Section 10 of this Appendix 2.

#### **11.1.1 General:**

Except as, and to the extent, otherwise provided in the Interconnection Service Agreement, billing and payment of any recurring charges applicable to Interconnection Service after Initial Operation of the Customer Facility pursuant to Section 10 of this Appendix 2 shall be in accordance with Section 7 of the Tariff. The Interconnected Transmission Owner shall provide Transmission Provider with all necessary information and supporting data that Transmission Provider may reasonably require to administer billing for and payment of applicable charges under this Appendix 2. Transmission Provider shall remit to the Interconnected Transmission Owner revenues received in payment of Interconnected Transmission Owner's charges to

Interconnection Customer under this Appendix 2 upon Transmission Provider's receipt of such revenues. At Transmission Provider's reasonable discretion, charges to Interconnection Customer and remittances to Interconnected Transmission Owner under this Appendix 2 may be netted against other amounts owed by or to such parties under the Tariff.

#### **11.1.2 Billing Disputes:**

In the event of a billing dispute between Transmission Provider and Interconnection Customer, Transmission Provider shall continue to provide interconnection service under this Appendix 2 as long as Interconnection Customer (i) continues to make all payments not in dispute, and (ii) pays to Transmission Provider or into an independent escrow account the portion of the invoice in dispute, pending resolution of such dispute. If Interconnection Customer fails to meet these two requirements for continuation of service, then Transmission Provider shall so inform the Interconnection Parties and may provide notice to Interconnection Customer of a Breach pursuant to Section 15 of this Appendix 2. Within thirty days after the resolution of the dispute, the Interconnection Party that owes money to the other Interconnection Party shall pay the amount due with interest calculated in accord with Section 11.4.

#### **11.2 Costs for Transmission Owner Interconnection Facilities and/or Merchant Network Upgrades:**

The following provisions shall apply with respect to charges for the Costs of the Interconnected Transmission Owner for which the Interconnection Customer is responsible.

##### **11.2.1 Adjustments to Security:**

The Security provided by Interconnection Customer at or before execution of the Interconnection Service Agreement (a) shall be reduced as portions of the work on required Local Upgrades and/or Network Upgrades is completed, and/or (b) shall be increased or decreased as required to reflect adjustments to Interconnection Customer's cost responsibility, as determined in accordance with Section 217, to correspond with changes in the Scope of Work developed in accordance with Transmission Provider's scope change process for interconnection projects set forth in the PJM Manuals.

##### **11.2.2 Invoice:**

The Interconnected Transmission Owner shall provide Transmission Provider a quarterly statement of the Interconnected Transmission Owner's scheduled expenditures during the next three months for, as applicable (a) the design, engineering and construction of, and/or for other charges related to, construction of the Interconnection Facilities and/or Merchant Network Upgrades for which the Interconnected Transmission Owner is responsible under the Interconnection Service Agreement and the Interconnection Construction Service Agreement, or (b) in the event that the Interconnection Customer exercises the Option to Build pursuant to Section 3.2.3.1 of Appendix 2 of the form of Interconnection Construction Service Agreement (set forth in Attachment P to the Tariff), for the Transmission Owner's Costs associated with the

Interconnection Customer's building Attachment Facilities, Local Upgrades, and Network Upgrades (including both Direct Connection Network Upgrades, Direct Connection Local Upgrades, Non-Direct Connection Network Upgrades and Non-Direct Connection Local Upgrades), including but not limited to Costs for tie-in work and Cancellation Costs. Provided, however, such Transmission Owner Costs may include oversight costs (i.e. costs incurred by the Transmission Owner when engaging in oversight activities to satisfy itself that the Interconnection Customer is complying with the Transmission Owner's standards and specifications for the construction of facilities) only if the Transmission Owner and the Interconnection Customer mutually agree to the inclusion of such costs under the Option to Build pursuant to the provisions of Section 3.3.3.1 of Appendix 2 of the form of Interconnection Construction Service Agreement (set forth in Attachment P to the Tariff). Transmission Provider shall bill Interconnection Customer on behalf of the Interconnected Transmission Owner, for the Interconnected Transmission Owner's expected Costs during the subsequent three months. Interconnection Customer shall pay each bill within twenty (20) days after receipt thereof. Upon receipt of each of Interconnection Customer's payments of such bills, Transmission Provider shall reimburse the Interconnected Transmission Owner. Interconnection Customer may request that the Transmission Provider provide a quarterly cost reconciliation. Such a quarterly cost reconciliation will have a one-quarter lag, e.g., reconciliation of costs for the first calendar quarter of work will be provided at the start of the third calendar quarter of work, provided, however, that Section 11.2.3 of this Appendix 2 shall govern the timing of the final cost reconciliation upon completion of the work.

#### **11.2.3 Final Invoice:**

Within 120 days after the Interconnected Transmission Owner completes construction and installation of the Interconnection Facilities and/or Merchant Network Upgrades for which the Interconnected Transmission Owner is responsible under the Interconnection Service Agreement and the Interconnection Construction Service Agreement, Transmission Provider shall provide Interconnection Customer with an accounting of, and the appropriate Construction Party shall make any payment to the other that is necessary to resolve, any difference between (a) Interconnection Customer's responsibility under the Tariff for the actual Cost of such facilities, and (b) Interconnection Customer's previous aggregate payments to Transmission Provider for the Costs of such facilities. Notwithstanding the foregoing, however, Transmission Provider shall not be obligated to make any payment to either the Interconnection Customer or the Interconnected Transmission Owner that the preceding sentence requires it to make unless and until the Transmission Provider has received the payment that it is required to refund from the Construction Party owing the payment.

#### **11.2.4 Disputes:**

In the event of a billing dispute between any of the Construction Parties, Transmission Provider and the Interconnected Transmission Owner shall continue to perform their respective obligations pursuant to this Interconnection Service Agreement and any related Interconnection Construction Service Agreements so long as (a) Interconnection Customer continues to make all payments not in dispute, and (b) the Security held by the Transmission Provider while the dispute is pending exceeds the amount in dispute, or (c) Interconnection Customer pays to Transmission Provider or

into an independent escrow account the portion of the invoice in dispute, pending resolution of such dispute. If Interconnection Customer fails to meet any of these requirements, then Transmission Provider shall so inform the other Construction Parties and Transmission Provider or the Interconnected Transmission Owner may provide notice to Interconnection Customer of a Breach pursuant to Section 15 of this Appendix 2.

### **11.3 No Waiver:**

Payment of an invoice shall not relieve Interconnection Customer from any other responsibilities or obligations it has under this Appendix 2, nor shall such payment constitute a waiver of any claims arising hereunder.

### **11.4 Interest:**

Interest on any unpaid amounts shall be calculated in accordance with the methodology specified for interest on refunds in the FERC's regulations at 18 C.F.R. § 35.19a(a)(2)(iii). Interest on delinquent amounts shall be calculated from the due date of the bill to the date of payment.

### **12.0 Assignment**

#### **12.1 Assignment with Prior Consent:**

Except as provided in Section 12.2 to this Appendix 2, no Interconnection Party shall assign its rights or delegate its duties, or any part of such rights or duties, under the Interconnection Service Agreement without the written consent of the other Interconnection Parties, which consent shall not be unreasonably withheld, conditioned, or delayed. Any such assignment or delegation made without such written consent shall be null and void. An Interconnection Party may make an assignment in connection with the sale, merger, or transfer of a substantial portion or all of its properties including the Interconnection Facilities which it owns, so long as the assignee in such a sale, merger, or transfer assumes in writing all rights, duties and obligations arising under this Interconnection Service Agreement. In addition, the Interconnected Transmission Owner shall be entitled, subject to Applicable Laws and Regulations, to assign the Interconnection Service Agreement to any Affiliate or successor that owns and operates all or a substantial portion of the Interconnected Transmission Owner's transmission facilities.

#### **12.2 Assignment Without Prior Consent**

##### **12.2.1 Assignment to Owners:**

Interconnection Customer may assign the Interconnection Service Agreement without the Interconnected Transmission Owner's or Transmission Provider's prior consent to any Affiliate or person that purchases or otherwise acquires, directly or indirectly, all or substantially all of the Customer Facility and the Customer Interconnection Facilities, provided that prior to the effective date of any such assignment, the assignee shall demonstrate that, as of the effective date of the assignment, the assignee has the technical and operational competence to comply with the requirements of this Interconnection Service Agreement and assumes in a writing provided to the

Interconnected Transmission Owner and Transmission Provider all rights, duties, and obligations of Interconnection Customer arising under this Interconnection Service Agreement. However, any assignment described herein shall not relieve or discharge the Interconnection Customer from any of its obligations hereunder absent the written consent of the Transmission Provider, such consent not to be unreasonably withheld, conditioned or delayed.

#### **12.2.2 Assignment to Lenders:**

Interconnection Customer may, without the consent of the Transmission Provider or the Interconnected Transmission Owner, assign the Interconnection Service Agreement to any Project Finance Entity(ies), provided that such assignment does not alter or diminish Interconnection Customer's duties and obligations under this Interconnection Service Agreement. If Interconnection Customer provides the Interconnected Transmission Owner with notice of an assignment to any Project Finance Entity(ies) and identifies such Project Finance Entities as contacts for notice purposes pursuant to Section 21 of this Appendix 2, the Transmission Provider or Interconnected Transmission Owner shall provide notice and reasonable opportunity for such entity(ies) to cure any Breach under this Interconnection Service Agreement in accordance with this Interconnection Service Agreement. Transmission Provider or Interconnected Transmission Owner shall, if requested by such lenders, provide such customary and reasonable documents, including consents to assignment, as may be reasonably requested with respect to the assignment and status of the Interconnection Service Agreement, provided that such documents do not alter or diminish the rights of the Transmission Provider or Interconnected Transmission Owner under this Interconnection Service Agreement, except with respect to providing notice of Breach to a Project Finance Entity. Upon presentation of the Transmission Provider and/or the Interconnected Transmission Owner's invoice therefor, Interconnection Customer shall pay the Transmission Provider and/or the Interconnected Transmission Owner's reasonable documented cost of providing such documents and certificates. Any assignment described herein shall not relieve or discharge the Interconnection Customer from any of its obligations hereunder absent the written consent of the Interconnected Transmission Owner and Transmission Provider.

#### **12.3 Successors and Assigns:**

This Interconnection Service Agreement and all of its provisions are binding upon, and inure to the benefit of, the Interconnection Parties and their respective successors and permitted assigns.

### **13 Insurance**

#### **13.1 Required Coverages For Generation Resources Of More Than 20 Megawatts or Merchant Transmission Facilities:**

Each Interconnected Entity shall maintain insurance as described in paragraphs A through E below. All insurance shall be procured from insurance companies rated "A-" or better by AM Best and authorized to do business in a state or states in which the Interconnection Facilities are located. Failure to maintain required insurance shall be a Breach of the Interconnection Service Agreement.

A. Workers Compensation insurance with statutory limits, as required by the state and/or jurisdiction in which the work is to be performed, and employer's liability insurance with limits of not less than one million dollars (\$1,000,000.00).

B. Commercial General Liability Insurance including premises and operations, personal injury, broad form property damage, broad form blanket contractual liability coverage (including coverage for the contractual indemnification), products and completed operations coverage, coverage for explosion, collapse and underground hazards, independent contractors coverage, coverage for pollution to the extent normally available and punitive damages to the extent normally available and a cross liability endorsement, with minimum limits of One Million Dollars (\$1,000,000) per occurrence/One Million Dollars (\$1,000,000) aggregate combined single limit for personal injury, bodily injury, including death and property damage.

C. Comprehensive Automobile Liability Insurance for coverage of owned and non-owned and hired vehicles, trailers or semi-trailers designed for travel on public roads, with a minimum, combined single limit of One Million Dollars (\$1,000,000) per occurrence for bodily injury, including death, and property damage.

D. Excess/Umbrella Liability Insurance with a limit of liability of not less than twenty million dollars (\$20,000,000.00) per occurrence. These limits apply in excess of the employer's liability, commercial general liability and automobile liability coverages described above.

E. Professional Liability Insurance providing errors, omissions and/or malpractice coverage in the amount of five million (\$5,000,000) per occurrence/aggregate. Coverage shall be provided for the Interconnected Entity's duties, responsibilities and performance outlined in this Appendix 2, the Interconnection Service Agreement, and if applicable, the Interconnection Construction Service Agreement.

An Interconnected Entity may meet the Professional Liability Insurance requirements by requiring third-party contractors, designers, or engineers, or other parties that are responsible for design work associated with the transmission facilities or Interconnection Facilities necessary for the interconnection to procure professional liability insurance in the amounts and upon the terms prescribed by this section 13.1(E), and providing evidence of such insurance to the other Interconnected Entity. Such insurance shall be procured from companies rated "A-" or better by AM Best and authorized to do business in a state or states in which the Interconnection Facilities are located. Nothing in this section relieves the Interconnected Entity from complying with the insurance requirements. In the event that the policies of the designers, engineers, or other parties used to satisfy the Interconnected Entity's insurance obligations under this section become invalid for any reason, including but not limited to, (i) the policy(ies) lapsing or otherwise terminating or expiring; (ii) the coverage limits of such policy(ies) are decreased; or (iii) the policy(ies) do not comply with the terms and conditions of the Tariff; Interconnected Entity shall be required to procure insurance sufficient to meet the requirements of this section, such that there is no lapse in insurance coverage. Notwithstanding the foregoing, in the event an Interconnected Entity will not design or construct or cause to design or construct any new transmission facilities or Interconnection Facilities, Transmission Provider, in its discretion, may waive the requirement that an Interconnected Entity maintain the Professional Liability Insurance pursuant to this



section.

**13.1A. Required Coverages For Generation Resources Of 20 Megawatts Or Less:**

Except as provided in section 13.1B below, each Interconnected Entity shall maintain the types of insurance as described in section 13.1 paragraphs A through E in an amount sufficient to insure against all reasonably foreseeable direct liabilities given the size and nature of the generating equipment being interconnected, the interconnection itself, and the characteristics of the system to which the interconnection is made. Additional insurance may be required by the Interconnection Customer, as a function of owning and operating a generating facility. All insurance shall be procured from insurance companies rated "A-" or better by AM Best and authorized to do business in a state or states in which the Interconnection Facilities are located. Failure to maintain required insurance shall be a Breach of the Interconnection Service Agreement.

**13.2 Additional Insureds:**

The Commercial General Liability, Automobile Liability and Excess/Umbrella Liability policies procured by each Interconnected Entity (the "Insuring Interconnected Entity") shall include each other Interconnection Party (the "Insured Interconnection Party"), and its respective officers, agents and employees as additional insureds, providing all standard coverages and covering liability of the Insured Interconnection Party arising out of bodily injury and/or property damage (including loss of use) in any way connected with the operations, performance, or lack of performance under this Interconnection Service Agreement.

**13.3 Other Required Terms:**

The above-mentioned insurance policies (except workers' compensation) shall provide the following:

(a) Each policy shall contain provisions that specify that it is primary and shall apply to such extent without consideration for other policies separately carried and shall state that each insured is provided coverage as though a separate policy had been issued to each, except the insurer's liability shall not be increased beyond the amount for which the insurer would have been liable had only one insured been covered. Each Insuring Interconnected Entity shall be responsible for its respective deductibles or retentions.

(b) Each policy, if written on a Claims First Made Basis, shall be maintained in full force and effect for two (2) years after termination of the Interconnection Service Agreement, which coverage may be in the form of tail coverage or extended reporting period coverage if agreed by the Interconnection Parties.

(c) Provide for a waiver of all rights of subrogation which the Insuring Interconnected Entity's insurance carrier might exercise against the Insured Interconnection Party.

**13.3A No Limitation of Liability:**

The requirements contained herein as to the types and limits of all insurance to be maintained by the Interconnected Entities are not intended to and shall not in any manner, limit or qualify the liabilities and obligations assumed by the Interconnection Parties under the Interconnection Service Agreement.

#### **13.4 Self-Insurance:**

Notwithstanding the foregoing, each Interconnected Entity may self-insure to meet the minimum insurance requirements of this Section 13 of this Appendix 2 to the extent it maintains a self-insurance program, provided that such Interconnected Entity's senior secured debt is rated at investment grade or better by Standard & Poor's and its self-insurance program meets the minimum insurance requirements of this Section 13. For any period of time that an Interconnected Entity's senior secured debt is unrated by Standard & Poor's or is rated at less than investment grade by Standard & Poor's, such Party shall comply with the insurance requirements applicable to it under this Section 13. In the event that an Interconnected Entity is permitted to self-insure pursuant to this section, it shall notify the other Interconnection Parties that it meets the requirements to self-insure and that its self-insurance program meets the minimum insurance requirements in a manner consistent with that specified in Section 13.5 of this Appendix 2.

#### **13.5 Notices; Certificates of Insurance:**

All policies of insurance shall provide for thirty days prior written notice of cancellation or material adverse change. Each Interconnected Entity shall provide the other with certificates of insurance prior to Initial Operation of the Customer Facility and thereafter at such time intervals as they shall mutually agree upon, provided that such interval shall not be less than one year. All certificates of insurance shall indicate that the certificate holder is included as an additional insured under the Commercial General Liability, Automobile liability and Excess/Umbrella liability coverages, and that this insurance is primary with a waiver of subrogation included.

#### **13.6 Subcontractor Insurance:**

In accord with Good Utility Practice, each Interconnected Entity shall require each of its subcontractors to maintain and provide evidence of insurance coverage of types, and in amounts, commensurate with the risks associated with the services provided by the subcontractor. Bonding of contractors or subcontractors shall be at the hiring Interconnected Entity's discretion, but regardless of bonding, the hiring principal shall be responsible for the performance or non-performance of any contractor or subcontractor it hires.

#### **13.7 Reporting Incidents**

The Interconnection Parties shall report to each other in writing as soon as practical all accidents or occurrences resulting in injuries to any person, including death, and any property damage arising out of the Interconnection Service Agreement.

## **14 Indemnity**

### **14.1 Indemnity:**

Each Interconnection Party shall indemnify and hold harmless the other Interconnection Parties, and the other Interconnection Parties' officers, shareholders, stakeholders, members, managers, representatives, directors, agents and employees, and Affiliates, from and against any and all loss, liability, damage, cost or expense to third parties, including damage and liability for bodily injury to or death of persons, or damage to property or persons (including reasonable attorneys' fees and expenses, litigation costs, consultant fees, investigation fees, sums paid in settlements of claims, penalties or fines imposed under Applicable Laws and Regulations, and any such fees and expenses incurred in enforcing this indemnity or collecting any sums due hereunder) (collectively, "Loss") to the extent arising out of, in connection with, or resulting from (i) the indemnifying Interconnection Party's breach of any of the representations or warranties made in, or failure of the indemnifying Interconnection Party or any of its subcontractors to perform any of its obligations under, this Interconnection Service Agreement (including Appendix 2), or (ii) the negligence or willful misconduct of the indemnifying Interconnection Party or its contractors; provided, however, that no Interconnection Party shall have any indemnification obligations under this Section 14.1 in respect of any Loss to the extent the Loss results from the negligence or willful misconduct of the Interconnection Party seeking indemnity.

### **14.2 Indemnity Procedures:**

Promptly after receipt by a Person entitled to indemnity ("Indemnified Person") 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 Section 14.1 may apply, the Indemnified Person shall notify the indemnifying Interconnection Party of such fact. Any failure of or delay in such notification shall not affect an Interconnection Party's indemnification obligation unless such failure or delay is materially prejudicial to the indemnifying Interconnection Party. The Indemnified Person shall cooperate with the indemnifying Interconnection Party with respect to the matter for which indemnification is claimed. The indemnifying Interconnection Party shall have the right to assume the defense thereof with counsel designated by such indemnifying Interconnection Party and reasonably satisfactory to the Indemnified Person. If the defendants in any such action include one or more Indemnified Persons and the indemnifying Interconnection Party and if the Indemnified Person reasonably concludes that there may be legal defenses available to it and/or other Indemnified Persons which are different from or additional to those available to the indemnifying Interconnection Party, the Indemnified Person shall have the right to select separate counsel to assert such legal defenses and to otherwise participate in the defense of such action on its own behalf. In such instances, the indemnifying Interconnection Party shall only be required to pay the fees and expenses of one additional attorney to represent an Indemnified Person or Indemnified Persons having such differing or additional legal defenses. The Indemnified Person shall be entitled, at its expense, to participate in any action, suit or proceeding, the defense of which has been assumed by the indemnifying Interconnection Party. Notwithstanding the foregoing, the indemnifying Interconnection Party (i) shall not be entitled to assume and control the defense of any such action, suit or proceedings if and to the extent that, in the opinion of the Indemnified Person and its counsel, such action, suit or proceeding involves the

potential imposition of criminal liability on the Indemnified Person, or there exists a conflict or adversity of interest between the Indemnified Person and the indemnifying Interconnection Party, in such event the indemnifying Interconnection Party shall pay the reasonable expenses of the Indemnified Person, and (ii) shall not settle or consent to the entry of any judgment in any action, suit or proceeding without the consent of the Indemnified Person, which shall not be unreasonably withheld, conditioned or delayed.

#### **14.3 Indemnified Person:**

If an Indemnified Person is entitled to indemnification under this Section 14 as a result of a claim by a third party, and the indemnifying Interconnection Party fails, after notice and reasonable opportunity to proceed under Section 14.2 of this Appendix 2, to assume the defense of such claim, such Indemnified Person may at the expense of the indemnifying Interconnection Party contest, settle or consent to the entry of any judgment with respect to, or pay in full, such claim.

#### **14.4 Amount Owing:**

If an indemnifying Interconnection Party is obligated to indemnify and hold any Indemnified Person harmless under this Section 14, the amount owing to the Indemnified Person shall be the amount of such Indemnified Person's actual Loss, net of any insurance or other recovery.

#### **14.5 Limitation on Damages:**

Except as otherwise provided in this Section 14, the liability of an Interconnection Party under this Appendix 2 shall be limited to direct actual damages, and all other damages at law are waived. Under no circumstances shall any Interconnection Party or its Affiliates, directors, officers, employees and agents, or any of them, be liable to another Interconnection Party, whether in tort, contract or other basis in law or equity for any special, indirect punitive, exemplary or consequential damages, including lost profits. The limitations on damages specified in this Section 14.5 are without regard to the cause or causes related thereto, including the negligence of any Interconnection Party, whether such negligence be sole, joint or concurrent, or active or passive. This limitation on damages shall not affect any Interconnection Party's rights to obtain equitable relief as otherwise provided in this Appendix 2. The provisions of this Section 14.5 shall survive the termination or expiration of the Interconnection Service Agreement.

#### **14.6 Limitation of Liability in Event of Breach:**

An Interconnection Party ("Breaching Party") shall have no liability hereunder to the other Interconnection Parties, and the other Interconnection Parties hereby release the Breaching Party, for all claims or damages that either of them incurs that are associated with any interruption in the availability of the Customer Facility, Interconnection Facilities, Transmission System or Interconnection Service or damages to an Interconnection Party's facilities, except to the extent such interruption or damage is caused by the Breaching Party's gross negligence or willful misconduct in the performance of its obligations under this Interconnection Service Agreement (including Appendix 2).

#### **14.7 Limited Liability in Emergency Conditions:**

Except as otherwise provided in the Tariff or the Operating Agreement, no Interconnection Party shall be liable to any other Interconnection Party for any action that it takes in responding to an Emergency Condition, so long as such action is made in good faith, is consistent with Good Utility Practice and is not contrary to the directives of the Transmission Provider or of the Interconnected Transmission Owner with respect to such Emergency Condition. Notwithstanding the above, Interconnection Customer shall be liable in the event that it fails to comply with any instructions of Transmission Provider or the Interconnected Transmission Owner related to an Emergency Condition.

#### **15 Breach, Cure And Default**

##### **15.1 Breach:**

A Breach of this Interconnection Service Agreement shall include:

- (a) The failure to pay any amount when due;
- (b) The failure to comply with any material term or condition of this Appendix 2 or of the other portions of the Interconnection Service Agreement, including but not limited to any material breach of a representation, warranty or covenant (other than in subsections (a) and (c)-(e) of this Section) made in this Appendix 2;
- (c) Assignment of the Interconnection Service Agreement in a manner inconsistent with its terms;
- (d) Failure of an Interconnection Party to provide access rights, or an Interconnection Party's attempt to revoke or terminate access rights, that are provided under this Appendix 2; or
- (e) Failure of an Interconnection Party to provide information or data required to be provided under this Appendix 2 to another Interconnection Party for such other Interconnection Party to satisfy its obligations under this Appendix 2.

##### **15.2 Continued Operation:**

In the event of a Breach or Default by either Interconnected Entity, and subject to termination of the Interconnection Service Agreement under Section 16 of this Appendix 2, the Interconnected Entities shall continue to operate and maintain, as applicable, such DC power systems, protection and Metering Equipment, telemetering equipment, SCADA equipment, transformers, Secondary Systems, communications equipment, building facilities, software, documentation, structural components, and other facilities and appurtenances that are reasonably necessary for Transmission Provider and the Interconnected Transmission Owner to operate and maintain the Transmission System and the Transmission Owner Interconnection Facilities and for Interconnection Customer to operate and maintain the Customer Facility and the Customer Interconnection Facilities, in a safe and reliable manner.

**15.3 Notice of Breach:**

An Interconnection Party not in Breach shall give written notice of an event of Breach to the Breaching Party, to Transmission Provider and to other persons that the Breaching Party identifies in writing to the other Interconnection Party in advance. Such notice shall set forth, in reasonable detail, the nature of the Breach, and where known and applicable, the steps necessary to cure such Breach. In the event of a Breach by Interconnection Customer, Transmission Provider and the Interconnected Transmission Owner agree to provide notice of such Breach, at the same time and in the same manner as its notice to Interconnection Customer, to any Project Finance Entity provided that the Interconnection Customer has provided the notifying Interconnection Party with notice of an assignment to such Project Finance Entity(ies) and identifies such Project Finance Entity(ies) as contacts for notice purposes pursuant to Section 21 of this Appendix 2.

**15.4 Cure and Default:**

An Interconnection Party that commits a Breach and does not take steps to cure the Breach pursuant to this Section 15.4 is in Default of this Appendix 2 and of the Interconnection Service Agreement.

**15.4.1 Cure of Breach:**

Except for the event of Breach set forth in Section 15.1(a) above, the Breaching Interconnection Party (a) may cure the Breach within thirty days from the receipt of such notice; or (b) if the Breach cannot be cured within thirty (30) days, may commence in good faith all steps that are reasonable and appropriate to cure the Breach within such thirty day time period and thereafter diligently pursue such action to completion. In an event of Breach set forth in Section 15.1(a), the Breaching Interconnection Party may cure the Breach within five (5) days from the receipt of notice of the Breach.

**15.5 Right to Compel Performance:**

Notwithstanding the foregoing, upon the occurrence of an event of Default, a non-Defaulting Interconnection Party shall be entitled to (a) commence an action to require the Defaulting Interconnection Party to remedy such Default and specifically perform its duties and obligations hereunder in accordance with the terms and conditions hereof, (b) withhold payments, (c) suspend performance hereunder, and (d) exercise such other rights and remedies as it may have in equity or at law; provided, however, that the Transmission Provider shall not terminate the Interconnection Service Agreement due to the failure of Interconnection Customer to make a payment hereunder unless such failure could reasonably be expected to have a material adverse effect on the Interconnected Transmission Owner.

**15.6 Remedies Cumulative:**

Subject to Section 20.1, no remedy conferred by any provision of this Appendix 2 is intended to

be exclusive of any other remedy and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. The election of any one or more remedies shall not constitute a waiver of the right to pursue other available remedies.

## **16 Termination**

### **16.1 Termination:**

This Interconnection Service Agreement and Interconnection Service under this Interconnection Service Agreement may be terminated by the following means:

#### **16.1.1 By Mutual Consent:**

Interconnection Service may be terminated as of the date on which the Interconnection Parties mutually agree to terminate the Interconnection Service Agreement.

#### **16.1.2 By Interconnection Customer:**

Interconnection Customer may unilaterally terminate the Interconnection Service Agreement pursuant to Applicable Laws and Regulations upon providing Transmission Provider and the Interconnected Transmission Owner sixty (60) days prior written notice thereof, provided that Interconnection Customer is not then in Default under the Interconnection Service Agreement.

#### **16.1.3 Upon Default of Interconnection Customer:**

Transmission Provider may terminate the Interconnection Service Agreement upon the Default of Interconnection Customer of its obligations under the Interconnection Service Agreement by providing Interconnection Customer and the Interconnected Transmission Owner prior written notice of termination; provided, however, that Transmission Provider shall not terminate the Interconnection Service Agreement due to the failure of Interconnection Customer to make a payment hereunder unless such failure could reasonably be expected to have a material adverse effect on the Interconnected Transmission Owner.

## **16.2 Disposition of Facilities Upon Termination**

### **16.2.1 Disconnection:**

Upon termination of the Interconnection Service Agreement in accordance with this Section 16, Transmission Provider and/or the Interconnected Transmission Owner shall, in coordination with Interconnection Customer, physically disconnect the Customer Facility from the Transmission System, except to the extent otherwise allowed by this Appendix 2.

### **16.2.2 Network Facilities:**

At the time of termination, the Transmission Provider and the Interconnected Entities shall keep

in place any portion of the Interconnection Facilities and/or of any Merchant Network Upgrades that the Transmission Provider deems necessary for the safety, integrity and/or reliability of the Transmission System. Otherwise, Transmission Provider may, in its discretion, within 30 days following termination of Interconnection Service, require the removal of all or any part of the Interconnection Facilities or of any Merchant Network Upgrades.

**16.2.2.1** In the event that (i) the Interconnection Service Agreement and Interconnection Service under this Appendix 2 are terminated and (ii) Transmission Provider determines that some or all of the Interconnection Facilities or of any Merchant Network Upgrades that are owned by the Interconnection Customer are necessary for the safety, integrity and/or reliability of the Transmission System, Interconnection Customer, subject to Applicable Laws and Regulations, shall transfer to the Interconnected Transmission Owner title to the Interconnection Facilities or Merchant Network Upgrades that Transmission Provider has determined to be necessary for the safety, integrity and/or reliability of the Transmission System.

**16.2.2.2** In the event that removal of some or all of the Interconnection Facilities or any Merchant Network Upgrades is necessary to maintain compliance with Applicable Standards, Interconnection Customer shall be responsible for the costs of any such removal. Interconnection Customer shall have the right to take or retain title to equipment and/or facilities that are removed pursuant to this section; alternatively, in the event that the Interconnection Customer does not wish to retain title to removed equipment and/or facilities that it owns, the Interconnected Transmission Owner may elect to pay the Interconnection Customer a mutually agreed amount to acquire and own such equipment and/or facilities.

### **16.2.3 Request for Disposition Determination:**

Interconnection Customer may request a determination from the Transmission Provider whether any Interconnection Facilities or any Merchant Network Upgrades will be removed in the event of any termination of Interconnection Service to the Customer Facility within the following year. Transmission Provider shall respond to that request no later than sixty (60) days after receipt.

### **16.3 FERC Approval:**

Notwithstanding any other provision of this Appendix 2, no termination hereunder shall become effective until the Interconnected Entities and/or Transmission Provider have complied with all Applicable Laws and Regulations applicable to such termination, including the filing with the FERC of a notice of termination of the Interconnection Service Agreement, and acceptance of such notice for filing by the FERC.

### **16.4 Survival of Rights:**

Termination of this Interconnection Service Agreement shall not relieve any Interconnection Party of any of its liabilities and obligations arising under this Interconnection Service Agreement (including Appendix 2) prior to the date on which termination becomes effective, and each Interconnection Party may take whatever judicial or administrative actions it deems desirable or necessary to enforce its rights hereunder. Applicable provisions of this Appendix 2 will continue



in effect after termination to the extent necessary to provide for final billings, billing adjustments, and the determination and enforcement of liability and indemnification obligations arising from events or acts that occurred while the Interconnection Service Agreement was in effect.

#### **17 Confidentiality:**

Information is Confidential Information only if it is clearly designated or marked in writing as confidential on the face of the document, or, if the information is conveyed orally or by inspection, if the Interconnection Party providing the information orally informs the Interconnection Party receiving the information that the information is confidential. If requested by any Interconnection Party, the disclosing Interconnection Party shall provide in writing the basis for asserting that the information referred to in this section warrants confidential treatment, and the requesting Interconnection Party may disclose such writing to an appropriate Governmental Authority. Any Interconnection Party shall be responsible for the costs associated with affording confidential treatment to its information.

##### **17.1 Term:**

During the term of the Interconnection Service Agreement, and for a period of three (3) years after the expiration or termination of the Interconnection Service Agreement, except as otherwise provided in this Section 17, each Interconnection Party shall hold in confidence, and shall not disclose to any person, Confidential Information provided to it by any other Interconnection Party.

##### **17.2 Scope:**

Confidential Information shall not include information that the receiving Interconnection Party can demonstrate: (i) is generally available to the public other than as a result of a disclosure by the receiving Interconnection Party; (ii) was in the lawful possession of the receiving Interconnection Party on a non-confidential basis before receiving it from the disclosing Interconnection Party; (iii) was supplied to the receiving Interconnection Party without restriction by a third party, who, to the knowledge of the receiving Interconnection Party, after due inquiry, was under no obligation to the disclosing Interconnection Party to keep such information confidential; (iv) was independently developed by the receiving Interconnection Party without reference to Confidential Information of the disclosing Interconnection Party; (v) is, or becomes, publicly known, through no wrongful act or omission of the receiving Interconnection Party or breach of this Appendix 2; or (vi) is required, in accordance with Section 17.7 of this Appendix 2, to be disclosed to any Governmental Authority or is otherwise required to be disclosed by law or subpoena, or is necessary in any legal proceeding establishing rights and obligations under the Interconnection Service Agreement. Information designated as Confidential Information shall no longer be deemed confidential if the Interconnection Party that designated the information as confidential notifies the other Interconnection Parties that it no longer is confidential.

##### **17.3 Release of Confidential Information:**

No Interconnection Party shall disclose Confidential Information to any other person, except to its

Affiliates (limited by the Commission's Standards of Conduct requirements), subcontractors, employees, consultants or to parties who may be or considering providing financing to or equity participation in Interconnection Customer or to potential purchasers or assignees of Interconnection Customer, on a need-to-know basis in connection with the Interconnection Service Agreement, unless such person has first been advised of the confidentiality provisions of this Section 17 and has agreed to comply with such provisions. Notwithstanding the foregoing, an Interconnection Party providing Confidential Information to any person shall remain primarily responsible for any release of Confidential Information in contravention of this Section 17.

#### **17.4 Rights:**

Each Interconnection Party retains all rights, title, and interest in the Confidential Information that it discloses to any other Interconnection Party. An Interconnection Party's disclosure to another Interconnection Party of Confidential Information shall not be deemed a waiver by any Interconnection Party or any other person or entity of the right to protect the Confidential Information from public disclosure.

#### **17.5 No Warranties:**

By providing Confidential Information, no Interconnection Party makes any warranties or representations as to its accuracy or completeness. In addition, by supplying Confidential Information, no Interconnection Party obligates itself to provide any particular information or Confidential Information to any other Interconnection Party nor to enter into any further agreements or proceed with any other relationship or joint venture.

#### **17.6 Standard of Care:**

Each Interconnection Party shall use at least the same standard of care to protect Confidential Information it receives as the Interconnection Party uses to protect its own Confidential Information from unauthorized disclosure, publication or dissemination. Each Interconnection Party may use Confidential Information solely to fulfill its obligations to the other Interconnection Parties under the Interconnection Service Agreement or to comply with Applicable Laws and Regulations.

#### **17.7 Order of Disclosure:**

If a Governmental Authority with the right, power, and apparent authority to do so requests or requires an Interconnection Party, by subpoena, oral deposition, interrogatories, requests for production of documents, administrative order, or otherwise, to disclose Confidential Information, that Interconnection Party shall provide the Interconnection Party that provided the information with prompt prior notice of such request(s) or requirement(s) so that the providing Interconnection Party may seek an appropriate protective order or waive compliance with the terms of this Appendix 2 or the Interconnection Service Agreement. Notwithstanding the absence of a protective order or agreement, or waiver, the Interconnection Party that is subjected to the request or order may disclose such Confidential Information which, in the opinion of its counsel, the Interconnection Party is legally compelled to disclose. Each Interconnection Party

shall use Reasonable Efforts to obtain reliable assurance that confidential treatment will be accorded any Confidential Information so furnished.

**17.8 Termination of Interconnection Service Agreement:**

Upon termination of the Interconnection Service Agreement for any reason, each Interconnection Party shall, within ten (10) calendar days of receipt of a written request from another party, use Reasonable Efforts to destroy, erase, or delete (with such destruction, erasure and deletion certified in writing to the requesting party) or to return to the other party, without retaining copies thereof, any and all written or electronic Confidential Information received from the requesting party.

**17.9 Remedies:**

The Interconnection Parties agree that monetary damages would be inadequate to compensate an Interconnection Party for another Interconnection Party's Breach of its obligations under this Section 17. Each Interconnection Party accordingly agrees that the other Interconnection Parties shall be entitled to equitable relief, by way of injunction or otherwise, if the first Interconnection Party breaches or threatens to breach its obligations under this Section 17, which equitable relief shall be granted without bond or proof of damages, and the receiving Interconnection Party shall not plead in defense that there would be an adequate remedy at law. Such remedy shall not be deemed to be an exclusive remedy for the breach of this Section 17, but shall be in addition to all other remedies available at law or in equity. The Interconnection Parties further acknowledge and agree that the covenants contained herein are necessary for the protection of legitimate business interests and are reasonable in scope. No Interconnection Party, however, shall be liable for indirect, incidental or consequential or punitive damages of any nature or kind resulting from or arising in connection with this Section 17.

**17.10 Disclosure to FERC or its Staff:**

Notwithstanding anything in this Section 17 to the contrary, and pursuant to 18 C.F.R. § 1b.20, if FERC or its staff, during the course of an investigation or otherwise, requests information from one of the Interconnection Parties that is otherwise required to be maintained in confidence pursuant to this Interconnection Service Agreement, the Interconnection Party, shall provide the requested information to FERC or its staff, within the time provided for in the request for information. In providing the information to FERC or its staff, the Interconnection Party must, consistent with 18 C.F.R. § 388.122, request that the information be treated as confidential and non-public by FERC and its staff and that the information be withheld from public disclosure. Interconnection Parties are prohibited from notifying the other Interconnection Parties prior to the release of the Confidential Information to the Commission or its staff. An Interconnection Party shall notify the other Interconnection Parties to the Interconnection Service Agreement when it is notified by FERC or its staff that a request to release Confidential Information has been received by FERC, at which time any of the Interconnection Parties may respond before such information would be made public, pursuant to 18 C.F.R. § 388.112.

**17.11**

Subject to the exception in Section 17.10 of this Appendix 2, no Interconnection Party shall disclose Confidential Information of another Interconnection Party to any person not employed or retained by the Interconnection Party, except to the extent disclosure is (i) required by law; (ii) reasonably deemed by the disclosing Interconnection Party to be required in connection with a dispute between or among the Interconnection Parties, or the defense of litigation or dispute; (iii) otherwise permitted by consent of the Interconnection Party that provided such Confidential Information, such consent not to be unreasonably withheld; or (iv) necessary to fulfill its obligations under this Interconnection Service Agreement or as a transmission service provider or a Control Area operator including disclosing the Confidential Information to an RTO or ISO or to a regional or national reliability organization. Prior to any disclosures of another Interconnection Party's Confidential Information under this subparagraph, the disclosing Interconnection Party shall promptly notify the other Interconnection Parties in writing and shall assert confidentiality and cooperate with the other Interconnection Parties in seeking to protect the Confidential Information from public disclosure by confidentiality agreement, protective order or other reasonable measures.

#### **17.12**

This provision shall not apply to any information that was or is hereafter in the public domain (except as a result of a Breach of this provision).

#### **17.13 Return or Destruction of Confidential Information:**

If an Interconnection Party provides any Confidential Information to another Interconnection Party in the course of an audit or inspection, the providing Interconnection Party may request the other party to return or destroy such Confidential Information after the termination of the audit period and the resolution of all matters relating to that audit. Each Interconnection Party shall make Reasonable Efforts to comply with any such requests for return or destruction within ten days of receiving the request and shall certify in writing to the other Interconnection Party that it has complied with such request.

### **18 Subcontractors**

#### **18.1 Use of Subcontractors:**

Nothing in this Appendix 2 shall prevent the Interconnection Parties from utilizing the services of subcontractors as they deem appropriate to perform their respective obligations hereunder, provided, however, that each Interconnection Party shall require its subcontractors to comply with all applicable terms and conditions of this Appendix 2 in providing such services.

#### **18.2 Responsibility of Principal:**

The creation of any subcontract relationship shall not relieve the hiring Interconnection Party of any of its obligations under this Appendix 2. Each Interconnection Party shall be fully responsible to the other Interconnection Parties for the acts and/or omissions of any subcontractor it hires as if

no subcontract had been made.

### **18.3 Indemnification by Subcontractors:**

To the fullest extent permitted by law, an Interconnection Party that uses a subcontractor to carry out any of the Interconnection Party's obligations under this Appendix 2 shall require each of its subcontractors to indemnify, hold harmless and defend each other Interconnection Party, its representatives and assigns from and against any and all claims and/or liability for damage to property, injury to or death of any person, including the employees of any Interconnection Party or of any Affiliate of any Interconnection Party, or any other liability incurred by the other Interconnection Party or any of its Affiliates, including all expenses, legal or otherwise, to the extent caused by any act or omission, negligent or otherwise, by such subcontractor and/or its officers, directors, employees, agents and assigns, that arises out of or is connected with the operation of the facilities of either Interconnected Entity described in this Appendix 2; provided, however, that no Interconnection Party or Affiliate thereof shall be entitled to indemnity under this Section 18.3 in respect of any injury, loss, or damage to the extent that such loss, injury, or damage results from the negligence or willful misconduct of the Interconnection Party or Affiliate seeking indemnity.

### **18.4 Subcontractors Not Beneficiaries:**

No subcontractor is intended to be, or shall be deemed to be, a third-party beneficiary of an Interconnection Service Agreement.

## **19 Information Access And Audit Rights**

### **19.1 Information Access:**

Consistent with Applicable Laws and Regulations, each Interconnection Party shall make available such information and/or documents reasonably requested by another Interconnection Party that are necessary to (i) verify the costs incurred by the other Interconnection Party for which the requesting Interconnection Party is responsible under this Appendix 2 and (ii) carry out obligations and responsibilities under this Appendix 2, provided that the Interconnection Parties shall not use such information for purposes other than those set forth in this Section 19.1 and to enforce their rights under this Appendix 2.

### **19.2 Reporting of Non-Force Majeure Events:**

Each Interconnection Party shall notify the other Interconnection Parties when it becomes aware of its inability to comply with the provisions of this Appendix 2 for a reason other than Force Majeure. The parties agree to cooperate with each other and provide necessary information regarding such inability to comply, including, but not limited to, the date, duration, reason for the inability to comply, and corrective actions taken or planned to be taken with respect to such inability to comply. Notwithstanding the foregoing, notification, cooperation or information provided under this Section shall not entitle the receiving Interconnection Party to allege a cause of action for anticipatory breach of the Interconnection Service Agreement.

### **19.3 Audit Rights:**

Subject to the requirements of confidentiality under Section 17 of this Appendix 2, each Interconnection Party shall have the right, during normal business hours, and upon prior reasonable notice to the pertinent other Interconnection Party, to audit at its own expense the other Interconnection Party's accounts and records pertaining to such Interconnection Party's performance and/or satisfaction of obligations arising under this Appendix 2. Any audit authorized by this Section shall be performed at the offices where such accounts and records are maintained and shall be limited to those portions of such accounts and records that relate to obligations under this Appendix 2. Any request for audit shall be presented to the Interconnection Party to be audited not later than twenty-four months after the event as to which the audit is sought. Each Interconnection Party shall preserve all records held by it for the duration of the audit period.

## **20 Disputes**

### **20.1 Submission:**

Any claim or dispute that any Interconnection Party may have against another arising out of the Interconnection Service Agreement may be submitted for resolution in accordance with the dispute resolution provisions of the Tariff.

### **20.2 Rights Under The Federal Power Act:**

Nothing in this Section shall restrict the rights of any Interconnection Party to file a complaint with FERC under relevant provisions of the Federal Power Act.

### **20.3 Equitable Remedies:**

Nothing in this Section shall prevent any Interconnection Party from pursuing or seeking any equitable remedy available to it under Applicable Laws and Regulations.

## **21 Notices**

### **21.1 General:**

Any notice, demand or request required or permitted to be given by any Interconnection Party to another and any instrument required or permitted to be tendered or delivered by any Interconnection Party in writing to another may be so given, tendered or delivered, by recognized national courier, or by depositing the same with the United States Postal Service with postage prepaid, for delivery by certified or registered mail, addressed to the Interconnection Party, or personally delivered to the Interconnection Party, at the address specified in the Interconnection Service Agreement. Such notices, if agreed to by the Interconnection Parties, may be made via electronic means, with e-mail confirmation of delivery.

**21.2 Emergency Notices:**

Moreover, notwithstanding the foregoing, any notice hereunder concerning an Emergency Condition or other occurrence requiring prompt attention, or as necessary during day-to-day operations, may be made by telephone or in person, provided that such notice is confirmed in writing promptly thereafter. Notice in an Emergency Condition, or as necessary during day-to-day operations, shall be provided (i) if by the Interconnected Transmission Owner, to the shift supervisor at, as applicable, a Generation Interconnection Customer's Customer Facility or a Transmission Interconnection Customer's control center; and (ii) if by the Interconnection Customer, to the shift supervisor at the Interconnected Transmission Owner's transmission control center.

**21.3 Operational Contacts:**

Each Interconnection Party shall designate, and provide to each other Interconnection Party contact information concerning, a representative to be responsible for addressing and resolving operational issues as they arise during the term of the Interconnection Service Agreement.

**22 Miscellaneous****22.1 Regulatory Filing:**

In the event that this Interconnection Service Agreement contains any terms that deviate materially from the form included in Attachment O of the Tariff, Transmission Provider shall file the Interconnection Service Agreement on behalf of itself and the Interconnected Transmission Owner with FERC as a service schedule under the Tariff within thirty days after execution. Interconnection Customer may request that any information so provided be subject to the confidentiality provisions of Section 17 of this Appendix 2. An Interconnection Customer shall have the right, with respect to any Interconnection Service Agreement tendered to it, to request (a) dispute resolution under Section 12 of the Tariff or, if concerning the Regional Transmission Expansion Plan, consistent with Schedule 5 of the Operating Agreement, or (b) that Transmission Provider file the agreement unexecuted with the Commission. With the filing of any unexecuted Interconnection Service Agreement, Transmission Provider may, in its discretion, propose to FERC a resolution of any or all of the issues in dispute between or among the Interconnection Parties.

**22.2 Waiver:**

Any waiver at any time by an Interconnection Party of its rights with respect to a Breach or Default under this Interconnection Service Agreement or with respect to any other matters arising in connection with this Appendix 2, shall not be deemed a waiver or continuing waiver with respect to any subsequent Breach or Default or other matter.

**22.3 Amendments and Rights Under the Federal Power Act:**

This Interconnection Service Agreement may be amended or supplemented only by a written

instrument duly executed by all Interconnection Parties. An amendment to the Interconnection Service Agreement shall become effective and a part of this Interconnection Service Agreement upon satisfaction of all Applicable Laws and Regulations. Notwithstanding the foregoing, nothing contained in this Interconnection Service Agreement shall be construed as affecting in any way any of the rights of any Interconnection Party with respect to changes in applicable rates or charges under Section 205 of the Federal Power Act and/or FERC's rules and regulations thereunder, or any of the rights of any Interconnection Party under Section 206 of the Federal Power Act and/or FERC's rules and regulations thereunder. The terms and conditions of this Interconnection Service Agreement and every appendix referred to therein shall be amended, as mutually agreed by the Interconnection Parties, to comply with changes or alterations made necessary by a valid applicable order of any Governmental Authority having jurisdiction hereof.

#### **22.4 Binding Effect:**

This Interconnection Service Agreement, including this Appendix 2, and the rights and obligations thereunder shall be binding upon, and shall inure to the benefit of, the successors and assigns of the Interconnection Parties.

#### **22.5 Regulatory Requirements:**

Each Interconnection Party's performance of any obligation under this Interconnection Service Agreement for which such party requires approval or authorization of any Governmental Authority shall be subject to its receipt of such required approval or authorization in the form and substance satisfactory to the receiving Interconnection Party, or the Interconnection Party making any required filings with, or providing notice to, such Governmental Authorities, and the expiration of any time period associated therewith. Each Interconnection Party shall in good faith seek, and shall use Reasonable Efforts to obtain, such required authorizations or approvals as soon as reasonably practicable.

### **23 Representations And Warranties**

#### **23.1 General:**

Each Interconnected Entity hereby represents, warrants and covenants as follows with these representations, warranties, and covenants effective as to the Interconnected Entity during the time the Interconnection Service Agreement is effective:

##### **23.1.1 Good Standing:**

Such Interconnected Entity is duly organized or formed, as applicable, validly existing and in good standing under the laws of its State of organization or formation, and is in good standing under the laws of the respective State(s) in which it is incorporated and operates as stated in the Interconnection Service Agreement.

##### **23.1.2 Authority:**



Such Interconnected Entity has the right, power and authority to enter into the Interconnection Service Agreement, to become a party hereto and to perform its obligations hereunder. The Interconnection Service Agreement is a legal, valid and binding obligation of such Interconnected Entity, enforceable against such Interconnected Entity in accordance with its terms, except as the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization or other similar laws affecting creditors' rights generally and by general equitable principles (regardless of whether enforceability is sought in a proceeding in equity or at law).

#### **23.1.3 No Conflict:**

The execution, delivery and performance of the Interconnection Service Agreement does not violate or conflict with the organizational or formation documents, or bylaws or operating agreement, of the Interconnected Entity, or with any judgment, license, permit, order, material agreement or instrument applicable to or binding upon the Interconnected Entity or any of its assets.

#### **23.1.4 Consent and Approval:**

Such Interconnected Entity has sought or obtained, or, in accordance with the Interconnection Service Agreement will seek or obtain, each consent, approval, authorization, order, or acceptance by any Governmental Authority in connection with the execution, delivery and performance of the Interconnection Service Agreement and it will provide to any Governmental Authority notice of any actions under this Appendix 2 that are required by Applicable Laws and Regulations.

### **24 Tax Liability**

#### **24.1 Safe Harbor Provisions:**

This Section 24.1 is applicable only to Generation Interconnection Customers. Provided that Interconnection Customer agrees to conform to all requirements of the Internal Revenue Service ("IRS") (e.g., the "safe harbor" provisions of IRS Notices 2001-82 and 88-129) that would confer nontaxable status on some or all of the transfer of property, including money, by Interconnection Customer to the Interconnected Transmission Owner for payment of the Costs of construction of the Transmission Owner Interconnection Facilities, the Interconnected Transmission Owner, based on such agreement and on current law, shall treat such transfer of property to it as nontaxable income and, except as provided in Section 24.4.2 below, shall not include income taxes in the Costs of Transmission Owner Interconnection Facilities that are payable by Interconnection Customer under the Interconnection Service Agreement or the Interconnection Construction Service Agreement. Interconnection Customer shall document its agreement to conform to IRS requirements for such non-taxable status in the Interconnection Service Agreement, the Interconnection Construction Service Agreement, and/or the Interim Interconnection Service Agreement.

#### **24.2 Tax Indemnity:**

Interconnection Customer shall indemnify the Interconnected Transmission Owner for any costs

that Interconnected Transmission Owner incurs in the event that the IRS and/or a state department of revenue (State) determines that the property, including money, transferred by Interconnection Customer to the Interconnected Transmission Owner with respect to the construction of the Transmission Owner Interconnection Facilities and/or any Merchant Network Upgrades is taxable income to the Interconnected Transmission Owner. Interconnection Customer shall pay to the Interconnected Transmission Owner, on demand, the amount of any income taxes that the IRS or a State assesses to the Interconnected Transmission Owner in connection with such transfer of property and/or money, plus any applicable interest and/or penalty charged to the Interconnected Transmission Owner. In the event that the Interconnected Transmission Owner chooses to contest such assessment, either at the request of Interconnection Customer or on its own behalf, and prevails in reducing or eliminating the tax, interest and/or penalty assessed against it, the Interconnected Transmission Owner shall refund to Interconnection Customer the excess of its demand payment made to the Interconnected Transmission Owner over the amount of the tax, interest and penalty for which the Interconnected Transmission Owner is finally determined to be liable. Interconnection Customer's tax indemnification obligation under this section shall survive any termination of the Interconnection Service Agreement or Interconnection Construction Service Agreement.

#### **24.3 Taxes Other Than Income Taxes:**

Upon the timely request by Interconnection Customer, and at Interconnection Customer's sole expense, the Interconnected Transmission Owner shall appeal, protest, seek abatement of, or otherwise contest any tax (other than federal or state income tax) asserted or assessed against the Interconnected Transmission Owner for which Interconnection Customer may be required to reimburse Transmission Provider under the terms of this Appendix 2 or Part VI of the Tariff. Interconnection Customer shall pay to the Interconnected Transmission Owner on a periodic basis, as invoiced by the Interconnected Transmission Owner, the Interconnected Transmission Owner's documented reasonable costs of prosecuting such appeal, protest, abatement, or other contest. Interconnection Customer and the Interconnected Transmission Owner shall cooperate in good faith with respect to any such contest. Unless the payment of such taxes is a prerequisite to an appeal or abatement or cannot be deferred, no amount shall be payable by Interconnection Customer to the Interconnected Transmission Owner for such contested taxes until they are assessed by a final, non-appealable order by any court or agency of competent jurisdiction. In the event that a tax payment is withheld and ultimately due and payable after appeal, Interconnection Customer will be responsible for all taxes, interest and penalties, other than penalties attributable to any delay caused by the Interconnected Transmission Owner.

#### **24.4 Income Tax Gross-Up**

##### **24.4.1 Additional Security:**

In the event that Interconnection Customer does not provide the safe harbor documentation required under Section 24.1 prior to execution of the Interconnection Service Agreement, within 15 days after such execution, Transmission Provider shall notify Interconnection Customer in writing of the amount of additional Security that Interconnection Customer must provide. The amount of Security that a Transmission Interconnection Customer must provide initially pursuant

to this Interconnection Service Agreement shall include any amounts described as additional Security under this Section 24.4 regarding income tax gross-up.

**24.4.2 Amount:**

The required additional Security shall be in an amount equal to the amount necessary to gross up fully for currently applicable federal and state income taxes the estimated Costs of Local Upgrades and Network Upgrades for which Interconnection Customer previously provided Security. Accordingly, the additional Security shall equal the amount necessary to increase the total Security provided to the amount that would be sufficient to permit the Interconnected Transmission Owner to receive and retain, after the payment of all applicable income taxes ("Current Taxes") and taking into account the present value of future tax deductions for depreciation that would be available as a result of the anticipated payments or property transfers (the "Present Value Depreciation Amount"), an amount equal to the estimated Costs of Local Upgrades and Network Upgrades for which Interconnection Customer is responsible under the Interconnection Service Agreement. For this purpose, Current Taxes shall be computed based on the composite federal and state income tax rates applicable to the Interconnected Transmission Owner at the time the additional Security is received, determined using the highest marginal rates in effect at that time (the "Current Tax Rate"), and (ii) the Present Value Depreciation Amount shall be computed by discounting the Interconnected Transmission Owner's anticipated tax depreciation deductions associated with such payments or property transfers by its current weighted average cost of capital.

**24.4.3 Time for Payment:**

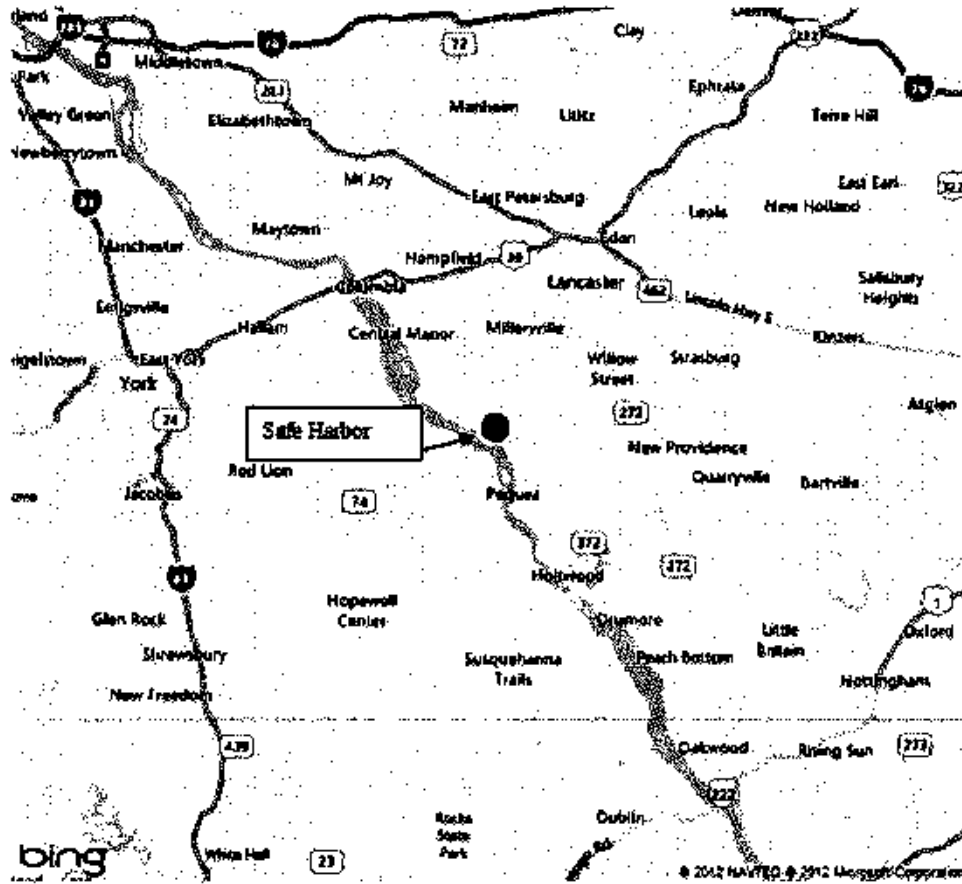
Interconnection Customer must provide the additional Security, in a form and with terms as required by Sections 212.4 of the Tariff, within 15 days after its receipt of Transmission Provider's notice under this section. The requirement for additional Security under this section shall be treated as a milestone included in the Interconnection Service Agreement pursuant to Section 217.5 of the Tariff.

**24.5 Tax Status:**

Each Party shall cooperate with the other to maintain the other Party's tax status. Nothing in this Interconnection Service Agreement or Part VI of the Tariff is intended to adversely affect any Interconnected Transmission Owner's tax exempt status with respect to the issuance of bonds including, but not limited to, local furnishing bonds.

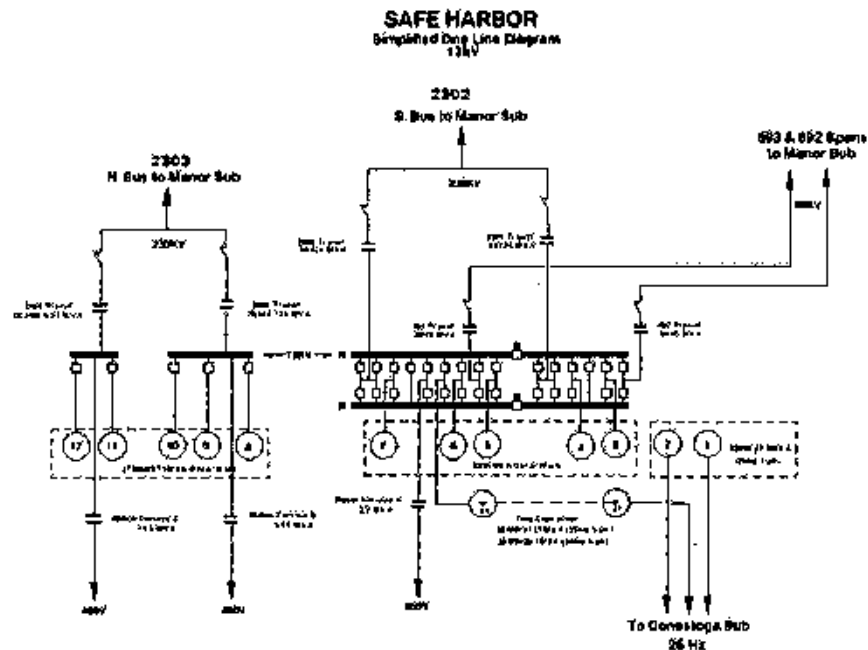
### SCHEDULE A

### CUSTOMER FACILITY LOCATION/SITE PLAN



## SCHEDULE B

### SINGLE-LINE DIAGRAM



25 cycle

#### 1. Points of Interconnection

- The Point of Interconnection for each power cable is the bolts at the Conestoga Substation that connect the flexible shunts above the pothead to the bus bar.
- The Point of Interconnection for all relays, sensing, protection, and control cables is where they land on the Interconnected Transmission Owner's terminal strip in the Conestoga Substation control house.

#### 2. Ownership of equipment associated with the Point Of Interconnection

- There are eight (8) 13.2kV power cable leads (4 cables per phase and 2 phases) from the Units 1, 2, 27FC to the Conestoga Substation. The cables run through tunnels and an exit structure. The tunnels, cables, and exit structure in the Conestoga Substation is owned, maintained, and tested by the Interconnection Customer.
- There are North and South Oil Circuit Breakers (OCBs) for each Unit 1, 2, & 27FC

located in the Conestoga Substation with manual disconnect switches on both the generator and bus sides of the OCBs. These manual disconnects, cable ground disconnects, and OCBs are owned, maintained, and tested by the Interconnected Transmission Owner.

- The power supply to operate the OCBs listed above is provided by a DC system (charger, battery, etc.) located at Conestoga Substation. This DC system is owned, maintained, and tested by the Interconnected Transmission Owner.
- The protection relays for the Units 1,2, & 27FC and their associated cables are located at the Safe Harbor plant are owned, maintained, and tested by the Interconnection Customer.
- The Interconnection Customer's differential relays receive input from CTs that are physically located in the OCBs. The CTs as well as the OCBs are owned, maintained, and tested by the Interconnected Transmission Owner.
- There are auxiliary relays in the Conestoga Substation control house that connect by DC control cable that operate the OCBs. These auxiliary relay DC control cables are owned, maintained, and tested by the Interconnected Transmission Owner.
- All relays located in Conestoga Substation are owned, maintained, and tested by the Interconnected Transmission Owner.
- All relays in the Safe Harbor plant are owned, maintained, and tested by the Interconnection Customer.
- Sensing and control cables between the Safe Harbor plant and Conestoga Substation are owned, maintained, and tested by the Interconnection Customer to the point where they land on the Interconnected Transmission Owner's terminal strips in Conestoga Substation.
- There are relay DC supply knife switches for Units 1, 2, #27FC located at the Conestoga Substation that are owned, maintained, and tested by the Interconnected Transmission Owner.

### 3. Operation of the equipment associated with the Point of Interconnection

- Interconnection Customer operates the North and South OCBs, cable ground disconnects, and manual disconnects for Units 1, 2, #27FC operation and isolation purposes.
- Interconnection Customer operates the relay DC supply knife switches for Units 1, 2, #27FC for operation and isolation purposes.

60 cycle

#### 1. Points of Interconnection

- The Point of Interconnection for each generator lead is the first set of bolts at the Manor Substation Towers.
  - Transformer #692 connects to the Interconnected Transmission Owner's tower 38137s21912 by south 692 Span.
  - Transformer #693 connects to the Interconnected Transmission Owner's tower 38137s21912 by north 693 Span.
  - Transformers #2301 and 2302 connect to the Interconnected Transmission Owner's tower 38122s211919 by south span 2302-Otter Creek.
  - Transformers #2303 and 2304 connect to the Interconnected Transmission Owner's tower 38112s21922 by north span 2303-Graceton.
- The Point of Interconnection for all relays, sensing, protection, and control cables is where they land on an Interconnected Transmission Owner's terminal strip in the Manor Substation control house.

## 2. Ownership of equipment associated with the Point Of Interconnection

- Transformers #692 and 693 step up voltage from 13.8kV to 69KV and are owned, maintained, and tested by the Interconnection Customer.
- Transformers #2301, 2302, 2303, and 2304 step up voltage from 13.8kV to 230kV are owned, maintained, and tested by the Interconnection Customer.
- The bus structure on the powerhouse and the highline to the first connection bolt at the first tower for each span is owned, maintained, and tested by the Interconnection Customer.
- The towers (38137s21912, 38122s211919, & 38112s21922) are owned, maintained, and tested by the Interconnected Transmission Owner.
- For each span and transformer; #692, 693, 2301, 2302, 2303, 2304, the power, control, protection and status indication cables are owned, maintained, and tested by the Interconnection Customer from the Safe Harbor plant to the Point of Interconnection in Manor Substation. ( first bolt on tower)
- Differential span protection relays for all 4 spans; 692, 693, 2302, 2303, are located at Manor Substation and are owned, maintained, and tested by the Interconnected Transmission Owner.
- The CTs and cables associated with Safe Harbor equipment are located at, owned, maintained, and tested by the Interconnection Customer.
- Over current span protection relays; #2302 and 2303, are located at Manor Substation and are owned, maintained, and tested by the Interconnected Transmission Owner.

- Transformers #692 and 693 have only transformer differential protection. The protection is located at, owned, maintained, and tested by the Interconnection Customer.
  - Transformers #2301 & 2302 have transformer differential and over-current protection. The protection is located at, owned, maintained, and tested by the Interconnection Customer.
  - Transformers #2303 & 2304 have 13.8 kV bus, transformer and overall differential; and 13.8kV bus ground and sudden pressure tripping. Tripping devices, lockouts and auxiliary, associated with Safe Harbor equipment are located at, owned, maintained, and tested by the Interconnection Customer.
3. Operation of the equipment associated with the Point of Interconnection
- Equipment associated with the Point of Interconnection on the Interconnection Customer's side is operated by the Interconnection Customer.
  - Equipment associated with the Point of Interconnection on the Interconnected Transmission Owner's side is operated by the Interconnected Transmission Owner.

The Parties will continue to own and maintain the equipment as described here in.



## **SCHEDULE C**

### **LIST OF METERING EQUIPMENT**

#### **A) Ownership of metering equipment associated with the Point Of Interconnection**

##### **25 cycle**

The 3 PTs for the 13.8KV voltage metering are located at Conestoga Substation. These PTs are owned, maintained, and tested by the Interconnected Transmission Owner.

The sensing cables from the Interconnected Transmission Owner's terminal strip at Conestoga Substation and the metering equipment that senses from the above PTs is owned, maintained, and tested by the Interconnection Customer.

##### **60 cycle**

The 4 PTs for the 230KV and 69KV voltage metering are located at Manor Substation. These PTs are owned, maintained, and tested by the Interconnected Transmission Owner.

The sensing cables from the Interconnected Transmission Owner's terminal strip at Manor Substation and the metering equipment that senses from the above PTs is owned, maintained, and tested by the Interconnection Customer.

#### **B) Safe Harbor to PPL EU**

The metered quantities described in C & D below are provided to the Interconnected Transmission Owner by way of a RTU to be installed, serviced, tested, and calibrated by the Interconnection Customer.

In accordance with Section 8.5.2 of Appendix 2 to this ISA, a remote terminal unit or equivalent data collection and transfer equipment that conforms to the requirements of the Transmission Provider, the Interconnection Customer, and the Interconnected Transmission Owner is to be installed by the Interconnection Customer at its expense under this ISA. Until such installation is complete and the remote terminal unit or equivalent data collection and transfer equipment is accepted and in service, the existing remote terminal unit or equivalent data collection and transfer equipment will remain in use, and the Interconnected Transmission Owner shall provide all data output there from to the Parties to this ISA, with the foregoing deemed to be in full satisfaction, without limitation, of all requirements under this ISA relating to remote terminal unit or equivalent data collection and transfer equipment.

#### **C) Safe Harbor 25 Cycle Metering**

Generators 1, 2 and the 27 frequency converter (FC) each have 4 metered quantities. SHWPC

services, calibrates, and tests each of these listed devices.

<b>Equipment Designation</b>			<b># 1 Generator</b>		
<b>No</b>	<b>Metering Quantity</b>	<b>Source Device</b>	<b>Source Location</b>	<b>Location of Metering Equipment</b>	<b>External Destination</b>
1	MW	Nexus 1252 Revenue Meter	Power Terminal-Generator	Old Control Room El. 252'	X
2	MVAR	Nexus 1252 Revenue Meter	Power Terminal-Generator	Old Control Room El. 252'	X
3	MWH (out)	Nexus 1252 Revenue Meter	Power Terminal-Generator	Old Control Room El. 252'	X
4	MWH (in)	Nexus 1252 Revenue Meter	Power Terminal-Generator	Old Control Room El. 252'	X

<b>Equipment Designation</b>			<b># 2 Generator</b>		
<b>No</b>	<b>Metering Quantity</b>	<b>Source Device</b>	<b>Source Location</b>	<b>Location of Metering Equipment</b>	<b>External Destination</b>
1	MW	Nexus 1252 Revenue Meter	Power Terminal-Generator	Old Control Room El. 252'	X
2	MVAR	Nexus 1252 Revenue Meter	Power Terminal-Generator	Old Control Room El. 252'	X
3	MWH (out)	Nexus 1252 Revenue Meter	Power Terminal-Generator	Old Control Room El. 252'	X
4	MWH (in)	Nexus 1252 Revenue Meter	Power Terminal-Generator	Old Control Room El. 252'	X

<b>Equipment Designation</b>			<b># 27 Frequency Converter</b>		
<b>No</b>	<b>Metering Quantity</b>	<b>Source Device</b>	<b>Source Location</b>	<b>Location of Metering Equipment</b>	<b>External Destination</b>
1	MW	Nexus 1252 Revenue Meter	Power Terminal-Generator	Old Control Room El. 252'	X
2	MVAR	Nexus 1252 Revenue Meter	Power Terminal-Generator	Old Control Room El. 252'	X
3	MWH (out)	Nexus 1252 Revenue Meter	Power Terminal-Generator	Old Control Room El. 252'	X
4	MWH (in)	Nexus 1252 Revenue Meter	Power Terminal-Generator	Old Control Room El. 252'	X

## D) Safe Harbor 60 Cycle Metering

Transformers #692 and #693 are 69kV and each has 4 metered quantities. Transformers #2301 and #2302 are 230kV and each has 4 metered quantities. Transformers #2303 and #2304 are 230kV and each has 4 metered quantities. SHWPC services, calibrates, and tests each of these listed devices.

<b>Equipment Designation</b>			<b># 692 Transformer</b>		
<b>No</b>	<b>Metering Quantity</b>	<b>Source Device</b>	<b>Source Location</b>	<b>Location of Metering Equipment</b>	<b>External Destination</b>
1	MW	Nexus 1252 Revenue Meter	Low Side of Transformer	Old Control Room El. 252'	X
2	MVAR	Nexus 1252 Revenue Meter	Low Side of Transformer	Old Control Room El. 252'	X
3	MWH (out)	Nexus 1252 Revenue Meter	Low Side of Transformer	Old Control Room El. 252'	X
4	MWH (in)	Nexus 1252 Revenue Meter	Low Side of Transformer	Old Control Room El. 252'	X

<b>Equipment Designation</b>			<b># 693 Transformer</b>		
<b>No</b>	<b>Metering Quantity</b>	<b>Source Device</b>	<b>Source Location</b>	<b>Location of Metering Equipment</b>	<b>External Destination</b>
1	MW	Nexus 1252 Revenue Meter	Low Side of Transformer	Old Control Room El. 252'	X
2	MVAR	Nexus 1252 Revenue Meter	Low Side of Transformer	Old Control Room El. 252'	X
3	MWH (out)	Nexus 1252 Revenue Meter	Low Side of Transformer	Old Control Room El. 252'	X
4	MWH (in)	Nexus 1252 Revenue Meter	Low Side of Transformer	Old Control Room El. 252'	X

<b>Equipment Designation</b>			<b># 2301 Transformer</b>		
<b>No</b>	<b>Metering Quantity</b>	<b>Source Device</b>	<b>Source Location</b>	<b>Location of Metering Equipment</b>	<b>External Destination</b>
1	MW	Nexus 1252 Revenue Meter	Low Side of Transformer	Old Control Room El. 252'	X
2	MVAR	Nexus 1252 Revenue Meter	Low Side of Transformer	Old Control Room El. 252'	X
3	MWH (out)	Nexus 1252 Revenue Meter	Low Side of Transformer	Old Control Room El. 252'	X
4	MWH (in)	Nexus 1252 Revenue Meter	Low Side of Transformer	Old Control Room El. 252'	X

<b>Equipment Designation</b>			<b># 2302 Transformer</b>		
<b>No</b>	<b>Metering Quantity</b>	<b>Source Device</b>	<b>Source Location</b>	<b>Location of Metering Equipment</b>	<b>External Destination</b>
1	MW	Nexus 1252 Revenue Meter	Low Side of Transformer	Old Control Room El. 252'	X
2	MVAR	Nexus 1252 Revenue Meter	Low Side of Transformer	Old Control Room El. 252'	X
3	MWH (out)	Nexus 1252 Revenue Meter	Low Side of Transformer	Old Control Room El. 252'	X
4	MWH (in)	Nexus 1252 Revenue Meter	Low Side of Transformer	Old Control Room El. 252'	X

<b>Equipment Designation</b>			<b># 2303 Transformer</b>		
<b>No</b>	<b>Metering Quantity</b>	<b>Source Device</b>	<b>Source Location</b>	<b>Location of Metering Equipment</b>	<b>External Destination</b>
1	MW	Nexus 1252 Revenue Meter	Low Side of Transformer	Box Behind TBR Bd. El. 208'	X
2	MVAR	Nexus 1252 Revenue Meter	Low Side of Transformer	Box Behind TBR Bd. El. 208'	X
3	MWH (out)	Nexus 1252 Revenue Meter	Low Side of Transformer	Box Behind TBR Bd. El. 208'	X
4	MWH (in)	Nexus 1252 Revenue Meter	Low Side of Transformer	Box Behind TBR Bd. El. 208'	X

<b>Equipment Designation</b>			<b># 2304 Transformer</b>		
<b>No</b>	<b>Metering Quantity</b>	<b>Source Device</b>	<b>Source Location</b>	<b>Location of Metering Equipment</b>	<b>External Destination</b>
1	MW	Nexus 1252 Revenue Meter	Low Side of Transformer	Box Behind TBR Bd. El. 208'	X
2	MVAR	Nexus 1252 Revenue Meter	Low Side of Transformer	Box Behind TBR Bd. El. 208'	X
3	MWH (out)	Nexus 1252 Revenue Meter	Low Side of Transformer	Box Behind TBR Bd. El. 208'	X
4	MWH (in)	Nexus 1252 Revenue Meter	Low Side of Transformer	Box Behind TBR Bd. El. 208'	X

**SCHEDULE D**

**APPLICABLE TECHNICAL REQUIREMENTS AND STANDARDS**

There are no Applicable Technical Requirements and Standards for this pre-existing Customer Facility.

**SCHEDULE E**  
**SCHEDULE OF CHARGES**

None

**SCHEDULE F****SCHEDULE OF NON-STANDARD TERMS & CONDITIONS**

In lieu of the Power Factor in Section 12 of this ISA, the Parties agree that the Voltage Schedules are:

- 1) Manor Substation 230kV bus between 241.5kV high, scheduled 230.0kV, and 218.0kV low.
- 2) Manor Substation 69kV

69KV	All Values in KV			
	Weekday Off Peak	Weekday On Peak	Weekend Off Peak	Weekend On Peak
High	67.4	69.2	67.4	68.6
Scheduled	66.1	67.9	66.1	67.3
Low	62.7	64.5	62.7	63.9

- 3) Conestoga Substation 13.8kV bus normally 13.27kV and not manually reduced to a point that would cause any generator to operate at leading power factor.



**SCHEDULE G**

**INTERCONNECTION CUSTOMER'S AGREEMENT TO CONFORM WITH IRS SAFE HARBOR PROVISIONS FOR NON-TAXABLE STATUS**

Not Required.

**SCHEDULE H**  
**INTERCONNECTION REQUIREMENTS FOR A**  
**WIND GENERATION FACILITY**

**Not Required**

JS 44 (Rev. 07/16)

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

National Railroad Passenger Corporation (AMTRAK)

(b) County of Residence of First Listed Plaintiff (out of state)  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Kandice Kerwin Hull, McNeese Wallace & Nurick LLC, 100 Pine Street  
Harrisburg, PA 17101

**DEFENDANTS**

4.0446 Acres More or Less of Land and Fixtures and PPL Electric Utilities Corp.

County of Residence of First Listed Defendant Lancaster  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION (Place an "X" in One Box Only)**

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)**

- |   |                            |                            |   |                            |                            |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
|   | PTF                        | DEF                        |   | PTF                        | DEF                        |
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT (Place an "X" in One Box Only)**

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other  <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157  <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark  <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395f) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	FEDERAL TAX SUITS		
<input checked="" type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609		

**V. ORIGIN (Place an "X" in One Box Only)**

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from Another District (specify)
- 6 Multidistrict Litigation - Transfer
- 8 Multidistrict Litigation - Direct File

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
49 U.S.C. § 24311(a)(2)

Brief description of cause:  
exercise of eminent domain authority to condemn land and fixtures

**VII. REQUESTED IN COMPLAINT:**

- CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.
- DEMAND \$**
- CHECK YES only if demanded in complaint:  
**JURY DEMAND:**  Yes  No

**VIII. RELATED CASE(S) IF ANY**

None

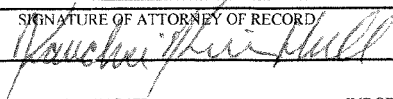
(See instructions):

JUDGE

DOCKET NUMBER

DATE  
04/17/2017

SIGNATURE OF ATTORNEY OF RECORD



FOR OFFICE USE ONLY

RECEIPT #      AMOUNT      APPLYING IFP      JUDGE      MAG. JUDGE

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 60 Massachusetts Avenue, NE, Washington, DC 20020
Address of Defendant: Powerhouse Road, Manor Township, Lancaster County, PA 17516 (Land) & Two North Ninth Street, Allentown, PA 18101 (PPL Electric Utilities Corp.)

Place of Accident, Incident or Transaction: (Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock? (Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)) Yes [X] No [ ]

Does this case involve multidistrict litigation possibilities? Yes [ ] No [X]

RELATED CASE, IF ANY: Case Number: Judge Date Terminated:

Civil cases are deemed related when yes is answered to any of the following questions:

- 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? Yes [ ] No [X]
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? Yes [ ] No [X]
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court? Yes [ ] No [X]
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? Yes [ ] No [X]

CIVIL: (Place [X] in ONE CATEGORY ONLY)

A. Federal Question Cases:

- 1. [ ] Indemnity Contract, Marine Contract, and All Other Contracts
2. [ ] FELA
3. [ ] Jones Act-Personal Injury
4. [ ] Antitrust
5. [ ] Patent
6. [ ] Labor-Management Relations
7. [ ] Civil Rights
8. [ ] Habeas Corpus
9. [ ] Securities Act(s) Cases
10. [ ] Social Security Review Cases
11. [X] All other Federal Question Cases (Please specify) Eminent Domain pursuant to 49 U.S.C. § 24113

B. Diversity Jurisdiction Cases:

- 1. [ ] Insurance Contract and Other Contracts
2. [ ] Airplane Personal Injury
3. [ ] Assault, Defamation
4. [ ] Marine Personal Injury
5. [ ] Motor Vehicle Personal Injury
6. [ ] Other Personal Injury (Please specify)
7. [ ] Products Liability
8. [ ] Products Liability — Asbestos
9. [ ] All other Diversity Cases (Please specify)

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, Kandice Kerwin Hull, counsel of record do hereby certify:
[ ] Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
[X] Relief other than monetary damages is sought.

DATE: 4/17/17

[Signature of Kandice Kerwin Hull]
Attorney-at-Law

86345

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 4/17/17

[Signature of Kandice Kerwin Hull]
Attorney-at-Law

86345

Attorney I.D.#

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

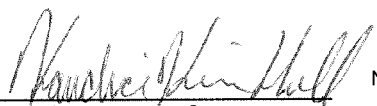
**CASE MANAGEMENT TRACK DESIGNATION FORM**

National Railroad Passenger Corporation (AMTRAK)	:	CIVIL ACTION
	:	
v.	:	
4.0446 Acres More or Less of Land and Fixtures and	:	
PPL Electric Utilities Corp.	:	NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

**SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:**

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ( )
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ( )
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ( )
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ( )
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ( )
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

<u>4/17/17</u>		National Railroad Passenger Corporation
<b>Date</b>	<b>Attorney-at-law</b>	<b>Attorney for</b>
<u>717-237-5452</u>	<u>717-260-1698</u>	<u>khull@mcneeslaw.com</u>
<b>Telephone</b>	<b>FAX Number</b>	<b>E-Mail Address</b>

**Civil Justice Expense and Delay Reduction Plan**  
**Section 1:03 - Assignment to a Management Track**

- (a) The clerk of court will assign cases to tracks (a) through (d) based on the initial pleading.
- (b) In all cases not appropriate for assignment by the clerk of court to tracks (a) through (d), the plaintiff shall submit to the clerk of court and serve with the complaint on all defendants a case management track designation form specifying that the plaintiff believes the case requires Standard Management or Special Management. In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.
- (c) The court may, on its own initiative or upon the request of any party, change the track assignment of any case at any time.
- (d) Nothing in this Plan is intended to abrogate or limit a judicial officer's authority in any case pending before that judicial officer, to direct pretrial and trial proceedings that are more stringent than those of the Plan and that are designed to accomplish cost and delay reduction.
- (e) Nothing in this Plan is intended to supersede Local Civil Rules 40.1 and 72.1, or the procedure for random assignment of Habeas Corpus and Social Security cases referred to magistrate judges of the court.

**SPECIAL MANAGEMENT CASE ASSIGNMENTS**  
**(See §1.02 (e) Management Track Definitions of the**  
**Civil Justice Expense and Delay Reduction Plan)**

Special Management cases will usually include that class of cases commonly referred to as "complex litigation" as that term has been used in the Manuals for Complex Litigation. The first manual was prepared in 1969 and the Manual for Complex Litigation Second, MCL 2d was prepared in 1985. This term is intended to include cases that present unusual problems and require extraordinary treatment. See §0.1 of the first manual. Cases may require special or intense management by the court due to one or more of the following factors: (1) large number of parties; (2) large number of claims or defenses; (3) complex factual issues; (4) large volume of evidence; (5) problems locating or preserving evidence; (6) extensive discovery; (7) exceptionally long time needed to prepare for disposition; (8) decision needed within an exceptionally short time; and (9) need to decide preliminary issues before final disposition. It may include two or more related cases. Complex litigation typically includes such cases as antitrust cases; cases involving a large number of parties or an unincorporated association of large membership; cases involving requests for injunctive relief affecting the operation of large business entities; patent cases; copyright and trademark cases; common disaster cases such as those arising from aircraft crashes or marine disasters; actions brought by individual stockholders; stockholder's derivative and stockholder's representative actions; class actions or potential class actions; and other civil (and criminal) cases involving unusual multiplicity or complexity of factual issues. See §0.22 of the first Manual for Complex Litigation and Manual for Complex Litigation Second, Chapter 33.

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

NATIONAL RAILROAD PASSENGER	:	
CORPORATION (AMTRAK)	:	NO.
60 Massachusetts Avenue, NE	:	
Washington, DC 20020	:	
	:	
Plaintiff	:	
	:	
v.	:	CIVIL ACTION – LAW
	:	
4.0446 ACRES MORE OR LESS OF	:	
LAND AND FIXTURES located at	:	
Powerhouse Road, Manor Township	:	
Lancaster County, PA 17516	:	
	:	
and	:	
	:	
PPL ELECTRIC UTILITIES CORP.	:	
Two North Ninth Street	:	
Allentown, PA 18101	:	

**DECLARATION OF TAKING**

Pursuant to 49 U.S.C. § 24311 and Federal Rule of Civil Procedure 71.1, Plaintiff National Railroad Passenger Corporation, also known as Amtrak (“Amtrak”), a corporation of the District of Columbia with its principal place of business at 60 Massachusetts Avenue, NE, Washington, DC 20002, having filed a Complaint for Condemnation in the United States District Court for the Eastern District of Pennsylvania, and in the process of depositing with the Court the amount of money estimated for just compensation set forth in Paragraph 14 below,

provides this Declaration that it is, upon deposit of the money estimated for just compensation, the owner in fee simple of 4.0446 Acres, more or less of land and all improvements and fixtures thereon heretofore held by PPL Electric Utilities Corp. on Powerhouse Road, Manor Township, Lancaster County Pennsylvania as more fully described below.

Pursuant to 49 U.S.C. § 24311(b)(1), Amtrak provides the following information regarding the Subject Property.

1. Section 24311(b)(1) of Amtrak's authorizing statute provides that:

An interest is condemned and taken by Amtrak for its use when a declaration of taking is filed ... and an amount of money estimated in the declaration to be just compensation for the interest is deposited in the court.

49 U.S.C. § 24311(b)(1).

2. PPL is the owner in fee simple of the land parcel and the improvements thereon at Powerhouse Road, Manor Township, Lancaster County, Pennsylvania, tax parcel 410-11106-0-0000, and conveyed to PPL in the Special Warranty Deed dated May 21, 2015 and recorded as Instrument number 6206115 (the "Tax Parcel"). A copy of this deed is attached hereto as Exhibit A.

3. The premises to be acquired is that portion of the Tax Parcel which is approximately 575 feet in width and 380 feet in depth, comprising 4.0446 acres, and which comprises the Conestoga Substation power station (the "Subject Property"). The Subject Property is separated from the remainder of the Tax



Parcel by an approximately 70 feet high vertical cliff. A diagram showing the Tax Parcel and the section of it constituting the Subject Property is attached hereto as Exhibit B. The Subject Property includes all improvements, as well as the fixtures on the premises currently owned by PPL and depicted on the diagram attached hereto as Exhibit C.

4. Amtrak reserves to PPL a floating easement sufficient for PPL's fulfillment of its obligation to transmit power through the Conestoga Substation pursuant to the Transmission Contract between PPL, Safe Harbor Water and Power Corporation, and Baltimore Gas and Electric Company dated October 1, 1960 (the "Transmission Contract"). A copy the Transmission Agreement is attached hereto as Exhibit D.

5. Amtrak reserves to PPL a floating easement sufficient for PPL's fulfillment of its obligation to transmit power through the Conestoga Substation pursuant to the Interconnection Service Agreement among PJM Interconnection, L.L.C. and Safe Harbor Water Power Corporation and PPL Electric Utilities Corporation effective January 7, 2013 (the "Interconnection Service Agreement"). A copy the Interconnection Service Agreement is attached hereto as Exhibit E.

6. The acquisition by condemnation of the Subject Property shall be in fee simple and shall include any and all rights that run with the Subject Property, excepting the easement rights reserved to PPL as described herein.

7. Except as described herein, any and all secured interest and rights in the Subject Property are terminated and extinguished by operation of law through this eminent domain proceeding.

8. Exhibits B and C provide a plan showing the Subject Property taken by eminent domain.

9. The acquisition of a fee interest in the Property is necessary for intercity rail passenger transportation within the Northeast Corridor (sometimes, “NEC”).

10. Amtrak’s Northeast Corridor is an essential rail artery serving major cities in the Northeast region, connecting Washington, D.C. to Boston, Massachusetts and with connecting corridors to Harrisburg, Pennsylvania, Springfield, Massachusetts, Albany, New York and Richmond, Virginia. Amtrak runs 157 trains on the Northeast Corridor every day. In 2013, Amtrak’s NEC carried 11.4 million passengers and Amtrak’s Washington-Richmond-Newport News corridor trains carried an additional 6 million passengers.

11. Amtrak’s NEC is the busiest passenger rail line in the United States as measured by its ridership and service frequency. The Northeast’s five major metropolitan regions – Boston, New York, Philadelphia, Baltimore and Washington, D.C. – rely on Amtrak services for a significant and growing share of

business and leisure travel and on NEC infrastructure for the daily commuting needs of their workforces.

12. Congress has acknowledged the critical importance of the NEC in Amtrak's authorizing statute stating, "The Northeast Corridor is a valuable resource of the United States used by intercity and commuter rail passenger transportation and freight transportation." 49 U.S.C. § 24101(a)(7).

13. Amtrak owns and serves as the infrastructure manager for the majority of the NEC, providing dispatching services and electric propulsion power and maintaining and improving the infrastructure and facilities that are used not only by Amtrak, but also by the commuter and freight rail services. Indeed, Amtrak owns outright several other electric substations that help to power the NEC.

14. The Conestoga Substation, an electrical power substation, is located on the Subject Property.

15. Acquisition of the Subject Property, including associated improvements, fixtures, and easements held by PPL, is necessary because Amtrak powers the NEC through a traction power network using 25 Hertz power, and the Conestoga Substation on the Subject Property is the only source that directly produces 25 Hertz power without needing a frequency converter. This makes the Conestoga Substation critical to Amtrak's operation of the NEC.

16. Although the acquisition of the Conestoga Substation is critical to Amtrak's operation of the NEC, the acquisition has no impact on any other purchaser of electricity because Amtrak is the only user of the 25 Hertz power produced by the Conestoga Substation.

17. Approximately 22% of Amtrak's total installed power capacity comes from the Safe Harbor Water Power Station via the Conestoga Substation. The Conestoga Substation is strategically located to supply power to three different areas of Amtrak's traction power network. Four lines exiting the Conestoga Substation feed Amtrak's Northeast Corridor mainline at Perryville, Maryland, two lines feed Amtrak's Harrisburg line at Parkesburg, Pennsylvania, and one line feeds Amtrak's Harrisburg line at Harrisburg, Pennsylvania. The ownership and operation of the four lines exiting the Conestoga Substation are unaffected by this Declaration of Taking.

18. Amtrak uses the 25 Hertz power from the Conestoga Substation, distributed through the traction power network, for many of its NEC operations, including Amtrak, New Jersey Transit, MARC, and SEPTA routes. Control of the operation and maintenance of the Conestoga Substation is necessary because of the critical strategic importance of the power source to the operation of the NEC.

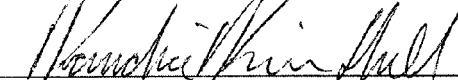
19. Amtrak will deposit Two Million Dollars and No Cents (\$2,000,000.00) with the Clerk of the Court pursuant to 49 U.S.C. § 24311 and

Case 5:17-cv-01752-JLS Document 4 Filed 04/17/17 Page 7 of 10

Federal Rule of Civil Procedure 71.1(j) as the amount of estimated just  
compensation for the Subject Property.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By 

Kandice Kerwin Hull

PA I.D. No. 86345

Dana W. Chilson

PA I.D. No. 208718

Sarah Hyser-Staub

PA I.D. No. 315989

100 Pine Street P. O. Box 1166

Harrisburg, PA 17108-1166

(717) 232-8000

[khull@mcneeslaw.com](mailto:khull@mcneeslaw.com)

Dated: April 17, 2017

*Attorneys for Plaintiff National Railroad  
Passenger Corporation ("Amtrak")*

# EXHIBIT A

06/01/2015 04:04:24 PM

Document #6206115

LANCASTER COUNTY

**Prepared by and**

**Return to:** Marc A. Jackson  
PPL Holtwood, LLC  
Manager - Real Estate Services (GENPL6)  
835 Hamilton Street, Suite 150  
Allentown, PA 18101

**Parcel ID#:** 4101110600000

**SPECIAL WARRANTY DEED**

**THIS DEED** dated May 21, 2015, to be effective as of the 1<sup>st</sup> day of June in the year of our Lord Two Thousand fifteen (2015)

**BETWEEN**

**PPL HOLTWOOD, LLC**, a Delaware limited liability company, with offices at 835 Hamilton Street, Suite 150, Allentown, Pennsylvania, hereinafter sometimes called "Grantor," and **PPL ELECTRIC UTILITIES CORPORATION**, a corporation organized and existing under the laws of the Commonwealth of Pennsylvania, with offices at 2 North Ninth St., Allentown, Pennsylvania, hereinafter sometimes called "Grantee."

**WITNESSETH**, that in consideration of the sum of One dollar (\$1.00) lawful money of the United States of America, in hand paid, the receipt whereof is hereby acknowledged, the said Grantor does hereby grant and convey to the said grantee:

**ALL THOSE CERTAIN** eight (8) lots or pieces of land situate in the Township of Manor, County of Lancaster and State of Pennsylvania, bounded and described as follows, to wit:

**Tract 1**

**BEGINNING** at a stake at the Conestoga Creek thence by the Conestoga Creek North eighteen degrees East thirty-three feet; thence by Lot No. 10 North seventy-two degrees West four hundred and eighty-one and one tenth feet to a point at land of the Pennsylvania Railroad Company; thence by land of the Pennsylvania Railroad Company South fifteen degrees and four minutes West thirty-three and four tenths feet to a point; thence South seventy-two degrees East four hundred and seventy-eight and one tenth feet to the place of beginning.

**CONTAINING** three hundred and sixty-three one-thousandths of an acre.

**BEING** the same premises which PPL Electric Utilities Corporation by Deed dated July 1, 2000, and recorded in the Office of the Recorder of Deeds in and for Lancaster County, Pennsylvania, in Deed Book 7102, Page 0122, granted and conveyed unto PPL Holtwood, LLC, Grantor herein.

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Document #6206115

LANCASTER COUNTY

**Tracts 2 and 3**

**BEGINNING** at a stake at the Conestoga Creek; thence along the same North eighteen degrees East thirty three feet to a stake; thence by land of Georgiana Ellse North seventy-two degrees West four hundred and seventy two and one tenth feet to a point in the Pennsylvania Railroad Co. land thence by the latter South fifteen degrees and four minutes West thirty three feet to lot No. 8 on the Plan of lots of the Village of Safe Harbor; thence by said lot No. 8 South seventy two degrees East four hundred and seventy eight and one tenth feet to the place of Beginning.

**CONTAINING** three hundred and sixty three one-thousandths of an acre.

**and**

**BEGINNING** at a stake at the Conestoga Creek thence along the same North eighteen degrees East thirty-three feet to a point thence by land now or late of George Fayol North seventy two degrees West five hundred and fifty two and six tenths feet to a point in the Pennsylvania Railroad land; thence by the latter South fifteen degrees and four minutes West thirty three feet; thence by land of Theodore D. Ellse South seventy two degrees East five hundred and sixty and six tenths feet to the place of Beginning.

**BEING** the same premises which PPL Electric Utilities Corporation by Deed dated July 1, 2000, and recorded in the Office of the Recorder of Deeds in and for Lancaster County, Pennsylvania, in Deed Book 7110, Page 0677, granted and conveyed unto PPL Holtwood, LLC, Grantor herein.

**Tract 4**

**BEGINNING** at a post on the bank of the Conestoga Creek the corner late of H. M. Stauffer and Company and by same North sixty-seven degrees and fifty minutes West one hundred and eighty-three feet to a point; thence by and through land of grantor at the contour line one hundred and ninety feet above the sea level North twenty-two degrees and fifteen minutes east thirty-three and six tenths feet and by same South sixty-seven degrees and fifty minutes East six and seven tenths feet and by same North forty-two degrees and thirty minutes East thirty-three feet to a point and by same along a stone wall North twenty-two degrees and fifteen minutes East one hundred and twenty-four feet to a point; thence by lands formerly of Mary Johnson South sixty-six degrees and fifteen minutes East one hundred and twenty-one feet to a point on the Bank of the Conestoga Creek; thence down the Conestoga Creek South eleven degrees and ten minutes West one hundred and ninety-five feet to the place of Beginning.

**CONTAINING** six hundred and fifty-one one-thousandths of an acre.



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LANCASTER COUNTY

**BEING** the same premises which PPL Electric Utilities Corporation by Deed dated July 1, 2000, and recorded in the Office of the Recorder of Deeds in and for Lancaster County, Pennsylvania, in Deed Book 7091, Page 0295, granted and conveyed unto PPL Holtwood, LLC, Grantor herein.

**Tract 5**

**BEGINNING** at a post on the West side of the Big Conestoga Creek and extending thence by land of Benjamin Markley the following two courses and distances to wit: North seventy-two degrees West sixteen perches to a post and North eighteen degrees East two perches to a post thence by land now or late of Jackson Campbell South seventy-two degrees East sixteen perches to said creek thence down said creek two perches to the place of Beginning.

**CONTAINING** thirty-two perches, more or less.

**BEING** the same premises which PPL Electric Utilities Corporation by Deed dated July 1, 2000, and recorded in the Office of the Recorder of Deeds in and for Lancaster County, Pennsylvania, in Deed Book 7091, Page 0301, granted and conveyed unto PPL Holtwood, LLC, Grantor herein.

**Tract 6**

**BEGINNING** on the North side of a public road and extending thence by lands of Edward Hess the following two courses and distances to wit: North seventy degrees West twelve perches to a post and North twenty degrees East three perches to a post; thence by land late of William Rorr South seventy degrees East twelve perches to a post at the aforesaid public road and thence by said road South twenty degrees West three perches to the place of Beginning.

**CONTAINING** thirty-six square perches strict measure.

**BEING** the same premises which PPL Electric Utilities Corporation by Deed dated July 1, 2000, and recorded in the Office of the Recorder of Deeds in and for Lancaster County, Pennsylvania, in Deed Book 7091, Page 0307, granted and conveyed unto PPL Holtwood, LLC, Grantor herein.

**Tract 7**

**ALL THAT CERTAIN** tract of land and premises situated in Safe Harbor, Manor Township, Lancaster County, Pennsylvania, which was conveyed by Paul Heine and Emma Heine and Emma Heine, his wife, to Milton B. Hess, by Deed dated October 11, 1929 and recorded in the Office for the Recording of Deeds in and for Lancaster County in Deed Book T, Volume 29, Page 157, and which became vested in Safe Harbor Water Power Corporation by Deed from Marvin E.

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Document #6206115

LANCASTER COUNTY

Bushong and Lydia R. Bushong, his wife, dated February 17, 1930 and recorded in said Recorder's Office in Deed Book X, Volume 29, Page 368.

**CONTAINING** three acres and fifty-eight perches, more or less, (3 A. 58 P.±), excepting the following two parcels:

- (i) one containing one and nine hundred seventy-two one-thousandths acres (1.972 A.), conveyed by Reuben L. Herr et ux to Pennsylvania Railroad Company by Deed dated June 22, 1905 and recorded in said Recorder's Office in Deed Book Y, Volume 17, Page 175; and
- (ii) one other containing six hundred fifty one-thousandths acre (0.650 A.) conveyed by Paul Heine et ux to John E. Malone by Deed dated April 30, 1913 and recorded in the said Recorder's Office in Deed Book K, Volume 21, Page 552.

**BEING** the same premises which PPL Electric Utilities Corporation by Deed dated July 1, 2000, and recorded in the Office of the Recorder of Deeds in and for Lancaster County, Pennsylvania, in Deed Book 7091, Page 0313, granted and conveyed unto PPL Holtwood, LLC, Grantor herein.

**Tract 8**

**CONTAINING** two acres, more or less (2 A. ±), an undivided one-half interest in which was conveyed by Elizabeth Bair et al to John E. Malone by Deed dated January 3, 1913 and recorded in the Office of Recording of Deeds in and for Lancaster County in Deed Book I, Volume 21, Page 51, and the other undivided one-half interest in which was conveyed by H. M. Stauffer & Co. to John E. Malone by Deed dated March 25, 1913 and recorded in said Recorder's Office in Deed Book G, Volume 21, Page 440; and which became vested in Safe Harbor Water Power Corporation by Deed from Pennsylvania Water & Power Company dated June 19, 1930 and recorded in said Recorder's Office in Deed Book B, Volume 30, Page 452.

**BEING** the same premises which PPL Electric Utilities Corporation by Deed dated July 1, 2000, and recorded in the Office of the Recorder of Deeds in and for Lancaster County, Pennsylvania, in Deed Book 7091, Page 0319, granted and conveyed unto PPL Holtwood, LLC, Grantor herein.

**Tracts 1, 3 and 5 ARE UNDER AND SUBJECT TO** a Utility Easement Agreement between PPL Holtwood, LLC, Grantor within, and Safe Harbor Water Power Corporation, hereinafter called "Safe Harbor", dated August 26, 2011 and recorded in Lancaster County, Instrument Number 5953671 on September 29, 2011. Easement agreement provides approval to Safe Harbor to allow for the placement, operation, maintenance, repair, replacement and reconstruction of water, sewer, electrical and communication utility facilities on the property, as well as the right of ingress and egress over the property to access the facilities.

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Document #6206115

LANCASTER COUNTY

**Tracts 1, 2, 3, 4, 5, 6, 7 and 8 ARE UNDER AND SUBJECT TO** a Reciprocal Access Easement Agreement for Warehouse Road between PPL Holtwood, LLC, Grantor within, and Safe Harbor, dated August 26, 2011 and recorded in Lancaster County, Instrument Number 5953672 on September 29, 2011, and all existing exceptions and reservations of record in the chains of title to the above-described Premises as they may now or hereafter affect said Premises, as well as easements visible from an inspection of the premises.

**EXCEPTING AND RESERVING TO** Grantor perpetual ingress and egress rights over the properties conveyed herein.

**TOGETHER** with all and singular the buildings, improvements, ways, waters, water courses, rights, liberties, privileges, hereditaments and appurtenances whatsoever thereunto belonging, or in anywise appertaining, and the reversions and remainders, rents, issues and profits thereof; and all the estate, right, title, interest, property, claim and demand whatsoever of the Grantor, its successors and assigns, in law, equity or otherwise, of, in and to the same, and every part thereof.

**AND** the said Grantor does hereby covenant and agree that it will warrant specially the property hereby conveyed.

**NOTE:** Portions of Tracts 4, 5, 6, 7 and 8 may have been used as a fossil-fuel fired power generation site with operations normally incident thereto located on the property, including one or more wastewater treatment basins, fuel oil tanks and pipelines, coal piles, ash piles/basins and substations/switchyards. In addition, on site operations may have resulted in incidental spills over time.

[Signature page follows.]

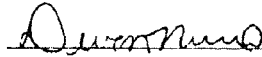
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LANCASTER COUNTY

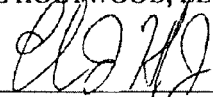
IN WITNESS WHEREOF, PPL HOLTWOOD, LLC has caused this Deed to be executed the day and year first above written.

WITNESS:

  
\_\_\_\_\_

PPL HOLTWOOD, LLC

By:

  
\_\_\_\_\_

Clarence J. Hopf, Jr.  
Senior Vice President

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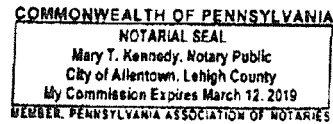
LANCASTER COUNTY

COMMONWEALTH OF PENNSYLVANIA )  
 ) SS  
COUNTY OF LEHIGH )

On this the 21 day of May, 2015 before me, a Notary Public in and for the Commonwealth of Pennsylvania, the undersigned officer, personally appeared Clarence J. Hopf, Jr., who acknowledged himself to be the Senior Vice President of PPL Holtwood, LLC, a Delaware limited liability company, and that he as such Senior Vice President, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the limited liability company by himself as Clarence J. Hopf, Jr.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Mary T. Kennedy  
Notary Public



I HEREBY CERTIFY that the precise address of the Grantee within named is:

PPL Electric Utilities Corporation  
C/O Tom Martino, Facility Management  
Two North Ninth Street  
Allentown, PA 18101

Tom Martino

## **EXHIBIT B**

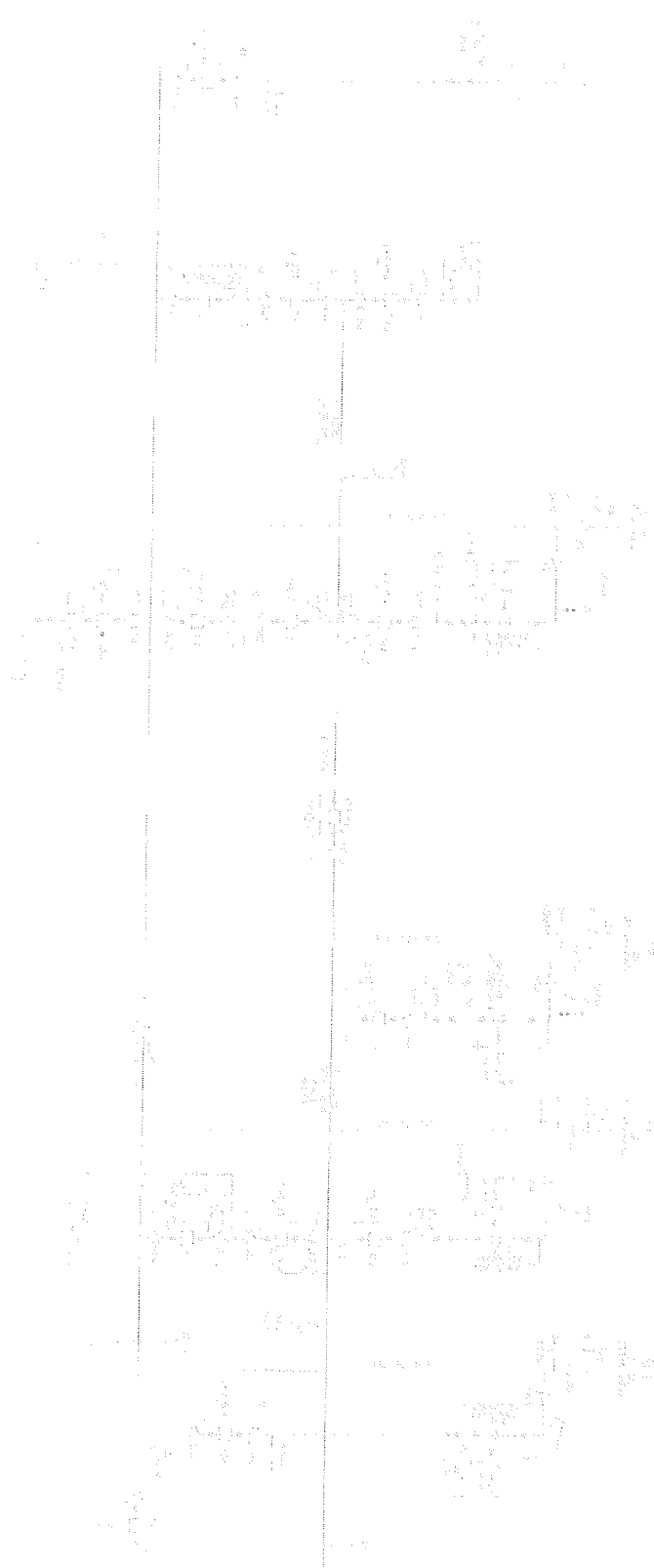
**Picture Location Map**



The parcel outlined in darker blue includes the subject parcel (right side of outlined parcel) and the tax parcel (including the left side of outlined parcel) is highlighted in lighter blue.

## EXHIBIT C





REV CDS 09/23/11

CONFIDENTIAL

SAFE HARBOR HYDRO  
AMTRAK  
PPL EU

## **EXHIBIT D**

**PJM Service Agreement No. 3880**  
**PPL Electric Utilities Corporation, FERC Rate Schedule No. 23**  
**Effective Date: October 1, 1960**

**TRANSMISSION CONTRACT**

**between**

**PENNSYLVANIA POWER & LIGHT COMPANY**

**SAFE HARBOR WATER POWER CORPORATION**

**and**

**BALTIMORE GAS AND ELECTRIC COMPANY**

**Effective as of October 1, 1960**

**Superseding Transmission Contract**  
**made as of May 18, 1955, and all**  
**Amendments and Supplements thereto**

**TRANSMISSION CONTRACT**

**TABLE OF CONTENTS**

		<u>Page</u>
Article 1	Effective Date and Duration of Agreement	1
Article 2	Transmission Facilities	2
Article 3	Transmission of Power and Energy	3
Article 4	Metering and Transmission Losses	4
Article 5	Transmission Charges and Payment	5
Article 6	Causes Beyond Control	5
Article 7	Waiver of Rights	6
Article 8	Assignment	7
Article 9	Prior Agreements Superseded	7

**TRANSMISSION CONTRACT**

AGREEMENT, made as of the 20th day of July, 1960, by and between PENNSYLVANIA POWER & LIGHT COMPANY (hereinafter called Pennsylvania), a Pennsylvania corporation, party of the first part, SAFE HARBOR WATER POWER CORPORATION (hereinafter called Safe Harbor), a Pennsylvania corporation, party of the second part, and BALTIMORE GAS AND ELECTRIC COMPANY (herein-after called Baltimore Company), a Maryland corporation, party of the third part.

WHEREAS, Pennsylvania owns and operates certain transmission facilities that are available for the transmission of a portion of Safe Harbor's output to Baltimore Company at various points on the Pennsylvania-Maryland State Line, and Baltimore Company and Safe Harbor desire Pennsylvania to transmit to such points the power and energy sold by Safe Harbor to Baltimore Company.

NOW, THEREFORE, THIS AGREEMENT WITNESSETH, that in consideration of the premises and of the mutual covenants and agreements herein contained, the parties hereto do each agree with the other as follows:

**ARTICLE 1**

**Effective Date and Duration of Agreement**

1.1 This contract shall become effective on October 1, 1960 and shall continue in effect so long as Baltimore Company purchases power and energy from Safe Harbor, except it shall continue in effect with respect to facilities described in Section 2.1 (c) and (d) and with respect to that payment provided for in Section 5.1 (b) only so long as Baltimore Company supplies 25 cycle power and energy to The Pennsylvania Railroad Company at Conowingo or Perryville, Maryland.

ARTICLE 2

Transmission Facilities

2.1 Pennsylvania has available and shall operate and maintain in good operating condition for the transmission of power and energy sold by Safe Harbor to Baltimore Company and for other purposes:

(a) A 220 kv switching station adjacent to the Safe Harbor hydroelectric plant, commonly known as Manor 220 kv switching station., with connections therefrom to the Safe Harbor plant and to Pennsylvania's transmission system;

(b) Two single circuit, 220 kv transmission lines connecting Manor 220 kv switching station to similar transmission lines owned by Baltimore Company at the Pennsylvania-Maryland State Line;

(c) A 25 cycle, single phase, step-up transformer and switching station, commonly known as Conestoga substation, adjacent to the Safe Harbor hydroelectric plant; and

(d) A four circuit, single phase, 132 kv transmission line, commonly known as the Perryville line, connecting Conestoga substation with the similar transmission line of Baltimore Company at the Pennsylvania Maryland State Line.

2.2 Each of the parties hereto shall advise each of the other parties hereto before proceeding with any substantial changes, physical or otherwise, other than due to ordinary maintenance and replacements, that would affect the delivery of power and energy as provided for hereunder.

2.3 The parties hereto shall cooperate in scheduling the outages of their transmission facilities for inspection, maintenance, or other proper causes in such a manner as to permit the optimum utilization of Safe Harbor's capacity and energy resources.

Case 5:17-cv-01752-JLS Document 4-2 Filed 04/17/17 Page 2 of 19

ARTICLE 3

Transmission of Power and Energy

3.1 Pennsylvania shall transmit all of the power and energy delivered by Safe Harbor to Pennsylvania for delivery to Baltimore Company or for Baltimore Company's account. Pennsylvania shall deliver such power and energy (less transmission losses):

(a) As 60 cycle, 3 phase at a nominal potential of 220 kv to Baltimore Company's 220 kv transmission facilities at the Pennsylvania-Maryland State Line;

(b) As 25 cycle, single phase at a nominal potential of 132 kv to Baltimore Company's 132 kv transmission facilities at the Pennsylvania-Maryland State Line;  
and

(c) Of such character and at such other points as may be agreed upon from time to time.

3.2 Pennsylvania shall transmit over its facilities described in Section 2.1 such power and energy from sources other than Safe Harbor as may be delivered by Baltimore Company to the Pennsylvania-Maryland State Line ends of the three lines described in Section 2.1 (b) and (d), respectively, for delivery to Baltimore Company at either one or both of the other of these same points or to the Safe Harbor plant, provided such use shall not adversely affect the performance of the obligations of Pennsylvania under Section 3.1 hereof.

3.3 Safe Harbor shall, so far as possible within the limits of good operating practices, permit the flow of power and energy and reactive kilovolt-amperes through its facilities between any of the several connections with adjacent transmission facilities of Pennsylvania.





3.4 Pennsylvania shall have the right to use its facilities herein described for purposes other than those herein provided for so long as such use shall not adversely affect the performance of its obligations provided for in this Article. If and when any such use made by Pennsylvania of its facilities herein described other than for delivery of power and energy to or from Baltimore Company or for Baltimore Company's account is substantial, an appropriate adjustment shall be made in the charges provided for in Section 5.1 hereof.

#### ARTICLE 4

##### Metering and Transmission Losses

4.1 Metering facilities for measurement of energy delivered to the facilities of Baltimore Company and of others for the account of Baltimore Company shall be as agreed upon by the parties hereto.

4.2 Procedure in respect to maintenance, testing, calibrating, correction, and registration records and precision tolerance of all metering equipment shall be in accordance with good practice and as may be agreed upon between the parties hereto from time to time.

4.3 Baltimore Company shall assume the actual losses for 60 cycle energy delivered by Pennsylvania hereunder applicable to transmission in the State of Pennsylvania between Safe Harbor and the Pennsylvania-Maryland State Line excluding step-up transformer losses at Safe Harbor. Baltimore Company shall also assume the actual losses for 25 cycle energy delivered by Pennsylvania hereunder applicable to

Case 5:17-cv-01752-JLS Document 4-2 Filed 04/17/17 Page 6 of 19

transmission in the State of Pennsylvania via circuits designated as P7 and P8 between Conestoga substation and the Pennsylvania-Maryland State Line, including step-up transformer losses at Conestoga substation.

#### ARTICLE 5

##### Transmission Charges and Payment

5.1 Baltimore Company shall pay Pennsylvania:

(a) For the delivery of power and energy as specified in Sections 3.1 (a) and 3.2 hereof, as related to the facilities described in Sections 2.1 (a) and (b), \$13,200 per month and

(b) For the delivery of power and energy as specified in Sections 3.1 (b) and 3.2 hereof, as related to the facilities described in Sections 2.1 (c) and (d), \$8,400 per month.

5.2 A monthly bill for the charges specified in Section 5.1 hereof for the delivery of power and energy shall be rendered to Baltimore Company by Pennsylvania on or about the twenty-fifth day of the calendar month for which the bill is rendered, and Baltimore Company shall pay to Pennsylvania the amount so billed within twenty (20) days of receipt thereof.

#### ARTICLE 6

##### Causes Beyond Control

6.1 Whenever Pennsylvania is prevented from delivering or Baltimore Company is prevented from receiving power and energy as herein provided for by reason of war, rebellion, civil disturbances, strike, serious epidemic, flood, ice, fire, explosion, breakdown, storm,

- 5 -

lightning, catastrophe, requirement or restriction of governmental authorities, or any other causes beyond the control of the parties hereto, whether in respect of their respective facilities or the facilities of others, the obligation of Pennsylvania to deliver power and energy hereunder or Baltimore Company's obligation to receive the same will cease to the extent that delivery is so prevented, until such time as such delivery can be resumed. Pennsylvania and Baltimore shall be prompt and diligent in the restoring of their respective facilities to service for such delivery.

6.2 Whenever transmission of power and energy by Pennsylvania to the facilities of Baltimore Company at the Pennsylvania-Maryland State Line by one or more of the transmission lines described in Section 2.1 (b) or 2.1 (d) is prevented for a continuous period exceeding forty-eight (48) hours in length by reason of any of the causes described in Section 6.1 relating to its facilities, a reasonable abatement of the charges provided for in Section 5.1 shall be made.

#### ARTICLE 7

##### Waiver of Rights

7.1 The failure of any party hereto to enforce from time to time a strict performance of any of the covenants and agreements herein contained, or the waiver from time to time of default on the part of any party hereto, shall not be construed as a waiver of any continued, continuing, or subsequent default, or defaults, nor impair the rights of the other parties hereto subsequently to require the strict performance of each and every covenant, agreement and understanding herein contained.



ARTICLE 8

Assignment

8.1 No party hereto shall, without the written consent of the others, assign or otherwise transfer this agreement but this agreement shall be binding upon and shall inure to the benefit of any successor corporation or corporations with, or into which, any of the parties hereto may hereafter become consolidated or merged, and to any successor corporation; or corporations to any of the parties hereto or to any corporation or corporations with, or into which, any of the parties hereto may have been consolidated or merged, created by, or arising out of, reorganization or receivership proceedings, or otherwise by law, and to any receiver, trustee in bankruptcy or other legally appointed assignee of the assets, property and business of any of the parties hereto, or of such successor corporation or corporations.

ARTICLE 9

Prior Agreements Superseded

9.1 This contract terminates and supersedes the contract between Pennsylvania Water & Power Company (to which Company Pennsylvania is successor by merger), Susquehanna Transmission Company of Maryland (to which Company Baltimore Company is successor by Articles of Transfer), Safe Harbor and Baltimore Company, made as of May 18, 1955, and the supplement thereto between Baltimore Company, Pennsylvania, Susquehanna Transmission Company of Maryland and Safe Harbor, made as of June 1, 1955.

Case 5:17-cv-01752-JLS Document 4-2 Filed 04/17/17 Page 11 of 19



Case 5:17-cv-01752-JLS Document 4-2 Filed 04/17/17 Page 12 of 19

IN WITNESS WHEREOF, the parties hereto have caused these presents to be duly executed by their respective officers, thereunto duly authorized and their respective corporate seals to be hereunto affixed as of the day and year first above written.

ATTEST: PENNSYLVANIA POWER & LIGHT COMPANY

\_\_\_\_\_  
By \_\_\_\_\_  
President

ATTEST: SAFE HARBOR WATER POWER CORPORATION

\_\_\_\_\_  
By \_\_\_\_\_  
President

ATTEST: BALTIMORE GAS AND ELECTRIC COMPANY

\_\_\_\_\_  
By \_\_\_\_\_  
President

Case 5:17-cv-01752-JLS Document 4-2 Filed 04/17/17 Page 13 of 19

Case 5:17-cv-01752-JLS Document 4-2 Filed 04/17/17 Page 14 of 19

**PJM Service Agreement No. 3880  
PPL Electric Utilities Corporation, FERC Rate Schedule No. 23  
Effective Date: June 1, 1987**

**SUPPLEMENTAL AGREEMENT**

**between**

**Pennsylvania Power & Light Company,**

**Safe Harbor Water Power Corporation**

**And**

**Baltimore Gas and Electric Company**

PJM Service Agreement No. 3880  
PPL Electric Utilities Corporation, FERC Rate Schedule No. 23  
Effective Date: June 1, 1987

SUPPLEMENTAL AGREEMENT

Supplemental Agreement made this 13th day of March, 1989, by and among Pennsylvania Power & Light Company (PP&L) of Allentown, Pennsylvania, Safe Harbor Water Power Corporation (SHWP) of Conestoga, Pennsylvania, and Baltimore Gas and Electric Company (BG&E) of Baltimore, Maryland.

WHEREAS, the parties entered into a Transmission Contract on July 20, 1960; and

WHEREAS, PP&L owns and operates certain transmission facilities that are used, in part, for the transmission of BG&E's share of output from SHWP to BG&E's facilities at the Pennsylvania-Maryland State Line; and

WHEREAS, the Transmission Contract provides, in part, for transmission charges to be paid by BG&E to PP&L; and

WHEREAS, SHWP has completed an expansion program adding generators; and

WHEREAS, PP&L has made changes and improvements to its Manor 230 kV Substation to accommodate the increased output from SHWP and to increase reliability;

NOW, THEREFORE, in consideration of the premises contained herein, and intending to be legally bound, the signatories hereto agree as follows:

1. The Transmission Contract is hereby amended by increasing the monthly transmission charge (60 hertz) in ARTICLE 5, paragraph 5.1(a) from \$13,200 to \$18,195, effective June 1, 1987.
2. In all other respects, the Transmission Contract remains in full force and

effect.

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Agreement to be executed by duly authorized officers as of the date first written above.

ATTEST: PENNSYLVANIA POWER & LIGHT COMPANY

\_\_\_\_\_/s/\_\_\_\_\_  
Assistant Secretary

By: \_\_\_\_/s/\_\_\_\_\_  
(signature)

Name: Grayson E. McNair

Title: Vice-President-System Power

ATTEST: SAFE HARBOR WATER POWER CORPORATION

\_\_\_\_\_/s/\_\_\_\_\_  
Secretary

By: \_\_\_\_/s/\_\_\_\_\_  
(signature)

Name: Donald B. Chubb

Title: President and Chief Executive Officer

ATTEST: BALTIMORE GAS AND ELECTRIC COMPANY

\_\_\_\_\_/s/\_\_\_\_\_  
Assistant Secretary

By: \_\_\_\_/s/\_\_\_\_\_  
(signature)

Name: J.W. Gore

Title: Vice-President-Electric Interconnection & Operations

# EXHIBIT E

Original Service Agreement No. 3504  
Effective Date: January 7, 2013

(PJM Queue #Non-Queue 69)

**INTERCONNECTION SERVICE AGREEMENT**  
**Among**  
**PJM INTERCONNECTION, L.L.C.**  
**And**  
**SAFE HARBOR WATER POWER CORPORATION**  
**And**  
**FPL ELECTRIC UTILITIES CORPORATION**



Original Service Agreement No. 3504

**INTERCONNECTION SERVICE AGREEMENT**

**By and Among**

**PJM Interconnection, L.L.C.**

**And**

**Safe Harbor Water Power Corporation**

**And**

**PPL Electric Utilities Corporation**

**(PJM Queue Position #Non-Queue 69)**

- 1.0 **Parties.** This Interconnection Service Agreement (“ISA”) including the Specifications, Schedules and Appendices attached hereto and incorporated herein, is entered into by and between PJM Interconnection, L.L.C., the Regional Transmission Organization for the PJM Region (hereinafter “Transmission Provider” or “PJM”), Safe Harbor Water Power Corporation (“Interconnection Customer” or “Safe Harbor”) and PPL Electric Utilities Corporation (“Interconnected Transmission Owner” or “PPL EU”). All capitalized terms herein shall have the meanings set forth in the appended definitions of such terms as stated in Part I of the PJM Open Access Transmission Tariff (“Tariff”).
- 2.0 **Authority.** This ISA is entered into pursuant to Part VI of the Tariff. Interconnection Customer has requested an Interconnection Service Agreement under the Tariff, and Transmission Provider has determined that Interconnection Customer is eligible under the Tariff to obtain this ISA. The standard terms and conditions for interconnection as set forth in Appendix 2 to this ISA are hereby specifically incorporated as provisions of this ISA. Transmission Provider, Interconnected Transmission Owner and Interconnection Customer agree to and assume all of the rights and obligations of the Transmission Provider, Interconnected Transmission Owner and Interconnection Customer, respectively, as set forth in Appendix 2 to this ISA.
- 3.0 **Customer Facility Specifications.** Attached are Specifications for the Customer Facility that Interconnection Customer proposes to interconnect with the Transmission System. Interconnection Customer represents and warrants that, upon completion of construction of such facilities, it will own or control the Customer Facility identified in section 1.0 of the Specifications attached hereto and made a part hereof. In the event that Interconnection Customer will not own the Customer Facility, Interconnection Customer represents and warrants that it is authorized by the owner(s) thereof to enter into this ISA and to represent such control.
- 4.0 **Effective Date.** Subject to any necessary regulatory acceptance, this ISA shall become effective on the date it is executed by all Interconnection Parties, or, if the agreement is filed with FERC unexecuted, upon the date specified by FERC. This ISA shall terminate on such date as mutually agreed upon by the parties, unless earlier terminated in accordance with the terms set forth in Appendix 2 to this ISA. The term of the ISA shall be as provided in Section 1.3 of Appendix 2 to this ISA. Interconnection Service shall commence as provided in Section 1.2 of Appendix 2 to this ISA.

- 5.0 Security. In accord with Section 212.4 of the Tariff, Interconnection Customer shall provide the Transmission Provider (for the benefit of the Interconnected Transmission Owner) with a letter of credit from an agreed provider or other form of security reasonably acceptable to the Transmission Provider and that names the Transmission Provider as beneficiary ("Security") in the amount of \$0. This amount represents the sum of the estimated Costs, determined in accordance with Sections 212 and 217 of the Tariff, for which the Interconnection Customer will be responsible, less any Costs already paid by Interconnection Customer. Interconnection Customer acknowledges that its ultimate cost responsibility in accordance with Section 217 of the Tariff will be based upon the actual Costs of the facilities described in the Specifications, whether greater or lesser than the amount of the payment security provided under this section.

Should Interconnection Customer fail to provide security at the time the Interconnection Customer executes this ISA, or, if deferred, by the end of the 120-day period, this ISA shall be terminated.

- 6.0 Project Specific Milestones. In addition to the milestones stated in Section 212.5 of the Tariff, as applicable, during the term of this ISA, Interconnection Customer shall ensure that it meets each of the following development milestones:
- 6.1 Interconnection Customer shall install an RTU at the Interconnection Customer Facility by September 1, 2013.

Interconnection Customer shall demonstrate the occurrence of each of the foregoing milestones to Transmission Provider's reasonable satisfaction. Transmission Provider may reasonably extend any such milestone dates, in the event of delays that Interconnection Customer (i) did not cause and (ii) could not have remedied through the exercise of due diligence. The milestone dates stated in this ISA shall be deemed to be extended coextensively with any suspension of work initiated by Interconnection Customer in accordance with the Interconnection Construction Service Agreement.

- 7.0 Provision of Interconnection Service. Transmission Provider and Interconnected Transmission Owner agree to provide for the interconnection to the Transmission System in the PJM Region of Interconnection Customer's Customer Facility identified in the Specifications in accordance with Part IV and Part VI of the Tariff, the Operating Agreement of PJM Interconnection, L.L.C. ("Operating Agreement"), and this ISA, as they may be amended from time to time.
- 8.0 Assumption of Tariff Obligations. Interconnection Customer agrees to abide by all rules and procedures pertaining to generation and transmission in the PJM Region, including but not limited to the rules and procedures concerning the dispatch of generation or scheduling transmission set forth in the Tariff, the Operating Agreement and the PJM Manuals.
- 9.0 Facilities Study. Since the generation facility is already operational and interconnected to

the Transmission System, no Facilities Study or System Impact Study was required. In designing and constructing the Attachment Facilities, Local Upgrades and/or Network Upgrades described in the Specifications attached to this ISA, Transmission Provider, the Interconnected Transmission Owner(s), and any other subcontractors employed by Transmission Provider have had to, and shall have to, rely on information provided by Interconnection Customer and possibly by third parties and may not have control over the accuracy of such information. Accordingly, NEITHER TRANSMISSION PROVIDER, THE INTERCONNECTED TRANSMISSION OWNER(s), NOR ANY OTHER SUBCONTRACTORS EMPLOYED BY TRANSMISSION PROVIDER OR INTERCONNECTED TRANSMISSION OWNER MAKES ANY WARRANTIES, EXPRESS OR IMPLIED, WHETHER ARISING BY OPERATION OF LAW, COURSE OF PERFORMANCE OR DEALING, CUSTOM, USAGE IN THE TRADE OR PROFESSION, OR OTHERWISE, INCLUDING WITHOUT LIMITATION IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WITH REGARD TO THE ACCURACY, CONTENT, OR CONCLUSIONS OF THE FACILITIES STUDY OR THE SYSTEM IMPACT STUDY IF A FACILITIES STUDY WAS NOT REQUIRED OR OF THE ATTACHMENT FACILITIES, THE LOCAL UPGRADES AND/OR THE NETWORK UPGRADES, PROVIDED, HOWEVER, that Transmission Provider warrants that the Transmission Owner Interconnection Facilities and any Merchant Transmission Upgrades described in the Specifications will be designed and constructed (to the extent that Interconnected Transmission Owner is responsible for design and construction thereof) and operated in accordance with Good Utility Practice, as such term is defined in the Operating Agreement. Interconnection Customer acknowledges that it has not relied on any representations or warranties not specifically set forth herein and that no such representations or warranties have formed the basis of its bargain hereunder.

#### 10.0 Construction of Transmission Owner Interconnection Facilities

- 10.1. **Cost Responsibility.** Interconnection Customer shall be responsible for and shall pay upon demand all Costs associated with the interconnection of the Customer Facility as specified in the Tariff. These Costs may include, but are not limited to, an Attachment Facilities charge, a Local Upgrades charge, a Network Upgrades charge and other charges, as well as Costs of any Merchant Network Upgrades constructed on behalf of Interconnection Customer. A description of the facilities required and an estimate of the Costs of these facilities are included in Sections 3.0 and 4.0 of the Specifications to this ISA.
- 10.2. **Billing and Payments.** Transmission Provider shall bill the Interconnection Customer for the Costs associated with the facilities contemplated by this ISA, estimates of which are set forth in the Specifications to this ISA, and the Interconnection Customer shall pay such Costs, in accordance with Section 11 of Appendix 2 to this ISA and the applicable Interconnection Construction Service Agreement. Upon receipt of each of Interconnection Customer's payments of such bills, Transmission Provider shall reimburse the applicable Interconnected Transmission Owner. Pursuant to Section 212.4 of the Tariff, Interconnection

Customer requests that Transmission Provider provide a quarterly cost reconciliation:

\_\_\_\_\_ Yes  
  X   No

10.3. **Contract Option.** In the event that the Interconnection Customer and Interconnected Transmission Owner agree to utilize the Negotiated Contract Option provided by the Interconnection Construction Service Agreement to establish, subject to FERC acceptance, non-standard terms regarding cost responsibility, payment, billing and/or financing, the terms of Sections 10.1 and/or 10.2 of this Section 10.0 shall be superseded to the extent required to conform to such negotiated terms, as stated in a schedule attached to the parties' Interconnection Construction Service Agreement relating to interconnection of the Customer Facility.

10.4 In the event that the Interconnection Customer elects to construct some or all of the Transmission Owner Interconnection Facilities and/or of any Merchant Network Upgrades under the Option to Build of the Interconnection Construction Service Agreement, billing and payment for the Costs associated with the facilities contemplated by this ISA shall relate only to such portion of the Interconnection Facilities and/or any Merchant Network Upgrades as the Interconnected Transmission Owner is responsible for building.

#### 11.0 Interconnection Specifications

11.1 **Point of Interconnection.** The Point of Interconnection shall be as identified on the one-line diagram attached as Schedule B to this ISA.

11.2 **List and Ownership of Interconnection Facilities.** The Interconnection Facilities to be constructed and ownership of the components thereof are identified in Section 3.0 of the Specifications attached to this ISA.

11.2A. **List and Ownership of Merchant Network Upgrades.** If applicable, Merchant Network Upgrades to be constructed and ownership of the components thereof are identified in Section 3.0 of the Specifications attached to this ISA.

11.3 **Ownership and Location of Metering Equipment.** The Metering Equipment to be constructed, the capability of the Metering Equipment to be constructed, and the ownership thereof, are identified on the attached Schedule C to this ISA.

11.4 **Applicable Technical Standards.** The Applicable Technical Requirements and Standards that apply to the Customer Facility and the Interconnection Facilities are identified in Schedule D to this ISA.

12.0 Power Factor Requirement.

The power factor requirement is as provided in Schedule F

13.0 Charges. In accordance with Sections 10 and 11 of Appendix 2 to this ISA, the Interconnection Customer shall pay to the Transmission Provider the charges applicable after Initial Operation, as set forth in Schedule E to this ISA. Promptly after receipt of such payments, the Transmission Provider shall forward such payments to the appropriate Interconnected Transmission Owner.

14.0 Third Party Beneficiaries. No third party beneficiary rights are created under this ISA, except, however, that, subject to modification of the payment terms stated in Section 10 of this ISA pursuant to the Negotiated Contract Option, payment obligations imposed on Interconnection Customer under this ISA are agreed and acknowledged to be for the benefit of the Interconnected Transmission Owner(s). Interconnection Customer expressly agrees that the Interconnected Transmission Owner(s) shall be entitled to take such legal recourse as it deems appropriate against Interconnection Customer for the payment of any Costs or charges authorized under this ISA or the Tariff with respect to Interconnection Service for which Interconnection Customer fails, in whole or in part, to pay as provided in this ISA, the Tariff and/or the Operating Agreement.

15.0 Waiver. No waiver by either party of one or more defaults by the other in performance of any of the provisions of this ISA shall operate or be construed as a waiver of any other or further default or defaults, whether of a like or different character.

16.0 Amendment. This ISA or any part thereof, may not be amended, modified, or waived other than by a written document signed by all parties hereto.

17.0 Construction With Other Parts Of The Tariff. This ISA shall not be construed as an application for service under Part II or Part III of the Tariff.

18.0 Notices. Any notice or request made by either party regarding this ISA shall be made, in accordance with the terms of Appendix 2 to this ISA, to the representatives of the other party and as applicable, to the Interconnected Transmission Owner(s), as indicated below:

Transmission Provider:

PJM Interconnection, L.L.C.  
955 Jefferson Avenue  
Valley Forge Corporate Center  
Norristown, PA 19403-2497

Interconnection Customer:

Safe Harbor Water Power Corporation  
1 Powerhouse Road

Conestoga, PA 17516-9651  
Attn: Supervisor of Operations  
Interconnected Transmission Owner:

PPL Electric Utilities Corporation (PPL EU)  
2 North Ninth Street  
Allentown, PA 18101-1170  
Attn: Transmission Regulatory Affairs Manager

- 19.0 Incorporation Of Other Documents. All portions of the Tariff and the Operating Agreement pertinent to the subject matter of this ISA and not otherwise made a part hereof are hereby incorporated herein and made a part hereof.
- 20.0 Addendum of Non-Standard Terms and Conditions for Interconnection Service. Subject to FERC approval, the parties agree that the terms and conditions set forth in Schedule F hereto are hereby incorporated herein by reference and be made a part of this ISA. In the event of any conflict between a provision of Schedule F that PERC has accepted and any provision of Appendix 2 to this ISA that relates to the same subject matter, the pertinent provision of Schedule F shall control.
- 21.0 Addendum of Interconnection Customer's Agreement to Conform with IRS Safe Harbor Provisions for Non-Taxable Status. To the extent required, in accordance with Section 24.1 of Appendix 2 to this ISA, Schedule G to this ISA shall set forth the Interconnection Customer's agreement to conform with the IRS safe harbor provisions for non-taxable status.
- 22.0 Addendum of Interconnection Requirements for a Wind Generation Facility. To the extent required, Schedule H to this ISA sets forth interconnection requirements for a wind generation facility and is hereby incorporated by reference and made a part of this ISA.
- 23.0 Infrastructure security of electric system equipment and operations and control hardware and software is essential to ensure day-to-day reliability and operational security. All Transmission Providers, Interconnected Transmission Owners, market participants, and Interconnection Customers interconnected with electric systems are to comply with the recommendations offered by the President's Critical Infrastructure Protection Board and best practice recommendations from the electric reliability authority. All public utilities are expected to meet basic standards for electric system infrastructure and operational security, including physical, operational, and cyber-security practices.

IN WITNESS WHEREOF, Transmission Provider, Interconnection Customer and Interconnected Transmission Owner have caused this ISA to be executed by their respective authorized officials.

(PJM Queue Position #Non-Queue 69)

Transmission Provider: PJM Interconnection, L.L.C.

By: /s/ Alan Elmy                      Manager, Interconnection Planning      1/7/13  
Name                                      Title                                      Date

Printed name of signer: Alan Elmy

Interconnection Customer: **Safe Harbor Water Power Corporation**  
By: /s/ Juan A. Kimble, P.E.              President & CEO                      December 19, 2012  
Name                                      Title                                      Date

Printed name of signer: Juan A. Kimble, P.E.

Interconnected Transmission Owner: **PPL Electric Utilities Corporation**  
By: /s/ Dennis Urban                      Sr. Director                      1/2/2013  
Name                                      Title                                      Date

Printed name of signer: Dennis Urban

**SPECIFICATIONS FOR  
INTERCONNECTION SERVICE AGREEMENT  
By and Among  
PJM INTERCONNECTION, L.L.C.  
And  
SAFE HARBOR WATER POWER CORPORATION  
And  
PPL ELECTRIC UTILITIES CORPORATION  
(PJM Queue Position #Non-Queue 69)**

1.0 Description of generating unit(s) (the Customer Facility) to be interconnected with the Transmission System in the PJM Region:

a. Name of Customer Facility:

Safe Harbor Hydroelectric FERC Project No. 1025

b. Location of Customer Facility:

1 Powerhouse Road  
Conestoga, PA 17516-9651

c. Size in megawatts of Customer Facility:

For Generation Interconnection Customer:

Maximum Facility Output of 416.5 MW

Unit 1 Maximum Facility Output 32.0 MW

Unit 2 Maximum Facility Output 32.0 MW

Unit 3 Maximum Facility Output 32.5 MW

Unit 4 Maximum Facility Output 32.0 MW

Unit 5 Maximum Facility Output 32.5 MW

Unit 6 Maximum Facility Output 32.0 MW

Unit 7 Maximum Facility Output 32.5 MW

Unit 8 Maximum Facility Output 37.5 MW

Unit 9 Maximum Facility Output 38.5 MW

Unit 10 Maximum Facility Output 38.5 MW

Unit 11 Maximum Facility Output 38.0 MW

Unit 12 Maximum Facility Output 38.5 MW

d. Description of the equipment configuration:

The Customer Facility is a hydroelectric generating facility located on the Susquehanna River near Conestoga PA. The facility produces single phase 25



cycle electricity with two Kaplan turbine/generators and a frequency converter connected by cables in tunnels to PPL EU's Conestoga Substation. The facility also produces three phase 60 cycle electricity with five Kaplan, five mixed flow and two house unit turbine/generators connected by generator leads consisting of two spans at 69kV and two spans at 230kV to PPL EU's Manor Substation.

## 2.0 Rights

### 2.1 Capacity Interconnection Rights:

For Unit 1: Pursuant to and subject to the applicable terms of the Tariff, the Interconnection Customer shall have Capacity Interconnection Rights at the Point(s) of Interconnection specified in this Interconnection Service Agreement in the amount of 32.0 MW.

For Unit 2: Pursuant to and subject to the applicable terms of the Tariff, the Interconnection Customer shall have Capacity Interconnection Rights at the Point(s) of Interconnection specified in this Interconnection Service Agreement in the amount of 32.0 MW.

For Unit 3: Pursuant to and subject to the applicable terms of the Tariff, the Interconnection Customer shall have Capacity Interconnection Rights at the Point(s) of Interconnection specified in this Interconnection Service Agreement in the amount of 32.5 MW.

For Unit 4: Pursuant to and subject to the applicable terms of the Tariff, the Interconnection Customer shall have Capacity Interconnection Rights at the Point(s) of Interconnection specified in this Interconnection Service Agreement in the amount of 32.0 MW.

For Unit 5: Pursuant to and subject to the applicable terms of the Tariff, the Interconnection Customer shall have Capacity Interconnection Rights at the Point(s) of Interconnection specified in this Interconnection Service Agreement in the amount of 32.5 MW.

For Unit 6: Pursuant to and subject to the applicable terms of the Tariff, the Interconnection Customer shall have Capacity Interconnection Rights at the Point(s) of Interconnection specified in this Interconnection Service Agreement in the amount of 32.0 MW.

For Unit 7: Pursuant to and subject to the applicable terms of the Tariff, the Interconnection Customer shall have Capacity Interconnection Rights at the Point(s) of Interconnection specified in this Interconnection Service Agreement in the amount of 32.5 MW.

For Unit 8: Pursuant to and subject to the applicable terms of the Tariff, the

Interconnection Customer shall have Capacity Interconnection Rights at the Point(s) of Interconnection specified in this Interconnection Service Agreement in the amount of 37.5 MW.

For Unit 9: Pursuant to and subject to the applicable terms of the Tariff, the Interconnection Customer shall have Capacity Interconnection Rights at the Point(s) of Interconnection specified in this Interconnection Service Agreement in the amount of 38.5 MW.

For Unit 10: Pursuant to and subject to the applicable terms of the Tariff, the Interconnection Customer shall have Capacity Interconnection Rights at the Point(s) of Interconnection specified in this Interconnection Service Agreement in the amount of 38.5 MW.

For Unit 11: Pursuant to and subject to the applicable terms of the Tariff, the Interconnection Customer shall have Capacity Interconnection Rights at the Point(s) of Interconnection specified in this Interconnection Service Agreement in the amount of 38.0 MW.

For Unit 12: Pursuant to and subject to the applicable terms of the Tariff, the Interconnection Customer shall have Capacity Interconnection Rights at the Point(s) of Interconnection specified in this Interconnection Service Agreement in the amount of 38.5 MW.

2.1a To the extent that any portion of the Customer Facility described in section 1.0 is not a Capacity Resource with Capacity Interconnection Rights, such portion of the Customer Facility shall be an Energy Resource. PJM reserves the right to limit total injections to the Maximum Facility Output in the event reliability would be affected by output greater than such quantity.

2.3 Incremental Deliverability Rights:

Pursuant to Section 235 of the Tariff, Interconnection Customer shall have Incremental Deliverability Rights at each indicated Point of Interconnection in the following quantity(ies): None

2.4 Incremental Available Transfer Capability Revenue Rights:

Pursuant to Section 233 of the Tariff, Interconnection Customer shall have Incremental Available Transfer Capability Revenue Rights at each indicated Point of Interconnection in the following quantities: None

2.5 Incremental Auction Revenue Rights:

Pursuant to Section 231 of the Tariff, Interconnection Customer shall have

Incremental Auction Revenue Rights in the following quantities: None

2.6 Incremental Capacity Transfer Rights:

Pursuant to Section 234 of the Tariff, Interconnection Customer shall have Incremental Capacity Transfer Rights between the following associated source(s) and sink(s) in the indicated quantities: None

3.0 Construction Responsibility and Ownership of Interconnection Facilities

a. Interconnection Customer.

(1) Interconnection Customer shall construct and, unless otherwise indicated, shall own, the following Interconnection Facilities:

Safe Harbor will install a RTU as specified by PPL EU.

(2) In the event that, in accordance with the Interconnection Construction Service Agreement, Interconnection Customer has exercised the Option to Build, it is hereby permitted to build in accordance with and subject to the conditions and limitations set forth in that Section, the following portions (1) of the Transmission Owner Interconnection Facilities and/or (2) of any Merchant Network Upgrades which constitute or are part of the Customer Facility:

None

Ownership of the facilities built by Interconnection Customer pursuant to the Option to Build shall be as provided in the Interconnection Construction Service Agreement

b. Interconnected Transmission Owner

None

4.0 Subject to modification pursuant to the Negotiated Contract Option and/or the Option to Build under the Interconnection Construction Service Agreement, Interconnection Customer shall be subject to the estimated charges detailed below, which shall be billed and paid in accordance with Appendix 2, Section 11 of this ISA and the applicable Interconnection Construction Service Agreement.

4.1 Attachment Facilities Charge: \$0

4.2 Network Upgrades Charge: \$0

4.3 Local Upgrades Charge: \$0

4.4 Other Charges: \$0

4.5 Cost of Merchant Network Upgrades: \$0

4.6 Cost breakdown:

\$ 0 Direct Labor  
\$ 0 Direct Material  
\$ 0 Indirect Labor  
\$ 0 Indirect Material

\$ 0 Total

4.7 Security Amount Breakdown:

\$ 0 Estimated Cost of Non-Direct Connection Local Upgrades and/or  
Non-Direct Connection Network Upgrades

plus \$ 0 Estimated Cost of any Merchant Network Upgrades that  
Interconnected Transmission Owner is responsible for building

plus \$ 0 Estimated cost of the work (for the first three months) on the  
required Attachment Facilities, Direct Connection Local Upgrades, and Direct  
Connection Network Upgrades

plus \$ 0 Option to Build Security for Attachment Facilities, Direct  
Connection Local Upgrades, and Direct Connection Network Upgrades (including  
Cancellation Costs)

less \$ 0 Costs already paid by Interconnection Customer

\$ 0 Total Security required with ISA

**APPENDICES:**

- **APPENDIX 1 - DEFINITIONS**
- **APPENDIX 2 - STANDARD TERMS AND CONDITIONS FOR INTERCONNECTIONS**

**SCHEDULES:**

- **SCHEDULE A - CUSTOMER FACILITY LOCATION/SITE PLAN**
- **SCHEDULE B - SINGLE-LINE DIAGRAM**
- **SCHEDULE C - LIST OF METERING EQUIPMENT**
- **SCHEDULE D - APPLICABLE TECHNICAL REQUIREMENTS AND STANDARDS**
- **SCHEDULE E - SCHEDULE OF CHARGES**
- **SCHEDULE F - SCHEDULE OF NON-STANDARD TERMS & CONDITIONS**
- **SCHEDULE G - INTERCONNECTION CUSTOMER'S AGREEMENT TO CONFORM WITH IRS SAFE HARBOR PROVISIONS FOR NON-TAXABLE STATUS**
- **SCHEDULE H - INTERCONNECTION REQUIREMENTS FOR A WIND GENERATION FACILITY**

Case 5:17-cv-01752-JLS Document 4-4 Filed 04/17/17 Page 8 of 10

**APPENDIX 1**

**DEFINITIONS**

**From the PJM Tariff accepted for filing by the Commission  
as of the effective date of this agreement**

**1. Definitions**

**1.01 Abnormal Condition:**

Any condition on the Interconnection Facilities which, determined in accordance with Good Utility Practice, is: (i) outside normal operating parameters such that facilities are operating outside their normal ratings or that reasonable operating limits have been exceeded; and (ii) could reasonably be expected to materially and adversely affect the safe and reliable operation of the Interconnection Facilities; but which, in any case, could reasonably be expected to result in an Emergency Condition. Any condition or situation that results from lack of sufficient generating capacity to meet load requirements or that results solely from economic conditions shall not, standing alone, constitute an Abnormal Condition.

**1.0A Affected System:**

An electric system other than the Transmission Provider's Transmission System that may be affected by a proposed interconnection or on which a proposed interconnection or addition of facilities or upgrades may require modifications or upgrades to the Transmission System.

**1.0A.01 Affiliate:**

With respect to a corporation, partnership or other entity, each such other corporation, partnership or other entity that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such corporation, partnership or other entity.

**1.0B Affected System Operator:**

An entity that operates an Affected System or, if the Affected System is under the operational control of an independent system operator or a regional transmission organization, such independent entity.

**1.1 Ancillary Services:**

Those services that are necessary to support the transmission of capacity and energy from resources to loads while maintaining reliable operation of the Transmission Provider's Transmission System in accordance with Good Utility Practice.

**1.2 Annual Transmission Costs:**

The total annual cost of the Transmission System for purposes of Network Integration Transmission Service shall be the amount specified in Attachment H for each Zone until amended by the applicable Transmission Owner or modified by the Commission.

**1.2.01 Applicable Laws and Regulations:**

All duly promulgated applicable federal, state and local laws, regulations, rules, ordinances,

codes, decrees, judgments, directives, or judicial or administrative orders, permits and other duly authorized actions of any Governmental Authority having jurisdiction over the relevant parties, their respective facilities, and/or the respective services they provide.

**1.2A Applicable Regional Entity:**

The Regional Entity for the region in which a Network Customer, Transmission Customer, Interconnection Customer, or Transmission Owner operates.

**1.2B Applicable Standards:**

The requirements and guidelines of NERC, the Applicable Regional Entity, and the Control Area in which the Customer Facility is electrically located; the PJM Manuals; and Applicable Technical Requirements and Standards.

**1.2C Applicable Technical Requirements and Standards:**

Those certain technical requirements and standards applicable to interconnections of generation and/or transmission facilities with the facilities of an Interconnected Transmission Owner or, as the case may be and to the extent applicable, of an Electric Distributor (as defined in Section 1.8 of the Operating Agreement), as published by Transmission Provider in a PJM Manual provided, however, that, with respect to any generation facilities with maximum generating capacity of 2 MW or less for which the Interconnection Customer executes a Construction Service Agreement or Interconnection Service Agreement on or after March 19, 2005, "Applicable Technical Requirements and Standards" shall refer to the "PJM Small Generator Interconnection Applicable Technical Requirements and Standards." All Applicable Technical Requirements and Standards shall be publicly available through postings on Transmission Provider's internet website.

**1.3 Application:**

A request by an Eligible Customer for transmission service pursuant to the provisions of the Tariff.

**1.3A Attachment Facilities:**

The facilities necessary to physically connect a Customer Facility to the Transmission System or interconnected distribution facilities.

**1.3AA Attachment H:**

Attachment H shall refer collectively to the Attachments to the PJM Tariff with the prefix "H-" that set forth, among other things, the Annual Transmission Rates for Network Integration Transmission Service in the PJM Zones.

**1.3B Behind The Meter Generation:**



Behind The Meter Generation refers to a generation unit that delivers energy to load without using the Transmission System or any distribution facilities (unless the entity that owns or leases the distribution facilities has consented to such use of the distribution facilities and such consent has been demonstrated to the satisfaction of the Office of the Interconnection); provided, however, that Behind The Meter Generation does not include (i) at any time, any portion of such generating unit's capacity that is designated as a Generation Capacity Resource; or (ii) in an hour, any portion of the output of such generating unit[s] that is sold to another entity for consumption at another electrical location or into the PJM Interchange Energy Market.

**1.3BB Black Start Service:**

Black Start Service is the capability of generating units to start without an outside electrical supply or the demonstrated ability of a generating unit with a high operating factor (subject to Transmission Provider concurrence) to automatically remain operating at reduced levels when disconnected from the grid.

**1.3BB.01 Breach:**

The failure of a party to perform or observe any material term or condition of Part IV or Part VI of the Tariff, or any agreement entered into thereunder as described in the relevant provisions of such agreement.

**1.3BB.02 Breaching Party:**

A party that is in Breach of Part IV or Part VI and/or an agreement entered into thereunder.

**1.3BB.03 Cancellation Costs:**

The Costs and liabilities incurred in connection with: (a) cancellation of supplier and contractor written orders and agreements entered into to design, construct and install Attachment Facilities, Direct Assignment Facilities and/or Customer-Funded Upgrades, and/or (b) completion of some or all of the required Attachment Facilities, Direct Assignment Facilities and/or Customer-Funded Upgrades, or specific unfinished portions and/or removal of any or all of such facilities which have been installed, to the extent required for the Transmission Provider and/or Transmission Owner(s) to perform their respective obligations under Part IV and/or Part VI of the Tariff.

**1.3C Capacity Interconnection Rights:**

The rights to input generation as a Generation Capacity Resource into the Transmission System at the Point of Interconnection where the generating facilities connect to the Transmission System.

**1.3D Capacity Resource:**

Shall have the meaning provided in the Reliability Assurance Agreement.

**1.3E Capacity Transmission Injection Rights:**

The rights to schedule energy and capacity deliveries at a Point of Interconnection (as defined in Section 1.33A) of a Merchant Transmission Facility with the Transmission System. Capacity Transmission Injection Rights may be awarded only to a Merchant D.C. Transmission Facility and/or Controllable A.C. Merchant Transmission Facilities that connects the Transmission System to another control area. Deliveries scheduled using Capacity Transmission Injection Rights have rights similar to those under Firm Point-to-Point Transmission Service or, if coupled with a generating unit external to the PJM Region that satisfies all applicable criteria specified in the PJM Manuals, similar to Capacity Interconnection Rights.

**1.3F Commencement Date:**

The date on which Interconnection Service commences in accordance with an Interconnection Service Agreement.

**1.4 Commission:**

The Federal Energy Regulatory Commission.

**1.5 Completed Application:**

An Application that satisfies all of the information and other requirements of the Tariff, including any required deposit.

**1.5.01 Confidential Information:**

Any confidential, proprietary, or trade secret information of a plan, specification, pattern, procedure, design, device, list, concept, policy, or compilation relating to the present or planned business of a New Service Customer, Transmission Owner, or other Interconnection Party or Construction Party, which is designated as confidential by the party supplying the information, whether conveyed verbally, electronically, in writing, through inspection, or otherwise, and shall include, without limitation, all information relating to the producing party's technology, research and development, business affairs and pricing, and any information supplied by any New Service Customer, Transmission Owner, or other Interconnection Party or Construction Party to another such party prior to the execution of an Interconnection Service Agreement or a Construction Service Agreement.

**1.5A Consolidated Transmission Owners Agreement:**

The certain Consolidated Transmission Owners Agreement dated as of December 15, 2005, by and among the Transmission Owners and by and between the Transmission Owners and PJM Interconnection, L.L.C.

**1.5B Constructing Entity:**

Either the Transmission Owner or the New Services Customer, depending on which entity has the construction responsibility pursuant to Part VI and the applicable Construction Service Agreement; this term shall also be used to refer to an Interconnection Customer with respect to the construction of the Customer Interconnection Facilities.

**1.5C Construction Party:**

A party to a Construction Service Agreement. "Construction Parties" shall mean all of the Parties to a Construction Service Agreement.

**1.5D Construction Service Agreement:**

Either an Interconnection Construction Service Agreement or an Upgrade Construction Service Agreement.

**1.6 Control Area:**

An electric power system or combination of electric power systems to which a common automatic generation control scheme is applied in order to:

(1) match, at all times, the power output of the generators within the electric power system(s) and capacity and energy purchased from entities outside the electric power system(s), with the load within the electric power system(s);

(2) maintain scheduled interchange with other Control Areas, within the limits of Good Utility Practice;

(3) maintain the frequency of the electric power system(s) within reasonable limits in accordance with Good Utility Practice; and

(4) provide sufficient generating capacity to maintain operating reserves in accordance with Good Utility Practice.

**1.6A Control Zone:**

Shall have the meaning given in the Operating Agreement.

**1.6B Controllable A.C. Merchant Transmission Facilities:**

Transmission facilities that (1) employ technology which Transmission Provider reviews and verifies will permit control of the amount and/or direction of power flow on such facilities to such extent as to effectively enable the controllable facilities to be operated as if they were direct current transmission facilities, and (2) that are interconnected with the Transmission System pursuant to Part IV and Part VI of the Tariff.

**1.6C Costs:**

As used in Part IV, Part VI and related attachments to the Tariff, costs and expenses, as estimated or calculated, as applicable, including, but not limited to, capital expenditures, if applicable, and overhead, return, and the costs of financing and taxes and any Incidental Expenses.

**1.6D Counterparty:**

PJM Settlement as the contracting party, in its name and own right and not as an agent, to an agreement or transaction with a market participant or other customer.

**1.7 Curtailment:**

A reduction in firm or non-firm transmission service in response to a transfer capability shortage as a result of system reliability conditions.

**1.7A Customer Facility:**

Generation facilities or Merchant Transmission Facilities interconnected with or added to the Transmission System pursuant to an Interconnection Request under Subparts A of Part IV of the Tariff.

**1.7A.01 Customer-Funded Upgrade:**

Any Network Upgrade, Local Upgrade, or Merchant Network Upgrade for which cost responsibility (i) is imposed on an Interconnection Customer or an Eligible Customer pursuant to Section 217 of the Tariff, or (ii) is voluntarily undertaken by a market participant in fulfillment of an Upgrade Request pursuant to Section 7.8 of Schedule 1 of the Operating Agreement. No Network Upgrade, Local Upgrade or Merchant Network Upgrade or other transmission expansion or enhancement shall be a Customer-Funded Upgrade if and to the extent that the costs thereof are included in the rate base of a public utility on which a regulated return is earned.

**1.7A.02 Customer Interconnection Facilities:**

All facilities and equipment owned and/or controlled, operated and maintained by Interconnection Customer on Interconnection Customer's side of the Point of Interconnection identified in the appropriate appendices to the Interconnection Service Agreement and to the Interconnection Construction Service Agreement, including any modifications, additions, or upgrades made to such facilities and equipment, that are necessary to physically and electrically interconnect the Customer Facility with the Transmission System.

**1.7B Daily Capacity Deficiency Rate:**

Daily Capacity Deficiency Rate is as defined in Schedule 11 of the Reliability Assurance Agreement.

**1.7C Deactivation:**

The retirement or mothballing of a generating unit governed by Part V of this Tariff.

**1.7D Deactivation Avoidable Cost Credit:**

The credit paid to Generation Owners pursuant to section 114 of this Tariff.

**1.7E Deactivation Avoidable Cost Rate:**

The formula rate established pursuant to section 115 of this Tariff.

**1.7F Deactivation Date:**

The date a generating unit within the PJM Region is either retired or mothballed and ceases to operate.

**1.7G Default:**

As used in the Interconnection Service Agreement and Construction Service Agreement, the failure of a Breaching Party to cure its Breach in accordance with the applicable provisions of an Interconnection Service Agreement or Construction Service Agreement.

**1.8 Delivering Party:**

The entity supplying capacity and energy to be transmitted at Point(s) of Receipt.

**1.9 Designated Agent:**

Any entity that performs actions or functions on behalf of the Transmission Provider, a Transmission Owner, an Eligible Customer, or the Transmission Customer required under the Tariff.

**1.10 Direct Assignment Facilities:**

Facilities or portions of facilities that are constructed for the sole use/benefit of a particular Transmission Customer requesting service under the Tariff. Direct Assignment Facilities shall be specified in the Service Agreement that governs service to the Transmission Customer and shall be subject to Commission approval.

**1.10A [RESERVED]**

**1.10B Economic Minimum:**

The lowest incremental MW output level a unit can achieve while following economic dispatch.

**1.11 Eligible Customer:**

(i) Any electric utility (including any Transmission Owner and any power marketer), Federal power marketing agency, or any person generating electric energy for sale for resale is an Eligible Customer under the Tariff. Electric energy sold or produced by such entity may be electric energy produced in the United States, Canada or Mexico. However, with respect to transmission service that the Commission is prohibited from ordering by Section 212(h) of the Federal Power Act, such entity is eligible only if the service is provided pursuant to a state requirement that the Transmission Provider or Transmission Owner offer the unbundled transmission service, or pursuant to a voluntary offer of such service by a Transmission Owner.

(ii) Any retail customer taking unbundled transmission service pursuant to a state requirement that the Transmission Provider or a Transmission Owner offer the transmission service, or pursuant to a voluntary offer of such service by a Transmission Owner, is an Eligible Customer under the Tariff. As used in Part VI, Eligible Customer shall mean only those Eligible Customers that have submitted a Completed Application.

**1.11.01 Emergency Condition:**

A condition or situation (i) that in the judgment of any Interconnection Party is imminently likely to endanger life or property; or (ii) that in the judgment of the Interconnected Transmission Owner or Transmission Provider is imminently likely (as determined in a non-discriminatory manner) to cause a material adverse effect on the security of, or damage to, the Transmission System, the Interconnection Facilities, or the transmission systems or distribution systems to which the Transmission System is directly or indirectly connected; or (iii) that in the judgment of Interconnection Customer is imminently likely (as determined in a non-discriminatory manner) to cause damage to the Customer Facility or to the Customer Interconnection Facilities. System restoration and black start shall be considered Emergency Conditions, provided that a Generation Interconnection Customer is not obligated by an Interconnection Service Agreement to possess black start capability. Any condition or situation that results from lack of sufficient generating capacity to meet load requirements or that results solely from economic conditions shall not constitute an Emergency Condition, unless one or more of the enumerated conditions or situations identified in this definition also exists.

**1.11A Energy Resource:**

A generating facility that is not a Capacity Resource.

**1.11A.01 Energy Settlement Area:**

The bus or distribution of busses that represents the physical location of Network Load and by which the obligations of the Network Customer to PJM are settled.

**1.11B Energy Transmission Injection Rights:**

The rights to schedule energy deliveries at a specified point on the Transmission System. Energy Transmission Injection Rights may be awarded only to a Merchant D.C. Transmission Facility

that connects the Transmission System to another control area. Deliveries scheduled using Energy Transmission Injection Rights have rights similar to those under Non-Firm Point-to-Point Transmission Service.

**1.11C Environmental Laws:**

Applicable Laws or Regulations relating to pollution or protection of the environment, natural resources or human health and safety.

**1.12 Facilities Study:**

An engineering study conducted by the Transmission Provider (in coordination with the affected Transmission Owner(s)) to determine the required modifications to the Transmission Provider's Transmission System, including the cost and scheduled completion date for such modifications, that will be required to provide the requested transmission service or to accommodate an Interconnection Request or Upgrade Request. As used in the Interconnection Service Agreement or Construction Service Agreement, Facilities Study shall mean that certain Facilities Study conducted by Transmission Provider (or at its direction) to determine the design and specification of the Interconnection Facilities necessary to accommodate the New Service Customer's New Service Request in accordance with Section 207 of Part VI of the Tariff.

**1.12A Federal Power Act:**

The Federal Power Act, as amended, 16 U.S.C. §§ 791a, et seq.

**1.12B FERC:**

The Federal Energy Regulatory Commission or its successor.

**1.13 Firm Point-To-Point Transmission Service:**

Transmission Service under this Tariff that is reserved and/or scheduled between specified Points of Receipt and Delivery pursuant to Part II of this Tariff.

**1.13A Firm Transmission Withdrawal Rights:**

The rights to schedule energy and capacity withdrawals from a Point of Interconnection (as defined in Section 1.33A) of a Merchant Transmission Facility with the Transmission System. Firm Transmission Withdrawal Rights may be awarded only to a Merchant D.C. Transmission Facility that connects the Transmission System with another control area. Withdrawals scheduled using Firm Transmission Withdrawal Rights have rights similar to those under Firm Point-to-Point Transmission Service.

**1.13A.01 Force Majeure:**

Any cause beyond the control of the affected Interconnection Party or Construction Party,

including but not restricted to, acts of God, flood, drought, earthquake, storm, fire, lightning, epidemic, war, riot, civil disturbance or disobedience, labor dispute, labor or material shortage, sabotage, acts of public enemy, explosions, orders, regulations or restrictions imposed by governmental, military, or lawfully established civilian authorities, which, in any of the foregoing cases, by exercise of due diligence such party could not reasonably have been expected to avoid, and which, by the exercise of due diligence, it has been unable to overcome. Force Majeure does not include (i) a failure of performance that is due to an affected party's own negligence or intentional wrongdoing; (ii) any removable or remediable causes (other than settlement of a strike or labor dispute) which an affected party fails to remove or remedy within a reasonable time; or (iii) economic hardship of an affected party.

**1.13A.02 Generation Capacity Resource:**

"Generation Capacity Resource" shall have the meaning specified in the Reliability Assurance Agreement.

**1.13B Generation Interconnection Customer:**

An entity that submits an Interconnection Request to interconnect a new generation facility or to increase the capacity of an existing generation facility interconnected with the Transmission System in the PJM Region.

**1.13C Generation Interconnection Facilities Study:**

A Facilities Study related to a Generation Interconnection Request.

**1.13D Generation Interconnection Feasibility Study:**

A study conducted by the Transmission Provider (in coordination with the affected Transmission Owner(s)) in accordance with Section 36.2 of this Tariff.

**1.13E Generation Interconnection Request:**

A request by a Generation Interconnection Customer pursuant to Subpart A of Part IV of the Tariff to interconnect a generating unit with the Transmission System or to increase the capacity of a generating unit interconnected with the Transmission System in the PJM Region.

**1.13F Generation Owner:**

An entity that owns or otherwise controls and operates one or more operating generating units in the PJM Region.

**1.14 Good Utility Practice:**

Any of the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry during the relevant time period, or any of the practices, methods and acts



which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in the region; including those practices required by Federal Power Act Section 215(a)(4).

**1.14.01 Governmental Authority:**

Any federal, state, local or other governmental, regulatory or administrative agency, court, commission, department, board, or other governmental subdivision, legislature, rulemaking board, tribunal, arbitrating body, or other governmental authority having jurisdiction over any Interconnection Party or Construction Party or regarding any matter relating to an Interconnection Service Agreement or Construction Service Agreement, as applicable.

**1.14.02 Hazardous Substances:**

Any chemicals, materials or substances defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "hazardous constituents," "restricted hazardous materials," "extremely hazardous substances," "toxic substances," "radioactive substances," "contaminants," "pollutants," "toxic pollutants" or words of similar meaning and regulatory effect under any applicable Environmental Law, or any other chemical, material or substance, exposure to which is prohibited, limited or regulated by any applicable Environmental Law.

**1.14A IDR Transfer Agreement:**

An agreement to transfer, subject to the terms of Section 49B of the Tariff, Incremental Deliverability Rights to a party for the purpose of eliminating or reducing the need for Local or Network Upgrades that would otherwise have been the responsibility of the party receiving such rights.

**1.14A.01 Incidental Expenses:**

Shall mean those expenses incidental to the performance of construction pursuant to an Interconnection Construction Service Agreement, including, but not limited to, the expense of temporary construction power, telecommunications charges, Interconnected Transmission Owner expenses associated with, but not limited to, document preparation, design review, installation, monitoring, and construction-related operations and maintenance for the Customer Facility and for the Interconnection Facilities.

**1.14B Incremental Auction Revenue Rights:**

The additional Auction Revenue Rights (as defined in Section 1.3.1A of Schedule 1 of the Operating Agreement), not previously feasible, created by the addition of Incremental Rights-Eligible Required Transmission Enhancements, Merchant Transmission Facilities, or of

one or more Customer-Funded Upgrades.

**1.14B.01 Incremental Rights-Eligible Required Transmission Enhancements:**

Regional Facilities and Necessary Lower Voltage Facilities or Lower Voltage Facilities (as defined in Schedule 12 of the Tariff) and meet one of the following criteria: (1) cost responsibility is assigned to non-contiguous Zones that are not directly electrically connected; or (2) cost responsibility is assigned to Merchant Transmission Providers that are Responsible Customers.

**1.14C Incremental Available Transfer Capability Revenue Rights:**

The rights to revenues that are derived from incremental Available Transfer Capability created by the addition of Merchant Transmission Facilities or of one or more Customer-Funded Upgrades.

**1.14D Incremental Deliverability Rights (IDRs):**

The rights to the incremental ability, resulting from the addition of Merchant Transmission Facilities, to inject energy and capacity at a point on the Transmission System, such that the injection satisfies the deliverability requirements of a Capacity Resource. Incremental Deliverability Rights may be obtained by a generator or a Generation Interconnection Customer, pursuant to an IDR Transfer Agreement, to satisfy, in part, the deliverability requirements necessary to obtain Capacity Interconnection Rights.

**1.14Da Initial Operation:**

The commencement of operation of the Customer Facility and Customer Interconnection Facilities after satisfaction of the conditions of Section 1.4 of Appendix 2 of an Interconnection Service Agreement.

**1.14Db Initial Study:**

A study of a Completed Application conducted by the Transmission Provider (in coordination with the affected Transmission Owner(s)) in accordance with Section 19 or Section 32 of the Tariff.

**1.14Dc Interconnected Entity:**

Either the Interconnection Customer or the Interconnected Transmission Owner; Interconnected Entities shall mean both of them.

**1.14D.01 Interconnected Transmission Owner:**

The Transmission Owner to whose transmission facilities or distribution facilities Customer Interconnection Facilities are, or as the case may be, a Customer Facility is, being directly connected. When used in an Interconnection Construction Service Agreement, the term may refer to a Transmission Owner whose facilities must be upgraded pursuant to the Facilities Study, but

whose facilities are not directly interconnected with those of the Interconnection Customer.

**1.14D.02 Interconnection Construction Service Agreement:**

The agreement entered into by an Interconnection Customer, Interconnected Transmission Owner and the Transmission Provider pursuant to Subpart B of Part VI of the Tariff and in the form set forth in Attachment P of the Tariff, relating to construction of Attachment Facilities, Network Upgrades, and/or Local Upgrades and coordination of the construction and interconnection of an associated Customer Facility. A separate Interconnection Construction Service Agreement will be executed with each Transmission Owner that is responsible for construction of any Attachment Facilities, Network Upgrades, or Local Upgrades associated with interconnection of a Customer Facility.

**1.14E Interconnection Customer:**

A Generation Interconnection Customer and/or a Transmission Interconnection Customer.

**1.14F Interconnection Facilities:**

The Transmission Owner Interconnection Facilities and the Customer Interconnection Facilities.

**1.14G Interconnection Feasibility Study:**

Either a Generation Interconnection Feasibility Study or Transmission Interconnection Feasibility Study.

**1.14G.01 Interconnection Party:**

Transmission Provider, Interconnection Customer, or the Interconnected Transmission Owner. Interconnection Parties shall mean all of them.

**1.14H Interconnection Request:**

A Generation Interconnection Request, a Transmission Interconnection Request and/or an IDR Transfer Agreement.

**1.14H.01 Interconnection Service:**

The physical and electrical interconnection of the Customer Facility with the Transmission System pursuant to the terms of Part IV and Part VI and the Interconnection Service Agreement entered into pursuant thereto by Interconnection Customer, the Interconnected Transmission Owner and Transmission Provider.

**1.14I Interconnection Service Agreement:**

An agreement among the Transmission Provider, an Interconnection Customer and an

Interconnected Transmission Owner regarding interconnection under Part IV and Part VI of the Tariff.

**1.14J Interconnection Studies:**

The Interconnection Feasibility Study, the System Impact Study, and the Facilities Study described in Part IV and Part VI of the Tariff.

**1.15 Interruption:**

A reduction in non-firm transmission service due to economic reasons pursuant to Section 14.7.

**1.15A List of Approved Contractors:**

A list developed by each Transmission Owner and published in a PJM Manual of (a) contractors that the Transmission Owner considers to be qualified to install or construct new facilities and/or upgrades or modifications to existing facilities on the Transmission Owner's system, provided that such contractors may include, but need not be limited to, contractors that, in addition to providing construction services, also provide design and/or other construction-related services, and (b) manufacturers or vendors of major transmission-related equipment (e.g., high-voltage transformers, transmission line, circuit breakers) whose products the Transmission Owner considers acceptable for installation and use on its system.

**1.16 Load Ratio Share:**

Ratio of a Transmission Customer's Network Load to the Transmission Provider's total load.

**1.17 Load Shedding:**

The systematic reduction of system demand by temporarily decreasing load in response to transmission system or area capacity shortages, system instability, or voltage control considerations under Part II or Part III of the Tariff.

**1.17A Local Upgrades:**

Modifications or additions of facilities to abate any local thermal loading, voltage, short circuit, stability or similar engineering problem caused by the interconnection and delivery of generation to the Transmission System. Local Upgrades shall include:

(i) Direct Connection Local Upgrades which are Local Upgrades that only serve the Customer Interconnection Facility and have no impact or potential impact on the Transmission System until the final tie-in is complete; and

(ii) Non-Direct Connection Local Upgrades which are parallel flow Local Upgrades that are not Direct Connection Local Upgrades.

**1.18 Long-Term Firm Point-To-Point Transmission Service:**

Firm Point-To-Point Transmission Service under Part II of the Tariff with a term of one year or more.

**1.18A [RESERVED]**

**1.18A.01 [RESERVED]**

**1.18A.02 Material Modification:**

Any modification to an Interconnection Request that has a material adverse effect on the cost or timing of Interconnection Studies related to, or any Network Upgrades or Local Upgrades needed to accommodate, any Interconnection Request with a later Queue Position.

**1.18A.03 Maximum Facility Output:**

The maximum (not nominal) net electrical power output in megawatts, specified in the Interconnection Service Agreement, after supply of any parasitic or host facility loads, that a Generation Interconnection Customer's Customer Facility is expected to produce, provided that the specified Maximum Facility Output shall not exceed the output of the proposed Customer Facility that Transmission Provider utilized in the System Impact Study.

**1.18B Merchant A.C. Transmission Facilities:**

Merchant Transmission Facilities that are alternating current (A.C.) transmission facilities, other than those that are Controllable A.C. Merchant Transmission Facilities.

**1.18C Merchant D.C. Transmission Facilities:**

Direct current (D.C.) transmission facilities that are interconnected with the Transmission System pursuant to Part IV and Part VI of the Tariff.

**1.18D Merchant Network Upgrades:**

Merchant A.C. Transmission Facilities that are additions to, or modifications or replacements of, physical facilities of the Interconnected Transmission Owner that, on the date of the pertinent Transmission Interconnection Customer's Interconnection Request, are part of the Transmission System or are included in the Regional Transmission Expansion Plan.

**1.18E Merchant Transmission Facilities:**

A.C. or D.C. transmission facilities that are interconnected with or added to the Transmission System pursuant to Part IV and Part VI of the Tariff and that are so identified on Attachment T to the Tariff, provided, however, that Merchant Transmission Facilities shall not include (i) any Customer Interconnection Facilities, (ii) any physical facilities of the Transmission System that

were in existence on or before March 20, 2003 ; (iii) any expansions or enhancements of the Transmission System that are not identified as Merchant Transmission Facilities in the Regional Transmission Expansion Plan and Attachment T to the Tariff, or (iv) any transmission facilities that are included in the rate base of a public utility and on which a regulated return is earned.

**1.18F Merchant Transmission Provider:**

An Interconnection Customer that (1) owns, controls, or controls the rights to use the transmission capability of, Merchant D.C. Transmission Facilities and/or Controllable A.C. Merchant Transmission Facilities that connect the Transmission System with another control area, (2) has elected to receive Transmission Injection Rights and Transmission Withdrawal Rights associated with such facility pursuant to Section 36 of the Tariff, and (3) makes (or will make) the transmission capability of such facilities available for use by third parties under terms and conditions approved by the Commission and stated in the Tariff, consistent with Section 38 below.

**1.18G Metering Equipment:**

All metering equipment installed at the metering points designated in the appropriate appendix to an Interconnection Service Agreement.

**1.19 Native Load Customers:**

The wholesale and retail power customers of a Transmission Owner on whose behalf the Transmission Owner, by statute, franchise, regulatory requirement, or contract, has undertaken an obligation to construct and operate the Transmission Owner's system to meet the reliable electric needs of such customers.

**1.19A NERC:**

The North American Electric Reliability Council or any successor thereto.

**1.19B Neutral Party:**

Shall have the meaning provided in Section 9.3(v).

**1.20 Network Customer:**

An entity receiving transmission service pursuant to the terms of the Transmission Provider's Network Integration Transmission Service under Part III of the Tariff.

**1.21 Network Integration Transmission Service:**

The transmission service provided under Part III of the Tariff.

**1.22 Network Load:**

The load that a Network Customer designates for Network Integration Transmission Service under Part III of the Tariff. The Network Customer's Network Load shall include all load (including losses) served by the output of any Network Resources designated by the Network Customer. A Network Customer may elect to designate less than its total load as Network Load but may not designate only part of the load at a discrete Point of Delivery. Where an Eligible Customer has elected not to designate a particular load at discrete points of delivery as Network Load, the Eligible Customer is responsible for making separate arrangements under Part II of the Tariff for any Point-To-Point Transmission Service that may be necessary for such non-designated load.

**1.23 Network Operating Agreement:**

An executed agreement that contains the terms and conditions under which the Network Customer shall operate its facilities and the technical and operational matters associated with the implementation of Network Integration Transmission Service under Part III of the Tariff.

**1.24 Network Operating Committee:**

A group made up of representatives from the Network Customer(s) and the Transmission Provider established to coordinate operating criteria and other technical considerations required for implementation of Network Integration Transmission Service under Part III of this Tariff.

**1.25 Network Resource:**

Any designated generating resource owned, purchased, or leased by a Network Customer under the Network Integration Transmission Service Tariff. Network Resources do not include any resource, or any portion thereof, that is committed for sale to third parties or otherwise cannot be called upon to meet the Network Customer's Network Load on a non-interruptible basis, except for purposes of fulfilling obligations under a reserve sharing program.

**1.26 Network Upgrades:**

Modifications or additions to transmission-related facilities that are integrated with and support the Transmission Provider's overall Transmission System for the general benefit of all users of such Transmission System. Network Upgrades shall include:

(i) **Direct Connection Network Upgrades** which are Network Upgrades that only serve the Customer Interconnection Facility and have no impact or potential impact on the Transmission System until the final tie-in is complete; and

(ii) **Non-Direct Connection Network Upgrades** which are parallel flow Network Upgrades that are not Direct Connection Network Upgrades.

**1.26A New PJM Zone(s):**

The Zone included in this Tariff, along with applicable Schedules and Attachments, for Commonwealth Edison Company, The Dayton Power and Light Company and the AEP East Operating Companies (Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company and Wheeling Power Company).

**1.26B New Service Customers:**

All customers that submit an Interconnection Request, a Completed Application, or an Upgrade Request that is pending in the New Services Queue.

**1.26C New Service Request:**

An Interconnection Request, a Completed Application, or an Upgrade Request.

**1.26D New Services Queue:**

All Interconnection Requests, Completed Applications, and Upgrade Requests that are received within each three-month period ending on January 31, April 30, July 31, and October 31 of each year shall collectively comprise a New Services Queue.

**1.26E New Services Queue Closing Date:**

Each January 31, April 30, July 31, and October 31 shall be the Queue Closing Date for the New Services Queue comprised of Interconnection Requests, Completed Applications, and Upgrade Requests received during the three-month period ending on such date.

**1.26F Nominal Rated Capability:**

The nominal maximum rated capability in megawatts of a Transmission Interconnection Customer's Customer Facility or the nominal increase in transmission capability in megawatts of the Transmission System resulting from the interconnection or addition of a Transmission Interconnection Customer's Customer Facility, as determined in accordance with pertinent Applicable Standards and specified in the Interconnection Service Agreement.

**1.27 Non-Firm Point-To-Point Transmission Service:**

Point-To-Point Transmission Service under the Tariff that is reserved and scheduled on an as-available basis and is subject to Curtailment or Interruption as set forth in Section 14.7 under Part II of this Tariff. Non-Firm Point-To-Point Transmission Service is available on a stand-alone basis for periods ranging from one hour to one month.

**1.27.01 Non-Firm Sale:**

An energy sale for which receipt or delivery may be interrupted for any reason or no reason, without liability on the part of either the buyer or seller.



**1.27A Non-Firm Transmission Withdrawal Rights:**

The rights to schedule energy withdrawals from a specified point on the Transmission System. Non-Firm Transmission Withdrawal Rights may be awarded only to a Merchant D.C. Transmission Facility that connects the Transmission System to another control area. Withdrawals scheduled using Non-Firm Transmission Withdrawal Rights have rights similar to those under Non-Firm Point-to-Point Transmission Service.

**1.27AA Non-Retail Behind The Meter Generation:**

Behind the Meter Generation that is used by municipal electric systems, electric cooperatives, or electric distribution companies to serve load.

**1.27B Non-Zone Network Load:**

Network Load that is located outside of the PJM Region.

**1.27C Office of the Interconnection:**

Office of the Interconnection shall have the meaning set forth in the Operating Agreement.

**1.28 Open Access Same-Time Information System (OASIS):**

The information system and standards of conduct contained in Part 37 and Part 38 of the Commission's regulations and all additional requirements implemented by subsequent Commission orders dealing with OASIS.

**1.28A Operating Agreement of the PJM Interconnection, L.L.C. or Operating Agreement:**

That agreement dated as of April 1, 1997 and as amended and restated as of June 2, 1997 and as amended from time to time thereafter, among the members of the PJM Interconnection, L.L.C.

**1.28A.01 Option to Build:**

The option of the New Service Customer to build certain Customer-Funded Upgrades, as set forth in, and subject to the terms of, the Construction Service Agreement.

**1.28B Optional Interconnection Study:**

A sensitivity analysis of an Interconnection Request based on assumptions specified by the Interconnection Customer in the Optional Interconnection Study Agreement.

**1.28C Optional Interconnection Study Agreement:**

The form of agreement for preparation of an Optional Interconnection Study, as set forth in

Attachment N-3 of the Tariff.

**1.29 Part I:**

Tariff Definitions and Common Service Provisions contained in Sections 2 through 12.

**1.30 Part II:**

Tariff Sections 13 through 27 pertaining to Point-To-Point Transmission Service in conjunction with the applicable Common Service Provisions of Part I and appropriate Schedules and Attachments.

**1.31 Part III:**

Tariff Sections 28 through 35 pertaining to Network Integration Transmission Service in conjunction with the applicable Common Service Provisions of Part I and appropriate Schedules and Attachments.

**1.31A Part IV:**

Tariff Sections 36 through 112 pertaining to generation or merchant transmission interconnection to the Transmission System in conjunction with the applicable Common Service Provisions of Part I and appropriate Schedules and Attachments.

**1.31B Part V:**

Tariff Sections 113 through 122 pertaining to the deactivation of generating units in conjunction with the applicable Common Service Provisions of Part I and appropriate Schedules and Attachments.

**1.31C Part VI:**

Tariff Sections 200 through 237 pertaining to the queuing, study, and agreements relating to New Service Requests, and the rights associated with Customer-Funded Upgrades in conjunction with the applicable Common Service Provisions of Part I and appropriate Schedules and Attachments.

**1.32 Parties:**

The Transmission Provider, as administrator of the Tariff, and the Transmission Customer receiving service under the Tariff. PJMSettlement shall be the Counterparty to Transmission Customers.

**1.32.01 PJM:**

PJM Interconnection, L.L.C.

**1.32A PJM Administrative Service:**

The services provided by PJM pursuant to Schedule 9 of this Tariff.

**1.32B PJM Control Area:**

The Control Area that is recognized by NERC as the PJM Control Area.

**1.32C PJM Interchange Energy Market:**

The regional competitive market administered by the Transmission Provider for the purchase and sale of spot electric energy at wholesale interstate commerce and related services, as more fully set forth in Attachment K – Appendix to the Tariff and Schedule 1 to the Operating Agreement.

**1.32D PJM Manuals:**

The instructions, rules, procedures and guidelines established by the Transmission Provider for the operation, planning, and accounting requirements of the PJM Region and the PJM Interchange Energy Market.

**1.32E PJM Region:**

Shall have the meaning specified in the Operating Agreement.

**1.32F [RESERVED]**

**1.32.F.01 PJM Settlement:**

PJM Settlement, Inc. (or its successor).

**1.32G [RESERVED]**

**1.33 Point(s) of Delivery:**

Point(s) on the Transmission Provider's Transmission System where capacity and energy transmitted by the Transmission Provider will be made available to the Receiving Party under Part II of the Tariff. The Point(s) of Delivery shall be specified in the Service Agreement for Long-Term Firm Point-To-Point Transmission Service.

**1.33A Point of Interconnection:**

The point or points, shown in the appropriate appendix to the Interconnection Service Agreement and the Interconnection Construction Service Agreement, where the Customer Interconnection Facilities interconnect with the Transmission Owner Interconnection Facilities or the Transmission System.

**1.34 Point(s) of Receipt:**

Point(s) of interconnection on the Transmission Provider's Transmission System where capacity and energy will be made available to the Transmission Provider by the Delivering Party under Part II of the Tariff. The Point(s) of Receipt shall be specified in the Service Agreement for Long-Term Firm Point-To-Point Transmission Service.

**1.35 Point-To-Point Transmission Service:**

The reservation and transmission of capacity and energy on either a firm or non-firm basis from the Point(s) of Receipt to the Point(s) of Delivery under Part II of the Tariff.

**1.36 Power Purchaser:**

The entity that is purchasing the capacity and energy to be transmitted under the Tariff.

**1.36.01 PRD Curve:**

PRD Curve shall have the meaning provided in the Reliability Assurance Agreement.

**1.36.02 PRD Provider:**

PRD Provider shall have the meaning provided in the Reliability Assurance Agreement.

**1.36.03 PRD Reservation Price:**

PRD Reservation Price shall have the meaning provided in the Reliability Assurance Agreement.

**1.36.04 PRD Substation:**

PRD Substation shall have the meaning provided in the Reliability Assurance Agreement.

**1.36.05 Pre-Confirmed Application:**

An Application that commits the Eligible Customer to execute a Service Agreement upon receipt of notification that the Transmission Provider can provide the requested Transmission Service.

**1.36A Pre-Expansion PJM Zones:**

Zones included in this Tariff, along with applicable Schedules and Attachments, for certain Transmission Owners – Atlantic City Electric Company, Baltimore Gas and Electric Company, Delmarva Power and Light Company, Jersey Central Power and Light Company, Metropolitan Edison Company, PECO Energy Company, Pennsylvania Electric Company, Pennsylvania Power & Light Group, Potomac Electric Power Company, Public Service Electric and Gas Company, Allegheny Power, and Rockland Electric Company.

**1.36A.01 Price Responsive Demand:**

Price Responsive Demand shall have the meaning provided in the Reliability Assurance Agreement.

**1.36A.02 Project Financing:**

Shall mean: (a) one or more loans, leases, equity and/or debt financings, together with all modifications, renewals, supplements, substitutions and replacements thereof, the proceeds of which are used to finance or refinance the costs of the Customer Facility, any alteration, expansion or improvement to the Customer Facility, the purchase and sale of the Customer Facility or the operation of the Customer Facility; (b) a power purchase agreement pursuant to which Interconnection Customer's obligations are secured by a mortgage or other lien on the Customer Facility; or (c) loans and/or debt issues secured by the Customer Facility.

**1.36A.03 Project Finance Entity:**

Shall mean: (a) a holder, trustee or agent for holders, of any component of Project Financing; or (b) any purchaser of capacity and/or energy produced by the Customer Facility to which Interconnection Customer has granted a mortgage or other lien as security for some or all of Interconnection Customer's obligations under the corresponding power purchase agreement.

**1.36B Queue Position:**

The priority assigned to an Interconnection Request, a Completed Application, or an Upgrade Request pursuant to applicable provisions of Part VI.

**1.36C Reasonable Efforts:**

With respect to any action required to be made, attempted, or taken by an Interconnection Party or by a Construction Party under Part IV or Part VI of the Tariff, an Interconnection Service Agreement, or a Construction Service Agreement, such efforts as are timely and consistent with Good Utility Practice and with efforts that such party would undertake for the protection of its own interests.

**1.37 Receiving Party:**

The entity receiving the capacity and energy transmitted by the Transmission Provider to Point(s) of Delivery.

**1.37A.01 Regional Entity:**

Shall have the same meaning specified in the Operating Agreement.

**1.37A Regional Transmission Expansion Plan:**

The plan prepared by the Office of the Interconnection pursuant to Schedule 6 of the Operating Agreement for the enhancement and expansion of the Transmission System in order to meet the demands for firm transmission service in the PJM Region.

**1.38 Regional Transmission Group (RTG):**

A voluntary organization of transmission owners, transmission users and other entities approved by the Commission to efficiently coordinate transmission planning (and expansion), operation and use on a regional (and interregional) basis.

**1.38.01 Regulation Zone:**

Any of those one or more geographic areas, each consisting of a combination of one or more Control Zone(s) as designated by the Office of the Interconnection in the PJM Manuals, relevant to provision of, and requirements for, regulation service.

**1.38.01A Relevant Electric Retail Regulatory Authority:**

An entity that has jurisdiction over and establishes prices and policies for competition for providers of retail electric service to end-customers, such as the city council for a municipal utility, the governing board of a cooperative utility, the state public utility commission or any other such entity.

**1.38A Reliability Assurance Agreement:**

The Reliability Assurance Agreement Among Load Serving Entities in the PJM Region, Rate Schedule No. 44, dated as of May 28, 2009, and as amended from time to time thereafter.

**1.38B [RESERVED]**

**1.38C Required Transmission Enhancements:**

Enhancements and expansions of the Transmission System that (1) a Regional Transmission Expansion Plan developed pursuant to Schedule 6 of the Operating Agreement or (2) the Coordinated System Plan periodically developed pursuant to the Joint Operating Agreement Between the Midwest Independent Transmission System Operator, Inc. and PJM Interconnection, L.L.C. designates one or more of the Transmission Owner(s) or the transmission owners within the Midwest Independent System Operator to construct and own or finance.

**1.38C.01 Reserve Sub-zone:**

Any of those geographic areas wholly contained within a Reserve Zone, consisting of a combination of a portion of one or more Control Zone(s) as designated by the Office of the Interconnection in the PJM Manuals, relevant to provision of, and requirements for, reserve service.

**1.38D Reserve Zone:**

Any of those geographic areas consisting of a combination of one or more Control Zone(s), as designated by the Office of the Interconnection in the PJM Manuals, relevant to provision of, and requirements for, reserve service.

**1.39 Reserved Capacity:**

The maximum amount of capacity and energy that the Transmission Provider agrees to transmit for the Transmission Customer over the Transmission Provider's Transmission System between the Point(s) of Receipt and the Point(s) of Delivery under Part II of the Tariff. Reserved Capacity shall be expressed in terms of whole megawatts on a sixty (60) minute interval (commencing on the clock hour) basis.

**1.39A Schedule of Work:**

Shall mean that schedule attached to the Interconnection Construction Service Agreement setting forth the timing of work to be performed by the Constructing Entity pursuant to the Interconnection Construction Service Agreement, based upon the Facilities Study and subject to modification, as required, in accordance with Transmission Provider's scope change process for interconnection projects set forth in the PJM Manuals.

**1.39B Scope of Work:**

Shall mean that scope of the work attached as a schedule to the Interconnection Construction Service Agreement and to be performed by the Constructing Entity(ies) pursuant to the Interconnection Construction Service Agreement, provided that such Scope of Work may be modified, as required, in accordance with Transmission Provider's scope change process for interconnection projects set forth in the PJM Manuals.

**1.39C Secondary Systems:**

Control or power circuits that operate below 600 volts, AC or DC, including, but not limited to, any hardware, control or protective devices, cables, conductors, electric raceways, secondary equipment panels, transducers, batteries, chargers, and voltage and current transformers.

**1.39D Security:**

The security provided by the New Service Customer pursuant to Section 212.4 or Section 213.4 of the Tariff to secure the New Service Customer's responsibility for Costs under the Interconnection Service Agreement or Upgrade Construction Service Agreement and Section 217 of the Tariff.

**1.40 Service Agreement:**

The initial agreement and any amendments or supplements thereto entered into by the

Transmission Customer and the Transmission Provider for service under the Tariff.

**1.41 Service Commencement Date:**

The date the Transmission Provider begins to provide service pursuant to the terms of an executed Service Agreement, or the date the Transmission Provider begins to provide service in accordance with Section 15.3 or Section 29.1 under the Tariff.

**1.42 Short-Term Firm Point-To-Point Transmission Service:**

Firm Point-To-Point Transmission Service under Part II of the Tariff with a term of less than one year.

**1.42a Site:**

All of the real property, including but not limited to any leased real property and easements, on which the Customer Facility is situated and/or on which the Customer Interconnection Facilities are to be located.

**1.42.01 Small Inverter Facility:**

An Energy Resource that is a certified small inverter-based facility no larger than 10 kW.

**1.42.02 Small Inverter ISA:**

An agreement among Transmission Provider, Interconnection Customer, and Interconnected Transmission Owner regarding interconnection of a Small Inverter Facility under section 112B of Part IV of the Tariff.

**1.42A [RESERVED]**

**1.42B [RESERVED]**

**1.42C [RESERVED]**

**1.42D State:**

The term "state" shall mean a state of the United States or the District of Columbia.

**1.42D.01 Switching and Tagging Rules:**

The switching and tagging procedures of Interconnected Transmission Owners and Interconnection Customer as they may be amended from time to time.

**1.42E [RESERVED]**



**1.42F System Condition:**

A specified condition on the Transmission Provider's system or on a neighboring system, such as a constrained transmission element or flowgate, that may trigger Curtailment of Long-Term Firm Point-to-Point Transmission Service using the curtailment priority pursuant to Section 13.6. Such conditions must be identified in the Transmission Customer's Service Agreement.

**1.43 System Impact Study:**

An assessment by the Transmission Provider of (i) the adequacy of the Transmission System to accommodate a Completed Application, an Interconnection Request or an Upgrade Request, (ii) whether any additional costs may be incurred in order to provide such transmission service or to accommodate an Interconnection Request, and (iii) with respect to an Interconnection Request, an estimated date that an Interconnection Customer's Customer Facility can be interconnected with the Transmission System and an estimate of the Interconnection Customer's cost responsibility for the interconnection; and (iv) with respect to an Upgrade Request, the estimated cost of the requested system upgrades or expansion, or of the cost of the system upgrades or expansion, necessary to provide the requested incremental rights.

**1.43.01 System Protection Facilities:**

The equipment required to protect (i) the Transmission System, other delivery systems and/or other generating systems connected to the Transmission System from faults or other electrical disturbance occurring at or on the Customer Facility, and (ii) the Customer Facility from faults or other electrical system disturbance occurring on the Transmission System or on other delivery systems and/or other generating systems to which the Transmission System is directly or indirectly connected. System Protection Facilities shall include such protective and regulating devices as are identified in the Applicable Technical Requirements and Standards or that are required by Applicable Laws and Regulations or other Applicable Standards, or as are otherwise necessary to protect personnel and equipment and to minimize deleterious effects to the Transmission System arising from the Customer Facility.

**1.43A Tariff:**

This document, the "PJM Open Access Transmission Tariff."

**1.44 Third-Party Sale:**

Any sale for resale in interstate commerce to a Power Purchaser that is not designated as part of Network Load under the Network Integration Transmission Service but not including a sale of energy through the PJM Interchange Energy Market established under the PJM Operating Agreement.

**1.45 Transmission Customer:**

Any Eligible Customer (or its Designated Agent) that (i) executes a Service Agreement, or (ii)

requests in writing that the Transmission Provider file with the Commission, a proposed unexecuted Service Agreement to receive transmission service under Part II of the Tariff. This term is used in the Part I Common Service Provisions and in Part VI to include customers receiving transmission service under Part II and Part III of this Tariff.

**1.45.01 Transmission Facilities:**

Transmission Facilities shall have the meaning set forth in the Operating Agreement.

**1.45A Transmission Injection Rights:**

Capacity Transmission Injection Rights and Energy Transmission Injection Rights.

**1.45B Transmission Interconnection Customer:**

An entity that submits an Interconnection Request to interconnect or add Merchant Transmission Facilities to the Transmission System or to increase the capacity of Merchant Transmission Facilities interconnected with the Transmission System in the PJM Region.

**1.45C Transmission Interconnection Facilities Study:**

A Facilities Study related to a Transmission Interconnection Request.

**1.45D Transmission Interconnection Feasibility Study:**

A study conducted by the Transmission Provider in accordance with Section 36.2 of the Tariff.

**1.45E Transmission Interconnection Request:**

A request by a Transmission Interconnection Customer pursuant to Part IV of the Tariff to interconnect or add Merchant Transmission Facilities to the Transmission System or to increase the capacity of existing Merchant Transmission Facilities interconnected with the Transmission System in the PJM Region.

**1.45F Transmission Owner:**

Each entity that owns, leases or otherwise has a possessory interest in facilities used for the transmission of electric energy in interstate commerce under the Tariff. The Transmission Owners are listed in Attachment L.

**1.45G Transmission Owner Attachment Facilities:**

That portion of the Transmission Owner Interconnection Facilities comprised of all Attachment Facilities on the Interconnected Transmission Owner's side of the Point of Interconnection.

**1.45H Transmission Owner Interconnection Facilities:**

All Interconnection Facilities that are not Customer Interconnection Facilities and that, after the transfer under Section 5.5 of Appendix 2 to Attachment P of the PJM Tariff to the Interconnected Transmission Owner of title to any Transmission Owner Interconnection Facilities that the Interconnection Customer constructed, are owned, controlled, operated and maintained by the Interconnected Transmission Owner on the Interconnected Transmission Owner's side of the Point of Interconnection identified in appendices to the Interconnection Service Agreement and to the Interconnection Construction Service Agreement, including any modifications, additions or upgrades made to such facilities and equipment, that are necessary to physically and electrically interconnect the Customer Facility with the Transmission System or interconnected distribution facilities.

**1.46 Transmission Provider:**

The Transmission Provider shall be the Office of the Interconnection for all purposes, provided that the Transmission Owners will have the responsibility for the following specified activities:

- (a) The Office of the Interconnection shall direct the operation and coordinate the maintenance of the Transmission System, except that the Transmission Owners will continue to direct the operation and maintenance of those transmission facilities that are not listed in the PJM Designated Facilities List contained in the PJM Manual on Transmission Operations;
- (b) Each Transmission Owner shall physically operate and maintain all of the facilities that it owns; and
- (c) When studies conducted by the Office of the Interconnection indicate that enhancements or modifications to the Transmission System are necessary, the Transmission Owners shall have the responsibility, in accordance with the applicable terms of the Tariff, Operating Agreement and/or the Consolidated Transmission Owners Agreement to construct, own, and finance the needed facilities or enhancements or modifications to facilities.

**1.47 Transmission Provider's Monthly Transmission System Peak:**

The maximum firm usage of the Transmission Provider's Transmission System in a calendar month.

**1.48 Transmission Service:**

Point-To-Point Transmission Service provided under Part II of the Tariff on a firm and non-firm basis.

**1.48A Transmission Service Request:**

A request for Firm Point-To-Point Transmission Service or a request for Network Integration Transmission Service.

**1.49 Transmission System:**

The facilities controlled or operated by the Transmission Provider within the PJM Region that are used to provide transmission service under Part II and Part III of the Tariff.

**1.49A Transmission Withdrawal Rights:**

Firm Transmission Withdrawal Rights and Non-Firm Transmission Withdrawal Rights.

**1.49A.01 Upgrade Construction Service Agreement:**

That agreement entered into by a New Service Customer (other than an Interconnection Customer whose project includes generation capability or Merchant Transmission Facilities other than Merchant Network Upgrades), a Transmission Owner, and the Transmission Provider, pursuant to Subpart B of Part VI of the Tariff, and in the form set forth in Attachment GG of the Tariff.

**1.49A.02 Upgrade Customer:**

A customer that submits an Upgrade Request.

**1.49A.03 Upgrade-Related Rights:**

Incremental Auction Revenue Rights, Incremental Available Transfer Capability Revenue Rights, Incremental Deliverability Rights, and Incremental Capacity Transfer Rights (as defined in Section 2.35 of Attachment DD of the Tariff).

**1.49A.04 Upgrade Request:**

A request pursuant to Section 7.8 of Schedule 1 of the Operating Agreement, submitted in the form prescribed in Attachment EE of the Tariff, for evaluation by the Transmission Provider of the feasibility and estimated costs of, (a) a particular proposed Customer-Funded Upgrade or (b) the Customer-Funded Upgrades that would be needed to provide the Incremented Auction Revenue Rights specified in the request.

**1.49B [RESERVED]**

**1.49C [RESERVED]**

**1.49D [RESERVED]**

**1.49E [RESERVED]**

**1.49F [RESERVED]**

**1.49G Wholesale Transaction:**

As used in Part IV, means any transaction involving the transmission or sale for resale of electricity in interstate commerce that utilizes any portion of the Transmission System.

**1.49H Zone:**

An area within the PJM Region, as set forth in Attachment J.

**1.50 Zone Network Load:**

Network Load that is located inside of the area comprised of the PJM Region.

Case 5:17-cv-01752-JLS Document 4-8 Filed 04/17/17 Page 8 of 9

**APPENDIX 2**

**STANDARD TERMS AND CONDITIONS FOR INTERCONNECTIONS**

**1 Commencement, Term of and Conditions Precedent to Interconnection Service**

**1.1 Commencement Date:**

The effective date of an Interconnection Service Agreement shall be the date provided in Section 4.0 of the Interconnection Service Agreement. Interconnection Service under this Interconnection Service Agreement shall commence upon the satisfaction of the conditions precedent set forth in Section 1.2 below.

**1.2 Conditions Precedent:**

The following conditions must be satisfied prior to the commencement of Interconnection Service under this Interconnection Service Agreement:

(a) This Interconnection Service Agreement, if filed with FERC, shall have been accepted for filing by the FERC;

(b) All requirements for Initial Operation as specified in Section 1.4 below shall have been met and Initial Operation of the Customer Facility shall have been completed.

(c) Interconnection Customer shall be in compliance with all Applicable Technical Requirements and Standards for interconnection under the Tariff (as determined by the Transmission Provider).

**1.3 Term:**

This Interconnection Service Agreement shall remain in full force and effect until it is terminated in accordance with Section 16 of this Appendix 2.

**1.4 Initial Operation:**

The following requirements shall be satisfied prior to Initial Operation of the Customer Facility:

1.4.1 The construction of all Interconnection Facilities necessary for the interconnection of the Customer Facility has been completed;

1.4.2 The Interconnected Transmission Owner has accepted any Interconnection Facilities and/or Merchant Network Upgrades constructed by Interconnection Customer pursuant to the Interconnection Construction Service Agreement;

1.4.3 The Interconnection Customer and the Interconnected Transmission Owner have all necessary systems and personnel in place to allow for parallel operation of their respective facilities;

1.4.4 The Interconnected Transmission Owner has received all applicable documentation for the Interconnection Facilities and/or Merchant Network Upgrades built by the Interconnection

Customer, certified as correct, including, but not limited to, access to the field copy of marked-up drawings reflecting the as-built condition, pre-operation test reports, and instruction books; and

1.4.5 Interconnection Customer shall have received any necessary authorization from Transmission Provider to synchronize with the Transmission System or to energize, as applicable per the determination of Transmission Provider, the Customer Facility and Interconnection Facilities.

**1.4A Limited Operation:**

If any of the Transmission Owner Interconnection Facilities are not reasonably expected to be completed prior to the Interconnection Customer's planned date of Initial Operation, and provided that the Interconnected Transmission Owner has accepted the Customer Interconnection Facilities pursuant to the Interconnection Construction Service Agreement, Transmission Provider shall, upon the request and at the expense of Interconnection Customer, perform appropriate power flow or other operating studies on a timely basis to determine the extent to which the Customer Facility and the Customer Interconnection Facilities may operate prior to the completion of the Transmission Owner Interconnection Facilities consistent with Applicable Laws and Regulations, Applicable Reliability Standards, Good Utility Practice, and the Interconnection Service Agreement. In accordance with the results of such studies and subject to such conditions as Transmission Provider determines to be reasonable and appropriate, Transmission Provider shall (a) permit Interconnection Customer to operate the Customer Facility and the Customer Interconnection Facilities, and (b) grant Interconnection Customer limited, interim Interconnection Rights commensurate with the extent to which operation of the Customer Facility is permitted.

**1.5 Survival:**

The Interconnection Service Agreement shall continue in effect after termination to the extent necessary to provide for final billings and payments; to permit the determination and enforcement of liability and indemnification obligations arising from acts or events that occurred while the Interconnection Service Agreement was in effect; and to permit each Interconnection Party to have access to the real property, including but not limited to leased property and easements of the other Interconnection Parties pursuant to Section 16 of this Appendix 2 to disconnect, remove or salvage its own facilities and equipment.

**2 Interconnection Service**

**2.1 Scope of Service:**

Interconnection Service shall be provided to the Interconnection Customer at the Point of Interconnection (a), in the case of interconnection of the Customer Facility of a Generation Interconnection Customer, up to the Maximum Facility Output, and (b), in the case of interconnection of the Customer Facility of a Transmission Interconnection Customer, up to the Nominal Rated Capability. The location of the Point of Interconnection shall be mutually agreed by the Interconnected Entities, provided, however, that if the Interconnected Entities are unable



to agree on the Point of Interconnection, the Transmission Provider shall determine the Point of Interconnection, provided that Transmission Provider shall not select a Point of Interconnection that would impose excessive costs on either of the Interconnected Entities and shall take material system reliability considerations into account in such selection. Specifications for the Customer Facility and the location of the Point of Interconnection shall be set forth in an appendix to the Interconnection Service Agreement and shall conform to those stated in the Facilities Study.

**2.2 Non-Standard Terms:**

The standard terms and conditions of this Appendix 2 shall not apply, to such extent as Transmission Provider determines to be reasonably necessary to accommodate such circumstances, in the event that the Interconnection Customer acquires an ownership interest in facilities which, under the standard terms and conditions of the Interconnection Construction Service Agreement would be part of the Transmission Owner Interconnection Facilities. In such circumstances and to the extent determined by Transmission Provider to be reasonably necessary, non-standard terms and conditions mutually agreed upon by all Interconnection Parties shall apply, subject to FERC and any other necessary regulatory acceptance or approval. In addition, a Generation Interconnection Customer that acquires an ownership interest in such facilities shall become, and shall remain for so long as it retains such interest, a signatory to the Consolidated Transmission Owners Agreement.

**2.3 No Transmission Services:**

The execution of an Interconnection Service Agreement does not constitute a request for transmission service, or entitle Interconnection Customer to receive transmission service, under Part II or Part III of the Tariff. Nor does the execution of an Interconnection Service Agreement obligate the Interconnected Transmission Owner or Transmission Provider to procure, supply or deliver to Interconnection Customer or the Customer Facility any energy, capacity, Ancillary Services or Station Power (and any associated distribution services).

**2.4 Use of Distribution Facilities:**

To the extent that a Generation Interconnection Customer uses distribution facilities for the purpose of delivering energy to the Transmission System, Interconnection Service under this Tariff shall include the construction and/or use of such distribution facilities. In such cases, to such extent as Transmission Provider determines to be reasonably necessary to accommodate such circumstances, the Interconnection Service Agreement may include non-standard terms and conditions mutually agreed upon by all Interconnection Parties as needed to conform with Applicable Laws and Regulations and Applicable Standards relating to such distribution facilities.

**2.5 Election by Behind The Meter Generation:**

In the event that a Generation Interconnection Customer's Customer Facility is Behind The Meter Generation, the Generation Interconnection Customer may elect from time to time, subject to the terms of this section, whether to operate all or a portion of its Customer Facility's generating capacity as a Capacity Resource under the Tariff and the Operating Agreement.

**2.5.1 Capacity Resource Election:**

The Generation Interconnection Customer may elect to operate all or a portion of its Customer Facility as a Capacity Resource only to the extent that the Interconnection Service Agreement grants Capacity Interconnection Rights. Such an election may include all or any portion of the Customer Facility's capacity for which Capacity Interconnection Rights have been granted.

**2.5.2 Timing and Duration of Election:**

The Generation Interconnection Customer shall make an initial election under this section no later than 30 days prior to the commencement of Interconnection Service. Thereafter, the Generation Interconnection Customer may make the election authorized by this Section 2.5 only once in each calendar year and must notify Transmission Provider of such an election no later than May 1, and no sooner than March 15, of each year. Each such election shall be effective commencing on June 1 following Transmission Provider's receipt of notice of the election. An election under this Section 2.5 shall remain in effect unless and until the Generation Interconnection Customer modifies or terminates it in a subsequent election made in accordance with the terms of this section.

**3 Modification Of Facilities**

**3.1 General:**

Subject to Applicable Laws and Regulations and to any applicable requirements or conditions of the Tariff and the Operating Agreement, either Interconnected Entity may undertake modifications to its facilities. In the event that an Interconnected Entity plans to undertake a modification that reasonably may be expected upon completion to have a permanent material impact on the other Interconnected Entity's facilities, that Interconnected Entity, in accordance with Good Utility Practice, shall provide the other Interconnection Parties with sufficient information regarding such modification, so that the other Interconnection Parties may evaluate the potential impact of such modification prior to commencement of the work. The Interconnected Entity desiring to perform such modification shall provide the relevant drawings, plans, and specifications to the other Interconnection Parties at least ninety days, or such shorter period to which the Interconnection Parties receiving the information may agree (which agreement shall not unreasonably be withheld, conditioned, or delayed), in advance of the beginning of the work. The Interconnection Customer shall notify Transmission Provider and Interconnected Transmission Owner of the proposed modifications and Transmission Provider shall provide, within sixty days of receipt of the relevant drawings and specifications (or within such other time upon which the Interconnection Parties may agree), an estimate of any modifications to the Transmission System that would be necessary to accommodate the proposed modifications by Interconnection Customer and a good faith estimate of the costs thereof.

**3.2 Interconnection Request:**

This Section 3 shall not apply to any proposed modifications by Interconnection Customer to its

facilities for which Interconnection Customer must make an Interconnection Request under the Tariff. In such circumstances, the Interconnection Customer and Transmission Provider shall follow the requirements of Subpart A of Part IV of the Tariff.

### **3.3 Standards:**

Any additions, modifications, or replacements made to an Interconnected Entity's facilities shall be constructed and operated in accordance with Good Utility Practice, Applicable Standards and Applicable Laws and Regulations.

### **3.4 Modification Costs:**

Unless otherwise required by Applicable Laws and Regulations or this Appendix 2 and, with respect to a Transmission Interconnection Customer, subject to the terms of Section 236.2 of the Tariff:

(a) Interconnection Customer shall not be responsible for the costs of any additions, modifications, or replacements that the Interconnected Transmission Owner in its discretion or at the direction of Transmission Provider makes to the Interconnection Facilities or the Transmission System in order to facilitate the interconnection of a third party to the Interconnection Facilities or the Transmission System, or to provide transmission service under the Tariff to a third party.

(b) Interconnection Customer shall be responsible for the costs of any additions, modifications, or replacements to the Interconnection Facilities or the Transmission System that are required, in accord with Good Utility Practice and/or to maintain compliance with Applicable Laws and Regulations or Applicable Standards, in order to accommodate additions, modifications, or replacements made by Interconnection Customer to the Customer Facility or to the Customer Interconnection Facilities.

(c) Interconnection Customer shall be responsible for the costs of any additions, modifications, or replacements to the Customer Interconnection Facilities or the Customer Facility that are required, in accord with Good Utility Practice and/or to maintain compliance with Applicable Laws and Regulations or Applicable Standards, in order to accommodate additions, modifications, or replacements that Transmission Provider or the Interconnected Transmission Owner makes to the Transmission System or to the Transmission Owner Interconnection Facilities, but only to the extent that Transmission Provider's or the Interconnected Transmission Owner's changes to the Transmission System or the Transmission Owner Interconnection Facilities are made pursuant to Good Utility Practice and/or to maintain compliance with Applicable Laws and Regulations or Applicable Standards.

## **4 Operations**

### **4.1 General:**

Each Interconnected Entity shall operate, or shall cause operation of, its facilities in a safe and

reliable manner in accord with (i) the terms of this Appendix 2; (ii) Applicable Standards; (iii) applicable rules, procedures and protocols set forth in the Tariff and the Operating Agreement, as any or all may be amended from time to time; (iv) Applicable Laws and Regulations, and (v) Good Utility Practice.

**4.1.1 Interconnection Customer Drawings:**

Within one hundred twenty (120) days after the date of Initial Operation, unless the Interconnection Parties agree on another mutually acceptable deadline, the Interconnection Customer shall deliver to the Transmission Provider and the Interconnected Transmission Owner final, "as-built" drawings, information and documents regarding the Customer Interconnection Facilities, including, as and to the extent applicable: a one-line diagram, a site plan showing the Customer Facility and the Customer Interconnection Facilities, plan and elevation drawings showing the layout of the Customer Interconnection Facilities, a relay functional diagram, relaying AC and DC schematic wiring diagrams and relay settings for all facilities associated with the Interconnection Customer's step-up transformers, the facilities connecting the Customer Facility to the step-up transformers and the Customer Interconnection Facilities, and the impedances (determined by factory tests) for the associated step-up transformers and the Customer Facility. As applicable, the Interconnection Customer shall provide Transmission Provider and the Interconnected Transmission Owner specifications for the excitation system, automatic voltage regulator, Customer Facility control and protection settings, transformer tap settings, and communications.

**4.2 Operation of Merchant Network Upgrades:**

Unless otherwise provided in the Interconnection Service Agreement, the Interconnected Transmission Owner that owns Transmission System facilities to which any Merchant Network Upgrades are connected shall operate such Merchant Network Upgrades (a) on behalf and at the expense of the Interconnection Customer that constructed or caused construction of the pertinent Merchant Network Upgrades and (b) in accordance with this Appendix 2 and with an agreement between the Interconnected Transmission Owner and the Interconnection Customer regarding such operation.

**4.3 Interconnection Customer Obligations:**

Interconnection Customer shall obtain Transmission Provider's approval prior to either synchronizing with the Transmission System or energizing, as applicable per the determination of Transmission Provider, the Customer Facility or, except in an Emergency Condition, disconnecting the Customer Facility from the Transmission System, and shall coordinate such synchronizations, energizations, and disconnections with the Interconnected Transmission Owner.

**4.4 [Reserved.]**

**4.5 Permits and Rights-of-Way:**

Each Interconnected Entity at its own expense shall maintain in full force and effect all permits, licenses, rights-of-way and other authorizations as may be required to maintain the Customer Facility and the Interconnection Facilities that the entity owns, operates and maintains and, upon reasonable request of the other Interconnected Entity, shall provide copies of such permits, licenses, rights-of-way and other authorizations at its own expense to the requesting party.

#### **4.6 No Ancillary Services:**

Except as provided in Section 4.7 of this Appendix 2, nothing in this Appendix 2 is intended to obligate the Interconnection Customer to supply Ancillary Services to either Transmission Provider or the Interconnected Transmission Owner.

#### **4.7 Reactive Power**

##### **4.7.1 Reactive Power Design Criteria**

###### **4.7.1.1 New Facilities:**

For all new generating facilities to be interconnected pursuant to the Tariff, other than wind-powered and other non-synchronous generation facilities, the Generation Interconnection Customer shall design its Customer Facility to maintain a composite power delivery at continuous rated power output at a power factor of at least 0.95 leading to 0.90 lagging. For all new wind-powered and other non-synchronous generation facilities, if determined in the system impact study to be required for the safety or reliability of the Transmission System, the Generation Interconnection Customer shall design its Customer Facility with the ability to maintain a composite power delivery at continuous rated power output at a power factor of at least 0.95 leading to 0.95 lagging. For new generation resources of more than 20 MW, other than wind-powered and other non-synchronous generating facilities, the power factor requirement shall be measured at the generator's terminals. For new generation resources of 20 MW or less, and all wind-powered and other non-synchronous generation facilities, the power factor requirement shall be measured at the Point of Interconnection. Any different reactive power design criteria that Transmission Provider determines to be appropriate for a wind-powered or other non-synchronous generation facility shall be stated in the Interconnection Service Agreement. A Transmission Interconnection Customer interconnecting Merchant D.C. Transmission Facilities and/ or Controllable A.C. Merchant Transmission Facilities shall design its Customer Facility to maintain a power factor at the Point of Interconnection of at least 0.95 leading and 0.95 lagging, when the Customer Facility is operating at any level within its approved operating range.

###### **4.7.1.2 Increases in Generating Capacity or Energy Output:**

All increases in the capacity or energy output of any generation facility interconnected with the Transmission System, other than wind-powered and other non-synchronous generating facilities, shall be designed with the ability to maintain a composite power delivery at continuous rated power output at a power factor for all incremental MW of capacity or energy output, of at least 1.0 (unity) to 0.90 lagging. Wind-powered generation facilities and other non-synchronous

generation facilities, if determined in the System Impact Study to be required for the safety or reliability of the Transmission System, shall be designed with the ability to maintain a composite power delivery at continuous rated power output at a power factor for all incremental MW of capacity or energy output, of at least 1.0 (unity) to 0.95 lagging. The power factor requirement associated with increases in capacity or energy output of more than 20 MW to synchronous generation facilities interconnected with the Transmission System shall be measured at the generator's terminals. The power factor requirement associated with increases in capacity or energy output of 20 MW or less to synchronous generation facilities and all increases to wind-powered and non-synchronous generation facilities interconnected to the Transmission System shall be measured at the Point of Interconnection.

#### **4.7.2 Obligation to Supply Reactive Power:**

Interconnection Customer agrees, as and when so directed by Transmission Provider or when so directed by the Interconnected Transmission Owner acting on behalf or at the direction of Transmission Provider, to operate the Customer Facility to produce reactive power within the design limitations of the Customer Facility pursuant to voltage schedules, reactive power schedules or power factor schedules established by Transmission Provider or, as appropriate, the Interconnected Transmission Owner. Transmission Provider shall maintain oversight over such schedules to ensure that all sources of reactive power in the PJM Region, as applicable, are treated in an equitable and not unduly discriminatory manner. Interconnection Customer agrees that Transmission Provider and the Interconnected Transmission Owner, acting on behalf or at the direction of Transmission Provider, may make changes to the schedules that they respectively establish as necessary to maintain the reliability of the Transmission System.

#### **4.7.3 Deviations from Schedules:**

In the event that operation of the Customer Facility of an Interconnection Customer causes the Transmission System or the Interconnected Transmission Owner's facilities to deviate from appropriate voltage schedules and/or reactive power schedules as specified by Transmission Provider or the Interconnected Transmission Owner's operations control center (acting on behalf or at the direction of Transmission Provider), or that otherwise is inconsistent with Good Utility Practice and results in an unreasonable deterioration of the quality of electric service to other customers of Transmission Provider or the Interconnected Transmission Owner, the Interconnection Customer shall, upon discovery of the problem or upon notice from Transmission Provider or the Interconnected Transmission Owner, acting on behalf or at the direction of Transmission Provider, take whatever steps are reasonably necessary to alleviate the situation at its expense, in accord with Good Utility Practice and within the reactive capability of the Customer Facility. In the event that the Interconnection Customer does not alleviate the situation within a reasonable period of time following Transmission Provider's or the Interconnected Transmission Owner's notice thereof, the Interconnected Transmission Owner, with Transmission Provider's approval, upon notice to the Interconnection Customer and at the Interconnection Customer's expense, may take appropriate action, including installation on the Transmission System of power factor correction or other equipment, as is reasonably required, consistent with Good Utility Practice, to remedy the situation cited in Transmission Provider's or the Interconnected Transmission Owner's notice to the Interconnection Customer under this

section.

**4.7.4 Payment for Reactive Power:**

Any payments to the Interconnection Customer for reactive power shall be in accordance with Schedule 2 of the Tariff.

**4.8 Under- and Over-Frequency Conditions:**

The Transmission System is designed to automatically activate a load-shed program as required by NERC and each Applicable Regional Entity in the event of an under-frequency system disturbance. A Generation Interconnection Customer shall implement under-frequency and over-frequency relay set points for the Customer Facility as required by NERC and each Applicable Regional Entity to ensure "ride through" capability of the Transmission System. The response of a Generation Interconnection Customer's Customer Facility to frequency deviations of predetermined magnitudes, both under-frequency and over-frequency deviations shall be studied and coordinated with the Transmission Provider in accordance with Good Utility Practice. The term "ride through" as used herein shall mean the ability of a Generation Interconnection Customer's Customer Facility to stay connected to and synchronized with the Transmission System during system disturbances within a range of under-frequency and over-frequency conditions, in accordance with Good Utility Practice.

**4.9 Protection and System Quality**

**4.9.1 System Protection:**

Interconnection Customer shall, at its expense, install, operate and maintain such System Protection Facilities as may be required in connection with operation of the Customer Facility and the Customer Interconnection Facilities consistent with Applicable Technical Requirements and Standards. Interconnected Transmission Owner shall install any System Protection Facilities that may be required, as determined by Transmission Provider, on the Transmission Owner Interconnection Facilities or the Transmission System in connection with the operation of the Customer Facility and the Customer Interconnection Facilities. Responsibility for the cost of any System Protection Facilities required on the Transmission Owner Interconnection Facilities or the Transmission System shall be allocated as provided in Section 217 of the Tariff.

**4.9.2 Power Quality:**

The Customer Facility and Customer Interconnection Facilities shall not cause excessive deviations from the power quality criteria set forth in the Applicable Technical Requirements and Standards.

**4.10 Access Rights:**

Each Interconnected Entity shall provide the other Interconnected Entity access to areas under its control as reasonably necessary to permit the other Interconnected Entity to perform its

obligations under this Appendix 2, including operation and maintenance obligations. An Interconnected Entity that obtains such access shall comply with all safety rules applicable to the area to which access is obtained. Each Interconnected Entity agrees to inform the other Interconnected Entity's representatives of safety rules applicable to an area.

**4.11 Switching and Tagging Rules:**

The Interconnected Entities shall comply with applicable Switching and Tagging Rules in obtaining clearances for work or for switching operations on equipment. Such Switching and Tagging Rules shall be developed in accordance with OSHA standards codified at 29 C.F.R. Part 1910, or successor standards. Each Interconnected Entity shall provide the other Interconnected Entity a copy of its Switching and Tagging Rules that are applicable to the other Interconnected Entity's activities.

**4.12 Communications and Data Protocol:**

The Interconnected Entities shall comply with any communications and data protocol that the Transmission Provider may establish.

**4.13 Nuclear Generating Facilities:**

In the event that the Customer Facility is a nuclear generating facility, the Interconnection Parties shall agree to such non-standard terms and conditions as are reasonably necessary to accommodate the Interconnection Customer's satisfaction of Nuclear Regulatory Commission requirements relating to the safety and reliability of operations of such facilities.

**5 Maintenance**

**5.1 General:**

Each Interconnected Entity shall maintain, or shall cause the maintenance of, its facilities in a safe and reliable manner in accord with (i) the terms of this Appendix 2; (ii) Applicable Standards; (iii) applicable rules, procedures and protocols set forth in the Tariff and the Operating Agreement, as any or all may be amended from time to time; (iv) Applicable Laws and Regulations, and (v) Good Utility Practice.

**5.2 Maintenance of Merchant Network Upgrades:**

Unless otherwise provided in the Interconnection Service Agreement, the Interconnected Transmission Owner that owns Transmission System facilities to which any Merchant Network Upgrades are connected shall maintain such Merchant Network Upgrades (a) on behalf and at the expense of the Interconnection Customer that constructed or caused construction of the pertinent Merchant Network Upgrades and (b) in accordance with this Appendix 2 and with an agreement between the Interconnected Transmission Owner and the Interconnection Customer regarding such maintenance.



### **5.3 Outage Authority and Coordination**

#### **5.3.1 Coordination:**

The Interconnection Parties agree to confer regularly to coordinate the planning, scheduling and performance of preventive and corrective maintenance on the Customer Facility, the Customer Interconnection Facilities and any Attachment Facilities owned by the Interconnected Transmission Owner.

#### **5.3.2 Authority:**

Each Interconnected Entity may, in accordance with Good Utility Practice, remove from service its facilities that may affect the other Interconnected Entity's facilities in order to perform maintenance or testing or to install or replace equipment. Except in the event of an Emergency Condition, the Interconnection Customer proposing to remove such facilities from service shall provide prior notice of such activities to the Transmission Provider and the Interconnected Transmission Owner, and the Interconnected Entities shall coordinate all scheduling of planned facility outages with Transmission Provider, in accordance with applicable sections of the Operating Agreement, the PJM Manuals and any other applicable operating guidelines or directives of the Transmission Provider. Subject to the foregoing, the Interconnected Entity scheduling a facility outage shall use Reasonable Efforts to coordinate such outage with the other Interconnected Entity's scheduled outages.

#### **5.3.3 Outages Required for Maintenance:**

Subject to any necessary approval by Transmission Provider, each Interconnected Entity shall provide necessary equipment outages to allow the other Interconnected Entity to perform periodic maintenance, repair or replacement of its facilities and such outages shall be provided at mutually agreeable times, unless conditions arise which an Interconnected Entity believes, in accordance with Good Utility Practice, may endanger persons or property.

#### **5.3.4 Rescheduling of Planned Outages:**

To the extent so provided by the Tariff, the Operating Agreement, and the PJM Manuals, an Interconnected Entity may seek compensation from Transmission Provider for any costs related to rejection by Transmission Provider of a request of such Interconnected Entity for a planned maintenance outage.

#### **5.3.5 Outage Restoration:**

If an outage on an Interconnected Entity's facilities adversely affects the other Interconnected Entity's facilities, the Interconnected Entity that owns or controls the facility that is out of service shall use Reasonable Efforts to restore the facility to service promptly.

### **5.4 Inspections and Testing:**

Each Interconnected Entity shall perform routine inspection and testing of its facilities and equipment in accordance with Good Utility Practice as may be necessary to ensure the continued interconnection of the Customer Facility with the Transmission System in a safe and reliable manner. Each Interconnected Entity shall have the right, upon advance written notice, to request reasonable additional testing of an Interconnected Entity's facilities for good cause, as may be in accordance with Good Utility Practice.

**5.5 Right to Observe Testing:**

Each Interconnected Entity shall notify the other Interconnected Entity in advance of its performance of tests of its portion of the Interconnection Facilities or of any Merchant Network Upgrades. The other Interconnected Entity shall, at its own expense, have the right to observe such testing.

**5.6 Secondary Systems:**

Each Interconnected Entity agrees to cooperate with the other in the inspection, maintenance, and testing of those Secondary Systems directly affecting the operation of an Interconnected Entity's facilities and equipment which may reasonably be expected to affect the other Interconnected Entity's facilities. Each Interconnected Entity shall provide advance notice to the other Interconnected Entity before undertaking any work on such equipment, especially in electrical circuits involving circuit breaker trip and close contacts, current transformers, or potential transformers.

**5.7 Access Rights:**

Each Interconnected Entity shall provide the other Interconnected Entity access to areas under its control as reasonably necessary to permit the other Interconnected Entity to perform its obligations under this Appendix 2, including operation and maintenance obligations. An Interconnected Entity that obtains such access shall comply with all safety rules applicable to the area to which access is obtained. Each Interconnected Entity agrees to inform the other Interconnected Entity's representatives of safety rules applicable to an area.

**5.8 Observation of Deficiencies:**

If an Interconnection Party observes any Abnormal Condition on, or becomes aware of a lack of scheduled maintenance and testing with respect to, an Interconnection Party's facilities and equipment that might reasonably be expected to adversely affect the observing Interconnection Party's facilities and equipment, the observing Interconnection Party shall provide prompt notice under the circumstances to the appropriate Interconnection Party, and such Interconnection Party shall consider such notice in accordance with Good Utility Practice. Any Interconnection Party's review, inspection, and approval related to the other Interconnection Party's facilities and equipment shall be limited to the purpose of assessing the safety, reliability, protection and control of the Transmission System and shall not be construed as confirming or endorsing the design of such facilities and equipment, or as a warranty of any type, including safety, durability or reliability thereof. Notwithstanding the foregoing, the observing Interconnection Party shall

have no liability whatsoever for failure to give a deficiency notice to the other Interconnection Party and the Interconnected Entity that owns the relevant Interconnection Facilities shall remain fully liable for its failure to determine and correct deficiencies and defects in its facilities and equipment.

## **6 Emergency Operations**

### **6.1 Obligations:**

Subject to Applicable Laws and Regulations, each Interconnection Party shall comply with the Emergency Condition procedures of NERC, the Applicable Regional Entity, Transmission Provider, the Interconnected Transmission Owner and Interconnection Customer.

### **6.2 Notice:**

Each Interconnection Party shall notify the other parties promptly when it becomes aware of an Emergency Condition that may reasonably be expected to affect operation of the Customer Facility, the Customer Interconnection Facilities, the Transmission Owner Interconnection Facilities, or the Transmission System. To the extent information is known, the notification shall describe the Emergency Condition, the extent of the damage or deficiency, the expected effect on the facilities and/or operation thereof, its anticipated duration and the corrective action taken and/or to be taken. The initial notice shall be followed as soon as practicable with written notice.

### **6.3 Immediate Action:**

An Interconnection Party becoming aware of an Emergency Condition may take such action, including disconnection of the Customer Facility from the Transmission System, as is reasonable and necessary in accord with Good Utility Practice (i) to prevent, avoid, or mitigate injury or danger to, or loss of, life or property; (ii) to preserve the reliability of, in the case of Interconnection Customer, the Customer Facility, or, in the case of Transmission Provider or the Interconnected Transmission Owner, the Transmission System and interconnected sub-transmission and distribution facilities; or (iii) to expedite restoration of service. Unless, in Interconnection Customer's reasonable judgment, immediate action is required to prevent imminent loss of life or property, Interconnection Customer shall obtain the consent of Transmission Provider and the Interconnected Transmission Owner prior to performing any manual switching operations at the Customer Facility or the Generation Interconnection Facilities. Each Interconnection Party shall use Reasonable Efforts to minimize the effect of its actions during an Emergency Condition on the facilities and operations of the other Interconnection Parties.

### **6.4 Record-Keeping Obligations:**

Each Interconnection Party shall keep and maintain records of actions taken during an Emergency Condition that may reasonably be expected to affect the other parties' facilities and make such records available for audit in accordance with Section 19.3 of this Appendix 2.

## **7 Safety**

**7.1 General:**

Each Interconnected Entity shall perform all work under this Appendix 2 that may reasonably be expected to affect the other Interconnected Entity in accordance with Good Utility Practice and all Applicable Laws and Regulations pertaining to the safety of persons or property. An Interconnected Entity performing work within the boundaries of the other Interconnected Entity's facilities must abide by the safety rules applicable to the site. Each party agrees to inform the other party's representatives of applicable safety rules that must be obeyed on the premises.

**7.2 Environmental Releases:**

Each Interconnected Entity shall notify the other Interconnection Parties, first orally and promptly thereafter in writing, of the release of any Hazardous Substances, any asbestos or lead abatement activities, or any type of remediation activities, related to the Customer Facility or the Interconnection Facilities, any of which may reasonably be expected to affect one or both of the other parties. The notifying party shall (i) provide the notice as soon as possible; (ii) make a good faith effort to provide the notice within twenty-four (24) hours after the party becomes aware of the occurrence; and (iii) promptly furnish to the other parties copies of any publicly available reports filed with any governmental agencies addressing such events.

**8 Metering**

**8.1 General:**

Interconnection Customer shall have the right to install, own, operate, test and maintain the necessary Metering Equipment. In the event that Interconnection Customer exercises this option, the Interconnected Transmission Owner shall have the right to install its own check meter(s), at its own expense, at or near the location of the Metering Equipment. If both Interconnection Customer and Interconnected Transmission Owner install meters, the meter installed by the Interconnection Customer shall control unless it is determined by testing to be inaccurate. If the Interconnection Customer does not exercise the option provided by the first sentence of this section, the Interconnected Transmission Owner shall have the option to install, own, operate, test and maintain all necessary Metering Equipment at Interconnection Customer's expense. If the Interconnected Transmission Owner does not exercise this option, the Interconnection Customer shall install, own, operate, test and maintain all necessary Metering Equipment. Transmission Provider shall determine the location where the Metering Equipment shall be installed, after consulting with Interconnection Customer and the Interconnected Transmission Owner. All Metering Equipment shall be tested prior to any operation of the Customer Facility. Power flows to and from the Customer Facility shall be compensated to the Point of Interconnection, or, upon the mutual agreement of the Interconnected Transmission Owner and the Interconnection Customer, to another location.

**8.2 Standards:**

All Metering Equipment installed pursuant to this Appendix 2 to be used for billing and payments

shall be revenue quality Metering Equipment and shall satisfy applicable ANSI standards and Transmission Provider's metering standards and requirements. Nothing in this Appendix 2 precludes the use of Metering Equipment for any retail services of the Interconnected Transmission Owner provided, however, that in such circumstances Applicable Laws and Regulations shall control.

### **8.3 Testing of Metering Equipment:**

The Interconnected Entity that, pursuant to Section 8.1 of this Appendix 2, owns the Metering Equipment shall operate, maintain, inspect and test all Metering Equipment upon installation and at least once every two years thereafter. Upon reasonable request by the other Interconnected Entity, the owner of the Metering Equipment shall inspect or test the Metering Equipment more frequently than every two years, but in no event more frequently than three times in any 24-month period. The owner of the Metering Equipment shall give reasonable notice to the Interconnection Parties of the time when any inspection or test of the owner's Metering Equipment shall take place, and the other parties may have representatives present at the test or inspection. If Metering Equipment is found to be inaccurate or defective, it shall be adjusted, repaired or replaced in order to provide accurate metering. Where the Interconnected Transmission Owner owns the Metering Equipment, the expense of such adjustment, repair or replacement shall be borne by the Interconnection Customer, except that the Interconnection Customer shall not be responsible for such expenses where the inaccuracy or defect is caused by the Interconnected Transmission Owner. If Metering Equipment fails to register, or if the measurement made by Metering Equipment during a test varies by more than one percent from the measurement made by the standard meter used in the test, the owner of the Metering Equipment shall inform Transmission Provider, and the Transmission Provider shall inform the other Interconnected Entity, of the need to correct all measurements made by the inaccurate meter for the period during which the inaccurate measurements were made, if the period can be determined. If the period of inaccurate measurement cannot be determined, the correction shall be for the period immediately preceding the test of the Metering Equipment that is equal to one-half of the time from the date of the last previous test of the Metering Equipment, provided that the period subject to correction shall not exceed nine (9) months.

### **8.4 Metering Data:**

At Interconnection Customer's expense, the metered data shall be telemetered (a) to a location designated by Transmission Provider; (b) to a location designated by the Interconnected Transmission Owner, unless the Interconnected Transmission Owner agrees otherwise; and (c) to a location designated by Interconnection Customer. Data from the Metering Equipment at the Point of Interconnection shall be used, under normal operating conditions, as the official measurement of the amount of energy delivered from or to the Customer Facility to the Point of Interconnection, provided that the Transmission Provider's rules applicable to Station Power shall control with respect to a Generation Interconnection Customer's consumption of Station Power.

### **8.5 Communications**

#### **8.5.1 Interconnection Customer Obligations:**

Interconnection Customer shall install and maintain satisfactory operating communications with Transmission Provider's system dispatcher or its other designated representative and with the Interconnected Transmission Owner. Interconnection Customer shall provide standard voice line, dedicated voice line and facsimile communications at its Customer Facility control room through use of the public telephone system. Interconnection Customer also shall provide and maintain backup communication links with both Transmission Provider and Interconnected Transmission Owner for use during abnormal conditions as specified by Transmission Provider and Interconnected Transmission Owner, respectively. Interconnection Customer further shall provide the dedicated data circuit(s) necessary to provide Interconnection Customer data to the Transmission Provider and Interconnected Transmission Owner as necessary to conform with Applicable Technical Requirements and Standards.

**8.5.2. Remote Terminal Unit:**

Unless otherwise deemed unnecessary by Transmission Provider and Interconnected Transmission Owner, as indicated in the Interconnection Service Agreement, prior to any operation of the Customer Facility, a remote terminal unit, or equivalent data collection and transfer equipment acceptable to the Interconnection Parties, shall be installed by Interconnection Customer, or by the Interconnected Transmission Owner at Interconnection Customer's expense, to gather accumulated and instantaneous data to be telemetered to the location(s) designated by Transmission Provider and Interconnected Transmission Owner through use of a dedicated point-to-point data circuit(s) as indicated in Section 8.5.1 of this Appendix 2. Instantaneous, bi-directional real power and, with respect to a Generation Interconnection Customer's Customer Facility, reactive power flow information, must be telemetered directly to the location(s) specified by Transmission Provider and the Interconnected Transmission Owner.

**9 Force Majeure**

**9.1 Notice:**

An Interconnection Party that is unable to carry out an obligation imposed on it by this Appendix 2 due to Force Majeure shall notify the other parties in writing or by telephone within a reasonable time after the occurrence of the cause relied on.

**9.2 Duration of Force Majeure:**

An Interconnection Party shall not be responsible, or considered to be in Breach or Default under this Interconnection Service Agreement, for any non-performance, any interruption or failure of service, deficiency in the quality or quantity of service, or any other failure to perform any obligation hereunder to the extent that such failure or deficiency is due to Force Majeure. An Interconnection Party shall be excused from whatever performance is affected only for the duration of the Force Majeure and while the Interconnection Party exercises Reasonable Efforts to alleviate such situation. As soon as the non-performing Interconnection Party is able to resume performance of its obligations excused because of the occurrence of Force Majeure, such Interconnection Party shall resume performance and give prompt notice thereof to the other

parties.

**9.3 Obligation to Make Payments:**

Any Interconnection Party's obligation to make payments for services shall not be suspended by Force Majeure.

**10 Charges**

**10.1 Specified Charges:**

If and to the extent required by the Interconnected Transmission Owner, after the Initial Operation of the Customer Facility, Interconnection Customer shall pay one or more of the types of recurring charges described in this section to compensate the Interconnected Transmission Owner for costs incurred in performing certain of its obligations under this Appendix 2. All such charges shall be stated in Schedule E of the Interconnection Service Agreement. Interconnected Transmission Owner shall provide Transmission Provider and Interconnection Customer with appropriate cost data, schedules and/or written testimony in support of any charges under this section in such manner and at such time as to allow Transmission Provider to include such materials in its filing of the Interconnection Service Agreement with the FERC. Transmission Provider will deliver a copy of such filing to Interconnection Customer. Permissible charges under this section may include:

(a) **Administration Charge** — Any such charge may recover only the costs and expenses incurred by the Interconnected Transmission Owner in connection with administrative obligations such as the preparation of bills, the processing of Customer Facility-specific data on energy delivered at the Point of Interconnection and costs incurred in similar types of administrative processes related to Interconnection Customer's Interconnection Service. An Administration Charge shall not be permitted to the extent that the Interconnected Transmission Owner's other charges to the Interconnection Customer under the same Interconnection Service Agreement include an allocation of Interconnected Transmission Owner's administrative and general expenses and/or other corporate overhead costs.

(b) **Metering Charge** — Any such charge may recover only the Interconnected Transmission Owner's costs and expenses associated with operation, maintenance, inspection, testing, and carrying or capital replacement charges for any Metering Equipment that is owned by the Interconnected Transmission Owner.

(c) **Telemetry Charge** — Any such charge may recover only the Interconnected Transmission Owner's costs and expenses associated with operation, maintenance, inspection, testing, and carrying or capital replacement charges for any telemetry equipment that is owned by the Interconnected Transmission Owner and that is used exclusively in conjunction with Interconnection Service for the Interconnection Customer.

(d) **Customer Facility Operations and Maintenance Charge** — Any such charge may recover only the Interconnected Transmission Owner's costs and expenses associated with

operation, maintenance, inspection, testing, modifications, taxes and carrying or capital replacement charges for Attachment Facilities related to the Interconnection Customer's Interconnection Service and that are owned by the Interconnected Transmission Owner, provided that

(i) any such charge shall exclude costs and expenses associated with Transmission Owner Interconnection Facilities owned by the Interconnected Transmission Owner that are radial line facilities that serve load in addition to an Interconnection Customer; and

(ii) except as otherwise provided by Applicable Laws and Regulations, any such charge may include only an allocated share, derived in accordance with the allocations contained in the Facilities Study, of costs and expenses associated with Transmission Owner Interconnection Facilities owned by the Interconnected Transmission Owner that are radial line facilities that serve more than one Interconnection Customer. At the discretion of the affected Interconnected Entities, a Customer Facility Operations and Maintenance Charge authorized under this section may apply on a per-incident basis or on a monthly or other periodic basis.

(e) Other Charges — Any other charges applicable to the Interconnection Customer, as mutually agreed upon by the Interconnection Customer and the Interconnected Transmission Owner and as accepted by the FERC as part of an Interconnection Service Agreement.

## **10.2 FERC Filings:**

To the extent required by law or regulation, each Interconnection Party shall seek FERC acceptance or approval of its respective charges or the methodology for the calculation of such charges.

## **11 Security, Billing And Payments**

### **11.1 Recurring Charges Pursuant to Section 10:**

The following provisions shall apply with respect to recurring charges applicable to Interconnection Service after Initial Operation of the Customer Facility pursuant to Section 10 of this Appendix 2.

#### **11.1.1 General:**

Except as, and to the extent, otherwise provided in the Interconnection Service Agreement, billing and payment of any recurring charges applicable to Interconnection Service after Initial Operation of the Customer Facility pursuant to Section 10 of this Appendix 2 shall be in accordance with Section 7 of the Tariff. The Interconnected Transmission Owner shall provide Transmission Provider with all necessary information and supporting data that Transmission Provider may reasonably require to administer billing for and payment of applicable charges under this Appendix 2. Transmission Provider shall remit to the Interconnected Transmission Owner revenues received in payment of Interconnected Transmission Owner's charges to



Interconnection Customer under this Appendix 2 upon Transmission Provider's receipt of such revenues. At Transmission Provider's reasonable discretion, charges to Interconnection Customer and remittances to Interconnected Transmission Owner under this Appendix 2 may be netted against other amounts owed by or to such parties under the Tariff.

**11.1.2 Billing Disputes:**

In the event of a billing dispute between Transmission Provider and Interconnection Customer, Transmission Provider shall continue to provide interconnection service under this Appendix 2 as long as Interconnection Customer (i) continues to make all payments not in dispute, and (ii) pays to Transmission Provider or into an independent escrow account the portion of the invoice in dispute, pending resolution of such dispute. If Interconnection Customer fails to meet these two requirements for continuation of service, then Transmission Provider shall so inform the Interconnection Parties and may provide notice to Interconnection Customer of a Breach pursuant to Section 15 of this Appendix 2. Within thirty days after the resolution of the dispute, the Interconnection Party that owes money to the other Interconnection Party shall pay the amount due with interest calculated in accord with Section 11.4.

**11.2 Costs for Transmission Owner Interconnection Facilities and/or Merchant Network Upgrades:**

The following provisions shall apply with respect to charges for the Costs of the Interconnected Transmission Owner for which the Interconnection Customer is responsible.

**11.2.1 Adjustments to Security:**

The Security provided by Interconnection Customer at or before execution of the Interconnection Service Agreement (a) shall be reduced as portions of the work on required Local Upgrades and/or Network Upgrades is completed, and/or (b) shall be increased or decreased as required to reflect adjustments to Interconnection Customer's cost responsibility, as determined in accordance with Section 217, to correspond with changes in the Scope of Work developed in accordance with Transmission Provider's scope change process for interconnection projects set forth in the PJM Manuals.

**11.2.2 Invoice:**

The Interconnected Transmission Owner shall provide Transmission Provider a quarterly statement of the Interconnected Transmission Owner's scheduled expenditures during the next three months for, as applicable (a) the design, engineering and construction of, and/or for other charges related to, construction of the Interconnection Facilities and/or Merchant Network Upgrades for which the Interconnected Transmission Owner is responsible under the Interconnection Service Agreement and the Interconnection Construction Service Agreement, or (b) in the event that the Interconnection Customer exercises the Option to Build pursuant to Section 3.2.3.1 of Appendix 2 of the form of Interconnection Construction Service Agreement (set forth in Attachment P to the Tariff), for the Transmission Owner's Costs associated with the

Interconnection Customer's building Attachment Facilities, Local Upgrades, and Network Upgrades (including both Direct Connection Network Upgrades, Direct Connection Local Upgrades, Non-Direct Connection Network Upgrades and Non-Direct Connection Local Upgrades), including but not limited to Costs for tie-in work and Cancellation Costs. Provided, however, such Transmission Owner Costs may include oversight costs (i.e. costs incurred by the Transmission Owner when engaging in oversight activities to satisfy itself that the Interconnection Customer is complying with the Transmission Owner's standards and specifications for the construction of facilities) only if the Transmission Owner and the Interconnection Customer mutually agree to the inclusion of such costs under the Option to Build pursuant to the provisions of Section 3.3.3.1 of Appendix 2 of the form of Interconnection Construction Service Agreement (set forth in Attachment P to the Tariff). Transmission Provider shall bill Interconnection Customer on behalf of the Interconnected Transmission Owner, for the Interconnected Transmission Owner's expected Costs during the subsequent three months. Interconnection Customer shall pay each bill within twenty (20) days after receipt thereof. Upon receipt of each of Interconnection Customer's payments of such bills, Transmission Provider shall reimburse the Interconnected Transmission Owner. Interconnection Customer may request that the Transmission Provider provide a quarterly cost reconciliation. Such a quarterly cost reconciliation will have a one-quarter lag, e.g., reconciliation of costs for the first calendar quarter of work will be provided at the start of the third calendar quarter of work, provided, however, that Section 11.2.3 of this Appendix 2 shall govern the timing of the final cost reconciliation upon completion of the work.

**11.2.3 Final Invoice:**

Within 120 days after the Interconnected Transmission Owner completes construction and installation of the Interconnection Facilities and/or Merchant Network Upgrades for which the Interconnected Transmission Owner is responsible under the Interconnection Service Agreement and the Interconnection Construction Service Agreement, Transmission Provider shall provide Interconnection Customer with an accounting of, and the appropriate Construction Party shall make any payment to the other that is necessary to resolve, any difference between (a) Interconnection Customer's responsibility under the Tariff for the actual Cost of such facilities, and (b) Interconnection Customer's previous aggregate payments to Transmission Provider for the Costs of such facilities. Notwithstanding the foregoing, however, Transmission Provider shall not be obligated to make any payment to either the Interconnection Customer or the Interconnected Transmission Owner that the preceding sentence requires it to make unless and until the Transmission Provider has received the payment that it is required to refund from the Construction Party owing the payment.

**11.2.4 Disputes:**

In the event of a billing dispute between any of the Construction Parties, Transmission Provider and the Interconnected Transmission Owner shall continue to perform their respective obligations pursuant to this Interconnection Service Agreement and any related Interconnection Construction Service Agreements so long as (a) Interconnection Customer continues to make all payments not in dispute, and (b) the Security held by the Transmission Provider while the dispute is pending exceeds the amount in dispute, or (c) Interconnection Customer pays to Transmission Provider or

into an independent escrow account the portion of the invoice in dispute, pending resolution of such dispute. If Interconnection Customer fails to meet any of these requirements, then Transmission Provider shall so inform the other Construction Parties and Transmission Provider or the Interconnected Transmission Owner may provide notice to Interconnection Customer of a Breach pursuant to Section 15 of this Appendix 2.

**11.3 No Waiver:**

Payment of an invoice shall not relieve Interconnection Customer from any other responsibilities or obligations it has under this Appendix 2, nor shall such payment constitute a waiver of any claims arising hereunder.

**11.4 Interest:**

Interest on any unpaid amounts shall be calculated in accordance with the methodology specified for interest on refunds in the FERC's regulations at 18 C.F.R. § 35.19a(a)(2)(iii). Interest on delinquent amounts shall be calculated from the due date of the bill to the date of payment.

**12.0 Assignment**

**12.1 Assignment with Prior Consent:**

Except as provided in Section 12.2 to this Appendix 2, no Interconnection Party shall assign its rights or delegate its duties, or any part of such rights or duties, under the Interconnection Service Agreement without the written consent of the other Interconnection Parties, which consent shall not be unreasonably withheld, conditioned, or delayed. Any such assignment or delegation made without such written consent shall be null and void. An Interconnection Party may make an assignment in connection with the sale, merger, or transfer of a substantial portion or all of its properties including the Interconnection Facilities which it owns, so long as the assignee in such a sale, merger, or transfer assumes in writing all rights, duties and obligations arising under this Interconnection Service Agreement. In addition, the Interconnected Transmission Owner shall be entitled, subject to Applicable Laws and Regulations, to assign the Interconnection Service Agreement to any Affiliate or successor that owns and operates all or a substantial portion of the Interconnected Transmission Owner's transmission facilities.

**12.2 Assignment Without Prior Consent**

**12.2.1 Assignment to Owners:**

Interconnection Customer may assign the Interconnection Service Agreement without the Interconnected Transmission Owner's or Transmission Provider's prior consent to any Affiliate or person that purchases or otherwise acquires, directly or indirectly, all or substantially all of the Customer Facility and the Customer Interconnection Facilities, provided that prior to the effective date of any such assignment, the assignee shall demonstrate that, as of the effective date of the assignment, the assignee has the technical and operational competence to comply with the requirements of this Interconnection Service Agreement and assumes in a writing provided to the

Interconnected Transmission Owner and Transmission Provider all rights, duties, and obligations of Interconnection Customer arising under this Interconnection Service Agreement. However, any assignment described herein shall not relieve or discharge the Interconnection Customer from any of its obligations hereunder absent the written consent of the Transmission Provider, such consent not to be unreasonably withheld, conditioned or delayed.

**12.2.2 Assignment to Lenders:**

Interconnection Customer may, without the consent of the Transmission Provider or the Interconnected Transmission Owner, assign the Interconnection Service Agreement to any Project Finance Entity(ies), provided that such assignment does not alter or diminish Interconnection Customer's duties and obligations under this Interconnection Service Agreement. If Interconnection Customer provides the Interconnected Transmission Owner with notice of an assignment to any Project Finance Entity(ies) and identifies such Project Finance Entities as contacts for notice purposes pursuant to Section 21 of this Appendix 2, the Transmission Provider or Interconnected Transmission Owner shall provide notice and reasonable opportunity for such entity(ies) to cure any Breach under this Interconnection Service Agreement in accordance with this Interconnection Service Agreement. Transmission Provider or Interconnected Transmission Owner shall, if requested by such lenders, provide such customary and reasonable documents, including consents to assignment, as may be reasonably requested with respect to the assignment and status of the Interconnection Service Agreement, provided that such documents do not alter or diminish the rights of the Transmission Provider or Interconnected Transmission Owner under this Interconnection Service Agreement, except with respect to providing notice of Breach to a Project Finance Entity. Upon presentation of the Transmission Provider and/or the Interconnected Transmission Owner's invoice therefor, Interconnection Customer shall pay the Transmission Provider and/or the Interconnected Transmission Owner's reasonable documented cost of providing such documents and certificates. Any assignment described herein shall not relieve or discharge the Interconnection Customer from any of its obligations hereunder absent the written consent of the Interconnected Transmission Owner and Transmission Provider.

**12.3 Successors and Assigns:**

This Interconnection Service Agreement and all of its provisions are binding upon, and inure to the benefit of, the Interconnection Parties and their respective successors and permitted assigns.

**13 Insurance**

**13.1 Required Coverages For Generation Resources Of More Than 20 Megawatts or Merchant Transmission Facilities:**

Each Interconnected Entity shall maintain insurance as described in paragraphs A through E below. All insurance shall be procured from insurance companies rated "A-" or better by AM Best and authorized to do business in a state or states in which the Interconnection Facilities are located. Failure to maintain required insurance shall be a Breach of the Interconnection Service Agreement.

A. Workers Compensation insurance with statutory limits, as required by the state and/or jurisdiction in which the work is to be performed, and employer's liability insurance with limits of not less than one million dollars (\$1,000,000.00).

B. Commercial General Liability Insurance including premises and operations, personal injury, broad form property damage, broad form blanket contractual liability coverage (including coverage for the contractual indemnification), products and completed operations coverage, coverage for explosion, collapse and underground hazards, independent contractors coverage, coverage for pollution to the extent normally available and punitive damages to the extent normally available and a cross liability endorsement, with minimum limits of One Million Dollars (\$1,000,000) per occurrence/One Million Dollars (\$1,000,000) aggregate combined single limit for personal injury, bodily injury, including death and property damage.

C. Comprehensive Automobile Liability Insurance for coverage of owned and non-owned and hired vehicles, trailers or semi-trailers designed for travel on public roads, with a minimum, combined single limit of One Million Dollars (\$1,000,000) per occurrence for bodily injury, including death, and property damage.

D. Excess/Umbrella Liability Insurance with a limit of liability of not less than twenty million dollars (\$20,000,000.00) per occurrence. These limits apply in excess of the employer's liability, commercial general liability and automobile liability coverages described above.

E. Professional Liability Insurance providing errors, omissions and/or malpractice coverage in the amount of five million (\$5,000,000) per occurrence/aggregate. Coverage shall be provided for the Interconnected Entity's duties, responsibilities and performance outlined in this Appendix 2, the Interconnection Service Agreement, and if applicable, the Interconnection Construction Service Agreement.

An Interconnected Entity may meet the Professional Liability Insurance requirements by requiring third-party contractors, designers, or engineers, or other parties that are responsible for design work associated with the transmission facilities or Interconnection Facilities necessary for the interconnection to procure professional liability insurance in the amounts and upon the terms prescribed by this section 13.1(E), and providing evidence of such insurance to the other Interconnected Entity. Such insurance shall be procured from companies rated "A-" or better by AM Best and authorized to do business in a state or states in which the Interconnection Facilities are located. Nothing in this section relieves the Interconnected Entity from complying with the insurance requirements. In the event that the policies of the designers, engineers, or other parties used to satisfy the Interconnected Entity's insurance obligations under this section become invalid for any reason, including but not limited to, (i) the policy(ies) lapsing or otherwise terminating or expiring; (ii) the coverage limits of such policy(ies) are decreased; or (iii) the policy(ies) do not comply with the terms and conditions of the Tariff; Interconnected Entity shall be required to procure insurance sufficient to meet the requirements of this section, such that there is no lapse in insurance coverage. Notwithstanding the foregoing, in the event an Interconnected Entity will not design or construct or cause to design or construct any new transmission facilities or Interconnection Facilities, Transmission Provider, in its discretion, may waive the requirement that an Interconnected Entity maintain the Professional Liability Insurance pursuant to this

section.

**13.1A. Required Coverages For Generation Resources Of 20 Megawatts Or Less:**

Except as provided in section 13.1B below, each Interconnected Entity shall maintain the types of insurance as described in section 13.1 paragraphs A through E in an amount sufficient to insure against all reasonably foreseeable direct liabilities given the size and nature of the generating equipment being interconnected, the interconnection itself, and the characteristics of the system to which the interconnection is made. Additional insurance may be required by the Interconnection Customer, as a function of owning and operating a generating facility. All insurance shall be procured from insurance companies rated "A-" or better by AM Best and authorized to do business in a state or states in which the Interconnection Facilities are located. Failure to maintain required insurance shall be a Breach of the Interconnection Service Agreement.

**13.2 Additional Insureds:**

The Commercial General Liability, Automobile Liability and Excess/Umbrella Liability policies procured by each Interconnected Entity (the "Insuring Interconnected Entity") shall include each other Interconnection Party (the "Insured Interconnection Party"), and its respective officers, agents and employees as additional insureds, providing all standard coverages and covering liability of the Insured Interconnection Party arising out of bodily injury and/or property damage (including loss of use) in any way connected with the operations, performance, or lack of performance under this Interconnection Service Agreement.

**13.3 Other Required Terms:**

The above-mentioned insurance policies (except workers' compensation) shall provide the following:

(a) Each policy shall contain provisions that specify that it is primary and shall apply to such extent without consideration for other policies separately carried and shall state that each insured is provided coverage as though a separate policy had been issued to each, except the insurer's liability shall not be increased beyond the amount for which the insurer would have been liable had only one insured been covered. Each Insuring Interconnected Entity shall be responsible for its respective deductibles or retentions.

(b) Each policy, if written on a Claims First Made Basis, shall be maintained in full force and effect for two (2) years after termination of the Interconnection Service Agreement, which coverage may be in the form of tail coverage or extended reporting period coverage if agreed by the Interconnection Parties.

(c) Provide for a waiver of all rights of subrogation which the Insuring Interconnected Entity's insurance carrier might exercise against the Insured Interconnection Party.

**13.3A No Limitation of Liability:**

The requirements contained herein as to the types and limits of all insurance to be maintained by the Interconnected Entities are not intended to and shall not in any manner, limit or qualify the liabilities and obligations assumed by the Interconnection Parties under the Interconnection Service Agreement.

**13.4 Self-Insurance:**

Notwithstanding the foregoing, each Interconnected Entity may self-insure to meet the minimum insurance requirements of this Section 13 of this Appendix 2 to the extent it maintains a self-insurance program, provided that such Interconnected Entity's senior secured debt is rated at investment grade or better by Standard & Poor's and its self-insurance program meets the minimum insurance requirements of this Section 13. For any period of time that an Interconnected Entity's senior secured debt is unrated by Standard & Poor's or is rated at less than investment grade by Standard & Poor's, such Party shall comply with the insurance requirements applicable to it under this Section 13. In the event that an Interconnected Entity is permitted to self-insure pursuant to this section, it shall notify the other Interconnection Parties that it meets the requirements to self-insure and that its self-insurance program meets the minimum insurance requirements in a manner consistent with that specified in Section 13.5 of this Appendix 2.

**13.5 Notices; Certificates of Insurance:**

All policies of insurance shall provide for thirty days prior written notice of cancellation or material adverse change. Each Interconnected Entity shall provide the other with certificates of insurance prior to Initial Operation of the Customer Facility and thereafter at such time intervals as they shall mutually agree upon, provided that such interval shall not be less than one year. All certificates of insurance shall indicate that the certificate holder is included as an additional insured under the Commercial General Liability, Automobile liability and Excess/Umbrella liability coverages, and that this insurance is primary with a waiver of subrogation included.

**13.6 Subcontractor Insurance:**

In accord with Good Utility Practice, each Interconnected Entity shall require each of its subcontractors to maintain and provide evidence of insurance coverage of types, and in amounts, commensurate with the risks associated with the services provided by the subcontractor. Bonding of contractors or subcontractors shall be at the hiring Interconnected Entity's discretion, but regardless of bonding, the hiring principal shall be responsible for the performance or non-performance of any contractor or subcontractor it hires.

**13.7 Reporting Incidents**

The Interconnection Parties shall report to each other in writing as soon as practical all accidents or occurrences resulting in injuries to any person, including death, and any property damage arising out of the Interconnection Service Agreement.

## **14 Indemnity**

### **14.1 Indemnity:**

Each Interconnection Party shall indemnify and hold harmless the other Interconnection Parties, and the other Interconnection Parties' officers, shareholders, stakeholders, members, managers, representatives, directors, agents and employees, and Affiliates, from and against any and all loss, liability, damage, cost or expense to third parties, including damage and liability for bodily injury to or death of persons, or damage to property or persons (including reasonable attorneys' fees and expenses, litigation costs, consultant fees, investigation fees, sums paid in settlements of claims, penalties or fines imposed under Applicable Laws and Regulations, and any such fees and expenses incurred in enforcing this indemnity or collecting any sums due hereunder) (collectively, "Loss") to the extent arising out of, in connection with, or resulting from (i) the indemnifying Interconnection Party's breach of any of the representations or warranties made in, or failure of the indemnifying Interconnection Party or any of its subcontractors to perform any of its obligations under, this Interconnection Service Agreement (including Appendix 2), or (ii) the negligence or willful misconduct of the indemnifying Interconnection Party or its contractors; provided, however, that no Interconnection Party shall have any indemnification obligations under this Section 14.1 in respect of any Loss to the extent the Loss results from the negligence or willful misconduct of the Interconnection Party seeking indemnity.

### **14.2 Indemnity Procedures:**

Promptly after receipt by a Person entitled to indemnity ("Indemnified Person") 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 Section 14.1 may apply, the Indemnified Person shall notify the indemnifying Interconnection Party of such fact. Any failure of or delay in such notification shall not affect an Interconnection Party's indemnification obligation unless such failure or delay is materially prejudicial to the indemnifying Interconnection Party. The Indemnified Person shall cooperate with the indemnifying Interconnection Party with respect to the matter for which indemnification is claimed. The indemnifying Interconnection Party shall have the right to assume the defense thereof with counsel designated by such indemnifying Interconnection Party and reasonably satisfactory to the Indemnified Person. If the defendants in any such action include one or more Indemnified Persons and the indemnifying Interconnection Party and if the Indemnified Person reasonably concludes that there may be legal defenses available to it and/or other Indemnified Persons which are different from or additional to those available to the indemnifying Interconnection Party, the Indemnified Person shall have the right to select separate counsel to assert such legal defenses and to otherwise participate in the defense of such action on its own behalf. In such instances, the indemnifying Interconnection Party shall only be required to pay the fees and expenses of one additional attorney to represent an Indemnified Person or Indemnified Persons having such differing or additional legal defenses. The Indemnified Person shall be entitled, at its expense, to participate in any action, suit or proceeding, the defense of which has been assumed by the indemnifying Interconnection Party. Notwithstanding the foregoing, the indemnifying Interconnection Party (i) shall not be entitled to assume and control the defense of any such action, suit or proceedings if and to the extent that, in the opinion of the Indemnified Person and its counsel, such action, suit or proceeding involves the



potential imposition of criminal liability on the Indemnified Person, or there exists a conflict or adversity of interest between the Indemnified Person and the indemnifying Interconnection Party, in such event the indemnifying Interconnection Party shall pay the reasonable expenses of the Indemnified Person, and (ii) shall not settle or consent to the entry of any judgment in any action, suit or proceeding without the consent of the Indemnified Person, which shall not be unreasonably withheld, conditioned or delayed.

**14.3 Indemnified Person:**

If an Indemnified Person is entitled to indemnification under this Section 14 as a result of a claim by a third party, and the indemnifying Interconnection Party fails, after notice and reasonable opportunity to proceed under Section 14.2 of this Appendix 2, to assume the defense of such claim, such Indemnified Person may at the expense of the indemnifying Interconnection Party contest, settle or consent to the entry of any judgment with respect to, or pay in full, such claim.

**14.4 Amount Owing:**

If an indemnifying Interconnection Party is obligated to indemnify and hold any Indemnified Person harmless under this Section 14, the amount owing to the Indemnified Person shall be the amount of such Indemnified Person's actual Loss, net of any insurance or other recovery.

**14.5 Limitation on Damages:**

Except as otherwise provided in this Section 14, the liability of an Interconnection Party under this Appendix 2 shall be limited to direct actual damages, and all other damages at law are waived. Under no circumstances shall any Interconnection Party or its Affiliates, directors, officers, employees and agents, or any of them, be liable to another Interconnection Party, whether in tort, contract or other basis in law or equity for any special, indirect punitive, exemplary or consequential damages, including lost profits. The limitations on damages specified in this Section 14.5 are without regard to the cause or causes related thereto, including the negligence of any Interconnection Party, whether such negligence be sole, joint or concurrent, or active or passive. This limitation on damages shall not affect any Interconnection Party's rights to obtain equitable relief as otherwise provided in this Appendix 2. The provisions of this Section 14.5 shall survive the termination or expiration of the Interconnection Service Agreement.

**14.6 Limitation of Liability in Event of Breach:**

An Interconnection Party ("Breaching Party") shall have no liability hereunder to the other Interconnection Parties, and the other Interconnection Parties hereby release the Breaching Party, for all claims or damages that either of them incurs that are associated with any interruption in the availability of the Customer Facility, Interconnection Facilities, Transmission System or Interconnection Service or damages to an Interconnection Party's facilities, except to the extent such interruption or damage is caused by the Breaching Party's gross negligence or willful misconduct in the performance of its obligations under this Interconnection Service Agreement (including Appendix 2).

**14.7 Limited Liability in Emergency Conditions:**

Except as otherwise provided in the Tariff or the Operating Agreement, no Interconnection Party shall be liable to any other Interconnection Party for any action that it takes in responding to an Emergency Condition, so long as such action is made in good faith, is consistent with Good Utility Practice and is not contrary to the directives of the Transmission Provider or of the Interconnected Transmission Owner with respect to such Emergency Condition. Notwithstanding the above, Interconnection Customer shall be liable in the event that it fails to comply with any instructions of Transmission Provider or the Interconnected Transmission Owner related to an Emergency Condition.

**15 Breach, Cure And Default**

**15.1 Breach:**

A Breach of this Interconnection Service Agreement shall include:

- (a) The failure to pay any amount when due;
- (b) The failure to comply with any material term or condition of this Appendix 2 or of the other portions of the Interconnection Service Agreement, including but not limited to any material breach of a representation, warranty or covenant (other than in subsections (a) and (c)-(e) of this Section) made in this Appendix 2;
- (c) Assignment of the Interconnection Service Agreement in a manner inconsistent with its terms;
- (d) Failure of an Interconnection Party to provide access rights, or an Interconnection Party's attempt to revoke or terminate access rights, that are provided under this Appendix 2; or
- (e) Failure of an Interconnection Party to provide information or data required to be provided under this Appendix 2 to another Interconnection Party for such other Interconnection Party to satisfy its obligations under this Appendix 2.

**15.2 Continued Operation:**

In the event of a Breach or Default by either Interconnected Entity, and subject to termination of the Interconnection Service Agreement under Section 16 of this Appendix 2, the Interconnected Entities shall continue to operate and maintain, as applicable, such DC power systems, protection and Metering Equipment, telemetering equipment, SCADA equipment, transformers, Secondary Systems, communications equipment, building facilities, software, documentation, structural components, and other facilities and appurtenances that are reasonably necessary for Transmission Provider and the Interconnected Transmission Owner to operate and maintain the Transmission System and the Transmission Owner Interconnection Facilities and for Interconnection Customer to operate and maintain the Customer Facility and the Customer Interconnection Facilities, in a safe and reliable manner.

**15.3 Notice of Breach:**

An Interconnection Party not in Breach shall give written notice of an event of Breach to the Breaching Party, to Transmission Provider and to other persons that the Breaching Party identifies in writing to the other Interconnection Party in advance. Such notice shall set forth, in reasonable detail, the nature of the Breach, and where known and applicable, the steps necessary to cure such Breach. In the event of a Breach by Interconnection Customer, Transmission Provider and the Interconnected Transmission Owner agree to provide notice of such Breach, at the same time and in the same manner as its notice to Interconnection Customer, to any Project Finance Entity provided that the Interconnection Customer has provided the notifying Interconnection Party with notice of an assignment to such Project Finance Entity(ies) and identifies such Project Finance Entity(ies) as contacts for notice purposes pursuant to Section 21 of this Appendix 2.

**15.4 Cure and Default:**

An Interconnection Party that commits a Breach and does not take steps to cure the Breach pursuant to this Section 15.4 is in Default of this Appendix 2 and of the Interconnection Service Agreement.

**15.4.1 Cure of Breach:**

Except for the event of Breach set forth in Section 15.1(a) above, the Breaching Interconnection Party (a) may cure the Breach within thirty days from the receipt of such notice; or (b) if the Breach cannot be cured within thirty (30) days, may commence in good faith all steps that are reasonable and appropriate to cure the Breach within such thirty day time period and thereafter diligently pursue such action to completion. In an event of Breach set forth in Section 15.1(a), the Breaching Interconnection Party may cure the Breach within five (5) days from the receipt of notice of the Breach.

**15.5 Right to Compel Performance:**

Notwithstanding the foregoing, upon the occurrence of an event of Default, a non-Defaulting Interconnection Party shall be entitled to (a) commence an action to require the Defaulting Interconnection Party to remedy such Default and specifically perform its duties and obligations hereunder in accordance with the terms and conditions hereof, (b) withhold payments, (c) suspend performance hereunder, and (d) exercise such other rights and remedies as it may have in equity or at law; provided, however, that the Transmission Provider shall not terminate the Interconnection Service Agreement due to the failure of Interconnection Customer to make a payment hereunder unless such failure could reasonably be expected to have a material adverse effect on the Interconnected Transmission Owner.

**15.6 Remedies Cumulative:**

Subject to Section 20.1, no remedy conferred by any provision of this Appendix 2 is intended to

be exclusive of any other remedy and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. The election of any one or more remedies shall not constitute a waiver of the right to pursue other available remedies.

## **16 Termination**

### **16.1 Termination:**

This Interconnection Service Agreement and Interconnection Service under this Interconnection Service Agreement may be terminated by the following means:

#### **16.1.1 By Mutual Consent:**

Interconnection Service may be terminated as of the date on which the Interconnection Parties mutually agree to terminate the Interconnection Service Agreement.

#### **16.1.2 By Interconnection Customer:**

Interconnection Customer may unilaterally terminate the Interconnection Service Agreement pursuant to Applicable Laws and Regulations upon providing Transmission Provider and the Interconnected Transmission Owner sixty (60) days prior written notice thereof, provided that Interconnection Customer is not then in Default under the Interconnection Service Agreement.

#### **16.1.3 Upon Default of Interconnection Customer:**

Transmission Provider may terminate the Interconnection Service Agreement upon the Default of Interconnection Customer of its obligations under the Interconnection Service Agreement by providing Interconnection Customer and the Interconnected Transmission Owner prior written notice of termination; provided, however, that Transmission Provider shall not terminate the Interconnection Service Agreement due to the failure of Interconnection Customer to make a payment hereunder unless such failure could reasonably be expected to have a material adverse effect on the Interconnected Transmission Owner.

## **16.2 Disposition of Facilities Upon Termination**

### **16.2.1 Disconnection:**

Upon termination of the Interconnection Service Agreement in accordance with this Section 16, Transmission Provider and/or the Interconnected Transmission Owner shall, in coordination with Interconnection Customer, physically disconnect the Customer Facility from the Transmission System, except to the extent otherwise allowed by this Appendix 2.

### **16.2.2 Network Facilities:**

At the time of termination, the Transmission Provider and the Interconnected Entities shall keep

in place any portion of the Interconnection Facilities and/or of any Merchant Network Upgrades that the Transmission Provider deems necessary for the safety, integrity and/or reliability of the Transmission System. Otherwise, Transmission Provider may, in its discretion, within 30 days following termination of Interconnection Service, require the removal of all or any part of the Interconnection Facilities or of any Merchant Network Upgrades.

**16.2.2.1** In the event that (i) the Interconnection Service Agreement and Interconnection Service under this Appendix 2 are terminated and (ii) Transmission Provider determines that some or all of the Interconnection Facilities or of any Merchant Network Upgrades that are owned by the Interconnection Customer are necessary for the safety, integrity and/or reliability of the Transmission System, Interconnection Customer, subject to Applicable Laws and Regulations, shall transfer to the Interconnected Transmission Owner title to the Interconnection Facilities or Merchant Network Upgrades that Transmission Provider has determined to be necessary for the safety, integrity and/or reliability of the Transmission System.

**16.2.2.2** In the event that removal of some or all of the Interconnection Facilities or any Merchant Network Upgrades is necessary to maintain compliance with Applicable Standards, Interconnection Customer shall be responsible for the costs of any such removal. Interconnection Customer shall have the right to take or retain title to equipment and/or facilities that are removed pursuant to this section; alternatively, in the event that the Interconnection Customer does not wish to retain title to removed equipment and/or facilities that it owns, the Interconnected Transmission Owner may elect to pay the Interconnection Customer a mutually agreed amount to acquire and own such equipment and/or facilities.

**16.2.3 Request for Disposition Determination:**

Interconnection Customer may request a determination from the Transmission Provider whether any Interconnection Facilities or any Merchant Network Upgrades will be removed in the event of any termination of Interconnection Service to the Customer Facility within the following year. Transmission Provider shall respond to that request no later than sixty (60) days after receipt.

**16.3 FERC Approval:**

Notwithstanding any other provision of this Appendix 2, no termination hereunder shall become effective until the Interconnected Entities and/or Transmission Provider have complied with all Applicable Laws and Regulations applicable to such termination, including the filing with the FERC of a notice of termination of the Interconnection Service Agreement, and acceptance of such notice for filing by the FERC.

**16.4 Survival of Rights:**

Termination of this Interconnection Service Agreement shall not relieve any Interconnection Party of any of its liabilities and obligations arising under this Interconnection Service Agreement (including Appendix 2) prior to the date on which termination becomes effective, and each Interconnection Party may take whatever judicial or administrative actions it deems desirable or necessary to enforce its rights hereunder. Applicable provisions of this Appendix 2 will continue

in effect after termination to the extent necessary to provide for final billings, billing adjustments, and the determination and enforcement of liability and indemnification obligations arising from events or acts that occurred while the Interconnection Service Agreement was in effect.

**17 Confidentiality:**

Information is Confidential Information only if it is clearly designated or marked in writing as confidential on the face of the document, or, if the information is conveyed orally or by inspection, if the Interconnection Party providing the information orally informs the Interconnection Party receiving the information that the information is confidential. If requested by any Interconnection Party, the disclosing Interconnection Party shall provide in writing the basis for asserting that the information referred to in this section warrants confidential treatment, and the requesting Interconnection Party may disclose such writing to an appropriate Governmental Authority. Any Interconnection Party shall be responsible for the costs associated with affording confidential treatment to its information.

**17.1 Term:**

During the term of the Interconnection Service Agreement, and for a period of three (3) years after the expiration or termination of the Interconnection Service Agreement, except as otherwise provided in this Section 17, each Interconnection Party shall hold in confidence, and shall not disclose to any person, Confidential Information provided to it by any other Interconnection Party.

**17.2 Scope:**

Confidential Information shall not include information that the receiving Interconnection Party can demonstrate: (i) is generally available to the public other than as a result of a disclosure by the receiving Interconnection Party; (ii) was in the lawful possession of the receiving Interconnection Party on a non-confidential basis before receiving it from the disclosing Interconnection Party; (iii) was supplied to the receiving Interconnection Party without restriction by a third party, who, to the knowledge of the receiving Interconnection Party, after due inquiry, was under no obligation to the disclosing Interconnection Party to keep such information confidential; (iv) was independently developed by the receiving Interconnection Party without reference to Confidential Information of the disclosing Interconnection Party; (v) is, or becomes, publicly known, through no wrongful act or omission of the receiving Interconnection Party or breach of this Appendix 2; or (vi) is required, in accordance with Section 17.7 of this Appendix 2, to be disclosed to any Governmental Authority or is otherwise required to be disclosed by law or subpoena, or is necessary in any legal proceeding establishing rights and obligations under the Interconnection Service Agreement. Information designated as Confidential Information shall no longer be deemed confidential if the Interconnection Party that designated the information as confidential notifies the other Interconnection Parties that it no longer is confidential.

**17.3 Release of Confidential Information:**

No Interconnection Party shall disclose Confidential Information to any other person, except to its

Affiliates (limited by the Commission's Standards of Conduct requirements), subcontractors, employees, consultants or to parties who may be or considering providing financing to or equity participation in Interconnection Customer or to potential purchasers or assignees of Interconnection Customer, on a need-to-know basis in connection with the Interconnection Service Agreement, unless such person has first been advised of the confidentiality provisions of this Section 17 and has agreed to comply with such provisions. Notwithstanding the foregoing, an Interconnection Party providing Confidential Information to any person shall remain primarily responsible for any release of Confidential Information in contravention of this Section 17.

**17.4 Rights:**

Each Interconnection Party retains all rights, title, and interest in the Confidential Information that it discloses to any other Interconnection Party. An Interconnection Party's disclosure to another Interconnection Party of Confidential Information shall not be deemed a waiver by any Interconnection Party or any other person or entity of the right to protect the Confidential Information from public disclosure.

**17.5 No Warranties:**

By providing Confidential Information, no Interconnection Party makes any warranties or representations as to its accuracy or completeness. In addition, by supplying Confidential Information, no Interconnection Party obligates itself to provide any particular information or Confidential Information to any other Interconnection Party nor to enter into any further agreements or proceed with any other relationship or joint venture.

**17.6 Standard of Care:**

Each Interconnection Party shall use at least the same standard of care to protect Confidential Information it receives as the Interconnection Party uses to protect its own Confidential Information from unauthorized disclosure, publication or dissemination. Each Interconnection Party may use Confidential Information solely to fulfill its obligations to the other Interconnection Parties under the Interconnection Service Agreement or to comply with Applicable Laws and Regulations.

**17.7 Order of Disclosure:**

If a Governmental Authority with the right, power, and apparent authority to do so requests or requires an Interconnection Party, by subpoena, oral deposition, interrogatories, requests for production of documents, administrative order, or otherwise, to disclose Confidential Information, that Interconnection Party shall provide the Interconnection Party that provided the information with prompt prior notice of such request(s) or requirement(s) so that the providing Interconnection Party may seek an appropriate protective order or waive compliance with the terms of this Appendix 2 or the Interconnection Service Agreement. Notwithstanding the absence of a protective order or agreement, or waiver, the Interconnection Party that is subjected to the request or order may disclose such Confidential Information which, in the opinion of its counsel, the Interconnection Party is legally compelled to disclose. Each Interconnection Party

shall use Reasonable Efforts to obtain reliable assurance that confidential treatment will be accorded any Confidential Information so furnished.

**17.8 Termination of Interconnection Service Agreement:**

Upon termination of the Interconnection Service Agreement for any reason, each Interconnection Party shall, within ten (10) calendar days of receipt of a written request from another party, use Reasonable Efforts to destroy, erase, or delete (with such destruction, erasure and deletion certified in writing to the requesting party) or to return to the other party, without retaining copies thereof, any and all written or electronic Confidential Information received from the requesting party.

**17.9 Remedies:**

The Interconnection Parties agree that monetary damages would be inadequate to compensate an Interconnection Party for another Interconnection Party's Breach of its obligations under this Section 17. Each Interconnection Party accordingly agrees that the other Interconnection Parties shall be entitled to equitable relief, by way of injunction or otherwise, if the first Interconnection Party breaches or threatens to breach its obligations under this Section 17, which equitable relief shall be granted without bond or proof of damages, and the receiving Interconnection Party shall not plead in defense that there would be an adequate remedy at law. Such remedy shall not be deemed to be an exclusive remedy for the breach of this Section 17, but shall be in addition to all other remedies available at law or in equity. The Interconnection Parties further acknowledge and agree that the covenants contained herein are necessary for the protection of legitimate business interests and are reasonable in scope. No Interconnection Party, however, shall be liable for indirect, incidental or consequential or punitive damages of any nature or kind resulting from or arising in connection with this Section 17.

**17.10 Disclosure to FERC or its Staff:**

Notwithstanding anything in this Section 17 to the contrary, and pursuant to 18 C.F.R. § 1b.20, if FERC or its staff, during the course of an investigation or otherwise, requests information from one of the Interconnection Parties that is otherwise required to be maintained in confidence pursuant to this Interconnection Service Agreement, the Interconnection Party, shall provide the requested information to FERC or its staff, within the time provided for in the request for information. In providing the information to FERC or its staff, the Interconnection Party must, consistent with 18 C.F.R. § 388.122, request that the information be treated as confidential and non-public by FERC and its staff and that the information be withheld from public disclosure. Interconnection Parties are prohibited from notifying the other Interconnection Parties prior to the release of the Confidential Information to the Commission or its staff. An Interconnection Party shall notify the other Interconnection Parties to the Interconnection Service Agreement when it is notified by FERC or its staff that a request to release Confidential Information has been received by FERC, at which time any of the Interconnection Parties may respond before such information would be made public, pursuant to 18 C.F.R. § 388.112.

**17.11**



Subject to the exception in Section 17.10 of this Appendix 2, no Interconnection Party shall disclose Confidential Information of another Interconnection Party to any person not employed or retained by the Interconnection Party, except to the extent disclosure is (i) required by law; (ii) reasonably deemed by the disclosing Interconnection Party to be required in connection with a dispute between or among the Interconnection Parties, or the defense of litigation or dispute; (iii) otherwise permitted by consent of the Interconnection Party that provided such Confidential Information, such consent not to be unreasonably withheld; or (iv) necessary to fulfill its obligations under this Interconnection Service Agreement or as a transmission service provider or a Control Area operator including disclosing the Confidential Information to an RTO or ISO or to a regional or national reliability organization. Prior to any disclosures of another Interconnection Party's Confidential Information under this subparagraph, the disclosing Interconnection Party shall promptly notify the other Interconnection Parties in writing and shall assert confidentiality and cooperate with the other Interconnection Parties in seeking to protect the Confidential Information from public disclosure by confidentiality agreement, protective order or other reasonable measures.

#### **17.12**

This provision shall not apply to any information that was or is hereafter in the public domain (except as a result of a Breach of this provision).

#### **17.13 Return or Destruction of Confidential Information:**

If an Interconnection Party provides any Confidential Information to another Interconnection Party in the course of an audit or inspection, the providing Interconnection Party may request the other party to return or destroy such Confidential Information after the termination of the audit period and the resolution of all matters relating to that audit. Each Interconnection Party shall make Reasonable Efforts to comply with any such requests for return or destruction within ten days of receiving the request and shall certify in writing to the other Interconnection Party that it has complied with such request.

#### **18 Subcontractors**

##### **18.1 Use of Subcontractors:**

Nothing in this Appendix 2 shall prevent the Interconnection Parties from utilizing the services of subcontractors as they deem appropriate to perform their respective obligations hereunder, provided, however, that each Interconnection Party shall require its subcontractors to comply with all applicable terms and conditions of this Appendix 2 in providing such services.

##### **18.2 Responsibility of Principal:**

The creation of any subcontract relationship shall not relieve the hiring Interconnection Party of any of its obligations under this Appendix 2. Each Interconnection Party shall be fully responsible to the other Interconnection Parties for the acts and/or omissions of any subcontractor it hires as if

no subcontract had been made.

**18.3 Indemnification by Subcontractors:**

To the fullest extent permitted by law, an Interconnection Party that uses a subcontractor to carry out any of the Interconnection Party's obligations under this Appendix 2 shall require each of its subcontractors to indemnify, hold harmless and defend each other Interconnection Party, its representatives and assigns from and against any and all claims and/or liability for damage to property, injury to or death of any person, including the employees of any Interconnection Party or of any Affiliate of any Interconnection Party, or any other liability incurred by the other Interconnection Party or any of its Affiliates, including all expenses, legal or otherwise, to the extent caused by any act or omission, negligent or otherwise, by such subcontractor and/or its officers, directors, employees, agents and assigns, that arises out of or is connected with the operation of the facilities of either Interconnected Entity described in this Appendix 2; provided, however, that no Interconnection Party or Affiliate thereof shall be entitled to indemnity under this Section 18.3 in respect of any injury, loss, or damage to the extent that such loss, injury, or damage results from the negligence or willful misconduct of the Interconnection Party or Affiliate seeking indemnity.

**18.4 Subcontractors Not Beneficiaries:**

No subcontractor is intended to be, or shall be deemed to be, a third-party beneficiary of an Interconnection Service Agreement.

**19 Information Access And Audit Rights**

**19.1 Information Access:**

Consistent with Applicable Laws and Regulations, each Interconnection Party shall make available such information and/or documents reasonably requested by another Interconnection Party that are necessary to (i) verify the costs incurred by the other Interconnection Party for which the requesting Interconnection Party is responsible under this Appendix 2 and (ii) carry out obligations and responsibilities under this Appendix 2, provided that the Interconnection Parties shall not use such information for purposes other than those set forth in this Section 19.1 and to enforce their rights under this Appendix 2.

**19.2 Reporting of Non-Force Majeure Events:**

Each Interconnection Party shall notify the other Interconnection Parties when it becomes aware of its inability to comply with the provisions of this Appendix 2 for a reason other than Force Majeure. The parties agree to cooperate with each other and provide necessary information regarding such inability to comply, including, but not limited to, the date, duration, reason for the inability to comply, and corrective actions taken or planned to be taken with respect to such inability to comply. Notwithstanding the foregoing, notification, cooperation or information provided under this Section shall not entitle the receiving Interconnection Party to allege a cause of action for anticipatory breach of the Interconnection Service Agreement.

### **19.3 Audit Rights:**

Subject to the requirements of confidentiality under Section 17 of this Appendix 2, each Interconnection Party shall have the right, during normal business hours, and upon prior reasonable notice to the pertinent other Interconnection Party, to audit at its own expense the other Interconnection Party's accounts and records pertaining to such Interconnection Party's performance and/or satisfaction of obligations arising under this Appendix 2. Any audit authorized by this Section shall be performed at the offices where such accounts and records are maintained and shall be limited to those portions of such accounts and records that relate to obligations under this Appendix 2. Any request for audit shall be presented to the Interconnection Party to be audited not later than twenty-four months after the event as to which the audit is sought. Each Interconnection Party shall preserve all records held by it for the duration of the audit period.

### **20 Disputes**

#### **20.1 Submission:**

Any claim or dispute that any Interconnection Party may have against another arising out of the Interconnection Service Agreement may be submitted for resolution in accordance with the dispute resolution provisions of the Tariff.

#### **20.2 Rights Under The Federal Power Act:**

Nothing in this Section shall restrict the rights of any Interconnection Party to file a complaint with FERC under relevant provisions of the Federal Power Act.

#### **20.3 Equitable Remedies:**

Nothing in this Section shall prevent any Interconnection Party from pursuing or seeking any equitable remedy available to it under Applicable Laws and Regulations.

### **21 Notices**

#### **21.1 General:**

Any notice, demand or request required or permitted to be given by any Interconnection Party to another and any instrument required or permitted to be tendered or delivered by any Interconnection Party in writing to another may be so given, tendered or delivered, by recognized national courier, or by depositing the same with the United States Postal Service with postage prepaid, for delivery by certified or registered mail, addressed to the Interconnection Party, or personally delivered to the Interconnection Party, at the address specified in the Interconnection Service Agreement. Such notices, if agreed to by the Interconnection Parties, may be made via electronic means, with e-mail confirmation of delivery.

## **21.2 Emergency Notices:**

Moreover, notwithstanding the foregoing, any notice hereunder concerning an Emergency Condition or other occurrence requiring prompt attention, or as necessary during day-to-day operations, may be made by telephone or in person, provided that such notice is confirmed in writing promptly thereafter. Notice in an Emergency Condition, or as necessary during day-to-day operations, shall be provided (i) if by the Interconnected Transmission Owner, to the shift supervisor at, as applicable, a Generation Interconnection Customer's Customer Facility or a Transmission Interconnection Customer's control center; and (ii) if by the Interconnection Customer, to the shift supervisor at the Interconnected Transmission Owner's transmission control center.

## **21.3 Operational Contacts:**

Each Interconnection Party shall designate, and provide to each other Interconnection Party contact information concerning, a representative to be responsible for addressing and resolving operational issues as they arise during the term of the Interconnection Service Agreement.

## **22 Miscellaneous**

### **22.1 Regulatory Filing:**

In the event that this Interconnection Service Agreement contains any terms that deviate materially from the form included in Attachment O of the Tariff, Transmission Provider shall file the Interconnection Service Agreement on behalf of itself and the Interconnected Transmission Owner with FERC as a service schedule under the Tariff within thirty days after execution. Interconnection Customer may request that any information so provided be subject to the confidentiality provisions of Section 17 of this Appendix 2. An Interconnection Customer shall have the right, with respect to any Interconnection Service Agreement tendered to it, to request (a) dispute resolution under Section 12 of the Tariff or, if concerning the Regional Transmission Expansion Plan, consistent with Schedule 5 of the Operating Agreement, or (b) that Transmission Provider file the agreement unexecuted with the Commission. With the filing of any unexecuted Interconnection Service Agreement, Transmission Provider may, in its discretion, propose to FERC a resolution of any or all of the issues in dispute between or among the Interconnection Parties.

### **22.2 Waiver:**

Any waiver at any time by an Interconnection Party of its rights with respect to a Breach or Default under this Interconnection Service Agreement or with respect to any other matters arising in connection with this Appendix 2, shall not be deemed a waiver or continuing waiver with respect to any subsequent Breach or Default or other matter.

### **22.3 Amendments and Rights Under the Federal Power Act:**

This Interconnection Service Agreement may be amended or supplemented only by a written

instrument duly executed by all Interconnection Parties. An amendment to the Interconnection Service Agreement shall become effective and a part of this Interconnection Service Agreement upon satisfaction of all Applicable Laws and Regulations. Notwithstanding the foregoing, nothing contained in this Interconnection Service Agreement shall be construed as affecting in any way any of the rights of any Interconnection Party with respect to changes in applicable rates or charges under Section 205 of the Federal Power Act and/or FERC's rules and regulations thereunder, or any of the rights of any Interconnection Party under Section 206 of the Federal Power Act and/or FERC's rules and regulations thereunder. The terms and conditions of this Interconnection Service Agreement and every appendix referred to therein shall be amended, as mutually agreed by the Interconnection Parties, to comply with changes or alterations made necessary by a valid applicable order of any Governmental Authority having jurisdiction hereof.

**22.4 Binding Effect:**

This Interconnection Service Agreement, including this Appendix 2, and the rights and obligations thereunder shall be binding upon, and shall inure to the benefit of, the successors and assigns of the Interconnection Parties.

**22.5 Regulatory Requirements:**

Each Interconnection Party's performance of any obligation under this Interconnection Service Agreement for which such party requires approval or authorization of any Governmental Authority shall be subject to its receipt of such required approval or authorization in the form and substance satisfactory to the receiving Interconnection Party, or the Interconnection Party making any required filings with, or providing notice to, such Governmental Authorities, and the expiration of any time period associated therewith. Each Interconnection Party shall in good faith seek, and shall use Reasonable Efforts to obtain, such required authorizations or approvals as soon as reasonably practicable.

**23 Representations And Warranties**

**23.1 General:**

Each Interconnected Entity hereby represents, warrants and covenants as follows with these representations, warranties, and covenants effective as to the Interconnected Entity during the time the Interconnection Service Agreement is effective:

**23.1.1 Good Standing:**

Such Interconnected Entity is duly organized or formed, as applicable, validly existing and in good standing under the laws of its State of organization or formation, and is in good standing under the laws of the respective State(s) in which it is incorporated and operates as stated in the Interconnection Service Agreement.

**23.1.2 Authority:**

Such Interconnected Entity has the right, power and authority to enter into the Interconnection Service Agreement, to become a party hereto and to perform its obligations hereunder. The Interconnection Service Agreement is a legal, valid and binding obligation of such Interconnected Entity, enforceable against such Interconnected Entity in accordance with its terms, except as the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization or other similar laws affecting creditors' rights generally and by general equitable principles (regardless of whether enforceability is sought in a proceeding in equity or at law).

**23.1.3 No Conflict:**

The execution, delivery and performance of the Interconnection Service Agreement does not violate or conflict with the organizational or formation documents, or bylaws or operating agreement, of the Interconnected Entity, or with any judgment, license, permit, order, material agreement or instrument applicable to or binding upon the Interconnected Entity or any of its assets.

**23.1.4 Consent and Approval:**

Such Interconnected Entity has sought or obtained, or, in accordance with the Interconnection Service Agreement will seek or obtain, each consent, approval, authorization, order, or acceptance by any Governmental Authority in connection with the execution, delivery and performance of the Interconnection Service Agreement and it will provide to any Governmental Authority notice of any actions under this Appendix 2 that are required by Applicable Laws and Regulations.

**24 Tax Liability**

**24.1 Safe Harbor Provisions:**

This Section 24.1 is applicable only to Generation Interconnection Customers. Provided that Interconnection Customer agrees to conform to all requirements of the Internal Revenue Service ("IRS") (e.g., the "safe harbor" provisions of IRS Notices 2001-82 and 88-129) that would confer nontaxable status on some or all of the transfer of property, including money, by Interconnection Customer to the Interconnected Transmission Owner for payment of the Costs of construction of the Transmission Owner Interconnection Facilities, the Interconnected Transmission Owner, based on such agreement and on current law, shall treat such transfer of property to it as nontaxable income and, except as provided in Section 24.4.2 below, shall not include income taxes in the Costs of Transmission Owner Interconnection Facilities that are payable by Interconnection Customer under the Interconnection Service Agreement or the Interconnection Construction Service Agreement. Interconnection Customer shall document its agreement to conform to IRS requirements for such non-taxable status in the Interconnection Service Agreement, the Interconnection Construction Service Agreement, and/or the Interim Interconnection Service Agreement.

**24.2 Tax Indemnity:**

Interconnection Customer shall indemnify the Interconnected Transmission Owner for any costs

that Interconnected Transmission Owner incurs in the event that the IRS and/or a state department of revenue (State) determines that the property, including money, transferred by Interconnection Customer to the Interconnected Transmission Owner with respect to the construction of the Transmission Owner Interconnection Facilities and/or any Merchant Network Upgrades is taxable income to the Interconnected Transmission Owner. Interconnection Customer shall pay to the Interconnected Transmission Owner, on demand, the amount of any income taxes that the IRS or a State assesses to the Interconnected Transmission Owner in connection with such transfer of property and/or money, plus any applicable interest and/or penalty charged to the Interconnected Transmission Owner. In the event that the Interconnected Transmission Owner chooses to contest such assessment, either at the request of Interconnection Customer or on its own behalf, and prevails in reducing or eliminating the tax, interest and/or penalty assessed against it, the Interconnected Transmission Owner shall refund to Interconnection Customer the excess of its demand payment made to the Interconnected Transmission Owner over the amount of the tax, interest and penalty for which the Interconnected Transmission Owner is finally determined to be liable. Interconnection Customer's tax indemnification obligation under this section shall survive any termination of the Interconnection Service Agreement or Interconnection Construction Service Agreement.

#### **24.3 Taxes Other Than Income Taxes:**

Upon the timely request by Interconnection Customer, and at Interconnection Customer's sole expense, the Interconnected Transmission Owner shall appeal, protest, seek abatement of, or otherwise contest any tax (other than federal or state income tax) asserted or assessed against the Interconnected Transmission Owner for which Interconnection Customer may be required to reimburse Transmission Provider under the terms of this Appendix 2 or Part VI of the Tariff. Interconnection Customer shall pay to the Interconnected Transmission Owner on a periodic basis, as invoiced by the Interconnected Transmission Owner, the Interconnected Transmission Owner's documented reasonable costs of prosecuting such appeal, protest, abatement, or other contest. Interconnection Customer and the Interconnected Transmission Owner shall cooperate in good faith with respect to any such contest. Unless the payment of such taxes is a prerequisite to an appeal or abatement or cannot be deferred, no amount shall be payable by Interconnection Customer to the Interconnected Transmission Owner for such contested taxes until they are assessed by a final, non-appealable order by any court or agency of competent jurisdiction. In the event that a tax payment is withheld and ultimately due and payable after appeal, Interconnection Customer will be responsible for all taxes, interest and penalties, other than penalties attributable to any delay caused by the Interconnected Transmission Owner.

#### **24.4 Income Tax Gross-Up**

##### **24.4.1 Additional Security:**

In the event that Interconnection Customer does not provide the safe harbor documentation required under Section 24.1 prior to execution of the Interconnection Service Agreement, within 15 days after such execution, Transmission Provider shall notify Interconnection Customer in writing of the amount of additional Security that Interconnection Customer must provide. The amount of Security that a Transmission Interconnection Customer must provide initially pursuant

to this Interconnection Service Agreement shall include any amounts described as additional Security under this Section 24.4 regarding income tax gross-up.

**24.4.2 Amount:**

The required additional Security shall be in an amount equal to the amount necessary to gross up fully for currently applicable federal and state income taxes the estimated Costs of Local Upgrades and Network Upgrades for which Interconnection Customer previously provided Security. Accordingly, the additional Security shall equal the amount necessary to increase the total Security provided to the amount that would be sufficient to permit the Interconnected Transmission Owner to receive and retain, after the payment of all applicable income taxes ("Current Taxes") and taking into account the present value of future tax deductions for depreciation that would be available as a result of the anticipated payments or property transfers (the "Present Value Depreciation Amount"), an amount equal to the estimated Costs of Local Upgrades and Network Upgrades for which Interconnection Customer is responsible under the Interconnection Service Agreement. For this purpose, Current Taxes shall be computed based on the composite federal and state income tax rates applicable to the Interconnected Transmission Owner at the time the additional Security is received, determined using the highest marginal rates in effect at that time (the "Current Tax Rate"), and (ii) the Present Value Depreciation Amount shall be computed by discounting the Interconnected Transmission Owner's anticipated tax depreciation deductions associated with such payments or property transfers by its current weighted average cost of capital.

**24.4.3 Time for Payment:**

Interconnection Customer must provide the additional Security, in a form and with terms as required by Sections 212.4 of the Tariff, within 15 days after its receipt of Transmission Provider's notice under this section. The requirement for additional Security under this section shall be treated as a milestone included in the Interconnection Service Agreement pursuant to Section 217.5 of the Tariff.

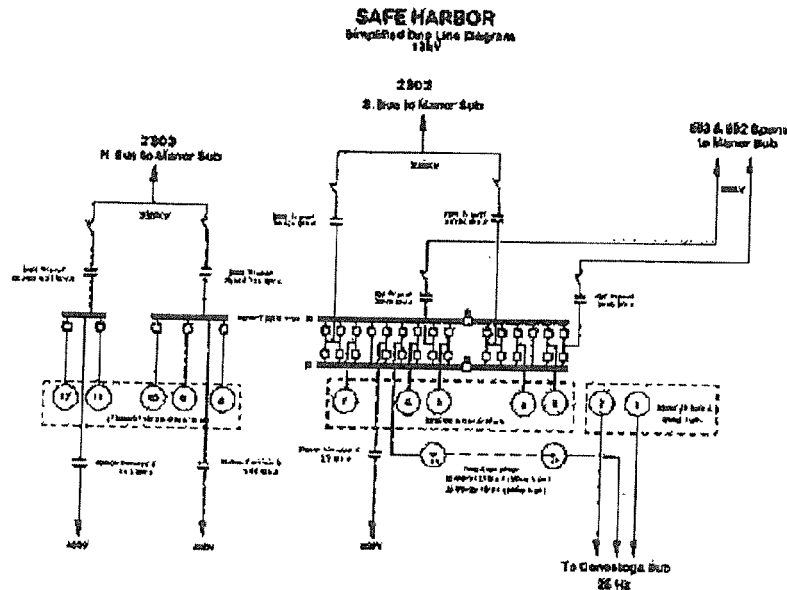
**24.5 Tax Status:**

Each Party shall cooperate with the other to maintain the other Party's tax status. Nothing in this Interconnection Service Agreement or Part VI of the Tariff is intended to adversely affect any Interconnected Transmission Owner's tax exempt status with respect to the issuance of bonds including, but not limited to, local furnishing bonds.





**SCHEDULE B**  
**SINGLE-LINE DIAGRAM**



25 cycle

1. Points of Interconnection

- The Point of Interconnection for each power cable is the bolts at the Conestoga Substation that connect the flexible shunts above the pothead to the bus bar.
- The Point of Interconnection for all relays, sensing, protection, and control cables is where they land on the Interconnected Transmission Owner's terminal strip in the Conestoga Substation control house.

2. Ownership of equipment associated with the Point Of Interconnection

- There are eight (8) 13.2kV power cable leads (4 cables per phase and 2 phases) from the Units 1, 2, 27FC to the Conestoga Substation. The cables run through tunnels and an exit structure. The tunnels, cables, and exit structure in the Conestoga Substation is owned, maintained, and tested by the Interconnection Customer.
- There are North and South Oil Circuit Breakers (OCBs) for each Unit 1, 2, & 27FC

located in the Conestoga Substation with manual disconnect switches on both the generator and bus sides of the OCBs. These manual disconnects, cable ground disconnects, and OCBs are owned, maintained, and tested by the Interconnected Transmission Owner.

- The power supply to operate the OCBs listed above is provided by a DC system (charger, battery, etc.) located at Conestoga Substation. This DC system is owned, maintained, and tested by the Interconnected Transmission Owner.
- The protection relays for the Units 1,2, & 27FC and their associated cables are located at the Safe Harbor plant are owned, maintained, and tested by the Interconnection Customer.
- The Interconnection Customer's differential relays receive input from CTs that are physically located in the OCBs. The CTs as well as the OCBs are owned, maintained, and tested by the Interconnected Transmission Owner.
- There are auxiliary relays in the Conestoga Substation control house that connect by DC control cable that operate the OCBs. These auxiliary relay DC control cables are owned, maintained, and tested by the Interconnected Transmission Owner.
- All relays located in Conestoga Substation are owned, maintained, and tested by the Interconnected Transmission Owner.
- All relays in the Safe Harbor plant are owned, maintained, and tested by the Interconnection Customer.
- Sensing and control cables between the Safe Harbor plant and Conestoga Substation are owned, maintained, and tested by the Interconnection Customer to the point where they land on the Interconnected Transmission Owner's terminal strips in Conestoga Substation.
- There are relay DC supply knife switches for Units 1, 2, #27FC located at the Conestoga Substation that are owned, maintained, and tested by the Interconnected Transmission Owner.

### 3. Operation of the equipment associated with the Point of Interconnection

- Interconnection Customer operates the North and South OCBs, cable ground disconnects, and manual disconnects for Units 1, 2, #27FC operation and isolation purposes.
- Interconnection Customer operates the relay DC supply knife switches for Units 1, 2, #27FC for operation and isolation purposes.

60 cycle

#### 1. Points of Interconnection

- The Point of Interconnection for each generator lead is the first set of bolts at the Manor Substation Towers.
    - Transformer #692 connects to the Interconnected Transmission Owner's tower 38137s21912 by south 692 Span.
    - Transformer #693 connects to the Interconnected Transmission Owner's tower 38137s21912 by north 693 Span.
    - Transformers #2301 and 2302 connect to the Interconnected Transmission Owner's tower 38122s211919 by south span 2302-Otter Creek.
    - Transformers #2303 and 2304 connect to the Interconnected Transmission Owner's tower 38112s21922 by north span 2303-Graceton.
  - The Point of Interconnection for all relays, sensing, protection, and control cables is where they land on an Interconnected Transmission Owner's terminal strip in the Manor Substation control house.
2. Ownership of equipment associated with the Point Of Interconnection
- Transformers #692 and 693 step up voltage from 13.8kV to 69KV and are owned, maintained, and tested by the Interconnection Customer.
  - Transformers #2301, 2302, 2303, and 2304 step up voltage from 13.8kV to 230kV are owned, maintained, and tested by the Interconnection Customer.
  - The bus structure on the powerhouse and the highline to the first connection bolt at the first tower for each span is owned, maintained, and tested by the Interconnection Customer.
  - The towers (38137s21912, 38122s211919, & 38112s21922) are owned, maintained, and tested by the Interconnected Transmission Owner.
  - For each span and transformer; #692, 693, 2301, 2302, 2303, 2304, the power, control, protection and status indication cables are owned, maintained, and tested by the Interconnection Customer from the Safe Harbor plant to the Point of Interconnection in Manor Substation. ( first bolt on tower)
  - Differential span protection relays for all 4 spans; 692, 693, 2302, 2303, are located at Manor Substation and are owned, maintained, and tested by the Interconnected Transmission Owner.
  - The CTs and cables associated with Safe Harbor equipment are located at, owned, maintained, and tested by the Interconnection Customer.
  - Over current span protection relays; #2302 and 2303, are located at Manor Substation and are owned, maintained, and tested by the Interconnected Transmission Owner.

Case 5:17-cv-01752-JLS Document 4-17 Filed 04/17/17 Page 2 of 12

- Transformers #692 and 693 have only transformer differential protection. The protection is located at, owned, maintained, and tested by the Interconnection Customer.
- Transformers #2301 & 2302 have transformer differential and over-current protection. The protection is located at, owned, maintained, and tested by the Interconnection Customer.
- Transformers #2303 & 2304 have 13.8 kV bus, transformer and overall differential; and 13.8kV bus ground and sudden pressure tripping. Tripping devices, lockouts and auxiliary, associated with Safe Harbor equipment are located at, owned, maintained, and tested by the Interconnection Customer.

3. Operation of the equipment associated with the Point of Interconnection

- Equipment associated with the Point of Interconnection on the Interconnection Customer's side is operated by the Interconnection Customer.
- Equipment associated with the Point of Interconnection on the Interconnected Transmission Owner's side is operated by the Interconnected Transmission Owner.

The Parties will continue to own and maintain the equipment as described here in.

### SCHEDULE C

#### LIST OF METERING EQUIPMENT

A) Ownership of metering equipment associated with the Point Of Interconnection

25 cycle

The 3 PTs for the 13.8KV voltage metering are located at Conestoga Substation. These PTs are owned, maintained, and tested by the Interconnected Transmission Owner.

The sensing cables from the Interconnected Transmission Owner's terminal strip at Conestoga Substation and the metering equipment that senses from the above PTs is owned, maintained, and tested by the Interconnection Customer.

60 cycle

The 4 PTs for the 230KV and 69KV voltage metering are located at Manor Substation. These PTs are owned, maintained, and tested by the Interconnected Transmission Owner.

The sensing cables from the Interconnected Transmission Owner's terminal strip at Manor Substation and the metering equipment that senses from the above PTs is owned, maintained, and tested by the Interconnection Customer.

B) Safe Harbor to PPL EU

The metered quantities described in C & D below are provided to the Interconnected Transmission Owner by way of a RTU to be installed, serviced, tested, and calibrated by the Interconnection Customer.

In accordance with Section 8.5.2 of Appendix 2 to this ISA, a remote terminal unit or equivalent data collection and transfer equipment that conforms to the requirements of the Transmission Provider, the Interconnection Customer, and the Interconnected Transmission Owner is to be installed by the Interconnection Customer at its expense under this ISA. Until such installation is complete and the remote terminal unit or equivalent data collection and transfer equipment is accepted and in service, the existing remote terminal unit or equivalent data collection and transfer equipment will remain in use, and the Interconnected Transmission Owner shall provide all data output there from to the Parties to this ISA, with the foregoing deemed to be in full satisfaction, without limitation, of all requirements under this ISA relating to remote terminal unit or equivalent data collection and transfer equipment.

C) Safe Harbor 25 Cycle Metering

Generators 1, 2 and the 27 frequency converter (FC) each have 4 metered quantities. SHWPC

services, calibrates, and tests each of these listed devices.

Equipment Designation			# 1 Generator		
No	Metering Quantity	Source Device	Source Location	Location of Metering Equipment	External Destination
1	MW	Nexus 1252 Revenue Meter	Power Terminal-Generator	Old Control Room El. 252'	X
2	MVAR	Nexus 1252 Revenue Meter	Power Terminal-Generator	Old Control Room El. 252'	X
3	MWH (out)	Nexus 1252 Revenue Meter	Power Terminal-Generator	Old Control Room El. 252'	X
4	MWH (in)	Nexus 1252 Revenue Meter	Power Terminal-Generator	Old Control Room El. 252'	X

Equipment Designation			# 2 Generator		
No	Metering Quantity	Source Device	Source Location	Location of Metering Equipment	External Destination
1	MW	Nexus 1252 Revenue Meter	Power Terminal-Generator	Old Control Room El. 252'	X
2	MVAR	Nexus 1252 Revenue Meter	Power Terminal-Generator	Old Control Room El. 252'	X
3	MWH (out)	Nexus 1252 Revenue Meter	Power Terminal-Generator	Old Control Room El. 252'	X
4	MWH (in)	Nexus 1252 Revenue Meter	Power Terminal-Generator	Old Control Room El. 252'	X

Equipment Designation			# 27 Frequency Converter		
No	Metering Quantity	Source Device	Source Location	Location of Metering Equipment	External Destination
1	MW	Nexus 1252 Revenue Meter	Power Terminal-Generator	Old Control Room El. 252'	X
2	MVAR	Nexus 1252 Revenue Meter	Power Terminal-Generator	Old Control Room El. 252'	X
3	MWH (out)	Nexus 1252 Revenue Meter	Power Terminal-Generator	Old Control Room El. 252'	X
4	MWH (in)	Nexus 1252 Revenue Meter	Power Terminal-Generator	Old Control Room El. 252'	X

D) Safe Harbor 60 Cycle Metering

Transformers #692 and #693 are 69kV and each has 4 metered quantities. Transformers #2301 and #2302 are 230kV and each has 4 metered quantities. Transformers #2303 and #2304 are 230kV and each has 4 metered quantities. SHWPC services, calibrates, and tests each of these listed devices.

Equipment Designation			# 692 Transformer		
No	Metering Quantity	Source Device	Source Location	Location of Metering Equipment	External Destination
1	MW	Nexus 1252 Revenue Meter	Low Side of Transformer	Old Control Room El. 252'	X
2	MVAR	Nexus 1252 Revenue Meter	Low Side of Transformer	Old Control Room El. 252'	X
3	MWH (out)	Nexus 1252 Revenue Meter	Low Side of Transformer	Old Control Room El. 252'	X
4	MWH (in)	Nexus 1252 Revenue Meter	Low Side of Transformer	Old Control Room El. 252'	X



Equipment Designation			# 693 Transformer		
No	Metering Quantity	Source Device	Source Location	Location of Metering Equipment	External Destination
1	MW	Nexus 1252 Revenue Meter	Low Side of Transformer	Old Control Room El. 252'	X
2	MVAR	Nexus 1252 Revenue Meter	Low Side of Transformer	Old Control Room El. 252'	X
3	MWH (out)	Nexus 1252 Revenue Meter	Low Side of Transformer	Old Control Room El. 252'	X
4	MWH (in)	Nexus 1252 Revenue Meter	Low Side of Transformer	Old Control Room El. 252'	X

Equipment Designation			# 2301 Transformer		
No	Metering Quantity	Source Device	Source Location	Location of Metering Equipment	External Destination
1	MW	Nexus 1252 Revenue Meter	Low Side of Transformer	Old Control Room El. 252'	X
2	MVAR	Nexus 1252 Revenue Meter	Low Side of Transformer	Old Control Room El. 252'	X
3	MWH (out)	Nexus 1252 Revenue Meter	Low Side of Transformer	Old Control Room El. 252'	X
4	MWH (in)	Nexus 1252 Revenue Meter	Low Side of Transformer	Old Control Room El. 252'	X

Equipment Designation			# 2302 Transformer		
No	Metering Quantity	Source Device	Source Location	Location of Metering Equipment	External Destination
1	MW	Nexus 1252 Revenue Meter	Low Side of Transformer	Old Control Room El. 252'	X
2	MVAR	Nexus 1252 Revenue Meter	Low Side of Transformer	Old Control Room El. 252'	X
3	MWH (out)	Nexus 1252 Revenue Meter	Low Side of Transformer	Old Control Room El. 252'	X
4	MWH (in)	Nexus 1252 Revenue Meter	Low Side of Transformer	Old Control Room El. 252'	X

Equipment Designation			# 2303 Transformer		
No	Metering Quantity	Source Device	Source Location	Location of Metering Equipment	External Destination
1	MW	Nexus 1252 Revenue Meter	Low Side of Transformer	Box Behind TBR Bd. El. 208'	X
2	MVAR	Nexus 1252 Revenue Meter	Low Side of Transformer	Box Behind TBR Bd. El. 208'	X
3	MWH (out)	Nexus 1252 Revenue Meter	Low Side of Transformer	Box Behind TBR Bd. El. 208'	X
4	MWH (in)	Nexus 1252 Revenue Meter	Low Side of Transformer	Box Behind TBR Bd. El. 208'	X

Equipment Designation			# 2304 Transformer		
No	Metering Quantity	Source Device	Source Location	Location of Metering Equipment	External Destination
1	MW	Nexus 1252 Revenue Meter	Low Side of Transformer	Box Behind TBR Bd. El. 208'	X
2	MVAR	Nexus 1252 Revenue Meter	Low Side of Transformer	Box Behind TBR Bd. El. 208'	X
3	MWH (out)	Nexus 1252 Revenue Meter	Low Side of Transformer	Box Behind TBR Bd. El. 208'	X
4	MWH (in)	Nexus 1252 Revenue Meter	Low Side of Transformer	Box Behind TBR Bd. El. 208'	X

**SCHEDULE D**

**APPLICABLE TECHNICAL REQUIREMENTS AND STANDARDS**

There are no Applicable Technical Requirements and Standards for this pre-existing Customer Facility.

**SCHEDULE E**  
**SCHEDULE OF CHARGES**

None

**SCHEDULE F**

**SCHEDULE OF NON-STANDARD TERMS & CONDITIONS**

In lieu of the Power Factor in Section 12 of this ISA, the Parties agree that the Voltage Schedules are:

- 1) Manor Substation 230kV bus between 241.5kV high, scheduled 230.0kV, and 218.0kV low.
- 2) Manor Substation 69kV

69KV	All Values in KV			
	Weekday Off Peak	Weekday On Peak	Weekend Off Peak	Weekend On Peak
High	87.4	69.2	67.4	68.6
Scheduled	66.1	67.9	66.1	67.3
Low	62.7	64.6	62.7	63.9

- 3) Conestoga Substation 13.8kV bus normally 13.27kV and not manually reduced to a point that would cause any generator to operate at leading power factor.

**SCHEDULE G**

**INTERCONNECTION CUSTOMER'S AGREEMENT TO CONFORM WITH IRS SAFE  
HARBOR PROVISIONS FOR NON-TAXABLE STATUS**

Not Required.

Case 5:17-cv-01752-JLS Document 4-17 Filed 04/17/17 Page 12 of 12

**SCHEDULE H**  
**INTERCONNECTION REQUIREMENTS FOR A**  
**WIND GENERATION FACILITY**

Not Required

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

NATIONAL RAILROAD PASSENGER	:	
CORPORATION (AMTRAK)	:	NO. 17-CV-1752
60 Massachusetts Avenue, NE	:	
Washington, DC 20020	:	
	:	
Plaintiff	:	
	:	
v.	:	CIVIL ACTION – LAW
	:	
4.0446 ACRES MORE OR LESS OF	:	
LAND AND FIXTURES located at	:	
Powerhouse Road, Manor Township	:	
Lancaster County, PA 17516	:	
	:	
and	:	
	:	
PPL ELECTRIC UTILITIES CORP.	:	
Two North Ninth Street	:	
Allentown, PA 18101	:	

**NOTICE OF CONDEMNATION**

To: PPL Electric Utilities Corporation

1. This Notice of Condemnation is directed to PPL Electric Utilities Corporation (“PPL”).

2. Pursuant to Federal Rule of Civil Procedure 71.1(d), PPL is hereby notified that Plaintiff National Railroad Passenger Corporation (“Amtrak”) has commenced an action to condemn property in the United States District Court for the Eastern District of Pennsylvania at the above-captioned term and number.



3. Amtrak is informed and believes that PPL is the owner in fee simple of the land parcel and the improvements thereon at Powerhouse Road, Manor Township, Lancaster County, Pennsylvania, tax parcel 410-11106-0-0000, and conveyed to PPL in the Special Warranty Deed dated May 21, 2015 and recorded as Instrument number 6206115 (the “Tax Parcel”). A copy of this deed is attached hereto as Exhibit A.

4. The premises to be acquired is that portion of the Tax Parcel which is approximately 575 feet in width and 380 feet in depth, comprising 4.0446 acres, and which comprises the Conestoga Substation power station (the “Subject Property”). The Subject Property is separated from the remainder of the Tax Parcel by an approximately 70 feet high vertical cliff. A diagram showing the Tax Parcel and the section of it constituting the Subject Property is attached hereto as Exhibit B. The Subject Property includes all improvements, as well as the fixtures on the premises currently owned by PPL and depicted on the diagram attached hereto as Exhibit C.

5. Amtrak reserves to PPL a floating easement sufficient for PPL’s fulfillment of its obligation to transmit power through the Conestoga Substation pursuant to the Transmission Contract between PPL, Safe Harbor Water and Power Corporation, and Baltimore Gas and Electric Company dated October 1, 1960 (the

“Transmission Contract”). A copy the Transmission Agreement is attached hereto as Exhibit D.

6. Amtrak reserves to PPL a floating easement sufficient for PPL’s fulfillment of its obligation to transmit power through the Conestoga Substation pursuant to the Interconnection Service Agreement among PJM Interconnection, L.L.C. and Safe Harbor Water Power Corporation and PPL Electric Utilities Corporation effective January 7, 2013 (the “Interconnection Service Agreement”). A copy the Interconnection Service Agreement is attached hereto as Exhibit E.

7. The acquisition by condemnation of the Subject Property shall be in fee simple and shall include any and all rights that run with the Subject Property, excepting the easement rights reserved to PPL as described herein.

8. Except as described herein, any and all secured interest and rights in the Subject Property are terminated and extinguished by operation of law through this eminent domain proceeding.

9. PPL and the Subject Property have been named as defendants in the action, which is captioned as set forth above.

10. The authority for the taking is set forth in the United States Code at 49 U.S.C. § 24311.

11. The Subject Property is necessary for intercity rail passenger service as authorized and required by the Rail Passenger Services Act, 49 U.S.C. § 24101 *et seq.*, and is being acquired for this use.

12. PPL and/or any other party may serve upon Amtrak's attorney a Notice of Appearance or an Answer to the Complaint within 21 days after service of this Notice.

13. Failure to so serve an Answer constitutes consent to the taking and to the Court's authority to proceed with the action and fix the compensation.

14. A defendant who does not serve an answer may file a notice of appearance.

15. The name of Amtrak's attorney is Kandice K. Hull. The address within the District where Ms. Hull may be served is as follows:

Kandice K. Hull  
McNees Wallace & Nurick LLC  
570 Lausch Lane  
Suite 200  
Lancaster, PA 17601-3057

16. Please be advised that the monies described in the Complaint have been deposited with the Clerk of Court.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By /s/ Kandice Kerwin Hull

Kandice Kerwin Hull

PA I.D. No. 86345

Dana W. Chilson

PA I.D. No. 208718

Sarah Hyser-Staub

PA I.D. No. 315989

100 Pine Street, P. O. Box 1166

Harrisburg, PA 17108-1166

(717) 232-8000

khull@mcneeslaw.com

Dated: April 18, 2017

*Attorneys for Plaintiff National Railroad  
Passenger Corporation ("Amtrak")*

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

NATIONAL RAILROAD PASSENGER	:	
CORPORATION (AMTRAK)	:	NO. 17-CV-1752
60 Massachusetts Avenue, NE	:	
Washington, DC 20020	:	
	:	
Plaintiff	:	
	:	
v.	:	CIVIL ACTION – LAW
	:	
4.0446 ACRES MORE OR LESS OF	:	
LAND AND FIXTURES located at	:	
Powerhouse Road, Manor Township	:	
Lancaster County, PA 17516	:	
	:	
and	:	
	:	
PPL ELECTRIC UTILITIES CORP.	:	
Two North Ninth Street	:	
Allentown, PA 18101	:	
	:	
Defendant	:	

**MOTION OF PLAINTIFF NATIONAL RAILROAD PASSENGER  
CORPORATION FOR TEMPORARY RESTRAINING ORDER AND  
PRELIMINARY INJUNCTION**

Plaintiff National Railroad Passenger Corporation ("Amtrak"), by and through its undersigned counsel, for the reasons set forth herein and in the accompanying Brief in Support, moves for issuance of a temporary restraining order prohibiting Defendant PPL Electric Utilities Corp. ("PPL") from performing

any excavation, construction, equipment, alteration, removal, or replacement activities on the improvements to the land and fixtures at Powerhouse Road, Manor Township, Lancaster County, Pennsylvania and, upon a hearing to consider Amtrak's Preliminary Injunction request, directing PPL to cease the aforementioned activities.

Amtrak has condemned and taken by eminent domain certain property located in Manor Township, Lancaster County, Pennsylvania, as more particularly described in Plaintiff's Declaration of Taking. *See* Doc. 4, Declaration of Taking. Section 305(d) of the National Railroad Passenger Service Act, codified in 49 U.S.C. § 24311(a), authorizes Amtrak to condemn interests in property necessary for intercity rail passenger transportation. The condemned property is needed by Amtrak to provide efficient and safe intercity rail passenger service in Amtrak's Northeast Corridor.

On April 17, 2017, Amtrak filed with the Court a Complaint in Condemnation and a Declaration of Taking. On April 18, 2017, Amtrak filed a Notice of Condemnation and deposited into Court the estimated just compensation owed to PPL. Pursuant to 49 U.S.C. § 24311, upon filing of the Complaint in Condemnation and the deposit of funds into the Court, "title to the property vests in Amtrak in fee simple absolute or in the lesser interest shown in the declaration."

Because Amtrak has fulfilled the requirements of 49 U.S.C. § 24311, title to the condemned premises is now vested in Amtrak.

A temporary restraining order and preliminary injunction are necessary to prevent the prior owner, PPL, from making permanent changes to the condemned property in derogation of Amtrak's rights. *See* the accompanying Brief in Support of this motion and the Declaration of Galen D. Mull, attached thereto as Exhibit B.

WHEREFORE, Plaintiff National Railroad Passenger Corporation respectfully requests that this Court grant the requested relief and (1) enter a temporary restraining order prohibiting Defendant PPL Electric Utilities Corp. from accessing the Conestoga Substation unless PPL gives prior telephonic notice to Amtrak's Assistant Division Engineer, Electric Traction Maintenance, Mid-Atlantic Division North at 215-349-2643 or 215-768-0432 and unless PPL personnel are accompanied by Amtrak personnel and limiting PPL's access to the Conestoga Substation to performing normal operational functions, as well as prohibiting, enjoining, and restraining PPL from making any alterations of the physical conditions at the Conestoga Substation including to the real property or to any equipment located thereon without the prior approval of Amtrak's Assistant Division Engineer, Electric Traction Maintenance, Mid-Atlantic Division North, pending a ruling on Plaintiff's Motion for Preliminary Injunction; 2) upon a

preliminary injunction hearing, grant the requested preliminary injunction prohibiting said conduct; and, (3) ordering that the estimated just compensation posted in the underlying condemnation action satisfies the requirements of Federal Rule of Civil Procedure 65.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By /s/ Kandice Kerwin Hull

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Dated: April 18, 2017

*Attorneys for Plaintiff National Railroad  
Passenger Corporation (“Amtrak”)*



IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

NATIONAL RAILROAD PASSENGER	:	
CORPORATION (AMTRAK)	:	NO. 17-CV-1752
Massachusetts Avenue, NE	:	
Washington, DC 20020	:	
	:	
Movant	:	
	:	
v.	:	CIVIL ACTION – LAW
	:	
4.0446 ACRES MORE OR LESS OF	:	
LAND AND FIXTURES located at	:	
Powerhouse Road, Manor Township	:	
Lancaster County, PA 17516	:	
	:	
and	:	
	:	
PPL ELECTRIC UTILITIES CORP.	:	
Two North Ninth Street	:	
Allentown, PA 18101	:	
	:	
Respondent	:	

**BRIEF IN SUPPORT OF THE EMERGENCY MOTION OF NATIONAL  
RAILROAD PASSENGER CORPORATION FOR TEMPORARY  
RESTRAINING ORDER AND PRELIMINARY INJUNCTION**

Plaintiff National Railroad Passenger Corporation ("Amtrak"), by and through its undersigned counsel, submits this Brief in Support of its Motion for issuance of a temporary restraining order and preliminary injunction prohibiting Respondent PPL Electric Utilities Corp. ("PPL") from performing any excavation, construction, equipment, alteration, removal, or replacement activities on the

improvements to the land and fixtures located at Powerhouse Road, Manor Township, Lancaster County, Pennsylvania and, upon a hearing to consider Amtrak's Preliminary Injunction request, directing PPL to cease the aforementioned activities. In support of this Motion, Amtrak avers as follows:

**I. Parties, Jurisdiction, and Venue**

Amtrak is a corporation authorized to be created by the Rail Passenger Service Act, currently set forth at 49 U.S.C. § 24101 *et seq.* Amtrak's principal place of business is located at 60 Massachusetts Avenue, NE, Washington, DC 20002. Amtrak is authorized under federal law, specifically, 49 U.S.C. § 24311, to acquire through eminent domain, interests in property necessary for intercity rail passenger transportation.

Upon information and belief, PPL is a limited liability company organized under the laws of Pennsylvania with its principal place of business at 2 North Ninth Street, Allentown, Pennsylvania 18101. Amtrak is informed and believes that PPL was the owner in fee simple of the land parcel and the improvements thereon at Powerhouse Road, Manor Township, Lancaster County, Pennsylvania, tax parcel 410-11106-0-0000, and conveyed to PPL in the Special Warranty Deed dated May 21, 2015, and recorded as Instrument number 6206115 (the "Tax Parcel"). *See* Doc. 1, Complaint, Exhibit A (deed).

On April 17, 2017, Amtrak filed a Complaint for Condemnation and Declaration of Taking to exercise its power of eminent domain pursuant to 49 U.S.C. § 24311, to acquire a portion of the Tax Parcel because it was unable to acquire the interest in the Conestoga Substation either by contract or by agreement with PPL for a purchase at an agreed upon price. On April 18, 2017, Amtrak deposited with the Court its estimate of the just compensation owed to PPL as a result of the condemnation, based upon an appraisal by a certified appraiser.

By filing the Complaint in Condemnation and Declaration of Taking, and depositing the estimated just compensation with the Court in this matter, Amtrak became the owner of that portion of the Tax Parcel, which is approximately 575 feet in width and 380 feet in depth, comprising 4.0446 acres, and which comprises the Conestoga Substation power station (the “Conestoga Substation”) and the equipment and fixtures located thereon as described in Amtrak’s Declaration of Taking. *See* Doc. 4, Declaration of Taking ¶¶ 2-8. *See* 49 U.S.C. § 24311(b).

## **II. Factual Background**

### **a. PPL’s Proposed Rate Increase**

Prior to the filing of this action, PPL had informed Amtrak that it intended to vastly increase the rate it charged Amtrak for the electricity it provided from the Conestoga Substation. On October 5, 2016, PPL filed Supplement No. 213 to Tariff Electric Pa. P.U.C. No. 201 (“Supplement No. 213”) with the Pennsylvania

Public Utility Commission (“PUC”) indicating its intention to increase the rate charged to Amtrak under rate schedule Power Service to Electric Propulsion (“Rate Schedule LPEP”). Supplement No. 213, *Pennsylvania Public Utility Commission v. PPL Electric Utilities Corporation Supplement No. 213 to Tariff Electric P.A. PUC No. 201 for Rate Schedule LPEP*, Docket No. R-2016-2569975 (Oct. 5, 2016). In response, on December 19, 2016, Amtrak filed a Formal Complaint challenging that rate increase before the PUC. *See* Formal Complaint, *National Railroad Passenger Corporation v. PPL Electric Utilities Corporation*, Docket No. C-2016-2580526 (Dec. 19, 2016). In that Complaint, Amtrak put the Commission and PPL on notice of its intent to acquire the Conestoga Substation.

On December 22, 2016, the PUC suspended implementation of Supplement No. 213 until July 1, 2017, and referred it to the Office of Administrative Law Judge for investigation and hearings on the lawfulness, justness, and reasonableness of the rates, rules, and regulations proposed in Supplement No. 213. Order, *Pennsylvania Public Utility Commission v. PPL Electric Utilities Corporation Supplement No. 213 to Tariff Electric P.A. PUC No. 201 for Rate Schedule LPEP*, Docket No. R-2016-2569975, pp. 2-3 (Dec. 22, 2016) (as corrected by the January 3, 2017 Errata Notice issued by the PUC in Docket No. R-2016-2569975).<sup>1</sup>

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<sup>1</sup> Initially, the December 22, 2016 PUC Order listed the suspension as lasting until

Amtrak filed an amended Petition with the PUC on January 4, 2017 requesting further suspension of the effective date for Supplement No. 213. Petition of the National Railroad Passenger Corporation for Amendment of December 22, 2016 Order to Suspend These Proceedings (Updated to Reflect PUC Order Errata issued on January 3, 2017), *Pennsylvania Public Utility Commission v. PPL Electric Utilities Corporation Supplement No. 213 to Tariff Electric P.A. PUC No. 201 for Rate Schedule LPEP*, Docket No. R-2016-2569975 & *National Railroad Passenger Corporation v. PPL Electric Utilities Corporation*, Docket No. C-2016-2580526 (Jan. 4, 2017). Therefore, no later than January, Amtrak asserted that a suspension was appropriate because of "Amtrak's current plans to acquire the Conestoga Substation equipment and property by purchasing the facility from PPL, or if that is not possible, to take the Conestoga Substation pursuant to Amtrak's federal eminent domain authority, 49 U.S.C. § 24311." *Id.* at p. 2. Amtrak averred the suspension would enable the PUC, the PUC's presiding officer, and parties to:

[A]void the prospect of judicial waste by proceeding with haste to resolve issues that may very well be rendered moot by Amtrak's acquisition of the Conestoga facility by purchase or pursuant to a Federal court eminent domain proceeding, to avoid rulings that may conflict with the jurisdiction of a federal court, and to have sufficient time to evaluate the multitude of unique legal issues that would arise as a result of Amtrak's current plans to acquire the Conestoga Substation equipment and property by purchasing the

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June 1, 2017. The PUC's Errata Notice corrected the December 22, 2016 Order to clarify that Supplement No. 213 is suspended until July 1, 2017, not June 1, 2017.

facility from PPL, or if that is not possible, to take the Conestoga Substation pursuant to Amtrak's federal eminent domain authority."

*Id.* In response to Amtrak's request, the PUC amended its December 22, 2016, Order to further suspend Supplement No. 213's effectiveness date until October 1, 2017. Opinion and Order, *Pennsylvania Public Utility Commission v. PPL Electric Utilities Corporation Supplement No. 213 to Tariff Electric P.A. PUC No. 201 for Rate Schedule LPEP*, Docket No. R-2016-2569975 & *National Railroad Passenger Corporation v. PPL Electric Utilities Corporation*, Docket No. C-2016-2580526, p. 10 (Jan. 19, 2017). The PUC granted a nine-month suspension of Supplement 213. Opinion and Order, *Pennsylvania Public Utility Commission v. PPL Electric Utilities Corporation Supplement No. 213 to Tariff Electric P.A. PUC No. 201 for Rate Schedule LPEP*, Docket No. R-2016-2569975 & *National Railroad Passenger Corporation v. PPL Electric Utilities Corporation*, Docket No. C-2016-2580526, pp. 9-10 (Jan. 19, 2017).

The proposed rate increase, if enacted would have a negative effect on Amtrak's ability to obtain power and operate the NEC. Supplement No. 213 proposes to increase the Rate LPEP monthly customer charge from \$37,100 per month to \$319,671.00 per month) – an increase of more than 750%. Amtrak is capable of operating this facility, as Amtrak does several other electric substations it already owns. Further, operation by Amtrak will be vastly less expensive and consistent with a goal Congress established for Amtrak. Amtrak is statutorily

compelled to “use its best business judgment in acting to minimize United States Government subsidies” and “maximize the use of its resources, including the most cost-effective use of employees, facilities, and real property.” 49 U.S.C. § 24101(c)(1) and (12).

Amtrak, therefore, notified PPL numerous times of its desire to acquire the Conestoga Substation. On March 3, 2017, Amtrak made PPL a good faith offer to purchase the Conestoga Substation in lieu of condemnation for an amount estimated by a certified real estate appraiser to be the fair market value of the Conestoga Substation. *See* Offer Letter, attached hereto as Exhibit A.

On March 17, 2017, PPL proposed that Amtrak refrain from filing a condemnation action and that the parties request a 60 day stay of the proceedings before the PUC so that the parties could engage in meaningful settlement negotiations. Amtrak agreed to this proposal, and the parties jointly requested a stay from the PUC. The PUC revised the scheduling order to allow the parties 60 days to discuss settlement.<sup>2</sup>

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<sup>2</sup> Due to intricacies in PUC procedure this occurred through a suspension of the effective date of PPL’s proposed tariff until 2018. On March 28, 2017, PPL filed Supplement No. 226 to Tariff Electric Pa. P.U.C. No. 201 which further suspends the effectiveness date of Supplement No. 213 to January 1, 2018. *PPL Electric Utilities Corporation Supplement No. 226 to Tariff Electric PA. P.U.C. No. 201 for Rate Schedule LPEP*, Docket No. R-2016-2569975 (Mar. 28, 2017).

On March 17, 2017, PPL promised Amtrak that a settlement proposal would be forthcoming. To date, Amtrak has not received such a proposal.

**b. The Conestoga Substation Is Necessary For Intercity Rail Passenger Transportation**

The acquisition of a fee interest in the Property is necessary for intercity rail passenger transportation within the Northeast Corridor (sometimes, “NEC”). Amtrak’s Northeast Corridor is an essential rail artery serving major cities in the Northeast region, connecting Washington, D.C., to Boston, Massachusetts, and with connecting corridors to Harrisburg, Pennsylvania, Springfield, Massachusetts, Albany, New York, and Richmond, Virginia. Amtrak runs 157 trains on the Northeast Corridor every day. In 2013, Amtrak’s NEC carried 11.4 million passengers, and Amtrak’s Washington-Richmond-Newport News corridor trains carried an additional 6 million passengers. Amtrak’s NEC is the busiest passenger rail line in the United States as measured by its ridership and service frequency. The Northeast’s five major metropolitan regions – Boston, New York, Philadelphia, Baltimore, and Washington, D.C. – rely on Amtrak services for a significant and growing share of business and leisure travel and on NEC infrastructure for the daily commuting needs of their workforces.

The Conestoga Substation, an electrical power substation, is located on the Conestoga Substation. Amtrak is the sole user of electricity from the transformers at this Substation. Acquisition of the Conestoga Substation, including associated



improvements and fixtures held by PPL, is necessary because Amtrak powers the NEC through a traction power network using 25 Hertz power, and the Conestoga Substation on the Conestoga Substation is the only source that directly produces 25 Hertz power without needing a frequency converter. This makes the Conestoga Substation critical to Amtrak's operation of the NEC. Although the acquisition of the Conestoga Substation is critical to Amtrak's operation of the NEC, the acquisition has no impact on any other purchaser of electricity because Amtrak is the only user of the 25 Hertz power produced by the Conestoga Substation.

Approximately 22% of Amtrak's total installed power capacity comes from the Safe Harbor Water Power Station via the Conestoga Substation. The Conestoga Substation is strategically located to supply power to three different areas of Amtrak's traction power network. Four lines exiting the Conestoga Substation feed Amtrak's Northeast Corridor mainline at Perryville, Maryland, two lines feed Amtrak's Harrisburg line at Parkesburg, Pennsylvania, and one line feeds Amtrak's Harrisburg line at Harrisburg, Pennsylvania. Amtrak uses the 25 Hertz power from the Conestoga Substation, distributed through the traction power network, for many of its NEC operations, including Amtrak, New Jersey Transit, MARC, and SEPTA routes. Amtrak's control of the operation and maintenance of the Conestoga Substation is necessary because of the critical strategic importance of the power source to the operation of the NEC.

Amtrak owns and serves as the infrastructure manager for the majority of the NEC, providing dispatching services and electric propulsion power and maintaining and improving the infrastructure and facilities that are used not only by Amtrak, but also by the commuter and freight rail services. Indeed, Amtrak owns outright several other electric substations that help to power the NEC. In fact, prior to the condemnation Amtrak was already the owner of three of the seven transformers at the Conestoga Substation. *See* Doc. 1, Complaint, Exhibit C (Diagram of ownership of fixtures and equipment at the Conestoga Substation).

**c. PPL's On-Site Activities**

Instead of preserving the status quo during the promised negotiations, and instead of transmitting a settlement proposal to Amtrak, on or about April 12, 2017, Amtrak became aware that PPL had begun construction activities on the Conestoga Substation. These activities include removal of electrical equipment, the presence of construction vehicles, the deposit of construction and utility materials on the site, and markings on the ground that appear to indicate areas to be excavated. *See* Declaration of Galen D. Mull, attached hereto as Exhibit B.

Upon information and belief, PPL will begin moving earth on the Conestoga Substation on or before April 19, 2017. *See id.* Even before Amtrak took title to the Conestoga Substation, because Amtrak already owned several transformers at the Substation and because Amtrak is the sole user of electricity from the

transformers at the Substation, Amtrak should have been consulted about any physical alterations to the equipment thereon. PPL did not do so. It is Amtrak's belief that PPL's alterations of the Conestoga Substation were intended to improve PPL's position prior to the filing of this litigation and, potentially, to provide PPL with justification for challenging Amtrak's pre-condemnation purchase offer and pre-condemnation estimate of just compensation. PPL's alteration of the equipment and planned excavation on the Conestoga Substation will result in permanent changes to the site.

### **III. Request for Injunctive Relief**

A temporary restraining order is necessary to prevent PPL from permanently altering the Conestoga Substation, which Amtrak now owns. To obtain a temporary restraining order or preliminary injunction in the Third Circuit, a movant must demonstrate: (a) a reasonable probability of success on the merits; (b) a risk of irreparable harm absent the requested relief; (c) the balancing of harms resulting from the grant or denial of the requested relief; and, (d) the public interest. *Miller v. Mitchell*, 598 F.3d 139, 147 (3d Cir. 2010). The primary purpose of such relief is to preserve the *status quo ante*, not to decide the merits of the case. *Anderson v. Davila*, 125 F.3d 148 (3d Cir. 1997). Hence, the critical element is demonstration that relief is necessary to prevent irreparable harm until the Court can hear the matter on the merits.

**a. Amtrak Will Be Irreparably Harmed Absent An Injunction**

Here, Amtrak is entitled to emergency relief, pending a hearing. Absent the grant of the requested relief, evidence essential to this case may be destroyed, altered or tampered with by PPL and permanent changes may be made to the Conestoga Substation. Amtrak was not consulted regarding physical alterations on the site. Accordingly, such alterations could threaten the reliable operation of the Conestoga Substation on which the Harrisburg Line and NEC operations depend. Injury to real property has been recognized as irreparable harm to the owner of the property. *See, e.g., Minard Run Oil Co. v. U.S. Forest Service*, 670 F.3d 236 256 (3d Cir. 2011) “interests involving real property are at stake, preliminary injunctive relief can be particularly appropriate because of the unique nature of the property interest”); *7-Eleven, Inc. v. Upadhyaya*, 926 F. Supp. 2d 614, 630-31 (E.D.Pa. 2013) (“Interference with the real property of another may constitute irreparable harm due to the unique opportunities offered by certain real property”).

Additionally, a post-condemnation physical alteration at the Conestoga Substation is likely to impact the fair market value, complicating the analysis of the damages owed to PPL as of the date of taking.<sup>3</sup> Amtrak will be irreparably

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<sup>3</sup> The damages owed to the condemnee as a result of the condemnation are determined based on the condition of the property on the date of taking. *See* 49 U.S.C. 24311(b)(3). Making significant alterations with Amtrak’s knowledge makes it more difficult to establish the condition of the property as of April 17, 2017, the date of the condemnation.

harm should this occur and that harm cannot be compensated in monetary damages.

**b. A Balancing Of The Harms Favors Amtrak**

Greater injury will be inflicted upon Amtrak by the denial of temporary injunctive relief than would be inflicted upon PPL by the granting of such relief since the Conestoga Substation, which is now owned by Amtrak, will be permanently altered by PPL's actions absent such relief. Moreover, no injury will result to PPL from the grant of the requested relief, as there is no immediate need to perform the construction activities on property PPL no longer owns. Indeed, PPL will not be harmed by a temporary halt to the activities on the Conestoga Substation, as PPL itself proposed a voluntary stay of activities related to the Conestoga Substation less than one month ago.<sup>4</sup>

Significantly, Amtrak is not requesting that PPL be prevented from accessing the site to perform normal daily operations and maintenance. Amtrak is only requesting that PPL be prevented from making changes to the Conestoga Substation. This requested relief is narrowly tailored to prevent harm to Amtrak and will result in no harm to PPL.

---

<sup>4</sup> Should PPL assert any post-condemnation cost claims, all such claims will be resolved by this Court pursuant to 49 U.S.C. § 24311(b)(2), "the court may decide . . . (B) the disposition of outstanding charges related to the property."

**c. Amtrak Will Likely Succeed On The Merits Of Its Claim**

Amtrak is likely to succeed on the merits of its underlying claim. Its condemnation authority is clear under the statute and was validly exercised here. *See* 49 U.S.C. § 24311. Title passed to Amtrak no later than Tuesday morning, April 18, 2017, when Amtrak’s estimate of just compensation was deposited with the Court. Furthermore, there is no basis for PPL to argue that the alterations to which Amtrak has not agreed are necessary or appropriate.

**d. The Remaining Factors Favor Amtrak**

The public interest favors the granting of the requested relief. Amtrak is funded, in part, by the taxpayers of the United States. Granting the requested relief will prevent PPL from imposing costs upon Amtrak to remedy physical alterations to the property caused by PPL. The requested relief will restore the parties to the *status quo ante* that existed prior to PPL’s construction staging. The requested relief is narrowly focused on preserving the current physical status of the Property.

Amtrak has provided notice of the Motion to PPL's counsel, David MacGregor of Post and Schell, by both telephone and email.

**IV. Filing Of A Bond Pursuant To Federal Rule of Civil Procedure 65**

Amtrak has deposited into the Court the amount which it estimates to be just compensation for the interests taken pursuant to 49 U.S.C. §§ 24311(b)(1)-(b)(2), namely Two Million Dollars and No Cents (\$2,000,000.00) (the “Deposit”).

Amtrak has obtained from a certified real estate appraiser a valuation of the estimated just compensation for the Conestoga Substation. The certified real estate appraiser ascertained that the fair market value of the Conestoga Substation is Two Million Dollars and No Cents (\$2,000,000.00). Since Amtrak has deposited monies sufficient to compensate PPL for the full value of the real property and fixtures acquired, no further posting of a bond should be necessary.

WHEREFORE, Plaintiff National Railroad Passenger Corporation respectfully requests that this Court grant the requested relief and (1) enter a temporary restraining order prohibiting Defendant PPL Electric Utilities Corp. from accessing the Conestoga Substation unless PPL gives prior telephonic notice to Amtrak's Assistant Division Engineer, Electric Traction Maintenance, Mid-Atlantic Division North at 215-349-2643 or 215-768-0432 and unless PPL personnel are accompanied by Amtrak personnel and limiting PPL's access to the Conestoga Substation to performing normal operational functions, as well as prohibiting, enjoining, and restraining PPL from making any alterations of the physical conditions at the Conestoga Substation including to the real property or to any equipment located thereon without the prior approval of Amtrak's Assistant Division Engineer, Electric Traction Maintenance, Mid-Atlantic Division North, pending a ruling on Plaintiff's Motion for Preliminary Injunction; 2) upon a preliminary injunction hearing, grant the requested preliminary injunction

prohibiting said conduct; and, (3) ordering that the estimated just compensation posted in the underlying condemnation action satisfies the requirements of Federal Rule of Civil Procedure 65.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By /s/ Kandice Kerwin Hull

Kandice Kerwin Hull  
PA I.D. No. 86345  
Dana W. Chilson  
PA I.D. No. 208718  
Sarah Hyser-Staub  
PA I.D. No. 315989  
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(717) 232-8000  
khull@mcneeslaw.com

Dated: April 18, 2017

*Attorneys for Plaintiff National Railroad  
Passenger Corporation (“Amtrak”)*



IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

NATIONAL RAILROAD PASSENGER	:	
CORPORATION (AMTRAK)	:	NO. 17-CV-1752
60 Massachusetts Avenue, NE	:	
Washington, DC 20020	:	
	:	
Plaintiff	:	
	:	
v.	:	CIVIL ACTION – LAW
	:	
4.0446 ACRES MORE OR LESS OF	:	
LAND AND FIXTURES located at	:	
Powerhouse Road, Manor Township	:	
Lancaster County, PA 17516	:	
	:	
and	:	
	:	
PPL ELECTRIC UTILITIES CORP.	:	
Two North Ninth Street	:	
Allentown, PA 18101	:	
	:	
Defendants	:	

AND NOW this \_\_\_\_\_ day of \_\_\_\_\_, 2017, upon consideration of Plaintiff National Railroad Passenger Corporation’s Motion for Temporary Restraining Order it is hereby Ordered that said Motion is Granted.

Defendant PPL Electric Utilities Corp. (PPL) is prohibited, enjoined, and restrained from accessing the Conestoga Substation unless PPL gives prior telephonic notice to Amtrak’s Assistant Division Engineer, Electric Traction Maintenance, Mid-Atlantic Division North at 215-349-2643 or 215-768-0432 and

unless PPL personnel are accompanied by Amtrak personnel. PPL's access to the Conestoga Substation is limited to performing normal operational functions.

PPL is prohibited, enjoined, and restrained from making any alterations of the physical conditions at the Conestoga Substation including to the real property or to any equipment located thereon without the prior approval of Amtrak's Assistant Division Engineer, Electric Traction Maintenance, Mid-Atlantic Division North, pending a ruling on Plaintiff's Motion for Preliminary Injunction.

The estimated just compensation posted in the underlying condemnation action satisfies the requirements of Federal Rule of Civil Procedure 65.

A hearing on the request for a preliminary injunction is scheduled for \_\_\_\_\_, 2017 at \_\_\_\_\_ in \_\_\_\_\_.

---

, J.

## **EXHIBIT A**

NATIONAL RAILROAD PASSENGER CORPORATION  
60 Massachusetts Ave NE, Washington, DC 20002



March 3, 2017

Gregory N. Dudkin, President  
PPL Electric Utilities Corporation  
Two North Ninth Street  
Allentown PA 18101-1179

Re: Amtrak Offer to Purchase Real Property and Fixtures on Powerhouse Road,  
Manor Township, Lancaster, Pennsylvania

Dear Mr. Dudkin:

The purpose of this letter is to provide you notice of the interest of the National Railroad Passenger Corporation ("Amtrak") in acquiring the real property and fixtures owned by PPL Electric Utilities Corporation ("PPL") located at Powerhouse Road, Manor Township, Lancaster County, Pennsylvania 17516. This is the property known as the Conestoga Substation, and it constitutes a portion of Tax Parcel 410-11106-0-0000. A more complete description is attached hereto as Exhibit A, which is incorporated herein by reference. For purposes of this letter, the property described on Exhibit A is hereinafter referred to as "the Property." Public Records reflect that PPL is the owner of the Property. Because Amtrak has determined that its ownership of the Property is necessary for intercity rail passenger transportation, Amtrak seeks to acquire the fee simple title to the Property.

I have been authorized by Amtrak to extend an offer to acquire the Property to the property's owner. The offer is described below. Amtrak is willing to consider any information that PPL desires to present to Amtrak regarding the Property and this offer prior to the close of business on March 17, 2017. Amtrak is also willing to consider any suggested modifications made by PPL to the proposed terms and conditions to the purchase, provided said suggestions are made prior to the close of business on March 17, 2017.

*Nevertheless, Amtrak notes that if it is unable to acquire the Property by contract with and/or the consent of PPL, Amtrak intends to acquire the Property through the exercise of Amtrak's Federal Eminent Domain Authority pursuant to 49 U.S.C. § 24311.*

Amtrak has obtained from a certified real estate appraiser a valuation of the estimated just compensation for the interest in the Property. The certified appraised value is two million dollars (\$2,000,000). Accordingly, Amtrak hereby offers to purchase the interest in the Property as described herein, free and clear of all taxes, assessments, liens, encumbrances or claims of any kind and nature, for two million dollars (\$2,000,000).

Amtrak's offer to purchase the Property will remain open only until the close of business on March 17, 2017. If the offer is not accepted within that timeframe, or if a mutually-acceptable alternative has not been negotiated, Amtrak may acquire the Property by eminent domain. If PPL is interested in extending the negotiations for a reasonable period



*Gregory N. Dudkin, President*  
*March 3, 2017*  
*Page 2*

beyond March 17th, Amtrak is willing to extend the period as long as the parties are successful in obtaining a suspension of the procedural schedule for the pending litigation between the parties at Pennsylvania Public Utility Commission Docket Nos. R-2016-2569975 and C-2016-2580526.

I look forward to hearing from you. Should you have any questions please feel free to contact me at either 202-906-3692 or [Bart.Bush@amtrak.com](mailto:Bart.Bush@amtrak.com).

Sincerely,

A handwritten signature in black ink, appearing to read "W. Bush", written over a horizontal line.

William Bartlett Bush  
Vice President  
Real Estate Stations & Facilities

Exhibit A enclosure

cc: David B. MacGregor, Esquire  
Kimberly Klock, Esquire  
Christopher Wright, Esquire  
Kandice Hull, Esquire  
Pam Polacek, Esquire  
Dennis M. Moore, Esquire  
Michael Stern, Esquire  
William Sfida  
William Auve

**Exhibit A**

The premises to be acquired is a portion of tax parcel 410-11106-0-0000 in Lancaster County, Pennsylvania which is approximately 575 feet in width and 380 feet in depth, comprising 4.0446 acres, and which is the portion of the tax parcel comprising the Conestoga Substation. The premises to be acquired is separated from the remainder of the tax parcel by an approximately 70 feet high vertical cliff. The premises to be acquired includes the fixtures on the property currently owned by PPL Electric Utilities Corp., as depicted on the attached diagram.



## **EXHIBIT B**



IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

NATIONAL RAILROAD PASSENGER	:	
CORPORATION (AMTRAK)	:	NO. 17-CV-1752
60 Massachusetts Avenue, NE	:	
Washington, DC 20020	:	
	:	
Plaintiff	:	
	:	
v.	:	CIVIL ACTION – LAW
	:	
4.0446 ACRES MORE OR LESS OF	:	
LAND AND FIXTURES located at	:	
Powerhouse Road, Manor Township	:	
Lancaster County, PA 17516	:	
	:	
and	:	
	:	
PPL ELECTRIC UTILITIES CORP.	:	
Two North Ninth Street	:	
Allentown, PA 18101	:	

**DECLARATION OF GALEN D. MULL**

Comes now Galen D. Mull, pursuant to 28 U.S.C. §1746, and declares  
as follows:

1. I am employed by the National Railroad Passenger Corporation  
("Amtrak"). I have been employed by Amtrak since March 9, 1998. I  
currently serve as Amtrak's Assistant Division Engineer, Electric Traction  
Construction, for the Mid-Atlantic Division of Amtrak's Engineering  
Department.

2. My office is located at 55 McGovern Ave., Lancaster, PA.

3. As part of my duties with Amtrak's Engineering Department, I am responsible for overseeing the electric traction construction employees of Amtrak in this area of the country. One to the areas of my responsibility includes engineering work at and around the Conestoga Substation. The Conestoga Substation transmits power to operate Amtrak's intercity rail passenger transportation service and commuter rail services that operate on rail lines owned by Amtrak. Amtrak uses the 25 Hertz power from the Conestoga Substation, distributed through the traction power network, for many of its NEC operations, including Amtrak, New Jersey Transit, MARC, and SEPTA routes. Amtrak is the only user of the 25hz power from the transformers at the Conestoga Substation.

4. As a part of my regular duties for Amtrak, on Wednesday, April 12, 2017, I visited the Conestoga Substation in connection with my work to replace electric transformer equipment owned by Amtrak. As of that date, Amtrak owned three of the seven electric transformers located within the fence surrounding the Conestoga Substation, and PPL Electric Utilities Corp (PPL) owned four transformers, as well as the real estate. I observed that workmen appeared to be removing certain non-transformer equipment located within the fence surrounding the Conestoga Substation.

5. On the morning of Monday, April 17, 2017, I again visited the Conestoga Substation. I also observed the continued presence of construction vehicles and that additional construction and utility materials were present within the fence since my last visit on April 12, 2017. In addition, markings had been made on the ground within the fence that appear to indicate areas intended to be excavated. My Amtrak Engineering staff members informed me that PPL employees and what appeared to be PPL contractors recently have been present at the site and appeared to be engaged in construction activities. My own observation is that PPL appears to be staging for extensive construction work and possible equipment relocations. The work is progressing quickly, as there was a significant amount of work done in the five days between my visits. It was clear to me that some equipment has already been removed from the site.

6. During my visits to the Conestoga Substation on April 12 and 17, 2017; none of the workmen or the equipment removals I observed were authorized by Amtrak; none of the new construction materials I observed were brought by Amtrak; none of the apparent excavation markings were made by Amtrak. Because PPL is the only other company with access to the Conestoga Substation, I believe that the workmen, equipment removals, new materials and excavation markings were authorized by PPL.

7. While I was at the Conestoga Substation on April 17, 2017, I took a number of photographs which depict the changes in the condition of the property since my previous visit on April 12, 2017. I am attaching six of those photographs to this Declaration.

8. Attachments 1, 2, 3 and 4 to this Declaration depict construction materials that recently have been brought to the Conestoga Substation.

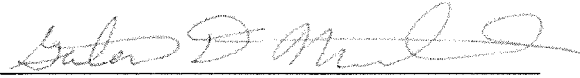
9. Attachment 5 to this Declaration depicts the new markings on the ground that appear to indicate areas for excavation within the Conestoga Substation.

10. Attachment 6 to this Declaration depicts construction equipment present within the perimeter fencing surrounding the Conestoga Substation.

11. I have also seen an email from Thomas R. Christie of Penn Environmental and Remediation, Inc., dated April 13, 2017 and directed to an Amtrak employee, in which Mr. Christie indicates that excavation at the Conestoga Substation is scheduled to begin on the morning of April 19, 2017.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this 18th day of April, 2017 in Lancaster, Pennsylvania.

A handwritten signature in cursive script, appearing to read "Galen D. Mull", written over a horizontal line.

Galen D. Mull  
Assistant Division Engineer  
Mid-Atlantic Division  
Amtrak Engineering Department

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

NATIONAL RAILROAD PASSENGER CORPORATION (AMTRAK) 60 Massachusetts Avenue, NE Washington, DC 20020	:	
	:	NO. 17-CV-1752
Plaintiff	:	
v.	:	CIVIL ACTION – LAW
4.0446 ACRES MORE OR LESS OF LAND AND FIXTURES located at Powerhouse Road, Manor Township Lancaster County, PA 17516	:	
and	:	
PPL ELECTRIC UTILITIES CORP. Two North Ninth Street Allentown, PA 18101	:	
Defendant	:	

**PLAINTIFF NATIONAL RAILROAD PASSENGER CORPORATION’S  
NOTICE OF DEPOSIT OF ESTIMATED JUST COMPENSATION AND  
REQUEST TO PLACE FUNDS IN INTEREST-BEARING ACCOUNT**

Plaintiff National Railroad Passenger Corporation (“Amtrak”), by and through its undersigned counsel, hereby notifies this Court and Defendant that on Tuesday, April 18, 2017, it deposited the sum of \$2,000,000.00, by electronic funds transfer, with the Court as estimated just compensation.<sup>1</sup>

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<sup>1</sup> A true and correct copy of the electronic notice of receipt of deposit of the electronic transfer of funds from Amtrak’s account with JPMorgan Chase Bank,

This deposit was made pursuant to 49 U.S.C. § 24311(b)(1), which requires Amtrak to deposit “an amount of money estimated in the declaration to be just compensation for the interest” when condemning a property, and Federal Rule of Civil Procedure 71.1(j)(1) which states that the plaintiff in a condemnation action “must deposit with the court any money required by law as a condition to the exercise of eminent domain and may make a deposit when allowed by statute.” 49 U.S.C. § 24311(b)(1), F.R.C.P. 71.19(j), and 42 U.S.C. §4651(4).

---

N.A., is inserted here (brackets indicate redacted account numbers):

Amount 2,000,000.00 USD  
Immediate Available 2,000,000.00 USD  
Value Date 04/18/2017  
Transaction Date 04/18/2017  
Transaction Type FED  
Customer Reference NONREF  
Bank Reference [            ]  
BAI Code [            ]  
Description  
FEDWIRE DEBITYOUR REF=NONREF  
PAID TO=TREAS NYC TREAS NYC/FUNDS TRANSFER DIVISION  
WASHINGTON DC  
FED ID=021030004  
ACCT PARTY=/00004666 US DISTRICT COURT EASTERN PENNSYLVANIA  
REMARK=NATIONAL RAILROAD PASSENGER CORP CASE NUMBER:  
17-CV-1752 CREDIT REF ATTS OF 17/04/17  
REC GFP=[            ]  
MRN SEQ=[            ]  
FED REF=0418 B1QGC08C 001143\*\*VIA FED\*\*

This sum represents Amtrak’s good faith estimate, is based upon the amount determined in an appraisal by a certified appraiser, and is not a final determination of the compensation owed Defendants. *See* 49 U.S.C. § 24311(b)(3); *AMTRAK v. 4,945 Square Feet of Land*, 1 F. Supp. 2d 79, 82 (D. Mass. 1998) (“Once Amtrak has filed the declaration and deposited the funds, title in fee simple vests in Amtrak, and the ‘right to the money vests in the person entitled to the money.’<sup>2</sup> Challenges may be made to the amount later in a just compensation hearing.”) (citations omitted).<sup>2</sup> It is hornbook law that the Court determines whether the amount accurately constitutes “just compensation” at a later point in the proceedings, after a hearing. 49 U.S.C. § 24311(b)(3). *See also* 6A-27 Nichols on Eminent Domain § 27-14 (describing procedure for deposit generally).<sup>3</sup>

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<sup>2</sup> 49 U.S.C. §24311(b):

(2) When the declaration is filed and the deposit is made under paragraph (1) of this subsection, title to the property vests in Amtrak in fee simple absolute or in the lesser interest shown in the declaration, and the right to the money vests in the person entitled to the money. When the declaration is filed, the court may decide--

(A) the time by which, and the terms under which, possession of the property is given to Amtrak; and

(B) the disposition of outstanding charges related to the property.

(3) After a hearing, the court shall make a finding on the amount that is just compensation for the interest in the property and enter judgment awarding that amount and interest on it. The rate of interest is 6 percent a year and is computed on the amount of the award less the amount deposited in the court from the date of taking to the date of payment.

<sup>3</sup> *United States v. Miller*, 317 U.S. 369, 381 (1943) (“[T]he payment is of estimated compensation; it is intended as a provisional and not a final settlement



Case 5:17-cv-01752-JLS Document 12 Filed 04/21/17 Page 4 of 5

Amtrak requests that the funds be placed in an interest-bearing account in accordance with 28 U.S.C. §§ 2041 and 2045. A proposed order is attached hereto.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By /s/ Kandice Kerwin Hull

Kandice K. Hull  
PA I.D. No. 86345  
Dana W. Chilson  
PA I.D. No. 208718  
Sarah Hyser-Staub  
PA I.D. No. 315989  
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(717) 232-8000  
khull@mcneeslaw.com

Dated: April 21, 2017

*Attorneys for Plaintiff National Railroad  
Passenger Corporation ("Amtrak")*

---

with the owner; it is a payment 'on account of' compensation and not a final settlement of the amount due.")

**CERTIFICATE OF SERVICE**

I hereby certify that on the 21 day of April, 2017, a true and correct copy of the foregoing document was filed electronically. Notice of this filing will be sent to all registered parties by operation of the Court's electronic filing system:

Patrick J. Loftus, Esquire  
Sean Patrick McConnell, Esquire  
DUANE MORRIS, LLP  
30 South 17<sup>th</sup> Street  
Philadelphia, PA 19103

*Attorneys for Defendant*

/s/ Kandice Kerwin Hull

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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

NATIONAL RAILROAD PASSENGER :  
CORPORATION (AMTRAK) : NO. 17-CV-1752  
60 Massachusetts Avenue, NE :  
Washington, DC 20020 :

Plaintiff :

v. :

CIVIL ACTION – LAW

4.0446 ACRES MORE OR LESS OF :  
LAND AND FIXTURES located at :  
Powerhouse Road, Manor Township :  
Lancaster County, PA 17516 :

and :

PPL ELECTRIC UTILITIES CORP. :  
Two North Ninth Street :  
Allentown, PA 18101 :

Defendant :

**ORDER**

AND NOW, this \_\_\_\_ day of \_\_\_\_\_ 2017, pursuant to Fed. R. Civ.  
P. 71.1(j)(1); 49 U.S.C. § 24311; and 28 U.S.C. §§ 2041, 2045, it is HEREBY  
ORDERED THAT the funds deposited by Plaintiff shall be held in the Court’s  
Registry in an interest-bearing account, pending the disposition of these moneys  
pursuant to an Order of the Court under the aforesaid rule and statute.

BY THE COURT:

\_\_\_\_\_  
Jeffrey L. Schmehl, U.S.D.J.

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

NATIONAL RAILROAD PASSENGER :  
CORPORATION (AMTRAK) :  
Massachusetts Avenue, NE :  
Washington, DC 20020 :

NO. 17-CV-1752

Movant

v.

CIVIL ACTION – LAW

4.0446 ACRES MORE OR LESS OF :  
LAND AND FIXTURES located at :  
Powerhouse Road, Manor Township :  
Lancaster County, PA 17516 :

and

PPL ELECTRIC UTILITIES CORP. :  
Two North Ninth Street :  
Allentown, PA 18101 :

Respondent

**PROOF OF SERVICE UPON**  
**DEFENDANT PPL ELECTRIC UTILITIES CORP.**

The undersigned hereby certifies that a copy of the Notice of  
Condemnation, Motion of Plaintiff National Railroad Passenger Corporation  
for Temporary Restraining Order and Preliminary Injunction, and Brief in  
Support of the Emergency Motion were served upon Defendant PPL

Electric Utilities Corp. on April 20, 2017 as evidenced by the Affidavit of Service attached hereto.

McNEES WALLACE & NURICK LLC

By /s/ Kandice Kerwin Hull

Kandice Kerwin Hull  
PA I.D. No. 86345  
Dana W. Chilson  
PA I.D. No. 208718  
Sarah Hyser-Staub  
PA I.D. No. 315989  
100 Pine Street,  
P. O. Box 1166  
Harrisburg, PA 17108-1166  
(717) 232-8000  
khull@mcneeslaw.com

Dated: April 21, 2017

*Attorneys for Plaintiff National Railroad  
Passenger Corporation ("Amtrak")*



**CERTIFICATE OF SERVICE**

I hereby certify that on the 21st day of April, 2017, a true and correct copy of the foregoing document was filed electronically. Notice of this filing will be sent to all registered parties by operation of the Court's electronic filing system:

Patrick J. Loftus, Esquire  
Sean Patrick McConnell, Esquire  
DUANE MORRIS, LLP  
30 South 17<sup>th</sup> Street  
Philadelphia, PA 19103  
*Attorneys for Defendant*

/s/ Kandice Kerwin Hull  
Kandice K. Hull  
PA I.D. No. 86345  
Dana W. Chilson  
PA I.D. No. 208718  
Sarah Hyser-Staub  
PA I.D. No. 315989  
100 Pine Street,  
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JLS

13

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

NATIONAL RAILROAD PASSENGER :  
CORPORATION (AMTRAK) :  
60 Massachusetts Avenue, NE :  
Washington, DC 20020 :

NO. 17-CV-1752

Plaintiff

v.

CIVIL ACTION – LAW

4.0446 ACRES MORE OR LESS OF :  
LAND AND FIXTURES located at :  
Powerhouse Road, Manor Township :  
Lancaster County, PA 17516 :

and

PPL ELECTRIC UTILITIES CORP. :  
Two North Ninth Street :  
Allentown, PA 18101 :

Defendant

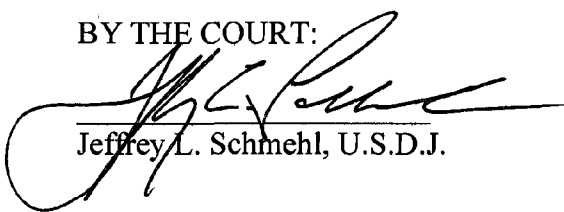
ORDER

AND NOW, this 25<sup>th</sup> day of April 2017, pursuant to Fed. R. Civ.

P. 71.1(j)(1); 49 U.S.C. § 24311; and 28 U.S.C. §§ 2041, 2045, it is HEREBY  
ORDERED THAT the funds deposited by Plaintiff shall be held in the Court's  
Registry in an interest-bearing account, pending the disposition of these moneys  
pursuant to an Order of the Court under the aforesaid rule and statute.

4/25/17  
E-mailed to counsel

BY THE COURT:

  
Jeffrey L. Schmehl, U.S.D.J.



IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

NATIONAL RAILROAD PASSENGER	:	
CORPORATION (AMTRAK)	:	NO. 17-CV-1752
Massachusetts Avenue, NE	:	
Washington, DC 20020	:	
	:	
Movant	:	
	:	
v.	:	CIVIL ACTION – LAW
	:	
4.0446 ACRES MORE OR LESS OF	:	
LAND AND FIXTURES located at	:	
Powerhouse Road, Manor Township	:	
Lancaster County, PA 17516	:	
	:	
and	:	
	:	
PPL ELECTRIC UTILITIES CORP.	:	
Two North Ninth Street	:	
Allentown, PA 18101	:	
	:	
Respondent	:	

**PROOF OF SERVICE UPON**  
**DEFENDANT PPL ELECTRIC UTILITIES CORP.**

The undersigned hereby certifies that a copy of the Summons was served upon Defendant PPL Electric Utilities Corp. on April 25, 2017 as

evidenced by the Affidavit of Service attached hereto.

McNEES WALLACE & NURICK LLC

By /s/ Kandice Kerwin Hull

Kandice Kerwin Hull  
PA I.D. No. 86345  
Dana W. Chilson  
PA I.D. No. 208718  
Sarah Hyser-Staub  
PA I.D. No. 315989  
100 Pine Street,  
P. O. Box 1166  
Harrisburg, PA 17108-1166  
(717) 232-8000  
khull@mcneeslaw.com

Dated: April 26, 2017

*Attorneys for Plaintiff National Railroad  
Passenger Corporation ("Amtrak")*

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. 17-1752

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* PPL ELECTRIC UTILITIES CORP  
was received by me on *(date)* 4/25/2017

I personally served the summons on the individual at *(place)* \_\_\_\_\_  
on *(date)* \_\_\_\_\_ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* ANDREA MARTINO (CLAIMS/LEGAL @ PPL), who is  
designated by law to accept service of process on behalf of *(name of organization)* PPL ELECTRIC UTILITIES CO.  
2 NORTH 9TH ST. ALLENTOWN, PA 18101 on *(date)* 4/25/2017 ; or

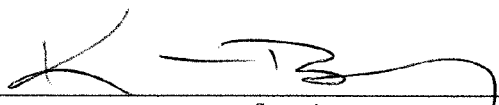
I returned the summons unexecuted because \_\_\_\_\_ ; or

Other *(specify)*:

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ 0.00

I declare under penalty of perjury that this information is true.

Date: 4/25/2017

  
\_\_\_\_\_  
*Server's signature*

KENNETH BROWNING, LPI

*Printed name and title*

THE BROWNING GROUP LLC  
6571 WINDMERE ROAD  
HARRISBURG, PA 17111

*Server's address*

Additional information regarding attempted service, etc:

ANDREA MARTINO W/F-30, 5'8" TALL, 145LBS, BROWN HAIR

## AFFIDAVIT OF SERVICE

<b>Case:</b> 17- 1752	<b>Court:</b> United States District Court for the Eastern District of Pennsylvania	<b>County:</b>	<b>Job:</b> 1384191 (17-247)
<b>Plaintiff / Petitioner:</b> National Railroad Passenger Corporation, Amtrak		<b>Defendant / Respondent:</b> 4.0446 Acres More or Less of Land and Road, Manor Township, Lancaster County, Pa 17516, and PPL Electric Utilities Corp.	
<b>Received by:</b> The Browning Group LLC		<b>For:</b> McNees Wallace & Nurick LLC	
<b>To be served upon:</b> PPL Electric Utilities Corp			

I, Kenneth Browning, being duly sworn, depose and say: I am over the age of 18 years and not a party to this action, and that within the boundaries of the state where service was effected, I was authorized by law to make service of the documents and informed said person of the contents herein

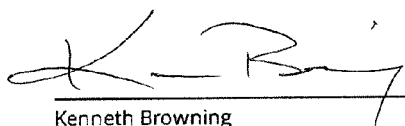
**Recipient Name / Address:** Andrea Martino (Claims/Legal) c/o PPL Electric Utilities Corp, PPL Electric Utilities Corp: 2 North Ninth Street, Allentown, Pa 18101

**Manner of Service:** Authorized, Apr 25, 2017, 3:33 pm EDT

**Documents:** Cover Letter dated 4/25/17, Summons in a Civil action (Received Apr 25, 2017 at 12:51pm EDT)

**Additional Comments:**

1) Successful Attempt: Apr 25, 2017, 3:33 pm EDT at PPL Electric Utilities Corp: 2 North Ninth Street, Allentown, Pa 18101 received by Andrea Martino (Claims/Legal) c/o PPL Electric Utilities Corp. Age: 30; Ethnicity: Caucasian; Gender: Female; Weight: 145; Height: 5'8"; Hair: Brown; Other: Cooperative;  
Hand Delivered @ PPL Electric Utilities Corp

 4/25/17

Kenneth Browning

Date

The Browning Group LLC  
6571 Windmere Road  
Harrisburg, PA 17111  
1-800-939-2978

**CERTIFICATE OF SERVICE**

I hereby certify that on the 26<sup>th</sup> day of April, 2017, a true and correct copy of the foregoing document was filed electronically. Notice of this filing will be sent to all registered parties by operation of the Court's electronic filing system:

Patrick J. Loftus, Esquire  
Sean Patrick McConnell, Esquire  
DUANE MORRIS, LLP  
30 South 17<sup>th</sup> Street  
Philadelphia, PA 19103  
*Attorneys for Defendant*

/s/ Kandice Kerwin Hull  
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