**DEPARTMENT OF ENERGY**

**Federal Energy Regulatory Commission**

**18 CFR Part 35**

**[Docket No. RM02–1–000]**

## Standardization of Generator Interconnection Agreements and Procedures; Notice of Proposed Rulemaking

April 24, 2002.

**AGENCY:** Federal Energy Regulatory Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Federal Energy Regulatory Commission (Commission) is proposing to amend its regulations to require public utilities to file the standardized interconnection agreement and procedures we will adopt in this proceeding and to take and provide interconnection service under them. The agreement and procedures also would apply to any non-public utility that seeks voluntary compliance with jurisdictional transmission tariff reciprocity conditions.

**DATES:** Comments are due June 17, 2002. Comments should not exceed 30 double-spaced pages and should include an executive summary.

**ADDRESSES:** Send comments to: Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

**FOR FURTHER INFORMATION CONTACT:**

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**SUPPLEMENTARY INFORMATION:**

### I. Introduction

The electric power industry continues to be an industry in transition. Where the industry was once primarily the domain of large, vertically integrated utilities providing power at cost-based rates, companies selling unbundled power at rates set by competitive markets have become common. But balanced market rules and sufficient infrastructure continue to be essential for achieving a seamless nationwide power market that will provide customers with reasonably priced and reliable service.

The Commission continues to work to encourage fully competitive bulk power markets. The effort took its first big step with Order No. 888,[1] which required public utilities to provide others comparable access to their transmission lines, and continued with Order No. 2000,[2] which began the process that will result in the development of a small number of Regional Transmission Organizations (RTOs). Where necessary, the Commission has taken action to complete the establishment of robust, seamless, competitive, wholesale electric markets. To this end, the Commission currently is preparing a rulemaking on Standard Market Design that will propose a reformed open access transmission tariff (OATT) that will be applicable to RTOs and other public utilities that own, operate, or control interstate transmission facilities.

While the subject of interconnection arose in the Order No. 888 rulemaking, no explicit reference to interconnection appeared in the *pro forma* tariff. Nevertheless, interconnection is a critical component of open access transmission service, and standard interconnection agreements and procedures are essential for providing the right incentives for both transmission providers and generators. Good interconnection standards and procedures will serve several important functions: they will encourage needed investment in infrastructure, limit opportunities for transmission providers to favor their own generation, and ease entry for competitors while ensuring efficient siting decisions.

To date, the Commission has addressed interconnection issues on a case-by-case basis. However, these issues have arisen with increasing frequency as competitive markets have reacted to supply shortages. Generators seeking to build and interconnect their new energy resources with interstate transmission have been hindered by the lack of standardized interconnection procedures and agreements that would enable an expeditious and economic approval and construction process. As discussed below, it has become apparent that the case-by-case approach is insufficient to address these problems and there is a pressing need for a single, uniformly applicable interconnection agreement and set of procedures. Having a standardized set of procedures applicable to all interstate transmission facilities will expedite the development of new generation.

Our effort to address interconnection issues generically presents numerous challenges. The electric industry is faced with the competing need, on the one hand, for additional generation and transmission infrastructure that will ensure reliability and, on the other hand, for efficient price signals for appropriate siting. Efficiency considerations include the assignment of cost responsibility for system upgrades necessary to interconnect a new generator.

To properly implement an interconnection agreement and set of procedures, numerous issues must be resolved, among them: (1) How to ensure that accurate interconnection studies are produced in a timely fashion; (2) the extent to which any transmission data necessary for interconnection should be made transparent (*i.e.,* available to all); (3) how to create the proper incentives for transmission providers to treat all generation comparably; (4) how to allocate equitably the costs and benefits of siting generation; and (5) who should pay for the costs of system upgrades associated with interconnection, including the issue of whether the generator should be required to initially finance the cost of systems upgrades associated with interconnection.

The effort to generically address cost responsibility for system upgrades necessary to interconnect new generators is further complicated by prior treatment of these costs for existing Transmission Providers' system facilities that are necessary to interconnect their own generators to the transmission system. With the exception of the generator step-up transformers (GSUs), Transmission Providers' interconnection facility costs are usually recovered through the Transmission Providers' OATT rates, even when those facilities are radial or would not otherwise be necessary but for the

[1] Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities and Recovery of Stranded Costs by Public Utilities and Transmitting Utilities, Order No. 888, 61 Fed. Reg. 21,540 (May 10, 1996), FERC Stats. and Regs. ¶ 31,036 (1996), *order on reh'g,* Order No. 888–A, 62 Fed. Reg. 12,274 (March 14, 1997), FERC Stats. & Regs. ¶ 31,048 (1997), *order on reh'g,* Order No. 888–B , 81 FERC ¶ 61,248 (1997), *order on reh'g,* Order No. 888–C , 82 FERC ¶ 61,046 (1998), *aff'd in relevant part sub nom.* Transmission Access Policy Study Group v. FERC, 225 F.3d 667 (D.C. Cir. 2000), *aff'd sub nom.* New York v. FERC, 122 S.Ct. 1212 (2002).

[2] Regional Transmission Organizations, Order No. 2000, 65 Fed. Reg. 809 (Jan. 6, 2000), FERC Stats. & Regs. ¶ 31,089 (1999), *order on reh'g,* Order No. 2000–A, 65 Fed. Reg. 12,088 (March 8, 2000), FERC Stats. & Regs. ¶ 31,092 (2000), *aff'd sub nom.* Public Util. Dist. No. 1 v. FERC, 272 F.3d 607 (D.C. Cir. 2001).

Transmission Providers' generator. Treating Transmission Providers' own generation different than generation owned by others may put the other generators at a competitive disadvantage.

The proposed rule proposes a standard interconnection agreement (IA) and standard interconnection procedures (IP) that will be made part of existing and future OATTs. The Commission believes that these documents will ensure that reliability needs will be met while providing a reasonable balance between competing needs for uniformity and flexibility.

## II. Discussion

### *A. The Need for Generic Action*

Order No. 888 set forth the Commission's open access principles as they apply to transmission service, but it did not directly address generator interconnections. Later, in *Tennessee Power Company* (*Tennessee*), 90 FERC ¶ 61,238 (2000), the Commission clarified that interconnection is an element of transmission service and must be offered under the terms of the *pro forma* tariff. In *Tennessee* we encouraged, but did not require, transmission providers to revise their open access tariffs to include interconnection procedures, including standard interconnection agreements and specific criteria, procedures, milestones, and time lines for evaluating interconnection requests.[3]

Accordingly, a number of transmission providers have filed interconnection procedures as part of their *pro forma* tariffs.[4] Some of these providers have filed *pro forma* interconnection agreements; others have submitted only procedures explaining how interconnection requests will be processed.

However, many industry participants remain dissatisfied with existing interconnection policy and procedures. In a number of contexts, the Commission has received comments from both generators and transmission providers concerning existing interconnection policy and procedures.

Generators assert, among other things, that: (1) They have experienced difficulty securing interconnection without requesting delivery, (2) the treatment they receive is not comparable to the treatment received by the transmission provider's own generation, (3) system upgrade costs charged initially to generators are sometimes not related to the interconnection, (4) there are delays and uncertainty due to the lack of binding commitments and firm deadlines in the transmission providers' *pro forma* tariffs, and (5) there is a lack of transparency of transmission information needed to make an independent assessment of the impact of an interconnection request.

Transmission providers argue that they need: (1) Minimum commitments from generators seeking to interconnect prior to performing studies to weed out those who will likely never interconnect, resulting in a more manageable and realistic queue, (2) assurance that their control area will benefit from, or at least not be burdened by, adding generators, particularly when the new generator seeks to locate on one system but serve load on another, and (3) improved communication between the generators and the loads they serve.

Interconnection plays a crucial role in bringing much-needed generation to the grid. We expect that a standard interconnection agreement and set of procedures will resolve these disputes and foster increased economic generation development and reliability through appropriate incentives for both transmission providers and generators. Accordingly, the Commission proposes to adopt a standard generator interconnection agreement and standard generator interconnection procedures. These will be required as amendments to the OATTs of all public utilities that own, operate, or control transmission facilities under the Federal Power Act (FPA).

### *B. Legal Authority*

In fulfilling its responsibilities under FPA sections 205 and 206,[5] the Commission is required to address, and has the authority to remedy, undue discrimination. The Commission must ensure that the rates, contracts, and practices affecting jurisdictional transmission do not reflect an undue preference or advantage and are just and reasonable. Additionally, as discussed in Order No. 888, there is a substantial body of case law that holds that the Commission's regulatory authority under the FPA ''clearly carries with it the responsibility to consider, in appropriate circumstances, the anticompetitive effects of regulated aspects of interstate utility operations pursuant to [FPA] §§ 202 and 203, and under like directives contained in §§ 205, 206, and 207.'' [6] The Supreme Court recently affirmed the Commission's decision to exercise this authority and require non-discriminatory (comparable) open access as a remedy for undue discrimination.[7]

In Order No. 888, the record showed that public utilities owning or controlling jurisdictional transmission facilities had the incentive to engage in, and had engaged in, unduly discriminatory transmission practices.[8] The Commission also thoroughly discussed the legislative history and case law involving sections 205 and 206, and concluded that as a matter of law, it had the authority and responsibility to remedy the undue discrimination it had found by requiring mandatory open access, and that it could do so through a rulemaking on a generic, industry-wide basis.[9]

After issuing Order No. 888, the Commission identified interconnection as an element of transmission service that is required to be provided under the open access *pro forma* tariff.[10] Thus, the Commission may order generic interconnection terms and procedures pursuant to its authority to remedy undue discrimination and preferences under sections 205 and 206 of the FPA and further described in Order No. 888.

### *C. Commission Interconnection Case Law*

The Commission's current interconnection policy informs this generic effort. The cases addressing interconnection have been preoccupied with drawing distinctions between interconnection and network facilities, and between interconnection service and transmission service. The Commission has developed a simple test

[3] *See, e.g.,* Commonwealth Edison Co., 91 FERC ¶ 61,083 (2000).

[4] *See, e.g.,* American Electric Power Service Corp., 91 FERC ¶ 61,308 (2000), *order denying reh'g and granting clarification,* 94 FERC ¶ 61,166 (2001), *order dismissing request for clarification,* 95 FERC ¶ 61,130 (2001), *appeal docketed sub nom. Tenaska, Inc.* v. *FERC,* No. 01–1194 (D.C. Cir. April 23, 2001); Southwest Power Pool, Inc., 92 FERC ¶ 61,109 (2000); Carolina Power & Light Co., 93 FERC ¶ 61,032 (2000), *reh'g denied,* 94 FERC ¶ 61,165 (2001), *appeal docketed sub nom. Tenaska, Inc.* v. *FERC,* No. 01–1195 (D.C. Cir. April 23, 2001); Virginia Electric & Power Co., 93 FERC ¶ 61,307 (2000), *order on clarification,* 94 FERC ¶ 61,045 (2001), *reh'g denied,* 94 FERC ¶ 61,164 (2001), *appeal docketed sub nom. Tenaska, Inc.* v. *FERC,* No. 01–1196 (D.C. Cir. April 23, 2001); Consumers Energy Co., 93 FERC ¶ 61,339 (2000), *order on reh'g and clarification,* 94 FERC ¶ 61,230 (2001), *order on clarification and denying reh'g,* 95 FERC ¶ 61,131 (2001).

[5] 16 U.S.C. 824d, 824e (1994).

[6] *Gulf States Utils. Co.* v. *FPC,* 411 U.S. 747, 758–59 (1973); *see City of Huntingburg* v. *FPC,* 498 F.2d 778, 783–84 (D.C. Cir. 1974) (noting Commission duty to consider the potential anticompetitive effects of a proposed interconnection agreement).

[7] *New York* v. *FERC,* 122 S.Ct. 1212 (2002) .

[8] Order No. 888 at 31,679–84; Order No. 888–A at 30,209–10.

[9] Order No. 888 at 31,668–73, 31,676–79; Order No. 888–A at 30,201–12; TAPS v. FERC, 225 F.3d 667, 687–88 (D.C. Cir. 2000).

[10] *See* Tennessee Power Co., 90 FERC ¶ 61,238 at 61,761, *reh'g dismissed,* 91 FERC ¶ 61,271 (2000).

for distinguishing interconnection from transmission facilities: network facilities include all facilities at or beyond the point where the customer or generator connects to the grid.[11] It follows that interconnection facilities are those found between the generator and the grid connection.

Regarding the services themselves, the Commission has clarified that a generator need not enter into a transmission service agreement to interconnect with a transmission system.[12] At the same time, interconnection service or an interconnection by itself does not confer any delivery rights from the generating facility to any points of delivery.[13] Thus, the Commission has distinguished the upgrades and services related to interconnection and those related to transmission when a customer secures the interconnection component of transmission service separately from the delivery component.[14]

*D. Interconnection ANOPR*

The Commission issued an Advance Notice of Proposed Rulemaking (ANOPR) on October 25, 2001.[15] As a point of departure, the ANOPR presented the Standard Generator Interconnection Agreement and Generation Interconnection Procedure of the Electric Reliability Council of Texas (ERCOT).[16] The Commission supplemented and modified the ERCOT documents with various ''best practices'' that were identified in Attachment A to that order. These ''best practices'' were based, in part, on generator interconnection agreements and procedures that have been approved by the Commission in past cases. The ANOPR also instructed the parties to assume that the Commission's current pricing policy, as described in an ANOPR attachment, would remain effective.

Commenters advocating a standard agreement and procedures other than the ERCOT model as supplemented and modified by the ''best practices'' in Attachment A were asked to specify in detail how their proposals differed and were superior to or more appropriate than the ERCOT-plus-best-practices model.

The Commission also initiated a consensus-making process for industry participants in which interested members of the electric industry, government and public had an opportunity to provide meaningful input.

Public meetings of the stakeholders were conducted from November 2001 through January 2002 and included plenary sessions, private caucuses and drafting sessions. An interactive web site was established, which permitted any interested participant to view, post, and access documents, and post comments. These procedures made it possible for interested persons anywhere to participate. Public meetings generally were held at the Commission but also in Philadelphia and Denver in response to the National Association of Regulatory Utility Commissioner's (NARUC's) request that we hold some meetings outside of Washington, DC.

Consensus was largely reached by the participants on the scope of interconnection service, responsibility for facilities, and interconnection procedures and agreements. Two drafting groups developed standard IA and IP documents. These drafting groups, generally comprising representatives from each of the electric market segments, met intensively for three weeks in December 2001 and January 2002. Their efforts resulted in two documents that have largely shaped the text of this NOPR. We will refer to these documents as the Consensus IA and IP (while recognizing that a consensus was not reached on all matters).

The drafting groups reached agreements on many issues and successfully narrowed the areas of disagreement. The Consensus IA and IP present alternative positions for certain provisions. For others, there is a reasonable degree of consensus among the industry participants. No party, however, has endorsed all parts of either Consensus IA or IP, or even all parts of all alternative provisions proposed by the sector to which that party belongs. In addition, some of the Consensus IA and IP provisions [17] have not been discussed by the Drafting Groups because of lack of time.

The consensus proposal was also the subject of a public meeting held on January 17–18, 2002.[18] Moreover, by February 1, 2002, more than 120 parties had filed comments on the ERCOT-plus-best-practices model as well as on the Consensus IA and IP. On the whole, the commenters support the Commission's efforts to standardize generator interconnection procedures and interconnection agreements to promote efficiency in energy markets. The commenters, however, also raise questions with respect to specific provisions in the interconnection agreements and procedures. We will not address the comments in detail in this NOPR, since we are requesting further comment, but they have informed our analysis of the issues.

*E. ANOPR Comments on the IA and IP*

Although the parties did not reach consensus on all provisions, the documents reflect substantial consensus among diverse interests. The Commission used these documents and the subsequent comments to create the proposed standardized IA and IP documents (''NOPR IA and IP''). Generally, the NOPR uses the Consensus IA and IP provisions where there was consensus. When the participants could not reach consensus on a particular issue and options were presented in the filed agreement and procedures, we sought to minimize barriers to entry of new generation as much as possible without increasing the risk of reliability problems. Where issues remained unresolved and no options were presented, the proposal generally adopts the ERCOT text. Also, the proposal generally adopts the ERCOT text where the parties noted they had changed the text but had not completed their discussions before filing the documents.

With certain exceptions, the majority of Generators and Transmission Providers endorse the inclusion of two products (Energy and Network Resource Interconnection Services [19]) in the Consensus IA and IP. Likewise, most Generators and Transmission Providers agree in concept with the principles governing queuing and restudy

[11] Entergy Gulf States, Inc., 98 FERC ¶ 61,014 at 61,023, *reh'g denied,* 99 FERC ¶ ____ (2002); *see* Public Service Co. of Colorado, 59 FERC ¶ 61,311 (1992), *reh'g denied,* 62 FERC ¶ 61,013 at 61,061 (1993).

[12] Tennessee Power Co., 90 FERC ¶ 61,238 at 61,761 (2000).

[13] *See* Arizona Public Service Co., 94 FERC ¶ 61,027 at 61,076, *order on reh'g,* 94 FERC ¶ 61,267 (2001).

[14] Nevada Power Co., 97 FERC ¶ 61,227 at 62,035–36 (2001), *reh'g pending* (*Nevada Power*).

[15] Standardizing Generator Interconnection Agreements Procedures, Advance Notice of Proposed Rulemaking, 66 Fed. Reg. 55,140 (Nov. 1, 2001), FERC Stats. & Regs. ¶ 35,540 (2001).

[16] The ERCOT agreement and procedures were attached to the ANOPR as Appendix A.

[17] Sixteen of 31 articles of the Consensus IA had not been discussed by the IA Drafting Group.

[18] Notice of Staff Public Meeting, 67 Fed. Reg. 887 (Jan. 8, 2002).

[19] Energy Resource Interconnection Service allows the Generator to connect its Facility to the Transmission System, thereby becoming eligible to deliver output using existing firm or non-firm capacity on an ''as available'' basis. IA 4.1.1.1. Network Resource Interconnection Service allows the Generator to connect its Facility in a manner comparable to that in which the Transmission Provider integrates its generating facilities to service native load or, in an independent system operator (ISO) or RTO with market-based congestion management, as in the same manner as other Network Resources. IA 4.1.2.1.

provisions set forth in the Consensus IA and IP.

While the Generators and Transmission Providers agree that the differences between the parties have narrowed significantly, disagreements remain. The following section discusses several of the disagreements and how we decided what to propose in the NOPR IA and IP.

1. Coordination With Affected Third Party Systems (IP § 3.5)

The interconnection of a generator may affect other systems. This requires the Transmission Provider to coordinate studies and upgrades to accommodate the interconnection request. Transmission Providers suggest language that requires only reasonable efforts to coordinate with affected third-party systems. Generators generally want transmission providers and affected third parties to be responsible for coordinating and performing all necessary studies and upgrades. Generators also do not want to condition interconnection on the completion of third-party upgrades.

The NOPR IP adopts the Generators' position. We believe that their approach reduces unnecessary delay by recognizing that where multiple transmission systems are affected, coordination studies and upgrades must be performed for the successful completion of a new generation project. We agree with the Generators that the alternative would likely delay the completion of the interconnection project through an iterative or sequential study process. Also, as we explicitly stated in *Nevada Power*, third-party interconnection studies and network upgrades do not apply to interconnection but to transmission delivery service.[20] So, while the generator can get interconnected to the Transmission Provider's system, it cannot deliver or may not be able to deliver all of its power for the facility until the third-party upgrades are completed. Finally, by mandating that the affected third party coordinate interconnection study and network upgrades and additional processes with the Transmission Provider, it gives Transmission Providers another incentive to move quickly to become RTOs because RTO structure requires greater regional coordination and a move to single system planning.

[20] Nevada Power Co., 97 FERC ¶ 61,227 at 62,035–36 (2001), *reh'g pending.*

2. Interconnection Construction Acceleration (IP § 12.3)

Under certain circumstances, Transmission Providers may wish to accelerate construction of network facilities either on their own initiative or to accommodate another generator's request to do so. Transmission Providers want the ability to accelerate the construction of network upgrades without having to consult with the generator who will be charged for the upgrade. Generators agree that acceleration should be permitted and generally agree with paying for accelerated upgrades as long as they either receive credits or are reimbursed by the generator requesting the accelerated construction. But Generators maintain that the Transmission Provider should bear the costs of any accelerated construction it undertakes for its own benefit or for the benefit of another generator without consultation with the Generator.

The NOPR IP adopts the Generators' proposal. The Commission believes that it is important to allow Transmission Providers to accelerate the construction of network upgrades. The approach offered by the Generators offers generators fair compensation (in the form of transmission credits) for costs that will be repaid by the Transmission Provider once the Transmission Provider recovers them from the generator requesting accelerated construction. It does not appear reasonable that, where a generator is expected to pay for construction of facilities, the Transmission Provider could accelerate the timing and therefore the need for financing without prior consultation.

3. Small Generator Interconnection Issues (IP § 14; IP Appendix 6)

Small Generators want the ability to interconnect without having to pay the cost of the interconnection studies and upgrades or having to deal with local and state regulatory requirements that may hinder development. NARUC, state regulatory agencies and certain Transmission Providers request that the Commission state unequivocally that states have jurisdiction over distribution systems and clarify that the Commission's treatment of Small Generators applies only to transmission.

The actions proposed here are well within the authority granted to the Commission in the FPA; it is clear that the FPA grants federal jurisdiction over transmission by a public utility in interstate commerce and when public utilities make sales for resale in interstate commerce.[21] Within this jurisdiction, we propose that the NOPR IA and IP will apply only when a generator interconnects to the Transmission Provider's transmission system or makes wholesale sales in interstate commerce at either the transmission or distribution voltage level.[22]

Regarding the request to exempt Small Generators from paying for study and upgrade costs, we are not inclined to adopt this proposal. Rather, we propose that Small Generators should be responsible for all studies and upgrades needed to accommodate their facilities. The utilities' other transmission customers should not have to subsidize Small Generators. However, we propose an accelerated procedure for Small Generators and system studies limited in scope (i.e., limited only to the immediate vicinity of the Small Generator's interconnection) and that the Transmission Provider use existing studies to the extent possible at no cost to the Small Generator.

4. Regional Differences

The consensus documents require all affected entities to adopt standard interconnection procedures and agreements regardless of the geographical location or configuration of the electric systems. Yet there is significant disagreement about how best to incorporate regional differences. Transmission Providers, state regulators and others contend that the IA and IP documents must acknowledge regional differences (such as system operations, reliability, environmental concerns, etc.). Florida Public Service Commission, for example, says that the IP and IA must take into account the special protective relaying schemes needed by Florida utilities to ensure that the transmission separation unique to Florida due to its peninsular nature is minimized. Generators suggest that these types of regional differences can be addressed when the compliance filings are made after the Final Rule is issued.

While the Transmission Providers, state regulators and others may have raised legitimate concerns regarding regional differences, they have not specifically identified the modifications

[21] *See* New York v. FERC, 122 S. Ct. 1212 (2002).

[22] For example, the IA and IP would apply if the Generator interconnects to the Transmission Provider's transmission system (regardless of whether the output is being sold at wholesale or retail) or if the Generator interconnects to the Transmission Provider's distribution system and the output is being sold at wholesale. However, the IA and IP would not apply if the Generator connects to a distribution system but hast not yet proposed to sell the output at wholesale.

that need to be made to the IA and IP to accommodate these differences. In some instances, parties have raised concerns that are outside the standard terms and conditions of the NOPR IA and IP. The Commission proposes to adopt the approach used in Order No. 888: however, if commenters identify legitimate concerns about a need for regional variations in specific provisions in the NOPR IA and IP, the Commission will consider revisions to these provisions that would permit regional variations as appropriate.[23]

5. Tax Indemnification Provisions (IA § 5.16)

IRS Notices 2001–82 and 88–129 suggest that contributions by Generators to Transmission Providers in connection with interconnection and network facility construction are non-taxable. Consistent with these IRS notices, the draft tax provisions in the NOPR treat the funding as a non-taxable event. The IRS is moving to further address these and other tax indemnification issues raised in the ANOPR proceeding.

Transmission Providers are concerned that the IRS Notices do not cover either transactions between a Generator and certain Transmission Providers or transmission credits for network upgrade costs. Accordingly, Transmission Providers want gross-up or secured indemnity from generators until the IRS rules that such items are not taxable. Generators argue that the IA tax provisions were negotiated by tax professionals who are familiar with and represent all sides of the electric power industry, including the Transmission Providers. They ask the Commission to either accept the tax section in its entirety or eliminate it from the IA.

The NOPR IA leaves section 5.14 in place, but adds a clarification that provides Transmission Providers with full reimbursement in the future if the IRS determines that these type of events are taxable.

6. Parties to the Agreement

The participants disagree as to the appropriate party or counter-party to the IA. Transmission Providers generally believe that the Transmission Owner, whether or not it is also the Transmission Provider, should be the sole signatory to the IA. Generators believe in general that, if the Transmission Owner and Transmission Provider are separate entities, both must sign the IA.

The Commission proposes that the Transmission Provider be required to sign the agreement because this service will be provided under the Transmission Provider's OATT. Moreover, no one disputes that the Transmission Owner must sign an agreement with the Generator, and it would be a waste of resources for the Transmission Provider and Generator to have to enter into separate agreements when one agreement would suffice. Accordingly, the Commission proposes that the Transmission Provider, and, to the extent necessary, the Transmission Owner, must become signatories to the IA.

7. Liquidated Damages (IA § 5.1, IP § 13.5)

Liquidated Damages provisions appear in both the IA and the IP. The liquidated damages provision in the Consensus IA is applicable if a Generator chooses the construction option described in IA section 5.1.B. Under this option, if a Transmission Provider fails to complete the interconnection facility by the in-service date or the network upgrades by the commercial operation date, the Transmission Provider shall pay the Generator liquidated damages. Liquidated damages would be limited to 0.5% per day of the actual aggregate costs of the interconnection facilities or network upgrades for which the Transmission Provider remains responsible, and such total shall not exceed 20% of the Transmission Provider's actual costs. The participants reached agreement on this provision in the Consensus IA.

But the participants disagree about the liquidated damages provision in the IP. The Generators propose a provision that would make Transmission Providers pay liquidated damages if the Transmission Provider fails to meet any of its obligations in the IP and does not remedy the failures within 15 business days. Liquidated damages would be 1% of the actual costs of the applicable study cost per day, but would not exceed 50% of the actual cost of the applicable study. Also, upon expiration of the remedy period, the Transmission Provider would refund any deposit amount for the applicable study that the Generator had paid in excess of actual reasonably incurred study costs.

Several transmission owners object to the Generators' proposal, stating that a Transmission Owner derives no profit from performing studies under the IP; it recovers only actual study costs. They reason that it is unfair to force a Transmission Owner to assume the risk of liquidated damages where there is no concomitant financial benefit. The National Rural Electric Cooperative Association and the American Public Power Association argue that the liquidated damages would be especially burdensome on cooperatives and public power providers because of their limited resources. They propose a reciprocal liquidated damages provision for generators applicable to the milestones that a generator must satisfy. The Arizona PSC argues that transmission providers should not be liable for delay because factors beyond their control could affect the schedule. It also argues that the Commission lacks the authority under the FPA to impose damages and argues that the liquidated damages provision is an assessment for nonperformance.

Because the participants reached consensus on the liquidated damages provision in the consensus IA, the Commission has included this provision in the NOPR IA. As for the IP, the Commission will leave the Generators' liquidated damages language in the NOPR IP. The Commission did not allow for liquidated damages in the OATT provisions related to facilities studies. [24] Nevertheless, we invite comments on whether the Commission should make the Generator's proposed provision a part of the IP in the final rule.

*F. Pricing Underlying the Consensus Documents*

For purposes of negotiating the IA and IP, participants were directed to assume our current interconnection pricing policy (see Attachment B to the ANOPR). While the Commission indicated that pricing would be addressed in a subsequent rulemaking, the ANOPR participants have argued forcefully that the interconnection products, terms, and conditions cannot be divorced from the underlying pricing that was assumed during negotiations. Nearly all participants have cautioned that the consensus documents will need to be modified if the Commission changes its current pricing policy.

As a result, the interconnection terms and conditions before us go hand-in-

[23] In Order No. 888, the Commission stated that it would allow parties to use regional differences to justify changes to certain tariff provisions when the proposed alternative provision is ''reasonable, generally accepted in the region, and consistently adhered to by the transmission provider.'' Order No. 888 at 31,770.

[24] Section 19.4 of the *pro forma* OATT requires Transmission Providers to use due diligence to complete a required facilities study within a 60-day period. If the Transmission Provider is unable to do so, it must notify the Transmission Customer, provide an estimate of the time needed to complete the study, and explain why the additional time is necessary. When completed, the study must include a description of the Generator's share of the cost of the required upgrade, and the time required to complete such construction and initiate the requested service.

hand with pricing. We have, therefore, concluded that interconnection pricing is best addressed at this time. The NOPR IA and IP reflect our existing pricing policies, and we invite comment on whether those existing policies should be retained. In addition, we provide clarification below on the issue of how interconnection and transmission pricing must be consistent and comparable.

1. Commission's Pricing Policies

a. Network Facilities Cannot Be Directly Assigned

The Commission has long held that the transmission grid is a single piece of equipment whose use can be priced on an average or incremental investment cost basis, but not by way of direct assignment. These standards are best described in *Public Service Company of Colorado (PSCO)*,[25] where the Commission described its then new policy of allowing use of the grid to be priced either on an incremental cost basis or on the traditional average or rolled-in cost basis:

> The Commission has long held that an integrated transmission grid is a cohesive network moving energy in bulk. Because the grid operates as a single piece of equipment, the Commission has consistently priced transmission service based on the cost of the grid as a whole. The Commission has rejected the direct cost assignment of grid facilities even if the grid facilities would not be installed but for a particular customer's service. The Commission as reasoned that, even if a customer can be said to have caused the addition of a grid facility, the addition represents a *system* expansion used by and benefitting all users due to the integrated nature of the grid. Recognizing that the grid is a cohesive network in a dynamic state of development, the Commission has even included remote facilities in the grid on the ground that they were merely the first segment of what would eventually be a network loop. The Commission has reserved direct assignments for only those transmission facilities that fall into what we have referred to as an ''exceptional category'' consisting of radials which are so isolated from the grid that they are and will remain non-integrated.
>
> Nothing in the Commission's new pricing policy changes or undermines these fundamental premises. There continues to be only one service—service over the entire grid—and both native load and third party customers ''use'' the entire grid, including any expansion. Similarly, both native load and third party customers benefit from integrated grid upgrades.
>
> The *only* change in our new policy is how to price grid service. The ''but for'' test continues to identify the additions to the grid which constitute the incremental cost of expanding the grid to serve the transmission customer. While we now permit utilities to price on the basis of this incremental grid cost, we are not directly assigning grid additions. We are not dismembering the grid or directly assigning its newest components.

At that time, service was still predominantly bundled (generation and transmission) and, therefore, the functionalization of costs between generation and transmission was not an issue. As a result, all transmission facilities, including generation interconnection facilities, were treated as part of the network.

b. Facilities Reassigned From Transmission to Generation

In 1996, the Commission issued Order No. 888, which required the unbundling of transmission and wholesale generation services. Prior to Order No. 888, when utilities were providing primarily a bundled generation and transmission service, the precise functionalization of costs as generation or transmission was not critical, as noted above. However, since unbundling, the Commission has determined that the cost of generation step-up transformers (GSUs) are part of the generation function rather than the transmission function.[26] In *KU*, we found that GSUs are used in providing generation services, and that the costs of these facilities should be charged to the customers using the generating facilities. Thus, we excluded the cost of GSUs from the Transmission Provider's transmission rates, reasoning that a more accurate method of cost recovery is to assign the costs of each GSU to the generator to which it is connected.

c. Interconnection Facilities Considered Direct Assignment Facilities Rather Than Network Facilities

As merchant generation took hold, entities sought interconnection before they had lined up specific load serving entities to purchase the output of the unit. Merchant generators, therefore, had a need to interconnect before they were ready to sign up for the delivery component of transmission service.

In *Tennessee Power Company (Tennessee)*,[27] the Commission clarified that interconnection is a component of transmission service, that the interconnection component must be offered under the terms of the *pro forma* tariff, and that this right is without regard to whether the interconnection component of transmission service is requested along with or before the delivery component of transmission service. In order to interconnect to the grid, merchant generators agreed to finance all necessary construction costs. It was at this time that Transmission Providers began to request that the cost of interconnection facilities (*i.e.,* all facilities needed to connect the generator to the network) be treated as sole use facilities and be directly assigned, rather than included as part of the network. In addition, some network upgrade costs were now being assessed prior to transmission delivery service. A choice between pricing the use of the network at its average or incremental cost could no longer be made because the average cost was a function of the rolled-in rate for a delivery service that had not as yet been requested. Therefore, the Commission allowed the Transmission Provider to assess an incremental cost rate at the time of interconnection (*i.e.,* the customer pays the cost of the network upgrade that would not have been incurred but for its service request) but required that customers receive credits for the cost of the network upgrades once the delivery component of transmission service begins. The Commission instituted this ''crediting'' policy to ensure that customers are not charged twice for the use of the network. Later, in *American Electric Power Service Corp.*,[28] the Commission required Transmission Providers to include in the Transmission Credits interest on the monies paid. In certain ISOs with comprehensive congestion management, the Commission does not require credits for network upgrades that increase the transfer capability; the customer (generator) instead receives comparable compensation in the form of price protection from the cost effects of congestion.

[25] 59 FERC ¶ 61,311 (1992), *reh'g denied*, 62 FERC ¶ 61,013 at 61,061 (1993) (footnotes omitted)

[26] Kentucky Utilities Company, 85 FERC ¶ 61,274 at 62,111 (1998) (*KU*). A GSU is located adjacent to a generating plant and increases the voltage of the plant output before it reaches the transmission network.

[27] 90 FERC ¶ 61,238 at 61,761, *reh'g dismissed*, 91 FERC ¶ 61,271 (2000).

[28] 97 FERC ¶ 61,098 at 61,530–31 (2001).

d. Summary

In *Consumers Energy Company,*[29] and *Entergy Gulf States, Inc.*,[30] the Commission underscored that the grid is a single piece of equipment from which only sole use facilities are excluded; that Commission policy prohibits the permanent direct assignment of network facilities; that the prohibition against the direct assignment of network facilities is without regard as to the purpose of the upgrade (*e.g.,* to relieve overloads, to remedy stability and short circuit problems, to maintain reliability, or to provide protection and service restoration); and that all facilities at or beyond the point where the customer (or generator) connects to the grid are network facilities.

2. Interconnection and Transmission Pricing Must Be Comparable and Consistent

In *Southern Company Services, Inc. (Southern)*, the company proposed to continue to treat the cost of interconnection facilities (meaning facilities on the generator's side of the point of interconnection) for its own generators as part of the network while directly assigning the cost of the same type of facilities to its competitors' generators.[31] *Southern* raised the issue of how to ensure comparability with interconnection and transmission pricing. Recognizing the need to address this issue on a generic basis, the Commission made *Southern* subject to the outcome of this rulemaking.

The NOPR IA and IP reflect the Commission's current interconnection pricing policy and we have invited comments on whether that policy should be retained. We will require that all transmission rates be designed in a manner that is consistent with whatever interconnection pricing is approved. To the extent our current interconnection pricing is adopted, all generation interconnection facilities, not just generator step-up transformers, must be removed from the transmission charge and directly assigned as sole use facilities. Consistent with our current pricing of generator step-up transformers, this sends a more accurate price signal by assigning the cost of interconnection facilities to the generation customers using them.

If commenters wish to propose generation interconnection pricing that differs from the pricing we propose herein, they must identify and explain to what extent the NOPR IA and IP must be changed accordingly as well as how they will ensure that the transmission rates are designed on a consistent and comparable basis.

3. Pricing for Independent Entities

After the release of the ANOPR the Commission announced its intention to reform public utility transmission tariffs using a standard market design (SMD) in Docket RM01–12. We seek comment on appropriate generator interconnection pricing in this docket consistent with the locational pricing methodology in the SMD proceeding. We note that in regions that use locational pricing, ISOs assess the cost of any new network facilities based on which network facilities would not be in the transmission expansion plan but for the interconnecting generator (this is referred to as the ''but for'' test). In this case, the generator typically receives transmission rights in return for the capacity that is created, which may take on value if the facility becomes congested in the future. This pricing method has only been allowed in regions where the transmission provider is independent of market participants. This is because of our concern that certain aspects of this method such as the congestion price signals to which the generator responds in asking for an upgrade, the determination of which generators in the queue should be responsible for which facilities, the cost of the facilities, and the assumptions underlying the power flow analysis, can be subjective. As a result, a transmission provider that is not an independent entity would have the ability and the incentive to exploit this subjectivity to its own advantage if it is able to assess the costs of network upgrades to the interconnecting generator. To address this potential problem, we invite comment on whether the Commission should accept an approach that departs from current Commission policy of providing transmission credits, and will consider alternative proposals as long as we can be assured that these cost causation determinations are made on an objective and non-discriminatory basis by an independent entity such as an RTO.

*G. Other Issues*

1. Force Majeure and Other Liability Issues

The ERCOT Standard Generation Interconnection Agreement contains several provisions addressing liability and a *force majeure* exception to liability. None of these provisions were reviewed and adopted by the IA drafting group, but they were filed as part of the Consensus IA. In the discussion below, we look to similar provisions in the OATT for comparison.

a. Insurance

At the outset, we note that Article 9 in the ERCOT Agreement (Article 13 in the Consensus IA) requires each party to the agreement to maintain certain minimum insurance coverages. The OATT contains no provision requiring insurance coverage.

b. Indemnification

Indemnification is the act of compensating another for a loss suffered due to a third party's act or default.[32] The ERCOT Agreement and the Consensus IA contain different indemnity provisions. The ERCOT provision (section 10.15, which incorporates by reference a Texas Public Utility Commission rule, PUCT Rule 25.202(b)(2)) does not extend indemnity protection to cases of gross negligence or intentional wrongdoing, while the Consensus IA (section 19.1) does not extend indemnity protection to cases of ordinary negligence or willful misconduct. Also, the ERCOT provision makes the legal costs of prosecuting or defending a claim by a third person an eligible liability, but does not allow indemnity protection from such costs when the action is between the parties to the agreement, while the Consensus IA draws no such distinction and makes all reasonable legal costs recoverable. The Consensus IA also includes indemnity procedures that describe how a party may pursue indemnity claims, and the procedure for doing so.

The indemnification provision in the OATT (section 10.2) indemnifies the transmission provider for legal costs due to claims by third persons arising from performance of its obligations under the OATT, and does not explicitly allow indemnification for disputes arising over enforcement of this provision. Indemnification does not extend to cases of ordinary negligence and intentional wrongdoing by the Transmission Provider.

c. Consequential Damages

Consequential damages are losses that flow indirectly from an injurious act rather than directly and immediately. [33] The ERCOT Agreement's consequential damages provision (section 10.16, which is found in section 19.6 of the Consensus IA) excuses liability for losses or costs for any special, indirect, incidental, consequential, or punitive

[29] 95 FERC ¶ 61,233, *order on reh'g,* 96 FERC ¶ 61,132 (2001).

[30] 98 FERC ¶ 61,014, *reh'g denied,* 99 FERC ¶ _____ (2002).

[31] 98 FERC ¶ 61,328 (2002).

[32] Black's Law Dictionary 772 (7th ed. 1999).

[33] *Id.* at 394.

damages. Liability for damages under another agreement will not be considered special, indirect, or consequential damages under this provision.

The OATT protects a transmission provider from consequential damages and indirect damage claims by third parties through indemnification except in cases of negligence or intentional wrongdoing by the transmission provider. No other protection against consequential damages appears in the OATT. In Order No. 888–A, the Commission stated that it saw no need to extend this protection, and noted that ''liability is a separate issue from indemnification, and that nothing in these provisions precludes transmission providers or customers from relying, when and where such law is applicable, on the protection of statutes or other law protecting parties from consequential or indirect damages.'' [34]

d. Force Majeure

Nonperformance due to a *force majeure* event shall not be considered default. The Consensus IA (Article 17) adopts the ERCOT *force majeure* provision (section 10.5), which uses a standard laundry list of causes that are considered ''beyond the reasonable control'' of the party claiming *force majeure.* Fault and negligence are still exceptions, but the *force majeure* event must ''materially prevent or impair'' the performance of the claimant's obligations. Article 17 also explains the procedure for making a claim of *force majeure.* A party affected shall exercise ''due diligence'' to remove its inability to meet its obligations with ''reasonable dispatch,'' but this does not include accepting unsatisfactory provisions that would resolve a labor dispute.

The *force majeure* provision in the OATT (section 10.1) also adopts a standard laundry list of causes but excludes acts of negligence or intentional wrongdoing (without specifying whose negligence or intentional wrongdoing). Nonperformance due to a *force majeure* event is not considered default, but parties should make all reasonable efforts to perform their obligations under the tariff.

e. Discussion

The Commission proposes adopting the protections afforded in the OATT, but making them applicable to both the transmission provider and the interconnection customer. Order No. 888 and its progeny clarified that the *pro forma* tariff was not intended to address liability issues beyond indemnification and *force majeure*,[35] and we intend to apply that principle here as well.[36] Accordingly, we have incorporated the OATT provisions into the NOPR IA, and eliminated the insurance requirements. Nevertheless, we invite comment on the Commission's proposed approach and ask commenters to address the relative merits of the alternative ERCOT and Consensus IA provisions.

2. Reciprocity

Order No. 888 required that transmission tariffs contain a reciprocity provision [37] applicable to any customer, including a non-public utility, that owns, controls or operates interstate transmission facilities and that takes service under the open access tariff, and any affiliates of the customer that own, control or operate interstate transmission facilities. The purpose of this provision was to ensure that a public utility offering transmission access to others could obtain similar service from its transmission customers, including non-public utilities. This provision further ensures that any non-public utility that wishes to take advantage of the open access transmission provided by public utilities must offer comparable transmission service in return. They may do so either on a utility-specific basis or through a Commission-approved ''reciprocity OATT'' on file with the Commission. Since we found in *Tennessee* that interconnection service is an element of transmission service that must be offered under the terms of the Transmission Provider's OATT, and the IP and IA will be added to the OATT, we find that interconnection service also will be subject to this reciprocity requirement. Although we do not have direct authority to require non-public utilities to make interconnection service generally available, we have the ability and the obligation to ensure that all aspects of open access transmission are as widely available as possible and that the implementation of this rulemaking does not result in competitive disadvantage to public utilities. Thus, we propose that the reciprocity provision apply to interconnection as well, and that any non-public utility that wishes either to take advantage of, or to continue to take advantage of, open access on a public utility's transmission system, must adopt the IA and IP into its own reciprocity service.

*H. Summary of NOPR IA and IP*

1. Standard Generator Interconnection and Operating Agreement

*Article 1. Definitions*—This Article contains the definitions of terms used in the Agreement. Capitalized terms in the summary are defined in the Agreement.

*Article 2. Effective Date, Term and Termination*—The term of the Agreement will be 10 years, or longer by request, and will be automatically renewed each successive year thereafter. Termination procedures are described. Parties retain the right to seek unilateral modification of this Agreement under FPA sections 205 and 206.

*Article 3. Regulatory Filings*—The Transmission Provider will be responsible for filing the document with the appropriate Governmental Authority. Procedures for confidential treatment of Generator information are described.

*Article 4. Scope of Service*—This Article describes the two kinds of interconnection products available.[38] Energy Resource (ER) Interconnection Service allows the Generator to connect its Facility to the Transmission System and be eligible to deliver output using existing firm or non-firm capacity on an ''as available'' basis. Network Resource (NR) Interconnection Service allows the Generator to connect its Facility in a manner comparable to that in which the Transmission Provider integrates its generating facilities to service native load or, in an ISO or RTO with market-based congestion management, in the same manner as other Network Resources. Neither ER nor NR Interconnection conveys any right to transmission delivery service, nor does the Agreement constitute a request for transmission delivery service. The studies for each service are described, as are the implications of the Generator's eligibility for delivery under each service.

*Article 5. Interconnection Facilities Engineering, Procurement, and Construction*—This Article describes

[34] Order No. 888–A at 30,302.

[35] Order No. 888–A at 30,301–02; Order No. 888–B at 62,080–81.

[36] *See, e.g.,* Delmarva Power & Light Co., 88 FERC ¶ 61,247 at 61,786, *reh'g dismissed,* 89 FERC ¶ 61,170 (1999) (rejecting two parties' competing attempts to address liability issues in their interconnection agreement, and instructing the parties to instead use the indemnification and *force majeure* provisions from the OATT); *but see* Commonwealth Edison Co., 92 FERC ¶ 61,175 at 61,620 (2000) (noting that limitation of liability provisions inconsistent with those in the *pro forma* OATT are acceptable when the individual IA demonstrates that a different limitation of liability provision was part of the specific bargain); Cinergy Services, Inc., 99 FERC ¶ 61,025 (2002).

[37] Order No. 888 at 31,760–63; Order No. 888–A at 30,281–87.

[38] This proposal was developed in advance of the standard market design proposal that the Commission will issue in RM01–12–000.

the procedures for designing, procuring, and constructing the Transmission Provider Interconnection Facilities/ Network Upgrades and the Generator Interconnection Facilities. Construction options, rights, and responsibilities are also presented. Generators will not be responsible for costs of modifications made to the Transmission Provider Interconnection Facilities or the Transmission System to facilitate interconnection of a third party or to provide transmission service under the Transmission's Provider Tariff. The Parties intend that all payments or transfers by the Generator to the Transmission Provider for installation and upgrades shall be nontaxable. If these payments ultimately are found to be taxable, the Generator shall indemnify the Transmission Provider.

*Article 6. Testing and Inspection*—Both Parties will conduct facility testing before the Commercial Operation Date and make any necessary modifications. The Generator shall bear the cost of these tests and modifications. After the Commercial Operation Date, each Party shall conduct routine inspection and testing of its facility at its own expense.

*Article 7. Metering*—The Transmission Provider will install, own, operate and maintain Metering Equipment at the Point of Interconnection, but the Generator shall bear all reasonable documented costs. The Article also describes Metering Equipment standards and testing requirements.

*Article 8. Communication*—The Article describes the necessary operating communications and dedicated data circuits between the Parties and the cost and maintenance responsibility for such equipment.

*Article 9. Operations*—The Generator and Transmission Provider should operate their respective facilities and equipment in a safe and reliable manner. This Article also describes Reactive Power requirements. In the event the Parties agree or are required to allow third parties to use any portion of the Transmission Provider Interconnection Facilities, the Generator will be compensated for capital expenses incurred based on the *pro rata* use of the Interconnection Facilities by the Transmission Provider, all third-party users, and the Generator.

*Article 10. Maintenance*—The Generator will be responsible for all reasonable expenses associated with owning, operating and maintaining Generator and Transmission Provider Interconnection Facilities (except for operations and maintenance expenses associated with modifications necessary for providing service to a third party that pays for such expenses).

*Article 11. Performance Obligation*—The Article describes the security and payment obligations of the Generator and Transmission Provider with respect to facility construction and Transmission Provider requests for service from the Generator. Section 11.4 describes the payment mechanism for Network Upgrades, in which a Generator shall receive a cash refund of the amount paid to the Transmission Provider for Network Upgrades plus interest.

*Article 12. Invoice*—This Article describes monthly invoice and billing dispute procedures. The Transmission Provider must provide an invoice of the final cost of construction of the Transmission Provider Interconnection Facilities and Network Upgrades within six months, and in sufficient detail to enable the Generator to compare actual costs with estimates.

*Article 13. Emergencies*—This Article explains the Transmission Provider's and the Generator's responsibilities when Emergency Conditions arise.

*Article 14. Governing Law and Applicable Tariffs*—The validity, interpretation, and performance of this Agreement shall be governed by the laws of the state where the Point of interconnection is located, without regard to that state's conflicts of law principles.

*Article 15. Notices*—This Article contains the addresses at which the Transmission Provider and Generator will receive, among other things, notices, bills and payments.

*Article 16. Force Majeure—Force Majeure* is defined as any cause beyond a Party's control. Events arising from negligence or intentional wrongdoing are not *Force Majeure.* Nonperformance due to a *Force Majeure* event shall not be considered Default.

*Article 17. Default*—Article 18 defines Default as the failure of either Party to perform any obligation in the time or manner provided in this Agreement. No Default exists as a result of *Force Majeure* or an act or omission of the other Party. Notice and cure procedures also are described.

*Article 18. Indemnity*—The Article explains that each Party shall indemnify the other from any and all damages, losses, and claims by or to third parties arising from the other Party's performance of its obligations under this Agreement on behalf of the indemnifying Party. No indemnity will be available in cases of negligence or intentional wrongdoing by the indemnifying Party.

*Article 19. Assignment*—Written consent ordinarily is required to assign the Agreement, but assignment may be secured without consent if the assignee is an affiliate that meets certain qualifications. No consent is required if a Generator assigns the Agreement for collateral security purposes to aid in Facility financing.

*Article 20. Severability*—Explains that if a court or Governmental Authority determines that any provision of this Agreement is invalid, void, or unenforceable, such determination shall not invalidate any other provision in this Agreement.

*Article 21. Comparability*—Parties will comply with all applicable comparability requirements and code of conduct laws, rules and regulations.

*Article 22. Confidentiality*—This Article describes what constitutes Confidential Information and the protections that will be afforded such information when shared between Parties.

*Article 23. Environmental Releases*—Describes procedures for notifying the other Party of the release or remediation of Hazardous Substances related to the Facility or the Interconnection Facilities that may be expected to affect the other Party.

*Article 24. Information Requirements*—This Article describes the requirements for submitting information regarding the electric characteristics of the Parties' respective facilities. Among the information, the Transmission Provider shall provide a monthly status report on construction and installation of Transmission Provider Interconnection Facilities and Network Upgrades.

*Article 25. Information Access and Audit Rights*—Each Party shall make information available to the other Party necessary to verify costs for which the other Party is responsible under this Agreement and to carry out its obligations and responsibilities under this Agreement.

*Article 26. Subcontractors*—The Parties may use subcontractors to perform obligations under this Agreement provided that the contractors comply with the applicable terms and conditions of the Agreement and each Party remains liable to the other for the subcontractor's performance. The hiring Party retains all of its obligations under this Agreement.

*Article 27. Disputes*—This Article explains the dispute resolution and arbitration procedures.

*Article 28. Representations, Warranties and Covenants*—This Article requires that each Party be organized and qualified to do business in the

relevant jurisdiction. Each Party has the Authority to enter into this Agreement, and performance of its duties does not violate or conflict with organizational or formation documents.

*Article 29. Operating Committee*—The Parties shall convene an Operating Committee, comprising one representative and one alternate from each Party who will also be members of the joint Operating Committee, that will meet at least annually to carry out the duties set forth in this Article.

*Article 30. Miscellaneous*—This Article contains provisions addressing matters such as rules of interpretation, a prohibition on third-party beneficiaries, and the right to amend the Agreement by mutual agreement.

*Appendices*—The Agreement contains separate appendices for Interconnection Facilities and Network Upgrades, Time Schedule, Interconnection Details, Standard Generator Interconnection Agreement, Security Arrangement Details, Commercial Operation Date, and Interconnection Guidelines.

2. Standard Generator Interconnection Procedures

*Section 1. Definitions*—Definitions of terms used in the Interconnection Procedures are provided. (In this summary, defined terms are capitalized.)

*Section 2. Scope and Application*—The Transmission Provider must follow strict comparability principles. The Interconnection Procedures do not constitute a request for, nor confer a right to receive, transmission service.

*Section 3. Interconnection Requests*—This section describes interconnection request procedures, including a refundable deposit of $10,000 payable to the Transmission Provider that will be applied toward the cost of the Interconnection Feasibility Study. The Generator may withdraw its request at any time, and if the Generator fails to adhere to all requirements of the Interconnection Procedures, the Transmission Provider shall deem the request to be withdrawn.

*Section 4. Queue Position*—The queue position is based, in general, on the date and time of receipt of the valid (*i.e.,* complete) Interconnection Request, and is used to determine the order of performing studies and cost responsibility. At the Transmission Provider's option, Interconnection System Impact Studies may be performed serially as requests are received or in clusters.

*Section 5. Procedures for Interconnection Requests Submitted Prior to Effective Date of Interconnection Procedures*—This section provides for the completion of studies and the finalizing of Interconnection and Operating Agreements that are pending as of the effective date of the Interconnection Procedures.

*Section 6. Interconnection Feasibility Study*—The Interconnection Feasibility Study shall preliminarily evaluate the feasibility of the proposed interconnection to the Transmission System and will consist of a power flow and short circuit analysis. The Generator is responsible for the actual cost of the study and any re-studies that may be required.

*Section 7. Interconnection System Impact Study*—The Interconnection System Impact Study shall evaluate the impact of the proposed interconnection on the reliability of the Transmission System and will consist of a short circuit analysis, a stability analysis, and a power flow analysis. The Generator is responsible for the actual cost of the study and any re-studies that may be required.

*Section 8. Interconnection Facilities Study*—The Interconnection Facilities Study shall specify and estimate the cost of implementing the conclusions of the Interconnection System Impact Study, including the nature and cost of any Transmission Provider Interconnection Facilities and Network Upgrades needed. It shall also provide an estimate of the time required to complete the construction and installation of these facilities. The Generator is responsible for the actual cost of the study and any re-studies that may be required.

*Section 9. Agreements*—In order to advance the implementation of its interconnection, the Generator may request the Transmission Provider to offer an Engineering and Procurement Agreement that authorizes the Transmission Provider to begin engineering and procurement of long lead-time items necessary for the establishment of the interconnection.

*Section 10. Optional Study*—The Generator may request the Transmission Provider to perform a reasonable number of Optional Studies. An Optional Study will consist of a sensitivity analysis and will identify the costs that may be required to provide transmission service or interconnection service based upon the results of the Optional Study.

*Section 11. Interconnection and Operating Agreement*—When the Transmission Provider delivers the draft Interconnection Facilities Study report to the Generator, the Transmission Provider shall tender a draft Interconnection and Operating Agreement with draft appendices completed to the extent practicable. Procedures and requirements for filing and complying with an unexecuted agreement also are described.

*Section 12. Construction of Transmission Provider Interconnection Facilities and Network Upgrades*—The Transmission Provider and the Generator shall negotiate a schedule for constructing needed facilities and upgrades. A Generator may request the Transmission Provider to advance the completion of necessary Network Upgrades that are the responsibility of another entity and would not otherwise be completed in time to support the Generator's In-Service Date. However, the Generator must commit to pay any expediting costs and the cost of the upgrades, with such payments to be refunded when the Transmission Provider receives payment from the responsible entity.

*Section 13. Miscellaneous*—The Interconnection Procedures include a variety of miscellaneous provisions pertaining to: (1) Confidential treatment of information provided by the Generator, (2) the Transmission Provider's right to delegate responsibility to subcontractors, (3) the Generator's obligation to pay the actual costs of Interconnection Studies, (4) the Generator's right to request the Transmission Provider to contract with a third party to perform an Interconnection Study, (5) the obligation of the Transmission Provider to pay the Generator liquidated damages, and (6) dispute resolution procedures.

*Section 14. Small Generator Interconnection Requests*—Small Generators are defined as units of no more than 20 MW or aggregations of interconnecting Facilities at a single Point of Interconnection totaling no more than 20 MW. Although, for Small Generators, the deposit requirement for each of the Interconnection Studies is waived, Small Generators are responsible for the costs of processing the Interconnection Request and the performance of Interconnection Studies, unless waived. Expedited procedures will be used for Small Generators' Interconnection Requests and Interconnection Studies, but Small Generators will be placed in the same queue as Generators.

*Appendices*—The Interconnection Procedures include five appendices that provide forms of agreement for the Interconnection Request, the Interconnection Feasibility Study, the Interconnection System Impact Study, the Interconnection Facilities Study, and the Optional Study.

**III. Public Reporting Burden and Information Collection Statement**

The following collections of information contained in this proposed rule are being submitted to the Office of Management and Budget (OMB) for review under Section 3507(d) of the Paperwork Reduction Act of 1995. FERC identifies the information provided under Part 35 as FERC–516.

Comments are solicited on the Commission's need for this information, whether the information will have practical utility, the accuracy of the provided burden estimates, ways to enhance the quality, utility, and clarity of the information to be collected, and any suggested methods for minimizing respondents' burden, including the use of automated information techniques. The following burden estimate includes the cost of preparing and submitting tariff changes to comply with the Commission's proposed regulation.

*Public Reporting Burden:* Estimated Annual Burden:

| Data collection FERC–516 | Number of respondents | Number of responses | Hours per response | Total annual hours |
|---|---|---|---|---|
| Reporting | 270 | | | |
| (In place) | 145 | 1 | 4 | 580 |
| (Develop) | 125 | 1 | 31 | 3,875 |
| Totals | 270 | 1 | 35 | 4,455 |

Total Annual Hours for Collection (reporting + record keeping, (if appropriate) = 4,455 hours (270 respondents (145 × 1 filing × 4 hours for review, clarification or 580 hours) + (125 × 1 × 31 to develop interconnection agreement format or 3,875) = 4,455). Information Collection Costs: The Commission seeks comments on the costs to comply with these requirements. It has projected the average annualized cost for all respondents to be:

Annualized Capital/Startup Costs-Staffing requirements to review and prepare an interconnection agreement = $222,750 ($29,000 (145 respondents × $200 (4 hours @ $50 hourly rate) + $ 193,750 (125 respondents × $1,550 (31 hours @ $50 hourly rate) Annualized Costs (Operations & Maintenance). The cost per respondent is equal to $107 (145 respondents who agreements in place), $718 (125 respondents who have to develop documentation).

The OMB regulations require OMB to approve certain information collection requirements imposed by agency rule. 5 CFR 1320.11. Accordingly, pursuant to OMB regulations, the Commission is providing notice of its proposed information collections to OMB.

*Title:* FERC–516, Electric Rate Schedule Filings.

*Action:* Proposed Data Collections.

*OMB Control No.:* 1902–0096.

The applicant shall not be penalized for failure to respond to this collection of information unless the collection of information displays a valid OMB control number.

*Respondents:* Business or other for profit.

*Frequency of Responses:* One-time implementation.

*Necessity of Information:* The proposed rule would revise the requirements contained in 18 CFR part 35. The Commission is seeking to establish standardized interconnection procedures and agreements. In particular, the Commission will propose this proposed rule standardized interconnection agreements and procedures that public utilities must adopt. The proposed rule would require that each public utility that owns, operates or controls transmission facilities participate in one-time filings incorporating the agreement and procedures into their open access transmission tariffs. Internal Review: The Commission has assured itself, by means of internal review, that there is specific, objective support for the burden estimates associated with the information requirements. The Commission's Office of Markets, Tariffs and Rates will use the data included in filings under Section 203 and 205 of the Federal Power Act to evaluate efforts for the interconnection and coordination of the U.S. electric transmission system and to ensure the orderly implementation of the interconnection procedures and agreement as well as for general industry oversight. These information requirements conform to the Commission's plan for efficient information collection, communication, and management within the electric power industry.

Interested persons may obtain information on the reporting requirements by contacting the following: Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426 [Attention: Michael Miller, Capital Planning and Policy Group, Phone: (202) 208–1415, fax: (202) 208–2425, E-mail: *michael.miller@ferc.gov*.]

For submitting comments concerning the collection of information(s) and the associated burden estimate(s), please send your comments to the contact listed above and to the Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503, [Attention: Desk Officer for the Federal Energy Regulatory Commission, phone: (202) 395–7318, fax: (202) 395–7285].

**IV. Environmental Statement**

The Commission concludes that promulgating the proposed rule would not present a major federal action having a significant adverse impact on the human environment under the Commission's regulations implementing the National Environmental Policy Act.[39] The proposed rule falls within the categorical exemption provided in the Commission's regulations for approval of actions under §§ 203 and 205 of the Federal Power Act relating to provided for the filing of schedules containing all rates and charges for any transmission or sale subject to the Commission's jurisdiction, plus the classification, practices, contracts and regulations that affect rates, charges, classifications and services.[40] Consequently, neither an environmental assessment nor an environmental impact statement is required.

**V. Regulatory Flexibility Act**

The Regulatory Flexibility Act (RFA)[41] requires rulemakings to contain either a description and analysis of the effect that the proposed rule will have on small entities or a certification that the rule will not have a significant economic impact on a substantial number of small entities. The regulations proposed here impose requirements only on interstate transmission providers, which are not small businesses, and, these requirements are, in fact, designed to benefit all customers, including small businesses. Accordingly, pursuant to

[39] 18 CFR Part 380.

[40] 18 CFR Part 380.4(a)(15)(16).

[41] 5 U.S.C. 601–612 (1994).

section 605(b) of the RFA, the Commission hereby certifies that the proposed regulations will not have a significant adverse impact on a substantial number of small entities.

**VI. Comment Procedures**

The Commission invites interested persons to submit comments, data, views and other information concerning matters set out in this notice.

To facilitate the Commission's review of the comments, commenters are requested to provide an executive summary of their positions. Commenters are requested to identify each specific issue posed by the NOPR that their discussion addresses and to use appropriate headings that clearly identify the relevant IA and IP sections. Additional issues the commenters wish to raise should be identified separately. The commenters should double-space their comments.

Comments may be filed on paper or electronically via the Internet and must be received by the Commission by June 17, 2002. Comments should not exceed 30 double-spaced pages and should include an executive summary. Those filing electronically do not need to make a paper filing. For paper filings, the original and 14 copies of such comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 and should refer to Docket No. RM02–1–000.

Comments filed via the Internet must be prepared in WordPerfect, MS Word, Portable Document Format, or ASCII format. To file the document, access the Commission's website at *www.ferc.gov* and click on ''e-Filing,'' and then follow the instructions for each screen. First time users will have to establish a user name and password. The Commission will send an automatic acknowledgment to the sender's E-Mail address upon receipt of comments.

User assistance for electronic filing is available at 202–208–0258 or by E-Mail to *efiling@ferc.fed.us.* Comments should not be submitted to the E-Mail address. All comments will be placed in the Commission's public files and will be available for inspection in the Commission's Public Reference Room at 888 First Street, NE., Washington, DC 20426, during regular business hours. Additionally, all comments may be viewed, printed, or downloaded remotely via the Internet through FERC's Homepage using the RIMS link. User assistance for RIMS is available at 202–208–2222, or by E-mail to *RimsMaster@ferc.fed.us.*

**VIII. Document Availability**

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through FERC's Home Page (*http://www.ferc.gov*) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5 p.m. Eastern time) at 888 First Street, NE., Room 2A, Washington, DC 20426.

From FERC's Home Page on the Internet, this information is available in both the Commission Issuance Posting System (CIPS) and the Records and Information Management System (RIMS).

—CIPS provides access to the texts of formal documents issued by the Commission since November 14, 1994.

—CIPS can be accessed using the CIPS link or the Energy Information Online icon. The full text of this document is available on CIPS in ASCII and WordPerfect 8.0 format for viewing, printing, and/or downloading.

—RIMS contains images of documents submitted to and issued by the Commission after November 16, 1981. Documents from November 1995 to the present can be viewed and printed from FERC's Home Page using the RIMS link or the Energy Information Online icon. Descriptions of documents back to November 16, 1981, are also available from RIMS-on-the-Web; requests for copies of these and other older documents should be submitted to the Public Reference Room.

User assistance is available for RIMS, CIPS, and the Website during normal business hours from our Help line at (202) 208–2222 (E-Mail to *WebMaster@ferc.fed.us*) or the Public Reference at (202) 208–1371 (E-Mail to *public.referenceroom@ferc.fed.us*).

During normal business hours, documents can also be viewed and/or printed in FERC's Public Reference Room, where RIMS, CIPS, and the FERC Website are available. User assistance is also available.

**List of Subjects in 18 CFR Part 35**

Electric power rates, Electric utilities, Reporting and recordkeeping requirements.

By direction of the Commission.

**Linwood A. Watson, Jr.,**

*Deputy Secretary.*

In consideration of the foregoing, the Commission proposes to amend Part 35, Chapter I, Title 18 of the Code of Federal Regulations, as follows.

## PART 35—FILING OF RATE SCHEDULES

1. The authority citation for part 35 continues to read as follows:

**Authority:** 16 U.S.C. 791a–825r, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352.

2. Add § 35.28(f) to read as follows:

**§ 35.28 Nondiscriminatory open access transmission tariff.**

* * * * *

(f) *Standardized interconnection agreement and procedures.* (1) Every public utility that is required to have on file a non-discriminatory open access transmission tariff under this section must amend such tariff by adding the standardized interconnection agreement and procedures contained in Order No. ____, FERC Stats. & Regs. ¶ _____ [Final Rule on Interconnection] or such other interconnection agreement and procedures as may be approved by the Commission consistent with Order No. ____, FERC Stats. & Regs. ¶ _____ [Final Rule on Interconnection].

(i) The amendment required by the preceding paragraph must be filed no later than [60 days after the issuance of the final rule].

(ii) Any public utility that seeks a deviation from the standardized interconnection agreement and procedures contained in Order No. ____, FERC Stats. & Regs. ¶ _____ [Final Rule on Interconnection], must demonstrate that the deviation is consistent with the principles of Order No. ____, FERC Stats. & Regs. ¶ _____ [Final Rule on Interconnection ].

(2) The non-public utility procedures for tariff reciprocity compliance described in paragraph (e) of this section are applicable to the standardized interconnection agreement and procedures.

[**Note:** The following Attachments will not be Published in the Code of Federal Regulations]

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**Standard Generator Interconnection and Operating Agreement**

This Standard Generator Interconnection and Operating Agreement (''Agreement'') is made and entered into this_____day of _____ 20____, by and between_____, a_____ organized and existing under the laws of the State/Commonwealth of _____(''Generator''), and _____, a [corporation] organized and existing under the laws of the State/Commonwealth of _____ (''Transmission Provider and/or Transmission Owner''). Generator and Transmission Provider each may be referred to as a ''Party'' or collectively as the ''Parties.''

**Recitals**

Whereas, Transmission Provider operates the Transmission System; and

Whereas, Generator intends to own, lease and/or control and operate the Facility identified in Appendix C; and,

Whereas, Generator and Transmission Provider have agreed to enter into this Agreement for the purpose of interconnecting the Facility with the Transmission System;

NOW, therefore, in consideration of and subject to the mutual covenants contained herein, it is agreed:

**Article 1. Definitions**

When used in this Agreement with initial capitalization, the following terms shall have the meanings specified or referred to in this Article 1. Terms used in this Agreement with initial capitalization that are not defined in this Article 1 shall have the meanings specified in the section in which it is used or as specified in the Transmission Provider Tariff, as may be amended from time to time.

1.1 ''Affiliate'' shall mean, 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.

1.2 Agreement'' shall mean this Standard Generator Interconnection and Operating Agreement.

1.3 Ancillary and Other Services'' shall have the same meaning as defined in the Transmission Provider's Tariff, as may be amended from time to time, and shall in addition include such other services as Generator Balancing, Blackstart, Automatic Generation Control, and Capacity.

1.4 Applicable Laws and Regulations'' shall mean 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.

1.5 Applicable Reliability Council'' shall mean the reliability council(s) applicable to the Transmission System to which the Facility is directly interconnected.

1.6 Applicable Standards'' shall mean the requirements and guidelines of NERC, the Applicable Reliability Council, the Control Area of the Transmission System to which the Facility is directly interconnected and the Transmission Provider Interconnection Guidelines.

1.7 Breach'' shall mean the failure of a Party to perform or observe any material term or condition of this Agreement.

1.8 Breaching Party'' shall mean a Party that is in Breach of this Agreement.

1.9 Commercial Operation Date'' shall mean the date on which Generator commences commercial operation of a unit at the Facility after Trial Operation of such unit has been completed as confirmed in writing substantially in the form shown in Appendix F.

1.10 ''Confidential Information'' shall have the meaning set forth in Article 22.1.

1.11 ''Control Area'' shall mean an electrical system or systems, as certified by NERC or the applicable regional reliability council, as the case may be, and bounded by interconnection metering and telemetry, to which a common automatic generation control scheme is applied in order to (i) match, at all times, power output of the generator(s) within the electrical system and capacity and energy purchased from or sold to entities outside the electrical system to load within the electrical system; (ii) maintain scheduled interchange with other Control Areas within the limits of Good Utility Practice; (iii) maintain the frequency of the electrical system within reasonable limits in accordance with Good Utility Practice; and (iv) provide sufficient generating capacity and operating reserves in accordance with Good Utility Practice.

1.12 ''Default'' shall mean the failure of a Breaching Party to cure its Breach in accordance with Article 20.

1.13 ''Effective Date'' shall mean the date on which this Agreement becomes effective in accordance with Article 2.1.

1.14 ''Emergency Condition'' shall have the meaning set forth in Article 14.1.

1.15 ''Energy Resource Interconnection Service'' shall have the meaning set forth in Article 4.1.1.

1.16 ''Environmental Law'' shall mean Applicable Laws or Regulations relating to pollution or protection of the environment or natural resources.

1.17 ''Facility'' shall mean Generator's or Transmission Provider/Transmission Owner's electric generating facility, but shall not include the Generator Interconnection Facilities.

1.18 ''Facilities Study'' shall mean the Interconnection Facilities Study conducted by the Transmission Provider under the Interconnection Procedures.

1.19 ''Federal Power Act'' shall mean the Federal Power Act, as amended, 16 U.S.C. §§ 791a *et seq.*

1.20 ''FERC'' shall mean the Federal Energy Regulatory Commission or its successor.

1.21 ''Force Majeure'' shall have the meaning set forth in Article 16.1.

1.22 ''Generator'' as used herein applies to any Facility regardless of ownership.

1.23 ''Generator Interconnection Facilities'' shall mean all facilities and equipment, as identified in Appendix A, which are located between the Facility and the Point of Change of Ownership, including any modification, addition, or upgrades to such facilities and equipment necessary to physically and electrically connect to Facility to the Transmission System. Generator Interconnection Facilities are sole use facilities and shall not include Network Upgrades or facilities.

1.24 ''Good Utility Practice'' shall mean any of the practices, methods and acts

engaged in or approved by a significant portion of the electric 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. Good Utility Practice shall include, but not be limited to, compliance with Applicable Laws and Regulations, Applicable Standards, the National Electric Safety Code, and the National Electrical Code, as they may be amended from time to time, including the criteria, rules and standards of any successor organizations.

1.25 ''Governmental Authority'' shall mean any federal, state, local or other governmental regulatory or administrative agency, court, commission, department, board, or other governmental subdivision, legislature, rulemaking board, tribunal, or other governmental authority having jurisdiction over the Parties, their respective facilities, or the respective services they provide, and exercising or entitled to exercise any administrative, executive, police, or taxing authority or power; provided, however, that such term does not include Generator, Transmission Provider, or any Affliate thereof.

1.26 ''Hazardous Substances'' shall mean 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.

1.27 ''In-Service Date'' shall mean the date upon which the Generator reasonably expects it will be ready to begin use of the Transmission Provider Interconnection Facilities to obtain back feed power and upon which it reasonably expects to begin doing so.

1.28 ''Independent System Operator'' (''ISO'') shall mean any Independent System Operator to which a transmission provider has transferred operational control of its transmission facilities, or any portion thereof, within the meaning of Order No. 888.

1.29 ''Interconnection Facilities'' shall mean the Transmission Provider's Interconnection Facilities and the Generator Interconnection Facilities. Collectively, all facilities and equipment between the Facility and the Point of Interconnection, including any modification, additions or upgrades that are necessary to physically and electrically interconnect the Facility to the Transmission System. Interconnection Facilities are sole use facilities and shall not include Network upgrades or facilities.

1.30 ''Interconnection Guidelines'' shall mean the technical requirements set forth in Appendix G.

1.31 ''Interconnection Request'' shall mean a request, the form of Appendix 1 to the Standard Generator Interconnection Procedures, in accordance with the OATT, to interconnect a new Facility, or to increase the capacity or make a Material Modification to the operations characteristics of an existing Facility that is interconnected with the Transmission System.

1.32 ''Interconnection Service'' shall mean those services associated with interconnecting a Facility to the Transmission System as such services are set forth in Article 4 of this Agreement.

1.33 ''Initial Synchronization Date'' shall mean the date upon which the Facility is initially synchronized and upon which Trial Operation begins.

1.34 ''IRS'' shall mean the Internal Revenue Service.

1.35 ''Joint Operating Committee'' shall be comprised of the members of the individual Operating Committees. The role of this Committee is to address on a generic level any issues arising out of the duties, roles and responsibilities of the individual Operating Committees as described in Article 29. The Joint Operating Committee shall meet as necessary, but not less than once each calendar year to carry out those duties. Unless otherwise agreed to, the annual meeting will be held on the first Monday in June of each year.

1.36 ''Loss'' shall have the meaning set forth in Article 18.1.

1.37 ''Metering Equipment'' shall mean all metering equipment described in, and installed at the metering points designated in, Appendix C.

1.38 ''NERC'' shall mean the North American Electric Reliability Council or its successor agency assuming or charged with similar responsibilities related to the operation and reliability of the North American interconnected electric transmission grid.

1.39 ''Network Resource Interconnection Service'' shall have the meaning set forth in Article 4.1.2.

1.40 ''Network Upgrades'' shall mean the additions, modifications, and upgrades to the Transmission System required beyond the point at which the generator interconnects to the Transmission System to accommodate the interconnection of the Facility to the Transmission System as identified in Appendix A, including any modifications, additions or upgrades made to such facilities. The facilities and equipment are used by and benefit all users of the transmission grid, without distinction or regard as to the purpose of the upgrade (*e.g.*, to relieve overloads, to remedy stability and short circuit problems, to maintain reliability, or to provide protection and service restoration) including the fact that these facilities and equipment are being replaced or upgraded to accommodate the interconnection request.

1.41 ''Non-Breaching Party'' shall mean a Party that is not in Breach of this Agreement with regard to a specific event of Breach by another Party.

1.42 ''Notice of Dispute'' shall have the meaning set forth in Article 27.1.

1.43 Operating Committee'' shall mean the Operating Committee as described in Article 29.

1.44 ''Party'' or ''Parties'' shall have the meaning set forth in the introductory paragraph of this Agreement.

1.45 ''Point of Change of Ownership'' shall mean the point, set forth in Appendix A, at which the Generator Interconnection Facilities connect to the Transmission Provider's Transmission Interconnection Facilities.

1.46 ''Point of Interconnection''shall mean the point, set forth in Appendix A, where the Interconnection Facilities connect to the Transmission Provider's Transmission Interconnection System.

1.47 ''Reasonable Efforts'' shall mean, with respect to an action required to be attempted or taken by a Party under this Agreement, efforts that are timely and consistent with Good Utility Practice and are otherwise substantially equivalent to those a Party would use to protect its own interests.

1.48 ''RTO/ISO'' shall mean any Regional Transmission Organization or Independent System Operator to which a Transmission Provider has transferred operational control of its transmission facilities, or any portion thereof, within the meaning of Order No. 2000.

1.49 ''Switching and Tagging Rules'' shall mean the switching and tagging procedures of Transmission Provider, and Generator, as they may be amended from time to time.

1.50 ''System Protection Facilities'' shall be described in Appendix A, and shall mean the equipment required to protect (i) the Transmission System from faults or other electrical disturbances occurring at the Facility, and (ii) the Facility from faults or other electrical system disturbances occurring on the Transmission System or on other delivery systems and/or other generating systems to which the Transmission System is directly connected.

1.51 ''Tariff'' shall mean the Transmission Provider tariff for which open access transmission service over, and transmission interconnection to the Transmission System is offered, as filed with FERC, and as amended or supplemented from time to time, or any successor tariff.

1.52 ''Transmission Owner'' shall mean an entity that owns, leases or otherwise possesses interest in the portion of the Transmission System at the Point of Interconnection may be a party to this Agreement to the extent necessary.

1.53 ''Transmission Provider'' shall mean the entity that provides Transmission Service under its Open Access Transmission Tariff.

1.54 ''Transmission Provider Interconnection Facilities'' shall mean all facilities owned and/or controlled or operated by the Transmission Provider from the Point of Change of Ownership to the Point of Interconnection as identified in Appendix A, including any modifications, additions or upgrades to such facilities and equipment. Transmission Provider Interconnection Facilities are sole use facilities and shall not include Network Upgrades or facilities as defined in Article 1.39 above.

1.55 ''Transmission System'' shall mean the facilities owned, controlled or operated

by the Transmission Provider that are used to provide transmission service under the Tariff, including any additions, modifications or upgrades made to such facilities.

1.56 ''Trial Operation'' shall mean the period during which Generator is engaged in on-site test operations and commissioning of the Facility prior to commercial operation.

**Article 2. Effective Date, Term and Termination**

2.1 Effective Date. This Agreement shall become effective upon execution by the Parties subject to acceptance by FERC (if applicable), or if filed unexecuted, upon the date specified by FERC. Transmission Provider shall promptly file this Agreement with FERC upon execution in accordance with Article 3.1.

2.2 Term of Agreement. Subject to the provisions of Article 2.3, this Agreement shall remain in effect for a period of ten (10) years from the Effective Date or such other longer period as the Generator may request (Term to be Specified in Individual Agreements) and shall be automatically renewed for each successive one-year period thereafter.

2.3 Termination Procedures. This Agreement may be terminated as follows:

2.3.1 Written Notice. The Generator may terminate this Agreement after giving the Transmission Provider thirty (30) Calendar Days advance written notice; or

2.3.2 No Commercial Operation. The Transmission Provider may terminate this Agreement on written notice to the Generator if (i) the Generator's Facility has not achieved commercial operation within five (5) years after the scheduled Commercial Operation Date reflected in Appendix B, Time Schedule, or (ii) fails to be available for operation for a consecutive period of five (5) years unless major Facility upgrades are in progress.

2.3.3 Default. Either Party may terminate this Agreement in accordance with Article 17.

Notwithstanding the foregoing, no termination shall become effective until the Parties have complied with all Applicable Laws and Regulations applicable to such termination, including the filing with FERC of a notice of termination of this Agreement, which notice has been accepted for filing by FERC.

2.4 Termination Costs. If a Party elects to terminate the Agreement pursuant to Article 2.3 above, each Party shall pay all costs incurred (including any cancellation costs relating to orders or contracts for interconnection facilities and equipment) or charges assessed by the other Party, as of the date of the other Party's receipt of such notice of termination, that are the responsibility of the Terminating Party under this Agreement. In the event of termination by either Party, both Parties shall use commercially Reasonable Efforts to mitigate the costs, damages and charges arising as a consequence of termination. Upon termination of this Agreement, unless otherwise ordered or approved by FERC:

2.4.1 With respect to any portion of the Transmission Provider Interconnection Facilities that have not yet been constructed or installed, the Transmission Provider shall to the extent possible and with Generator's authorization cancel any pending orders of, or return, any materials or equipment for, or contracts for construction of, such facilities; provided that in the event Generator elects not to authorize such cancellation, Generator shall assume all payment obligations with respect to such materials, equipment, and contracts, and the Transmission Provider shall deliver such material and equipment, and, if necessary, assign such contracts, to Generator as soon as practicable, at Generator's expense. To the extent that Generator has already paid Transmission Provider for any or all such costs of materials or equipment not taken by Generator, Transmission Provider shall promptly refund such amounts to Generator, less any costs, including penalties incurred by the Transmission Provider to cancel any pending orders of or return such materials, equipment, or contracts.

2.4.2 Transmission Provider may, at its option, retain any portion of such materials, equipment, or facilities that Generator chooses not to accept delivery of, in which case Transmission Provider shall be responsible for all costs associated with procuring such materials, equipment, or facilities.

2.4.3 With respect to any portion of the Interconnection Facilities, and any other facilities already installed or constructed pursuant to the terms of this Agreement, Generator shall be responsible for all costs associated with the removal, relocation or other disposition or retirement of such materials, equipment, or facilities.

2.5 Disconnection. Upon termination of this Agreement, the Parties will take all appropriate steps to disconnect the Facility from the Transmission System. All costs required to effectuate such disconnection shall be borne by the terminating Party, unless such termination resulted from the non-terminating Party's Default of this Agreement or such non-terminating Party otherwise is responsible for these costs under this Agreement.

2.6 Survival. This Agreement shall continue in effect after termination to the extent necessary to provide for final billings and payments and for costs incurred hereunder, including billings and payments pursuant to this Agreement; to permit the determination and enforcement of liability and indemnification obligations arising from acts or events that occurred while this Agreement was in effect; and to permit each Party to have access to the lands of the other Party pursuant to this Agreement or other applicable agreements, to disconnect, remove or salvage its own facilities and equipment.

2.7 Reservation of Rights. Notwithstanding any other provision in this Agreement, each Party retains its rights to unilaterally seek modification of this Agreement pursuant to Sections 205 and 206 of the Federal Power Act and pursuant to FERC's rules and regulations promulgated thereunder.

**Article 3. Regulatory Filings**

3.1 Filing. The Transmission Provider shall file this Agreement (and any amendment hereto) with the appropriate Governmental Authority, if required. Any information related to studies for interconnection asserted by Generator to contain competitively sensitive commercial or financial information shall be maintained by the Transmission Provider and identified as ''confidential'' under seal stating that Generator asserts such information is Confidential Information and has requested such information be kept under seal. If requested by the Transmission Provider, Generator shall provide the Transmission Provider, in writing, with the Generator's basis for asserting that the information referred to in this Article 3.1 is competitively sensitive information, and the Transmission Provider may disclose such writing to the appropriate Governmental Authority. Generator shall be responsible for the costs associated with affording confidential treatment of such information. If the Generator has executed this Agreement, or any amendment thereto, the Generator shall reasonably cooperate with Transmission Provider with respect to such filing and to provide any information reasonably requested by Transmission Provider needed to comply with applicable regulatory requirements. If the Generator has executed this Agreement or any amendment thereto, unless the Parties agree otherwise, Generator shall not protest the filing of this Agreement or any amendment which Generator executed.

**Article 4. Scope of Service**

4.1 Interconnection Product Options. Generator has selected the following (checked) type of Interconnection Service:

4.1.1 Energy Resource Interconnection Service.

4.1.1.1 The Product. Energy Resource (''ER'') Interconnection Service allows Generator to connect the Facility to the Transmission System and be eligible to deliver the Facility's output using the existing firm or non-firm capacity of the Transmission System on an ''as available'' basis. To the extent Generator wants to receive ER Interconnection Service, the Transmission Provider shall construct facilities consistent with the studies identified in Attachment A. ER Interconnection Service does not in and of itself convey any transmission delivery service.

4.1.1.2 The Study. The study consists of short circuit/fault duty, steady state (thermal and voltage) and stability analyses. The short circuit/fault duty analysis would identify direct interconnection facilities required and the Network Upgrades necessary to address short circuit issues associated with the interconnection facilities. The stability and steady state studies would identify necessary upgrades to allow full output of the proposed Facility and would also identify the maximum allowed output, at the time the study is performed, of the interconnecting Facility without requiring additional Network Upgrades.

4.1.1.3 Delivery Service Implications. Under ER Interconnection Service, the interconnected Generator will be able to inject power from the Facility into and

deliver power across the interconnecting Transmission Provider's Transmission System on an ''as available'' basis up to the amount of MW's identified in the applicable stability and steady state studies to the extent the upgrades initially required to qualify for ER Interconnection Service have been constructed. Where eligible to do so (e.g., PJM, ISO–NE, NYISO), the interconnected Generator may place a bid to sell into the market up to the maximum identified Facility output, subject to any conditions specified in the interconnection service approval, and the Facility will be dispatched to the extent the Generator's bid clears. In all other instances, no transmission delivery service from the Facility is assured, but the Generator may obtain point-to-point transmission delivery service or be used for secondary network transmission service, pursuant to the Transmission Provider's Open Access Transmission Tariff (''OATT''), up to the maximum output identified in the stability and steady state studies. In those instances, in order for the Generator to obtain the right to deliver or inject energy beyond the Facility Point of Interconnection or to improve its ability to do so, transmission delivery service must be obtained pursuant to the provisions of the Transmission Provider's OATT. The Generator's ability to inject its Facility output beyond the Point of Interconnection, therefore, will depend on the existing capacity of the Transmission Provider's Transmission System at such time as a transmission service request is made that would accommodate such delivery.

4.1.2 Network Resource Interconnection Service.

4.1.2.1 The Product. The Transmission Provider must conduct the necessary studies and construct the Network Upgrades needed to integrate the Facility (1) in a manner comparable to that in which the Transmission Provider integrates its generating facilities to serve native load customers; or (2) in an ISO or RTO with market based congestion management, in the same manner as all other Network Resources. Network Resource (''NR'') Interconnection Service in and of itself does not convey any transmission delivery service.

4.1.2.2 The Study. The interconnection study for NR Interconnection Service shall assure that the Generator's Facility meets the requirements for ER Interconnection Service and as a general matter, that such Facility interconnection is also studied with the Transmission Provider's Transmission System at peak load, under a variety of severely stressed conditions, to determine whether, with the Generator Facility at full output, the aggregate of generation in the local area can be delivered to the aggregate of load on the Transmission Provider's Transmission System, consistent with the Transmission Provider's reliability criteria and procedures. This approach assumes that some portion of existing Network Resources are displaced by the output of the Generator's Facility. The Generator may request the studies associated with NR Interconnection Service at the time of its interconnection application, together with its request(s) for study of other levels of interconnection service, and, following the completion of the requested facilities studies and subject to the construction of all necessary upgrades, may elect to proceed with NR Interconnection Service or to proceed under a lower level of interconnection service to the extent that only certain upgrades will be completed.

There is no requirement either at the time of study or interconnection, or at any point in the future, that the Generator's Facility be designated as a Network Resource by a network transmission customer or that the Generator identify a specific buyer (or sink). To the extent a Network Generator does designate the Facility as a Network Resource, it must do so pursuant to the Transmission Provider's OATT.

4.1.2.3 Delivery Service Implications. NR Interconnection Service allows the Generator's Facility to be designated by any Network Generator on the Transmission Provider's Transmission System as a Network Resource, up to the Facility's full output, on the same basis as all other existing Network Resources interconnected to the Transmission Provider's Transmission System, and to be studied as a Network Resource on the assumption that such a designation will occur. Any Network Generator can utilize its network service to obtain delivery of energy from the interconnected Generator's Facility in the same manner as it accesses other Network Resources. A Facility receiving NR Interconnection Service may also be used to provide ancillary services after technical studies and/or periodic analyses are performed with respect to the Facility's ability to provide any applicable ancillary service, provided that such studies and analyses have been or would be required in connection with the provision of such ancillary services by any existing Network Resource. In addition, in the event of transmission constraints on the Transmission Provider's Transmission System, the Generator's Facility shall be subject to the applicable congestion management procedures in the Transmission Provider's Transmission System in the same manner as all other Network Resources.

Once a Generator satisfies the requirements for obtaining NR Interconnection Service, any future transmission service request for delivery from the Facility within the Transmission Provider's Transmission System of any amount of capacity and/or energy, up to the amount initially studied, will not require that any additional studies be performed or that any further upgrades associated with such Facility be undertaken, regardless of whether or not such Facility is ever designated by a Network Generator as a Network Resource and regardless of changes in ownership of the Facility. To the extent the Generator enters into an arrangement for long term transmission service for deliveries from the Facility outside the Transmission Provider's Transmission System, such request may require additional studies and upgrades in order for the Transmission Provider to grant such request.

Depending on how the cost allocation issue is resolved, the Generator may be allocated congestion rights based on the construction of upgrades.

4.2 Provision of Service. Transmission Provider shall provide Interconnection Service for the Facility at the Point of Interconnection.

4.3 Generator Balancing Service Arrangements. Generator must demonstrate, to the Transmission Provider's reasonable satisfaction, that it has satisfied the requirements of this Article 4.3 prior to the submission of any schedules for delivery service to such Transmission Provider identifying the Facility as the Point of Receipt for such scheduled delivery.

4.3.1 Generator is responsible for ensuring that its actual Facility output matches the scheduled delivery from the Facility, on an integrated clock hour basis, to the Transmission Provider's Transmission System, including ramping into and out of such scheduled delivery, as measured at the Point of Interconnection. Generator shall arrange for the supply of energy when there is a difference between the actual Facility output and the scheduled delivery from the Facility (the ''Generator Balancing Service''). Generator may satisfy its obligation for making such Generator Balancing Service arrangements by: (a) obtaining such service from another entity that (i) has generating resources deliverable within the applicable Control Area, (ii) agrees to assume responsibility for providing such Generator Balancing Service to the Generator, and (iii) has appropriate coordination service arrangements or agreements with the applicable Control Area that addresses Generator Balancing Service for all generating resources for which the entity is responsible within the applicable Control Area; (b) committing sufficient additional unscheduled generating resources to the control of and dispatch by the applicable Control Area operator that are capable of supplying energy not supplied by the Generator's scheduled Facility, and entering into an appropriate coordination services agreement with the applicable Control Area that addresses Generator Balancing Service obligations for the Facility; (c) entering into an arrangement with another Control Area to dynamically schedule the Generator's Facility out of the applicable Control Area and into such other Control Area; (d) entering into a Generator Balancing Service arrangement with the applicable Control Area; or (e) in the event the load/generation balancing function of the applicable Control Area is accomplished through the function of its market structures approved by FERC, by entering into an arrangement consistent with such FERC-approved market structure. In the event Generator fails to demonstrate to the Transmission Provider that it has otherwise complied with this Article, the Generator shall be deemed to have elected to enter into a Generator Balancing Service arrangement with the applicable Control Area. Nothing in this provision shall prejudice either Party from obtaining a FERC-approved tariff addressing its obligations and rights with respect to Generator Balancing Service.

4.4 Performance Standards. Each Party shall perform all of its obligations under this Agreement in accordance with Applicable Laws and Regulations, Applicable Standards, and Good Utility Practice, and to the extent a Party is required or prevented or limited in taking any action by such regulations and

standards, such Party shall not be deemed to be in breach of this Agreement for its compliance therewith.

4.5 No Transmission Delivery Service. The execution of this Agreement does not constitute a request for nor the provision of any transmission delivery service under the Transmission Provider's Tariff or any local distribution service.

4.6 Generator Provided Services. The services provided by Generator under this Agreement are set forth in Article 9.6 and Article 14.5.1. Generator shall be paid for such services in accordance with Article 11.6.

**Article 5. Interconnection Facilities Engineering, Procurement, and Construction**

5.1 Options. Unless otherwise mutually agreed to between the Parties, Generator shall select the In-Service Date, Initial Synchronization Date, and Commercial Operation Date; and one of the options set forth below (subparagraph A or subparagraph B) for completion of the Transmission Provider Interconnection Facilities/Network Upgrades and such dates and selected option shall be set forth in Appendix B, Time Schedule. The dates selected by Generator shall be dates upon which Generator reasonably expects it will be ready to begin use of the Transmission Provider Interconnection Facilities/Network Upgrades.

A. The Transmission Provider shall design, procure, and construct the Transmission Provider Interconnection Facilities/Network Upgrades, using Reasonable Efforts to complete the Transmission Provider Interconnection Facilities/Network Upgrades by the dates set forth in Appendix B, Time Schedule. The Transmission Provider shall not be required to undertake any action which is inconsistent with its standard safety practices, its material and equipment specifications, its design criteria and construction procedures, its labor agreements, and Applicable Laws and Regulations. In the event the Transmission Provider reasonably expects that it will not be able to complete the Transmission Provider Interconnection Facilities/Network Upgrades by the specified dates, the Transmission Provider will promptly provide written notice to the Generator and will undertake Reasonable Efforts to meet the earliest dates thereafter.

B. (i) The Transmission Provider shall design, procure, and construct the Transmission Provider Interconnection Facilities/Network Upgrades by the dates reflected in Appendix B, Time Schedule, pursuant to subparagraph 5.1.B(i)(a) or subparagraph 5.1.B(i)(b) as applicable.

(a) If the dates designated by Generator are acceptable to Transmission Provider, the Transmission Provider shall so notify Generator within thirty (30) Calendar Days, and shall assume responsibility for the design, procurement and construction of the Transmission Provider Interconnection Facilities/Network Upgrades by the designated dates. If Transmission Provider subsequently fails to complete Transmission Provider Interconnection Facilities by the In-Service Date, to the extent necessary to provide backfeed service, or fails to complete Network Upgrades by the Initial Synchronization Date to the extent necessary to allow for Trial Operation at full power output, unless other arrangements are made by the Parties for such Trial Operation, or fails to complete the Network Upgrades by the Commercial Operation Date, as such dates are reflected in Appendix B, Time Schedule, Transmission Provider shall pay the Generator liquidated damages in accordance with this subparagraph 5.1.B; provided, however, the dates designated by Generator shall be extended day for day for each day that the applicable ISO refuses to grant clearances to install equipment.

(b) If the dates designated by Generator are not acceptable to Transmission Provider, the Transmission Provider shall notify the Generator within thirty (30) Calendar Days, and, unless the Parties agree otherwise, Generator shall have the option to assume responsibility for the design, procurement and construction of: (1) The Transmission Provider Interconnection Facilities, if Transmission Provider has notified Generator that the dates designated by Generator associated therewith are not acceptable, or (2) stand-alone Network Upgrade projects specified in Appendix A, Interconnection Facilities and Network Upgrades, if Transmission Provider has notified Generator that the dates designated by Generator associated therewith are not acceptable. If the Generator elects not to exercise its option to assume such responsibility, Generator shall so notify Transmission Provider within thirty (30) Calendar Days, and the Parties shall in good faith attempt to negotiate terms and conditions (including revision of the specified dates and/or liquidated damages, the provision of incentives or the procurement and construction of a portion of the Transmission Provider Interconnection Facilities/Network Upgrades by Generator) pursuant to which Transmission Provider is willing to assume responsibility for the design, procurement and construction of the Transmission Provider Interconnection Facilities/Network Upgrades pursuant to subparagraph 5.1.B(i)(a), above. If the Parties are unable to reach agreement on such terms and conditions, Transmission Provider shall assume responsibility for the design, procurement and construction of the Transmission Provider Interconnection Facilities/Network Upgrades pursuant to the terms of subparagraph 5.1 A.

(ii) The Parties agree that actual damages to the Generator, in the event the TIF/NU are not completed by the dates designated by the Generator and accepted by the Transmission Provider pursuant to subparagraph 5.1.B(i)(a), above, may include Generator's fixed operation and maintenance costs and lost opportunity costs. Such actual damages are uncertain and impossible to determine at this time. The Parties agree that, because of such uncertainty, any liquidated damages paid by the Transmission Provider to the Generator shall be an amount equal to ½ of 1% per day of the actual cost of the Transmission Provider Interconnection Facilities/Network Upgrades, in the aggregate, for which the Transmission Provider has design, procurement, and construction responsibility, in the event that Transmission Provider does not complete any portion of the Transmission Provider Interconnection Facilities/Network Upgrades by the applicable dates, per day. However, in no event shall the total liquidated damages exceed 20% of the actual cost of the Transmission Provider Interconnection Facilities/Network Upgrades for which Transmission Provider has assumed responsibility to design, procure and construct. The Parties agree that the foregoing payments will be made by the Transmission Provider to the Generator as just compensation for the damages caused to the Generator, which actual damages are uncertain and impossible to determine at this time, and as reasonable liquidated damages, but not as a penalty or a method to secure performance of this Agreement.

(iii) No liquidated damages shall be paid to Generator if: (1) The Generator is not ready to commence use of the Transmission Provider Interconnection Facilities/Network Upgrades for the delivery of power to the Facility for Trial Operation or export of power from the Facility on the specified dates, unless the Generator would have been able to commence use of the Transmission Provider Interconnection Facilities/Network Upgrades for the delivery of power to the Facility for Trial Operation or export of power from the Facility but for Transmission Provider's delay; (2) the Transmission Provider's failure to meet the specified dates is the result of the action or inaction of the Generator; (3) the Generator has assumed responsibility for the design, procurement and construction of the Transmission Provider Interconnection Facilities/Network Upgrades or has elected not to assume such responsibility pursuant to subparagraph 5.1 B.(i)(b), above, unless the Parties agree otherwise pursuant to Subparagraph 5.1 B.(i)(b); or (4) the Parties have otherwise agreed.

(iv) If Generator has assumed responsibility for the design, procurement and construction of the Transmission Provider Interconnection Facilities/Network Upgrades pursuant to Subparagraph 5.1.B(i)(b): (1) The Generator shall engineer, procure equipment, and construct the Transmission Provider Interconnection Facilities/Network Upgrades (or portions thereof) using Good Utility Practice and using standards and specifications provided in advance by the Transmission Provider; (2) Generator's engineering, procurement and construction of the Transmission Provider Interconnection Facilities/Network Upgrades shall comply with all requirements of law to which Transmission Provider would be subject in the engineering, procurement or construction of the Transmission Provider Interconnection Facilities/Network Upgrades; (3) Transmission Provider shall review and approve the engineering design, acceptance tests of equipment, and the construction of the Transmission Provider Interconnection Facilities/Network Upgrades; (4) Transmission Provider shall approve and accept for operation the Transmission Provider Interconnection Facilities/Network Upgrades to the extent engineered, procured, and constructed in accordance with this Subparagraph 5.1.B.v; (5) Should any phase

of the engineering, equipment procurement, or construction of the Transmission Provider Interconnection Facilities/Network Upgrades, including selection of subcontractors, not meet the standards and specifications provided by Transmission Provider, and therefore not be approved and accepted for operation, then Generator shall be obligated to remedy deficiencies in that portion of the Transmission Provider Interconnection Facilities/Network Upgrades.

5.2 Power System Stabilizers. The Generator shall procure, install, maintain and operate power system stabilizers, if and as required the System Impact Study. Transmission Provider reserves the right to reasonably establish minimal acceptable settings for any installed power system stabilizers, subject to the design and operating limitations of the Facility.

5.3 Equipment Procurement. If responsibility for construction of the Transmission Provider Interconnection Facilities/Network Upgrades is to be borne by the Transmission Provider, then the Transmission Provider shall commence design of the Transmission Provider Interconnection Facilities/Network Upgrades and procure necessary equipment as soon as practicable after all of the following conditions are satisfied, unless the Parties otherwise agree in writing:

5.3.1 The Transmission Provider has completed the Facilities Study pursuant to the Facilities Study Agreement;

5.3.2 The Transmission Provider has received written authorization to proceed with design and procurement from the Generator by the date specified in Appendix B, Time Schedule; and

5.3.3 The Generator has provided security to the Transmission Provider in accordance with Article 11.5 by the dates specified in Appendix B, Time Schedule.

5.4 Construction Commencement. The Transmission Provider shall commence construction of the Transmission Provider Interconnection Facilities/Network Upgrades for which it is responsible as soon as practicable after the following additional conditions are satisfied:

5.4.1 Approval of the appropriate Governmental Authority has been obtained for any facilities requiring regulatory approval;

5.4.2 Necessary real property rights and rights-of-way have been obtained, to the extent required for the construction of a discrete aspect of the Transmission Provider Interconnection Facilities/Network Upgrades;

5.4.3 The Transmission Provider has received written authorization to proceed with construction from the Generator by the date specified in Appendix B, Time Schedule; and

5.4.4 The Generator has provided security to the Transmission Provider in accordance with Article 11.5 by the dates specified in Appendix B, Time Schedule.

5.5 Work Progress. The Parties will keep each other advised periodically as to the progress of their respective design, procurement and construction efforts. Either Party may, at any time, request a progress report from the other Party. If, at any time, the Generator determines that the completion of the Transmission Provider Interconnection Facilities will not be required until after the specified In-Service Date, the Generator will provide written notice to the Transmission Provider of such later date upon which the completion of the Transmission Provider Interconnection Facilities will be required.

5.6 Information Exchange. As soon as reasonably practicable after the Effective Date, the Parties shall exchange information regarding the design and compatibility of the Parties' Interconnection Facilities and compatibility of the Interconnection Facilities with the Transmission Provider's Transmission System, and shall work diligently and in good faith to make any necessary design changes.

5.7 Limited Operation. If any of the Transmission Provider Interconnection Facilities/Network Upgrades are not reasonably expected to be completed prior to the Commercial Operation Date of the Facility, Transmission Provider shall, upon the request and at the expense of Generator, perform operating studies on a timely basis to determine the extent to which the Facility and the Generator Interconnection Facilities may operate prior to the completion of the Transmission Provider Interconnection Facilities/Network Upgrades consistent with Applicable Laws and Regulations, Applicable Standards, Good Utility Practice, and this Agreement. Transmission Provider shall permit Generator to operate the Facility and the Generator Interconnection Facilities in accordance with the results of such studies.

5.8 Generator Interconnection Facilities (''GIF''). Generator shall, at its expense, design, procure, construct, own and install the GIF, as set forth in Appendix A, Interconnection Facilities and Network Upgrades.

5.8.1 Generator Specifications. Generator shall submit final specifications for the GIF, including System Protection Facilities, to Transmission Provider for review and comment at least ninety (90) Calendar Days prior to the Initial Synchronization Date. Transmission Provider shall review such specifications to ensure that the GIF are compatible with the technical specifications, operational control, and safety requirements of the Transmission Provider and comment on such specifications within thirty (30) Calendar Days of Generator's submission. All specifications provided hereunder shall be deemed confidential.

5.8.2 Transmission Provider's Review. Transmission Provider's review of Generator's final specifications shall not be construed as confirming, endorsing, or providing a warranty as to the design, fitness, safety, durability or reliability of the Facility, or the GIF. Generator shall make such changes to the GIF as may reasonably be required [by Transmission Provider] to ensure that the GIF are compatible with the telemetry, communications, and safety requirements of the Transmission Provider.

5.8.3 GIF Construction. The GIF shall be designed and constructed in accordance with Good Utility Practice. Within one hundred twenty (120) Calendar Days after the Commercial Operation Date, unless the Parties agree on another mutually acceptable deadline, the Generator shall deliver to the Transmission Provider the following ''as-built'' drawings, information and documents for the GIF: a one-line diagram, a site plan showing the Facility and the GIF, plan and elevation drawings showing the layout of the GIF, a relay functional diagram, relaying AC and DC schematic wiring diagrams and relay settings for all facilities associated with the Generator's step-up transformers, the facilities connecting the Generator to the step-up transformers and the GIF, and the impedances (determined by factory tests) for the associated step-up transformers and the generators.

5.9 Transmission Provider Interconnection Facilities Construction. The Transmission Provider Interconnection Facilities shall be designed and constructed in accordance with Good Utility Practice. Upon request, within one hundred twenty (120) Calendar Days after the Commercial Operation Date, unless the Parties agree on another mutually acceptable deadline, the Transmission Provider shall deliver to the Generator the following ''as-built'' drawings, information and documents for the Transmission Provider Interconnection Facilities: [include appropriate drawings and relay diagrams]

5.10 Access Rights. Upon reasonable notice and supervision by a Party, and subject to any required or necessary regulatory approvals, a Party (''Granting Party'') shall furnish [at no cost] to the other Party (''Access Party'') any rights of use, licenses, rights of way and easements with respect to lands owned or controlled by the Granting Party and its agents that are necessary to enable the Access Party to obtain ingress and egress to construct, operate, maintain, repair, test (or witness testing), inspect, replace or remove facilities and equipment to: (i) interconnect the Facility with the Transmission System; (ii) operate and maintain the Facility, the Interconnection Facilities and the Transmission System; and (iii) disconnect or remove the Access Party's facilities and equipment upon termination of this Agreement. In exercising such licenses, rights of way and easements, the Access Party shall not unreasonably disrupt or interfere with normal operation of the Granting Party's business and shall adhere to the safety rules and procedures established in advance, as may be changed from time to time, by the Granting Party and provided to the Access Party.

5.11 Lands of Other Property Owners. If any part of the Transmission Provider/Transmission Owner Interconnection Facilities and/or Network Upgrades is to be installed on property owned by persons other than Generator or Transmission Provider/Transmission Owner, the Transmission Provider/Transmission Owner shall at Generator's expense use reasonable efforts to procure from such persons any rights of use, licenses, rights of way and easements that are necessary to construct, operate, maintain, test, inspect, replace or remove the Transmission Provider/Transmission Owner Interconnection Facilities and/or Network Upgrades upon such property. Provided, however, where such property is owned by an affiliate of Transmission Provider/

Transmission Owner, Generator's expense for such procured property right shall be limited to the fair market value of the procured property right or such other price as required by applicable inter-affiliate transaction requirements. The Transmission Provider/ Transmission Owner shall use its eminent domain authority to facilitate the exercise of the Parties' rights and obligations under this Agreement, where and to the extent that it is permitted to do so.

5.12 Early Construction of Base Case Facilities. Generator may request Transmission Provider to construct, and Transmission Provider shall construct, on a schedule that will accommodate Generator's In-Service Date, all or any portion of any Network Upgrades required for Generator to be interconnected to the Transmission System which are included in the base case of the Facilities Study for the Generator, and which also are required to be constructed for another interconnecting generator, but where such construction is not scheduled to be completed in time to achieve Generator's In-Service Date.

5.13 Suspension. Generator reserves the right, upon written notice to Transmission Provider, to suspend at any time all work by Transmission Provider associated with the construction and installation of Transmission Provider Interconnection Facilities and/or Network Upgrades required under this Agreement. In such event, Generator shall be responsible for all reasonable and necessary costs which Transmission Provider (i) has incurred pursuant to this Agreement prior to the suspension and (ii) incurs in suspending such work, including any costs incurred to perform such work as may be necessary to ensure the safety of persons and property and the integrity of the Transmission System during such suspension and, if applicable, any costs incurred in connection with the cancellation or suspension of material, equipment and labor contracts which Transmission Provider cannot reasonably avoid; provided, however, that prior to canceling or suspending any such material, equipment or labor contract, Transmission Provider shall obtain Generator's authorization to do so. Transmission Provider shall invoice Generator for such costs pursuant to Article 12 and shall use due diligence to minimize its costs. In the event Generator suspends work by Transmission Provider required under this Agreement pursuant to this Article 5.13, and has not requested Transmission Provider to recommence the work required under this Agreement on or before the expiration of three (3) years following commencement of such suspension, this Agreement shall be deemed terminated.

5.14 Taxes.

5.14.1 Generator Payments Not Taxable. The Parties intend that all payments or property transfers made by Generator to Transmission Provider for the installation of the Transmission Provider Interconnection Facilities and the Network Upgrades shall be non-taxable, either as contributions to capital, or as an advance, in accordance with the Internal Revenue Code and any applicable state income tax laws and shall not be taxable as contributions in aid of construction or otherwise under the Internal Revenue Code and any applicable state income tax laws.

5.14.2 Representations And Covenants. In accordance with IRS Notice 2001–82 and IRS Notice 88–129, Generator represents and covenants that (i) ownership of the electricity generated at the Facility will pass to another party prior to the transmission of the electricity on the Transmission System, (ii) for income tax purposes, the amount of any payments and the cost of any property transferred to the Transmission Provider for the Transmission Provider Interconnection Facilities will be capitalized by Generator as an intangible asset and recovered using the straight-line method over a useful life of twenty (20) years, and (iii) any portion of the Transmission Provider Interconnection Facilities that is a ''dual-use intertie,'' within the meaning of IRS Notice 88–129, is reasonably expected to carry only a de minimis amount of electricity in the direction of the Facility. For this purpose, ''de minimis amount'' means no more than 5% of the total power flows in both directions, calculated in accordance with the ''5% test'' set forth in IRS Notice 88–129. At Transmission Provider's request, Generator shall provide Transmission Provider with a report from an independent engineer confirming its representation in clause (iii), above. Transmission Provider represents and covenants that the cost of the Transmission Provider Interconnection Facilities paid for by Generator will have no net effect on the base upon which rates are determined.

5.14.3 Indemnification for Taxes Imposed Upon Transmission Provider. Notwithstanding Article 5.14.1, Generator shall protect, indemnify and hold harmless Transmission Provider from income taxes imposed against Transmission Provider as the result of payments or property transfers made by Generator to Transmission Provider under this Agreement, as well as any interest and penalties, other than interest and penalties attributable to any delay caused by Transmission Provider. Transmission Provider shall not include a gross-up for income taxes in the amounts it charges Generator under this Agreement unless (i) Transmission Provider has determined, in good faith, that the payments or property transfers made by Generator to Transmission Provider should be reported as income subject to taxation or (ii) any Governmental Authority directs Transmission Provider to report payments or property as income subject to taxation; *provided, however,* that Transmission Provider may require Generator to provide security, in a form reasonably acceptable to Transmission Provider (such as a parental guarantee or a letter of credit), in an amount equal to Generator's estimated tax liability under this Article 5.14. Generator shall reimburse Transmission Provider for such taxes on a fully grossed-up basis, in accordance with Article 5.14.4, within thirty (30) Calendar Days of receiving written notification from Transmission Provider of the amount due, including detail about how the amount was calculated.

5.14.4 Tax Gross-Up Amount. Generator's liability for taxes under this Article 5.14 shall be calculated on a fully grossed-up basis. Except as may otherwise be agreed to by the parties, this means that Generator will pay Transmission Provider, in addition to the amount paid for the Interconnection Facilities and Network Upgrades, an amount equal to (1) the current taxes imposed on Transmission Provider (''Current Taxes'') on the excess of (a) the gross income realized by Transmission Provider as a result of payments or property transfers made by Generator to Transmission Provider under this Agreement (without regard to any payments under this Article 5.14) (the ''Gross Income Amount'') over (b) the present value of future tax deductions for depreciation that will be available as a result of such payments or property transfers (the ''Present Value Depreciation Amount''), plus (2) an additional amount sufficient to permit the Transmission Provider to receive and retain, after the payment of all Current Taxes, an amount equal to the net amount described in clause (1). For this purpose, (i) Current Taxes shall be computed based on Transmission Provider's composite federal and state tax rates at the time the payments or property transfers are received and Transmission Provider will be treated as being subject to tax at 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 Transmission Provider's anticipated tax depreciation deductions as a result of such payments or property transfers by Transmission Provider's current weighted average cost of capital. Thus, the formula for calculating Generator's liability to Transmission Owner pursuant to this Article 5.14.4 can be expressed as follows: (Current Tax Rate × (Gross Income Amount − Present Value of Tax Depreciation))/(1–Current Tax Rate). Generator's estimated tax liability in the event taxes are imposed shall be stated in Appendix A, Interconnection Facilities and Network Upgrades.

5.14.5 Private Letter Ruling or Change or Clarification of Law. At Generator's request and expense, Transmission Provider shall file with the IRS a request for a private letter ruling as to whether any property transferred or sums paid, or to be paid, by Generator to Transmission Provider under this Agreement are subject to federal income taxation. Generator will prepare the initial draft of the request for a private letter ruling, and will certify under penalties of perjury that all facts represented in such request are true and accurate to the best of Generator's knowledge. Transmission Provider and Generator shall cooperate in good faith with respect to the submission of such request. Transmission Provider shall keep Generator fully informed of the status of such request for a private letter ruling and shall execute either a privacy act waiver or a limited power of attorney, in a form acceptable to the IRS, that authorizes Generator to participate in all discussions with the IRS regarding such request for a private letter ruling. Transmission Provider shall allow Generator to attend all meetings with IRS officials about the request and shall permit Generator to prepare the initial drafts of any follow-up letters in connection with the request. If the private letter ruling concludes that such

transfers or sums are not subject to federal income taxation, or a clarification of or change in law results in Transmission Provider determining in good faith that such transfers or sums are not subject to federal income taxation, Generator's obligations under this Article 5.14 shall be reduced accordingly.

5.14.6 Contests. In the event any Governmental Authority determines that Transmission Provider's receipt of payments or property constitutes income that is subject to taxation, Transmission Provider shall notify Generator, in writing, within thirty (30) Calendar Days of receiving notification of such determination by a Governmental Authority. Upon the timely written request by Generator and at Generator's sole expense, Transmission Provider shall appeal, protest, seek abatement of, or otherwise oppose such determination. Upon Generator's written request and sole expense, Transmission Provider shall file a claim for refund with respect to any taxes paid under this Article 5.14, whether or not it has received such a determination. Transmission Provider reserves the right to make all decisions with regard to the prosecution of such appeal, protest, abatement or other contest, including the selection of counsel and compromise or settlement of the claim, but Transmission Provider shall keep Generator informed, shall consider in good faith suggestions from Generator about the conduct of the contest, and shall reasonably permit Generator or a Generator representative to attend contest proceedings. Generator shall pay to Transmission Provider on a periodic basis, as invoiced by Transmission Provider, Transmission Provider's documented reasonable costs of prosecuting such appeal, protest, abatement or other contest. Transmission Provider will not be required to appeal or seek further review beyond one level of judicial review. At any time during the contest, Transmission Provider may agree to a settlement either with Generator's consent or after obtaining written advice from nationally-recognized tax counsel, selected by Transmission Provider, but reasonably acceptable to Generator, that the proposed settlement represents a reasonable settlement given the hazards of litigation. Generator's obligation shall be based on the amount of the settlement agreed to by Generator, or if a higher amount, so much of the settlement that is supported by the written advice from nationally-recognized tax counsel selected under the terms of the preceding sentence. Any settlement without Generator's consent or such written advice will relieve Generator from any obligation to indemnify Transmission Provider for the tax at issue in the contest.

5.14.7 Refund. In the event that (a) a private letter ruling is issued to Transmission Provider which holds that any amount paid or the value of any property transferred by Generator to Transmission Provider under the terms of this Agreement is not subject to federal income taxation, (b) any legislative change or administrative announcement, notice, ruling or other determination makes it reasonably clear to Transmission Provider in good faith that any amount paid or the value of any property transferred by Generator to Transmission Provider under the terms of this Agreement is not taxable to Transmission Provider, (c) any abatement, appeal, protest, or other contest results in a determination that any payments or transfers made by Generator to Transmission Provider are not subject to federal income tax, or (d) if Transmission Provider receives a refund from any taxing authority for any overpayment of tax attributable to any payment or property transfer made by Generator to Transmission Provider pursuant to this Agreement, Transmission Provider shall promptly refund to Generator the following: (i) any payment made by Generator under this Article 5.14 for taxes that is attributable to the amount determined to be non-taxable, together with interest thereon (ii) on any amounts paid by Generator to Transmission Provider for such taxes which Transmission Provider did not submit to the taxing authority, calculated in accordance with the methodology set forth in FERC's regulations at 18 CFR § 35.19a(a)(2)(ii) from the date payment was made by Generator to the date Transmission Provider refunds such payment to Generator, and (iii) with respect to any such taxes paid by Transmission Provider, any refund or credit Transmission Provider receives or to which it may be entitled from any Governmental Authority, interest (or that portion thereof attributable to the payment described in clause (i), above) owed to the Transmission Provider for such overpayment of taxes (including any reduction in interest otherwise payable by Transmission Provider to any Governmental Authority resulting from an offset or credit); *provided, however,* that Transmission Provider will remit such amount promptly to Generator only after and to the extent that Transmission Provider has received a tax refund, credit or offset from any Governmental Authority for any applicable overpayment of income tax related to the Transmission Provider Interconnection Facilities. The intent of this provision is to leave both parties, to the extent practicable, in the event that no taxes are due with respect to any payment for Interconnection Facilities and Network Upgrades hereunder, in the same position they would have been in had no such tax payments been made.

5.14.8 Taxes Other Than Income Taxes. Upon the timely request by Generator, and at Generator's sole expense, Transmission Provider shall appeal, protest, seek abatement of, or otherwise contest any tax (other than federal or state income tax) asserted or assessed against Transmission Provider for which Generator may be required to reimburse Transmission Provider under the terms of this Agreement. Generator and Transmission Provider 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 Generator to Transmission Provider for such 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, Generator will be responsible for all taxes, interest and penalties, other than penalties attributable to any delay caused by Transmission Provider.

5.14.9 Transmission Owners Who Are Not Transmission Providers. If the Transmission Provider is not the same entity as the Transmission Owner, then (i) all references in this Article 5.14 to Transmission Provider shall be deemed also to refer to and to include the Transmission Owner, as appropriate, and (ii) this Agreement shall not become effective until such Transmission Owner shall have agreed in writing to assume all of the duties and obligations of the Transmission Provider under this Article 5.14 of this Agreement.

5.15 Tax Status. Each Party shall cooperate with the other to maintain the other Party's tax status. Nothing in this Agreement is intended to adversely affect any Transmission Provider's tax exempt status with respect to the issuance of bonds including, but not limited to, Local Furnishing Bonds.

5.16 Modification.

5.16.1 General. Either Party may undertake modifications to its facilities. If a Party plans to undertake a modification that reasonably may be expected to affect the other Party's facilities, that Party shall provide to the other Party sufficient information regarding such modification so that the other Party may evaluate the potential impact of such modification prior to commencement of the work. Such information shall be deemed to be confidential hereunder and shall include information concerning the timing of such modifications and whether such modifications are expected to interrupt the flow of electricity from the Facility. The Party desiring to perform such work shall provide the relevant drawings, plans, and specifications to the other Party at least ninety (90) Calendar Days in advance of the commencement of the work or such shorter period upon which the Parties may agree, which agreement shall not unreasonably be withheld, conditioned or delayed. In the case of Generator modifications that do not require Generator to submit an Interconnection Request, Transmission Provider shall provide, within thirty (30) Calendar Days (or such other time as the Parties may agree), an estimate of any additional modifications to the Transmission System, Transmission Provider Interconnection Facilities or Network Upgrades necessitated by such Generator modification and a good faith estimate of the costs thereof.

5.16.2 Standards. Any additions, modifications, or replacements made to a Party's facilities shall be designed, constructed and operated in accordance with this Agreement, Good Utility Practice and the National Electric Safety Code in effect at the time.

5.16.3 Modification Costs. Generator shall not be responsible for the costs of any additions, modifications, or replacements that Transmission Provider makes to the Transmission Provider Interconnection Facilities or the Transmission System to facilitate the interconnection of a third party to the Transmission Provider Interconnection Facilities or the Transmission System, or to

provide transmission service under the Transmission Provider Tariff. Generator shall be responsible for the costs of any additions, modifications, or replacements to the Generator Interconnection Facilities that may be necessary to maintain or upgrade such Generator Interconnection Facilities consistent with Applicable Laws and Regulations, Applicable Standards or Good Utility Practice.

**Article 6. Testing and Inspection**

6.1 Pre-Commercial Operation Date Testing and Modifications. Prior to the Commercial Operation Date, the Transmission Provider shall test the Transmission Provider Interconnection Facilities and Network Upgrades and Generator shall test the Facility and the Generator Interconnection Facilities to ensure their safe and reliable operation. Similar testing may be required after initial operation. Each Party shall make any modifications to its facilities that are found to be necessary as a result of such testing. Generator shall bear the cost of all such testing and modifications. Generator shall generate test energy at the Facility only if it has arranged for the delivery of such test energy.

6.2 Post-Commercial Operation Date Testing and Modifications. Each Party shall at its own expense 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 Facility with the Transmission System in a safe and reliable manner. Each Party shall have the right, upon advance written notice, to require reasonable additional testing of the other Party's facilities, at the requesting Party's expense, as may be in accordance with Good Utility Practice.

6.3 Right to Observe Testing. Each Party shall notify the other Party in advance of its performance of tests of its Interconnection Facilities. The other Party has the right, at its own expense, to observe such testing.

6.4 Right to Inspect. Each Party shall have the right, but shall have no obligation to: (i) Observe the other Party's tests and/or inspection of any of its System Protection Facilities and other protective equipment, including power system stabilizers; (ii) review the settings of the other Party's System Protection Facilities and other protective equipment; and (iii) review the other Party's maintenance records relative to the Interconnection Facilities, the System Protection Facilities and other protective equipment. A Party may exercise these rights from time to time as it deems necessary upon reasonable notice to the other Party. The exercise or non-exercise by a Party of any such rights shall not be construed as an endorsement or confirmation of any element or condition of the Interconnection Facilities or the System Protection Facilities or other protective equipment or the operation thereof, or as a warranty as to the fitness, safety, desirability, or reliability of same. Any information that Transmission Provider obtains through the exercise of any of its rights under this Article 6.4 shall be deemed to be confidential hereunder.

**Article 7. Metering**

7.1 General. Unless otherwise agreed by the Parties, Transmission Provider shall install Metering Equipment at the Point of Interconnection prior to any operation of the Facility and shall own, operate, test and maintain such Metering Equipment. Power flows to and from the Facility shall be measured at or, at Transmission Provider's option, compensated to, the Point of Interconnection. Transmission Provider shall provide metering quantities, in analog and/or digital form, to Generator upon request. Generator shall bear all reasonable documented costs associated with the purchase, installation, operation, testing and maintenance of the Metering Equipment.

7.2 Check Meters. Generator, at its option and expense, may install and operate, on its premises and on its side of the Point of Interconnection, one or more check meters to check Transmission Provider's meters. Such check meters shall be for check purposes only and shall not be used for the measurement of power flows for purposes of this Agreement, except as provided in Article 7.3 below. The check meters shall be subject at all reasonable times to inspection and examination by Transmission Provider or its designee. The installation, operation and maintenance thereof, however, shall be performed entirely by Generator in accordance with Good Utility Practice.

7.3 Standards. Transmission Provider shall install, calibrate, and test revenue quality Metering Equipment in accordance with applicable ANSI standards. To the extent this Article 7 conflicts with the manuals, standards or guidelines of the Applicable Reliability Council regarding interchange metering and transactions, the manuals, standards and guidelines of such Applicable Reliability Council shall control.

7.4 Testing of Metering Equipment. Transmission Provider shall inspect and test all Transmission Provider-owned Metering Equipment upon installation and at least once every two (2) years thereafter. If requested to do so by Generator, Transmission Provider shall, at Generator's expense, inspect or test Metering Equipment more frequently than every two (2) years. Transmission Provider shall give reasonable notice of the time when any inspection or test shall take place, and Generator may have representatives present at the test or inspection. If at any time Metering Equipment is found to be inaccurate or defective, it shall be adjusted, repaired or replaced at Generator's expense, in order to provide accurate metering, unless the inaccuracy or defect is due to owner failure to maintain, then owner shall pay. 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, Transmission Provider shall adjust the data by correcting 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 cannot be determined, the adjustment shall be for the period immediately preceding the test of the Metering Equipment equal to one-half the time from the date of the last previous test of the Metering Equipment.

7.5 Metering Data. At Generator's expense, the metered data shall be telemetered to one or more locations designated by Transmission Provider and one or more locations designated by Generator. The metered data provided by Generator shall be used, under normal operating conditions, as the official measurement of the amount of energy delivered from the Facility to the Point of Interconnection.

**Article 8. Communications**

8.1 Generator Obligations. Generator shall maintain satisfactory operating communications with Transmission Provider's system dispatcher or representative designated by Transmission Provider. Generator shall provide standard voice line, dedicated voice line and facsimile communications at its Facility control room or central dispatch facility through use of the public telephone system. Generator shall also provide the dedicated data circuit(s) necessary to provide Generator data to Transmission Provider as set forth in Appendix E, Security Arrangement Details. The data circuit(s) shall extend from the Facility to the location(s) specified by Transmission Provider. Any required maintenance of such communications equipment shall be performed by Generator. Operational communications shall be activated and maintained under, but not be limited to, the following events: system paralleling or separation, scheduled and unscheduled shutdowns, equipment clearances, and hourly and daily load data.

8.2 Remote Terminal Unit. Prior to any operation of the Facility, a Remote Terminal Unit, or equivalent data collection and transfer equipment acceptable to both Parties, shall be installed by Generator, or by Transmission Provider at Generator's expense, to gather accumulated and instantaneous data to be telemetered to the location(s) designated by Transmission Provider through use of a dedicated point-to-point data circuit(s) as indicated in Article 8.1. The communication protocol for the data circuit(s) shall be specified by Transmission Provider. Instantaneous bi-directional analog real power and reactive power flow information must be telemetered directly to the location(s) specified by Transmission Provider.

Each Party will promptly advise the other Party if it detects or otherwise learns of any metering, telemetry or communications equipment errors or malfunctions that require the attention and/or correction by the other Party. The Party owning such equipment shall correct such error or malfunction as soon as reasonably feasible.

8.3 No Annexation. Any and all equipment placed on the premises of a Party shall be and remain the property of the Party providing such equipment regardless of the mode and manner of annexation or attachment to real property, unless otherwise mutually agreed by the Parties.

**Article 9. Operations**

9.1 General. Each Party shall comply with the Interconnection Guidelines set out in

Appendix G, Interconnection Guidelines, to this Agreement. Each Party shall provide to the other Party all information that may reasonably be required by the other Party to comply with Applicable Laws and Regulations and Applicable Standards.

9.2 Control Area Notification. At least three months before Initial Synchronization Date, the Generator shall notify the Transmission Provider in writing of the Control Area in which it will be located. After the Initial Synchronization Date, Generator has the right to designate a different Control Area. In either event, Transmission Provider shall use Reasonable Efforts to accommodate such request as soon as practicable, but shall do so no later than six months from the date the Generator provided notification. If the Generator elects to be located in a Control Area other than the Control Area in which the Transmission Provider is located, all necessary arrangements, including but not limited to those set forth in Article 7 and Article 8 of this Agreement, and remote control area generator interchange agreements, if applicable, and the appropriate measures under such agreements, shall be executed and implemented prior to the placement of the Facility in the other Control Area. The Parties will diligently cooperate with one another to enable such agreements and arrangements to be executed and implemented on a schedule necessary to meet the Generator's request ''at Generator's expense''. If the Facility is not operated as part of Transmission Provider's Control Area, in no event shall this Agreement prohibit, prevent, or otherwise limit the ability of Generator to operate the Facility in accordance with the requirements of the Control Area of which it is part, and the Parties shall negotiate in good faith to amend this Agreement as necessary or appropriate.

9.3 Transmission Provider Obligations. Transmission Provider shall cause the Transmission System and the Transmission Provider Interconnection Facilities to be operated, maintained and controlled in a safe and reliable manner and in accordance with this Agreement. Transmission Provider may provide operating instructions to Generator consistent with this Agreement and Transmission Provider's operating protocols and procedures as they may change from time to time. Transmission Provider will consider changes to its operating protocols and procedures proposed by Generator. Generator shall not be obligated to follow Transmission Provider's instructions to the extent the instructions would have a material adverse impact on the safe and reliable operation of Generator's facilities. Upon request, Generator shall provide Transmission Provider with documentation of any such alleged material adverse impact.

9.4 Generator Obligations. Generator shall at its own expense operate, maintain and control the Facility and the Generator Interconnection Facilities in a safe and reliable manner and in accordance with this Agreement. Generator shall operate the Facility and the Generation Interconnection Facilities in accordance with all applicable requirements of the Control Area of which it is part, as such requirements are set forth in Appendix C, Interconnection Details, of this Agreement. Appendix C, Interconnection Details, will be modified to reflect changes to the requirements as they may change from time to time. Either Party may request that the other Party provide copies of the requirements set forth in Appendix C, Interconnection Details, of this Agreement.

9.5 Start-Up and Synchronization. Consistent with Transmission Provider Interconnection Guidelines and the Parties' mutually acceptable procedures, the Generator is responsible for the proper synchronization of the Facility to the Transmission Provider System.

9.6 Reactive Power.

9.6.1 Power Factor Design Criteria. Generator shall design the Facility to maintain a composite power delivery at continuous rated power output at the Point of Interconnection at a power factor within the range of 0.97 leading to 0.95 lagging, unless Transmission Provider has established different requirements that apply to all generators in the Control Area on a comparable basis.

9.6.2 Voltage Schedules. Once the Generator has synchronized the Facility with the Transmission System, Transmission Provider shall require Generator to operate the Facility to produce or absorb reactive power within the design limitations of the Facility set forth in Article 24 pursuant to voltage schedules, reactive power schedules or power factor schedules. Transmission Provider's schedules shall treat all sources of reactive power in the Control Area in an equitable and not unduly discriminatory manner. Transmission Provider shall exercise Reasonable Efforts to provide Generator with such schedules at least one (1) day in advance, and may make changes to such schedules as necessary to maintain the reliability of the Transmission System. Generator shall operate the Generating Facility to maintain the specified output voltage or power factor at the Point of Interconnection within the design limitations of the Facility set forth in Article 24. If Generator is unable to maintain the specified voltage or power factor, it shall promptly notify the System Operator.

9.6.2.1 Governors and Regulators. Whenever the Facility is operated in parallel with the Transmission System and the speed governors (if installed on the generating unit pursuant to Good Utility Practice) and voltage regulators are capable of operation, Generator shall operate the Facility with its speed governors and voltage regulators in automatic operation. If the Facility's speed governors and voltage regulators are not capable of such automatic operation, the Generator shall immediately notify Transmission Provider's system operator, or its designated representative, and ensure that such Facility's reactive power production or absorption (measured in MVARs) are within the design capability of the Facility's generating unit(s) and steady state stability limits. Generator shall not cause its Facility to disconnect automatically or instantaneously from the Transmission System or trip any generating unit comprising the Facility for an under or over frequency condition unless the abnormal frequency condition persists for a time period beyond the limits set forth in ANSI/IEEE Standard C37.106, or such other standard as applied to other generators in the Control Area on a comparable basis.

9.6.3 Payment for Reactive Power. Any obligation of Transmission Provider to pay Generator for reactive power that Generator provides or absorbs from the Facility shall be pursuant to Article 11.6 or such other agreement to which the Parties have otherwise agreed. To the extent that no rate schedule is in effect at the time the Generator is required to provide or absorb any Reactive Power under this Agreement, the Transmission Provider agrees to compensate the Generator in such amount as would have been due the Generator had the rate schedule been in effect at the time service commenced; provided, however, that such rate schedule must be filed at FERC or other appropriate Governmental Authority within sixty (60) Calendar Days of the commencement of service.]

9.7 Outages, Interruptions, and Disconnection.

9.7.1 Outages.

9.7.1.1 Outage Authority and Coordination. Each Party may in accordance with Good Utility Practice in coordination with the other Party remove from service any of its respective Interconnection Facilities or Network Upgrades that may impact the other Party's facilities as necessary to perform maintenance or testing or to install or replace equipment. Absent an Emergency Condition, the Party scheduling a removal of such facility(ies) from service will use [Reasonable Efforts] to schedule such removal on a date and time mutually acceptable to both Parties. In all circumstances any Party planning to remove such facility(ies) from service shall use Reasonable Efforts to minimize the effect on the other Party of such removal.

9.7.1.2 Outage Schedules. The Transmission Provider shall post scheduled outages of its transmission facilities on the OASIS. Generator shall submit its planned maintenance schedules for the Facility to Transmission Provider for a minimum of a rolling twenty-four month period. Generator shall update its planned maintenance schedules as necessary. Transmission Provider may request Generator to reschedule its maintenance as necessary to maintain the reliability of the Transmission System; provided, however, adequacy of generation supply shall not be a criterion in determining Transmission System reliability. Transmission Provider shall compensate Generator for any costs of rescheduling such maintenance.

9.7.1.3 Outage Restoration. If an outage on a Party Interconnection Facilities or Network Upgrades adversely affects the other Party's facilities, the Party that owns or controls the facility that is out of service shall use Reasonable Efforts to promptly restore such facility(ies) to a normal operating condition consistent with the nature of the outage.

9.7.2 Continuity of Service. If required by Good Utility Practice to do so, Transmission Provider may require Generator to curtail, interrupt or reduce deliveries of electricity if such delivery of electricity would adversely

affect Transmission Provider's ability to perform such activities as are necessary to safely and reliably operate and maintain the Transmission System. The following provisions shall apply to any curtailment, interruption or reduction permitted under this Article 9.7.2:

9.7.2.1 The curtailment, interruption, or reduction shall continue only for so long as reasonably necessary under Good Utility Practice;

9.7.2.2 Any such curtailment, interruption, or reduction shall be made on an equitable, non-discriminatory basis with respect to all generators directly connected to the Transmission System;

9.7.2.3 When the curtailment, interruption, or reduction must be made under circumstances which do not allow for advance notice, Transmission Provider shall notify Generator by telephone as soon as practicable of the reasons for the curtailment, interruption, or reduction, and, if known, its expected duration. Telephone notification shall be followed by written notification as soon as practicable;

9.7.2.4 Except during the existence of an Emergency Condition, when the curtailment, interruption, or reduction can be scheduled, Transmission Provider shall notify Generator in advance regarding the timing of such scheduling and further notify Generator of the expected duration. Transmission Provider shall schedule the curtailment or interruption to coincide with the scheduled outages of the Facility, and if not possible, Transmission Provider shall use Good Utility Practices to schedule the curtailment or interruption during periods of low demand;

9.7.2.5 The Parties shall cooperate and coordinate with each other to the extent necessary in order to restore the Facility, Interconnection Facilities, and the Transmission System to their normal operating state, consistent with system conditions and Good Utility Practice; and,

9.7.3 Under-Frequency Load Shed Event. The Transmission System is designed to automatically activate a load-shed program as described in the Interconnection Guidelines in the event of an under-frequency system disturbance. Generator shall implement an under-frequency relay set point for the Facility as described in the Interconnection Guidelines to ensure ''ride through'' capability of the Transmission System, to the extent allowed by equipment limitations or warranties.

9.7.4 System Protection and Other Controls Requirements.

9.7.4.1 Protection and System Quality. Generator shall, at its expense, install, operate and maintain System Protection Facilities as a part of the Facility and/or the Generator Interconnection Facilities. Transmission Provider shall install at Generator's expense any System Protection Facilities that may be required on the Transmission Provider Interconnection Facilities or the Transmission System as a result of the interconnection of the Facility and the Generator Interconnection Facilities.

9.7.4.2 Each Party's facilities shall be designed to isolate any fault or abnormality on those facilities that would negatively affect the other Party's system or the other entities connected to the Transmission Provider's Transmission System.

9.7.4.3 Each Party shall be responsible for protection of its facilities consistent with Good Utility Practice.

9.7.4.4 Each Party's protective relay design shall incorporate the necessary test switches to perform the tests required in Article 6. The required test switches will be placed such that they allow operation of lockout relays while preventing breaker failure schemes from operating and causing unnecessary breaker operations and/or the tripping of the Generator's units.

9.7.4.5 Each Party will test, operate and maintain System Protection Facilities in accordance with Good Utility Practice.

9.7.4.6 Prior to the In-Service Date, and again prior to the Commercial Operation Date, each Party or its agent shall perform a complete calibration test and functional trip test of the System Protection Facilities. At intervals suggested by Good Utility Practice and following any apparent malfunction of the System Protection Facilities, each Party shall perform both calibration and functional trip tests of its System Protection Facilities. These tests do not require the tripping of any in-service generation unit. These tests do, however, require that all protective relays and lockout contacts be activated.

9.7.5 Requirements for Protection. In compliance with the Interconnection Guidelines and Applicable Standards, Generator shall provide, install, own, and maintain relays, circuit breakers and all other devices necessary to promptly remove any fault contribution of the Facility to any short circuit occurring on the Transmission System not otherwise isolated by Transmission Provider equipment. Such protective equipment shall include, without limitation, a disconnecting device or switch with load-interrupting capability located between the Facility and the Transmission System at a site selected upon mutual agreement (not to be unreasonably withheld, conditioned or delayed) of the Parties. Generator shall be responsible for protection of the Facility and Generator's other equipment from such conditions as negative sequence currents, over-or under-frequency, sudden load rejection, over-or under-voltage, and generator loss-of-field. Generator shall be solely responsible to disconnect the Facility and Generator's other equipment if conditions on the Transmission System could adversely affect the Facility.

9.7.6 Power Quality. Neither Party's facilities shall cause excessive voltage flicker nor introduce excessive distortion to the sinusoidal voltage or current waves as defined by ANSI Standard C84.1–1989, in accordance with IEEE Standard 519, or any applicable superseding electric industry standard including the Interconnection Guidelines. In the event of a conflict between ANSI Standard C84.1–1989, or any applicable superseding electric industry standard, and the Interconnection Guidelines, ANSI Standard C84.1–1989, or the applicable superseding electric industry standard, shall control.

9.8 Switching and Tagging Rules. Each Party shall provide the other Party a copy of its Switching and Tagging Rules that are applicable to the other Party's activities. Such Switching and Tagging Rules shall be developed on a non-discriminatory basis. The Parties shall comply with applicable Switching and Tagging Rules, as amended from time to time, in obtaining clearances for work or for switching operations on equipment.

9.9 Use of Interconnection Facilities by Third Parties.

9.9.1 Purpose of Interconnection Facilities. Except as may be required by Applicable Laws or Regulations, or as otherwise agreed to among the Parties, the Interconnection Facilities shall be constructed for the sole purpose of interconnecting the Facility to the Transmission System and shall be used for no other purpose.

9.9.2 Third Party Users. If required by Applicable Laws or Regulations or if the Parties mutually agree, such agreement not to be unreasonably withheld, to allow one or more third parties to use the Transmission Provider Interconnection Facilities, or any part thereof, Generator will be entitled to compensation for the capital expenses it incurred in connection with the Interconnection Facilities based upon the pro rata use of the Interconnection Facilities by Transmission Provider, all third party users, and Generator, in accordance with Applicable Laws and Regulations or upon some other mutually-agreed upon methodology. In addition, cost responsibility for ongoing costs, including operation and maintenance costs associated with the Interconnection Facilities, will be allocated between Generator and any third party users based upon the pro rata use of the Interconnection Facilities by Transmission Provider, all third party users, and Generator, in accordance with Applicable Laws and Regulations or upon some other mutually agreed upon methodology. If the issue of such compensation or allocation cannot be resolved through such negotiations, it shall be submitted to FERC for resolution.

9.10 Data Exchange. The Parties will cooperate with one another in the analysis of disturbances to either the Facility or the Transmission Provider's Transmission System by gathering and providing access to any information relating to any disturbance, including information from oscillography, protective relay targets, breaker operations and sequence of events records.

**Article 10. Maintenance**

10.1 Transmission Provider Obligations. Transmission Provider shall maintain the Transmission System and the Transmission Provider Interconnection Facilities in a safe and reliable manner and in accordance with this Agreement.

10.2 Generator Obligations. Generator shall maintain the Facility and the Generator Interconnection Facilities in a safe and reliable manner and in accordance with this Agreement.

10.3 Coordination. The Parties shall confer regularly to coordinate the planning, scheduling and performance of preventive and corrective maintenance on the Facility and the Interconnection Facilities.

10.4 Secondary Systems. Each Party shall cooperate with the other in the inspection,

maintenance, and testing of 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 that directly affect the operation of a Party's facilities and equipment which may reasonably be expected to impact the other Party. Each Party shall provide advance notice to the other Party before undertaking any work on such circuits, especially on electrical circuits involving circuit breaker trip and close contacts, current transformers, or potential transformers.

10.5 Operating and Maintenance Expenses. Subject to the provisions herein addressing the use of facilities by others, and except for operations and maintenance expenses associated with modifications made for providing interconnection or transmission service to a third party and such third party pays for such expenses, Generator shall be responsible for all reasonable expenses including overheads, associated with: (1) owning, operating, maintaining, repairing, and replacing Generator Interconnection Facilities; and (2) operation, maintenance, repair and replacement of Transmission Provider Interconnection Facilities.

**Article 11. Performance Obligation**

11.1 Generator Interconnection Facilities. Generator shall design, procure, construct, install, own and/or control the Generator Interconnection Facilities described in Appendix A, Interconnection Facilities and Network Upgrades, at its sole expense.

11.2 Transmission Provider Interconnection Facilities. Transmission Owner shall design, procure, construct, install, own and/or control the Transmission Owner Interconnection Facilities described in Appendix A, Interconnection Facilities and Network Upgrades, at the sole expense of the Generator.

11.3 Network Upgrades. Transmission Owner shall design, procure, construct, install, and own the Network Upgrades described in Appendix A, Interconnection Facilities and Network Upgrades. Unless the Transmission Provider elects to fund the capital for such facilities, they shall be solely funded by the Generator. In either case, the Generator shall be responsible for all costs related to Network Upgrades, subject to Article 11.4.

11.4 Transmission Credits.

11.4.1 Refund of Amounts Advanced for Network Upgrades. Generator shall be entitled to a cash refund, equal to the total amount paid to Transmission Provider for the Network Upgrades, including any tax gross-up or other tax-related payments, and not refunded to Generator pursuant to Article 5.14.7 or otherwise, to be paid to Generator on a dollar-for-dollar basis, as payments are made under the Transmission Provider Tariff for transmission services with respect to the Facility. Notwithstanding the foregoing, Transmission Provider shall refund all amounts paid by Generator for the Network Upgrades, together with interest, within five (5) years from the date the Network Upgrades are placed in service, so long as Transmission Provider continues to receive payments for transmission service with respect to the Facility during such period. Any refund shall include interest calculated in accordance with the methodology set forth in FERC's regulations at 18 CFR § 35.19a(a)(2)(ii) from the date of any payment for Network Upgrades through the date on which the Generator receives a refund of such payment pursuant to this subparagraph. Generator may assign such refund rights to any person.

11.4.2 Notwithstanding any other provision of this Agreement, nothing herein shall be construed as relinquishing or foreclosing any rights, including but not limited to firm transmission rights, capacity rights, transmission congestion rights, or transmission credits, that the Generator, shall be entitled to, now or in the future under any other agreement or tariff as a result of, or otherwise associated with, the transmission capacity, if any, created by the Network Upgrades, including the right to obtain refunds or transmission credits for transmission service that is not associated with the Facility.

11.5 Financial Security Arrangements. At least ninety (90) Calendar Days prior to the commencement of the procurement, installation, or construction of discrete Transmission Provider Interconnection Facilities/Network Upgrade projects, Generator shall provide Transmission Provider, at Generator's option, a guarantee, a surety bond, letter of credit or other form of security that is reasonably acceptable to Transmission Provider and is consistent with the Uniform Commercial Code of the jurisdiction identified in Article 15.2.1. Such security for payment shall be in an amount sufficient to cover the costs for constructing, procuring and installing the applicable Transmission Provider Interconnection Facilities/Network Upgrade projects and shall be reduced on a dollar-for-dollar basis for payments made to Transmission Provider under this Agreement during its term.

11.5.1 Provision of Security. At least thirty (30) Calendar Days prior to the commencement of the procurement, installation, or construction of discrete Transmission Provider Interconnection Facilities/Network Upgrade projects, Generator shall provide Transmission Provider, at Generator's option, a guarantee, a surety bond, letter of credit or other form of security that is reasonably acceptable to Transmission Provider and is consistent with the Uniform Commercial Code of the jurisdiction identified in Article 15.2.1. Such security for payment shall be in an amount sufficient to cover the costs for constructing, procuring and installing the applicable Transmission Provider Interconnection Facilities/Network Upgrade projects and shall be reduced on a dollar-for-dollar basis for payments made to Transmission Provider under this Agreement during its term. In addition:

11.5.1.1 The guarantee must be made by an entity that meets the creditworthiness requirements of Transmission Provider, and contain terms and conditions that guarantee payment of any amount that may be due from Generator, up to an agreed-to maximum amount.

11.5.1.2 The letter of credit must be issued by a financial institution reasonably acceptable to Transmission Provider and must specify a reasonable expiration date.

11.5.1.3 The surety bond must be issued by an insurer reasonably acceptable to Transmission Provider and must specify a reasonable expiration date.

11.6 Generator Compensation. If Transmission Provider requests or directs Generator to provide a service pursuant to Articles 9.6.2 (Voltage Schedules), or 13.5.1 of this Agreement, Transmission Provider shall compensate Generator in accordance with Generator's applicable rate schedule then in effect unless the provision of such service(s) is subject to an ISO/RTO FERC-approved rate schedule. Generator shall serve Transmission Provider or ISO/RTO with any filing of a proposed rate schedule at the time of such filing with FERC.

11.6.1 Generator Compensation for Actions During Emergency Condition. Transmission Provider [or ISO/RTO] shall compensate Generator for its provision of real and reactive power and other Emergency Condition services that Generator provides to support the Transmission System during an Emergency Condition in accordance with Article 11.6.

**Article 12. Invoice**

12.1 General. Each Party shall submit to the other Party, on a monthly basis, invoices of amounts due for the preceding month. Each invoice shall state the month to which the invoice applies and fully describe the services and equipment provided. The Parties may discharge mutual debts and payment obligations due and owing to each other on the same date through netting, in which case all amounts a Party owes to the other Party under this Agreement, including interest payments or credits, shall be netted so that only the net amount remaining due shall be paid by the owing Party.

12.2 Final Invoice. Within six months after completion of the construction of the Transmission Provider Interconnection Facilities and the Network Upgrades, Transmission Provider shall provide an invoice of the final cost of the construction of the Transmission Provider Interconnection Facilities and the Network Upgrades and shall set forth such costs in sufficient detail to enable Generator to compare the actual costs with the estimates and to ascertain deviations, if any, from the cost estimates. Transmission Provider shall refund to Generator any amount by which the actual payment by Generator for estimated costs exceeds the actual costs of construction within thirty (30) Calendar Days of the issuance of such final construction invoice.

12.3 Payment. Invoices shall be rendered to the paying Party at the address specified in Article 16. The Party receiving the invoice shall pay the invoice within thirty (30) Calendar Days of receipt. All payments shall be made in immediately available funds payable to the other Party, or by wire transfer to a bank named and account designated by the invoicing Party. Payment of invoices by Generator will not constitute a waiver of any rights or claims Generator may have under this Agreement.

12.4 Disputes. In the event of a billing dispute between Transmission Provider and Generator, Transmission Provider shall continue to provide Interconnection Service under this Agreement as long as Generator: (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 Generator fails to meet these two requirements for continuation of service, then Transmission Provider may provide notice to Generator of a Breach pursuant to Article 17. Within thirty (30) Calendar Days after the resolution of the dispute, the Party that owes money to the other Party shall pay the amount due with interest calculated in accord with the methodology set forth in FERC's Regulations at 18 CFR § 35.19a(a)(2)(ii).

**Article 13. Emergencies**

13.1 Definition. ''Emergency Condition'' shall mean a condition or situation: (i) that in the judgment of the Party making the claim is imminently likely to endanger life or property; or (ii) that, in the case of 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 Transmission Provider Interconnection Facilities or the Transmission Systems of others to which the Transmission System is directly connected; or (iii) that, in the case of Generator, is imminently likely (as determined in a non-discriminatory manner) to cause a material adverse effect on the security of, or damage to, the Facility or the Generator Interconnection Facilities. System restoration and black start shall be considered Emergency Conditions; provided, that Generator is not obligated by this Agreement to possess black start capability. Any condition or situation that results from a lack of sufficient generating capacity to meet load requirements that results solely from economic conditions shall not, on its own, constitute an Emergency Condition.

13.2 Obligations. Each Party shall comply with the Emergency Condition procedures of the applicable ISO/RTO, NERC, the Applicable Reliability Council, Applicable Laws and Regulations, and any emergency procedures agreed to by the Operating Committee.

13.3 Notice. Transmission Provider shall notify Generator promptly when it becomes aware of an Emergency Condition that affects the Transmission Provider Interconnection Facilities or the Transmission System that may reasonably be expected to affect Generator's operation of the Facility or the Generator Interconnection Facilities. Generator shall notify Transmission Provider promptly when it becomes aware of an Emergency Condition that affects the Facility or the Generator Interconnection Facilities that may reasonably be expected to affect the Transmission System or the Transmission Provider Interconnection Facilities. 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 operation of Generator's or Transmission Provider's facilities and operations, 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.

13.4 Immediate Action. Unless, in Generator's reasonable judgment, immediate action is required, Generator shall obtain the consent of Transmission Provider, such consent to not be unreasonably withheld, prior to performing any manual switching operations at the Facility or the Generation Interconnection Facilities in response to an Emergency Condition either declared by the Transmission Provider or otherwise regarding the Transmission System.

13.5 Transmission Provider Authority.

13.5.1 General. Transmission Provider may take whatever actions or inactions with regard to the Transmission System or the Transmission Provider Interconnection Facilities it deems necessary during an Emergency Condition in order to (i) preserve public health and safety, (ii) preserve the reliability of the Transmission System or the Transmission Provider Interconnection Facilities, (iii) limit or prevent damage, and (iv) expedite restoration of service. Transmission Provider shall use Reasonable Efforts to minimize the effect of such actions or inactions on the Facility or the Generation Interconnection Facilities. [Transmission Provider may, on the basis of technical considerations, require the Facility to mitigate an Emergency Condition by taking actions necessary and limited in scope to remedy the Emergency Condition, including, but not limited to, directing Generator to shut-down, start-up, increase or decrease the real or reactive power output of the Facility; implementing a curtailment, reduction or disconnection pursuant to Article 14.5.2; directing the Generator to assist with blackstart (if available) or restoration efforts; or altering the outage schedules of the Facility and the Generator Interconnection Facilities. Generator shall comply with all of Transmission Provider's operating instructions concerning Facility real power and/or reactive power output within the manufacturer's design limitations of the Facility's equipment that is in service and physically available for operation at the time, in compliance with applicable laws and regulations.]

13.5.2 Curtailment, Reduction, and Disconnection. Transmission Provider may curtail or reduce Interconnection Service or disconnect the Facility or the Generation Interconnection Facilities, when such curtailment, reduction or disconnection is necessary under Good Utility Practice due to Emergency Conditions. These rights are separate and distinct from any right of curtailment of the Transmission Provider pursuant to the Transmission Provider Tariff. When the Transmission Provider can schedule the curtailment, reduction or disconnection in advance, Transmission Provider shall notify Generator of the reasons, timing and expected duration of the curtailment, reduction or disconnection. Transmission Provider shall attempt to schedule such curtailment, reduction or disconnection to coincide with the scheduled outages of the Facility or, if that is not possible, to schedule such curtailment, reduction or disconnection during non-peak load periods. Any curtailment, reduction or disconnection shall continue only for so long as reasonably necessary under Good Utility Practice. The Parties shall cooperate with each other to restore the Facility, the Interconnection Facilities, and the Transmission System to their normal operating state as soon as practicable consistent with Good Utility Practice.

13.6 Generator Authority. Generator may take whatever actions or inactions with regard to the Facility or the Generator Interconnection Facilities it deems necessary during an Emergency Condition in order to (i) preserve public health and safety, (ii) preserve the reliability of the Facility or the Generator Interconnection Facilities, (iii) limit or prevent damage, and (iv) expedite restoration of service. Generator shall use Reasonable Efforts to minimize the effect of such actions or inactions on the Transmission System and the Transmission Provider Interconnection Facilities. Transmission Provider shall use Reasonable Efforts to assist Generator in such actions.

13.7 Limited Liability. Except as otherwise provided in Article 14.7 of this Agreement, neither Party shall be liable to the other for any action it takes in responding to an Emergency Condition so long as such action is made in good faith and is consistent with Good Utility Practice.

**Article 14. Governing Law and Applicable Tariffs**

14.1 Regulatory Requirements. Each Party's obligations under this Agreement shall be subject to its receipt of any required approval or certificate from one or more Governmental Authorities in the form and substance satisfactory to the applying Party, or the Party making any required filings with, or providing notice to, such Governmental Authorities, and the expiration of any time period associated therewith. Each Party shall in good faith seek and use its Reasonable Efforts to obtain such other approvals. Nothing in this Agreement shall require Generator to take any action that could result in its inability to obtain, or its loss of, status or exemption under the Federal Power Act or the Public Utility Holding Company Act of 1935, as amended.

14.2 Governing Law and Applicable Tariffs.

14.2.1 The validity, interpretation and performance of this Agreement and each of its provisions shall be governed by the laws of the State where the Point of Interconnection is located, without regard to its conflicts of law principles.

14.2.2 This Agreement is subject to all Applicable Laws and Regulations.

14.2.3 Each Party expressly reserves the right to seek changes in, appeal, or otherwise contest any laws, orders, rules, or regulations of a Governmental Authority.

**Article 15. Notices**

15.1 General. Unless otherwise provided in this Agreement, any notice, demand or request required or permitted to be given by

either Party to the other and any instrument required or permitted to be tendered or delivered by either Party in writing to the other shall be effective when delivered and 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 Party, or personally delivered to the Party, at the address set out below:

*Transmission Provider:*

[To be supplied.]

*Generator:*

[To be supplied.]

Either Party may change the notice information in Appendix D, Standard Generator Interconnection Agreement, by giving five (5) Business Days written notice prior to the effective date of the change.

15.2 Billings and Payments. Billings and payments shall be sent to the addresses set out below:

*Transmission Provider:*

[To be supplied.]

*Generator:*

15.3 Alternative Forms of Notice. Any notice or request required or permitted to be given by either Party to the other and not required by this Agreement to be given in writing may be so given by telephone, facsimile or email to the telephone numbers and email addresses set out below:

*Transmission Provider:*

*Generator:*

15.4 Operations and Maintenance Notice. Each Party shall notify the other Party in writing of the identity of the person(s) that it designates as the point(s) of contact with respect to the implementation of Articles 9 and 10.

**Article 16. Force Majeure**

16.1 Force Majeure. An event of Force Majeure means any act of God, labor disturbance, act of the public enemy, war, insurrection, riot, fire, storm or flood, explosion, breakage or accident to machinery or equipment, any Curtailment, order, regulation or restriction imposed by governmental military or lawfully established civilian authorities, or any other caused beyond a Party's control. A Force Majeure event does not include an act of negligence or intentional wrongdoing. Neither Party will be considered in default as to any obligation hereunder if prevented from fulfilling the obligation due to an event of Force Majeure. However, a Party whose performance under this is hindered by an event of Force Majeure shall make all reasonable efforts to perform its obligations hereunder.

**Article 17. Default**

*17.1 Default*

17.1.1 General. The term ''Default'' shall mean the failure of either Party to perform any obligation in the time or manner provided in this Agreement. No Default shall exist where such failure to discharge an obligation (other than the payment of money) is the result of Force Majeure as defined in this Agreement or the result of an act or omission of the other Party. Upon a Default, the non-defaulting Party shall give written notice of such Default to the defaulting Party. Except as provided in Article 17.1.2, the defaulting Party shall have thirty (30) Calendar Days from receipt of the Default notice within which to cure such Default; provided however, if such Default is not capable of cure within thirty (30) Calendar Days, the defaulting Party shall commence such cure within thirty (30) Calendar Days after notice and continuously and diligently complete such cure within ninety (90) Calendar Days from receipt of the Default notice; and, if cured within such time, the Default specified in such notice shall cease to exist.

17.1.2 Right to Terminate. If a Default is not cured as provided in this Article, or if a Default is not capable of being cured within the period provided for herein, the non-defaulting Party shall have the right to terminate this Agreement by written notice at any time until cure occurs, and be relieved of any further obligation hereunder and, whether or not that Party terminates this Agreement, to recover from the defaulting Party all amounts due hereunder, plus all other damages and remedies to which it is entitled at law or in equity. The provisions of this Article will survive termination of this Agreement.

**Article 18. Indemnity**

18.1 Indemnity. The Parties shall at all times indemnify, defend, and save the other Party harmless from, any and all damages, losses, claims, including claims and actions relating to injury to or death of any person or damage to property, demand, suits, recoveries, costs and expenses, court costs, attorney fees, and all other obligations by or to third parties, arising out of or resulting from the other Party's performance of obligations under this Agreement on behalf of the indemnifying Party, except in cases of negligence or intentional wrongdoing by the indemnifying Party.

**Article 19. Assignment**

19.1 Assignment. This Agreement may be assigned by either Party only with the written consent of the other; provided that either Party may assign this Agreement without the consent of the other Party to any affiliate of the assigning Party with an equal or greater credit rating and with the legal authority and operational ability to satisfy the obligations of the assigning Party under this Agreement; and provided further that the Generator shall have the right to assign this Agreement, without the consent of the Transmission Provider, for collateral security purposes to aid in providing financing for the Facility, provided that the Generator will require any secured party, trustee or mortgagee to notify the Transmission Provider of any such assignment. Any financing arrangement entered into by the Generator pursuant to this Article will provide that prior to or upon the exercise of the secured party's, trustee's or mortgagee's assignment rights pursuant to said arrangement, the secured creditor, the trustee or mortgagee will notify the Transmission Provider of the date and particulars of any such exercise of assignment right(s). Any attempted assignment that violates this Article is void and ineffective. Any assignment under this Agreement shall not relieve a Party of its obligations, nor shall a Party's obligations be enlarged, in whole or in part, by reason thereof. Where required, consent to assignment will not be unreasonably withheld, conditioned or delayed.

**Article 20. Severability**

20.1 Severability. If any provision in this Agreement is finally determined to be invalid, void or unenforceable by any court or other Governmental Authority having jurisdiction, such determination shall not invalidate, void or make unenforceable any other provision, agreement or covenant of this Agreement; [provided that if the Generator (or any third-party, but only if such third-party is not acting at the direction of the Transmission Provider) seeks and obtains such a final determination with respect to any provision of Article 5.1.B, then none of the provisions of Article 5.1.B shall thereafter have any force or effect and the Parties' rights and obligations shall be governed solely by Article 5.1.A].

**Article 21. Comparability**

21.1 Comparability. The Parties will comply with all applicable comparability and code of conduct laws, rules and regulations, as amended from time to time.

**Article 22. Confidentiality**

22.1 Confidentiality. ''Confidential Information'' shall mean 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 Party, which is designated as confidential by the Party supplying the information, whether conveyed orally, electronically, in writing, through inspection, or otherwise. Confidential Information shall include, without limitation, all information relating to a Party's technology, research and development, business affairs, and pricing, and any information supplied by either of the Parties to the other prior to the execution of this Agreement. 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 Party providing the information orally informs the Party receiving the information that the information is confidential.

22.1.1 Term. During the term of this Agreement, and for a period of three (3) years after the expiration or termination of this Agreement, except as otherwise provided in this Article 22, each Party shall hold in confidence and shall not disclose to any person Confidential Information.

22.1.2 Scope. Confidential Information shall not include information that the receiving Party can demonstrate: (1) Is generally available to the public other than as a result of a disclosure by the receiving Party; (2) was in the lawful possession of the receiving Party on a non-confidential basis before receiving it from the of the receiving Party, after due inquiry, was under no obligation to the other Party to keep disclosing Party; (3) was supplied to the receiving Party without restriction by a third

party, who, to the knowledge such information confidential; (4) was independently developed by the receiving Party without reference to Confidential Information of the disclosing Party; (5) is, or becomes, publicly known, through no wrongful act or omission of the receiving Party or Breach of this Agreement; or (6) is required, in accordance with Article 22.1.7, Order of Disclosure, to be disclosed by 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 this Agreement. Information designated as Confidential Information will no longer be deemed confidential if the Party that designated the information as confidential notifies the other Party that it no longer is confidential.

22.1.3 Release of Confidential Information. Neither Party shall release or disclose Confidential Information to any other person, except to its employees, consultants, or to parties who may be or considering providing financing to or equity participation with Generator, or to potential purchasers or assignees of Generator, on a need-to-know basis in connection with this Agreement, unless such person has first been advised of the confidentiality provisions of this Article 22 and has agreed to comply with such provisions. Notwithstanding the foregoing, a Party providing Confidential Information to any person shall remain primarily responsible for any release of Confidential Information in contravention of this Article 22.

22.1.4 Rights. Each Party retains all rights, title, and interest in the Confidential Information that each Party discloses to the other Party. The disclosure by each Party to the other Party of Confidential Information shall not be deemed a waiver by either Party or any other person or entity of the right to protect the Confidential Information from public disclosure.

22.1.5 No Warranties. By providing Confidential Information, neither Party makes any warranties or representations as to its accuracy or completeness. In addition, by supplying Confidential Information, neither Party obligates itself to provide any particular information or Confidential Information to the other Party nor to enter into any further agreements or proceed with any other relationship or joint venture.

22.1.6 Standard of Care. Each Party shall use at least the same standard of care to protect Confidential Information it receives as it uses to protect its own Confidential Information from unauthorized disclosure, publication or dissemination. Each Party may use Confidential Information solely to fulfill its obligations to the other Party under this Agreement or its regulatory requirements.

22.1.7 Order of Disclosure. If a court or a Government Authority or entity with the right, power, and apparent authority to do so requests or requires either Party, by subpoena, oral deposition, interrogatories, requests for production of documents, administrative order, or otherwise, to disclose Confidential Information, that Party shall provide the other Party with prompt notice of such request(s) or requirement(s) so that the other Party may seek an appropriate protective order or waive compliance with the terms of this Agreement. Notwithstanding the absence of a protective order or waiver, the Party may disclose such Confidential Information which, in the opinion of its counsel, the Party is legally compelled to disclose. Each Party will use reasonable efforts to obtain reliable assurance that confidential treatment will be accorded any Confidential Information so furnished.

22.1.8 Termination of Agreement. Upon termination of this Agreement for any reason, each Party shall, within ten (10) Calendar Days of receipt of a written request from the other Party, use reasonable efforts to destroy, erase, or delete (with such destruction, erasure, and deletion certified in writing to the other Party) or return to the other Party, without retaining copies thereof, any and all written or electronic Confidential Information received from the other Party.

22.1.9 Remedies. The Parties agree that monetary damages would be inadequate to compensate a Party for the other Party's breach of its obligations under this Article 22. Each Party accordingly agrees that the other Party shall be entitled to equitable relief, by way of injunction or otherwise, if the first Party breaches or threatens to breach its obligations under this Article 22, which equitable relief shall be granted without bond or proof of damages, and the receiving Party shall not plead in defense that there would be an adequate remedy at law. Such remedy shall not be deemed an exclusive remedy for the breach of this Article 22, but shall be in addition to all other remedies available at law or in equity. The 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 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 Article 22.

22.1.10 Disclosure to FERC or its Staff. Notwithstanding anything in this Article 22 to the contrary, if FERC or its staff, during the course of an investigation or otherwise, requests information from one of the Parties that is otherwise required to be maintained in confidence pursuant to this Agreement, the 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 Party may, consistent with 18 CFR Section 388.112, request that the information be treated as confidential and non-public by FERC and its staff and that the information be withheld from public disclose. The Party shall notify the other Party to the Agreement when it is notified by FERC or its staff that a request has been received, at which time either of the Parties may respond before such information would be made public, pursuant to 18 CFR Section 388.112.

22.1.11 Subject to the exception in Article 22.1.10, any information that a Party claims is competitively sensitive, commercial or financial information under this Agreement (''Confidential Information'') shall not be disclosed by the other Party to any person not employed or retained by the other Party, except to the extent disclosure is (i) required by law; (ii) reasonably deemed by the disclosing Party to be required to be disclosed in connection with a dispute between or among the Parties, or the defense of litigation or dispute; (iii) otherwise permitted by consent of the other Party, such consent not to be unreasonably withheld; or (iv) necessary to fulfill its obligations under this Agreement or as a transmission service provider or a Control Area operator including disclosing the Confidential Information to the ISO. The Party asserting confidentiality shall notify the other Party in writing of the information it claims is confidential. Prior to any disclosures of the other Party's Confidential Information under this subparagraph, or if any third party or Governmental Authority makes any request or demand for any of the information described in this subparagraph, the disclosing Party agrees to promptly notify the other Party in writing and agrees to assert confidentiality and cooperate with the other Party in seeking to protect the Confidential Information from public disclosure by confidentiality agreement, protective order or other reasonable measures.

22.1.12 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).

**Article 23. Environmental Releases**

23.1 Each Party shall notify the other Party, first orally and then in writing, of the release of any Hazardous Substances, any asbestos or lead abatement activities, or any type of remediation activities related to the Facility or the Interconnection Facilities, each of which may reasonably be expected to affect the other Party. The notifying Party shall: (i) Provide the notice as soon as practicable, provided such Party makes a good faith effort to provide the notice no later than twenty-four hours after such Party becomes aware of the occurrence; and (ii) promptly furnish to the other Party copies of any publicly available reports filed with any Governmental Authorities addressing such events.

**Article 24. Information Requirements**

24.1 Information Acquisition. Transmission Provider and the Generator shall submit specific information regarding the electrical characteristics of their respective facilities to each other as described below and in accordance with Applicable Standards.

24.2 Information Submission by Transmission Provider. The initial information submission by Transmission Provider shall occur no later than one hundred eighty (180) Calendar Days prior to Trial Operation and shall include Transmission System information necessary to allow the Generator to select equipment and meet any system protection and stability requirements, unless otherwise mutually agreed to by both Parties. On a monthly basis Transmission Provider shall provide Generator a status report on the construction and installation of Transmission Provider Interconnection Facilities and Network

Upgrades, including, but not limited to, the following information: progress to date: (1) A description of the activities since the last report; (2) a description of the action items for the next period; and (3) the delivery status of equipment ordered.

24.3 Updated Information Submission by Generator. The updated information submission by the Generator, including manufacturer information, shall occur no later than one hundred eighty (180) Calendar Days prior to the Trial Operation. Generator shall submit a completed copy of the generator data requirements contained in Transmission Provider's GIS request procedure. It shall also include any additional information provided to Transmission Provider for the Feasibility and Facilities Study [Conform with Interconnection Procedures]. Information in this submission shall be the most current Facility design or expected performance data. Information submitted for stability models shall be compatible with Transmission Provider standard models. If there is no compatible model, the Generator will work with a consultant mutually agreed to by the Parties to develop and supply a standard model and associated information.

If the Generator's data is materially different from what was originally provided to Transmission Provider pursuant to the Interconnection Study Agreement between Transmission Provider and Generator, then Transmission Provider will conduct appropriate studies to determine the impact on the Transmission Provider Transmission System based on the actual data submitted pursuant to this Article 24.3. The Generator shall not begin Trial Operation until such studies are completed.

24.4 Information Supplementation. Prior to the Operation Date, the Parties shall supplement their information submissions described above in this Article 24 with any and all ''as-built'' Facility information or ''as-tested'' performance information that differs from the initial submissions or, alternatively, written confirmation that no such differences exist. The Generator shall conduct open circuit ''step voltage'' tests on the generator to verify proper operation of the generator's automatic voltage regulator. Unless otherwise agreed, the test conditions shall include: (1) Generator at synchronous speed; (2) automatic voltage regulator on and in voltage control mode; and (3) a five percent (5%) change in generator terminal voltage initiated by a change in the voltage regulators reference voltage. Recordings showing the responses of generator terminal and field voltages shall be provided to Transmission Provider. In the event that direct recordings of these voltages is impractical, recordings of other voltages or currents that mirror the response of the generator's terminal or field voltage are acceptable if information necessary to translate these alternate quantities to actual generator terminal or field voltages is provided. The Generator may elect to provide recordings for only one generator when the other generators at the site are found to have identical design and response characteristics. Subsequent to the Operation Date, the Generator shall provide Transmission Provider any information changes due to equipment replacement, repair, or adjustment. Transmission Provider shall provide the Generator any information changes due to equipment replacement, repair or adjustment in the directly connected substation or any adjacent Transmission Provider-owned substation that may affect the Generator Interconnection Facilities equipment ratings, protection or operating requirements. The Parties shall provide such information no later than thirty (30) Calendar Days after the date of the equipment replacement, repair or adjustment.

**Article 25. Information Access and Audit Rights**

25.1 Information access. Each Party (the ''disclosing Party'') shall make available to the other Party information that is in the possession of the disclosing Party and is necessary in order for the other Party to: (i) verify the costs incurred by the disclosing Party for which the other Party is responsible under this Agreement; and (ii) carry out its obligations and responsibilities under this Agreement. The Parties shall not use such information for purposes other than those set forth in this Article 25.1 and to enforce their rights under this Agreement.

25.2 Reporting of Non-Force Majeure Events. Each Party (the ''notifying Party'') shall notify the other Party when the notifying Party becomes aware of its inability to comply with the provisions of this Agreement for a reason other than a Force Majeure event. The Parties agree to cooperate with each other and provide necessary information regarding such inability to comply, including 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 Article shall not entitle the Party receiving such notification to allege a cause for anticipatory breach of this Agreement.

25.3 Audit Rights. Subject to the requirements of confidentiality under Article 22 of this Agreement, each Party shall have the right, during normal business hours, and upon prior reasonable notice to the other Party, to audit at its own expense the other Party's accounts and records pertaining to either Party's performance or either Party's satisfaction of obligations under this Agreement. Such audit rights shall include audits of the other Party's costs, calculation of invoiced amounts, the Transmission Provider's efforts to allocate responsibility for the provision of reactive support to the Transmission System, the Transmission Provider's efforts to allocate responsibility for curtailment or reduction of generation on the Transmission System, and each Party's actions in an Emergency Condition. Any audit authorized by this Article 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 each Party's performance and satisfaction of obligations under this Agreement. Each Party shall keep such accounts and records for a period equivalent to the audit rights periods described in Article 25.4.

25.4 Audit Rights Periods.

25.4.1 Audit Rights Period for Construction-Related Accounts and Records. Accounts and records related to the design, engineering, procurement, and construction of Transmission Provider Interconnection Facilities and Network Upgrades shall be subject to audit for a period of twenty-four months following Transmission Provider's issuance of a final invoice in accordance with Article 12.2.

25.4.2 Audit Rights Period for All Other Accounts and Records. Accounts and records related to either Party's performance or satisfaction of all obligations under this Agreement other than those described in Article 25.4.1 shall be subject to audit as follows: (i) for an audit relating to cost obligations, the applicable audit rights period shall be twenty-four months after the auditing Party's receipt of an invoice giving rise to such cost obligations; and (ii) for an audit relating to all other obligations, the applicable audit rights period shall be twenty-four months after the event for which the audit is sought.

25.5 Audit Results. If an audit by a Party determines that an overpayment or an underpayment has occurred, a notice of such overpayment or underpayment shall be given to the other Party together with those records from the audit which support such determination.

**Article 26. Subcontractors**

26.1 General. Nothing in this Agreement shall prevent a Party from utilizing the services of any subcontractor as it deems appropriate to perform its obligations under this Agreement; provided, however, that each Party shall require its subcontractors to comply with all applicable terms and conditions of this Agreement in providing such services and each Party shall remain primarily liable to the other Party for the performance of such subcontractor.

26.2 Responsibility of Principal. The creation of any subcontract relationship shall not relieve the hiring Party of any of its obligations under this Agreement. The hiring Party shall be fully responsible to the other Party for the acts or omissions of any subcontractor the hiring Party hires as if no subcontract had been made; provided, however, that in no event shall the Transmission Provider be liable for the actions or inactions of the Generator or its subcontractors with respect to obligations of the Generator under Article 5 of this Agreement. Any applicable obligation imposed by this Agreement upon the hiring Party shall be equally binding upon, and shall be construed as having application to, any subcontractor of such Party.

26.3 No Limitation by Insurance. The obligations under this Article 26 will not be limited in any way by any limitation of subcontractor's insurance.

**Article 27. Disputes**

27.1 Submission. In the event either Party has a dispute, or asserts a claim, that arises out of or in connection with this Agreement or its performance, such Party (the ''disputing Party'') shall provide the other Party with written notice of the dispute or

claim (''Notice of Dispute''). Such dispute or claim shall be referred to a designated senior representative of each Party for resolution on an informal basis as promptly as practicable after receipt of the Notice of Dispute by the other Party. In the event the designated representatives are unable to resolve the claim or dispute within thirty (30) Calendar Days of the other Party's receipt of the Notice of Dispute, such claim or dispute may, upon mutual agreement of the Parties, be submitted to arbitration and resolved in accordance with the arbitration procedures set forth below. In the event the Parties do not agree to submit such claim or dispute to arbitration, each Party may exercise whatever rights and remedies it may have in equity or at law consistent with the terms of this Agreement.

27.2 External Arbitration Procedures. Any arbitration initiated under this Agreement shall be conducted before a single neutral arbitrator appointed by the Parties. If the Parties fail to agree upon a single arbitrator within ten (10) Calendar Days of the submission of the dispute to arbitration, each Party shall choose one arbitrator who shall sit on a three-member arbitration panel. The two arbitrators so chosen shall within twenty (20) Calendar Days select a third arbitrator to chair the arbitration panel. In either case, the arbitrators shall be knowledgeable in electric utility matters, including electric transmission and bulk power issues, and shall not have any current or past substantial business or financial relationships with any party to the arbitration (except prior arbitration). The arbitrator(s) shall provide each of the Parties an opportunity to be heard and, except as otherwise provided herein, shall conduct the arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association (''Arbitration Rules'') and any applicable FERC regulations or RTO rules; provided, however, in the event of a conflict between the Arbitration Rules and the terms of this Article 27, the terms of this Article 27 shall prevail.

27.3 Arbitration Decisions. Unless otherwise agreed by the Parties, the arbitrator(s) shall render a decision within ninety (90) Calendar Days of appointment and shall notify the Parties in writing of such decision and the reasons therefor. The arbitrator(s) shall be authorized only to interpret and apply the provisions of the Agreement and shall have no power to modify or change any provision of the Agreement in any manner. The decision of the arbitrator(s) shall be final and binding upon the Parties, and judgment on the award may be entered in any court having jurisdiction. The decision of the arbitrator(s) may be appealed solely on the grounds that the conduct of the arbitrator(s), or the decision itself, violated the standards set forth in the Federal Arbitration Act or the Administrative Dispute Resolution Act. The final decision of the arbitrator must also be filed with FERC if it affects jurisdictional rates, terms and conditions of service, Interconnection Facilities, or Network Upgrades.

27.4 Costs. Each Party shall be responsible for its own costs incurred during the arbitration process and for the following costs, if applicable: (1) The cost of the arbitrator chosen by the Party to sit on the three member panel and one half of the cost of the third arbitrator chosen; or (2) one half the cost of the single arbitrator jointly chosen by the Parties.

**Article 28. Representations, Warranties and Covenants**

28.1 General. Each Party makes the following representations, warranties and covenants:

28.1.1 Good Standing. Such Party is duly organized, validly existing and in good standing under the laws of the state in which it is organized, formed, or incorporated, as applicable; that it is qualified to do business in the state or states in which the Facility, Interconnection Facilities and Network Upgrades owned by such Party, as applicable, are located; and that it has the corporate power and authority to own its properties, to carry on its business as now being conducted and to enter into this Agreement and carry out the transactions contemplated hereby and perform and carry out all covenants and obligations on its part to be performed under and pursuant to this Agreement.

28.1.2 Authority. Such Party has the right, power and authority to enter into this Agreement, to become a party hereto and to perform its obligations hereunder. This Agreement is a legal, valid and binding obligation of such Party, enforceable against such Party 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).

28.1.3 No Conflict. The execution, delivery and performance of this Agreement does not violate or conflict with the organizational or formation documents, or bylaws or operating agreement, of such Party, or any judgment, license, permit, order, material agreement or instrument applicable to or binding upon such Party or any of its assets.

28.1.4 Consent and Approval. Such Party has sought or obtained, or, in accordance with this 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 this Agreement, and it will provide to any Governmental Authority notice of any actions under this Agreement that are required by Applicable Laws and Regulations.

**Article 29. Operating Committee**

29.1 Operating Committee. At least six (6) months prior to the estimated Initial Synchronization Date, Generator and Transmission Provider shall each appoint one representative and one alternate to the Operating Committee who will also be members of the Joint Operating Committee. Each Party shall notify the other party of its appointment in writing. Such appointments may be changed at any time by similar notice. The Operating Committee shall meet as necessary, but not less than once each calendar year, to carry out the duties set forth herein. The Operating Committee shall hold a meeting at the request of either Party, at a time and place agreed upon by the representatives. The Operating Committee shall perform all of its duties consistent with the provisions of this Agreement. Each Party shall cooperate in providing to the Operating Committee all information required in the performance of the Operating Committee's duties. All decisions and agreements, if any, made by the Operating Committee shall be evidenced in writing. The duties of the Operating Committee shall include the following:

29.1.1 Establish and maintain control and operating procedures, including those pertaining to information transfers between the Facility and Transmission Provider.

29.1.2 Establish data requirements and operating record requirements.

29.1.3 Review the requirements, standards, and procedures data acquisition equipment, protective equipment, and any other equipment or software.

29.1.4 Annually review of the one (1) year forecast of maintenance and planned outage schedules of Transmission Provider's and Generator's facilities at the Point of Interconnection.

29.1.5 Coordinate the scheduling of maintenance and planned outages on the Interconnection Facilities, the Facility and other facilities that impact the normal operation of the interconnection of the Facility to the Transmission System.

29.1.6 Ensure that information is being provided by each Party regarding equipment availability.

29.1.7 Perform such other duties as may be conferred upon it by mutual agreement of the Parties.

**Article 30. Miscellaneous**

30.1 Binding Effect. This Agreement and the rights and obligations hereof, shall be binding upon and shall inure to the benefit of the successors and assigns of the Parties hereto.

30.2 Conflicts. In the event of a conflict between the body of this Agreement and any attachment, appendices or exhibits hereto, the terms and provisions of the body of this Agreement shall prevail and be deemed the final intent of the Parties.

30.3 Rules of Interpretation. This Agreement, unless a clear contrary intention appears, shall be construed and interpreted as follows: (1) The singular number includes the plural number and vice versa; (2) reference to any person includes such person's successors and assigns but, in the case of a Party, only if such successors and assigns are permitted by this Agreement, and reference to a person in a particular capacity excludes such person in any other capacity or individually; (3) reference to any agreement (including this Agreement), document, instrument or tariff means such agreement, document, instrument, or tariff as amended or modified and in effect from time to time in accordance with the terms thereof and, if applicable, the terms hereof; (4) reference to any applicable laws and

regulations means such applicable laws and regulations as amended, modified, codified, or reenacted, in whole or in part, and in effect from time to time, including, if applicable, rules and regulations promulgated thereunder; (5) unless expressly stated otherwise, reference to any Article, Section or Appendix means such Article or Section of this Agreement or such Appendix to this Agreement, as the case may be; (6) ''hereunder'', ''hereof'', ''herein'', ''hereto'' and words of similar import shall be deemed references to this Agreement as a whole and not to any particular Article or other provision hereof or thereof; (7) ''including'' (and with correlative meaning ''include'') means including without limiting the generality of any description preceding such term; and (8) relative to the determination of any period of time, ''from'' means ''from and including'', ''to'' means ''to but excluding'' and ''through'' means ''through and including'.

30.4 Entire Agreement. This Agreement, including all Appendices and Schedules attached hereto, constitutes the entire agreement between the Parties with reference to the subject matter hereof, and supersedes all prior and contemporaneous understandings or agreements, oral or written, between the Parties with respect to the subject matter of this Agreement. There are no other agreements, representations, warranties, or covenants which constitute any part of the consideration for, or any condition to, either Party's compliance with its obligations under this Agreement.

30.5 No Third Party Beneficiaries. This Agreement is not intended to and does not create rights, remedies, or benefits of any character whatsoever in favor of any persons, corporations, associations, or entities other than the Parties, and the obligations herein assumed are solely for the use and benefit of the Parties, their successors in interest and, where permitted, their assigns.

30.6 Waiver. The failure of a Party to this Agreement to insist, on any occasion, upon strict performance of any provision of this Agreement will not be considered a waiver of any obligation, right, or duty of, or imposed upon, such Party.

Any waiver at any time by either Party of its rights with respect to this Agreement shall not be deemed a continuing waiver or a waiver with respect to any other failure to comply with any other obligation, right, duty of this Agreement. Termination or Default of this Agreement for any reason by the Generator shall not constitute a waiver of the Generator's legal rights to obtain an interconnection from the Transmission Provider. Any waiver of this Agreement shall, if requested, be provided in writing.

30.7 Headings. The descriptive headings of the various articles of this Agreement have been inserted for convenience of reference only and are of no significance in the interpretation or construction of this Agreement.

30.8 Multiple Counterparts. This Agreement may be executed in two or more counterparts, each of which is deemed an original but all constitute one and the same instrument.

30.9 Amendment. The Parties may by mutual agreement amend this Agreement by a written instrument duly executed by both of the Parties.

30.10 Modification by the Parties. The Parties may by mutual agreement amend the Appendices to this Agreement by a written instrument duly executed by both of the Parties. Such amendment shall become effective and a part of this Agreement upon satisfaction of all Applicable Laws and Regulations.

30.11 Reservation of Rights. Transmission Provider shall have the right to make a unilateral filing with FERC to modify this Agreement with respect to any rates, terms and conditions, charges, classifications of service, rule or regulation under Section 205 or any other applicable provision of the Federal Power Act and FERC's rules and regulations thereunder, and Generator shall have the right to make a unilateral filing with FERC to modify this Agreement pursuant to Section 206 or any other applicable provision of the Federal Power Act and FERC's rules and regulations thereunder; provided that each Party shall have the right to protest any such filing by the other Party and to participate fully in any proceeding before FERC in which such modifications may be considered. Nothing in this Agreement shall limit the rights of the Parties or of FERC under Sections 205 or 206 of the Federal Power Act and FERC's rules and regulations thereunder, except to the extent that the Parties otherwise mutually agree as provided herein.

Notwithstanding any other provision in this Agreement, each Party retains its rights to unilaterally seek modification of this Agreement pursuant to Sections 205 and 206 of the Federal Power Act and pursuant to FERC's rules and regulations promulgated thereunder.

30.12 No Partnership. This Agreement shall not be interpreted or construed to create an association, joint venture, agency relationship, or partnership between the Parties or to impose any partnership obligation or partnership liability upon either Party. Neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.

In witness whereof, the Parties have executed this Agreement in duplicate originals, each of which shall constitute and be an original effective Agreement between the Parties.

[Insert name of Transmission Provider]

By: _____

Title: _____

Date: _____

[Insert name of Generator]

By: _____

Title: _____

Date: _____

## Appendix A

**Interconnection Facilities and Network Upgrades**

## Appendix B

**Time Schedule**

## Appendix C

**Interconnection Details**

## Appendix D

**Standard Generator Interconnection Agreement**

## Appendix E

**Security Arrangement Details**

Infrastructure security of grid equipment and operations and control hardware and software is essential to ensure day-to-day grid reliability and operational security. The Commission will expect all Transmission Providers, market participants, and generators interconnected to the grid to comply with the recommendations offered by the President's Critical Infrastructure Protection Board and, eventually, best practice recommendations from the electric reliability authority. All public utilities will be expected to meet basic standards for system infrastructure and operational security, including physical, operational, and cyber-security practices.

## Appendix F

**Commercial Operation Date**

This Appendix F is a part of the Generator Interconnection & Operating Agreement between Transmission Provider and [Generator].

[Date]

[Transmission Provider Address]

Re: _____ Generating Facility

Dear _____:

On [Date] [Generator] has completed Trial Operation of Unit No. ____. This letter confirms that [Generator] commenced commercial operation of Unit No. ____ at the Facility, effective as of [Date plus one day].

Thank you.

[Signature]

[Generator Representative]

## Appendix G

**Interconnection Guidelines**

**Standard Generator Interconnection Procedures**

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**1. Definitions**

*1.1 Affected System*

shall mean a system other than that of Transmission Provider that may be affected by the proposed interconnection to the Transmission System.

*1.2 Affected System Operator*

shall mean the entity that operates the Affected System.

*1.3 Base Case*

shall be as defined in Section 2.3 of these Interconnection Procedures.

*1.4 Business Day*

shall mean any day on which the Federal Reserve Bank of New York is open.

*1.5 Commercial Operation Date*

shall mean the date on which Generator commences commercial operation of a unit at the Facility after Trial Operation of such unit has been completed as confirmed in writing substantially in the form shown in Appendix F to the Interconnection and Operating Agreement.

*1.6 Facility*

shall mean Generator's electric generating facility (Facility) identified in the Interconnection Request, but shall not include the Generator Interconnection Facilities.

*1.7 FERC*

shall mean the Federal Energy Regulatory Commission or its successor.

*1.8 Generator*

as used herein applies to any Facility regardless of ownership.

*1.9 Generator Interconnection Facilities*

shall mean all facilities and equipment, as identified in Appendix A to the Interconnection and Operating Agreement, which are located between the Facility and the Point of Change of Ownership, including any modification, addition, or upgrades to such facilities and equipment necessary to physically and electrically connect the Facility to the Transmission System. Generator Interconnection Facilities are sole use facilities and shall not include Network Upgrades or facilities.

*1.10 In-Service Date*

shall mean the date upon which the Generator reasonably expects it will begin to use the Transmission Provider's Interconnection Facilities to obtain back feed power.

*1.11 Interconnection and Operating Agreement*

shall mean an agreement in the form of the Interconnection and Operating Agreement included in the Transmission Provider's Open Access Transmission Tariff (OATT).

*1.12 Interconnection Facilities*

shall mean the Transmission Provider's Interconnection Facilities and the Generator Interconnection Facilities. Collectively, all facilities and equipment between the Facility and the Point of Interconnection, including any modification, additions or upgrades that are necessary to physically and electrically interconnect the Facility to the Transmission System. Interconnection Facilities are sole use facilities and shall not include Network Upgrades or facilities.

*1.13 Interconnection Facilities Study*

shall mean a study of the facilities necessary to accommodate the Interconnection Request the scope of which is described in Section 8.2 of these Interconnection Procedures.

*1.14 Interconnection Facilities Study Agreement*

shall mean the Agreement described in Section 8.1 of these Interconnection Procedures.

*1.15 Interconnection Feasibility Study*

shall mean a study to evaluate the feasibility of the Generator's interconnection to the Transmission System, the scope of which is described in Section 6.2 of these Interconnection Procedures.

*1.16 Interconnection Feasibility Study Agreement*

shall mean the Agreement described in Section 6.1 of these Interconnection Procedures.

*1.17 Interconnection Request*

shall mean a request, in the form of Appendix 1, in accordance with the OATT, to interconnect a new Facility, or to increase the capacity or make a Material Modification to the operating characteristics of an existing Facility that is interconnected with the Transmission System.

*1.18 Interconnection Service*

Interconnection Service is defined in Article 4 of the Standard Generator Interconnection and Operating Agreement.

*1.19 Interconnection Study(ies)*

shall mean any and all of the following studies: the Interconnection Feasibility Study, the Interconnection System Impact Study and the Interconnection Facilities Study described in these Interconnection Procedures.

*1.20 Interconnection System Impact Study*

shall mean a study of the impact of the Interconnection Request, the scope of which is described in Section 7.3 of these Interconnection Procedures.

*1.21 Interconnection System Impact Study Agreement*

shall mean the Agreement described in Section 7.1 of these Interconnection Procedures.

*1.22 Network Upgrades*

shall mean the additions, modifications, and upgrades to the Transmission System required beyond the Point of Interconnection to the Transmission System to accommodate the interconnection of the Facility to the Transmission System, as identified in Appendix A to the Interconnection and Operating Agreement, including any modifications, additions or upgrades made to such facilities. The facilities and equipment are used by and benefit all users of the transmission grid, without distinction or regard as to the purpose of the upgrade (e.g., to relieve overloads, to remedy stability and short circuit problems, to maintain reliability, or to provide protection and service restoration) including the fact that these facilities and equipment are being replaced or upgraded to accommodate the Interconnection Request.

*1.23 Material Modification*

shall have the meaning set forth in Section 4.4 of these Interconnection Procedures.

*1.24 Optional Study*

shall mean a study in addition to the Interconnection Studies as described in Section 10 of these Interconnection Procedures.

*1.25 Point of Change of Ownership*

shall mean the point, set forth in Appendix A to the Interconnection and Operating Agreement, at which the Generator Interconnection Facilities connect to the Transmission Provider's Transmission Interconnection Facilities.

*1.26 Point of Interconnection*

shall mean the point or points, as set forth in Appendix A to the Interconnection and Operating Agreement, where the Interconnection Facilities connect to the Transmission Provider's Transmission System.

*1.27 Reasonable Efforts*

shall mean, with respect to an action required to be attempted or taken by a party under this agreement, actions that are timely and consistent with Good Utility Practice and are otherwise substantially equivalent to those a Party would use to protect its own interests.

*1.28 RTO/ISO*

shall mean any Regional Transmission Organization or Independent System Operator to which a Transmission Provider/Transmission Owner has transferred operational control of its transmission facilities, or any portion thereof, within the meaning of Order No. 2000.

*1.29 Site Control*

shall mean documentation reasonably demonstrating: (i) ownership of, a leasehold interest in, or a right to develop a site for the purpose of constructing a Facility; (ii) an option to purchase or acquire a leasehold site for such purpose; or (iii) an exclusivity or other business relationship between Generator and the entity having the right to sell, lease or grant Generator the right to possess or occupy a site for such purpose.

*1.30 Small Generators*

shall mean those Generators described in Section 14 of these Interconnection Procedures.

*1.31 Tariff*

shall mean the Transmission Provider's tariff(s) under which open access transmission and interconnection service are offered, as filed with FERC, and as amended or supplemented from time to time, or any successor tariff(s).

*1.32 Transmission Owner*

shall mean an entity that owns, leases, or otherwise possesses an interest in the portion of the Transmission System at the Point of Interconnection and may be a party to this Agreement to the extent necessary.

*1.33 Transmission Provider*

shall mean the entity that provides Transmission Service under its Open Access Transmission Tariff.

*1.34 Transmission Provider Interconnection Facilities*

shall mean all facilities owned and/or controlled or operated by the Transmission Provider from the Point of Change of Ownership to the Point of Interconnection, as identified in Appendix A to the Interconnection and Operating Agreement, including any modifications, additions or upgrades to such facilities and equipment. Transmission Provider Facilities are sole use facilities and shall not include Network Upgrades or facilities as defined in Section 1.21 above.

*1.35 Transmission System*

shall mean the facilities owned, controlled or operated by the Transmission Provider and/or Transmission Owner that are used to provide transmission service under the Tariff, including any additions, modifications or upgrades made to such facilities.

**2. Scope and Application**

*2.1 Application of Interconnection Procedures*

Sections 2 through 13 apply to any Interconnection Request. Section 14 establishes the modified procedures for interconnecting Small Generators' Facilities.

*2.2 Comparability*

The Transmission Provider shall receive, process and analyze all Interconnection Requests in a timely manner as set forth in these Interconnection Procedures. The Transmission Provider will use the same Reasonable Efforts in processing and analyzing Interconnection Requests from all Generators, whether the generating facilities are owned by Transmission Provider, its subsidiaries or affiliates or others.

*2.3 Base Case Data*

Transmission Provider shall provide base power flow, short circuit and stability databases.

*2.4 No Applicability to Transmission Service*

Nothing in these Interconnection Procedures shall constitute a request for transmission service or confer upon a Generator any right to receive transmission service.

**3. Interconnection Requests**

*3.1 General*

A Generator shall submit to the Transmission Provider an Interconnection Request in the form of Appendix 1 to these Interconnection Procedures and a refundable deposit of $10,000. The Transmission Provider shall apply the deposit toward the cost of an Interconnection Feasibility Study. The Generator shall submit a separate Interconnection Request for each site and may submit multiple Interconnection Requests for a single site.

At Generator's option, Transmission Provider and Generator will identify alternative Point(s) of Interconnection and configurations at the initial scoping meeting to evaluate in this process and attempt to eliminate alternatives in a reasonable fashion given resources and information available. Generator will select the definitive Point(s) of Interconnection no later than the execution of the Interconnection Feasibility Study Agreement.

*3.2 Identification of Types of Interconnection Services*

At the time the Interconnection Request is submitted, Generator must identify the types of interconnection services requested; provided, however, any Generator requesting Network Resource Interconnection Service may also request that it be concurrently studied as an Energy Resource Interconnection Service, up to the point when an Interconnection Facility Study Agreement is executed.

*3.3 Valid Interconnection Request*

3.3.1 Initiating an Interconnection Request

To initiate an Interconnection Request, Generator must submit all of the following: (i) A $10,000 deposit, (ii) A completed application in the form of Appendix 1, and (iii) demonstration of Site Control or a posting of an additional deposit of $10,000. Such deposits shall be applied toward any Interconnection Studies pursuant to the Interconnection Request. If Generator demonstrates Site Control within the cure period specified in Section 3.3.3 after submitting its Interconnection Request, the deposit(s) shall be refundable; otherwise, such deposit(s) become non-refundable. The expected In-Service Date of the new Facility or increase in capacity of the existing Facility shall be no more than the process window for the regional expansion planning period not to exceed seven years from the date the Interconnection Request is received by the Transmission Provider, unless the Interconnection Customer demonstrates that engineering, permitting and construction of the new Facility or increase in capacity of the existing Facility will take longer than the regional expansion planning period. In no event shall the In-Service Date exceed ten years from the date the Interconnection Request is received by the Transmission Provider.

3.3.2 Acknowledgement of Interconnection Request

Transmission Provider shall acknowledge receipt of the Interconnection Request within five (5) Business Days of receipt of the request and attach a copy of the received Interconnection Request to the acknowledgement.

3.3.3 Deficiencies in Interconnection Request

An Interconnection Request will not be considered to be a valid request until all of the above items have been received by the Transmission Provider. If an Interconnection Request fails to meet the requirements set forth in this Section, the Transmission Provider shall notify the Generator within five (5) Business Days of receipt of the initial Interconnection Request of the reasons for such failure and that the Interconnection Request does not constitute a valid request. Generator shall provide the Transmission Provider the additional requested information needed to constitute a valid request within ten (10) Business Days after receipt of such notice. Failure by Generator to comply with this Section 3.3.3 shall be treated in accordance with Section 3.6.

3.3.4 Initial Scoping Meeting

Within ten (10) Business Days after receipt of a valid Interconnection Request, Transmission Provider shall establish a date agreeable to Generator for the initial scoping meeting, and such date shall be no later than thirty (30) Calendar Days from receipt of the Interconnection Request.

The purpose of the initial scoping meeting shall be to discuss alternative interconnection options, to exchange information including any transmission data that would reasonably be expected to impact such interconnection options, to analyze such information and to determine the potential feasible Points of Interconnection. Transmission Provider and Generator will bring to the meeting such technical data, including, but not limited to: (i) General facility loadings, (ii) general instability issues, (iii) general short circuit issues, (iv) general voltage issues, and (v) general reliability issues as may be reasonably required to accomplish the purpose of the meeting. Transmission Provider and Generator will also bring to the meeting personnel and other resources as may be reasonably required to accomplish the purpose of the meeting in the time allocated for the meeting. On the basis of the meeting, Generator shall designate its Point of Interconnection, pursuant to Section 6.1, and one or more available alternative Point(s) of Interconnection. The duration of the meeting shall allocate sufficient time to accomplish its purpose.

Within five (5) Business Days after the scoping meeting is held, Generator may elect not to have an Interconnection Feasibility Study conducted for the Interconnection Request. If Generator so elects, Generator will notify the Transmission Provider in writing within such period. In that event, the Transmission Provider will initiate an Interconnection System Impact Study in accordance with Section 7 of these Interconnection Procedures and apply the $10,000 deposit towards the Interconnection System Impact Study.

3.4 OASIS Posting

The Transmission Provider will maintain on its OASIS a list of all Interconnection Requests. The list will identify, for each Interconnection Request: (i) The maximum summer and winter megawatt electrical output; (ii) the location by county and state; (iii) the station or transmission line or lines where the interconnection will be made; (iv) the projected In-Service Date; (v) the status of the Interconnection Request, including queue position; (vi) the type of interconnection service being requested; and (vii) the availability of any studies related to the Interconnection Request. The list will not disclose the identity of the Generator until the Generator executes an Interconnection and Operating Agreement or requests that the Transmission Provider file an unexecuted Interconnection and Operating Agreement with FERC. The Transmission Provider shall post to its OASIS site any deviations from the study timelines set forth herein. Interconnection Study reports and Optional Study reports shall be posted to the Transmission Provider's OASIS site subsequent to the meeting between the Generator and the Transmission Provider to discuss the applicable study results.

*3.5 Coordination With Affected Systems*

The Transmission Provider will coordinate the conduct of any studies required to determine the impact of the Interconnection Request on Affected Systems with Affected System Operators and include those results in its applicable Interconnection Study within the time frame specified in these Interconnection Procedures. The Transmission Provider will include such Affected System Operators in all meetings held with the Generator as required by these Interconnection Procedures. The Generator will cooperate with the Transmission Provider in all matters related to the conduct of studies and the determination of modifications to Affected Systems. A transmission provider which may be an Affected System shall cooperate with the Transmission Provider with whom interconnection has been requested in all matters related to the conduct of studies and the determination of modifications to Affected Systems.

*3.6 Withdrawal*

The Generator may withdraw its Interconnection Request at any time by written notice of such withdrawal to the Transmission Provider. In addition, if the Generator fails to adhere to all requirements of these Interconnection Procedures, except as provided in Section 13.6, the Transmission Provider shall deem the Interconnection Request to be withdrawn and shall provide written notice to the Generator of the deemed withdrawal and an explanation of the reasons for such deemed withdrawal. Withdrawal shall result in the loss of the Generator's queue position. A Generator that withdraws or is deemed to have withdrawn its Interconnection Request shall pay to the Transmission Provider all costs that the Transmission Provider prudently incurs with respect to that Interconnection Request prior to the Transmission Provider's receipt of notice described above. The Transmission Provider shall (i) update the OASIS queue posting and

(ii) refund to the Generator any portion of the Generator's deposit or study payments that exceeds the costs that the Transmission Provider has incurred, including interest calculated in accordance with Section 35.19a(a)(2) of FERC's regulations. In the event of such withdrawal, the Transmission Provider, subject to the confidentiality provisions of Section 13.1, shall provide, at Generator's request, all information that the Transmission Provider developed for any completed study conducted up to the date of withdrawal of the Interconnection Request.

**4. Queue Position**

*4.1 General*

The Transmission Provider shall assign a queue position based upon the date and time of receipt of the valid Interconnection Request; provided that, if the sole reason an Interconnection Request is not valid is the lack of required information on the application form, and the Generator provides such information in accordance with Section 3.3.3, then the Transmission Provider shall assign the Generator a queue position based on the date the application form was originally filed. The queue position of each Interconnection Request will be used to determine the order of performing the Interconnection Studies and determination of cost responsibility for the facilities necessary to accommodate the Interconnection Request.

*4.2 Clustering*

At Transmission Provider's option, Interconnection Requests may be studied serially or in clusters for the purpose of the Interconnection System Impact Study.

If Transmission Provider elects to study Interconnection Requests in clusters, all Interconnection Requests received within a period not to exceed ninety (90) Calendar Days, hereinafter referred to as the ''queue cluster window,'' shall be studied together, as appropriate, except for Energy Resource Interconnection Service, which will be studied serially. Transmission Provider may study an Interconnection Request separately to the extent warranted by Good Utility Practice based upon the electrical remoteness of the proposed Facility.

*4.3 Transferability of Queue Position*

A Generator may transfer its queue position to another entity only if such entity acquires the specific facility identified in the Interconnection Request and the Point of Interconnection does not change.

*4.4 Modifications*

The Generator may submit to the Transmission Provider, in writing, modifications to any information provided in the Interconnection Request. The Generator shall retain its queue position if the modifications are in accordance with Sections 4.4.1, 4.4.2 or 4.4.5, or are determined not to be Material Modifications pursuant to Sections 4.4.3 and 4.4.4.

Notwithstanding the above, during the course of the Interconnection Studies, either the Generator or Transmission Provider may identify changes to the planned interconnection that may improve the costs and benefits (including reliability) of the interconnection, and the ability of the proposed change to accommodate the Interconnection Request. To the extent the identified changes are acceptable to the Transmission Provider and Generator, such acceptance not to be unreasonably withheld, Transmission Provider shall modify the Point of Interconnection and/or configuration in accordance with such changes and proceed with any re-studies necessary to do so in accordance with Section 6.4, Section 7.6 and Section 8.6 as applicable and Generator shall retain its queue position.

4.4.1 Prior to the return of the executed Interconnection System Impact Study Agreement to the Transmission Provider, modifications permitted under this Section shall include specifically: (a) A reduction up to 60% (MW) of electrical output of the proposed project; (b) modifying the technical parameters associated with the generator technology or the generator step-up transformer impedance characteristics; (c) modifying the interconnection configuration; and/or (d) any other change except to the Point of Interconnection. For plant increases, the incremental increase in plant output will go to the end of the queue for the purposes of cost allocation and study analysis.

4.4.2 Prior to the return of the executed Interconnection Facility Study Agreement to the Transmission Provider, the modifications permitted under this Section shall include specifically: (a) Additional 15% decrease in plant size (MW), and (b) generator technical parameters associated with modifications to generator technology and transformer impedances; provided, however, the incremental costs associated with those modifications are the responsibility of the requesting Generator.

4.4.3 Prior to making any modification other than those specifically permitted by Sections 4.4.1, 4.4.2, and 4.4.5, Generator may first request that the Transmission Provider evaluate whether such modification is a Material Modification. Material Modifications are those modifications that have a material impact on the cost or timing of any Interconnection Request with a later queue priority date. In response to Generator's request, the Transmission Provider shall evaluate the proposed modifications prior to making them and inform the Generator in writing of whether the modifications would constitute a Material Modification. The Generator may then withdraw the proposed modification or proceed with a new Interconnection Request for such modification.

4.4.4 Upon receipt of Generator's request for modification permitted under this Section 4.4, the Transmission Provider shall commence and perform any necessary additional studies as soon as practicable, but in no event shall the Transmission Provider commence such studies later than thirty (30) Calendar Days after receiving notice of Generator's request. Any additional studies resulting from such modification shall be done at Generator's cost.

4.4.5 Extensions of less than three (3) cumulative years in the Commercial Operation Date of the Facility to which the Interconnection Request relates are not material and should be handled through construction sequencing.

**5. Procedures for Interconnection Requests Submitted Prior to Effective Date of Interconnection Procedures**

*5.1 Queue Position for Pending Requests*

5.1.1 Any generator assigned a queue position prior to the effective date of these Interconnection Procedures shall retain that queue position.

5.1.1.1 If an Interconnection Study Agreement has not been executed as of the effective date of these Interconnection Procedures, then such Interconnection Study, and any subsequent Interconnection Studies, shall be processed in accordance with these Interconnection Procedures.

5.1.1.2 If an Interconnection Study Agreement has been executed prior to the effective date of these Interconnection Procedures, such Interconnection Study shall be completed in accordance with the terms of such agreement.

5.1.1.3 If an Interconnection and Operating Agreement has been tendered as of the effective date of these Interconnection Procedures, then the Transmission Provider and Generator shall finalize its terms.

*5.1.2 Transition Period*

To the extent necessary, the Transmission Provider and Generators with an outstanding request shall transition to these Interconnection Procedures within a reasonable period of time not to exceed sixty (60) Calendar Days. Any Generator with an outstanding request as of the effective date of these Interconnection Procedures may request a reasonable extension of any deadline, otherwise applicable, if necessary to avoid undue hardship or prejudice to its Interconnection Request. A reasonable extension shall be granted by the Transmission Provider to the extent consistent with the intent and process provided for under these Interconnection Procedures.

*5.2 New Transmission Provider*

If the Transmission Provider transfers control of its Transmission System to a successor Transmission Provider during the period when an Interconnection Request is pending, the original Transmission Provider shall transfer to the successor Transmission Provider any amount of the deposit or payment that exceeds the cost that it incurred to evaluate the request for interconnection. Any difference between such net amount and the deposit or payment required by these Interconnection Procedures shall be paid by or refunded to the Generator, as appropriate. The original Transmission Provider shall coordinate with the successor Transmission Provider to complete any Interconnection Study, as appropriate, that the original Transmission Provider has begun but has not completed. If the Transmission Provider has tendered a draft Interconnection and Operating Agreement to the Generator but the Generator has not either executed the Interconnection and Operating Agreement or requested the filing of an unexecuted Interconnection and Operating Agreement with FERC, unless otherwise provided, the Generator may elect to complete negotiations with the Transmission Provider or the successor Transmission Provider.

**6. Interconnection Feasibility Study**

*6.1 Interconnection Feasibility Study Agreement*

Simultaneously with the acknowledgement of a valid Interconnection Request the Transmission Provider shall provide to Generator an Interconnection Feasibility Study Agreement in the form of Appendix 2. The Interconnection Feasibility Study Agreement shall specify that Generator is responsible for the actual cost of the Interconnection Feasibility Study. Within five (5) Business Days following the initial scoping meeting Generator shall specify for inclusion in the attachment to the Interconnection Feasibility Study Agreement the Point(s) of Interconnection and any reasonable alternative Point(s) of Interconnection. Within five (5) Business Days following the Transmission Provider's receipt of such designation, Transmission Provider shall tender to Generator the Interconnection Feasibility Study Agreement signed by Transmission Provider, which includes a good faith estimate of the cost for completing the Interconnection Feasibility Study.

On or before the return of the executed Interconnection Feasibility Study Agreement to the Transmission Provider, the Generator shall provide the technical data called for in Appendix 2.

If the Interconnection Feasibility Study uncovers any unexpected result(s) not contemplated during the Initial Scoping Meeting, a substitute Point of Interconnection identified by either Generator or Transmission Provider, and acceptable to the other, such acceptance not to be unreasonably withheld, will be substituted for the designated Point of Interconnection specified above without loss of queue position, and re-studies shall be completed pursuant to Section 6.4 as applicable. For the purpose of this Section 6.1, if the Transmission Provider and Generator cannot agree on the substituted Point of Interconnection, then Generator may direct that one of the alternatives as specified in the Interconnection Feasibility Study Agreement, as specified pursuant to Section 3.3.4, shall be the substitute.

*6.2 Scope of Interconnection Feasibility Study*

The Interconnection Feasibility Study shall preliminarily evaluate the feasibility of the proposed interconnection to the Transmission System.

The Interconnection Feasibility Study will consider the Base Case as well as all generating facilities (and with respect to (iii), any identified Network Upgrades) that, on the date the Interconnection Feasibility Study is commenced: (i) Are directly interconnected to the Transmission System; (ii) are interconnected to Affected Systems and may have an impact on the Interconnection Request; (iii) have a pending higher queued Interconnection Request to interconnect to the Transmission System; and (iv) have no queue position but have executed an Interconnection and Operating Agreement or requested that an unexecuted Interconnection and Operating Agreement be filed with FERC. The Interconnection Feasibility Study will consist of a power flow and short circuit analysis. The Interconnection Feasibility Study will provide a list of facilities and a non-binding good faith estimate of cost responsibility and a non-binding good faith estimated time to construct.

*6.3 Interconnection Feasibility Study Procedures*

The Transmission Provider shall utilize existing studies to the extent practicable when it performs the study. The Transmission Provider shall use Reasonable Efforts to complete the Interconnection Feasibility Study no later than forty-five (45) Calendar Days after the Transmission Provider receives the fully executed Interconnection Feasibility Study Agreement. At the request of the Generator or at any time the Transmission Provider determines that it will not meet the required time frame for completing the Interconnection Feasibility Study, Transmission Provider shall notify the Generator as to the schedule status of the Interconnection Feasibility Study. If the Transmission Provider is unable to complete the Interconnection Feasibility Study within that time period, it shall notify the Generator and provide an estimated completion date with an explanation of the reasons why additional time is required. Upon request, the Transmission Provider shall provide the Generator supporting documentation, workpapers and relevant power flow, short circuit and stability databases for the Interconnection Feasibility Study, subject to confidentiality arrangements consistent with Section 13.1.

6.3.1 Meeting with Transmission Provider

Within ten (10) Business Days of providing an Interconnection Feasibility Study report to Generator, Transmission Provider and Generator shall meet to discuss the results of the Interconnection Feasibility Study.

*6.4 Re-Study*

If re-study of the Interconnection Feasibility Study is required due to a higher queued project dropping out of the queue, or a modification of a higher queued project subject to Section 4.4, or re-designation of the Point of Interconnection pursuant to Section 6.1 Transmission Provider shall notify Generator in writing. Such re-study shall take not longer than forty-five (45) Calendar Days from the date of the notice. Any cost of re-study shall be borne by the Generator being re-studied.

**7. Interconnection System Impact Study**

*7.1 Interconnection System Impact Study Agreement*

Unless otherwise provided in Section 3.3.4, simultaneously with the delivery of the Interconnection Feasibility Study to the Generator, the Transmission Provider shall provide to the Generator an Interconnection System Impact Study Agreement in the form of Appendix 3 to these Interconnection Procedures. The Interconnection System Impact Study Agreement shall provide that the Generator shall compensate the Transmission Provider for the actual cost of the Interconnection System Impact Study. Within three (3) Business Days following the Interconnection Feasibility Study results meeting, the Transmission Provider shall provide to Generator a non-binding good faith estimate of the cost and timeframe for completing the Interconnection System Impact Study.

*7.2 Execution of Interconnection System Impact Study Agreement*

The Generator shall execute the Interconnection System Impact Study Agreement and deliver the executed Interconnection System Impact Study Agreement to the Transmission Provider no later than thirty (30) Calendar Days after its receipt along with demonstration of Site Control, and a $50,000 deposit.

If the Generator does not provide all such technical data when it delivers the Interconnection System Impact Study Agreement, the Transmission Provider shall notify the Generator of the deficiency within five (5) Business Days of the receipt of the executed Interconnection System Impact Study Agreement and the Generator shall cure the deficiency within ten (10) Business Days of receipt of the notice, provided, however, such deficiency does not include failure to deliver the executed Interconnection System Impact Study Agreement or deposit.

If the Interconnection System Impact Study uncovers any unexpected result(s) not contemplated during the Initial Scoping Meeting and the Interconnection Feasibility Study, a substitute Point of Interconnection identified by either Generator or Transmission Provider, and acceptable to the other, such acceptance not to be unreasonably withheld, will be substituted for the designated Point of Interconnection specified above without loss of queue position, and restudies shall be completed pursuant to Section 7.6 as applicable. For the purpose of this Section 7.6, if the Transmission Provider and Generator cannot agree on the substituted Point of Interconnection, then Generator may direct that one of the alternatives as specified in the Interconnection Feasibility Study Agreement, as specified pursuant to Section 3.3.4, shall be the substitute.

*7.3 Scope of Interconnection System Impact Study*

The Interconnection System Impact Study shall evaluate the impact of the proposed interconnection on the reliability of the Transmission System. The Interconnection System Impact Study will consider the Base Case as well as all generating facilities (and with respect to (iii) below, any identified Network Upgrades associated with such higher queued interconnection) that, on the date the Interconnection System Impact Study is commenced: (i) Are directly interconnected to the Transmission System; (ii) are interconnected to Affected Systems and may have an impact on the Interconnection Request; (iii) have a pending higher queued Interconnection Request to interconnect to the Transmission System; and (iv) have no queue position but have executed an Interconnection and Operating

Agreement or requested that an unexecuted Interconnection and Operating Agreement be filed with FERC. The Interconnection System Impact Study will consist of a short circuit analysis, a stability analysis, and a power flow analysis. The Interconnection System Impact Study will state the assumptions upon which it is based; state the results of the analyses; and provide the requirements or potential impediments to providing the requested interconnection service, including a preliminary indication of the cost and length of time that would be necessary to correct any problems identified in those analyses and implement the interconnection. The Interconnection System Impact Study will provide a list of facilities that are required as a result of the Interconnection Request and a non-binding good faith estimate of cost responsibility and a non-binding good faith estimated time to construct.

*7.4 Interconnection System Impact Study Procedures*

The Transmission Provider shall coordinate the Interconnection System Impact Study with any Affected System that is affected by the Interconnection Request pursuant to Section 3.5 above. The Transmission Provider shall utilize existing studies to the extent practicable when it performs the study. The Transmission Provider shall use Reasonable Efforts to complete the Interconnection System Impact Study within ninety (90) Calendar Days after the receipt of the Interconnection System Impact Study Agreement or notification to proceed, study payment, and technical data. If Transmission Provider uses clustering, the Transmission Provider shall use Reasonable Efforts to deliver a completed Interconnection System Impact Study within ninety (90) Calendar Days after the close of the queue cluster window. At the request of the Generator or at any time the Transmission Provider determines that it will not meet the required time frame for completing the Interconnection System Impact Study, Transmission Provider shall notify the Generator as to the schedule status of the Interconnection System Impact Study. If the Transmission Provider is unable to complete the Interconnection System Impact Study within the time period, it shall notify the Generator and provide an estimated completion date with an explanation of the reasons why additional time is required. Upon request, the Transmission Provider shall provide the Generator all supporting documentation, workpapers and relevant pre-Interconnection Request and post-Interconnection Request power flow, short circuit and stability databases for the Interconnection System Impact Study, subject to confidentiality arrangements consistent with Section 13.1.

*7.5 Meeting With Transmission Provider*

Within ten (10) Business Days of providing an Interconnection System Impact Study report to Generator, Transmission Provider and Generator shall meet to discuss the results of the Interconnection System Impact Study.

*7.6 Re-Study*

If re-study of the Interconnection System Impact Study is required due to a higher queued project dropping out of the queue, a modification of a higher queued project subject to 4.4, or re-designation of the Point of Interconnection pursuant to Section 6.1 Transmission Provider shall notify Generator in writing. Such re-study shall take no longer than sixty (60)Calendar Days from the date of notice.

Any cost of re-study shall be borne by the Generator being re-studied.

**8. Interconnection Facilities Study**

*8.1 Interconnection Facilities Study Agreement*

Simultaneously with the delivery of the Interconnection System Impact Study to the Generator, the Transmission Provider shall provide to the Generator an Interconnection Facilities Study Agreement in the form of Appendix 4 to these Interconnection Procedures. The Interconnection Facilities Study Agreement shall provide that the Generator shall compensate the Transmission Provider for the actual cost of the Interconnection Facilities Study. Within three (3) Business Days following the Interconnection System Impact Study results meeting, the Transmission Provider shall provide to Generator a non-binding good faith estimate of the cost and timeframe for completing the Interconnection Facilities Study. The Generator shall execute the Interconnection Facilities Study Agreement and deliver the executed Interconnection Facilities Study Agreement to the Transmission Provider within thirty (30) Calendar Days after its receipt, together with the required technical data and the greater of $100,000 or Generator's portion of the estimated monthly cost of conducting the Interconnection Facilities Study.

8.1.1 Transmission Provider shall invoice Generator on a monthly basis for the work to be conducted on the Interconnection Facilities Study each month. Generator shall pay invoiced amounts within thirty (30) Calendar Days of receipt of invoice. Transmission Provider shall continue to hold the amounts on deposit until settlement of the final invoice.

*8.2 Scope of Interconnection Facilities Study*

The Interconnection Facilities Study shall specify and estimate the cost of the equipment, engineering, procurement and construction work needed to implement the conclusions of the Interconnection System Impact Study in accordance with Good Utility Practice to physically and electrically connect the Interconnection Facility to the Transmission System. The Interconnection Facilities Study shall also identify the electrical switching configuration of the connection equipment, including, without limitation: The transformer, switchgear, meters, and other station equipment; the nature and estimated cost of any Transmission Provider Interconnection Facilities and Network Upgrades necessary to accomplish the interconnection; and an estimate of the time required to complete the construction and installation of such facilities.

*8.3 Interconnection Facilities Study Procedures*

The Transmission Provider shall coordinate the Interconnection Facilities Study with any Affected System pursuant to Section 3.5 above. The Transmission Provider shall utilize existing studies to the extent practicable in performing the Interconnection Facilities Study. The Transmission Provider shall use Reasonable Efforts to complete the study and issue a draft Interconnection Facilities Study report to the Generator within the following number of days after receipt of an executed Interconnection Facilities Study Agreement: ninety (90) Calendar Days, with no more than a ±20% cost estimate contained in the report; or one hundred eighty (180) Calendar Days, if the Generator requests a ±10% cost estimate. At the request of the Generator or at any time the Transmission Provider determines that it will not meet the required time frame for completing the Interconnection Facilities Study, Transmission Provider shall notify the Generator as to the schedule status of the Interconnection Facilities Study. If the Transmission Provider is unable to complete the Interconnection Facilities Study and issue a draft Interconnection Facilities Study report within the time required, it shall notify the Generator and provide an estimated completion date and an explanation of the reasons why additional time is required. The Generator may, within thirty (30) Calendar Days after receipt of the draft report, provide written comments to the Transmission Provider, which the Transmission Provider shall include in the final report. The Transmission Provider shall issue the final Interconnection Facilities Study report within fifteen (15) Business Days of receiving the Generator's comments or promptly upon receiving Generator's statement that it will not provide comments. The Transmission Provider may reasonably extend such fifteen-day period upon notice to the Generator if the Generator's comments require the Transmission Provider to perform additional analyses or make other significant modifications prior to the issuance of the final Interconnection Facilities Report. Upon request, the Transmission Provider shall provide the Generator supporting documentation, workpapers, and databases or data developed in the preparation of the Interconnection Facilities Study, subject to confidentiality arrangements consistent with Section 13.1.

*8.4 Meeting With Transmission Provider*

Within ten (10) Business Days of providing a draft Interconnection Facilities Study report to Generator, Transmission Provider and Generator shall meet to discuss the results of the Interconnection Facilities Study.

*8.5 Re-Study*

If re-study of the Interconnection Facilities Study is required due to a higher queued project dropping out of the queue or a modification of a higher queued project pursuant to Section 4.4, Transmission

Provider shall so notify Generator in writing. Such re-study shall take no longer than sixty (60) Calendar Days from the date of notice.

Any cost of re-study shall be borne by the Generator being re-studied.

**9. Agreements**

*9.1 Engineering & Procurement (''E&P'') Agreement*

Prior to executing an Interconnection and Operating Agreement, a Generator may, in order to advance the implementation of its interconnection, request and Transmission Provider shall offer the Generator, an agreement that authorizes the Transmission Provider to begin engineering and procurement of long lead-time items necessary for the establishment of the interconnection (''E&P Agreement''). However, the Transmission Provider shall not be obligated to offer an E&P Agreement if Generator is in dispute resolution as a result of an allegation that Generator has failed to meet any milestones or comply with any prerequisites specified in other parts of the Interconnection Procedures. The E&P Agreement is an optional procedure and it will not alter the Generator's queue position or In-Service Date. The E&P Agreement shall provide for the Generator to pay the cost of all activities authorized by the Generator and to make advance payments or provide other satisfactory security for such costs. The Generator shall pay the cost of such authorized activities and any cancellation costs for equipment that is already ordered for its interconnection, which cannot be mitigated as hereafter described, whether or not such items or equipment later become unnecessary. If Generator withdraws its application for interconnection or either party terminates the E&P Agreement, to the extent the equipment ordered can be canceled under reasonable terms, Generator shall be obligated to pay the associated cancellation costs. To the extent that the equipment cannot be reasonably canceled, Transmission Provider may elect: (i) to take title to the equipment, in which event Transmission Provider shall refund Generator any amounts paid by Generator for such equipment and shall pay the cost of delivery of such equipment, or (ii) to transfer title to and deliver such equipment to Generator, in which event Generator shall pay any unpaid balance and cost of delivery of such equipment.

**10. Optional Study**

*10.1 Optional Study Agreement*

On or after the date when the Generator receives Interconnection System Impact Study results, the Generator may request, and the Transmission Provider shall perform a reasonable number of Optional Studies. The request shall describe the assumptions that the Generator wishes the Transmission Provider to study within the scope described in Section 10.2. Within five (5) Business Days after receipt of a request for an Optional Study, the Transmission Provider shall provide to the Generator an Optional Study Agreement in the form of Appendix 5. The Optional Study Agreement shall: (i) specify the technical data that the Generator must provide for each phase of the Optional Study, (ii) specify Generator's assumptions as to which Interconnection Requests with earlier queue priority dates will be excluded from the optional study case and assumptions as to the type of interconnection service for Interconnection Requests remaining in the optional study case, and (iii) the Transmission Provider's estimate of the cost of the Optional Study. To the extent known by the Transmission Provider, such estimate shall include any costs expected to be incurred by any Affected System whose participation is necessary to complete the Optional Study. Notwithstanding the above, the Transmission Provider shall not be required as a result of an Optional Study request to conduct any additional Interconnection Studies with respect to any other Interconnection Request. The Generator shall execute the Optional Study Agreement within ten (10) Business Days of receipt and deliver the Optional Study Agreement, the technical data and a $10,000 deposit to the Transmission Provider.

*10.2 Scope of Optional Study*

The Optional Study will consist of a sensitivity analysis based on the assumptions specified by the Generator in the Optional Study Agreement. The Optional Study will also identify the Transmission Provider Interconnection Facilities and the Network Upgrades, and the estimated cost thereof, that may be required to provide transmission service or interconnection service based upon the results of the Optional Study. The Optional Study shall be performed solely for informational purposes. The Transmission Provider shall use Reasonable Efforts to coordinate the study with any Affected Systems that may be affected by the types of interconnection services that are being studied. The Transmission Provider shall utilize existing studies to the extent practicable in conducting the Optional Study.

*10.3 Optional Study Procedures*

The executed Optional Study Agreement, the prepayment, and technical and other data called for therein must be provided to the Transmission Provider within ten (10) Business Days of Generator's receipt of the Optional Study Agreement. The Transmission Provider shall use Reasonable Efforts to complete the Optional Study within a mutually agreed upon time period specified within the Optional Study Agreement. If the Transmission Provider is unable to complete the Optional Study within such time period, it shall notify the Generator and provide an estimated completion date and an explanation of the reasons why additional time is required. Any difference between the study payment and the actual cost of the study shall be paid to the Transmission Provider or refunded to the Generator, as appropriate. Upon request, the Transmission Provider shall provide the Generator supporting documentation and workpapers and databases or data developed in the preparation of the Optional Study, subject to confidentiality arrangements consistent with Section 13.1.

**11. Interconnection and Operating Agreement**

*11.1 Tender*

Simultaneously with the issuance of the draft Interconnection Facilities Study report to the Generator, the Transmission Provider shall tender to the Generator a draft Interconnection and Operating Agreement together with draft appendices completed to the extent practicable. The draft Interconnection and Operating Agreement shall be in the form of the pro forma Interconnection and Operating Agreement. Within thirty (30) Calendar Days after the issuance of the draft Interconnection Facilities Study Report, the Transmission Provider shall tender the completed draft Interconnection and Operating Agreement appendices.

*11.2 Negotiation*

Notwithstanding Section 11.1, at the request of the Generator the Transmission Provider shall begin negotiations with the Generator concerning the appendices to the Interconnection and Operating Agreement at any time after the Generator executes the Interconnection Facilities Study Agreement. The Transmission Provider and the Generator shall negotiate concerning any disputed provisions of the appendices to the draft Interconnection and Operating Agreement for not more than sixty (60) Calendar Days after tender of the final Interconnection Facilities Study Report. If the Generator determines that negotiations are at an impasse, it may request termination of the negotiations at any time after tender of the Interconnection and Operating Agreement pursuant to Section 11.1 and request submission of the unexecuted Interconnection and Operating Agreement with FERC or initiate dispute resolution procedures pursuant to Section 13.6. If the Generator requests termination of the negotiations, but within sixty (60) Calendar Days thereafter fails to request either the filing of the unexecuted Interconnection and Operating Agreement or initiate dispute resolution, it shall be deemed to have withdrawn its Interconnection Request. The Transmission Provider shall provide to the Generator a final Interconnection and Operating Agreement within fifteen (15) Business Days after the completion of the negotiation process.

*11.3 Execution and Filing*

Within fifteen (15) Business Days after receipt of the final Interconnection and Operating Agreement, the Generator shall provide the Transmission Provider reasonable evidence that continued Site Control and one or more of the following milestones in the development of the Facility, at the Generator's election, has been achieved: (i) the execution of a contract for the supply or transportation of fuel to the Facility; (ii) the execution of a contract for the supply of cooling water to the Facility; (iii) execution of a contract for the engineering for, procurement of major equipment for, or construction of, the Facility; (iv) execution of a contract for the sale of electric energy or capacity from the Facility; (v) application for an air, water, or land use permit; or (vi) posting of $250,000,

non-refundable additional security, which shall be applied toward future construction costs.

The Generator shall either: (i) execute two originals of the tendered Interconnection and Operating Agreement and return them to the Transmission Provider; or (ii) request in writing that the Transmission Provider file with FERC an Interconnection and Operating Agreement in unexecuted form. As soon as practicable, but not later than ten (10) Business Days after receiving either the two executed originals of the tendered Interconnection and Operating Agreement or the request to file an unexecuted Interconnection and Operating Agreement, the Transmission Provider shall file the Interconnection and Operating Agreement with FERC, together with its explanation of any matters as to which the Generator and the Transmission Provider disagree and support for the costs that the Transmission Provider proposes to charge to the Generator under the Interconnection and Operating Agreement.

*11.4 Commencement of Interconnection Activities*

If the Generator executes the final Interconnection and Operating Agreement, the Transmission Provider and the Generator shall perform their respective obligations in accordance with the terms of the Interconnection and Operating Agreement, subject to modification by FERC. Upon submission of an unexecuted Interconnection and Operating Agreement, both Generator and Transmission Provider shall promptly comply with the unexecuted Interconnection and Operating Agreement, subject to modification by FERC.

**12. Construction of Transmission Provider Interconnection Facilities and Network Upgrades.**

*12.1 Schedule*

The Transmission Provider and the Generator shall negotiate in good faith concerning a schedule for the construction of the Transmission Provider Interconnection Facilities and the Network Upgrades.

*12.2 Permits*

The Interconnection and Operating Agreement shall specify the allocation of the responsibilities of the Transmission Provider/Owner and the Generator to obtain all permits, licenses and authorizations that are necessary to accomplish the interconnection in compliance with applicable laws and regulations. The Transmission Provider/Owner and the Generator shall cooperate with each other in good faith in obtaining any such permits, licenses and authorizations. Nothing in this Section 12.2 shall be construed to waive any rights under applicable law.

*12.3 Construction Sequencing*

In general, the In-Service Date of generators seeking interconnection to the Transmission System will determine the sequence of construction of Network Upgrades. A Generator with an Interconnection and Operating Agreement, in order to maintain its In-Service Date, may request that the Transmission Provider advance to the extent necessary the completion of Network Upgrades that: (i) Were assumed in the Interconnection Studies for such Generator, (ii) are necessary to support such In-Service Date, and (iii) would otherwise not be completed, pursuant to a contractual obligation of an entity other than the Generator that is seeking interconnection to the Transmission System, in time to support such In-Service Date. Upon such request, Transmission Provider will use Reasonable Efforts to advance the construction of such Network Upgrades to accommodate such request; provided that the Generator commits to pay Transmission Provider: (i) any associated expediting costs and (ii) the cost of such Network Upgrades. The Transmission Provider will refund to the Generator the costs in clause (ii) of the prior sentence at such time as it receives payment from the entity with a contractual obligation to construct such Network Upgrades. Until such costs are refunded by the Transmission Provider, the Generator may utilize the transmission credits, if any, associated with the Network Upgrades the construction of which was advanced; thereafter the balance of such credits may be utilized by the entity that provided the Transmission Provider with the funds for such refund, to the extent of those funds. The Generator shall be entitled to transmission credits, if any, for any expediting costs paid. The inclusion of costs, recovery of costs and credits in this Section 12.3 is subject to FERC determination of cost responsibility.

A Generator with an Interconnection and Operating Agreement, in order to maintain its In-Service Date, may request that the Transmission Provider advance to the extent necessary the completion of Network Upgrades that: (i) Are necessary to support such In-Service Date and (ii) would otherwise not be completed, pursuant to an expansion plan of the Transmission Provider, in time to support such In-Service Date. Upon such request, Transmission Provider will use Reasonable Efforts to advance the construction of such Network Upgrades to accommodate such request; provided that the Generator commits to pay Transmission Provider any associated expediting costs. The Generator shall be entitled to transmission credits, if any, for any expediting costs paid. The inclusion of costs, recovery of costs and credits in this Section 12.3 is subject to FERC determination of cost responsibility.

An Interconnection System Impact Study will be amended to determine the facilities necessary to support the requested In-Service Date. This amended study will include those transmission and generator facilities that are expected to be in service on or before the requested In-Service Date.

**13. Miscellaneous**

*13.1 Confidentiality*

Transmission Provider, Transmission Owner(s), and such entities' officers, employees, and contractors shall keep confidential all information provided by Generator related to interconnection service required by Transmission Provider to process an Interconnection Request for network or similar type interconnection service as specified by FERC (other than the information contained in the Interconnection Request in Appendix 1) or that otherwise constitutes trade secrets or commercial or financial information, the disclosure of which would harm or prejudice the Generator or Generator's business.

Such Confidential Information shall exclude information to the extent that such information is or becomes generally available to the public without the violation of any obligation of secrecy relating to the information disclosed, including the posted Interconnection Studies on OASIS pursuant to the terms of Section 3.4. Transmission Provider shall use such information solely for the purpose of the Interconnection Study for which it was provided and no other purpose. Confidential Information should only be shared among individuals within the Transmission Provider; Transmission Owner; and any third party who need it to perform Interconnection Studies, to review Interconnection Study results, or to negotiate an Interconnection and Operating Agreement; provided that, under no circumstances shall data be shared with individuals that have responsibilities within the Transmission Providers/Owners and/or its affiliates' merchant generation and/or marketing functions and otherwise required pursuant to Order 889.

Further, Transmission Provider shall be liable to Generator for any breach of confidentiality caused by its agents or third party contractors.

The Transmission Provider shall, at Generator's election, destroy, in a confidential manner, or return the Confidential Information provided at the time the Confidential Information is no longer needed.

Other than any required disclosures of Interconnection Studies on OASIS, should Transmission Provider be required to disclose the Generator's confidential information with any regulatory body, Transmission Provider shall request confidential treatment of such information from such regulatory body. If Transmission Provider receives any request to disclose confidential information, Transmission Provider shall provide Generator with prompt written notice of any such request so that the Generator may contest disclosure.

Notwithstanding anything to the contrary herein, these provisions shall not require the Transmission Provider or the Generator to disclose information in violation of any confidentiality obligations to third parties.

*13.2 Delegation of Responsibility*

The Transmission Provider may use the services of subcontractors as it deems appropriate to perform its obligations under these Interconnection Procedures. Transmission Provider shall remain primarily liable to the Generator for the performance of such subcontractors and compliance with its obligations of these Interconnection Procedures. The subcontractor shall keep all information provided confidential and shall use such information solely for the performance of such obligation for which it was provided and no other purpose.

*13.3 Obligation for Study Costs*

Transmission Provider shall charge and Generator shall pay the actual costs of the Interconnection Studies. Any difference between the study deposit and the actual cost of the applicable Interconnection Study shall be paid by or refunded, except as otherwise provided herein, to Generator or offset against the cost of any future Interconnection Studies associated with the applicable Interconnection Request prior to beginning of any such future Interconnection Studies. Generator shall pay any such undisputed costs within thirty (30) Calendar Days of receipt of an invoice therefor. The Transmission Provider shall not be obligated to perform or continue to perform any studies unless Generator has paid all undisputed amounts in compliance herewith.

*13.4 Third Parties Conducting Studies*

If (i) at the time of the signing of an Interconnection Study Agreement there is disagreement as to the estimated time to complete an Interconnection Study, (ii) the Generator receives notice pursuant to Sections 6.3, 7.4 or 8.3 that the Transmission Provider will not complete an Interconnection Study within the applicable timeframe for such Interconnection Study, or (iii) Generator receives neither the Interconnection Study nor a notice under Sections 6.3, 7.4 or 8.3 within the applicable timeframe for such Interconnection Study, then the Generator may require the Transmission Provider to, within thirty (30) Calendar Days of notifying Transmission Provider, utilize a third party reasonably acceptable to Generator and Transmission Provider to perform such Interconnection Study under the direction of the Transmission Provider. Transmission Provider shall convey all workpapers, databases, study results and all other supporting documentation prepared to date with respect to the Interconnection Request as soon as practicable upon Generator's request subject to the confidentiality provision in Section 13.1. In any case, such third party contract may be entered into with either the Generator or the Transmission Provider at the Transmission Provider's discretion. In the case of (i), (ii) and (iii) such Interconnection Study will be at the Generator's expense and in the case of (iii) the Generator maintains its right to submit a claim to dispute resolution to recover the costs of such third party study. Such subcontractor shall be required to comply with these Interconnection Procedures and shall use the information provided to it solely for purposes of performing such services and for no other purposes. The Transmission Provider shall cooperate with such subcontractor and Generator to complete and issue the Interconnection Study in the shortest reasonable time.

*13.5 Performance Liquidated Damages*

In the event the Transmission Provider fails to meet any of its obligations under these Interconnection Procedures, and fails to remedy any failure within fifteen (15) Business Days, the Transmission Provider shall pay the Generator liquidated damages. Any liquidated damages paid by the Transmission Provider to the Generator shall be an amount equal to 1% of the actual cost of the applicable study cost (including any third party study costs), per day. However, in no event shall the total liquidated damages exceed 50% of the actual cost of the applicable study(ies). In addition to these liquidated damages, Transmission Provider shall refund any deposit amount for the applicable study previously paid by Generator in excess of actual reasonably incurred study costs immediately upon expiration of the remedy period noted above.

*13.6 Disputes*

13.6.1 Submission

In the event either Party has a dispute, or asserts a claim, that arises out of or in connection with the Interconnection and Operating Agreement or its performance, such Party (the ''disputing Party'') shall provide the other Party with written notice of the dispute or claim (''Notice of Dispute''). Such dispute or claim shall be referred to a designated senior representative of each Party for resolution on an informal basis as promptly as practicable after receipt of the Notice of Dispute by the other Party. In the event the designated representatives are unable to resolve the claim or dispute within thirty (30) Calendar Days of the other Party's receipt of the Notice of Dispute, such claim or dispute may, upon mutual agreement of the Parties, be submitted to arbitration and resolved in accordance with the arbitration procedures set forth below. In the event the Parties do not agree to submit such claim or dispute to arbitration, each Party may exercise whatever rights and remedies it may have in equity or at law consistent with the terms of this Agreement.

13.6.2 External Arbitration Procedures.

Any arbitration initiated under these procedures shall be conducted before a single neutral arbitrator appointed by the Parties. If the Parties fail to agree upon a single arbitrator within ten (10) Calendar Days of the submission of the dispute to arbitration, each Party shall choose one arbitrator who shall sit on a three-member arbitration panel. The two arbitrators so chosen shall within twenty (20) Calendar Days select a third arbitrator to chair the arbitration panel. In either case, the arbitrators shall be knowledgeable in electric utility matters, including electric transmission and bulk power issues, and shall not have any current or past substantial business or financial relationships with any party to the arbitration (except prior arbitration). The arbitrator(s) shall provide each of the Parties an opportunity to be heard and, except as otherwise provided herein, shall conduct the arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association (''Arbitration Rules'') and any applicable FERC regulations or RTO rules; provided, however, in the event of a conflict between the Arbitration Rules and the terms of this Section 13, the terms of this Section 13 shall prevail.

13.6.3 Arbitration Decisions

Unless otherwise agreed by the Parties, the arbitrator(s) shall render a decision within ninety (90) Calendar Days of appointment and shall notify the Parties in writing of such decision and the reasons therefor. The arbitrator(s) shall be authorized only to interpret and apply the provisions of the Agreement and shall have no power to modify or change any provision of the Agreement in any manner. The decision of the arbitrator(s) shall be final and binding upon the Parties, and judgment on the award may be entered in any court having jurisdiction. The decision of the arbitrator(s) may be appealed solely on the grounds that the conduct of the arbitrator(s), or the decision itself, violated the standards set forth in the Federal Arbitration Act or the Administrative Dispute Resolution Act. The final decision of the arbitrator must also be filed with FERC if it affects jurisdictional rates, terms and conditions of service, Interconnection Facilities, or Network Upgrades.

13.6.4 Costs

Each Party shall be responsible for its own costs incurred during the arbitration process and for the following costs, if applicable: (1) The cost of the arbitrator chosen by the Party to sit on the three member panel and one half of the cost of the third arbitrator chosen; or (2) one half the cost of the single arbitrator jointly chosen by the Parties.

**14. Small Generator Interconnection Requests**

*14.1 Applicability*

Small Generators are defined as units 20 MW and below or aggregations of interconnecting Facilities at a single Point of Interconnection totaling 20 MW and below, including those owned by Transmission Providers or their affiliates. Since Small Generators will generally have only a limited impact on a localized area of the Transmission Provider's Transmission System, all Interconnection Studies, upgrades and electric connections necessitated by the Interconnection Request will be conducted on an expedited basis. Because of the size limitation of Small Generators, any study will generally be limited only to the immediate vicinity of the Small Generator's interconnection and should use subsets of data from the Transmission Provider's larger system studies. If the Transmission Provider is able to use prior system studies to accommodate the Small Generator's request, there will be no charge assessed to the Small Generator. This Section 14 applies only to Small Generators that are located on the Transmission Provider's Transmission System or whose transaction(s) involve sales for resale.

14.2 Modified Interconnection Procedure

Requirements related to the application and interconnection for larger Generator resources are followed except as modified in this Section 14.

14.2.1 Interconnection Study Deposits

The deposit requirement for each of the Interconnection Studies is waived.

14.2.2 Interconnection Study Costs

While the deposit requirement for the Small Generator is waived, the Small

Generator is responsible for all costs associated with the processing of the Interconnection Request and the performance of Interconnection Studies, unless waived.

Small Generator will be billed for such costs following the completion of each Interconnection Study. Generator shall pay invoiced amounts within thirty (30) Calendar Days of receipt of invoice.

14.2.3 Expedited Procedures

Expedited analysis procedures will be utilized for all Interconnection Requests and studies.

*14.3 Queue*

Small Generators will be placed in the same queue as large Generators.

*14.4 Interconnection Scoping Meeting and Studies*

Immediately upon receipt of a valid Interconnection Request, the Transmission Provider shall establish a date agreeable to the Small Generator for an initial scoping meeting as discussed in Section 3.3.4 above and such meeting will be held no later than ten (10) Business Days from receipt of the Interconnection Request. Unless otherwise agreed, the Transmission Provider will conduct an Interconnection Feasibility Study to determine if transmission constraints or other contingencies within the immediate vicinity of the Small Generator interconnection will require Network Upgrades or facilities to be constructed and an Interconnection Facilities Study to specify and estimate the cost of the equipment, engineering, procurement and construction work needed to accomplish the interconnection. Each of the studies are to be completed by the Transmission Provider within fifteen (15) Calendar Days of the date of the applicable executed study request.

**Appendices**

Appendix 1—Interconnection Request
Appendix 2—Interconnection Feasibility Study Agreement
Appendix 3—Interconnection System Impact Study Agreement
Appendix 4—Interconnection Facilities Study Agreement
Appendix 5—Optional Study Agreement

## Appendix 1

**Interconnection Request**

1. The undersigned Generator submits this request to its Facility with the Transmission Provider's Transmission System pursuant to a Tariff.

2. This Interconnection Request is for (check one):

__ A proposed new Facility.
__ An increase in the generating capacity or a Material Modification of an existing Facility.

3. Is the Generator requesting expedited procedures pursuant to Section 14 of the Interconnection Procedures?

__ Yes
__ No

4. The type of interconnection service requested (check one or both as appropriate):

__ [It is intended that the types of interconnection services specified in Article 4 of the Standard Generator and Interconnection Agreement be placed here.]

5. The Generator provides the following information:

a. Address or location or the proposed new Facility site (to the extent known) or, in the case of an existing Facility, the name and specific location of the Facility;

b. Maximum summer at _____ degrees C and winter at _____ degrees C megawatt electrical output of the proposed new Facility or the amount of megawatt increase in the generating capacity of an existing Facility;

c. General description of the equipment configuration;

d. Commercial Operation Date by day, month, and year;

e. Name, address, telephone number, and e-mail address of the Generator's contact person;

f. Approximate location of the proposed Point of Interconnection (optional); and

g. Generator Data (set forth in Attachment A)

6. Applicable deposit amount as specified in the Interconnection Procedures.

7. Evidence of Site Control as specified in the Interconnection Procedures (check one)

__ Is attached to this Interconnection Request
__ Will be provided at a later date in accordance with these Interconnection Procedures

8. This Interconnection Request shall be submitted to the representative indicated below:

[To be completed by Transmission Provider]

9. Representative of the Generator to contact:

[To be completed by Generator]

10. This Interconnection Request is submitted by:

Name of Generator: _____
By (signature): _____
Name (type or print): _____
Title: _____
Date: _____

**Attachment A**

*Generator Data*

Unit Ratings

kVA _____ °F _____ Voltage _____

Power Factor _____
Speed (RPM) _____ Connection (e.g. Wye) _____
Short Circuit Ratio _____ Frequency, Hertz _____
Stator Amperes at Rated kVA _____
Field Volts _____
Max Turbine MW _____ °F _____

Combined Turbine-Generator-Exciter Inertia Data

Inertia Constant, H = _____ kW sec/kVA
Moment-of-Inertia, WR2 = _____ lb. ft.2

| | Direct Axis | Quadrature Axis |
|---|---|---|
| Reactance Data (Per Unit-Rated KVA): | | |
| Synchronous—saturated | Xdv_____ | Xqv_____ |
| Synchronous—unsaturated | Xdi_____ | Xqi_____ |
| Transient—saturated | X'dv_____ | X'qv_____ |
| Transient—unsaturated | X'di_____ | X'qi_____ |
| Subtransient—saturated | X''dv_____ | X''qv_____ |
| Subtransient—unsaturated | X''di_____ | X''qi_____ |
| Negative Sequence—saturated | X2v_____ | |
| Negative Sequence—unsaturated | X2i_____ | |
| Zero Sequence—saturated | X0v_____ | |
| Zero Sequence—unsaturated | X0i_____ | |
| Leakage Reactance | Xlm_____ | |
| Field Time Constant Data (SEC): | | |
| Open Circuit | T'do_____ | T'qo_____ |
| Three-Phase Short Circuit Transient | T'd3_____ | T'q_____ |
| Line to Line Short Circuit Transient | T'd2_____ | |
| Line to Neutral Short Circuit Transient | T'd1_____ | |
| Short Circuit Subtransient | T''d_____ | T''q_____ |
| Open Circuit Subtransient | T''do_____ | T''qo_____ |

Armature Time Constant Data (SEC)

Three Phase Short Circuit Ta3_____
Line to Line Short Circuit Ta2_____
Line to Neutral Short Circuit Ta1_____

**MW Capability and Plant Configuration**

*Generator Data*

Armature Winding Resistance Data (Per Unit)

Positive R1_____
Negative R2_____
Zero R0_____
Rotor Short Time Thermal Capacity I22t = _____
Field Current at Rated kVA, Armature Voltage and PF = _____ amps
Field Current at Rated kVA and Armature Voltage, 0 PF = _____ amps
Three Phase Armature Winding Capacitance = _____ microfarad
Field Winding Resistance = _____ ohms _____°C
Armature Winding Resistance (Per Phase) = _____ ohms _____ °C

Curves

Saturation, Vee, Reactive Capability, Capacity Temperature Correction

Designate normal and emergency Hydrogen Pressure operating range for multiple curves.

*Generator Step-Up Transformer Data*

Ratings

Capacity/Self-cooled/maximum nameplate _____/_____kVA
Voltage Ratio/Generator side/System side _____/_____kV
Winding Connections/Low V/High V (Delta or Wye) _____/_____
Fixed Taps Available _____
Present Tap Setting _____

Impedance

Positive Z1 (on self-cooled kVA rating) _____% _____ X/R
Zero Z0 (on self-cooled kVA rating) _____% _____ X/R

*Excitation System Data*

Identify appropriate IEEE model block diagram of excitation system and power system stabilizer (PSS) for computer representation in power system stability simulations and the corresponding excitation system and PSS constants for use in the model.

*Governor System Data*

Identify appropriate IEEE model block diagram of governor system for computer representation in power system stability simulations and the corresponding governor system constants for use in the model.

## Appendix 2

**Interconnection Feasibility Study Agreement**

This agreement is made and entered into this __ day of _____, 20__ by and between _____, a _____ organized and existing under the laws of the State of _____, (''Generator,'') and _____ a _____ existing under the laws of the State of _____, (''Transmission Provider ''). Generator and Transmission Provider each may be referred to as a ''Party,'' or collectively as the ''Parties.''

**Recitals**

Whereas, Generator is proposing to develop a Facility or generating capacity addition to an existing Facility consistent with the Interconnection Request submitted by the Generator dated _____; and

Whereas, Generator desires to interconnect the Facility with the Transmission System; and

Whereas, Generator has requested the Transmission Provider to perform an Interconnection Feasibility Study to assess the feasibility of interconnecting the proposed Facility to the Transmission System, and of any Affected Systems;

Now, therefore, in consideration of and subject to the mutual covenants contained herein the Parties agreed as follows:

1.0 When used in this agreement, with initial capitalization, the terms specified shall have the meanings indicated. Terms used in this agreement with initial capitalization but not defined in this Section 1 shall have the meanings specified in the Tariff.

2.0 Generator elects and Transmission Provider shall cause to be performed an Interconnection Feasibility Study consistent with Section 6.0 of these Interconnection Procedures in accordance with the Tariff.

3.0 The scope of the Interconnection Feasibility Study shall be subject to the assumptions set forth in Attachment A to this Agreement.

4.0 The Interconnection Feasibility Study shall be based on the technical information provided by Generator in the Interconnection Request, as may be modified as the result of the Initial Scoping Meeting. Transmission Provider reserves the right to request additional technical information from Generator as may reasonably become necessary consistent with Good Utility Practice during the course of the Interconnection Feasibility Study and as designated in accordance with Section 3.3.4 of the Interconnection Procedures. If, after the designation of the Point of Interconnection pursuant to Section 3.3.4 of the Interconnection Procedures, Generator modifies its Interconnection Request, the time to complete the Interconnection Feasibility Study may be extended.

5.0 The Interconnection Feasibility Study report shall provide the following information:

—Preliminary identification of any circuit breaker short circuit capability limits exceeded as a result of the interconnection;
—Preliminary identification of any thermal overload or voltage limit violations resulting from the interconnection; and
—Preliminary description and non-bonding estimated cost of facilities required to interconnect the Facility to the Transmission System and to address the identified short circuit and power flow issues.

6.0 The Transmission Provider's good faith estimated cost for performance of the Interconnection Feasibility Study is $10,000.

Upon receipt of the Interconnection Feasibility Study the Transmission Provider shall charge and Generator shall pay the actual costs of the Interconnection Feasibility Study.

Any difference between the deposit and the actual cost of the study shall be paid by or refunded to the Generator, as appropriate.

7.0 Miscellaneous. [The Interconnection Feasibility Study Agreement shall include standard miscellaneous terms including, but not limited to, indemnities, representations, disclaimers, warranties, governing law, amendment, execution, waiver, enforceability and assignment, that reflect best practices in the electric industry, and that are consistent with regional differences, applicable laws, and the organizational nature of each Party. All of these provisions, to the extent practicable, shall be consistent with the provisions of the Interconnection Procedures and the Interconnection and Operating Agreement.]

In witness whereof, the Parties have caused this Agreement to be duly executed by their duly authorized officers or agents on the day and year first above written.

[Insert Name of Transmission Provider]

By _____
Name (typed or printed): _____
Title _____

[Insert Name of Generator]

By _____
Name (typed or printed): _____
Title _____

**Attachment A to Interconnection Feasibility Study Agreement**

**Assumptions Used in Conducting the Interconnection Feasibility Study**

The Interconnection Feasibility Study will be based upon the information set forth in the Interconnection Request and agreed upon in the Initial Scoping Meeting held on _____:

Designation of Point of Interconnection and configuration to be studied.
Designation of alternative Point(s) of Interconnection and configuration.

[Above assumptions to be completed by Generator and other assumptions to be provided by Generator and Transmission Provider]

## Appendix 3

**Interconnection System Impact Study Agreement**

This agreement is made and entered into this____ day of ____, 20____ by and between _____, a _____ organized and existing under the laws of the State of _____, (''Generator,'') and _____ a _____ existing under the laws of the State of _____, (''Transmission Provider''). Generator and Transmission Provider each may be referred to as a ''Party,'' or collectively as the ''Parties.''

**Recitals**

Whereas, Generator is proposing to develop a Facility or generating capacity addition to an existing Facility consistent with the Interconnection Request submitted by the Generator dated ; and

Whereas, Generator desires to interconnect the Facility with the Transmission System;

Whereas, the Transmission Provider has completed a Interconnection Feasibility Study (the ''Feasibility Study'') and provided the results of said study to the Generator; [1] and

Whereas, Generator has requested the Transmission Provider to perform an Interconnection System Impact Study to assess the impact of interconnecting the Facility to the Transmission System, and of any Affected Systems;

Now, therefore, in consideration of and subject to the mutual covenants contained herein the Parties agreed as follows:

1.0 When used in this agreement, with initial capitalization, the terms specified shall have the meanings indicated. Terms used in this agreement with initial capitalization but not defined in this Section 1 shall have the meanings specified in the Tariff.

2.0 Generator elects and Transmission Provider shall cause to be performed an Interconnection System Impact Study consistent with Section 7.0 of these Interconnection Procedures in accordance with the Tariff.

3.0 The scope of the Interconnection System Impact Study shall be subject to the assumptions set forth in Attachment A to this Agreement.

4.0 The Interconnection System Impact Study will be based upon the results of the Interconnection Feasibility Study and the technical information provided by Generator in the Interconnection Request, subject to any modifications in accordance with Section 4.4 of the Interconnection Procedures. Transmission Provider reserves the right to request additional technical information from Generator as may reasonably become necessary consistent with Good Utility Practice during the course of the Interconnection System Impact Study. If Generator modifies its designated Point of Interconnection, Interconnection Request, or the technical information provided therein is modified, the time to complete the Interconnection System Impact Study may be extended.

5.0 The Interconnection System Impact Study report shall provide the following information:

—Identification of any circuit breaker short circuit capability limits exceeded as a result of the interconnection;

—Identification of any thermal overload or voltage limit violations resulting from the interconnection;

—Identification of any instability or inadequately damped response to system disturbances resulting from the interconnection and

—Description and non-binding, good faith estimated cost of facilities required to interconnect the Facility to the Transmission System and to address the identified short circuit, instability, and power flow issues.

6.0 The Transmission Provider's good faith estimated cost for performance of the Interconnection System Impact Study is $50,000. The Transmission Provider's good faith estimate for the time of completion of the Interconnection System Impact Study is [insert date].

Upon receipt of the Interconnection System Impact Study, Transmission Provider shall charge and Generator shall pay the actual costs of the Interconnection System Impact Study.

Any difference between the deposit and the actual cost of the study shall be paid by or refunded to the Generator, as appropriate.

7.0 Miscellaneous. The Interconnection System Impact Study Agreement shall include standard miscellaneous terms including, but not limited to, indemnities, representations, disclaimers, warranties, governing law, amendment, execution, waiver, enforceability and assignment, that reflect best practices in the electric industry, that are consistent with regional differences, applicable laws and the organizational nature of each Party. All of these provisions, to the extent practicable, shall be consistent with the provisions of the Interconnection Procedures and the Interconnection and Operating Agreement.]

In witness thereof, the Parties have caused this Agreement to be duly executed by their duly authorized officers or agents on the day and year first above written.

[Insert Name of Transmission Provider]

By _____

Name (typed or printed): _____

Title _____

[Insert Name of Generator]

By _____

Name (typed or printed): _____

Title _____

**Attachment A to Interconnection System Impact Study Agreement**

**Assumptions Used in Conducting the Interconnection System Impact Study**

The Interconnection System Impact Study will be based upon the results of the Interconnection Feasibility Study, subject to any modifications in accordance with Section 4.4 of the Interconnection Procedures, and the following assumptions:

Designation of Point of Interconnection and configuration to be studied.

Designation of alternative Point(s) of Interconnection and configuration.

[Above assumptions to be completed by Generator and other assumptions to be provided by Generator and Transmission Provider]

## Appendix 4

**Interconnection Facilities Study Agreement**

This agreement is made and entered into this ____ day of _____, 20 ____ by and between _____, a _____ organized and existing under the laws of the State of _____, (''Generator,'') and _____ a _____ existing under the laws of the State of _____, (''Transmission Provider ''). Generator and Transmission Provider each may be referred to as a ''Party,'' or collectively as the ''Parties.''

**Recitals**

Whereas, Generator is proposing to develop a Facility or generating capacity addition to an existing Facility consistent with the Interconnection Request submitted by the Generator dated _____; and

Whereas, Generator desires to interconnect the Facility with the Transmission System;

Whereas, the Transmission Provider has completed a Interconnection System Impact Study (the ''System Impact Study'') and provided the results of said study to the Generator; and

Whereas, Generator has requested the Transmission Provider to perform an Interconnection Facilities Study to specify and estimate the cost of the equipment, engineering, procurement and construction work needed to implement the conclusions of the Interconnection System Impact Study in accordance with Good Utility Practice to physically and electrically connect the Facility to the Transmission System.

Now, therefore, in consideration of and subject to the mutual covenants contained herein the Parties agreed as follows:

1.0 When used in this agreement, with initial capitalization, the terms specified shall have the meanings indicated. Terms used in this agreement with initial capitalization but not defined in this Section 1 shall have the meanings specified in the Tariff.

2.0 Generator elects and Transmission Provider shall cause an Interconnection Facilities Study consistent with Section 8.0 of these Interconnection Procedures to be performed in accordance with the Tariff.

3.0 The scope of the Interconnection Facilities Study shall be subject to the assumptions set forth in Attachment A and the data provided in Attachment B to this Agreement.

4.0 The Interconnection Facilities Study report (i) shall provide a description, estimated cost of (consistent with Attachment A), schedule for required facilities to interconnect the Facility to the Transmission System and (ii) shall address the short circuit, instability, and power flow issues identified in the Interconnection System Impact Study.

5.0 The Transmission Provider's good faith estimated cost for performance of the Interconnection Facilities Study is $100,000. The time for completion of the Interconnection Facilities Study is specified in Attachment A.

Transmission Provider shall invoice Generator on a monthly basis for the work to be conducted on the Interconnection Facilities Study each month. Generator shall pay invoiced amounts within thirty (30) Calendar Days of receipt of invoice. Transmission Provider shall continue to hold the amounts on deposit until settlement of the final invoice.

6.0 Miscellaneous. [The Interconnection Facility Study Agreement shall include standard miscellaneous terms including, but not limited to, indemnities, representations, disclaimers, warranties, governing law, amendment, execution, waiver, enforceability and assignment, that reflect best practices in the electric industry, and that are consistent with regional differences,

[1] This recital to be omitted if Generator has elected to forego the Interconnection Feasibility Study.

applicable laws, and the organizational nature of each Party. All of these provisions, to the extent practicable, shall be consistent with the provisions of the Interconnection Procedures and the Interconnection and Operating Agreement.]

In witness whereof, the Parties have caused this Agreement to be duly executed by their duly authorized officers or agents on the day and year first above written.

[Insert Name of Transmission Provider]

By _____
Name (typed or printed): _____
Title _____

[Insert Name of Generator]

By _____
Name (typed or printed): _____
Title _____

**Attachment A to Interconnection Facilities Study Agreement**

**Generator Schedule Election for Conducting the Interconnection Facilities Study**

The Transmission Provider shall use Reasonable Efforts to complete the study and issue a draft Interconnection Facilities Study report to the Generator within the following number of days after of receipt of an executed copy of this Interconnection Facilities Study Agreement:

—Ninety (90) Calendar Days with no more than a ±20% cost estimate contained in the report, or

—One hundred eighty (180) Calendar Days with no more than a ±10% cost estimate contained in the report.

**Attachment B to Interconnection Facilities Study Agreement**

**Data Form To Be Provided by Generator With the Interconnection Facilities Study Agreement**

Provide location plan and simplified one-line diagram of the plant and station facilities. For staged projects, please indicate future generation, transmission circuits, etc.

One set of metering is required for each generation connection to the new ring bus or existing Transmission Provider station. Number of generation connections:

On the one line indicate the generation capacity attached at each metering location. (Maximum load on CT/PT)

On the one line indicate the location of auxiliary power. (Minimum load on CT/PT) Amps

Will an alternate source of auxiliary power be available during CT/PT maintenance? ____ Yes ____ No

Will a transfer bus on the generation side of the metering require that each meter set be designed for the total plant generation? ____ Yes ____ No (Please indicate on one line).

What type of control system or PLC will be located at the Generator's Facility?

_____

What protocol does the control system or PLC use?

_____

Please provide a 7.5-minute quadrangle of the site. Sketch the plant, station, transmission line, and property line.

_____

Physical dimensions of the proposed interconnection station:

_____

Bus length from generation to interconnection station:

_____

Line length from interconnection station to Transmission Provider transmission line.

_____

Tower number observed in the field. (Painted on tower leg)*

_____

Number of third party easements required for transmission lines:*

_____

* To be completed in coordination with Transmission Provider.

Is the Facility in the Transmission Provider's service area?

____ Yes ____ No

Local provider: _____

Please provide proposed schedule dates:

Begin Construction—Date: _____

GSU transformers receive back feed—Date: _____

Generation Testing—Date: _____

Commercial Operation—Date: _____

## Appendix 5

**Optional Study Agreement**

This Agreement is made and entered into this _____ day of _____, 20 ____by and between _____, a _____ organized and existing under the laws of the State of _____, (''Generator,'') and _____ a _____existing under the laws of the State of _____, (''Transmission Provider ''). Generator and Transmission Provider each may be referred to as a ''Party,'' or collectively as the ''Parties.''

**Recitals**

Whereas, Generator is proposing to develop a Facility or generating capacity addition to an existing Facility consistent with the Interconnection Request submitted by the Generator dated _____;

Whereas, Generator is proposing to establish an interconnection with the Transmission System; and

Whereas, Generator has submitted to Transmission Provider an Interconnection Request; and

Whereas, on or after the date when the Generator receives the Interconnection System Impact Study results, Generator has further requested that the Transmission Provider prepare an Optional Study;

Now, therefore, in consideration of and subject to the mutual covenants contained herein the Parties agree as follows:

1.0 When used in this agreement, with initial capitalization, the terms specified shall have the meanings indicated. Terms used in this agreement with initial capitalization but not defined in this Section 1 shall have the meanings specified in the Tariff.

2.0 Generator elects and Transmission Provider shall cause an Optional Study consistent with Section 10.0 of these Interconnection Procedures to be performed in accordance with the Tariff.

3.0 The scope of the Optional Study shall be subject to the assumptions set forth in Attachment A to this Agreement.

4.0 The Optional Study shall be performed solely for informational purposes.

5.0 The Optional Study report shall provide a sensitivity analysis based on the assumptions specified by the Generator in Attachment A to this Agreement. The Optional Study will identify the Transmission Provider Interconnection Facilities and the Network Upgrades, and the estimated cost thereof, that may be required to provide transmission service or interconnection service based upon the assumptions specified by the Generator in Attachment A.

6.0 The Transmission Provider's good faith estimated cost for performance of the Optional Study is $10,000. The Transmission Provider's good faith estimate for the time of completion of the Optional Study is [insert date].

Upon receipt of the Optional Study, the Transmission Provider shall charge and Generator shall pay the actual costs of the Optional Study.

Any difference between the initial payment and the actual cost of the study shall be paid by or refunded to the Generator, as appropriate.

7.0 Miscellaneous. [The Optional Study Agreement shall include standard miscellaneous terms including, but not limited to, indemnities, representations, disclaimers, warranties, governing law, amendment, execution, waiver, enforceability and assignment, that reflect best practices in the electric industry, and that are consistent with regional differences, applicable laws, and the organizational nature of each Party. All of these provisions, to the extent practicable, shall be consistent with the provisions of the Interconnection Procedures and the Interconnection and Operating Agreement.]

In witness whereof, the Parties have caused this Agreement to be duly executed by their duly authorized officers or agents on the day and year first above written.

[Insert Name of Transmission Provider]

By _____
Name (typed or printed): _____
Title _____

[Insert Name of Generator]

By _____
Name (typed or printed): _____
Title _____

**Attachment A to Optional Study Agreement**

**Assumptions Used in Conducting the Optional Study**

[To be completed by Generator consistent with Section 10 of the Interconnection Procedures.]

[FR Doc. 02–10663 Filed 5–01–02; 8:45 am]

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