April 1, 2011

The Honorable Kimberly D. Bose  
Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, DC 20426  

Re: FirstEnergy Service Company  
Docket No. ER______________  
Operating and Interconnection Agreement for Wholesale Load (Buckeye)  

Enclosed for filing pursuant to Section 205 of the Federal Power Act is an Operating and Interconnection Agreement for Wholesale Load between Buckeye Power Inc. (“Buckeye”) and FirstEnergy Service Company (“FirstEnergy”) (on behalf of its affiliates American Transmission Systems, Incorporated (“ATSI”), The Cleveland Electric Illuminating Company, Ohio Edison Company, Pennsylvania Power Company and The Toledo Edison Company) (the “Agreement”). FirstEnergy requests an effective date of June 1, 2011 for the Agreement, which has been designated as Original Service Agreement No. 2853 under the PJM Open Access Transmission Tariff (“PJM OATT”).

I. Background  

On August 17, 2009, ATSI submitted a filing with the Commission requesting that the Commission approve ATSI’s integration into PJM effective June 1, 2011. On December 17, 2009, the Commission approved ATSI’s request. ATSI is on schedule to integrate into PJM effective June 1, 2011. As part of ATSI’s integration into PJM, FirstEnergy has prepared the Agreement to establish the rates, terms and conditions for the interconnection and coordinated operation of the parties’ systems and for Buckeye’s use of certain FirstEnergy facilities to enable it to serve its wholesale loads.

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1. 16 U.S.C. § 824d.  
2. Pursuant to Order No. 714, this filing is submitted by PJM on behalf of FirstEnergy as part of an XML filing package that conforms with the Commission’s regulations. PJM has agreed to make all filings on behalf of the PJM Transmission Owners in order to retain administrative control over the PJM Tariff. Thus, FirstEnergy has requested that PJM submit the Agreement in the eTariff system as part of PJM’s electronic Service Agreements Tariff.  
II. Description of Filing

A. Operating and Interconnection Agreement for Wholesale Load

Buckeye is an entity that acts on behalf of others in arranging for the wholesale transmission and distribution of electric energy utilizing facilities owned by ATSI, The Cleveland Electric Illuminating Company, Ohio Edison Company, Pennsylvania Power Company and The Toledo Edison Company to serve load. ATSI, The Cleveland Electric Illuminating Company, Ohio Edison Company, Pennsylvania Power Company and The Toledo Edison Company are subsidiaries of FirstEnergy Corp. that own and operate certain electric facilities used for the transmission and distribution of wholesale electric energy.

Buckeye and ATSI are parties to a service agreement under the Midwest ISO ASM Tariff concerning Network Integration Transmission Service. The service agreement is designated as 1st Revised Service Agreement No. 337 for Network Service and Network Operations. It was filed with the Commission in Docket No. ER03-1411. Among other things, Service Agreement No. 337 contains rates, terms and conditions for Buckeye’s use of certain FirstEnergy distribution facilities to serve its wholesale loads. In light of ATSI’s integration into PJM, it is necessary to terminate and supersede Service Agreement No. 337 and replace it with arrangements Buckeye will make with PJM regarding Network Integration Transmission Service in conjunction with the Agreement.

The Agreement establishes the rates, terms and conditions for the interconnection and coordinated operation of the parties’ systems and for Buckeye’s use of certain FirstEnergy distribution facilities to enable it to serve its wholesale loads. It is important to note that the Agreement is structured to permit Buckeye to obtain service that is similar to the service that Buckeye currently takes, subject to minor implementing changes that reflect the move into PJM. Moreover, this filing will not increase the rates that Buckeye currently pays for its use of FirstEnergy distribution facilities to serve its wholesale loads. Further, the rates, terms and conditions of the Agreement are separate from the rates, terms and conditions of transmission service provided by PJM under the PJM OATT.

PJM is a signatory to the Agreement for the limited purpose of acknowledging that it has read the Agreement and to ensure that, as the regional transmission operator, PJM is apprised of the matters addressed in the Agreement for purposes of reliability and planning considerations. For the avoidance of doubt, under the Agreement, the terms “Party” and “Parties” shall not include PJM. The Agreement does not provide for the purchase, sale or exchange of transmission or ancillary services.

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4 Agreement at p. 1, Third Recital.
5 Id., First Recital.
III. Additional Information

A. Proposed Effective Date and Request for Order.

FirstEnergy requests an effective date of June 1, 2011 for the Agreement.

B. Communications

Please place the names of the following persons on the official service list established by the Secretary in this proceeding:

For FirstEnergy

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FirstEnergy requests waiver of 18 CFR § 385.2010(i) to the extent necessary to include more than two names on the official service list.
C. List of Documents Submitted With Filing

1. This filing letter;
2. Operating and Interconnection Agreement for Wholesale Load Original Service Agreement No. 2853 under the PJM OATT (Attachment A); and
3. Signature pages in pdf format (Attachment B)

D. Additional 35.13 Filing Requirements

Information Required Under 18 CFR § 35.13 and Requests for Waiver

Because, as demonstrated herein, this filing does not result in a rate increase, the filing requirements of 18 CFR §§ 35.13(b) and 35.13(c) apply.\(^8\)

18 CFR § 35.13(b) Requirements

1. A list of documents submitted with the filing: \(\text{See Section III.C.}\)

2. The date on which the utility proposes to make the rate filing effective: June 1, 2011.

3. The names and addresses of persons to whom a copy of this filing has been posted: Copies of this filing have been served electronically on Buckeye and regulators in Ohio and Pennsylvania. Also, a copy of this filing will be available on the FERC’s eLibrary website located at the following link: http://www.ferc.gov/docs-filing/elibrary.asp in accordance with the Commission’s regulations and Order No. 714.

4. A brief description of the rate change: \(\text{See Section II.}\)

5. A statement of the reasons for the rate change: \(\text{See Sections I and II.}\)

6. A showing that all requisite agreement to the rate change, or to the filing of the rate change, including any agreement required by contract, has in fact been obtained: No agreement to the rate change, or to the filing of the rate change, is required.

7. A statement showing any expenses or costs that have been alleged or judged in any administrative or judicial proceeding to be illegal, duplicative, or unnecessary costs that are demonstrably the product of discriminatory employment practices: No such expenses or costs exist.

\(^8\) \(\text{See 18 CFR § 35.13(a)(2)(iii).}\)
18 CFR § 35.13(c) Requirements

1. A table or statement comparing sales and services and revenues: This filing will not change the rates that Buckeye currently pays for its use of FirstEnergy distribution facilities to serve its wholesale loads. The rates under the Agreement are the same rates under the parties’ current Service Agreement No. 337.

2. A comparison of the rate change and the utility's other rates for similar wholesale for resale and transmission services: Not applicable.

3. If any specifically assignable facilities have been or will be installed or modified in order to supply service under the rate change, an appropriate map or sketch and single line diagram showing the additions or changes to be made: Not applicable. No assignable facilities have been or will be installed or modified in order to supply service under the rate change.

Finally, the information submitted with this filing substantially complies with the requirements of Part 35 of the Commission's rules and regulations applicable to filings of this type. FirstEnergy requests a waiver of any applicable requirement of Part 35 for which a waiver is not specifically requested, if necessary, in order to permit this filing to become effective as proposed.

Please contact the undersigned if you have any questions.

Respectfully submitted,

Kenneth G. Jaffe
Kenneth G. Jaffe
Richard P. Sparling
Alston & Bird, LLP
950 F Street, NW
Washington, DC 20004

Attorneys for FirstEnergy Service Company

Attachment A
Operating and Interconnection Agreement for Wholesale Load
Original Service Agreement No. 2853 under the PJM OATT
OPERATING AND INTERCONNECTION AGREEMENT FOR WHOLESALE LOAD

Between

BUCKEYE POWER INC.

And

FIRSTENERGY SERVICE COMPANY
Operating and Interconnection Agreement for Wholesale Load

This Agreement is entered into as of the 1st day of June, 2011 by and between Buckeye Power Inc. ("Customer") and the FirstEnergy Service Company (on behalf of American Transmission Systems, Incorporated (“ATSI”), The Cleveland Electric Illuminating Company (“CEI”), Ohio Edison Company (“OE”), Pennsylvania Power Company (“PP”), and The Toledo Edison Company (“TE”)) (together, “FirstEnergy”), being sometimes herein referred to collectively as the "Parties" or singularly as a "Party." The term “Customer,” when used in reference to Customer’s electric system or its facilities or equipment on Customer’s side of the Delivery Point (defined herein), shall be deemed to include in addition to Buckeye Power, Inc. the applicable member(s) of Buckeye Power, Inc. In consideration of the mutual covenants and agreements herein, it is agreed as follows:

WITNESSETH:

WHEREAS, ATSI, CEI, OE, PP, and TE are subsidiaries of FirstEnergy Corp. that own and operate certain electric facilities used for the transmission and distribution of wholesale electric energy;

WHEREAS, FirstEnergy is entering into this Agreement on behalf of ATSI, CEI, OE, PP, and TE. CEI, OE, PP, and TE are also referred to as the “FirstEnergy Operating Companies”;

WHEREAS, Customer is an entity that serves or acts on behalf of others in arranging for the wholesale transmission and distribution of electric energy utilizing facilities owned by ATSI and the FirstEnergy Operating Companies to serve Customer load;

WHEREAS, PJM Interconnection, L.L.C. ("PJM") is a Regional Transmission Organization ("RTO") offering transmission service to eligible customers;
WHEREAS, PJM is a signatory to this Agreement for the purpose of ensuring that PJM is kept fully apprised of the matters addressed herein and so that PJM may be kept aware of any reliability and planning issues that arise. This Agreement does not provide for the purchase, sale or exchange of transmission or ancillary services. Throughout this Agreement, PJM refers to PJM or any other RTO having operational control over the ATSI service territory of the FirstEnergy transmission system under substantially similar terms; and

WHEREAS, the Parties wish to terminate and supersede the existing agreement between them related to Network Integration Transmission Service in the Midwest Independent Transmission System Operator, Inc. territory, and establish the rates, terms, and conditions for the interconnection and coordinated operation of the Parties’ systems and for the Customer’s use of certain facilities to enable the Customer to serve its wholesale loads, which are separate from the rates, terms and conditions of transmission service provided by PJM under the PJM Open Access Transmission Tariff (“PJM Tariff”).

NOW, THEREFORE, in consideration of the premises and of the mutual covenants set forth herein, the Parties agree as follows:

ARTICLE 1: AGREEMENT OBJECTIVE AND APPLICABLE TARIFFS

1.1 Agreement Objective: The objective of this Agreement is to establish the rates, terms and conditions for the interconnection and coordinated operation of the Parties’ systems and for the Customer’s use of certain distribution facilities to enable the Customer to serve its wholesale loads.

1.2 Limitation of Scope: Nothing in this Agreement shall be deemed to impose on Customer any obligation or standard of care or performance with respect to facilities used
by Customer to serve its members other than those that are owned by Customer (or one or more of Customer’s members) and that are interconnected with FirstEnergy’s system in the ATSI service territory.

1.3 **Applicability of Tariffs:** During the term of this Agreement, as it may be amended from time to time, FirstEnergy agrees to provide Services for the Customer, and the Customer agrees to pay for such Services using the charges identified in Section 3.9 and Section 8.1 hereof, in accordance with this Agreement. The term “Services” means those services described herein which are subject to the jurisdiction of the Federal Energy Regulatory Commission ("FERC") but not provided by PJM under the PJM Tariff. In addition, the applicable provisions of the PJM Tariff, as such tariff shall at any time during the term of this Agreement be on file and accepted by FERC, including any applicable Schedules and Attachments appended to such tariff shall apply. FirstEnergy shall not provide any Services or levy any charges hereunder that are provided or charged by PJM under the PJM Tariff. FirstEnergy’s and the Customer’s rights and obligations with respect to Services are limited to the terms hereof.

1.4 **Governance Over Conflicts:** The terms and conditions of such Services provided by FirstEnergy shall be governed by this Agreement, or as hereafter amended. In the case of any conflict between this Agreement and the PJM Tariff, the PJM Tariff shall control.

1.5 **Good Utility Practice:** The term “Good Utility Practice” as used herein shall mean any of the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at
a reasonable cost consistent with good business practices, reliability, safety and expedition. “Good Utility Practice” is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be acceptable practices, methods or acts generally accepted in the region, including those practices required by Federal Power Act Section 215.

ARTICLE 2: DELIVERY POINTS

2.1 Location: The location of existing facilities connecting the Customer's power delivery facilities to the FirstEnergy power delivery facilities ("Delivery Points") are listed in Appendix 1. Unless the Parties shall subsequently agree otherwise, the existing Delivery Points listed in Appendix 1 shall be continued in service. FirstEnergy and the Customer, to the extent practicable, shall each maintain, in accordance with Good Utility Practice, the facilities on their respective sides of such points, and future points of delivery as may be established from time to time in accordance with Article 3 and Article 5, in order that said facilities will operate in a reliable and satisfactory manner, and without material reduction in their intended capacity or purpose. Delivery Points shall be used only for the delivery of electric power and energy to the Customer, and shall not be used to inject electric power or energy into the FirstEnergy system from electric generating facilities owned by the Customer, a municipal utility, a rural co-operative, or a third party unless the Customer has studied, planned, and coordinated the interconnection of the generation facility (i) with FirstEnergy prior to June 1, 2011, or (ii) with FirstEnergy after June 1, 2011 pursuant to the Application process set forth in Article 5, if required pursuant to subpart (b) of Section 5.2, or (iii) at any time, through the PJM Tariff generator
interconnection process. The Customer and FirstEnergy shall endeavor to operate their respective facilities in continuous synchronism through such Delivery Points as shall from time to time be established by mutual agreement between the Parties. The Parties may, from time to time by mutual agreement, add one or more additional Delivery Points or discontinue or modify one or more existing Delivery Points pursuant to the procedures set forth in Article 5 and shall amend Appendix 1 of this Agreement, including any one-line diagrams set forth therein, to reflect the same. The Parties shall cooperate and exercise their best efforts to amend this Agreement by including one-line diagrams of existing Delivery Points in a new appendix to be filed with FERC by December 1, 2011.

**ARTICLE 3: OPERATION AND MAINTENANCE**

**3.1 General:** Customer must design, construct, maintain, and operate its system facilities safely and efficiently in accordance with Good Utility Practice; applicable national, state, and local codes, standards, and regulations, including those promulgated by NERC, Reliability First Corporation, and PJM or successor organizations; applicable manufacturer's equipment specifications; and the most current requirements specified by FirstEnergy and applicable to the Services, including but not limited to those set forth by FirstEnergy in the document entitled “Requirements for Transmission Connected Facilities” as it may be revised from time to time (“FirstEnergy Document”) and posted on its web site. FirstEnergy shall provide Customer with notice pursuant to Section 15.1 of any changes to the FirstEnergy Document as changes are made from time to time. FirstEnergy shall comply with Good Utility Practice; all applicable national, state, and local codes, standards, and regulations, including those promulgated by NERC,
ReliabilityFirst Corporation, and PJM or successor organizations; applicable manufacturer’s equipment specifications; and the most current requirements specified by FirstEnergy and applicable to the Services, including but not limited to those set forth in the FirstEnergy Document. FirstEnergy shall have the right to waive Customer’s compliance with the technical requirements provided in the FirstEnergy Document. In the event of a conflict between the provisions of this Agreement and the FirstEnergy Document, the provisions of this Agreement shall govern.

3.2 **Electric Service Characteristics:** Electric service, in the form of three phase, approximately sixty-hertz alternating current, shall be delivered at the designated Delivery Points and nominal voltage(s) listed in Appendix 1.

3.2.1 **Multiple Delivery Points:** When multiple Delivery Points are provided to a specific location identified in Appendix 1, they shall not be operated in parallel by the Customer without the approval of FirstEnergy, which approval shall not be unreasonably withheld; provided that any such approval may be revoked if in FirstEnergy’s discretion such action is necessary to maintain or retain safe and reliable operation of the electric system or any of FirstEnergy’s facilities. The Operating Committee, as provided under Article 9, shall establish and monitor standards and operating rules and procedures to assure that system integrity and the safety of customers, the public and employees are maintained or enhanced when parallel operation is permitted either on a continuing basis or for intermittent switching or other service needs. Each Party shall exercise due diligence and reasonable care in maintaining and operating its facilities so as to maintain continuity of service.
3.2.2 **Avoidance of Burdens and Control of System Disturbance:** The Parties shall maintain and operate their respective systems so as to minimize, in accordance with Good Utility Practice, the likelihood of a disturbance originating in either system which might cause impairment to the service of the other Party or of any system interconnected with the system of the other Party. For planning purposes, the Customer shall not transfer loads from one Delivery Point to another without FirstEnergy’s approval, which timely approval shall not be unreasonably withheld. For normal operational purposes, the Parties shall coordinate transfers of load from one Delivery Point to another Delivery Point, and the Customer shall not transfer loads from one Delivery Point to another without FirstEnergy’s approval, which timely approval shall not be unreasonably withheld. The Parties shall make any additional arrangements with respect to load transfers through the Operating Committee, as provided under Article 9.

3.3 **Impairment:** If the function of either Party's facilities is impaired or the capacity of any Delivery Point is reduced, or synchronous operation at any Delivery Point(s) becomes interrupted, either manually or automatically, as a result of *force majeure* (as such term *force majeure* is described in the Amended and Restated Operating Agreement of PJM Interconnection, LLC) or maintenance coordinated by the Parties, the Parties will cooperate to remove the cause of such impairment, interruption or reduction, so as to restore normal operating conditions as expeditiously as practicable under Good Utility Practice and the circumstances.

3.4 **Emergencies:** Each Party reserves the right to take any action deemed necessary by PJM or itself during an actual or imminent emergency to preserve the reliability and integrity
of the interconnected systems of FirstEnergy and Customer, limit or prevent damage, expedite restoration of service, ensure safe and reliable operation, avoid adverse effects on the quality of service, or preserve public safety.

3.4.1 **Emergency Curtailment:** In an emergency, the reasonable judgment of FirstEnergy, in accordance with Good Utility Practice, shall be the determinant of whether the operation of the Customer loads or equipment adversely affects the quality of service or interferes with the safe and reliable operation of the FirstEnergy system. FirstEnergy may discontinue Service to such Customer until the power quality or interfering condition has been corrected; provided that, to the extent practicable, FirstEnergy will provide reasonable notice to Customer. To the extent practicable under Good Utility Practice and in FirstEnergy’s sole discretion, FirstEnergy will provide Customer with an opportunity to alleviate the condition to avoid the discontinuation of Service in an emergency. Any such curtailment of load, redispatching, or load shedding shall be effectuated on a nondiscriminatory basis and in accordance with PJM manuals.

3.5 **Curtailment:** In non-emergencies, FirstEnergy may curtail Service under this Agreement to limit or prevent damage to its generating, transmission, or distribution facilities caused by the Customer's failure to maintain its facilities as directed by PJM or in accordance with Good Utility Practice; provided that, to the extent practicable, FirstEnergy will provide reasonable notice to Customer and an opportunity for Customer to remedy the adverse condition in accordance with Section 3.9. Any such curtailment of load, redispatching, or load shedding shall be effectuated on a non-discriminatory basis and in accordance with PJM manuals.
3.6 **Procedures:** The Operating Committee shall establish procedures to coordinate the maintenance schedules, and return to service of the generating resources, transmission and distribution facilities, to the greatest extent practicable, to ensure sufficient transmission and distribution resources are available to maintain system reliability and reliability of service to the integrated facilities of FirstEnergy and Customer in accordance with FirstEnergy procedures.

3.6.1 **Scheduled Maintenance and Outages:** Each Party may, in accordance with Good Utility Practice, remove from service its facilities that may affect the other Party’s system in order to perform maintenance or to install or replace equipment on such facilities. The Party proposing to remove such facilities from service shall provide prior notice of such activities to the other Party in accordance with FirstEnergy procedures. The Party scheduling a facility outage shall coordinate its actions with the other Party with the goal of avoiding any disruptions of service on the system of either Party.

3.7 **Control of Reactive Power Exchange:** No Party shall be obligated to deliver or receive reactive power for the benefit of any other Party under this Agreement. The Parties will maintain voltage and load power factor requirements at the Delivery Points in accordance with the latest version of the FirstEnergy Document and/or the PJM Tariff.

3.8 **Control of Energy:** Any deviations between actual and planned deliveries of power and energy between the systems of the respective Parties to serve their load will be managed and settled pursuant to the PJM Tariff and the PJM business practices.

3.9 **Failure to Perform:** With respect to non-emergencies, in the event a Party fails to adhere to the provisions of this Article 3, the other Party will provide reasonable notice
and an opportunity for the failing Party to remedy any adverse condition(s) on the notifying Party’s system that are caused by the Party’s failure to adhere to the provisions of this Article 3. Such notice shall be provided in writing, and shall provide at least 180 days for the Parties to develop a mutually agreeable plan to cure the adverse condition(s). If the Parties fail to develop a mutually agreeable plan to cure the adverse condition(s), or if the failing Party does not comply with the plan or meet the timelines included in the plan, the Parties shall first comply with the dispute resolution procedures under Article 11. If a plan for curing the adverse condition(s) is not developed, or compliance with the plan or meeting the timelines included in the plan is not achieved as part of the dispute resolution process under Article 11, the noticing Party may take remedial action on its system as is reasonable and consistent with Good Utility Practice under the circumstances. Such remedial actions may include the installation of facilities on the notifying Party’s system, at the other Party’s expense, to remedy the adverse condition(s) on the notifying Party’s system. Such remedial actions shall not include the curtailment of service unless the adverse condition(s) is likely to cause physical damage to the notifying Party’s generating, transmission, or distribution facilities. Incurred charges for facilities planned for or installed pursuant to the immediately preceding sentence shall be limited to the planning or installing Party’s actual costs and may include actual direct and indirect labor and non-labor costs to the extent such costs are properly allocable to the planning or installation of the subject facilities.

ARTICLE 4: PLANNING AND PROTECTION
4.1 **Planning Data:** No later than December 15 of each year, the Customer shall provide FirstEnergy with: (i) copies of documents provided by Customer to PJM on an annual basis in accordance with provisions of the PJM Tariff that require Customer to submit a ten (10) year forecast of load for each existing and planned new Delivery Point, and a ten (10) year projection of planned generating resources and committed transactions with third parties, insofar as such information pertains to the Customer's existing and planned Delivery Points located or to be located in ATSI's service territory; and (ii) a projection for each of the next ten (10) years of transmission and distribution facility additions to be owned and/or constructed by the Customer, which facilities are expected to affect the planning or operation of the transmission and distribution system within ATSI’s territory. Notwithstanding the foregoing, Customer shall not be required to provide FirstEnergy with information that Customer in good faith deems to be proprietary or commercially sensitive.

4.2 **Planning Data Communication:** The information in Section 4.1 shall be forwarded to FirstEnergy's representative on the Operating Committee, with a copy to FirstEnergy's representative identified under Article 15.

4.2.1 **Disclosure:** Information exchanged by the Parties under this Section will be used for system planning and protection only, and will not be disclosed (i) to third parties, absent mutual consent or order of a court or regulatory agency, or (ii) within FirstEnergy or by FirstEnergy to one or more of its affiliates, except as permitted by FERC’s Standards of Conduct.

4.3 **Coordination:** The Parties shall coordinate with each other regarding the technical and engineering arrangements for the Delivery Points, including one-line diagrams depicting
the electrical facilities configuration and parallel generation, and shall arrange the facilities to avoid interruptions on either Party’s system.

**ARTICLE 5: NEW DELIVERY POINTS AND MODIFICATIONS TO EXISTING DELIVERY POINTS**

5.1 **General:** Unless otherwise agreed upon, the procedures outlined in this Article 5 shall be followed for new Delivery Points; upgrades, retirements, replacements, relocations for existing Delivery Points; or additions, retirements, or modifications to behind-the-meter generation. Prior to submitting an application for any facility under this Article 5 (“Application”), the Customer should discuss the proposed Delivery Point project with FirstEnergy to determine the need for an ILS and/or DLS as those terms are defined below as soon as practicable.

5.2 **Application:** Should it become necessary or desirable by the Customer to (a) upgrade, retire, replace, or relocate an existing Delivery Point, or establish a new Delivery Point, including metering or other facilities at such location; (b) add, retire, or modify behind-the-meter generation that results in Penetration of generation capacity at each Delivery Point in excess of 15%; (c) for Delivery Points less than 69 kV, add 1 MW or more over any 12-month period above the most recent load forecast provided in Section 4.1; (d) for Delivery Points 69 kV and above but less than 138 kV, add 2 MW or more over any 12-month period above the most recent load forecasts provided in Section 4.1; or (e) for Delivery Points 138 kV and above, add 5 MW or more over any 12-month period above the most recent load forecasts provided in Section 4.1, the Customer shall make Application requests in writing to FirstEnergy using the then-effective Application forms made available by contacting FirstEnergy’s representative under Article 15. With regard
to subpart (b), Penetration is defined as the total aggregate generation nameplate capacity from all sources, divided by the peak load at the Delivery Point, expressed as a percentage. Following an initial Application under this subpart (b), subsequent Applications shall be submitted each time the Penetration is increased by 2.5%. For example, an Application shall be submitted when the Penetration reaches 17.5%, and another shall be submitted when the Penetration reaches 20%. The requirement to submit an Application pursuant to this Section 5.2 shall not apply in situations in which load is temporarily transferred from one Delivery Point to another Delivery Point with FirstEnergy’s approval.

5.2.1 **Response to Application:** Upon receipt of an Application, FirstEnergy shall review the information and advise the Customer within five (5) business days that the Application is complete, or if additional information is needed to make the Application complete. FirstEnergy will attempt to remedy minor deficiencies in the Application through informal communications with the Customer. If FirstEnergy does not receive the required additional information to complete the Application within fifteen (15) business days, the application will be deemed withdrawn. As soon as practicable within thirty (30) calendar days after receipt of a completed Application, FirstEnergy will inform the Customer of the need for an ILS, and/or DLS as those terms are defined below, and provide the Customer with the appropriate agreement.

5.2.2 **Application Modifications:** If at any point in the process outlined in this Section 5.2 the Customer is considering modifying the information provided in the Application, any supporting information or the study scope, the Customer may
first request that FirstEnergy evaluate whether such modification(s) will be treated as constituting a “Material Modification.” For purposes of this Section 5.2.2, a “Material Modification” shall be any change to an Application that FirstEnergy reasonably determines will materially increase the cost or the length of time required to complete an ILS and/or DLS for any facilities needed to accommodate the project that is the subject of the Application, and may (depending on the specific relevant circumstances) include such changes as an increase in MW capacity, a change in electrical location of the proposed Delivery Point, a change in the study scope, or a delay in the in-service date of the proposed Delivery Point by three (3) or more years. In response to the Customer’s request and at the Customer’s cost, FirstEnergy shall evaluate the proposed modification(s) prior to making them and shall inform the Customer in writing whether FirstEnergy will treat the modification as a Material Modification. If the modification(s) is not treated as a Material Modification, FirstEnergy shall continue to meet all requirements set forth in Section 5.2.1 with respect to the original Application, as modified. If the modification(s) is treated as a Material Modification, FirstEnergy may, at its option, treat the original Application as void and consider the Application, as modified, a new Application, or FirstEnergy may continue to process the Application, as modified, in accordance with the requirements of this Section 5.2. The Customer may withdraw its Application at any time and without cost provided that the Customer withdraws the Application prior to the Customer’s execution of an ILSA and/or DLSA (described below).
5.3 **Initial Load Study (“ILS”):** Should an ILS be required due to the complexity in evaluating the Customer’s Application caused by preceding projects, the Customer’s system configuration, or FirstEnergy’s system configuration in the vicinity of the Delivery Point, FirstEnergy shall provide the Customer with an ILS Agreement (“ILSA”). If an ILS is not required due to the lack of complexity in evaluating the Customer’s Application, then only a DLS shall be required. The ILSA shall include the scope of work and payment terms to complete the ILS. The Customer shall execute and deliver an executed ILSA within thirty (30) calendar days following receipt of the ILSA form. Upon receipt of the executed study agreement, FirstEnergy shall carry out the ILS. In the ILS, FirstEnergy shall assess the feasibility of modifying an existing Delivery Point or establishing the new Delivery Point, or assessing system impacts caused by changes to behind-the-meter generation. The study shall use power flow and short circuit analyses and any other analyses that may be appropriate to identify the facilities necessary to physically and electrically connect the Delivery Point, identify technical limitations, identify feasible mitigation alternatives, and provide a high level cost estimate to engineer and construct the Delivery Point. If the Customer fails to return an executed ILSA within thirty (30) calendar days of receipt, or at a later date as the Parties mutually agree, FirstEnergy will deem the study request to be withdrawn. The Customer may withdraw its study request at any time by written notice of such withdrawal to FirstEnergy. FirstEnergy shall issue a report to the Customer within sixty (60) calendar days of the receipt of an executed ILSA, or at a later date as the Parties may mutually agree. If FirstEnergy is unable to complete such study in the allotted time, FirstEnergy shall provide an explanation to the Customer regarding the cause(s) of such delay and a
revised completion date reflecting the exercise of diligence by FirstEnergy and a revised study cost estimate. Upon completion of the ILS, the Customer shall reimburse FirstEnergy for the cost of the ILS.

5.4 **Detailed Load Study (“DLS”):** Following the completion of the ILS, if needed, and Customer’s expressed desire to proceed with the project in writing within thirty (30) calendar days of receiving the ILS, FirstEnergy shall provide the Customer a DLS Agreement (“DLSA”) within thirty (30) calendar days of receiving the Customer’s notification. The DLSA shall provide scope of work and the payment terms for the actual cost of the DLS. The Customer shall deliver an executed DLSA to FirstEnergy within thirty (30) calendar days following its receipt, together with required technical data. The DLS shall determine the details and estimated cost of FirstEnergy facilities necessary for establishing or modifying a Delivery Point, and any FirstEnergy system additions/upgrades and Customer additions/upgrades needed. FirstEnergy shall complete the study and issue a DLS report to the Customer within sixty (60) calendar days after receipt of an executed DLSA and necessary data, or at a later date as the Parties may mutually agree. If the Customer fails to return an executed DLSA within thirty (30) calendar days of receipt or at a later date as the Parties mutually agree, FirstEnergy will deem the study request to be withdrawn. The Customer may withdraw its study request at any time by written notice of such withdrawal to FirstEnergy. If FirstEnergy is unable to complete such study in the allotted time, FirstEnergy shall provide an explanation to the Customer regarding the cause(s) of such delay and a revised completion date reflecting the exercise of diligence by FirstEnergy and a revised study cost estimate.
Upon completion of the DLS, the Customer shall reimburse FirstEnergy for the cost of the DLS.

5.5 Modifications to Study Request: During the course of an ILS or DLS, either the Customer or FirstEnergy may identify desirable changes in the planned facilities that may lower the costs and/or increase the benefits (including reliability) of the planned facilities. Changes proposed by FirstEnergy or Customer must be accepted by the other Party; provided, however, that (i) such acceptance may not be unreasonably withheld, and (ii) changes which are intended to lower the costs and/or increase the benefits (including reliability) of the planned facilities will not be considered modifications that would void the Application. If the revised plan and study schedule are acceptable to both FirstEnergy and the Customer, FirstEnergy will proceed with any necessary restudy. The costs of any additional studies resulting from a modification proposed by FirstEnergy or Customer shall be borne by the Party that proposed the modification.

5.6 Construction: The Customer shall notify FirstEnergy, in writing, of its intent to proceed with the construction of the proposed facilities identified in the DLS within sixty (60) calendar days of receiving the DLS, or another mutually agreed upon date. Should Customer elect to proceed with construction, FirstEnergy shall provide the Customer with a Construction Service Agreement (“CSA”) specifying the terms and conditions of construction within thirty (30) calendar days after receipt of the Customer’s written notice.

5.6.1 Response to CSA: Within sixty (60) calendar days of receipt thereof, the Customer shall either execute and return the CSA to FirstEnergy for filing with FERC or, alternatively, shall request dispute resolution under Article 11 or
request that the CSA be filed unexecuted with FERC. FirstEnergy shall file the CSA, in executed or unexecuted form, as applicable, with FERC within ten (10) calendar days following receipt of the executed CSA from Customer or Customer’s request that the CSA be filed unexecuted.

5.6.2 **Deferral of Construction:** In the event that the Customer has requested dispute resolution under Article 11 or that the CSA be filed with FERC unexecuted, and unless otherwise agreed by the Customer and FirstEnergy, FirstEnergy shall defer the initiation of design, procurement and construction of any facilities subject to the CSA until all pending disputes are resolved.

5.6.3 **Withdrawal of Application Through Customer’s Failure to Act:** If the Customer does not notify FirstEnergy of its intent to proceed with the construction of the facilities within the time period provided in Section 5.6.1, unless otherwise agreed to by the Parties, FirstEnergy may, at its option, elect to have the Application treated as having been withdrawn. In that event, any and all costs incurred by FirstEnergy in connection with the ILS and/or DLS for such Application shall be reimbursed by Customer to FirstEnergy to the extent not already paid by the Customer. Unless otherwise agreed by the Parties, the Customer shall not be responsible for any design, procurement, or construction costs incurred by FirstEnergy unless the Customer has executed a CSA.

5.6.4 **Withdrawal of Application Through FirstEnergy’s Failure to Act:** If FirstEnergy does not file the CSA with FERC in executed or unexecuted form within the time period set forth in Section 5.6.1, unless otherwise agreed to by the Parties, Customer may, at its option, elect to have the Application treated as
having been withdrawn. In that event, any and all costs incurred by Customer in connection with such Application shall be reimbursed by FirstEnergy to Customer.

5.7 **Responsibility for Delivery Point Costs:** The purpose of this Section 5.7 is to provide guiding principles regarding cost responsibility for services provided under a CSA under this Article 5.

5.7.1 **In-Line Facilities:** Except as provided by subsection 5.7.3 below, switches, conductors and associated equipment, including support structures for such facilities, that are operated in-line with the FirstEnergy system and are necessary to establish, support, or expand a Delivery Point under this Agreement shall be provided, owned, operated and maintained by FirstEnergy. In-line facilities are those facilities that provide network benefits to the FirstEnergy system and that are located on FirstEnergy’s side of the Delivery Point. The costs associated with such in-line and associated facilities will be “rolled-in” to FirstEnergy’s rates for wholesale service taken over transmission or distribution facilities and will not be directly assigned to Customer.

5.7.2 **In-Line Facility Design:** All in-line Delivery Point facilities to be rolled into FirstEnergy rates shall be designed and installed in accordance with the then applicable FirstEnergy standards applicable to FirstEnergy and its affiliates, and to FirstEnergy’s non-affiliate customers, including those set forth in the FirstEnergy Document. If the Customer requests in-line facilities different from those required by the FirstEnergy system standards, the Customer will be required to pay the incremental installed cost, if any, of those facilities above the cost of
the facilities that would have been required by the FirstEnergy system standards, including taxes applicable on contributions-in-aid of construction (“CIAC”). All in-line facilities shall provide at least the capacity and system protective capabilities of those required by the FirstEnergy system standards.

5.7.3 **Two-Way Supply:** When FirstEnergy system standards, including those set forth in the FirstEnergy Document, require the FirstEnergy system to loop through the Customer’s substation (two-way supply), all substation equipment that is part of the networked FirstEnergy system, including buss work, switches/breakers and other facilities located in the Customer’s substation shall be constructed and owned by the Customer in accordance with the FirstEnergy system standards, and the cost thereof shall be the Customer’s responsibility, unless such equipment provides network benefits to the FirstEnergy system, in which case the equipment will be owned by FirstEnergy and the cost thereof shall be FirstEnergy’s responsibility. FirstEnergy shall retain operational control, and any access required for such operation, of such facilities and, unless otherwise agreed, the Customer shall, in coordination with FirstEnergy, maintain the buss work, switching/breakers and other facilities that are part of the networked FirstEnergy system and located in the Customer’s substation, in accordance with the FirstEnergy system standards and practices, and the cost thereof shall be the Customer’s responsibility, unless the equipment provides network benefits to the FirstEnergy system, in which case the cost thereof shall be FirstEnergy’s responsibility.
5.7.4 **Load-Side Facilities:** Unless otherwise agreed, all tap lines and distribution substations and other facilities on the Customer's side of the Delivery Point (other than metering), not located in-line with the FirstEnergy system, shall be provided, owned, operated and maintained by the Customer, and the cost thereof shall be the responsibility of the Customer.

5.7.5 **Single-Owner Design Basis:** The location and design of the new Customer Delivery Point(s) shall be determined based upon a hypothetical single owner concept, i.e. as if the FirstEnergy system and the applicable Customer's facilities were all owned by either FirstEnergy or the Customer, but not both. Accordingly, the "single owner" solution shall be based upon the lowest aggregate construction cost to the Customer and FirstEnergy collectively, without regard to cost allocation principles set forth in this Section 5.7, but consistent with the FirstEnergy system standards and Good Utility Practice. FirstEnergy and the Customer shall mutually agree upon the location and design of new Customer Delivery Points consistent with the single owner concept.

5.7.6 **System Upgrades:** System upgrades on the FirstEnergy system necessary as a result of a Customer Delivery Point request shall be constructed, owned, operated and maintained by FirstEnergy, and the cost thereof shall be rolled into FirstEnergy’s wholesale transmission or distribution rates, and shall not be directly assigned to the Customer. System upgrades on the Customer’s system necessary as a result of FirstEnergy system upgrades shall be constructed, owned, operated and maintained by the Customer at the Customer’s cost. If service to an existing Delivery Point would be affected or discontinued by virtue of the
retirement, removal, or relocation of a FirstEnergy line, FirstEnergy will work with the Customer to provide comparable service based on the single-owner design basis set forth in Section 5.7.5, using reasonable efforts to provide similar service at a new or modified Delivery Point.

5.7.7 **Sunk Cost Recovery:** Customer shall reimburse FirstEnergy for costs incurred in planning or constructing facilities at Customer's request if Customer fails to take the service requested after execution by the Customer of the CSA. In such a case, Customer will reimburse FirstEnergy to the extent that FirstEnergy incurs the cost of construction and (a) Customer fails to construct a substation or other necessary and agreed upon facilities on the Customer side of the Delivery Point, or otherwise fails to perform under the applicable CSA, or (b) notwithstanding Customer's or Customer's member's full performance under the applicable CSA, all or substantially all of any proposed new or additional load greater than 5 MW of a single retail customer for which the Delivery Point was specifically requested, fails to be added, such that the requested new or expanded Delivery Point is no longer required (Sunk Costs). FirstEnergy shall have the right to require financial security (letter of credit or other liquid security) from Customer to support Customer's payment obligations under this paragraph if and to the extent that FirstEnergy determines the at-risk cost to exceed Customer's level of unencumbered credit under FirstEnergy’s normal credit review procedures and standards.

5.7.8 **Generator Interconnections:** The costs of facilities necessary to interconnect, and the application, agreement, process and other requirements for the
interconnection of the Customer’s generation or the generation of a third-party connected to the Customer’s system to FirstEnergy facilities is beyond the scope of this Agreement and shall be addressed in accordance with the rules applicable to generator interconnections.

ARTICLE 6: METERING

6.1 Measurement of Load at Each Delivery Point: Electric power and energy delivered under this Agreement shall be measured by suitable metering equipment as described below. All metering quantities shall be measured at the Delivery Point and metering accuracy shall meet the required ANSI and PJM standards. The location of the meter shall be called the Metering Point. Based upon mutual agreement between the Parties, the Metering Point can be at a location different from the Delivery Point, such as at a location on the low voltage side of a substation voltage step-down transformer, in which event metered values shall be adjusted to the Delivery Point using mutually acceptable compensation factors. The Parties may use metering configurations that require the use of compensation factors unless it shall be commercially unreasonable to do so; provided that nothing herein shall be intended to require modification of existing metering configurations that are based on the use of compensation factors. The Customer's load, kW, kWh and kVar at each Delivery Point shall be measured on an integrated hourly basis, by revenue grade metering equipment. The metering equipment and all measurements by such equipment shall be as needed for all settlement purposes under this Agreement, the PJM Tariff, and in accordance with FirstEnergy’s then effective standards and practices. Peak load measurements at a Delivery Point shall be adjusted to eliminate
the incremental effects of any load transfers to such Delivery Point from another Delivery Point resulting from supply outages or planned maintenance by FirstEnergy affecting the other Delivery Point, or planned maintenance of the Customer’s system conducted with FirstEnergy’s consent affecting the other Delivery Point. At points where power may flow to and from the Customer, separate measurements shall be obtained for each direction of flow. Any necessary metered data shall be made available with such frequency and at such times as may be reasonably required by the Customer, FirstEnergy or PJM in suitable electronic format.

6.2 **Metering Equipment:** FirstEnergy shall own, operate and maintain the revenue metering equipment as provided in the FirstEnergy Document or required by PJM related to each Delivery Point. The costs associated with such metering equipment, including meter operation and maintenance, and meter reading and billing, shall be recovered from the Customer through the Customer Charges provided under Section 8.1 or FirstEnergy transmission rates approved by FERC. Costs associated with additional metering or telecommunication equipment requested by the Customer shall be paid by the Customer.

6.3 **Real Time Data:** If FirstEnergy, Customer, or PJM requires real-time load or facility status information from any Delivery Point, the Parties shall cooperate, to the extent necessary, in order that such monitoring and telecommunications equipment, as shall be needed for such purpose may be installed and maintained during normal business hours common to FirstEnergy and Customer.

6.4 **Data Communications:** At the request of Customer, FirstEnergy will cooperate with Customer on the installation of any additional communication equipment to allow for connection of the metering to the Customer's real time SCADA system equipment or
other monitoring equipment, provided that such equipment connections and communications can be accomplished in a manner that does not interfere with the operation of FirstEnergy equipment or fulfillment of any statutory or contractual obligation. If the potential for such interference exists, FirstEnergy will work with the Customer, through reasonable measures, to resolve such metering and/or communications issues. FirstEnergy will make reasonable efforts to send Customer meter data at the Customer’s request in the event of a communication failure and provided FirstEnergy is in possession of the data at the time of the request.

6.5 **Meter Security:** All meters and test switches, whether provided by FirstEnergy or Customer, shall be sealed and the seals shall be broken only when the meters are to be tested, adjusted, repaired or replaced. The other Party shall be provided as much advance notice as is practicable in the circumstances when the facilities of that Party are to be entered or the seals of any meter are to be broken, and such Party shall be afforded the opportunity to be present during such test, adjustment, repair, or replacement.

6.6 **Meter Testing:** FirstEnergy shall test the metering equipment at suitable intervals and its accuracy of registration shall be maintained in accordance with Good Utility Practice. At the request of the Customer, a special test shall be made, but if less than two percent inaccuracy is found, the requesting party shall pay for the test. Representatives of the Parties may be present at all routine or special tests and whenever any readings for purposes of settlement are taken from meters not having an automatic record. If any test of metering equipment discloses an inaccuracy exceeding two percent, the accounts of the Parties shall be adjusted for the period, not exceeding nine (9) months, during which such
inaccuracy is estimated to have existed. Should any metering equipment fail to register, the amounts of energy delivered shall be estimated from the best available data.

ARTICLE 7: RTO OBLIGATIONS

7.1 **General:** Each Load Serving Entity ("LSE"), as that term is defined under the PJM Tariff and used by PJM, is responsible for complying with all RTO requirements. Unless otherwise agreed, FirstEnergy shall have only such responsibilities to assist Customer in meeting its obligations to the RTO, as shall be required pursuant to the PJM Tariff and this Agreement. FirstEnergy shall cooperate with PJM and Customer (or Customer-designated Scheduling Agent) to the extent necessary and appropriate to ensure that data is available to PJM for Customer's hourly energy assignment, and peak load contributions for use in calculating transmission charges and generation capacity obligations as discussed below. Hourly energy obligations, peak load contribution and network service peak load values as described further in this Article 7 will be derived using methods referenced in Attachment M to the PJM Tariff. FirstEnergy will also provide Customer the information provided to PJM annually under Sections 7.2 and 7.3.

7.2 **Network Service Peak Load ("NSPL"):** In December of each calendar year, FirstEnergy shall provide to PJM the zonal coincident peak ("1CP" or "NSPL") of each LSE within the FirstEnergy pricing zone in the hour of the FirstEnergy/ATSI peak load for the twelve (12) consecutive months ending on October 31 of the year prior to the calendar year during which the NSPL will be used. The network service peak load ratio share shall be used by PJM as the transmission service billing
determinant for transmission service charges and annual FTR allocations. If the basis of NSPL and FTR allocation determinations is changed by PJM, FirstEnergy shall cooperate with PJM and the Customer to the extent necessary and appropriate to make available such data as is needed. In order to verify the data, FirstEnergy shall provide the data to the Customer prior to the annual submission to PJM, and Customer and FirstEnergy shall work in good faith to resolve any disagreement about the data (with any unresolved dispute being subject to dispute resolution under Article 11).

7.3 **Peak Load Contribution (“PLC”):** FirstEnergy shall provide to PJM the PLC of each LSE in the FirstEnergy pricing zone on a forecasted annual and on a day-ahead basis for the purpose of calculating the LSE’s capacity obligation to serve its load. Each year PJM will inform FirstEnergy of the day and hour of the five highest PJM unrestricted daily peaks (“5CP”) for the period described in the PJM Tariff. FirstEnergy will then determine each LSE's contribution to the 5CP loads of the FirstEnergy control zone. This load ratio will be applied to the forecasted FirstEnergy control zone load, adjusted for weather normalization and forecasted load growth, to determine each LSE's peak load contribution. PJM will utilize this information in the development of each LSE's capacity obligation. In order to verify the data, FirstEnergy shall provide the PLC information to the Customer prior to submission to PJM, and Customer and FirstEnergy shall work in good faith to resolve any disagreement about the data (with any unresolved dispute being subject to dispute resolution under Article 11). If the basis used by PJM for PLC and relative determinations of Customer load obligations is changed by PJM,
FirstEnergy shall cooperate with PJM and the Customer to the extent necessary and appropriate to make available such data as is needed.

7.4 Hourly Energy Requirements: FirstEnergy will also provide to PJM each working day, via PJM's eSchedule system, the initial hourly energy assignment (load plus losses) for each LSE in the FirstEnergy zone. The data will be provided per PJM protocols and timelines which subsequently will also be available for the Customer to view through PJM web-based applications. PJM will use this data to calculate each LSE's obligation for each hour for the next day. Unless PJM has recognized a transfer of load obligation from or to the Customer (LSE) to or from another Customer (LSE), the obligation will not change daily. Within two months of the end of each settlement month, FirstEnergy shall validate the LSE's hourly load and submit the changes via the eSchedule system, as appropriate, for PJM to resettle the respective LSE's account. If the basis used by PJM to receive hourly energy assignments for the LSE, or to calculate each LSE's obligation for each hour for the next day, is changed by PJM, FirstEnergy shall cooperate with PJM and the Customer to the extent necessary and appropriate to make available such data as needed. The Customer may submit hourly load data to FirstEnergy to replace estimated load data determined by FirstEnergy, and FirstEnergy shall use the Customer’s data when practicable.

7.5 Behind the Meter Generation: FirstEnergy shall cooperate with PJM and the Customer to ensure that PJM receives generator output meter information it requires for the following two categories of behind-the-meter generators operating within the combined service territories of the FirstEnergy operating companies.
7.5.1 **Generators that do not participate in the PJM Markets:** The generating party shall comply with the PJM generator data requirements for generators that do not participate in the PJM Markets.

7.5.2 **Generators that do participate in the PJM Markets:** The generating party shall comply with the PJM interconnected generator data requirements for the generators that participate in the PJM Markets.

7.6 **LMP Node/Zone Aggregator:** LSEs in PJM may choose to have PJM use the zonal average load weighted LMP used as the basis for energy delivery pricing or request a specific load bus aggregate prior to the annual FTR allocation processes. It is the responsibility of the LSE to contact PJM in a timely manner if a specific load aggregation is desired. PJM may in turn request FirstEnergy to work with the LSE to determine the appropriate configuration of the load bus aggregate. FirstEnergy will cooperate with Customer in order to derive an LMP load bus aggregate, using existing transmission planning case studies to determine the percent of the load at each load bus that is served by the LSE. If FirstEnergy determines that existing studies are not sufficient and additional study development is needed to satisfy the Customer's request, the Customer may be asked to execute a study agreement and reimburse FirstEnergy for the study-related costs. The LSE may provide such data to PJM and, based on results from PJM, the LSE will choose whether to utilize the aggregate or the FirstEnergy zonal weighted average LMP price.

**ARTICLE 8: COMPENSATION**
8.1 **Compensation for Wholesale Service:** The Customer shall pay FirstEnergy only the rates and charges specified in this Section 8.1, and accepted or approved by FERC, and for charges pursuant to Section 3.9 as compensation for Services provided by FirstEnergy to the Customer pursuant to this Agreement.

8.1.1 **Wholesale Distribution Rates:** The Customer shall pay wholesale distribution charges using the rates for Services taken over distribution facilities as specified in Appendix 1.

8.1.2 **Customer Charge:** The Customer shall pay the following monthly Customer Charges for each Delivery Point, as applicable.

8.1.2.1 For Delivery Points at 69 kV and above: No charge.

8.1.2.2 For Delivery Points below 69 kV and at 23 kV or above:

$116.47/Delivery Point per month.

8.1.2.3 For Delivery Points below 23 kV: $51.69/Delivery Point per month

8.2 **Losses:** The Customer's load shall be adjusted for settlement purposes under Section 8.1.1 for wholesale distribution charges to include both FirstEnergy’s transmission and distribution losses. Distribution loss factors are specified in Appendix 1. Transmission loss factors are the loss factors for Transmission Service and Network Integration Transmission Service as defined by the PJM Tariff, and they shall be provided in Attachment H-21 to the PJM Tariff for the ATSI zone. To the extent Customer's load at any Delivery Point is supplied from behind-the-meter generation, losses shall be assessed only for the net load delivered to such Delivery Points by FirstEnergy.

8.3 **Billing and Payments:** Bills shall be rendered as soon as practicable in the month following the calendar month in which Service was provided or expenses incurred, and
shall be due and payable, unless otherwise agreed upon, within thirty (30) days of receipt of such invoices. Payment to FirstEnergy shall be made by electronic transfer or such other means as shall cause such payment to be available for the use of the payee. Interest on unpaid amounts shall accrue daily at the then current prime interest rate (the base corporate loan interest rate) published in the *Wall Street Journal*, or, if no longer so published, in any mutually agreeable publication, plus 2% per annum, but will in no event exceed the maximum interest rate allowed pursuant to Ohio law, and shall be payable from the due date of such unpaid amount and until the date paid.

**8.4 Disputes:** All invoices (whether or not disputed) shall be paid in full under the conditions specified in this Article 8. Disputes will be submitted for settlement under the procedures specified under Article 11. Any portion of the invoice in dispute shall be paid into an independently administered escrow account to be established with a qualified depository institution, where the funds will be held pending resolution of the dispute. Within thirty (30) calendar days after the resolution of the dispute, the Party that owes money to the other Party shall pay the amount determined to be due, by full or partial disbursal of the funds held in escrow, together with interest calculated in accordance with the methodology set forth in FERC’s regulations at 18 C.F.R. § 35.19(a)(2)(iii). Any amounts remaining in the escrow account following such disbursement shall be made available to the Party that made the payments into the escrow account.

**8.5 Taxes:** It is expressly agreed by the Parties that, as part of any compensation to be paid under this Agreement, if any, during the term hereof there should be levied and/or assessed against either Party any direct tax, including, but not limited to sales, excise or similar taxes (other than taxes based on or measured by net income), by any taxing
authority on the power and/or energy manufactured, generated, produced, converted, sold, purchased, transmitted, interchanged, exchanged, exported or imported by the supplying Party to the other Party, such supplying Party shall be fully compensated by the other Party for such direct taxes. Upon the timely request by (and at the sole expense of) the other Party, the supplying Party shall appeal, protest, seek abatement or, or otherwise contest any tax imposed by any taxing authority for which the other Party may be required to reimburse the supplying Party. The other Party shall pay to the supplying Party on a periodic basis, as invoiced by the supplying Party, the documented reasonable costs of prosecuting such appeal, protest, abatement, or other contest. The supplying Party reserves the right to make all decisions with regard to the prosecution of such appeal, protest, abatement or other contest, including settlement of claim, provided the supplying Party shall cooperate and consult in good faith with the other Party regarding the conduct of 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 the other Party to the supplying Party 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, the other Party will be responsible for all taxes, interest, and penalties, other than any penalties attributable to any delay caused by the supplying Party.

8.6 **Contribution In-Aid of Construction:** When the Customer funds the construction of FirstEnergy-owned facilities pursuant to a contribution in-aid of construction (“CIAC”), the Customer also shall reimburse FirstEnergy for the tax effect of such CIAC (a “Tax Effect Recovery Factor” or “TERF”), where such payment is considered taxable income
and subject to income tax under the Internal Revenue Service ("IRS") and/or state department of revenue (State) requirements. The TERF shall be computed consistent with the methodology set forth in Ozark Gas Transmission Corp., 56 FERC ¶ 61,349 as reflected in the following formula: TERF = (Current Tax Rate x (Gross Income Amount – Present Value of Tax Depreciation))/(1 – Current Tax Rate). The Present Value Depreciation Amount shall be computed by discounting FirstEnergy’s anticipated tax depreciation deductions with respect to constructed property by FirstEnergy’s current weighted average cost of capital. If, based on current law, FirstEnergy determines such contribution by Customer shall not be taxable, FirstEnergy will not charge a TERF; however, in the event that such contribution is later determined by the IRS and/or State tax authority to be taxable, the Customer shall reimburse FirstEnergy the amount of the TERF, including any interest and penalty charged to FirstEnergy by the IRS and/or State. Such reimbursement is due within 30 days of the date upon which FirstEnergy notifies Customer of such determination. At Customer’s request and expense, FirstEnergy shall file with the IRS and/or State a request for a private letter ruling as to whether any CIAC paid, or to be paid, by Customer to FirstEnergy is subject to federal and/or state income taxation. Customer will prepare the initial draft of the request for a private letter ruling, and will certify under penalty of perjury that all facts represented in such request are true and accurate to the best of Customer’s knowledge. FirstEnergy and Customer shall cooperate in good faith with respect to the submission of such request. FirstEnergy shall keep Customer 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 and/or the State, that authorizes Customer to participate in all
discussions with the IRS and/or the State regarding such request for a private letter ruling. FirstEnergy shall allow Customer to attend all meetings with IRS and/or State officials about the request and shall permit Customer to prepare the initial drafts of any follow-up letters in connection with the request. If Customer shall have reimbursed FirstEnergy for the TERF, upon request by Customer and at Customer’s expense, FirstEnergy shall contest the taxability of such CIAC; provided, however, that FirstEnergy shall not be required to contest such taxability if FirstEnergy waives payment by Customer of any amount that might otherwise be payable by Customer under this Agreement in respect of such determination.

ARTICLE 9: OPERATING COMMITTEE

9.1 **Purpose:** An Operating Committee consisting of a representative and alternate from each Party familiar with the day-to-day operations of their respective systems shall be established to coordinate and implement, on an ongoing basis, the terms and conditions of this Agreement, including planning, operating, scheduling, redispatching, curtailments, control requirements, technical and operating provisions, integration of equipment, hardware and software, and other considerations. Each Party shall evidence its appointments to the Operating Committee by written notice to the other Party and, by similar notice, each Party may change its representative and/or alternate to the Operating Committee.

9.2 **Membership:** Each member and alternate shall be a responsible person working with the day-to-day operations of their respective system. The Operating Committee shall
represent FirstEnergy and Customer in all matters arising under this Operating Agreement and which may be delegated to it by mutual agreement of the Parties hereto.

9.3 **Meetings:** The Operating Committee shall meet or otherwise conference at the request of either Party upon reasonable notice and each Party may place items on the meeting agenda. All proceedings of the Operating Committee shall be conducted by its members taking into account the exercise of Good Utility Practice.

9.4 **Operating Committee Disputes:** If the Operating Committee is unable to agree on any matter coming under its jurisdiction within 30 days after it is presented, that matter shall be submitted for settlement under the procedures specified in Article 11, or otherwise, as mutually agreed by the Customer and FirstEnergy.

**ARTICLE 10 – FINANCIAL RESPONSIBILITY**

10.1 **Allocation of Responsibility:** Except to the extent otherwise required by law, each Party (the “Indemnifying Party”) shall defend, indemnify and hold harmless the other Party (the “Indemnified Party”), and the Indemnified Party’s officers, shareholders, members, managers, representatives, directors, agents and employees, from and against any and all claims and/or liabilities for losses, costs or expenses (including to third parties), damage to property, injury to or death of any person, or any other liability incurred by the Indemnified Party, including reasonable attorneys’ fees (each a “Covered Claim”), in any manner directly or indirectly arising from or contributed to by the provision of service or the construction of facilities by the Indemnifying Party under this Agreement, except to the extent that the losses, expenses or damage were caused wholly or in part by any negligence or willful misconduct of the Indemnified Party. The Indemnified Party agrees
to provide the Indemnifying Party with notice of any claim made against the Indemnified Party for which the Indemnifying Party may be responsible under this Section. To the extent that Customer and FirstEnergy are jointly liable for a Covered Claim, then liability for such Covered Claim shall be allocated between them in accordance with applicable laws of comparative fault or joint liability in effect at the time liability under a Covered Claim arises.

10.2 **Consequential Damages:** No Party nor any of its affiliates, members, shareholders, officers, directors, employees, agents, successors or assigns shall be liable under this Agreement, whether in contract, tort (including negligence and strict liability) or otherwise, to the other Party or any of its affiliates, members, shareholders, officers, directors, employees, agents, successors or assigns for incidental, punitive, special, indirect, multiple, exemplary or consequential damages (including without limitation attorneys’ fees, litigation costs, lost profits or revenues, or loss of good will) connected with or resulting from performance or non-performance of this Agreement.

**ARTICLE 11: ARBITRATION**

11.1 **Submission to Arbitration:** No dispute arising under this Agreement may be submitted to arbitration unless the Parties have made a good faith attempt to resolve such dispute by referral to the Operating Committee. The Operating Committee will seek to resolve the dispute within 30 days unless otherwise agreed by the Parties. In the event the dispute is not resolved by the Operating Committee, the dispute may, if both Parties agree, be submitted to binding arbitration in the manner hereinafter provided. Arbitration is limited to disputes between the Parties with respect to (1) any matter herein specifically
made subject to arbitration, (2) any question of operating practice involved in
performance of this Agreement, (3) any question of fact involved in the application of
provisions of this Agreement, or (4) the interpretation of any provision of this
Agreement. In the event the matter is not submitted to binding arbitration, either Party
may invoke other dispute resolution procedures to the full extent permitted by law.

11.2 Appointment of Arbitrators: In the event that the Parties determine that a disagreement
should be resolved through binding arbitration, the Parties shall set forth in writing the
subject or subjects to be arbitrated, and the Parties thereupon shall endeavor to agree
upon and appoint one person to act as sole arbitrator. If the Parties fail to agree on an
arbitrator within a period of fifteen (15) business days from the receipt of the original
notice, either Party may call for appointment of a board of arbitrators skilled with respect
to matters of the character involved in the disagreement, naming one arbitrator in such
notice. The other Party shall, within ten (10) business days after the receipt of such call,
appoint a second arbitrator, and the two arbitrators so appointed shall choose and appoint
a third arbitrator. In case such other Party fails to appoint an arbitrator within said ten
(10) business days, or in case the two so appointed fail for ten (10) business days to agree
upon and appoint a third, the Party calling for the arbitration, upon five (5) business days’
written notice delivered to the other Party, shall apply to the person who at the time shall
be the most senior Judge of a United States District Court having jurisdiction for
appointment of the second or third arbitrator, as the case may be.

11.3 Arbitration: The sole arbitrator, or the board of arbitrators, shall afford adequate
opportunity to the Parties to present information with respect to the question or questions
submitted for arbitration and may request further information from either or both Parties.
The findings and award of the sole arbitrator or of a majority of the board of arbitrators shall be final and conclusive with respect to the question or questions submitted for arbitration and shall be binding upon the Parties, and may be challenged only in the manner and to the extent permitted by Ohio law. If there is a single arbitrator, the Parties shall split evenly the costs of a single arbitrator, unless the award shall specify a different division of the costs. If there is a board of arbitrators, each Party shall pay for the services and expenses of the arbitrator appointed on its behalf, and they shall split evenly the costs of the neutral arbitrator, unless the award shall specify a different division of the costs. All other costs incurred in connection with the arbitration shall be paid by the Party incurring them.

11.4 **FERC Jurisdiction:** The determination of a matter in dispute pursuant to arbitration hereunder shall not operate to limit or displace FERC’s statutory jurisdiction over any such matter. Accordingly, following the completion of arbitration procedures, either Party may seek FERC review of the arbitration decision, but only to the extent the arbitration decision affects matters subject to FERC’s statutory jurisdiction. Nothing herein shall affect the statutory exemption from FERC jurisdiction available to Customer under Section 201(f) of the Federal Power Act.

**ARTICLE 12: TERM AND TERMINATION OF AGREEMENT**

12.1 **Effective Date, Terms and Termination:** This Agreement shall be effective as of the date first written above, or such later date as the last necessary regulatory approval hereof shall be obtained (unless an earlier date is specified by the regulatory authority having jurisdiction), and shall remain in effect until the date falling on the tenth (10th)
anniversary of the date hereof (the “Initial Term”). The Agreement will remain in effect thereafter for successive twelve (12) month periods (“Renewal Terms”) unless it is terminated in whole pursuant to Section 12.2.

12.2 **Notice of Termination:** Either Party may terminate this Agreement effective after the Initial Term or the end of a Renewal Term by providing to the other Party at least twelve (12) month’s advance written notice of its intent to terminate this Agreement.

12.3 **Other Permitted Termination:** Notwithstanding Sections 12.1 and 12.2, this Agreement may be terminated earlier (a) if the Parties mutually agree or (b) as otherwise expressly provided for in this Agreement following the expiration of any required notice and opportunity to cure. Both Parties reserve their right to seek relief from FERC or a court of competent jurisdiction with respect to any such termination.

**ARTICLE 13: REGULATORY AUTHORITIES**

13.1 **Regulatory Authorities:** This Agreement is made subject to the jurisdiction of any governmental authority or authorities having jurisdiction over the Parties, the systems of the Parties, this Agreement and the subject matter hereof. Nothing contained in this Agreement shall be construed as affecting in any way, the right of a Party furnishing service under this Agreement to unilaterally make application to FERC for a change in the rates and charges or other terms and conditions of this Agreement under Section 205 of the Federal Power Act and pursuant to the FERC’s Rules and Regulations promulgated thereunder or any Party receiving service to file a complaint seeking changes in rates and charges or other terms and conditions of this Agreement under Section 206 of the Federal Power Act.
13.2 **Adverse Regulatory Change:** Following execution of this Agreement, FirstEnergy shall file it with FERC. The Customer shall not protest the filing and FirstEnergy may represent in its filing that the Customer supports the filing. Each Party hereby agrees to not, directly or indirectly, aid or support any person or entity that protests or intervenes in such filing before FERC. Any material changes or conditions imposed by the FERC or any other governmental authority with competent jurisdiction in connection with such submission or otherwise in respect of this Agreement, any of which are unacceptable to a Party after the Parties’ good faith attempt to negotiate a resolution to such objectionable change or condition, shall be cause for termination of this Agreement upon thirty (30) days’ prior written notice by the non-consenting Party to the other parties hereto.

**ARTICLE 14: OTHER**

14.1 **Assignment:** This Agreement shall inure to the benefit of and be binding upon the successors and assigns of the Parties. Successors and assigns of PJM shall become signatories to this Agreement for the limited purpose described herein applicable to PJM. This Agreement shall not be assigned by any Party without the written consent of the other Party, which consent shall not be unreasonably withheld or delayed, except that consent shall not be required if the assignment is to a successor to which substantially all of the business and assets of such Party shall be transferred or to an affiliate of the assigning Party for the purposes of a corporate restructuring.

14.2 **Replacement of Prior Agreement:** Customer and FirstEnergy agree to take all actions required to terminate the 1st Revised Service Agreement No. 337 for Network Integration Transmission Service between Buckeye Power, Inc. and ATSI, as assigned to
the Midwest ISO, as filed in Docket ER03-1411 and enter into all agreements necessary for the Customer to receive Network Integration Transmission Service from PJM, including but not limited to a Network Integration Transmission Service Agreement between the Customer and PJM. This Agreement and these additional PJM agreements shall replace and supersede the 1st Revised Service Agreement No. 337 for Network Integration Transmission Service between ATSI, as assigned to the Midwest ISO, and Buckeye Power, Inc. as filed in docket ER03-1411. It is the intent of the Parties that there will be continuity of service between the existing Network Service and Network Operations Agreement No. 337 and this Agreement and any PJM Network Integration Transmission Service Agreement. If FERC’s orders effectively prevent the continuity of service, the Parties will continue to recognize and perform under the existing agreement.

14.3 **Waivers:** Any waiver at any time by either Party of its rights with respect to default under this Agreement, or with respect to any other matter arising in connection with this Agreement, shall not be deemed a waiver with respect to any subsequent default or matter. Any delay, short of the statutory period of limitation, in asserting or enforcing any right under this Agreement, shall not be deemed a waiver of such right.

14.4 **Liability:** Nothing in this Agreement shall be construed to create or give rise to any liability on the part of PJM, and the Parties expressly waive any claims that may arise against PJM under this Agreement. The Parties acknowledge and understand that the signature of the authorized officer of PJM on this Agreement is for the limited purpose of acknowledging that representatives of the PJM have read the terms of this Agreement. The Parties and PJM further state that they understand that FERC desires that the Parties keep PJM fully apprised of the matters addressed herein as well as any reliability and
planning issues that may arise under this Agreement, and that the signature of the PJM
officer shall not in any way be deemed to imply that the PJM is taking responsibility for
the actions of any Party, that PJM has any affirmative duties under this Agreement, or
that PJM is liable in any way under this Agreement.

14.5 **Choice of Law:** The validity and meaning of this Agreement shall be governed by and
construed in accordance with federal law where applicable and, when not in conflict with
or preempted by federal law, by the applicable laws of the State of Ohio.

14.6 **Counterparts:** This Agreement may be executed in two or more counterparts and each
such counterpart shall be deemed an original and all such counterparts together shall
constitute one and the same instrument.

14.7 **Confidentiality:** Except as otherwise provided by law, no Party shall disclose to third
parties (which term does not include attorneys and consultants, who shall be required to
comply with this Section) Confidential Information obtained from the other Party
pursuant to this Agreement except in order to comply with the requirements of FERC,
NERC, RFC, PJM, or other governmental authority. Each Party shall use reasonable
efforts to prevent or limit the disclosure required to third parties under this Section. For
the purpose of this Section, "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 customer-
specific load data that constitutes a trade secret. Confidential Information shall also include any other information that is provided and identified by a Party as “Critical Energy Infrastructure Information,” as that term is defined in 18 C.F.R. Section 388.113(c).

14.8 **Regulatory Reporting:** Each Party shall provide information reasonably requested by the other Party to satisfy regulatory reporting requirements, subject to Section 14.7.

**ARTICLE 15: NOTICES**

15.1 Any notice given pursuant to this Agreement shall be in writing as follows:

If to FirstEnergy:

FirstEnergy Service Company  
Manager, Agreements Support  
76 South Main Street – 10th Floor  
Akron, Ohio 44308

If to Customer:

Buckeye Power, Inc.  
Attn: Vice President, Engineering and Power Supply  
6677 Busch Boulevard  
Columbus, Ohio 43229

15.2 The above names and addresses of any Party may be changed at any time by notice to the other Party.

**IN WITNESS WHEREOF**, the hands and seals of the Parties and the PJM hereeto, four (4) copies, each to be considered an original, executed by their respective officers lawfully authorized so to do, this ___ day of ________, 2011.
BUCKEYE POWER, INC.

By:_______________________________________
Name:_____________________________________
Title:______________________________________

FIRSTENERGY SERVICE COMPANY

By:________________________________________
Name:______________________________________
Title:________________________________________

The signature below of the authorized officer of PJM is for the limited purpose of acknowledging that an authorized officer of PJM has read this Agreement as of the 1st day of June, 2011.

PJM INTERCONNECTION, L.L.C.

By:________________________________________
Name:______________________________________
Title:________________________________________
<table>
<thead>
<tr>
<th>Name</th>
<th>Nominal Voltage (kV)</th>
<th>Monthly Distribution Charge ($/kW)*</th>
<th>Losses (%)**</th>
<th>69 kV Distribution</th>
<th>69 kV Distribution</th>
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</thead>
<tbody>
<tr>
<td>Ashland</td>
<td>69</td>
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<td></td>
<td>b) 69</td>
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<td>Delta North</td>
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<td>Lakeside</td>
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# APPENDIX 1

## Delivery Points, Wholesale Distribution Rates, Losses

<table>
<thead>
<tr>
<th>Name</th>
<th>Nominal Voltage (kV)</th>
<th>Monthly Distribution Charge ($/kW)*</th>
<th>Losses (%)**</th>
</tr>
</thead>
<tbody>
<tr>
<td>Liberty</td>
<td>69</td>
<td>N/A</td>
<td>Yes</td>
</tr>
<tr>
<td>Litchfield</td>
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<td>Malinta</td>
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<td>Maroe</td>
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<tr>
<td>McClure</td>
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<td>Mohicanville</td>
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<tr>
<td>New Liberty</td>
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<td>New London</td>
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<td>New Mifflin</td>
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<td>Okolona</td>
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<tr>
<td>Oxford</td>
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<td>Reedsburg (H-W)</td>
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<tr>
<td>Uncapher</td>
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<td>$1.31</td>
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</tr>
<tr>
<td>Washington (Carroll County)</td>
<td>138</td>
<td>N/A</td>
<td>N/A</td>
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</tbody>
</table>
APPENDIX 1

Delivery Points, Wholesale Distribution Rates, Losses

<table>
<thead>
<tr>
<th>Name</th>
<th>Nominal Voltage (kV)</th>
<th>Monthly Distribution Charge ($/kW)*</th>
<th>Losses (%)**</th>
</tr>
</thead>
<tbody>
<tr>
<td>Webster Rd.</td>
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<td>Yes</td>
</tr>
<tr>
<td>West Salem</td>
<td>69</td>
<td>N/A</td>
<td>Yes</td>
</tr>
<tr>
<td>White City</td>
<td>12.5</td>
<td>$1.18</td>
<td>No</td>
</tr>
<tr>
<td>Yankee</td>
<td>69</td>
<td>N/A</td>
<td>Yes</td>
</tr>
</tbody>
</table>

* kW shall be the non-coincident monthly peak load as metered at each delivery point, and increased for losses as applicable to include losses at the 138 kV voltage level.

** The loss factors provided in this Appendix represent losses on facilities used for wholesale distribution service as referenced in Section 8.2.
BUCKEYE POWER, INC.
By: [Signature]
Name: Patrick W. O'Laughlin
Title: Vice Pres., Engineering & Power Supply and COO

FIRSTENERGY SERVICE COMPANY

By: [Signature]
Name: [Signature]
Title: [Signature]

The signature below of the authorized officer of PJM is for the limited purpose of acknowledging that an authorized officer of PJM has read this Agreement as of the 1st day of June, 2011.

PJM INTERCONNECTION, L.L.C.

By: [Signature]
Name: [Signature]
Title: [Signature]
BUCKEYE POWER, INC.

By:______________________________

Name:____________________________

Title:____________________________

FIRSTENERGY SERVICE COMPANY

By:______________________________

Name: Charles E. Jones

Title: PRESIDENT

The signature below of the authorized officer of PJM is for the limited purpose of acknowledging that an authorized officer of PJM has read this Agreement as of the 1st day of June, 2011.

PJM INTERCONNECTION, L.L.C.

By:______________________________

Name:____________________________

Title:____________________________
BUCKEYE POWER, INC.

By: ____________________________

Name: __________________________

Title: __________________________

FIRSTENERGY SERVICE COMPANY

By: ____________________________

Name: __________________________

Title: __________________________

The signature below of the authorized officer of PJM is for the limited purpose of acknowledging that an authorized officer of PJM has read this Agreement as of the 1st day of June, 2011.

PJM INTERCONNECTION, L.L.C.

By: ____________________________

Name: Steven R. Herling
Vice President, Planning

Title: __________________________