

April 16, 2021

Notice of PJM Transmission Owners Consultation with the Members Committee Regarding Proposed Revisions to the PJM Tariff

Pursuant to Section 7.3.2 of the Consolidated Transmission Owners Agreement (“CTOA”) and Section 9.1(b) of the PJM Interconnection, L.L.C. (“PJM”) Open Access Transmission Tariff (“Tariff”), the CTOA Administrative Committee hereby initiates consultation with the PJM Members Committee regarding proposed revisions to the PJM Tariff (“Proposed Revisions”). Subject to vote in accordance with Section 8.5.1 of the CTOA, the PJM Transmission Owners (“PJM TOs” or “Transmission Owners”) intend to jointly make a filing under Section 205 of the Federal Power Act with the Federal Energy Regulatory Commission (“FERC”) proposing revisions to the PJM Tariff that would provide them with the ability to elect to fund the network upgrades associated with the interconnection of new generation resources in order to earn a return of, and a return on, the costs of those network upgrades consistent with recent Commission and judicial precedent.

As discussed further herein, the PJM TOs’ Proposed Revisions, which are modeled on the tariff revisions that FERC has approved in Midcontinent Independent System Operator, Inc. (“MISO”), include (i) a new section to the PJM Tariff that will set forth the general provisions governing a PJM TO’s election to fund network upgrades; and (ii) a *pro forma* Network Upgrade Funding Agreement (“NUFA”).

Background

In recent years, an increasing number of new generators are seeking access to the transmission system in PJM. This number is expected to increase significantly in the coming years as the electric power industry accelerates the development and construction of clean renewable energy resources. For example, PJM’s most recent interconnection report (filed on February 16, 2021, in Docket No. ER19-1958) shows a significant increase in the number of generation projects in the queue over the past several years (1,600 active projects). These interconnection requests reflect a changing public policy to promote the development of clean, renewable resources. The PJM TOs recognize that significant buildout of network upgrades will be necessary to accommodate the growing number of interconnection requests. The PJM TOs actively support efforts to decarbonize the electric power sector and to develop the necessary infrastructure to support the interconnection of new energy resources to the electric grid. However, the current PJM interconnection pricing model fails to properly compensate the PJM TOs for the risks that they must bear in connection with owning and operating the network upgrades necessary to support the interconnection of new generation resources. Examples of the risks that the PJM TOs assume in connection with owning and operating additional network upgrades include the following:

- *Reliability and cybersecurity risks:* Additional network upgrade equipment presents more exposure to Bulk Electric System (BES) mis-operations and increased system

exposure to outages, blackouts, cybersecurity or other reliability and NERC compliance issues.

- *Safety risks*: Increasing the number of new facilities will result in more construction and ongoing operation and maintenance activities, thereby increasing exposure to safety incidents.
- *Environmental risks*: Owning and operating network upgrades exposes the PJM TOs to liabilities such as contamination of property, air emissions, and extreme weather events.
- *Financing risks*: The growing number of system facilities operated without profit impacts the PJM TOs' overall business model. In the DC Circuit's 2018 Ameren decision, the court held: "a utility's return must allow it to compete for funding in financial markets. Investors however invest in enterprises, not just portions thereof."
- *Litigation risks*: Operating more network upgrades will result in increased exposure to potential accidents or other events, thereby exposing the PJM TOs to uncompensated liability.

The PJM TOs propose to address the problem of owning and operating a growing portion of their transmission systems required to accommodate generation interconnections without just and reasonable compensation. This non-compensatory ownership problem has been recognized by both the DC Circuit and the Commission in recent orders.¹ The PJM TOs are planning to make a joint Section 205 filing proposing revisions to the PJM Tariff. The proposed revisions will provide the PJM TOs the opportunity to elect to fund the network upgrades associated with the interconnection of new generation resources and earn a return of, and a return on the capital of those upgrades in order to better reflect the risks that they take on by owning and operating those facilities.

The PJM TOs' Section 205 Rights under the PJM Tariff

The PJM TOs are planning to make their filing with FERC to implement the transmission owners' self-funded network upgrade proposal in accordance with their Section 205 rights as set forth in the PJM Tariff. Specifically, under the PJM Tariff, the PJM TOs have unilateral rights to file pursuant to Section 205 for any changes regarding the establishment and recovery of the PJM TOs' transmission revenue requirement or the transmission rate design. *See* PJM Tariff, Section 9.1(a), (d), and (f)).

Proposed New Section in the PJM Tariff

Pursuant to Section 9.1 of the PJM Tariff and Article 7 of the CTOA, the PJM TOs are planning to propose a new section in the PJM Tariff, Section 217.8, which sets forth the general provisions governing how and when a transmission owner can elect to fund network upgrades.

Transmission Owners' Ability to Elect the Funding of Network Upgrades

¹ *See Ameren Servs. Co. v. FERC*, 880 F.3d 571 (D.C. Cir. 2018); *Midcontinent Indep. Sys. Operator, Inc.*, 164 FERC ¶ 61,158 (2018); *Midcontinent Indep. Sys. Operator, Inc.*, 169 FERC ¶ 61,233 (2019); *Midcontinent Indep. Sys. Operator, Inc.*, 172 FERC ¶ 61,248 (2020); *Midcontinent Indep. Sys. Operator, Inc.*, 171 FERC ¶ 61,075 (2020), *order on reh'g*, 173 FERC ¶ 61,037 (2020).

Section (a) of the Proposed Revisions provides that, notwithstanding anything in the PJM Tariff to the contrary, in connection with the interconnection of a new generator to its system, the Transmission Owner will have the right to elect to fund the capital cost of Network Upgrades, including Direct Connection Network Upgrades and non-Direct Connection Network Upgrades. The Transmission Owner's right to elect to fund the capital cost of Network Upgrades includes where the Interconnection Customer has exercised the Option to Build. (The PJM TOs do not intend to propose any changes to the Option to Build). If the Transmission Owner elects to fund Network Upgrades, the Transmission Owner will provide written notice to PJM and the Interconnection Customer, and the parties will enter into a NUFA memorializing the terms of repayment. The NUFA will be subject to the terms and conditions of Part VI of the PJM Tariff, including the rights to termination under the Interconnection Service Agreement ("ISA"). The Interconnection Customer or the Transmission Owner may request PJM to file the NUFA with FERC on an unexecuted basis.

Timing of Election

Section (c) of the Proposed Revisions provides that PJM will maintain on the PJM website each Transmission Owner's general non-binding indication as to whether the Transmission Owner intends to elect to fund the capital costs of Network Upgrades. PJM, as the Transmission Provider, will also maintain a list of the projects for which a Transmission Owner has elected to fund the Network Upgrades on PJM's public website. This will provide Interconnection Customers with transparency and an advanced indication of each individual TO's intent in order to facilitate informed decision-making.

Each Transmission Owner will indicate whether it intends to fund each specific Network Upgrade prior to the completion of the Facilities Study, and the Transmission Owner's funding election will be included in the Facility Study Report. Section (c) states that if the Transmission Owner does not provide its indication in the Facility Study Report, this will constitute a waiver of the Transmission Owner's option to elect to fund each Network Upgrade. If the Transmission Owner has elected to fund the Network Upgrades, PJM will provide the Interconnection Customer with a NUFA at the same time that it provides the Interconnection Construction Service Agreement ("ICSA"). Unless otherwise specified in the ISA, the Interconnection Customer must execute the NUFA and it must be in the possession of PJM and the Transmission Owner concurrently with the ICSA. Alternatively, the Interconnection Customer will request dispute resolution under Section 12 of the PJM Tariff or that the NUFA be filed unexecuted with FERC. Pending the resolution of the dispute, construction of the facilities and Network Upgrades identified in the NUFA will be deferred.

Cross-Default

Section (d) of the Proposed Revisions states that a breach by the Interconnection Customer of any terms or conditions under the NUFA shall be considered a breach of the ISA.

Transmission Owner's Reimbursement Obligation under Option to Build

Section (e) states if the Interconnection Customer exercises the Option to Build under the ICSCA and the Transmission Owner has elected to fund the Network Upgrades, PJM will invoice the Transmission Owner for the estimated amount to be expended by the Interconnection Customer to construct any Network Upgrades. The invoice will be sent prior to the incurrence of construction costs. PJM will invoice the Transmission Owner on a quarterly basis for the costs estimated to be expended by the Interconnection Customer in the subsequent three months. The Transmission Owner will make payment to PJM within twenty (20) days of receipt of the invoice. Upon receipt of the Transmission Owner's payments, PJM will remit to the Interconnection Customer. The Transmission Owner may request in the NUFA that PJM provide a quarterly cost reconciliation.

After completion of construction of the Network Upgrade by the Interconnection Customer, the Interconnection Customer will provide an invoice of the final cost of the Network Upgrade with sufficient detail to allow the Transmission Owner to compare the actual costs with the estimates and to ascertain deviations from the cost estimates. If the actual costs are higher than the estimated costs previously invoiced, the Transmission Owner will pay the difference between the amount previously paid and the actual costs within thirty calendar days after receipt of a final construction invoice from the Interconnection Customer. If the actual costs are less than the estimated costs previously invoiced, the Interconnection Customer shall refund with interest (calculated in accordance with 18 C.F.R. Section 35.19a(a)(2)(iii) to the Transmission Owner the amount by which the actual payment by the Transmission Owner exceeds the actual costs of construction within thirty calendar days of the issuance of such final construction invoice.

Network Upgrade Funding Agreement (NUFA)

The *pro forma* NUFA provides the terms and conditions for recovering the return of and return on the capital investment in connection with a PJM TO's election to provide funding for Network Upgrade. The *pro forma* NUFA will include a formula rate similar to the formula used in the MISO agreement that uses inputs based on the network upgrades and derives the necessary information from each transmission owner's formula rate to determine a periodic payment amount. The agreement and process closely track the agreement and process that FERC approved in MISO with certain minor modifications to reflect the fact the PJM interconnection process and administration of agreements is different than in MISO. As the administrator of the PJM Tariff and pursuant to the terms of the CTOA, PJM is responsible for administering the agreements under the PJM Tariff and for billing and collecting payments for the PJM TOs. Thus, the PJM TOs propose minor adjustments to the MISO *pro forma* agreement to reflect PJM's role. For example, the PJM TOs propose that PJM will be responsible for administering the agreement, billing and collecting payments and holding the security under the agreement, similar to PJM's current role and responsibilities under the *pro forma* ISA and ISCA. A summary of the key provisions of the *pro forma* NUFA is set forth below:

Term

Section 2 of the *pro forma* NUFA states that the agreement will have a term of twenty-years.

Network Upgrade Charge

Section 3 of the *pro forma* NUFA sets forth the Interconnection Customer's payment obligation for the Network Upgrade charge. Section 3.1 of the *pro forma* NUFA states that PJM will invoice the Interconnection Customer on behalf of the Transmission Owner for the amount of the monthly revenue requirement for the Network Upgrade. The Interconnection Customer will pay each invoice within twenty-days after receipt. Upon receipt of each Interconnection Customer's payments, PJM will remit to the Transmission Owner.

Under Section 3.2, the Interconnection Customer may elect to switch from monthly invoices to an annual invoice. If the Interconnection Customer chooses to receive annual bills, PJM will bill the Interconnection Customer the equivalent of twelve months of charges for each calendar year. Section 3.3 provides that the initial payment will be based upon the Estimated Network Upgrade Initial Capital Cost ("ENUC") and the levelized fixed charge rate, as set forth in the chart in Section 3.3 and further detailed in Exhibit A to the NUFA. The estimated cost of the Network Upgrade will be trued-up based on the actual costs of the Network Upgrade.

Section 3.4 states that the Interconnection Customer payment amount for the Network Upgrade will be updated as the Network Upgrade subject to the NUFA is placed in service; the Interconnection Customer payment will be re-calculated annually to be effective on the first day of the Rate Year for the Transmission Owner by updating certain inputs to the formula shown in Exhibit A of the NUFA. The formula calculates a levelized fixed charge rate and the payment amount based on the ENUC cost or the Actual Network Upgrade Initial Capital Cost ("ANUC") (as may be applicable), the term of the NUFA in years, as well as certain historic, actual data from the Transmission Owner's transmission formula rate included in Attachment H to the PJM Tariff, including (i) the Transmission Owner's combined tax rate; (ii) the amounts of interest on long-term debt, (iii) long-term debt and common equity balances; and (iv) the FERC-approved return on equity.

Section 3.5 provides for the sharing of information by the Transmission Owner and the Interconnection Customer to the other parties necessary for cost verification purposes.

Security

Section 4 of the *pro forma* NUFA states that the Interconnection Customer will provide PJM (for the benefit of the Transmission Owner) a letter of credit from a provider reasonably acceptable to PJM or other form of security reasonably acceptable to PJM that names PJM as the beneficiary in an amount equal to the Network Upgrade capital costs (i.e., the ENUC cost or ANUC cost, as may be applicable) (the "Security"). The Security will be provided by the Interconnection Customer to PJM within the timeframe set forth in Section 4. Section 4 also states that PJM will release all Security received for the Network Upgrade costs under the ISA upon PJM's receipt of Security for the Network Upgrade under this NUFA. Section 4.1 provides that the Interconnection Customer will not allow the Security to lapse between the ISA and the

NUFA. In addition, the Interconnection Customer will not be required to maintain concurrently the full amount of the Security under the ISA and the full amount of Security under the NUFA. Section 4.1 states that PJM will hold and maintain the Security.

Section 4.2 states that if the Interconnection Customer fails to make payment by the monthly due date, PJM will be permitted to draw on the Security in the amount of the missed payments and any accrued interest. If the Security has been depleted, the Interconnection Customer will provide PJM (for the benefit of the Transmission Owner) with new irrevocable Security reasonably acceptable to PJM within 30 days of PJM's demand for new Security.

Breach, Default and Cross-Default

Section 5 sets forth provisions relating to breach, default and cross-default. Section 5.2 sets forth the circumstances under which the Interconnection Customer will be in default of the NUFA, including (i) failing to make two consecutive monthly payments when due or more than sixty days late in providing an annual payment; (ii) failing to provide new security within 30 days of PJM's demand for new security; (iii) terminating the operation of its Customer Facility prior to the end of the term of the NUFA; or (iv) is declared to be in default under its ISA. Section 5.3 sets forth the circumstances under which the Transmission Owner will be in default of the NUFA (i.e., failure to provide Interconnection Customer with the information access and audit rights provided in Section 3.6 of the *pro forma* NUFA). Section 5.4 of the *pro forma* NUFA states a breach by the Interconnection Customer of any provision of the NUFA shall be deemed a breach under the ISA.

Stakeholder Process/Upcoming Meeting

Attachment A contains a copy of the section to be added as Section 217.8 of the PJM Tariff. Attachment B contains a copy of the Network Upgrade Funding Agreement to be added as an attachment to the PJM Tariff. The PJM TOs propose that the Tariff provisions and NUFA become effective 60 days after filing. The provisions would be implemented on October 1, 2021. The provisions would be implemented on October 1, 2021 and applicable to those projects in the PJM interconnection queue that have not executed a Facilities Study Agreement on or before October 1, 2021.

The PJM TOs intend to hold a webinar on Tuesday, April 27, 2021 from 3 to 5 p.m. to further discuss this proposal, to obtain feedback and comments on the proposal, and to address any questions or issues that PJM Members may have. Written comments on the PJM TOs' proposal may be submitted for consideration by email to:

Comments_for_Transmission_Owners@pjm.com on or before Monday, May 17, 2021.

Attachment A

**Proposed New Section to the PJM Tariff to Implement
The PJM TOs' Initial Funding of Network Upgrades**

Transmission Owner Initial Funding Option of Network Upgrades
Proposed Tariff Language – PJM Tariff, Part VI

Proposed draft tariff language to the PJM OATT to implement the Transmission Owner Funding of Network Upgrades.

Section 217.8 Interconnected Transmission Owner Initial Funding of Network Upgrades:

(a) Interconnected Transmission Owner’s Right: Notwithstanding anything in this Tariff to the contrary, the Interconnected Transmission Owner shall have the right to elect to fund the capital cost for the Network Upgrades (including Direct Connection Network Upgrades and Non-Direct Connection Network Upgrades) associated with the interconnection of an Interconnection Customer, including in cases where the Interconnection Customer exercises the Option to Build under Interconnection Construction Service Agreement, Tariff, Attachment P, Appendix 2, section 3.2.3.1. If the Interconnected Transmission Owner elects to fund the capital costs of the Network Upgrades, the Interconnected Transmission Owner shall provide the Transmission Provider and Interconnection Customer with written notice pursuant to Section 217.8 of the Tariff, and the Parties shall enter into a Network Upgrade Funding Agreement to memorialize the terms of repayment for those Network Upgrades that the Interconnected Transmission Owner elected to self-fund. The Network Upgrade Funding Agreement shall take the form of the *pro forma* Network Upgrade Funding Agreement that is included in Attachment [insert], of the Tariff. The Network Upgrade Funding Agreement shall be subject to the terms and conditions of Part VI of the Tariff, including the rights to termination of the Interconnection Service Agreement. The Interconnection Customer or Interconnected Transmission Owner may request in writing that Transmission Provider file the Network Upgrade Funding Agreement with FERC in unexecuted form.

(b) Definition: Interconnected Transmission Owner is defined in Section 1 of the Tariff. However, for purposes of this section and the Network Upgrade Funding Agreement, Interconnected Transmission Owner may also refer to a Transmission Owner whose facilities must be upgraded pursuant to a Facilities Study, but whose facilities are not directly interconnected with those of the Interconnection Customer.

(c) Timing: Transmission Provider will maintain on its website an Interconnected Transmission Owner’s general non-binding indication as to whether the Interconnected Transmission Owner intends to elect to fund the capital costs (self-fund) for Network Upgrades. Transmission Provider will also maintain a list of the projects for which an Interconnected Transmission Owner has elected to self-fund Network Upgrades. Each impacted Interconnected Transmission Owner shall indicate whether the Interconnected Transmission Owner intends to self-fund each specific Network Upgrade prior to the completion of the Facilities Study. An Interconnected Transmission Owner’s self-fund election will be included in the Facilities Study. Failure to provide its indication in the Facilities Study shall constitute a waiver of the Interconnected Transmission Owner’s option to elect to self-fund each Network Upgrade identified in the Facilities Study.

If the Interconnected Transmission Owner has elected to fund the capital for the Network Upgrades, the Transmission Provider shall tender to the Interconnection Customer a Network Upgrade Funding Agreement at the same time that it tenders the Interconnection Construction Service Agreement to the Interconnected Transmission Owner. In the event that construction of the facilities by more than one Transmission Owner is required, the Transmission Provider will tender a separate Network Upgrade Funding Agreement for each such Transmission Owner and the facilities to be constructed on its transmission system. The Transmission Provider shall provide to the Transmission Owner(s) a copy of the Network Upgrade Funding Agreement when these agreements are provided to the Interconnection Customer for execution.

Unless otherwise specified in the project specific milestones of the Interconnection Service Agreement, Interconnection Customer either shall have executed the tendered Network Upgrade Funding Agreement and it must be in the possession of the Transmission Provider and the Interconnected Transmission Owner at the same time as the executed Interconnection Construction Service Agreement, or, alternatively, shall request dispute resolution under Section 12 of the Tariff, or that the Network Upgrade Funding Agreement be filed unexecuted with the Commission. In the event that an Interconnection Customer or an Interconnected Transmission Owner has requested dispute resolution proceedings or that the Network Upgrade Funding Agreement be filed unexecuted, construction of facilities and upgrades addressed in Network Funding Agreement shall be deferred until any disputes are resolved, unless otherwise agreed by the Interconnection Customer, the Interconnection Transmission Owner and the Transmission Provider.

(d) Cross-Defaults: A breach by the Interconnection Customer of any provision, covenant, or other term or condition contained in the Network Upgrade Funding Agreement shall be considered a breach under the Interconnection Service Agreement. Such breach shall be subject to the terms of Section 15 of Appendix 2 of the Interconnection Service Agreement. If the default under the Interconnection Service Agreement results from the Interconnection Customer's breach of the Network Upgrade Funding Agreement and subsequent failure to cure, the Interconnected Transmission Owner and the Transmission Provider shall be entitled, but in no event required, to apply all rights and remedies available by reason of default under the Interconnection Service Agreement and the Network Upgrade Funding Agreement.

(e) Transmission Owner's Reimbursement Obligations under the Option to Build: If the Interconnection Customer exercises the Option to Build under the Interconnection Construction Service Agreement and the Interconnected Transmission Owner has elected to fund the Network Upgrades pursuant to Section 217.8, then prior to Interconnection Customer incurring any construction costs relating to the Option to Build and by the date specified in Attachment [insert], Transmission Provider shall invoice the Interconnected Transmission Owner on behalf of the Interconnection Customer for the estimated amount to be expended by the Interconnection Customer to construct any Network Upgrades for which the Interconnection Customer has exercised its Option to Build. Transmission Provider shall invoice Interconnected Transmission Owner on a quarterly basis for the costs estimated to be expended in the subsequent three months. Interconnected Transmission Owner shall pay Transmission Provider within twenty (20) days of receipt of the invoice. Upon receipt of Interconnected Transmission Owner's payments, Transmission Provider shall remit to the Interconnection Customer. The timing of

quarterly invoices and payments shall ensure that payment is received by Interconnection Customer prior to the date by which Interconnection Customer must make any construction payment for such Network Upgrades.

Interconnected Transmission Owner may request in the Network Upgrade Funding Agreement that the Transmission Provider provide a quarterly cost reconciliation. Such a quarterly cost reconciliation will have a one-quarter lag, e.g., reconciliation of costs for the first calendar quarter of work will be provided at the start of the third calendar quarter of work, provided, however, that this Section shall govern the timing of the final cost reconciliation upon completion of the work.

After completion of the construction of Network Upgrades by the Interconnection Customer, Interconnection Customer shall provide an invoice of the final cost of the Network Upgrades and shall set forth such costs in sufficient detail to enable the Transmission Owner to compare the actual costs with the estimates and to ascertain deviations, if any, from the cost estimates. In the event that the actual costs exceed the estimated costs previously invoiced by Interconnection Customer and paid by Interconnected Transmission Owner, Interconnected Transmission Owner shall pay to Interconnection Customer the difference between the amount previously paid and the actual costs within thirty (30) Calendar Days after receipt of a final construction invoice from Interconnection Customer. In the event that the actual costs are less than the estimated costs previously invoiced by Interconnection Customer and paid by Interconnected Transmission Owner, Interconnection Customer shall refund, with interest (calculated in accordance with 18 C.F.R. Section 35.19a(a)(2)(iii)), to Transmission Owner any amount by which the actual payment by Transmission Owner for estimated costs exceeds the actual costs of construction within thirty (30) Calendar Days of the issuance of such final construction invoice. Following the transfer of the Network Upgrades from the Interconnection Customer to the Interconnected Transmission Owner, the Interconnection Customer shall make payments for such facilities to the Interconnected Transmission Owner pursuant to the terms and conditions of the Network Upgrade Funding Agreement among the Parties.

Attachment B

***Pro Forma* Network Upgrade Funding Agreement and
Exhibit A Levelized Fixed Charge Rate Calculation**

Network Upgrade Funding Agreement

entered into by and among

PJM Interconnection, L.L.C.,

[Interconnection Customer], and

[Interconnected Transmission Owner]

([Project])

Network Upgrade Funding Agreement

for

**Project [_____]
(PJM Queue Position # _____)**

This Network Upgrade Funding Agreement (“NUFA”) dated [_____, ____], is entered into by and among [_____], a [state] [corporation/limited liability company/other corporate form] (hereinafter “Interconnection Customer” or “[short name]”), [_____], a [state] [corporation/limited liability company/other corporate form] (hereinafter “Interconnected Transmission Owner” or “[short name]”), and PJM Interconnection, L.L.C., the Regional Transmission Organization for the PJM Region (hereinafter “Transmission Provider” or “PJM”) to compensate Interconnected Transmission Owner for upgrades and additions to its transmission system (“Network Upgrades”) necessary for Interconnection Service for the Interconnection Customer’s Customer Facility under the PJM Open Access Transmission Tariff (“PJM Tariff”). Interconnection Customer, Interconnected Transmission Owner, and PJM are each referred to as “Party,” and collectively, as “Parties.”

WHEREAS, the Parties entered into that certain Interconnection Service Agreement, dated as of [_____, ____] (“ISA”);

WHEREAS, the Interconnection Service necessary for Interconnection Customer’s Customer Facility, PJM Project [_____], requires Interconnected Transmission Owner to install Network Upgrade(s) on Interconnected Transmission Owner’s transmission system consisting of [brief description of Network Upgrade(s)] in order for Interconnected Transmission Owner to operate and maintain the transmission system in a safe and reliable manner;

WHEREAS, in accordance with the PJM Tariff in effect at the time the ISA was executed, the Interconnected Transmission Owner has elected the self-fund option described in [Section 217.8 of the PJM Tariff], and therefore will recover the return of and on the initial capital cost of the Network Upgrade(s) from Interconnection Customer through this NUFA;

WHEREAS, the Interconnected Transmission Owner will fund, own, operate and maintain the Network Upgrade(s);

WHEREAS, the PJM Tariff in effect at the time of execution of the ISA requires the Parties to enter into a network upgrade funding agreement in the form provided in Attachment [__] of the PJM Tariff if the Interconnected Transmission Owner elects to self-fund the initial capital cost of the Network Upgrades;

NOW, THEREFORE, in consideration of the mutual premises and covenants hereinafter set forth and other good and valuable consideration, and intending to be legally bound hereby, the Parties hereby agree that Interconnected Transmission Owner shall recover from Interconnection Customer the return of and on the initial capital cost of the Network Upgrade(s), under the following terms and conditions:

1. **Definitions.** Capitalized terms used in this NUFA that are not otherwise defined herein shall have the meaning provided in the PJM Tariff.

2. **Effective Date and Term.** Unless terminated earlier by mutual agreement, the effective date of this NUFA shall be [_____, ____], or such other date as it is permitted to become effective by FERC (the “Effective Date”). This NUFA shall continue until two hundred forty (240) months of Payments for each Network Upgrade governed by this NUFA have been collected by the Transmission Provider and paid to the Interconnected Transmission Owner, unless the Parties mutually agree on a different term for this NUFA, including but not limited to a term that is consistent with the base term of the ISA, of [____] years from the Effective Date (“Term”).

3. **Network Upgrade Charge.**

3.1 **Monthly Payments.** Beginning with the month following notification from Interconnected Transmission Owner to Interconnection Customer and Transmission Provider, consistent with the notice requirements of Section 11.1, that a Network Upgrade has been placed in service (“In-Service Date”) and continuing for the Term of this NUFA, Transmission Provider shall invoice Interconnection Customer on behalf of the Interconnected Transmission Owner, for the amount of monthly revenue requirement for that Network Upgrade. Interconnection Customer shall pay each invoice within twenty (20) days after receipt thereof (“Monthly Due Date”). Upon receipt of each of Interconnection Customer’s payments, Transmission Provider shall reimburse the Interconnected Transmission Owner.

3.2 **Annual Payments.** Alternatively, Interconnection Customer may elect to switch from receiving monthly invoices from the Transmission Provider for the Network Upgrades to an annual invoice after the first day of the next Rate Year for the Interconnected Transmission Owner following the In-Service Date of the last Network Upgrade governed by this NUFA. Rate Year shall be defined by the Interconnected Transmission Owner’s Formula Rate Protocols. If Interconnection Customer chooses to receive annual bills, Transmission Provider shall bill Interconnection Customer the equivalent of twelve (12) months of payments for each calendar year until the first Network Upgrade under this NUFA to be placed in service has less than twelve (12) months of payments owing in a calendar year, after which Transmission Provider shall resume billing Interconnection Customer on a monthly basis for each Network Upgrade. In no event shall the total amount paid by Interconnection Customer for a Network Upgrade be less than the equivalent amount due if there were instead monthly payments for the entire Term of this NUFA. Interconnection Customer shall pay each invoice within twenty (20) days after receipt thereof (“Annual Due Date”). Upon receipt of each of Interconnection Customer’s payments, Transmission Provider shall reimburse the Interconnected Transmission Owner.

3.3 **Initial Payments.** The initial Payment(s) shall be based on the Estimated Network Upgrade Initial Capital Cost (“ENUC”) and is set forth in the table below.

Description [Chart may be modified to cover additional Network Upgrades]	Amount
ENUC (<i>Exhibit A, Line ____</i>)	\$ _____

Levelized Fixed Charge Rate (<i>Exhibit A, Line ____</i>)	_____ %
Annual revenue requirement (<i>Exhibit A, Line ____</i>)	\$ _____
Payment (<i>Exhibit A, Line ____</i>)	\$ _____

3.4 Updates to Payments. The Interconnection Customer payment amount for the Network Upgrade(s) shall be updated as Network Upgrades subject to this NUFA are placed in service and shall be re-calculated annually to be effective on the first day of the Rate Year for the Interconnected Transmission Owner by updating certain inputs to the formula shown in Exhibit A of this NUFA (“Formula”), and rounded to the nearest whole dollar. The Formula calculates a levelized fixed charge rate (“Levelized Fixed Charge Rate”) and the payment amount based on the ENUC or the Actual Network Upgrade Initial Capital Cost (“ANUC”), as applicable, the Term of this NUFA in years, and certain historic, actual data from the Interconnected Transmission Owner’s transmission formula rate included in Attachment H to the PJM Tariff (“Transmission Formula Rate”) or successor rate under the PJM Tariff, including but not limited to: (i) the Interconnected Transmission Owner’s combined tax rate, (ii) the amounts of Interconnected Transmission Owner interest on long-term debt, (iii) the long-term debt and common equity balances, and (iv) Interconnected Transmission Owner’s FERC-approved return on equity. Beginning on the first day of the Interconnected Transmission Owner’s Rate Year of the first or second calendar year following the In-Service Date, as applicable based on when the ANUC is determined, and each subsequent June 1 thereafter, the payment amount shall be updated based on the Interconnected Transmission Owner’s Transmission Formula Rate using data from the previous calendar year and the ANUC. Any adjustment to the relevant inputs to Interconnected Transmission Owner’s Transmission Formula Rate or successor rate under the PJM Tariff used in the Formula shall require a recalculation of the Formula for the period to which such adjustment applies and shall require revised payment amounts, as well as refunds or surcharges, as necessary. Interconnected Transmission Owner shall provide Interconnection Customer with notice each year of the change in payment amount as a result of annual changes to its Transmission Formula Rate.

3.5 Information Sharing. The Interconnected Transmission Owner and Interconnection Customer shall make available to the other Parties information necessary to verify costs incurred by the other Parties for which the requesting Party is responsible under this Agreement and carry out obligations and responsibilities under this NUFA; provided, however, that the Parties shall not use such information for purposes other than those set forth in this Article 3 and to enforce their rights under this NUFA.

3.6 Audit. Subject to the requirements of confidentiality under Section 10.2 of this NUFA: (i) the accounts and records related to the design, engineering, procurement, and construction of the Network Upgrades and/or System Protection Facilities shall be subject to audit for a period of twenty-four (24) months following the In-Service Date of each such Network Upgrade or System Protection Facility; (ii) the accounts and records related to the one-time true-up adjustment provided for in Section 3.7 shall be subject to audit for a period of twenty-four (24) months following the date the true-up adjustment is reflected in the Interconnection Customer’s invoice; and (iii) the accounts and records related to the annual inputs to the Formula shall be subject to audit for a period of twelve (12) months following each year’s Formula update in accordance with this Article 3. Interconnection Customer at its

expense shall have the right, during normal business hours, and upon prior reasonable notice to the other Parties, to audit such accounts and records. Any audit authorized by this Article 3 shall be performed at the offices where such accounts and records are maintained and shall be limited to those portions of such accounts and records that relate to obligations under this NUFA.

3.7 Payment True-Up to Actual Costs. A one-time true-up adjustment shall be calculated within one (1) year of the In-Service Date when the ANUC is known and all costs associated with the ENUC have been accounted for. The true-up adjustment will be equal to the difference between payments collected to-date and what the payments to-date would have been if the payments had been calculated using the ANUC. The true-up adjustment, either as a credit due or charge to the Interconnection Customer, shall be included in the Interconnection Customer's next payment due, including interest. Interest on the true-up adjustment will begin to accrue the first day of the month following the In-Service Date and will be determined based on the Commission's regulations at 18 C.F.R. § 35.19a. Transmission Provider will invoice Interconnection Customer upon determination of the true-up in accordance with this Section 3.7.

4. Security

4.1 Provision of Security; Updating Security Amount. The Interconnection Customer shall provide the Transmission Provider (for the benefit of the Interconnected Transmission Owner) with a letter of credit from a provider reasonably acceptable to the Transmission Provider, or other form of security reasonably acceptable to the Transmission Provider and that names the Transmission Provider as beneficiary in an amount equal to the ENUC (the "Security"). The Security shall be provided to Transmission Provider by Interconnection Customer pursuant to this Section 4.1 within the later of: (i) forty-five (45) days of the execution of this NUFA by all Parties; (ii) forty-five (45) days of acceptance of this NUFA by FERC if this NUFA is filed unexecuted and the Security is being protested by Interconnection Customer; or (iii) forty-five (45) days of the date of filing of this NUFA if it is filed unexecuted and the Security is not being protested by Interconnection Customer. Transmission Provider shall release all Security received for the Network Upgrade costs under the ISA upon Transmission Provider's receipt of Security for the Network Upgrade(s) under this NUFA. The Security provided under the ISA may be applied as the Security for this NUFA if the form, terms, and provider of the Security provided under the ISA allow it. In no event shall Interconnection Customer allow Security to lapse between the ISA and this NUFA. Likewise, in no event shall Interconnection Customer be required to maintain concurrently the full amount of Security under the ISA and the full amount of Security under this NUFA. The Security may be adjusted to an amount equal to the ANUC after such time that the one-time true-up adjustment as described in Section 3.7 is completed for each Network Upgrade. The Security shall remain with Transmission Provider for the remaining months of the Term. At Interconnection Customer's discretion, such Security may be reduced by five percent (5%) (or a prorated portion based on the Term of this NUFA, as agreed by the Parties) of the ANUC of each Network Upgrade on the first anniversary of the In-Service Date of that Network Upgrade and may continue to be reduced by five percent (5%) (or a prorated portion based on the Term of this NUFA, as agreed by the Parties) each year over the Term of this NUFA, provided that any such reduction in the amount of Security must be evidenced to Transmission Provider in the form of a revised form of Security reasonably acceptable to the Interconnected Transmission Owner.

4.2 Draws on Security. In the event Interconnection Customer fails to make a payment by the Monthly Due Date or Annual Due Date, as applicable, Transmission Provider shall be entitled to draw on the Security posted by Interconnection Customer in the amount of missed Payments as well as any accrued interest charges based on the Commission's regulations at 18 C.F.R § 35.19a. If Interconnection Customer fails to make payment by the Monthly Due Date or Annual Due Date, as applicable, and Security has been depleted, Interconnection Customer shall provide Transmission Provider (for the benefit of the Interconnected Transmission Owner) with new irrevocable security, in a form reasonably acceptable to Transmission Provider ("New Security") within thirty (30) days of Transmission Provider's demand for New Security.

4.3 Security Requirements. Security shall remain in place until expiration of this NUFA. Any Security provided by Interconnection Customer must be kept active, must continue to meet Transmission Provider's security requirements, and must be available to Transmission Provider for the purpose of making payments under this NUFA in the event that Interconnection Customer fails to make such payment. Any fees or costs associated with the provision of security are the responsibility of the Interconnection Customer.

4.4 Tax Gross-Up. Interconnection Customer acknowledges that the construction of the Network Upgrade(s) under the ISA could be subject to tax gross-up, as applicable, upon the Interconnection Customer's default under this NUFA and that the Security provided hereunder could be used to cover such obligations.

5. Breach, Default, and Cross-Default

5.1 General. Upon a Breach of this NUFA, the non-breaching Party or Parties shall give written notice of such Breach to the Breaching Party with a copy to all non-breaching Parties. The Breaching Party shall have thirty (30) days from receipt of the notice of Breach within which to cure such Breach; provided, however, if such Breach is not capable of cure within thirty (30) days, the Breaching Party shall commence such cure within thirty (30) days after notice thereof and shall continuously and diligently complete such cure within ninety (90) days from receipt of the notice of Breach. If cured within such time provided by the foregoing, the Breach specified in such notice shall be deemed cured and treated by the Parties as if it had not occurred. If a Breach is not cured as provided in this Section 5.1, or is not capable of being cured within the period provided for herein, the Breaching Party shall be in default under this NUFA.

5.2 Interconnection Customer Default. Interconnection Customer shall be in default of this NUFA if Interconnection Customer: (i) fails to make two (2) consecutive monthly Payments when due or be more than sixty (60) days late in providing an annual payment; provided that, Transmission Provider has given Interconnection Customer notice of and Interconnection Customer has failed to cure such late payments consistent with Section 5.1; (ii) fails to provide New Security within thirty (30) days of Transmission Provider's demand for New Security; (iii) terminates operation of its Customer Facility prior to the end of the Term of this NUFA; or (iv) is declared to be in Default under its ISA. In the event of default, Interconnection Customer shall promptly pay to Transmission Provider all Payments still owed under this NUFA. In the event that Interconnection Customer does not promptly pay all amounts

due and owing to the Transmission Provider, the Transmission Provider may draw on the remaining balance of the Security provided by the Interconnection Customer. This payment or draw on the Security does not limit any and all rights and remedies available to the Transmission Provider or Interconnected Transmission Owner allowed by law with respect to such default or collecting all amounts owed for the remaining months due under this NUFA. Interconnection Customer shall indemnify Transmission Provider and Interconnected Transmission Owner for reasonable costs, attorney fees and/or expenses incurred with respect to a default or collecting all amounts owed for the remaining months, including, as applicable, any tax gross-up obligations under this NUFA.

5.3 Interconnected Transmission Owner Default. Interconnected Transmission Owner shall be in default of this NUFA if Interconnection Transmission Owner: (i) fails to provide Interconnection Customer with any of the information access and audit rights provided in Section 3.6; (ii) such failure is not cured following notice from Interconnection Customer as provided in Section 5.1; and (iii) such failure has a material adverse effect on Interconnection Customer's ability to perform under this NUFA.

5.4 Cross-Default. This NUFA is a requirement for Interconnection Service under the PJM Tariff when an Interconnected Transmission Owner has elected to fund the capital for the Network Upgrades and Interconnected Transmission Owner's System Protection Facilities and shall be subject to the terms and conditions of Part VI of the PJM Tariff, including the rights to termination of Interconnection Service. Notwithstanding anything to the contrary contained in this NUFA, a Breach by Interconnection Customer of any provision, covenant or other term or condition contained in this NUFA shall be considered a Breach under the Interconnection Customer's ISA referenced in the recitals to this NUFA. An event of default by Interconnection Customer under Section 5.2 hereof shall, after the passage of all applicable notice and cure or grace periods, be considered a default under this NUFA and a default of the Interconnection Customer's ISA referenced in the recitals to this NUFA. Interconnected Transmission Owner and Transmission Provider shall be entitled (but in no event required) in an event of such dual Breach or default to apply all rights and remedies available in this NUFA and the ISA by reason of a Breach or default.

5.5 Notice of Default. In the event of a default under Interconnection Customer's ISA, Transmission Provider shall provide prompt notice of such default to all affected Transmission Owners that have FERC-filed service agreements with Interconnection Customer under the PJM Tariff.

6. Reimbursed Network Upgrades

If Interconnection Customer elects in accordance with the PJM Tariff to exchange Incremental Auction Revenue Rights for cost reimbursement from a subsequent New Service Customer whose New Service Request would require, in whole or in part, any Network Upgrade subject to this NUFA (such New Service Customer, a "Current Customer"), Interconnected Transmission Owner shall amend this NUFA and/or enter into new agreements in the form provided in Attachment [__] of the PJM Tariff to reflect Interconnection Customer and Current Customer's respective responsibility for the cost of the Network Upgrade subject to this NUFA based on the effective date of Current Customer's ISA.

7. **Additional Network Upgrades**

This NUFA may be amended to incorporate the cost of additional Network Upgrades assigned to Project [_____] as a condition of Project [_____]'s Interconnection Service.

8. **Assignment**

This NUFA shall inure to the benefit of and be binding upon each Party's successors and permitted assigns. No Party shall assign this Service Agreement or their related contractual rights without the prior written consent of the other Parties, which prior written consents shall be not be unreasonably withheld or delayed; provided that the assignee is at least as creditworthy as the assigning Party and the assignee of the Interconnection Customer shall provide Interconnected Transmission Owner with Security as contemplated herein; and provided further that Interconnection Customer shall have the right to assign this NUFA, without the consent of either the Transmission Provider or the Interconnected Transmission Owner, for collateral security purposes to aid in providing financing for the Customer Facility, provided that Interconnection Customer will promptly notify Transmission Provider and Interconnected Transmission Owner of any such assignment. No assignment of this NUFA shall release or discharge any Party from their future obligations hereunder unless all such obligations are assumed by the successor or assignee of that Party in writing.

9. **No Transmission Service**

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

10. **Miscellaneous**

10.1 **Entire Agreement.** This NUFA represents the entire agreement among the Parties with reference to payment terms for the Network Upgrade(s) provided by Interconnected Transmission Owner for Interconnection Customer under the ISA. This NUFA may not be amended, modified, or waived other than by a written document signed by all Parties.

10.2 **Confidentiality**

10.2.1 **Definition.** Confidential Information under this NUFA shall have the same meaning as provided in the PJM Tariff. Critical Energy/Electric Infrastructure Information ("CEII") shall have the meaning provided in 18 C.F.R. § 388.113(c)(1)-(2).

10.2.2 **Term.** During the Term of this NUFA, and for a period of three (3) years after the expiration or termination of the NUFA, except as otherwise provided in this Section 10.2 or with regard to CEII, each Party shall hold in confidence, and shall not disclose to any person, Confidential Information provided to it by any other Party. In addition to being

treated as Confidential Information hereunder, CEII shall be treated in accordance with Commission policy and regulations.

10.2.3 Scope. Confidential Information shall not include information that the receiving Party can demonstrate: (i) is generally available to the public other than as a result of a disclosure by the receiving Party; (ii) was in the lawful possession of the receiving Party on a non-confidential basis before receiving it from the disclosing Party; (iii) was supplied to the receiving Party without restriction by a third party, who, to the knowledge of the receiving Party, after due inquiry, was under no obligation to the disclosing Party to keep such information confidential; (iv) was independently developed by the receiving Party without reference to Confidential Information of the disclosing Party; (v) is, or becomes, publicly known, through no wrongful act or omission of the receiving Party or Breach of this NUFA; or (vi) is required, in accordance with Section 10.2.8, to be disclosed to any Governmental Authority or is otherwise required to be disclosed by law or subpoena, or is necessary in any legal proceeding establishing rights and obligations under this NUFA. Information designated as Confidential Information shall no longer be deemed confidential if the Party that designated the information as confidential notifies the other Parties that it no longer is confidential.

10.2.4 Release of Confidential Information. No Party shall disclose Confidential Information to any other person, except to its Affiliates (limited by the Commission's Standards of Conduct for Transmission Providers, 18 C.F.R. Part 358), subcontractors, employees, agents, consultants, or to non-parties who may be or are considering providing financing to or equity participation with Interconnection Customer, or to potential purchasers or assignees of Interconnection Customer, on a need-to-know basis in connection with this NUFA, unless such person has first been advised of the confidentiality provisions of this Section 10.2 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 Section 10.2.

10.2.5 Rights. Each Party retains all rights, title, and interest in the Confidential Information that it discloses to any other Party. The disclosure by a Party to the receiving Party of Confidential Information shall not be deemed a waiver by the disclosing Party or any other person or entity of the right to protect the Confidential Information from public disclosure. Nothing in this NUFA shall limit or otherwise modify Transmission Provider's rights and obligations with respect to Confidential Information as set forth in the PJM Tariff.

10.2.6 No Warranties. By providing Confidential Information, no Party makes any warranties or representations as to its accuracy or completeness. In addition, by supplying Confidential Information, no Party obligates itself to provide any particular information or Confidential Information to another Party nor to enter into any further agreements or proceed with any other relationship or joint venture.

10.2.7 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 another Party under this NUFA or its regulatory requirements.

10.2.8 Order of Disclosure. If a Governmental Authority with the right, power, and apparent authority to do so requests or requires any Party, by subpoena, oral deposition, interrogatories, requests for production of documents, administrative order, or otherwise, to disclose Confidential Information, that Party shall provide the disclosing Party with prompt notice of such request(s) or requirement(s) so that the disclosing Party may seek an appropriate protective order or waive compliance with the terms of this NUFA. 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.

10.2.9 Termination of Agreement. Upon termination of this NUFA for any reason, each Party shall, within ten (10) days of receipt of a written request from another Party, use Reasonable Efforts to destroy, erase, or delete (with such destruction, erasure, and deletion certified in writing to the requesting Party) or return to the requesting Party, without retaining copies thereof, any and all written or electronic Confidential Information received from the requesting Party.

10.2.10 Remedies. The Parties agree that monetary damages would be inadequate to compensate a Party for another Party's breach of its obligations under this Section 10.2. Each Party accordingly agrees that the disclosing Party shall be entitled to equitable relief, by way of injunction or otherwise, if the receiving Party breaches or threatens to breach its obligations under this Section 10.2, which equitable relief shall be granted without bond or proof of damages, and the breaching 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 Section 10.2, 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 Section 10.2.

10.2.11 Disclosure to FERC or its Staff. Notwithstanding anything in this Section 10.2 to the contrary, and pursuant to 18 C.F.R. § 1b.20, if FERC or its staff, during the course of an investigation or otherwise, requests information from a Party that is otherwise required to be maintained in confidence pursuant to this NUFA, 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 must, consistent with 18 C.F.R. § 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 disclosure. Parties are prohibited from notifying the other Parties to this NUFA prior to the release of the Confidential Information to FERC or its staff. The Party shall notify the other Parties to this NUFA when it is notified by FERC or its staff that a request to release Confidential Information has been received by FERC, at which time any of the Parties may respond before such information would be made public, pursuant to 18 C.F.R. § 388.112.

10.2.12 Competitively Sensitive Information. Subject to the exception in Section 10.2.11, any information that a disclosing Party claims is competitively sensitive,

commercial or financial information under this NUFA shall not be disclosed by the receiving Party to any person not employed or retained by the receiving Party, except to the extent disclosure is (i) required by law; (ii) reasonably deemed by the receiving 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 disclosing Party, such consent not to be unreasonably withheld; or (iv) necessary to fulfill its obligations under this NUFA or as the Regional Transmission Organization or a Local Balancing Authority operator including disclosing the Confidential Information to a regional or national reliability organization. The Party asserting confidentiality shall notify the receiving Party in writing of the information that Party claims is confidential. Prior to any disclosures of that Party's Confidential Information under this Section 10.2.12, or if any non-Party or Governmental Authority makes any request or demand for any of the information described in this subparagraph, the Party who received the Confidential Information from the disclosing Party agrees to promptly notify the disclosing Party in writing and agrees to assert confidentiality and cooperate with the disclosing Party in seeking to protect the Confidential Information from public disclosure by confidentiality agreement, protective order or other reasonable measures.

10.3 Regulatory Approval. This NUFA and its terms shall be subject to approval, if applicable, by the Commission. This NUFA and its terms shall also be subject to, as applicable, the PJM Tariff.

10.4 Force Majeure.

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

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

10.4.3 Obligation to Make Payments. Any Party's obligation to make payments for services shall not be suspended by Force Majeure.

10.4.4 Definition of Force Majeure. For purposes of this section, an event of Force Majeure shall mean any cause beyond the control of the affected Party, including but not restricted to, acts of God, flood, drought, earthquake, storm, fire, lightning, epidemic, war, riot, civil disturbance or disobedience, labor dispute, labor or material shortage, sabotage, acts of public enemy, explosions, orders, regulations or restrictions imposed by governmental, military, or lawfully established civilian authorities, which, in any of the foregoing cases, by exercise of due diligence such Party could not reasonably have been expected to avoid, and which, by the exercise of due diligence, it has been unable to overcome. Force Majeure does not include (i) a

failure of performance that is due to an affected Party's own negligence or intentional wrongdoing; (ii) any removable or remediable causes (other than settlement of a strike or labor dispute) which an affected Party fails to remove or remedy within a reasonable time; or (iii) economic hardship of an affected Party.

10.5 Disputes. Any dispute hereunder shall be referred to senior representatives of each Party. If the senior representatives are not able to resolve the dispute within thirty (30) days, the dispute resolution procedures of Section 12 of the PJM Tariff shall apply to the resolution of any dispute hereunder.

10.6 Reservation of Rights. Nothing in this NUFA shall limit the rights of the Parties or of FERC under Section 205 and 206 of the Federal Power Act and FERC's rules and regulations thereunder.

10.7 Liability. A party shall not be liable to another Party or to any third party or other person for any damages arising out of actions under this NUFA, including, but not limited to, any act or omission that results in an interruption, deficiency or imperfection of Interconnection Service, except as provided in the PJM Tariff. The provisions set forth in the PJM Tariff shall be additionally applicable to any Party acting in good faith to implement or comply with its obligations under this NUFA, regardless of whether the obligation is preceded by a specific directive.

10.8 Governing Law. This NUFA is governed by and shall be construed in accordance with laws of the State of [____], without regard for any principles of conflicts of laws.

10.9 No Waiver. It is mutually understood that any failure by Transmission Provider or Interconnected Transmission Owner or inconsistency to enforce or require the strict keeping and performance by Interconnection Customer of any of the provisions of this NUFA shall not constitute a waiver by Transmission Provider or Interconnected Transmission Owner of such provisions, and shall not affect or impair such provisions in any way, or the right of Transmission Provider or Interconnected Transmission Owner at any time to avail itself of such remedies as it may have for any breach or breaches of such provisions. The waiver, illegality, invalidity and/or unenforceability of any provision appearing in this NUFA shall not affect the validity of this NUFA as a whole or the validity or any other provisions therein.

10.10 Waiver of Jury Trial. TO THE FULLEST EXTENT PERMITTED BY LAW, EACH OF THE PARTIES HERETO WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS NUFA. EACH PARTY FURTHER WAIVES ANY RIGHT TO CONSOLIDATE ANY ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED.

11. Notice

11.1 General. Any notice, demand or request required or permitted to be given by any Party to another and any instrument required or permitted to be tendered or delivered by any Party in writing to another may be so given, tendered or delivered, by recognized national

courier, or by depositing the same with the United States Postal Service with postage prepaid, for delivery by certified or registered mail, addressed to the Party, or personally delivered to the Party, at the address specified in Section 11.2. Such notices, if agreed to by the Parties, may be made via electronic means, with e-mail confirmation of delivery.

11.2 Contacts. Any Party may update its contact information by providing notice to the other Parties in accordance with Section 11.1.

Interconnected Transmission Owner

[Name]

[Company or Organization]

[Phone]

[Business Address]

[City, State Zip]

[Email]

Interconnection Customer

[Name]

[Company or Organization]

[Phone]

[Business Address]

[City, State Zip]

[Email]

Transmission Provider

[Name]

PJM Interconnection, L.L.C.

[Phone]

2750 Monroe Blvd

Audobon, PA 19403

[Email]

SIGNATURE PAGE FOLLOWS

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

(PJM Queue Position # ___)

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

By: _____ _____ _____
 Printed Name Title Date

Interconnection Customer: **[Name of Party]**

By: _____ _____ _____
 Printed Name Title Date

Interconnected Transmission Owner:

By: _____ _____ _____
 Printed Name Title Date

EXHIBIT A

[Formula Rate Exhibit]

PJM TO @ 21% FIT

EXHIBIT I

Levelized Fixed Charge Rate Calculation with Deferred Recovery

(Blank Template)

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Project Name: 20XX Network Upgrade project

Description: 20XX Network Upgrade project

Cost Year: 20XX Actual True-up

Estimated or Actual Cost and ISD: Actual cost; Actual ISD 6/1/20XX

Rate Recovery Period: June 1, 20XX thru May 31, 20XX

Levelized Fixed Charge Computation:

Initial Network Upgrade Capital Cost		\$0
Levelized FCR with Deferred Recovery	(Line 57)	0.0000%
Annual Network Upgrade Charge	(Line 19 x Line 20)	\$0
Monthly Payment	(Line 21 / 12)	\$0

Fixed Charge Rate Calculation:

Investment	(Line 19)	0
PW Federal Tax Depreciation	[Line 109, Col (f)]	0
Applicable federal tax rate	(Line 64)	0.00%
PW Federal Tax Benefit	(Line 28 x Line 29)	0
PW State Tax Depreciation	[Line 109, Col (g)]	0
Applicable state tax rate	(Line 65)	0.00%
PW State Tax Benefit	(Line 32 x Line 33)	0
PW Tax Benefit	(Line 30 + Line 34)	0
Present Worth Cashflow	(Line 26 - Line 36)	0
Revenue Conversion Factor	[1/(1 - Line 63)]	1.0000
Present Worth Revenue Requirement	(Line 37 x Line 38)	0

40		
41 In Service Date		6/1/2021
42 Recovery Start Date		6/1/2021
43 Deferral Days (February counted as 28 days)		0
44 Deferral Annualization Factor (based on 365 days)	(Line 43/365)	0.0000%
45 Discount Rate per Year	(Line 75)	0.0000%
46 Deferral Factor	$\{[(1+\text{Line 45})^{\text{Line 44}}] - 1\}$	0.0000%
47 Deferral Adjustment	(Line 39 x Line 46)	0
48		
49 Present Worth with Deferred Recovery	(Line 39 + Line 47)	0
50		
51 Recovery Period (RP)		20
52 Annualization Factor	$\{ i [(1+i)^{\text{RP}}] / \{[(1+i)^{\text{RP}}] - 1\}$ (where RP is Line 51, and i is Line 45)	0.0000%
53		
54		
55 Levelized Amount	(Line 49 x Line 52)	0
56		
57 Levelized Fixed Charge Rate (FCR)	(Line 55 / Line 26)	0.0000%
58		

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60 Project Name: 20XX Network Upgrade project

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62 Inputs from Formula Rate True-up Filing

63 Combined Tax Rate	0.00%
64 Applicable Federal Income Tax Rate	0.00%
65 Applicable State Income Tax Rate	0.00%

66

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68 Capital Structure	Amount	Weight	Cost	Weighted Cost
69				
70 Long-Term Debt	0	0.00%	0.00%	0.0000%
71 Preferred Stock	0	0.00%	0.00%	0.0000%
72 Common Equity	0	0.00%	0.00%	0.0000%
73 Total Capitalization	0	0.00%		0.0000%

74

75 Discount Rate (Line 73 - (Line 63 x Line 70)) 0.0000%

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80 MACRS Depreciation Rates with Bonus Depreciation Option:

81

82	(a)	(b)	(c)	(d)	(e)	(f)	(g)
83 Year		MACRS	MACRS	State	Present	Present	Present
84		Rates	Depr	Depr	Worth	Worth	Worth
85					Factor	Federal Tax	State Tax
86					1/(1+i)^n	Depreciation	Depreciation
87							
88 Base		(Line 19)	\$0	\$0			
89	1	0.00%	0		1.000000	0	
90 Remaining Base		(Line 88-Line 89)	0.0				
91							
92	1	5.00%	0	0	1.000000	0	0
93	2	9.50%	0	0	1.000000	0	0
94	3	8.55%	0	0	1.000000	0	0
95	4	7.70%	0	0	1.000000	0	0
96	5	6.93%	0	0	1.000000	0	0

97	6	6.23%	0	0	1.000000	0	0
98	7	5.90%	0	0	1.000000	0	0
99	8	5.90%	0	0	1.000000	0	0
100	9	5.91%	0	0	1.000000	0	0
101	10	5.90%	0	0	1.000000	0	0
102	11	5.91%	0	0	1.000000	0	0
103	12	5.90%	0	0	1.000000	0	0
104	13	5.91%	0	0	1.000000	0	0
105	14	5.90%	0	0	1.000000	0	0
106	15	5.91%	0	0	1.000000	0	0
107	16	2.95%	0	0	1.000000	0	0
108							
109	Total		0	0		0	0

111 Footnote:

112 *Use Line 89 if bonus depreciation is applicable*

113

Return \ Capitalization Calculations From Transmission Formula Rate True-up Filing

Line or Note	Response	Cap Limit %
Does the formula rate template include a Capital Structure Equity Limit (Cap)? (Yes or No)	No	

	\$	Actual %	Cap Limit %	Cost (Note "X")	Weighted
Long Term Debt	0	0.00%	0.00%	0.0000	0.0000 =WCLTD
Preferred Stock	0	0.00%	0.00%	0.0000	0.0000
Common Stock	0	0.00%	0.00%	0.0000	0.0000
Total Capitalization (Sum Lines to)	<u>0</u>				<u>0.0000 =R</u>

Income Tax Rates From Transmission Formula Rate True-up Filing

FIT =	0.00%
SIT=	0.00%
p =	0.00%

INCOME TAXES

$T=1 - \{[(1 - SIT) * (1 - FIT)] / (1 - SIT * FIT * p)\} =$	0.00%
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Notes:

[Redacted area]