

**Tariff, Part IX, Subpart K,
Upgrade Application and Studies Agreement**

1. This Upgrade Application and Studies Agreement (“Application” or “Agreement”), dated _____, is entered into by and between _____ (“Upgrade Customer” or “Applicant”) and PJM Interconnection, L.L.C. (“Transmission Provider” or “PJM”) (individually a “Party” and together the “Parties”) pursuant to PJM Interconnection, L.L.C. Open Access Transmission Tariff (“Tariff”), Part VIII, Subpart H. Capitalized terms used in this Application, unless otherwise indicated, shall have the meanings ascribed to them in Tariff, Part I, section 1 or Tariff, Part VIII, Subpart A.1.
2. In order to have a valid Upgrade Request, Applicant must (1) electronically provide to Transmission Provider through PJM’s website a complete (i.e., non-deficient) and executed Application expressly accepted by Transmission Provider, and (2) submit to Transmission Provider the required cash Study Deposit by wire transfer in the amount of \$150,000. Upon satisfaction of the foregoing requirements, subject to Transmission Provider’s deficiency review, Transmission Provider will assign a Request Number to the Upgrade Request, which will establish (1) the validity of the Upgrade Request and (2) the priority of the Upgrade Request relative to other Upgrade Requests.

SECTION 1: REQUIRED APPLICANT INFORMATION

3. Name, address, telephone number, and e-mail address of Applicant. If Applicant has designated an agent, include the agent’s contact information.

Applicant

Company Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ Email: _____

Applicant’s Agent (if applicable)

Company Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ Email: _____

Agent’s contact person: _____

4. An Internal Revenue Service Form W-9 or comparable state-issued document for Applicant.
5. Documentation proving the existence of a legally binding relationship between Applicant and any entity with a vested interest in this Application and associated project

(e.g., a parent company, a subsidiary, or financing company acting as agent for Applicant). Such documentation may include, but is not limited to, Applicant's Articles of Organization and Operating Agreement describing the nature of the legally binding relationship.

6. Applicant's banking information, or the banking information of any entity with a legally binding relationship to Applicant that wishes to make payments and receive refunds on behalf of Applicant, in association with this Application and corresponding project:

Bank Name: _____
Account Holder Name: _____
ABA number: _____
Account Number: _____
Company: _____
Tax Reporting Name: _____
Tax ID: _____
Address: _____
City: _____
State: _____
Zip: _____
Phone: _____
Email: _____

SECTION 2: REQUIRED UPGRADE REQUEST SPECIFICATIONS

7. Specify whether Applicant submits this Application pursuant to either:
- _____ the process for funding Network Upgrades and requesting Incremental Auction Revenue Rights (IARRs) under the Amended and Restated Operating Agreement of PJM Interconnection, L.L.C., Schedule 1, section 7.8, and the parallel provisions of Tariff, Attachment K-Appendix, section 7.8; or
 - _____ the procedures for Merchant Network Upgrades to either (a) upgrade facilities or (b) advance certain already-identified upgrades.
8. If planning to fund Network Upgrades and request IARRs, specify the following, as further described in Tariff, Part VIII, Subpart H and the PJM Manuals:
- a. the station or transmission line or lines where the upgrades will be made;
 - b. the requested source and sink locations;
 - c. the increase in capability in megawatts (MW) or megavolt-amperes (MVA);
 - d. the MW amount of requested IARRs; and

- e. the proposed in-service or commencement date.
9. If planning Merchant Network Upgrades, complete the following, as further described in Tariff, Part VIII, Subpart H and the PJM Manuals:
- a. specify the substation or transmission facility or facilities where the upgrade(s) will be made;
 - b. specify the MW or MVA amount by which the normal or emergency rating of the identified facility is to be increased, together with the desired in-service date; or, as applicable, the Regional Transmission Expansion Plan project number and planned and requested advancement dates;
 - c. if requesting Incremental Capacity Transfer Rights (ICTRs), identify up to three Locational Deliverability Areas (LDAs) in which to determine the ICTRs; and
 - d. specify the planned date the proposed Merchant Network Upgrade will be in service, such date to be no more than seven (7) years from the date the valid Upgrade Request is received by Transmission Provider, unless Upgrade Customer demonstrates that engineering, permitting, and construction of the Merchant Network Upgrade will take more than seven (7) years.

SECTION 3: CONDUCT OF STUDIES

10. Transmission Provider, in consultation with the affected Transmission Owner(s), will conduct a System Impact Study as described in Tariff, Part VIII, Subpart H, and provide Upgrade Customer with a System Impact Study report through Transmission Provider's website. The System Impact Study report will include good faith estimates of the cost allocation of the Network Upgrades for Applicant's Upgrade Request, but those estimates shall not be deemed final or binding.
11. In order for the Upgrade Request to proceed to the Facilities Study, Transmission Provider must timely receive from Upgrade Customer a Readiness Deposit as described in Tariff, Part VIII, Subpart H. If Transmission Provider does not timely receive the Readiness Deposit, then Transmission Provider shall deem the Upgrade Request to be terminated and withdrawn, and the Upgrade Request will be removed from all studies and will lose its priority position.
12. If Transmission Provider timely receives the Readiness Deposit, then Transmission Provider will proceed with the Facilities Study for the Upgrade Request. The Facilities Study will provide the final details regarding the type, scope, and construction schedule of Network Upgrades and any other facilities that may be required to accommodate the Upgrade Request, and will provide Upgrade Customer with a final estimate of Upgrade Customer's cost responsibility for the Upgrade Request. Upon completion of the

Facilities Study, Transmission Provider will provide Upgrade Customer with a Facilities Study report through Transmission Provider's website, and concurrently tender a draft Upgrade Construction Service Agreement, a form of which is located in Tariff, Part IX, Subpart E.

13. The System Impact Study and Facilities Study necessarily will employ various assumptions regarding Applicant's Upgrade Request, other Upgrade Requests, and PJM's Regional Transmission Expansion Plan at the time of study. IN NO EVENT SHALL THIS AGREEMENT, THE SYSTEM IMPACT STUDY, OR THE FACILITIES STUDY IN ANY WAY BE DEEMED TO OBLIGATE TRANSMISSION PROVIDER OR TRANSMISSION OWNER(S) TO CONSTRUCT ANY FACILITIES OR UPGRADES OR TO PROVIDE ANY TRANSMISSION OR INTERCONNECTION SERVICE TO OR ON BEHALF OF APPLICANT EITHER AT THIS POINT IN TIME OR IN THE FUTURE.

SECTION 4: COST RESPONSIBILITY

14. Ten percent of Applicant's \$150,000 Study Deposit is non-refundable.
15. Transmission Provider first shall apply Applicant's Study Deposit in payment of the invoices for the costs of the System Impact Study.
16. If Study Deposit monies remain after the System Impact Study is completed, and any outstanding monies owed by Upgrade Customer in connection with outstanding invoices related to the present or prior Upgrade Requests or other New Service Requests have been paid, such remaining deposit monies either shall be:
 - a. Applied to the Facilities Study, if Upgrade Customer decides to remain in the Upgrade Request process; or
 - b. Returned to Upgrade Customer, less actual study costs incurred, if Upgrade Customer decides to withdraw its Upgrade Request.
17. Actual costs for the System Impact Study and Facilities Study may exceed the Study Deposit. Notwithstanding the amount of the Study Deposit, Applicant shall reimburse Transmission Provider for all, or for Applicant's allocated portion of, the actual cost of the studies in accordance with Applicant's cost responsibility. Applicant is responsible for, and must pay, all actual study costs. If Transmission Provider sends Applicant notification of additional study costs, then Applicant must either: (i) pay all additional study costs within 20 days (or, if the 20th day is not a Business Day, then the next Business Day) of Transmission Provider sending the notification of such additional study costs, or (ii) withdraw its Upgrade Request. If Applicant fails to complete either (i) or (ii), then Transmission Provider shall deem the Upgrade Request to be terminated and withdrawn.

SECTION 5: CONFIDENTIALITY

18. Applicant agrees to provide all information requested by Transmission Provider necessary to complete and review this Application. Subject to this section 5, and to the extent required by Tariff, Part VIII, Subpart E, section 17, information provided pursuant to this Application shall be and remain confidential.
19. Upon completion of the System Impact Study and Facilities Study, the corresponding reports will be listed on Transmission Provider's website and, to the extent required by Tariff, Part VIII, Subpart E, section 17 or Commission regulations, will be made publicly available. Applicant acknowledges and consents to such disclosures as may be required under Tariff, Part VIII, Subpart E, section 17 or Commission regulations.
20. Applicant acknowledges that, consistent with the confidentiality provisions of Tariff, Part VIII, Subpart E, section 17, Transmission Provider may contract with consultants, including Transmission Owners, to provide services or expertise in the study process, and Transmission Provider may disseminate information as necessary to those consultants, and rely upon them to conduct part or all of the System Impact Studies.

SECTION 6: DISCLAIMER OF WARRANTY, LIMITATION OF LIABILITY

21. In completing the System Impact Study and Facilities Study, Transmission Provider, Transmission Owner(s), and any other subcontractors employed by Transmission Provider must rely on information provided by Applicant and possibly by third parties, and may not have control over the accuracy of such information. Accordingly, **NEITHER TRANSMISSION PROVIDER, TRANSMISSION OWNER(S), NOR ANY OTHER SUBCONTRACTORS EMPLOYED BY TRANSMISSION PROVIDER MAKES ANY WARRANTIES, EXPRESS OR IMPLIED, WHETHER ARISING BY OPERATION OF LAW, COURSE OF PERFORMANCE OR DEALING, CUSTOM, USAGE IN THE TRADE OR PROFESSION, OR OTHERWISE, INCLUDING WITHOUT LIMITATION IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WITH REGARD TO THE ACCURACY, CONTENT, OR CONCLUSIONS OF THE SYSTEM IMPACT STUDY AND FACILITIES STUDY.** Applicant acknowledges that it has not relied on any representations or warranties not specifically set forth herein, and that no such representations or warranties have formed the basis of its bargain hereunder. Neither this Agreement nor the System Impact Study and Facilities Study conducted hereunder is intended, nor shall be interpreted, to constitute agreement by Transmission Provider or Transmission Owner(s) to provide Interconnection Service or transmission service to or on behalf of Applicant either at this time or in the future.
22. In no event will Transmission Provider, Transmission Owner(s), or other subcontractors employed by Transmission Provider be liable for indirect, special, incidental, punitive, or consequential damages of any kind including loss of profits, whether under this agreement or otherwise, even if Transmission Provider, Transmission Owner(s), or other

subcontractors employed by Transmission Provider have been advised of the possibility of such a loss. Nor shall Transmission Provider, Transmission Owner(s), or other subcontractors employed by Transmission Provider be liable for any delay in delivery or of the non-performance or delay in performance of Transmission Provider's obligations under this Agreement.

SECTION 7: MISCELLANEOUS

23. Any notice or request made to or by either Party regarding this Agreement shall be made to the representative of the other Party as indicated below.

Transmission Provider:

PJM Interconnection, L.L.C.
2750 Monroe Blvd.
Audubon, PA 19403
interconnectionagreementnotices@pjm.com

Applicant:

24. No waiver by either Party of one or more defaults by the other in performance of any of the provisions of this Agreement shall operate or be construed as a waiver of any other or further default or defaults, whether of a like or different character.
25. This Agreement, or any part thereof, may not be amended, modified, or waived other than by a writing signed by all Parties.
26. This Agreement shall be binding upon the Parties, their heirs, executors, administrators, successors, and permitted assigns.
27. This Agreement shall become effective on the date it is executed by both Parties and shall remain in effect until the earlier of (a) the date on which Applicant enters into an Upgrade Construction Service Agreement with PJM and Transmission Owner, a form of which is available at Tariff, Part IX, Subpart E; or (b) termination or withdrawal of this Application.
28. Prior to entering into a final Upgrade Construction Service Agreement, an Upgrade Customer may assign its Upgrade Request to another entity only if the acquiring entity accepts and acquires all rights and obligations as identified in the Upgrade Request for such project, as evidenced in a writing acceptable to Transmission Provider.

29. **Governing Law, Regulatory Authority, and Rules:**
This Agreement shall be deemed a contract made under, and the interpretation and performance of this Agreement and each of its provisions shall be governed and construed in accordance with, the applicable Federal laws and/or laws of the State of Delaware without regard to conflicts of law provisions that would apply the laws of another jurisdiction. This Agreement is subject to all Applicable Laws and Regulations. Each Party expressly reserves the right to seek changes in, appeal, or otherwise contest any laws, orders, or regulations of a Governmental Authority.
30. **No Third-Party Beneficiaries:**
This Agreement is not intended to and does not create rights, remedies, or benefits of any character whatsoever in favor of any persons, corporations, associations, or entities other than the Parties, and the obligations herein assumed are solely for the use and benefit of the Parties, their successors in interest, and where permitted their assigns.
31. **Multiple Counterparts:**
This Agreement may be executed in two or more counterparts, each of which is deemed an original but all of which constitute one and the same instrument.
32. **No Partnership:**
This Agreement shall not be interpreted or construed to create an association, joint venture, agency relationship, or partnership between the Parties or to impose any partnership obligation or partnership liability upon either Party. Neither Party shall have any right, power, or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.
33. **Severability:**
If any provision or portion of this Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction or other Governmental Authority, (1) such portion or provision shall be deemed separate and independent, (2) the Parties shall negotiate in good faith to restore insofar as practicable the benefits to each Party that were affected by such ruling, and (3) the remainder of this Agreement shall remain in full force and effect.
34. **Reservation of Rights:**
Transmission Provider shall have the right to make a unilateral filing with the Federal Energy Regulatory Commission (“FERC”) to modify this Agreement with respect to any rates, terms and conditions, charges, classifications of service, rule or regulation under section 205 or any other applicable provision of the Federal Power Act and FERC’s rules and regulations thereunder; and Applicant shall have the right to make a unilateral filing with FERC to modify this Agreement under any applicable provision of the Federal Power Act and FERC’s rules and regulations; provided that each Party shall have the right to protest any such filing by the other Party and to participate fully in any proceeding before FERC in which such modifications may be

considered. Nothing in this Agreement shall limit the rights of the Parties or of FERC under sections 205 or 206 of the Federal Power Act and FERC's rules and regulations, except to the extent that the Parties otherwise agree as provided herein.

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IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their respective authorized officials.

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

By: _____
Name Title Date

Printed Name

Applicant: [Name of Party]

By: _____
Name Title Date

Printed Name

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