

Attachment DD

4.6 Bilateral Capacity Transactions

(a) Unit-Specific Internal Capacity Bilateral Transaction Transferring All Rights and Obligations ("Section 4.6(a) Bilateral").

(i) Market Participants may enter into unit-specific internal bilateral capacity contracts for the purchase and sale of title and rights to a specified amount of installed capacity from a specific generating unit or units. Such bilateral capacity contracts shall be for the transfer of rights to capacity to and from a Market Participant and shall be reported to the Office of the Interconnection in accordance with this Attachment DD and the Office of the Interconnection's rules related to its "capacity exchange" tool.

(ii) For purposes of clarity, with respect to all Section 4.6(a) Bilateral transactions, the rights to, and obligations regarding, the capacity that is the subject of the transaction shall pass to the buyer under the contract at the location of the unit and further transactions and rights and obligations associated with such capacity shall be the responsibility of the buyer under the contract. Such obligations include any charges, including penalty charges, relating to the capacity under this Attachment DD. In no event shall the purchase and sale of the rights to capacity pursuant to a Section 4.6(a) Bilateral constitute a transaction with the Office of the Interconnection or PJM Settlement or a transaction in any auction under this Attachment DD.

(iii) All payments and related charges associated with a Section 4.6(a) Bilateral shall be arranged between the parties to the transaction and shall not be billed or settled by the Office of the Interconnection or PJM Settlement. The Office of the Interconnection, PJM Settlement, and the Members will not assume financial responsibility for the failure of a party to perform obligations owed to the other party under a Section 4.6(a) Bilateral reported to the Office of the Interconnection under this Attachment DD.

(iv) With respect to capacity that is the subject of a Section 4.6(a) Bilateral that has cleared an auction under this Attachment DD prior to a transfer, the buyer of the cleared capacity shall be considered in the Delivery Year the party to a transaction with PJM Settlement as Counterparty for the cleared capacity at the Capacity Resource Clearing Price published for the applicable auction.

(v) A buyer under a Section 4.6(a) Bilateral contract shall pay any penalties or charges associated with the capacity transferred under the contract. To the extent the capacity that is the subject of a Section 4.6(a) Bilateral contract has cleared an auction under this Attachment DD prior to a transfer, then the seller under the contract also shall guarantee and indemnify the Office of the Interconnection, PJM Settlement, and the Members for the buyer's obligation to pay any penalties or charges associated with the capacity and for which payment is not made to PJM Settlement by the buyer as determined by the Office of the Interconnection. All claims regarding a default of a buyer to a seller under a Section 4.6(a) Bilateral contract shall be resolved solely between the buyer and the seller.

(vi) To the extent the capacity that is the subject of the Section 4.6(a) Bilateral transaction already has cleared an auction under this Attachment DD, such bilateral capacity transactions shall be subject to the prior consent of the Office of the Interconnection and its determination that sufficient credit is in place for the buyer with respect to the credit exposure associated with such obligations.

(b) Bilateral Capacity Transaction Transferring Title to Capacity But Not Transferring Performance Obligations ("Section 4.6(b) Bilateral").

(i) Market Participants may enter into bilateral capacity transactions for the purchase and sale of a specified megawatt quantity of capacity that has cleared an auction pursuant to this Attachment DD. The parties to a Section 4.6(b) Bilateral transaction shall identify (1) each unit from which the transferred megawatts are being sold, and (2) the auction in which the transferred megawatts cleared. Such bilateral capacity transactions shall transfer title and all rights with respect to capacity and shall be reported to the Office of the Interconnection on an annual basis prior to each Delivery Year in accordance with this Attachment DD and pursuant to the Office of the Interconnection's rules related to its "capacity exchange" tool. Reported transactions with respect to a unit will be accepted by the Office of the Interconnection only to the extent that the total of all bilateral sales from the reported unit (including Section 4.6(a) Bilaterals, Section 4.6(b) Bilaterals, and Locational UCAP bilaterals) do not exceed the unit's cleared unforced capacity.

(ii) For purposes of clarity, with respect to all Section 4.6(b) Bilateral transactions, the rights to the capacity shall pass to the buyer at the location of the unit(s) specified in the reported transaction. In no event shall the purchase and sale of the rights to capacity pursuant to a Section 4.6(b) Bilateral constitute a transaction with PJM Settlement or the Office of the Interconnection or a transaction in any auction under this Attachment DD.

(iii) With respect to a Section 4.6(b) Bilateral, the buyer of the cleared capacity shall be considered in the Delivery Year the party to a transaction with PJM Settlement as Counterparty for the cleared capacity at the Capacity Resource Clearing Price published for the applicable auction; provided, however, with respect to all Section 4.6(b) Bilateral transactions, such transactions do not effect a novation of the seller's obligations to make RPM capacity available to PJM pursuant to the terms and conditions originally agreed to by the seller; provided further, however, the buyer shall indemnify PJM Settlement, the LLC, and the Members for any failure by a seller under a Section 4.6(b) Bilateral to meet any resulting obligations, including the obligation to pay deficiency penalties and charges owed to PJM Settlement, associated with the capacity.

(iv) All payments and related charges associated with a Section 4.6(b) Bilateral shall be arranged between the parties to the contract and shall not be billed or settled by the Office of the Interconnection or PJM Settlement. The Office of the Interconnection, PJM Settlement, and the Members will not assume financial responsibility for the failure of a party to perform obligations owed to the other party under a Section 4.6(b) Bilateral capacity contract reported to the Office of the Interconnection under this Attachment DD.

(v) To the extent the capacity that is the subject of the Section 4.6(b) Bilateral transaction already has cleared an auction under this Attachment DD, the final execution of such bilateral capacity transactions shall be subject to the prior consent of the Office of the Interconnection and its determination that sufficient credit is in place for the buyer and seller with respect to the credit exposure associated with such obligations; provided, however, that the following provisions shall apply to all credit reviews performed by the Office of the Interconnection with respect to Section 4.6(b) Bilateral transactions:

- (1) The Office of the Interconnection shall complete its review of an anticipated Section 4.6(b) Bilateral transaction by no later than the close of the next Business Day if such Section 4.6(b) Bilateral transaction has been received by the Office of the Interconnection's Credit Department for review by 1:00 p.m. Eastern Prevailing Time.
- (2) The Office of the Interconnection shall complete its review of an anticipated Section 4.6(b) Bilateral transaction by no later than the close of the second (2nd) Business Day if such Section 4.6(b) Bilateral transaction has been received by the Office of Interconnection's Credit Department for review after 1:00 p.m. Eastern Prevailing Time.
- (3) The timing of the Market Participants' submission of an anticipated Section 4.6(b) Bilateral transaction to the Office of the Interconnection's Credit

Department for review, relative to the desired transaction start date, is at the Market Participants' discretion. The Market Participants, however, assume all risk in delaying the submission to the Office of the Interconnection and the Market Participants hold the Office of the Interconnection harmless from any consequences of such delay.

- (4) The Office of the Interconnection will make reasonable efforts to communicate its credit determination and any associated requirements regarding the anticipated Section 4.6(b) Bilateral transaction with the buyer and seller in advance of the deadlines set forth in clauses (1) and (2) above.
- (5) Each submission of an anticipated Section 4.6(b) Bilateral transaction to the Office of the Interconnection for its review shall contain the following information supplied by the buyer and/or seller: (i) seller's account; (ii) buyer's account; (iii) auction/resource; (iv) quantity (MWs); (v) price; (vi) total notional value; and (vii) start and end dates.
- (6) All credit reviews of Section 4.6(b) Bilateral transactions, including, but not limited to, with respect to the creditworthiness of the buyer and seller, the impact of the anticipated Section 4.6(b) Bilateral transaction on the buyer and seller, and the determination and timing requirements of any additional credit that the Office of the Interconnection may require from one or both of buyer and seller as a condition for its consenting to the transaction, shall be performed by the Office of the Interconnection in accordance with the provisions of Tariff, Attachment Q.-
- (7) For anticipated Section 4.6(b) Bilateral transactions in which (i) both the buyer and seller have external "investment grade" ratings and (ii) the total notional value of the anticipated Section 4.6(b) Bilateral transaction is less than the Unsecured Credit Allowance for each of the buyer and seller, the Office of the Interconnection will be deemed to have consented to such transaction unless the Office of the Interconnection has informed the buyer and seller otherwise in advance of the applicable deadline under clauses (1) and (2) above.

(vi) All claims regarding a default of a buyer to a seller under a Section 4.6(b) Bilateral shall be resolved solely between the buyer and the seller.

(c) Locational UCAP Bilateral Transactions Between Capacity Sellers.

(i) Market Participants may enter into Locational UCAP bilateral transactions which shall be reported to the Office of the Interconnection in accordance with this Attachment DD and the LLC's rules related to its "capacity exchange" tool.

(ii) For purposes of clarity, with respect to all Locational UCAP bilateral transactions, the rights to the Locational UCAP that are the subject of the Locational UCAP bilateral transaction shall pass to the buyer under the Locational UCAP bilateral contract subject to the provisions of Tariff, Attachment DD, section 5.3A. In no event, shall the purchase and sale of Locational UCAP pursuant to a Locational UCAP bilateral transaction constitute a transaction with the Office of the Interconnection or PJMSettlement, or a transaction in any auction under this Attachment DD.

(iii) A Locational UCAP Seller shall have the obligation to make the capacity available to PJM in the same manner as capacity that has cleared an auction under this Attachment DD and the Locational UCAP Seller shall have all obligations for charges and penalties associated with the capacity that is the subject of the Locational UCAP bilateral contract; provided, however, the buyer shall indemnify PJMSettlement, the LLC, and the Members for any failure by a seller to meet any resulting obligations, including the obligation to pay deficiency penalties and charges owed to PJMSettlement, associated with the capacity. All claims regarding a default of a buyer to a seller under a Locational UCAP bilateral contract shall be resolved solely between the buyer and the seller.

(iv) All payments and related charges for the Locational UCAP associated with a Locational UCAP bilateral contract shall be arranged between the parties to such bilateral contract and shall not be billed or settled by the Office of the Interconnection or PJM Settlement. The LLC, PJM Settlement, and the Members will not assume financial responsibility for the failure of a party to perform obligations owed to the other party under a Locational UCAP bilateral contract reported to the Office of the Interconnection under this Attachment DD.

(v) To the extent the capacity that is the subject of the Locational UCAP bilateral transaction already has cleared an auction under this Attachment DD, the final execution of such bilateral capacity transactions shall be subject to the prior consent of the Office of the Interconnection and its determination that sufficient credit is in place for the buyer and seller with respect to the credit exposure associated with such obligations; provided, however, that the following provisions shall apply to all credit reviews performed by the Office of the Interconnection with respect to Locational UCAP bilateral transactions:

- (1) The Office of the Interconnection shall complete its review of an anticipated Locational UCAP bilateral transaction by no later than the close of the next Business Day if such Locational UCAP bilateral transaction has been received by the Office of the Interconnection's Credit Department for review by 1:00 p.m. Eastern Prevailing Time.
- (2) The Office of the Interconnection shall complete its review of an anticipated Locational UCAP bilateral transaction by no later than the close of the second (2nd) Business Day if such Locational UCAP bilateral transaction has been received by the Office of the Interconnection's Credit Department for review after 1:00 p.m. Eastern Prevailing Time.
- (3) The timing of the Market Participants' submission of an anticipated Locational UCAP bilateral transaction to the Office of the Interconnection's Credit Department for review, relative to the desired transaction start date, is at the Market Participants' discretion. The Market Participants, however, assume all risk in delaying the submission to the Office of the Interconnection and the Market Participants hold the Office of the Interconnection harmless from any consequences of such delay.
- (4) The Office of the Interconnection will make reasonable efforts to communicate its credit determination and any associated requirements regarding the anticipated Locational UCAP bilateral transaction with the buyer and seller in advance of the deadlines set forth in clauses (1) and (2) above.
- (5) Each submission of an anticipated Locational UCAP bilateral transaction to the Office of the Interconnection for its review shall contain the following information supplied by the buyer and/or seller: (i) seller's account; (ii) buyer's account; (iii) auction/resource; (iv) quantity (MWs); (v) price; (vi) total notional value; and (vii) start and end dates.
- (6) All credit reviews of Locational UCAP bilateral transactions, including, but not limited to, with respect to the creditworthiness of the buyer and seller, the impact of the anticipated Locational UCAP bilateral transaction on the buyer and seller, and the determination and timing requirements of any additional credit that the Office of the Interconnection may require from one or both of buyer and seller as a condition for its consenting to the transaction, shall be performed by the Office of the Interconnection in accordance with the provisions of Tariff, Attachment Q.
- (+)(7) For anticipated Locational UCAP bilateral transactions in which (i) both the buyer and seller have external "investment grade" ratings and (ii) the total notional value of the anticipated Locational UCAP bilateral transaction is less than the Unsecured Credit Allowance for each of the buyer and seller, the Office of the Interconnection will be deemed to have consented to such

transaction unless the Office of the Interconnection has informed the buyer and seller otherwise in advance of the applicable deadline under clauses (1) and (2) above.

(d)The bilateral transactions provided for in this section 4.6 shall be for the physical transfer of capacity to or from a Market Participant and shall be reported to and coordinated with the Office of the Interconnection in accordance with this Attachment DD and pursuant to the Office of the Interconnection's rules relating to its "capacity exchange" tool. Bilateral transactions that do not contemplate the physical transfer of capacity to and from a Market Participant are not subject to this Attachment DD and shall not be reported to and coordinated with the Office of the Interconnection.

(e)Effective with the 2022/2023 Delivery Year, any bilateral transaction provided for in this section 4.6 for replacement capacity shall be given no effect in satisfying the buyer's obligations under this Attachment DD to the extent that the resource that is the subject of the transaction is a Capacity Resource with State Subsidy for which the Capacity Market Seller has not elected to forego receipt of any State Subsidy for the relevant Delivery Year and does not qualify for one of the categorical exemptions described in Tariff, Attachment DD, sections 5.14(h-1)(5) through 5.14(h-1)(8) and the purchased capacity is then used to replace capacity from a Capacity Resource that (1) is not a Capacity Resource with State Subsidy or (2) is a Capacity Resource with State Subsidy for which the Capacity Market Seller elected the competitive exemption pursuant Tariff, Attachment DD, section 5.14(h-1)(4) or reported that it will forego receipt of any State Subsidy for the relevant Delivery Year, all as in accordance with the PJM Manuals.