UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Gaston Green Acres Solar, LLC	)	
Bethel NC Hwy 11 Solar, LLC	)	
	)	
Complainants	)	
	)	
v.	)	**Docket No. EL26-__-000**
	)	
PJM Interconnection, L.L. C.	)	
	)	
	)	

COMPLAINT OF GASTON GREEN ACRES SOLAR, LLC AND BETHEL NC HWY 11 SOLAR, LLC AGAINST PJM INTERCONNECTION, LLC, REQUEST FOR SHORTENED COMMENT PERIOD AND FAST TRACK PROCESSING AND REQUEST FOR ALTERNATIVE RELIEF

Pursuant to Federal Power Act ("FPA") Sections 206 and 309, and Rule 206 of the Federal Energy Regulatory Commission's ("FERC" or "Commission") Rules of Practice and Procedure,[1] Gaston Green Acres Solar, LLC ("Gaston") and Bethel NC Hwy 11 Solar, LLC ("Bethel") (together, "Complainants"), developing the solar energy generating projects with PJM Queue ID numbers AG1-106 and AF2-080 respectively, file this complaint against PJM Interconnection, LLC ("PJM"). PJM's Tariff is unjust and unreasonable because it does not afford developers, including Complainants, the opportunity to withdraw from Transition Cluster 1 ("TC1") without penalty after a restudy that results in an extreme increase of allocated Network Upgrade costs that forces projects to withdraw from the queue. Specifically, Gaston's allocated Network Upgrade Costs increased by 75% and approximately $300,000 per MW

[1] 16 U.S.C. § 842e; 18 C.F.R. §§ 385.206 (2025).

between the Phase III System Impact Study and the Final System Impact Study ("Retool 1"). Similarly, Bethel's Network Upgrade costs increased by 58% and approximately $203,000 per MW. While PJM's Tariff permits penalty free withdrawal during DPIII (but before the close of DPIII) if Network Upgrade costs increase from Phase II to Phase III by: (i) 35% or more; and (ii) more than $25,000 per MW,[2] it does not permit the same right to withdraw penalty free after receipt of the Phase III study and after subsequent retool studies. Thus, developers, such as Complainants, lose Readiness Deposits when they withdraw due to significantly increased Network Upgrade costs from the Retool 1 study.

To permit PJM to retain Gaston and Bethel's Readiness Deposits upon withdrawal would be unjust and unreasonable because Gaston's and Bethel's respective cost allocations for Network Upgrades each increased by more than 50% and $200,000 per megawatt from the preceding study results, and the factual basis underpinning the creation, nature, and details of PJM's Readiness Deposit and withdrawal penalty framework, upon which the Commission relied in permitting the relevant tariff provisions to become effective, no longer exist.

Accordingly, Complainants respectfully ask the Commission to: (1) find that the lack of ability to withdraw from the interconnection queue penalty free following an unexpected increase of Network Upgrade costs of over 50% and $200,000 per MW between consecutive cost allocations renders the PJM Tariff unjust and unreasonable; (2) replace the unjust and unreasonable tariff terms with the terms set forth in Section VI below; and (3) issue an order directing PJM to refund the full amount of Gaston's and Bethel's respective Readiness Deposits.

In the alternative, and as described in more detail below, PJM refused to treat Bethel as a separate project for purposes of executing a GIA, arguing that, as an uprate, the Bethel project

[2] PJM Tariff, Part VII, Section 313.B.5.d.

and co-located project Pitt Solar, LLC, AC1-189 must be treated as one project under one GIA. Bethel seeks an order from the Commission that it is entitled to a separate GIA. Therefore, its New Service Request should be reinstated, and PJM should tender a GIA to Bethel for execution.

According to PJM, AC1-189 and AF2-080 (Bethel) are held by Pitt Solar, LLC ("Pitt Solar"). PJM has taken the position that AF2-080 is an "uprate" of AC1-189 and, therefore, must be treated as one Generating Facility with one Generator Interconnection Agreement ("GIA"). Bethel disagrees with PJM and has pursued alternative dispute resolution ("ADR").

Bethel and Pitt Solar were developed to be separate projects. Project ID AC1-189 was acquired by a subsidiary of Brookfield Renewable. Under the operative disposition documents, Bethel retained the rights to AF2-080. The parties executed a Shared Facilities Agreement to reflect each party's right to the applicable interconnection facilities. The permits and site control for AF2-080 are held by Bethel. When the parties realized that AF2-080 (which was not transferred to Brookfield Renewable) remained under Pitt Solar's name, Bethel intended for Pitt Solar to transfer AF2-080 to Bethel, as permitted by Section 307 of the PJM Tariff, and to file the executed Shared Facilities Agreement with the Commission. As it had done in a similarly configured prior project development, Bethel sought its own GIA for AF2-080.

While the project is described in some documentation as an "uprate", the two projects connect at the low side of the main power transformer ("MPT") and, from PJM's perspective will be operated as one project, with the Shared Facilities Agreement governing the business relationship between the two parties. This configuration has been accepted by PJM previously with two separate interconnection agreements issued for the two project developments. Importantly, each of AF2-080 and AC1-189 have their own collection point (with a dedicated set of breakers) and will be metered separately. PJM permitted Bethel's affiliate, SunEnergy1 LLC

("SunEnergy1") to utilize this configuration previously and Bethel had no reason to know that PJM had changed its policy on permitting this configuration until DPIII.

As a result of PJM's refusal to recognize AF2-080 as a separate project, technically the Interconnection Customer for AF2-080 is Pitt Solar. However, Pitt Solar does not have rights to this project, and Bethel, as the true "owner" of AF2-080, files this Complaint in its name and seeks the rights to pursue this claim at this time in its name. If the Commission declines to grant the penalty free withdrawal requested in this Complaint, Bethel requests, in the alternative, that the FERC order PJM to issue a separate GIA to Bethel as the queue position holder of New Service Request AF2-080.

I. INTRODUCTION

The Readiness Deposits at issue, which are substantial, are part of PJM's comprehensive interconnection queue reforms enacted to address interconnection queue delays caused by massive amounts of renewable energy project interconnection requests, including large volumes of speculative interconnection requests that are subsequently withdrawn.[3] PJM's rationale for these tariff provisions was squarely aligned with the rationale underlying the FERC's interconnection rulemaking and resulting Orders No. 2023 and 2023-A, which mandated sweeping interconnection queue reforms in an effort to reduce interconnection queue backlogs and discourage speculative interconnection requests.[4] The Readiness Deposits, and the schedule upon which they become "at-risk," are designed to discourage speculative interconnection

[3] *See generally, PJM Interconnection, L.L.C.*, Docket No. ER22-2110-000 at 19-21 (filed June 14, 2022) ("IPRTF Initial Tariff Filing").

[4] *See generally, Improvements to Generator Interconnection Procedures and Agreements*, Notice of Proposed Rulemaking, 179 FERC ¶ 61,194 (2022) ("Order No. 2023").

requests, incentivize withdrawals earlier in the study process, and "provide greater cost certainty to Project Developers and Eligible Customers."[5]

But the circumstances that formed the basis for PJM's tariff reforms and the parallel Order No. 2023 mandates, including the framework of Readiness Deposits and withdrawal penalties, no longer exist due to a series of executive and legislative actions impacting the solar and wind energy industries. Under the circumstances that have developed and now exist, rigid adherence to the Readiness Deposit and withdrawal penalty framework as interpreted by PJM would be unjust and unreasonable.

The "withdrawal penalties" included in PJM's reforms and Order No. 2023's mandates are implemented by way of forfeiture of the interconnection customer's Readiness Deposits, which become increasingly "at-risk" as the interconnection process continues each Cycle. For TC1, all Readiness Deposits have been fully at-risk since the completion of the DPII deficiency review, which occurred around the end of April 2025. PJM's TC1 interconnection cohort (which includes Gaston and Bethel) is currently at the Final Agreement Negotiation Phase, in which the Phase III retool studies run concurrently with issuance of final agreements, as of September 22, 2025. The Final Agreement Phase concludes with execution of a Generator Interconnection Agreement on or before January 9, 2026, unless PJM determines that further retool studies are required, which could extend the execution of final agreements by approximately 30 days.

Here, the lack of a penalty free off-ramp following an extreme increase in allocated Network Upgrade costs renders PJM's tariff unjust and unreasonable. In its deliberations regarding the Order No. 2023 withdrawal penalty framework, the Commission found that the potential for an unexpected significant increase in Network Upgrade cost allocation between

[5] PJM IPRTF Initial Tariff Filing, at pg 52.

studies requires an ability to withdraw without being subject to penalties.[6] The FERC relied on the existence of such an exemption in rejecting commenter concerns about potential "wrongful withdrawal penalties" in Order No. 2023.[7] This Complaint is about such wrongful withdrawal penalties under the PJM Tariff.

While PJM's Tariff includes an "adverse study impact" provision intended to provide protection for Project Developers against significant and unexpected cost increases, it only applies at two precise points in the interconnection process and takes into account the cost difference between two specific sets of study results at each point. But there are multiple other studies and points in the interconnection process at which Network Upgrade costs might massively increase and suddenly make a previously promising project uneconomic. For example, the Retool 1 study is outside the scope of the Adverse Study Impact Calculation, which therefore will not protect Gaston and Bethel against wrongful withdrawal penalties despite their being forced to withdraw from the queue due to Network Upgrade cost increases of greater than 50% and $200,000 per MW, which far exceed the 35% and $25,000 per MW threshold that trigger the adverse study impact withdrawal penalty exception applicable to DPIII.

As established by Complainants herein, the PJM Tariff is unjust and unreasonable because it permits massive and unchecked increases in Network Upgrade costs without an ability for the affected Project Developer to exit the queue without penalty. Gaston and Bethel were both economic, well-managed projects that met all burdens and obligations in their pursuit of interconnection service under the PJM Tariff. Modifying the PJM Tariff to provide a penalty free off ramp when Network Upgrades increase beyond a specified threshold between two

[6] Order No 2023, at P 792.

[7] *Id.* at P 787.

consecutive cluster impact studies will remedy the deficiency and be consistent with the Commission's mandates in Order No. 2023. It will avoid unjust and unreasonable results and will enable Complainants to deploy the Readiness Deposits at issue towards other projects that could provide badly needed generating capacity in the PJM region.

II. CORRESPONDENCE AND COMMUNICATIONS

Correspondence and communications with respect to this filing and docket should be addressed to:[8]

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III. SUMMARY OF FACTS

The Projects

Gaston is a 23 MW (nameplate) solar photovoltaic generating facility being developed in Northampton County, North Carolina. It will interconnect to the transmission system owned by Virginia Electric and Power Company d/b/a Dominion Energy Virginia ("Dominion") at a shared Point of Interconnection ("POI") with another project designated PJM Queue ID No. AB1-132. Gaston entered the PJM Interconnection Queue on August 28, 2020, was designated PJM Queue

[8] To the extent required, Complainants request waiver of Rule 203(b)(3) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.203(b)(3), to allow each of the individuals listed below to be placed on the official FERC service list to avoid delays in receipt of notices and responses to pleadings.

ID No. AG1-106, and was therefore included in Transition Cycle One ("TC1") pursuant to the PJM Tariff.[9] Gaston is an indirect wholly-owned subsidiary of SE1 DevCo, LLC ("SE1 DevCo"). SE1 DevCo is a Delaware limited liability company engaged in the development and ownership of renewable generation in the United States.

To date, Gaston has committed $10,329,180.00 in Readiness Deposits, including Readiness Deposit No. 1 (Application Submission – August 28, 2020), Readiness Deposit No. 2 (Decision Point 1 – June 18, 2024), and Readiness Deposit No. 3 (Decision Point 2 – February 12, 2025). Throughout its inclusion in the PJM Interconnection Queue, Gaston has diligently pursued commercial operation and met all milestones, readiness requirements, and tariff obligations to date.

On September 18, 2025, PJM issued its Phase III SIS results with updated Network Upgrade cost allocations, which commenced DPIII. The Phase III SIS allocated $9,145,122 of Network Upgrade costs to Gaston. Gaston stayed in the queue and intended to negotiate a final Generator Interconnection Agreement. PJM subsequently conducted its Retool 1 study to reflect changes due to queue withdrawals. PJM released the Retool 1 study results on December 8, 2025. The Retool 1 study results allocate $16,030,381 of Network Upgrade costs to Gaston, which represents an increase of $6,885,259, 75.3%, and $299,359.09 per MW from the Phase III SIS.

Bethel is a 70 MW solar photovoltaic generating facility under development in Pitt County, North Carolina. It will interconnect to the transmission system owned by Dominion at a shared Point of Interconnection ("POI") with another project designated PJM Queue ID No. AC1-189. Bethel entered the PJM Interconnection Queue on January 31, 2020, was designated

[9] PJM Tariff, Part VII, Subpart B, § 303(A).

PJM Queue ID No. AF2-080, and was therefore included in TC1 pursuant to the PJM Tariff. Bethel is an indirect wholly-owned subsidiary of SE1 DevCo. Gaston and Bethel are affiliates.

To date, Bethel has committed $4,109,937.00 in Commercial Readiness Deposits, including Readiness Deposit No. 1 (Application Submission – January 31, 2020), Readiness Deposit No. 2 (Decision Point 1 – June 18, 2024), and Readiness Deposit No. 3 (Decision Point 2 – January 27, 2025). Throughout its inclusion in the PJM Interconnection Queue, Bethel has diligently pursued commercial operation and met all milestones, readiness requirements, and tariff obligations to date.

Bethel's allocation of Network Upgrade costs in the Phase III SIS was $24,649,633. The December 8, 2025, Retool 1 study increased Bethel's Network Upgrade cost allocation to $38,874,396, which represents an increase of $14,224,763, 57.7%, and $203,210.90 per MW[10] from the previous cluster study.

The PJM Interconnection Process Reform Task Force

Shortly before the Commission issued the Notice of Proposed Rulemaking ("NOPR") that led to Order No. 2023, PJM filed a suite of tariff revisions designed to address the overcrowding of its interconnection queue with enormous numbers of interconnection requests from renewable projects, including large volumes that PJM believed were speculative.[11] These comprehensive reforms included the transition to a cluster study framework and the establishment of Readiness Deposits and escalating withdrawal penalties, among other changes. This filing was the culmination of a stakeholder process called the Interconnection Process Reform Task Force ("IPRTF") that extended from March 2021 through approval of the proposed

[11] IPRTF Initial Tariff Filing, at pg. 5.

reforms by the PJM Members Committee on May 17, 2022, for submission to the FERC.[12] The Commission approved PJM's reforms subject to condition on November 29, 2022.[13]

Following the Commission's issuance of Orders No. 2023 and 2023-A (while the IPRTF Initial Tariff Filing remained pending), PJM submitted an Order No. 2023 compliance filing on May 16, 2025, in which it requested approval of the IPRTF tariff provisions as substantially complying with the requirements of Orders No. 2023 and 2023-A under the independent entity variation standard.[14] By order dated July 24, 2025, the Commission approved this request in many respects, including with regard to the PJM Tariff's Readiness Deposit and withdrawal penalty regime.[15]

The IPRTF Readiness Deposit and Withdrawal Penalty Framework Applicable to TC1

As noted, PJM's tariff reforms included the overall transition to a cluster study framework, including a schedule for submission of Readiness Deposits and escalating withdrawal penalties in the later phases of the study cycle. The aspects of the reforms most relevant to this Complaint are the Readiness Deposit and withdrawal penalty components. Figure 1 below shows the overall process flow for how new service requests are processed.[16]

[12] *See generally, id.*

[13] *PJM Interconnection, L.L.C.*, 181 FERC ¶ 61,162 (2022).

[14] *PJM Interconnection, L.L.C.*, Docket No. ER24-2045-000 at 2 (filed May 16, 2025).

[15] *PJM Interconnection, L.L.C.*, 192 FERC ¶ 61,077 at ¶ 191 (2025).

[16] PJM Bus. Practice Manual 14H, New Service Requests Cycle Process, Exh. 2 at pg. 20 (*available at* https://www.pjm.com/-/media/DotCom/documents/manuals/m14h.pdf) (Rev. 03, eff. Sept. 25, 2025).

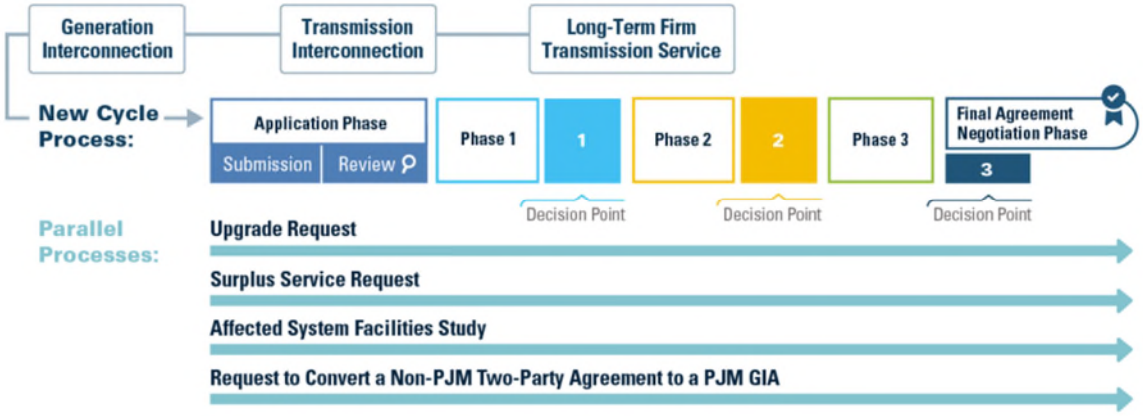

Fig. 1

Project Developers must submit Readiness Deposits at various points during the study cycle to remain in the interconnection queue cluster. These deposits become partially or fully at-risk at different times after being submitted. Only the at-risk portion of the Readiness Deposit at the time of a project's withdrawal or deemed withdrawal from the queue may be forfeit. Any portion of a Readiness Deposit that is not at-risk at the time of withdrawal or deemed withdrawal is returned to the Project Developer. Some aspects of this framework are unique to the Transition Period (there are even some minor differences between TC1 and TC2). Unless otherwise noted, all discussion herein relates specifically to the rules for TC1, the cluster in which Gaston and Bethel are being studied.

Readiness Deposit 1 ("RD1"), equal to $4,000 per MW of project size, was required to be submitted within 60 calendar days of the Transition Date.[17] For TC1, RD1 becomes fully at-risk after the close of Decision Point I ("DPI").[18] Readiness Deposit 2 ("RD2"), equal to 10% of the Network Upgrades determined in Phase I, less the payment already made as RD1, is payable

[17] PJM Tariff, Part VII, Subpart B, § 303(a)(1).

[18] *See Id.*

prior to the close of DPI.[19] RD2 becomes fully at risk after Decision Point II ("DPII"). Readiness Deposit 3 ("RD3"), in the amount of 20% of the required Network Upgrade cost allocation determined in Phase II, less the deposits paid as RD1 and RD2, is due before the close of DPII.[20] RD3 is fully at-risk when submitted. Thus, after the close of DPII, all Readiness Deposits are fully at-risk.

At-risk Readiness Deposits will be returned only if a Project Developer chooses to withdraw at DPII or DPIII due to "Adverse Study Results," as defined in the PJM Tariff.[21] The Adverse Study Results Test Criteria measure the increase in allocated Network Upgrade costs from either Phase I to Phase II[22] or Phase II to Phase III.[23] There is one set of adverse study criteria at DPII (minimum increase of 25% and more than $10,000 per MW from the Phase 1 study results) and another, more stringent criteria at DPIII (minimum increase of 35% and more than $25,000 from the Phase 2 study results). If the increase in allocated cost exceeds the applicable threshold and the Project Developer elects to withdraw its Project, PJM will refund the cumulative Readiness Deposits received from the Project Developer. The PJM Tariff does not provide an Adverse Study Results off-ramp at any other times, or based on the results of any other cluster studies.

Readiness Deposits are held until all New Service Requests have either been withdrawn or entered into final Generator Interconnection Agreements and met the relevant DPIII site control requirements. Once this has occurred, DPIII closes and PJM conducts a retool study

[19] *See* PJM Tariff, Part VII, Subpart B, § 309(A). RD2 can be zero but not negative.

[20] *See* PJM Tariff, Part VII, Subpart B, § 311(A).

[21] *See* PJM Tariff, Part VII, Subpart B, §§ 311(B)(3)(c) and 313(B)(5)(d).

[22] PJM Tariff § 311(B)(3)(c).

[23] PJM Tariff § 313(B)(5)(d).

("Retool 1 Study") that removes all the withdrawn projects from the model and makes a final determination regarding required Network Upgrades and cost allocations for the Cycle.[24] Readiness Deposits are then applied to underfunded Network Upgrades (defined as those Network Upgrades with one or more withdrawn New Service Requests that were identified as having a cost allocation) on a pro-rata share of funds missing from the Phase III cost allocation.[25] In the event that all underfunded Network Upgrades are made whole relative to the Withdrawn New Service Requests, remaining Readiness Deposits will be refunded on a pro-rata share.[26]

IV. AUTHORITY AND STANDARD OF REVIEW

FPA Section 206 provides the authority and sets forth the standard of review to be applied by the Commission in evaluating complaints.[27] It provides that whenever, upon complaint, the Commission finds that any rates or charges (including non-rate terms and conditions) are unjust, unreasonable, unduly discriminatory, or preferential, the Commission shall determine and impose replacement rates, charges, or practices that are just and reasonable.[28] The burden of showing that the relevant charge or practice is unjust and unreasonable rests with the complainant.[29]

Complainants establish throughout this Complaint that the imposition of withdrawal penalties on Gaston and Bethel based on their withdrawal due to extreme increases in Network

[24] *Id.* at § 301(A)(3)(b)(iii).

[25] *Id.* at § 301(A)(3)(b)(ii).

[26] *PJM Interconnection L.L.C.*, 192 FERC ¶ 61,077 at P 192 (2025).

[27] *See* 16 U.S.C. § 824e.

[28] *See, e.g. PJM Interconnection, LLC, et. al,* 189 FERC ¶ 61,105 at P 25 (2024); *Cal. Indep. Sys. Operator Corp.*, 126 FERC ¶ 61,150, at P 254 (2009) (If a rate or practice is found to be unjust or unreasonable, the Commission must "impose a just and reasonable replacement rate or practice.").

[29] *See, e.g., Indep. Mkt. Monitor v. PJM Interconnection, L.L.C.*, 188 FERC ¶ 61,129, at P 32 (2024).

Upgrade costs would be unjust and unreasonable, and therefore meets its burden of proof under FPA Section 206.

Complainants accordingly ask the Commission to exercise its broad remedial powers under Sections 206 and 309 of the FPA to (1) find that the lack of an Adverse Study Results penalty free withdrawal for extreme Network Upgrade cost increases between two consecutive cost allocations renders the PJM Tariff unjust and unreasonable, (2) order PJM refund Gaston and Bethel's Readiness Deposits; and (3) add a new provision to the PJM Tariff permitting such penalty free queue withdrawal as formulated in Section VII(C), below. In the alternative, with respect to Bethel, PJM should be ordered to issue a GIA to Bethel separate from its co-located generation project, PJM Queue ID AC1-189 as indicated below.

V. COMPLAINT

PJM's imposition of withdrawal penalties on Gaston and Bethel based on their withdrawal from the queue following extreme increases in Network Upgrade cost allocations between cluster study cost allocations is unjust and unreasonable. Subjecting a Developer to withdrawal penalties in the face of significant and unexpected Network Upgrade cost increases is inconsistent with Order No. 2023. In addition, Adverse Study Results off ramps are critical to orderly project development.

A. The PJM Tariff Is Unjust and Unreasonable because it Does Not Provide the Ability for a Project Developer to Withdraw Without Penalty Following an Extreme Increase in Allocated Network Upgrade Costs in Consecutive Cost Allocations

The Commission proposed in the Docket No. RM22-14-000 NOPR, and ultimately adopted in Order No. 2023, several exceptions to the assessment of withdrawal penalties. The relevant exception here is applicable if "the interconnection customer withdraws its interconnection request after receiving the most recent cluster study report and the network

upgrade costs assigned to the interconnection customer's request have increased 25% compared to the previous cluster study report[,]" which protects interconnection customers from penalties "if the withdrawal follows significant, unanticipated increases in network upgrade cost estimates."[30] Rejecting requests made by multiple commenters to narrow or eliminate this proposed exception,[31] or to require elements of no delay or no increased cost to other interconnection customers in addition to the 25% cost increase threshold,[32] the Commission maintained the NOPR proposal requiring that penalty free withdrawal be available with no additional requirements.[33] The Commission also rejected commenters' concerns that interconnection customers could be subject to "wrongful withdrawal penalties," observing that the exemptions permit penalty free withdrawal "if the withdrawal does not materially harm other interconnection customers or if the withdrawal follows a significant unanticipated increase in network upgrade cost estimates,"[34] ultimately concluding that the framework of escalating withdrawal penalties, "combined with the exceptions," strikes the proper balance between protecting interconnection customers and deterring speculative interconnection requests.[35] The Commission's Order No. 2023 discussion and determination on this issue shows that failure to have a penalty free off ramp in the event of a massive increase in network upgrade costs does not "strike the proper balance" and would not be just and reasonable.

PJM represented to the Commission that the IPRTF Tariff reforms' treatment of withdrawal penalties is modeled after the Southwest Power Pool, Inc. ("SPP") and Midcontinent

[30] Order No. 2023, 184 FERC ¶ 61,054 at P 784 (2023).

[31] *See, e.g.*, Initial Comments of San Diego Gas and Electric, RM22-14-000 at 6-7 (filed Oct. 13, 2022).

[32] *See, e.g.*, Initial Comments of Calif. Ind. Sys. Op. Corp., RM22-14-000 at 21-22 (filed Oct. 13, 2022).

[33] Order No. 2023, 184 FERC ¶ 61,054 at P 784 (2023).

[34] *Id.* at P 787 (emphasis added).

[35] *Id.* at P 792 (emphasis added).

Independent System Operator, Inc. ("MISO") tariffs.[36] But there is no point in the SPP or MISO interconnection processes where there is not a reduced or penalty free off ramp due to significant unexpected network upgrade cost increases between studies.[37] Both the MISO Tariff and SPP Tariff would provide for the return of most or all of Gaston's and Bethel's Readiness Deposits under the circumstances at issue.

The PJM Tariff's treatment of this important issue is not only patently unfair, it is (i) directly contrary to the mandates contained in Order No. 2023; and (ii) wholly unlike the pro forma OATT and other comparable OATTs, including the SPP and MISO Tariffs that PJM claims its withdrawal penalty provisions are modeled after. As such, the PJM Tariff's treatment of this issue is unfounded, unjust, and unreasonable.

Complainants intended to pursue their Projects through DPIII, despite the increased Network Upgrade costs that arose unexpectedly in the Phase III SIS. Complainants remained in the Queue and participated in the Retool 1 Study. Gaston's allocated Network Upgrade Costs increased by 75% and approximately $300,000 per MW from the DPIII study results to Retool 1. Bethel's Network Upgrade costs increased by 58% and approximately $203,000 per MW. At that level of Network Upgrade costs, the Projects are uneconomic to develop. Gaston and Bethel each meet the Order No. 2023 threshold and the PJM Tariff § 313.B.5.d threshold for return of Readiness Deposits for cost increases from Phase II to Phase III. At a minimum, the § 313.B.5.d thresholds should apply to later retool studies so that PJM's Tariff is just and reasonable.

[36] Initial Comments of PJM Interconnection, LLC, Docket No. RM22-14-000 at 40 (filed Oct. 13, 2022).

[37] SPP Open Access Transmission Tariff, Attachment V, §§ 8.14(d)-(e) provides an exception to deposit forfeiture if Network Upgrade and Affected Systems upgrade costs increased by 35% or more and $15,000 or more based on any restudies or revisions; MISO Tariff Attachment X, § 7.6.2.4(2) provides that milestone payments less Automatic Withdrawal Penalty will be refunded in the event of an increase in the combined Network Upgrade and Affected System costs from Phase II to Phase III of 35% and more than $15,000 per MW from the Revised SIS to *any* Final SIS.

Permitting penalty free withdrawal under these circumstances does not harm PJM and should not materially impact its study process. The Commission's granting of this complaint will not impact the timeline for signing Generator Interconnection Agreements. While it is possible that PJM could have to perform one or more additional retool studies in the event that developers trigger the Network Upgrade cost increase thresholds, it is the most orderly way to proceed to conclude a cluster study process with viable projects that can move forward with signing Generator Interconnection Agreements at the end of DPIII.

B. The Circumstances that Necessitated the IPRTF Reforms, the Commission's Interconnection Reform NOPR, and Order No. 2023 No Longer Exist

PJM's IPRTF reforms, like the Commission's mandates in Order No. 2023, were pursued to address interconnection queue backlogs caused by massive amounts of renewable energy project interconnection requests, including large numbers of speculative interconnection requests that are subsequently withdrawn.[38] PJM's stated rationale for these tariff reforms squarely aligned with the drivers underlying the FERC's interconnection rulemaking and resulting Order Nos. 2023 and 2023-A, which likewise mandated sweeping interconnection queue reforms in an effort to reduce interconnection queue backlogs and discourage speculative interconnection requests.[39] The Readiness Deposits, and the schedule upon which they become "at-risk," are designed to discourage speculative interconnection requests and to incentivize withdrawals earlier in the study process.[40]

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[38] *See generally* IPRTF Initial Tariff Filing at 19-21 (filed June 14, 2022).

[39] *See generally, Improvements to Generator Interconnection Procedures and Agreements,* Notice of Proposed Rulemaking, 179 FERC ¶ 61,194 (2022).

[40] *Id.*, 179 FERC ¶ 61,194 at P 103 (2022) ("[W]e also propose a set of reforms to adopt more stringent financial commitments and readiness requirements for interconnection customers to remain in the interconnection queue to discourage speculative interconnection requests and allow transmission providers to focus on processing viable interconnection requests and to better approximate the cost of the interconnection study process."); IPRTF Initial Tariff Filing at 52-54.

However, the circumstances that formed the basis for both PJM's tariff reforms and the Commission's Order No. 2023 reforms, including the imposition of Readiness Deposits and related withdrawal penalties, have crumbled. With regard to Order No. 2023, the Commission stated that "this set of inquiries was prompted by [wind, solar, and electric storage resources] entering interconnection queues in greater numbers,"[41] a phenomenon that PJM observed in its IPRTF tariff submission was contributed to by "state and federal policies and the particulars of certain legislation, such as the Investment and Production Tax Credits, which includes tax credits for wind and solar technology."[42]

But recent legislative and executive actions have fundamentally altered the economic and regulatory conditions for renewable energy projects by, among other things, drastically shortening and narrowing eligibility for tax credits for wind and solar technology. This has upset the settled expectations of many solar and wind energy project developers, and resulted in sudden, unexpected, extreme, and often insurmountable challenges for the development of a large number of projects.[43] The adverse actions include passage of the One, Big, Beautiful Bill Act (the "OBBBA") on July 4, 2025, and issuance of the January 29, 2025, Executive Order 14156 entitled "Declaring a National Energy Emergency," the July 7, 2025, Executive Order 14315 entitled "Ending Market Distorting Subsidies for Unreliable, Foreign Controlled Energy

[41] *Improvements to Generator Interconnection Procedures and Agreements*, 179 FERC ¶ 61,194 at P 31.

[42] IPRTF Initial Tariff Filing at 19-21 ("Recently, the number of resources seeking to interconnect to the Transmission System began increasing exponentially. The volume of New Service Requests more than tripled in the past three years[.] [O]ne significant factor is the proliferation of small renewable resources driven by advances in technology, investment in renewables generally, state and federal policies and the particulars of certain legislation, such as the Investment and Production Tax Credits, which includes tax credits for wind and solar technology.").

[43] The impacts are significant enough that NV Energy unsuccessfully sought Commission approval for a tariff waiver to allow an unrestricted 60-day window in which all Interconnection Customer could evaluate the economics of their projects and exit the queue penalty free. *See Nevada Power Co., et al.*, 193 FERC ¶ 61,050 (2025).

Sources," the Department of Interior's July 15, 2025, memorandum entitled "Departmental Review Procedures for Decisions, Actions, Consultations, and Other Undertakings Related to Wind and Solar Energy Facilities," the Department of the Interior Secretary's Order No. 3437, entitled "Ending Preferential Treatment for Unreliable, Foreign-Controlled Energy Sources in Department Decision Making," and the Department of the Interior Secretary's Order No. 3438, entitled "Managing Federal Energy Resources and Protecting the Environment," among other actions.

While large numbers of solar, wind, and energy storage projects entering the interconnection queues previously justified the Commission's Order No. 2023 mandates and served as the impetus for PJM's IPRTF efforts and reforms, it is widely understood that the solar and wind industries have and will continue to be severely impacted by the legislative and regulatory reforms implemented by the current government,[44] effectively eliminating the "need for reform" that made it just and reasonable to adopt withdrawal penalties in the first place. As detailed in Section V(A) above, even the original circumstances required protection for Project Developers against unexpected increases in Network Upgrade costs. PJM's lack of provisions allowing for a penalty free queue exit for significant Network Upgrade cost increases between consecutive cluster studies was unjust and unreasonable when originally submitted, and doubly so now that the drivers of the need for reform have been eliminated.

[44] *See, e.g., id.*; B. Storrow, et. al,*'Windmills are a disgrace': Inside Trump's war against a growing U.S. industry*, Politico, *available at* https://www.politico.com/news/2025/12/11/how-the-wind-industry-misread-trump-00666895 (Dec. 11, 2025) (accessed Dec. 17, 2025); N. Groom, *Wind and solar power frozen out of Trump permitting push*, Reuters, *available at https://www.reuters.com/sustainability/climate-energy/wind-solar-power-frozen-out-trump-permitting-push-2025-12-10/* (Dec. 10, 2025) (accessed Dec. 17, 2025).

C. In the Alternative, With Respect to Bethel, PJM Should be Required to Issue a Separate GIA as the Queue Position Holder of New Service Request AF2-080

If the Commission declines to permit Bethel a penalty free withdrawal, the Commission should, in the alternative, order PJM to issue to Bethel its own GIA to develop its project separate from Pitt Solar, as the parties contemplated when AC1-189 was transferred. Bethel is a permitted project that can be efficiently developed to contribute to PJM's predicted capacity shortfall.[45] PJM's departure from permitting two interconnection agreements under the same circumstances and its inflexibility to work with Bethel to find a solution to this issue should not be countenanced, especially considering the clear need for additional generation in PJM.

i. Pitt Solar and Bethel Were Intended to be Standalone Projects

New Service Requests AC1-189 (Pitt Solar) and AF2-080 (Bethel) are separate projects and are being separately developed by non-affiliates. The ISA for AC1-189 was filed with the FERC and became effective February 10, 2022.[46] AF2-080 is in TC1. Bethel proceeded with the development of its project AF2-080 with the reasonable understanding, based on prior PJM action, that it would be tendered its own interconnection agreement. As relevant to the issue in dispute, Bethel will interconnect on the low side of the main power transformer ("MPT"), which configuration PJM previously approved for other projects.

[45] PJM News Release, *PJM Auction Procures 134,479 MW of Generation Resources* at 2, *available at* https://www.pjm.com/-/media/DotCom/about-pjm/newsroom/2025-releases/20251217-pjm-auction-procures-134479-mw-of-generation-resources.pdf (Dec. 17, 2025) (accessed Jan. 8, 2026) (In the Notice, PJM announces that "[t]he capacity of the resources procured in the auction, plus FRR resources, is short of PJM's reliability requirement by 6,623 MW, meaning that the committed supply is less than what would be required to meet the one-event-in-10- year reliability standard of a 20% reserve margin" for the 2026/2027 Delivery Year.).

[46] *See PJM Interconnection, L.L.C.*, Docket No. ER25-2319-000 (July 24, 2025) (letter order).

On November 20, 2024, the owner of Pitt Solar transferred the ownership of Pitt Solar (and consequently of AC1-189) to Brookfield (or its affiliate).[47] This transfer went through PJM's change in control process and is reflected in the changes to the GIA filed by PJM in Docket No. ER25-2319-000.[48] Queue position AF2-080 was not part of the transfer. In fact, Bethel, on behalf of AF2-080, and Pitt Solar, on behalf of AC1-189, executed a Shared Facilities Agreement ("SFA").[49] Bethel subsequently notified PJM that it had this SFA, which would be filed at an appropriate time. PJM erroneously lists Pitt Solar in its system as the holder of both queue positions AC1-189 and AF2-080, even though only AC1-189 was owned by Pitt Solar. But Bethel never viewed that as a barrier, because PJM Tariff Section 301.A.6 permits transfers of New Service Requests prior to execution of the GIA.

As a result of PJM's incorrect classification that AF2-080 is owned by Pitt Solar, Pitt Solar and Bethel have attempted to remedy the discrepancy by assigning the New Service Request queue position AF2-080 to Bethel. But PJM has taken the position that the transfer cannot be effectuated because PJM considers the two queue positions (AC1-189 and AF2-080) to be one project.[50] PJM would only entertain a joint ownership arrangement, which is not commercially contemplated at this time by Pitt Solar and Bethel.

As evidence that Bethel has been developed separately, all the permits for the project are in Bethel's name. Real estate and land rights, including lands necessary for site control, are in Bethel's name.

[47] A copy of this notification is attached as Exhibit 1.

[48] *See PJM Interconnection, L.L.C.*, Docket No. ER25-2319-000 at 2 (filed May 27, 2025).

[49] A copy of the executed Shared Facilities Agreement is attached as Exhibit 2.

[50] *See* correspondence attached as Exhibit 3.

Bethel became aware in late 2025 that PJM would permit only one GIA for AC1-189 and AF2-080 and would not allow Bethel to have its own GIA. According to PJM, Bethel is an "uprate" and as such is tied only to AC1-189. Bethel sought ADR via Section 12 of the PJM Tariff.[51] ADR was unsuccessful.

PJM's position, based on an email from PJM associated with another of Complainants' affiliated projects, also proposing to interconnect on the low side of the MPT, is:

> Per FERC Order No, 807, two or more facilities may share Interconnection Facilities for the purpose of accessing the Transmission System. Project Developer Interconnection Facilities and Transmission Owner Interconnection Facilities combined extend from the high side of the Main Power Transformer to the Point of Interconnection. The low side of the transformer is therefore not a part of the Interconnection Facilities and may not be shared across agreements. This is why AC1-086 qualifies for Shared Interconnection Facilities with AB1-132, but AG1-106 does not.[52]

As discussed herein, Bethel vigorously disagrees that the location of the connection of the two projects is determinative as to obtaining a GIA.

ii. Commission Policy Clearly Permits this Configuration Under Two Separate GIAs

PJM's stated view of interconnections on the low side of the MPT relies on Order No. 807,[53] which PJM asserts requires interconnection at the high side of the MPT as the demarcation between generation facilities and interconnection customer interconnection facilities ("ICIF"). However, while Order No. 807 does establish the general demarcation of ICIF based on its location at the MPT, this is not a hard and fast rule. Order No. 807 merely notes that the general

[51] Because Pitt Solar holds AF2-080 in the PJM system, Pitt Solar was included in the ADR discussions.

[52] A copy of this communication is attached as Exhibit 4. Unlike for Bethel (AF2-080) and Pitt Solar (AC1-189), the affiliated projects referenced in this communication (AG1-106 and AB1-132) are affiliated entities that are wholly owned subsidiaries of the SunEnergy1 group. As such, even though PJM declined to grant AG1-106 its own interconnection service agreement, the SunEnergy1 group did not suffer a loss because AG1-106 and AB1-132 are affiliated entities.

[53] *Open Access and Priority Rights on Interconnection Customer's Interconnection Facilities (Order No. 807)*, 150 FERC ¶ 61,211, *order on reh'g* Order No. 807-A, 153 FERC ¶ 61,047 (2015) ("Order No. 807").

demarcation between generator and interconnection facility is usually at the high side of a transformer.[54] In fact, the FERC in Order No. 807 explicitly declined to rule on a request by Berkshire Hathaway to prohibit access to facilities by third parties at the low side. Specifically, the Commission stated: "Disputes regarding technical requirements of the reliable interconnection of third-party generators should be addressed in particular proceedings under sections 210 and 211."[55]

An interconnection customer may voluntarily offer interconnection service to a third party. Order No. 807 is flexible in that the service may be via ownership arrangement, or other access agreement.[56] However, only if voluntary access is denied, an entity may seek an order from the Commission under FPA Sections 210[57] and 211[58] if the order meets the requirements of FPA Section 212.[59] Pitt Solar offered voluntary access. The SFA evidences the agreement between the parties as to the operational parameters of the relationship, including the commercial and metering issues that arise when an interconnection is on the low side of the MPT, which should be sufficient for PJM to be sure that the generation can be scheduled and delivered under the PJM Tariff. The SFA was executed at the time of the sale of AC1-189, so the allocation of responsibilities between AC1-189 and AF2-080 is well established.

[54] Order No. 807 at P174-175.

[55] *Id*.

[56] Order No. 807, 150 FERC ¶ 61,211 at P 44

[57] 16 U.S.C. § 824i(a)(1)(A).

[58] 16 U.S.C. § 824j.

[59] 16 U.S.C. § 824l. *See e.g.*, *Mountain Breeze Wind, LLC*, 166 FERC ¶ 61,200 (2019).

Treating AC1-189 and AF2-080 as separate projects with separate GIAs is also consistent with Order No. 2023.[60] In the Commission's Order on PJM's Order No. 2023 compliance filing, the FERC acknowledged the need for interconnection customers to "structure their interconnection requests for co-located generating facilities as separate interconnection requests or as a shared interconnection request."[61] The Commission directed PJM to submit a compliance filing "to include proposed Tariff revisions that provide interconnection customers with the flexibility to submit either a single interconnection request or multiple interconnection requests for multiple generation facilities that are proposed to be located at a single point of interconnection as required by Order No. 2023."[62] Here, there are two separate interconnection requests that, while characterized by PJM as an uprate, are two separate projects proposing separate interconnections that happen to be at an MPT for engineering and efficiency purposes.

iii. Issuance of Separate GIAs for AC1-189 and AF2-080 is Consistent with the PJM Tariff

Issuance of separate GIAs for AC1-189 and AF2-080 is consistent with the PJM Tariff. Simply put, because the relevant facilities meet the definition of Customer Interconnection Facilities under the PJM Tariff, Bethel is not an uprate. Forcing Pitt Solar to be the Project Developer for AF2-080, a queue position that Pitt Solar acknowledges is not its own, is unjust and unreasonable.

The PJM Tariff defines "Customer Interconnection Facilities" as:

> all facilities and equipment owned and/or controlled, operated and maintained by Interconnection Customer on Interconnection Customer's side of the Point of Interconnection identified in the appropriate appendices to the Interconnection

[60] *Improvements to Generator Interconnection Procs. & Agreements*, Order No. 2023, 184 FERC ¶ 61,054 at P1346, *order on reh'g*, 185 FERC ¶ 61,063 (2023), *order on reh'g*, Order No. 2023-A, 186 FERC ¶ 61,199, *errata notice*, 188 FERC ¶ 61,134 (2024).

[61] *PJM Interconnection, L.L.C.*, 192 FERC ¶ 61,077 at PP 280, 283 (2025) ("Order 2023 Compliance Order").

[62] *Id*. at P 284.

> Service Agreement and to the Interconnection Construction Service Agreement, including any modifications, additions, or upgrades made to such facilities and equipment, that are necessary to physically and electrically interconnect the Customer Facility with the Transmission System.[63]

Designating the MPT as a Commission-jurisdictional Customer Interconnection Facility is consistent with this Tariff language. Permitting an Interconnection Customer connection on the low side of the MPT and including the MPT as a Customer Interconnection Facility is therefore appropriate.

In addition, Bethel is not an "uprate" under the PJM Tariff. In the *pro forma* GIA contained in PJM's Tariff, an "uprate" is characterized as "[an] [i]ncremental increase in output of a generating facility that is already in commercial operation[.]"[64] AF2-080 cannot be considered an uprate to AC1-189 because AC1-189 in not in commercial operation.

Finally, each of AF2-080 and AC1-189 have their own collection point (with a dedicated set of breakers) and can be metered separately. This structure is more similar to a co-located generator than an "uprate". PJM is elevating form over substance and, in so doing, threatens the cancellation of a project. As noted above, the SFA permits PJM to dispatch and operate the facility as one unit with the SFA addressing the commercial issues. The SFA will be an agreement on file with the Commission for both Pitt Solar and Bethel. PJM, therefore, must acknowledge assignment of the New Service Request, submitted in accordance with PJM's Tariff Section 301.A.6 on PJM's prescribed form, and issue a GIA to Bethel.

[63] PJM Tariff, Part I – Common Service Provisions, Section 1, *Definitions*.

[64] PJM Tariff, Part IX.B, GIA at 4.

iv. PJM Has Previously Issued Separate GIAs for this Configuration

PJM has permitted – post Order No. 807 – just this type of interconnection configuration.[65] PJM did not express any concerns with the arrangement at that time. Here, PJM was notified of the upstream change in control of Pitt Solar (referencing AC1-189 only) on November 20, 2024, but did not inform Bethel that it considered the AC1-189 and AF2-080 to be bound together in one GIA. It wasn't until recently that PJM took the position that AC1-189 and AF2-080 were to be considered one project. There is no justification for changing its practice, especially considering: (1) Order No. 2023's policies on expanded use of interconnections; (2) the fact that PJM has projects in the same configuration interconnected to its system with separate interconnection agreements; and (3) PJM's clear need for additional resources interconnected to the PJM system.

v. Restoration of Bethel's New Service Request will not Affect Other Interconnection Customers

Restoration of Bethel's New Service Request for AF2-080 will not harm any other Interconnection Customer. Restoration of Bethel's project and issuance of a GIA will actually provide benefits to other Interconnection Customers in TC1. This is because Bethel will contribute to the Network Upgrade costs that are currently assigned to other Interconnection Customers.

vi. Separate GIAs are Needed for Financing

Separate GIAs are necessary not only because the AC1-189 and AF2-080 projects were developed separately, but also because separate GIAs are needed for financing purposes.

[65] *See*, *PJM Interconnection, L.L.C.*, Docket Nos. ER19-298-000 and -001 (Dec. 13, 2018) (letter order).

Including two unaffiliated parties in one GIA poses legal and financial issues that are eliminated when two GIAs are provided.

From a legal perspective, two unaffiliated owners under one GIA place unsustainable legal risks on both projects. For example, an uncured breach by AC1-189 could result in termination of the GIA, and vice versa. The same is true for performance risk. Performance that deviates from the terms and conditions of the GIA by one party could adversely impact the GIA for both parties. A modification of a project by one party could adversely affect the other party. These issues go away when there are separate GIAs – each party must comply with the terms of its GIA. Defaults that lead to termination will impact only the party defaulting.

Financing a project with default and termination risks that are outside the control of the financing project company is difficult for both projects. Utilizing a Transco model, with a Transco as the Interconnection Customer, does not adequately mitigate this risk. It is important to note the use of separate GIAs would at no time subject PJM to additional performance risk. The parties would have their own GIAs and the relationship between them governed by the executed SFA. If PJM has concerns with a particular issue, the parties can address that issue in the SFA.

In sum, the Commission should direct PJM to issue a GIA to Bethel in its name for its project. Bethel can post the required Security for the Network Upgrades and execute a GIA within 15 business days of a Commission order. PJM should permit this interconnection configuration because it is a voluntary arrangement and has been studied and determined to be feasible under PJM's interconnection standards. Bethel's AF2-080 is a viable and economic project, located next to AC1-189 and, as a result, will efficiently generate for the benefit of the PJM wholesale market. However, without a separate GIA for AF2-080, the project will not

move forward. Issuance of separate GIAs is not prohibited by the PJM Tariff, and PJM has generation operating on its system today in this configuration with separate GIAs. Issuance of two GIAs is supported by Order No. 2023, Order No. 807, and general Commission policy to increase flexibility in interconnections.

V. THE COMMISSION SHOULD REQUIRE FAST TRACK PROCESSING FOR THIS DISPUTE AND APPLY A SHORTENED COMMENT PERIOD

Complainants respectfully request Fast Track Processing of this Complaint pursuant to Rule 206(h) of the Commission's Rules of Practice and Procedure. Fast Track Processing (with an expedited Commission decision on the pleadings) is needed to remedy the unjust and unreasonable conditions discussed in this Complaint and permit PJM to continue administrating its cluster study process without delay. TC1 is currently in the Final Negotiation Phase of the cluster study process. Prompt processing of this Complaint will expedite cost certainty for Gaston and Bethel, as well as the Project Developers remaining in the queue.

VI. RULE 206(b) STATEMENT

A. ¶¶ (1)-(5). Sections I-IV of this Complaint explain why it is unjust and unreasonable for the PJM Tariff to lack a penalty free withdrawal option upon a massive increase in allocated Network Upgrade costs between consecutive cluster studies. The financial impact to Gaston and Bethel is equal the sum of their cumulative Readiness Deposits that PJM intends to retain, totaling approximately $14,439,117.00. Retention of these monies by PJM will prevent Complainants from deploying those funds to pursue other economically viable projects that could provide desperately needed generating capacity in the PJM region.

Section IV.C explains why, if the Commission declines to grant the other relief sought, it should order PJM to issue a GIA to Bethel that is separate from Pitt Solar.

B. **¶ (6).** The issues raised in this Complaint are not pending in an existing Commission proceeding or a proceeding in any other forum in which any Complainant is a party.

C. **¶ (7).** The specific relief that is sought is the addition of a new Section 315 to the PJM Tariff titled "Adverse Study Impact Calculation." It should read: "Notwithstanding the refund and Adverse Study Impact Calculation provisions elsewhere in Tariff, Part VII, Subpart D, Transmission Provider shall refund to Project Developer or Eligible Customer the cumulative Readiness Deposit amounts paid by Project Developer or Eligible Customer if the Project Developer's or Eligible Customer's Network Upgrade cost between any two consecutive Network Upgrade cost allocations: i. increases overall by 35 percent or more; and ii. increased by more than $25,000 per MW. Network Upgrade costs shall include costs identified in Affected System studies in their respective phases."

In the alternative, if the Commission declines to grant the other relief requested in this paragraph, the Commission should direct PJM to issue a separate GIA to Bethel.

D. **¶ (8).** All documents that support the facts in this Complaint that are in possession of, or otherwise attainable by, Complainants and are discussed herein are attached to this Complaint.

E. **¶ (9).** Complainants did not contact the FERC's Enforcement Hotline, Dispute Resolution Service. Complainants do not believe that further alternative dispute resolution could resolve the complaint, as PJM's current Tariff provisions require retention of the Readiness Deposits.

As discussed herein, the circumstances demonstrate Complainants' diligence, significant investments of time and financial resources, and the very serious and non-speculative nature of these two projects.

Accordingly, Complainants ask the Commission to find the PJM Tariff unjust and unreasonable to the extent it fails to protect Project Developers from drastic increases in Network Upgrade cost allocations between cluster studies and resolve the deficiency by adding additional language to the PJM Tariff, as specified above in Section VII, that would permit a penalty free withdrawal in the event a Project Developer's cost allocation increases by 35% or more and $25,000/MW or more between any two consecutive cost allocations. In the alternative, if the Commission declines to order the requested tariff change that would provide for penalty free withdrawal under the circumstances, it should order PJM to issue Bethel a separate GIA from Pitt Solar.

Respectfully submitted,

/s/ Maxwell K. Multer

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Dated: January 8, 2026

Exhibit 1

Brookfield
Renewable U.S.

November 20, 2024

Danielle Dougherty
PJM Interconnection, L.L.C.
2750 Monroe Blvd.
Audubon, PA 19403-2497

Re: Pitt Solar, LLC (PJM Queue Position # AC1-189)

Ladies and Gentlemen:

Notification of Amendment

Pitt Solar, LLC, the Interconnection Customer of Queue No. #AC1-189 Pitt Solar, hereby notifies PJM that, effective November 20, 2024, the notices section of the associated service agreement(s), have changed due to a change in the upstream owner of Pitt Solar, LLC.

Pitt Solar, LLC requests that all notices or requests by PJM under the above-referenced agreement(s) be provided to BGTF Pitt Holdings LLC at the following address:

Pitt Solar, LLC
c/o BGTF Pitt Holdings LLC
200 Liberty Street
Floor 14
New York, NY 10281
Attn: Edward Shambeau
Email: Edward.Shambeau@brookfieldrenewable.com
Tel: +1-518-605-1042

With copy to:

Pitt Solar, LLC
c/o BGTF Pitt Holdings LLC
200 Liberty Street
Floor 14
New York, NY 10281
Attn: Sean Cooney
Email: sean.cooney@brookfieldrenewable.com
Tel: +1-646-920-5938

The undersigned warrants that the foregoing is true and correct and that he/she is duly authorized by Pitt Solar, LLC to provide this notice to PJM on its behalf.

Very truly yours,

Pitt Solar, LLC

By: _____
Name: Stephen Gallagher
Title: Authorized Signatory

Exhibit 2

CO-TENANCY AND SHARED FACILITIES AGREEMENT

Between

BETHEL NC HWY 11 SOLAR, LLC

and

PITT SOLAR, LLC

dated as of November 20, 2024

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CO-TENANCY AND SHARED FACILITIES AGREEMENT

THIS CO-TENANCY AND SHARED FACILITIES AGREEMENT (this "Agreement") is made as of November 20, 2024 (the "Effective Date") by and between BETHEL NC HWY 11 SOLAR, LLC, a North Carolina limited liability company ("Bethel"), and PITT SOLAR, LLC, a North Carolina limited liability company ("Pitt") (hereinafter referred to individually as a "Co-Tenant" or "Party" and together with any other Co-Tenant who may become a party to this Agreement in the future (each a "New Party"), collectively, as "Co-Tenants" or "Parties"). The term "Party" shall include the permitted successors and permitted assignees of such Person. Certain capitalized terms used in this Agreement are given defined meanings in Exhibit A attached hereto.

RECITALS

A. Pitt holds or anticipates holding certain real property options, leaseholds, rights-of-way and/or fee interests in all or a portion of that certain land located in Pitt County, North Carolina (the "Pitt Property"), on which it intends to develop an 80 MW_{ac} solar energy generation project and certain related interconnection facilities (the "Pitt Project"). The Bethel Project and the Pitt Project are collectively referred to herein as the "Projects."

B. Bethel holds or anticipates holding certain real property options, leaseholds, rights-of-way and/or fee interests in all or a portion of that certain land located in Pitt County, North Carolina (the "Bethel Property"), on which it intends to develop a 70 MW_{ac} solar energy generation project and certain related interconnection facilities (the "Bethel Project"), the construction of which will commence after the commencement of the Pitt Project.

C. Pitt shall enter into an easement with Virginia Electric and Power Company, a Virginia public service corporation (the "VEPCO Easement"), as needed.

D. The Co-Tenants will have caused or anticipate causing to be constructed on their respective leased properties and/or on or in the Shared Facilities (as hereinafter defined) the equipment, machinery, supplies, and facilities described in Exhibit C, for their respective, exclusive use (the "Separate Facilities"). All expenses associated with the Separate Facilities of each respective Co-Tenant will be the sole responsibility of the corresponding Co-Tenant.

E. Pitt has caused or anticipates causing to be constructed on the Pitt Property the equipment and facilities described in Exhibit B, for the contemplated common use by the Projects (the "Shared Facility Assets" and, together with the VEPCO Easement and any additional assets so deemed pursuant to this Agreement, the "Shared Facilities"). The expenses associated with the initial construction and installation of the Shared Facilities will at first be Pitt's financial responsibility, which expenses will be tracked and accounted for by Pitt (the "Initial Construction Expenses").

F. As soon as Bethel is in a position to connect, following either (i) the transfer of the ownership interests in Bethel pursuant to the Purchase and Exclusivity Agreement by and between SE1 DevCo, LLC and BGTF Cardinal Holdings, LLC ("Investor"), dated on or about the date hereof (the "PEA") to Buyer (as defined in the PEA) or (ii) written confirmation from the Investor that it will not acquire ownership interests in Bethel under the PEA, Bethel will issue payment to Pitt for its Proportionate Share of the Initial Construction Expenses, which payment shall leave the Co-Tenants in the financial position they would have been had they connected at the same time. In addition to the Initial Construction Expenses, Bethel will be responsible for the construction, installation, and payment of all Additional Facilities (the "Buy In Process"). Any New Party will be subject to this same Buy In Process and its relating obligations.

G. All expenses associated with the operation and management of the Shared Facilities shall be shared equally between the Co-Tenants.

H. The Parties desire to provide in this Agreement for: (i) the sharing of the use of such Shared Facilities necessary or convenient to each Co-Tenant's ownership, development, and operation of its respective Project; and (ii) the development, design, construction, ownership, operation, and management of their respective interests in the Shared Facilities.

I. Pitt currently has an Interconnection Service Agreement with Virginia Electric and Power Company and PJM Interconnection, L.L.C.

J. Bethel anticipates entering into an Interconnection Service Agreement with Virginia Electric and Power Company and PJM Interconnection, L.L.C.

K. The Co-Tenants will retain a "Shared Facilities Manager" to provide day-to-day, routine Operation and Maintenance service for the Shared Facilities on the terms and subject to the conditions of this Agreement. Subject to the requirements of Article 8 of this Agreement, the Co-Tenants have authorized Pitt to serve as the Shared Facilities Manager as of the Effective Date.

NOW, THEREFORE, in consideration of the mutual promises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Parties, the Parties agree as follows:

ARTICLE 1
INCORPORATION OF RECITALS

1.1 Incorporation. All of the Recitals are incorporated by this reference and are made a part of this Agreement as if set forth at length herein.

ARTICLE 2
SHARED USE AND SHARED FACILITIES

2.1 Declaration of Intention. The arrangements contemplated by this Agreement are not being made with the intention or expectation of producing revenue or making or sharing in any profits from the operation and use of the Shared Facilities, but are instead intended as a form of binding agreement whereby the Co-Tenants can accomplish their respective objectives of requiring that Shared Facilities Manager perform the Shared Facilities Services in connection with their respective Projects and businesses and to enable the Co-Tenants to perform and discharge certain of their obligations under their Interconnection Agreements and their respective Power Purchase Agreements.Ownership of Shared Facilities as Tenants-in-Common; Election by Bethel.

2.2.1 Subject to Section 2.4 below, the Co-Tenants plan to procure, install and construct, or have procured, installed, and constructed, certain Shared Facilities as more particularly detailed in Exhibit B. Following the Election Date (as defined below) and Buy In Process for Bethel, each Co-Tenant will own and hold its undivided interest in the Shared Facilities jointly with each other Co-Tenant, as a tenant-in-common, and without rights of survivorship, subject to the terms of this Agreement, to the full extent necessary for such Co-Tenant's respective Project to operate at its Permitted Capacity. Without limiting the generality of the foregoing, the undivided interest of each Co-Tenant will include, in each case subject to the terms of this Agreement, the right to use the Shared Facilities to the full extent necessary for such Co-Tenant's Project to operate at its Permitted Capacity.

2.2.2 The Shared Facilities will be held and used to permit the transmission of electricity generated by or on behalf of each Co-Tenant (or by each Co-Tenant's successors, assigns or Affiliates) from the Projects through the Shared Facilities to the Interconnection Points. Each Co- Tenant will have the right to hold and utilize its undivided interest solely for the benefit of its Project and solely to (a) connect its Project to the Shared Facilities to the extent of its Shared Facilities Use Rights and (b) deliver or receive electrical energy from or to its Project corresponding to such Shared Facilities Use Rights in accordance with the terms of this Agreement. Each Co-Tenant agrees that its management system will be programmed so that the aggregate output of such Co-Tenant's Project will never exceed the Permitted Capacity for such Project.

2.2.3 To the extent that any right, title, or interest in the VEPCO Easement is granted to a Party under their respective lease with the landowner, such a right, title, or interest will be limited as provided in the VEPCO Easement and as provided in such lease.

2.2.4 Bethel has a one-time option to elect to acquire its undivided interest in the Shared Facilities in accordance with Section 2.2.6 following the transfer of the ownership interests in Bethel pursuant to the PEA to Buyer. To exercise its option, Bethel shall deliver to Pitt the following: (1) a written notice (the "Election Notice") in which Bethel confirms that (i) all Governmental Requirements have been obtained in connection with the grant, sale, transfer, assignment and conveyance to it of its undivided interest in the Shared Facilities; (ii) delivery of all notices required pursuant to Section 2.6 for Additional Facilities; and (iii) the date on which Bethel shall elect to acquire its undivided interest in the Shared Facilities, which date shall be at least ten (10) Business Days after Pitt's receipt of the Election Notice (the "Election Date"); and (2) updated copies of exhibits to this Agreement required to include such changes as may be necessary to accurately reflect the circumstances from and after the Election Date, which exhibits shall be mutually agreed to by the Co-Tenants and such revised exhibits shall become part of this Agreement without further action by the Parties.

2.2.5 On the Election Date with respect to any conveyance of an undivided interest hereunder, Bethel shall pay to Pitt its Proportionate Share of the Initial Construction Expenses in accordance with Section 2.4(h), and Bethel shall assume and agree to perform and discharge, in accordance with the provisions of this Agreement, its Proportionate Share of all expenses and liabilities related to the Shared Facilities or the ownership, possession or use thereof, in each case arising or to be performed on or after

the Election Date.

2.2.6 Effective upon the Election Date, upon and subject to the terms, conditions, restrictions and reservations set forth in this Agreement, including the prior receipt of FERC authorization for conveyances that occur after the Shared Facilities are energized, if applicable, Pitt shall be deemed to have GRANTED, SOLD, TRANSFERRED, ASSIGNED, and CONVEYED, and does hereby GRANT, SELL, TRANSFER, ASSIGN, AND CONVEY unto Bethel, an undivided ownership interest as a tenant-in-common in and to the Shared Facilities constructed or installed by Pitt, in each case, in proportion to the Proportionate Share of the respective transferee Co-Tenant, **AS IS, WITH ALL FAULTS AND WITHOUT ANY REPRESENTATIONS OR WARRANTIES WHATSOEVER, EITHER EXPRESS OR IMPLIED, AND SPECIFICALLY EXCLUDING ANY WARRANTY OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR ANY OTHER WARRANTY ARISING UNDER STATUTORY OR COMMON LAW**, while at the same time reserving to itself an undivided ownership interest as a tenant-in-common in and to the Shared Facilities in the amount of its Proportionate Share. The intent of the foregoing is that each Co-Tenant shall acquire and hold an undivided tenancy in common interest in the Shared Facilities in proportion to its respective Proportionate Share so as to provide for the joint ownership of the Shared Facilities (along with all appurtenant rights) by the Co-Tenants subject to the terms and conditions of this Agreement

2.2 Conflict with the VEPCO Easement Terms.

To the extent that a conflict with respect to the Shared Facilities arises between the provisions of the VEPCO Easement and that of this Agreement, the provisions of the VEPCO Easement shall control with respect to the VEPCO Easement.

2.3 Construction of Shared Facilities.

(a) Construction of Shared Facilities. Pitt shall, or shall cause a contractor to, develop, design, engineer and construct the Shared Facilities and any Additional Facilities that will become Shared Facilities in accordance with this Agreement and that are necessary for Pitt's connection and initial operation. A depiction and description of each of the Shared Facilities as of the date hereof is attached hereto as Exhibits B and D, respectively (collectively, the "Shared Facilities Exhibits"). The Shared Facilities Exhibits shall be updated and amended by the Parties from time-to-time in accordance with this Agreement. The Parties acknowledge that the Shared Facilities will be constructed pursuant to that certain Second Amended and Restated Engineering, Procurement and Construction Agreement, dated on or about the date hereof, between Pitt and SunEnergy1, LLC, which agreement may be amended and/or restated from time to time (the "EPC Contract"). Pitt shall control the initial design, engineering, and construction of the Shared Facilities and shall include some design, engineering, and construction for Bethel's purposes. The expenses associated with the initial construction and installation of the Shared Facilities will, at first, be Pitt's financial responsibility, which Initial Construction Expenses will be tracked and accounted for, and which will be provided to Bethel, and any future project, prior to substantial completion of the Buy In Process so that Bethel, and any future project, can make necessary financial arrangements.

(b) Bethel shall bear all financial responsibility for its Buy In Process, and shall control the design, engineering and construction of any potential modifications needed to integrate Bethel's inputs into the Shared Facility Assets, subject to Pitt's review and approval which shall not be unreasonably withheld, conditioned or delayed. Any future project that becomes a Party to this Agreement shall bear all financial responsibility for its respective Buy In Process, and shall control the design, engineering, and construction of any potential modifications needed to integrate such project's inputs into the Shared Facility Assets, subject to Pitt's and Bethel's review and approval which shall not be unreasonably withheld, conditioned or delayed.

(c) Effect of Dispute on Construction. In no event shall any Dispute regarding changes in the EPC Contract or an Other Construction Contract require Pitt to delay or suspend construction, it being agreed between the Parties that an adequate remedy exists at law and waives any right to seek an injunction to delay or suspend such construction.

(d) Coordination. In the event the Co-Tenants are engaged in construction activities on their respective Properties at the time the Shared Facilities are underway, the Co- Tenants shall reasonably coordinate their construction activities to minimize disruption to their respective construction schedules and to ensure continued access in and to the Parties' Properties and continued rights to use the Shared Facilities.

(e) Monitoring Rights. The Co-Tenants shall have the right, each at its sole cost and expense, to monitor the construction of the Shared Facilities and Additional Facilities. Any Co-Tenant exercising such monitoring right shall not interfere with the construction activities and shall comply with all workplace safety and security requirements.

(f) Payment of Initial Construction Expenses. Unless otherwise agreed by the Parties, as soon as Bethel is in a position to connect to the Shared Facilities, following either (i) the transfer of the ownership interests in Bethel to Buyer pursuant to the PEA or (ii) written confirmation from the Investor that it will not acquire ownership interests in Bethel under the PEA, Bethel will complete the Buy In Process. Any New Party will be subject to the Buy In Process and its related obligations. Payments made under this Section 2.4(f) shall be made by wire transfer of immediately available funds to an account designated by the Party receiving such payment. If a New Party becomes a party to this Agreement, such New Party shall pay its Proportionate Share of the Initial Construction Expenses to Pitt or, if Bethel has already paid its Proportionate Share of the Initial Construction Expenses, to Pitt and Bethel, in proportion to Pitt and Bethel's respective Proportionate Shares.

(g) Requested Modifications to Shared Facilities. A Co-Tenant may request to design, install, or construct as part of the Shared Facilities, any improvements or installations to the Shared Facilities, in each case, that primarily serve such Co-Tenant's Project, and such improvements, installations or changes would not otherwise be included by the Parties in the Shared Facilities. Shared Facilities Manager shall refer such request to the other Co-Tenant(s) for review and approval, which approval shall not be unreasonably withheld, conditioned or delayed unless the proposed improvements or installations would adversely affect the existing Shared Facilities or cause a violation of the Co-Tenant's respective Interconnection Agreements. The Co-Tenant requesting such modifications (the "Constructing Co-Tenant") shall be required to fully fund the cost of such improvements or installations and shall design, construct, or install such improvements or installations as approved by the other Co-Tenant.

(h) Status as of the Effective Date and the Election Date. The Parties acknowledge and agree that prior to the occurrence of Bethel's Election Date, Pitt shall be the sole Co-Tenant with exclusive legal title to the Shared Facilities and Pitt's Proportionate Share of the Shared Facilities shall be one hundred percent (100%). As of the Election Date for Bethel, both Pitt and Bethel shall be Co-Tenants. The applicable Proportionate Share of each Co-Tenant as of Bethel's Election Date is set forth in Exhibit E of this Agreement.

2.4 Operation and Maintenance of the Shared Facilities. The Parties intend that the Operation and Maintenance of the Shared Facilities shall be performed subject to the requirements of this Section 2.5.

(a) Operation and Maintenance of the Shared Facilities and Shared Premises. Operation and Maintenance of the Shared Facilities shall be the responsibility of Shared Facilities Manager as provided in Article 6 below. Notwithstanding the foregoing, Shared Facilities Manager shall have a right

to enter into an operations and maintenance agreement with a third- party service provider to perform the Shared Facilities Manager's duties under this Agreement. The costs and expenses to perform such Operation and Maintenance shall be incurred and shared in accordance with Article 4 below.

(b) No Permanent Reduction in Right to Use. Notwithstanding anything contained in this Agreement to the contrary, nothing in this Agreement will require any Co- Tenant at any time to reduce its Permitted Capacity on a permanent basis. No Co-Tenant will be required to interrupt or reduce deliveries of electrical power over the Shared Facilities to less than its Permitted Capacity or to disconnect from the Shared Facilities in order to enable a subsequent project to operate at its Permitted Capacity, except for such temporary interruptions and temporary reductions due to construction, installation or replacement of Shared Facilities, Emergencies, or such other reasons as expressly provided for in this Agreement.

(c) Replacement of Components of Shared Facilities. Shared Facilities Manager is authorized to replace any component of a Shared Facility with a Qualified Replacement Component, consistent with Good Utility Practice (such repair or replacement work, "Repairs"). The Shared Facilities Manager shall provide notice (the "Repairs Notice") in writing to the Co-Tenants of (i) any required Repairs, (ii) the proposed scope of the Repairs (the "Proposed Repairs"), including the components to be used in such Proposed Repairs, which shall be Qualified Replacement Components, (iii) the estimated cost of the Repairs, and (iv) the anticipated commencements date and anticipated completion date of the work on such Repairs. In the event a Repair is required to alleviate an Emergency, Shared Facilities Manager shall provide the Repair Notice as reasonably practicable after completion of such Repair. No other notice of such Repairs shall be required as such costs may be included in periodic financial and operating reports that may be required under this Agreement.

(d) Conditions to Installation of Replacement Component. If Shared Facilities Manager performs any Repairs, it shall (i) limit, to the extent commercially reasonable and subject to Good Utility Practice, any interference with the use and enjoyment of the Co-Tenants of the Shared Facilities Services during construction activities, and (ii) except in the event of an Emergency, (A) schedule during an off-peak and/or low generation down-time period any required disconnection of the Shared Facilities to conduct construction activities in order to minimize any adverse impact on a Project, and (B) provide at least thirty (30) days prior written notice of commencement of such construction activities together with a reasonably detailed description thereof.

(e) Power Purchase Agreement Requirements. In order to facilitate the scheduling of outages and disconnections of the Shared Facilities, each Co-Tenant shall provide written notice to Shared Facilities Manager of any and all scheduled outage restrictions and requirements set forth in its Power Purchase Agreement, if any, by the later of thirty (30) days after the Effective Date or the date of execution of the Power Purchase Agreement. Thereafter, on or before December 31 of each year, or such earlier date as required under a Power Purchase Agreement, each Co-Tenant shall provide to Shared Facilities Manager its forecasted scheduled outages for the next calendar year. Shared Facilities Manager shall make all commercially reasonable efforts to schedule Repairs in a manner that complies with the Co-Tenant's scheduled outage requirements and the outage scheduling requirements of the Interconnection Agreement.

(f) Warranty Claims. Shared Facilities Manager and each Co-Tenant are permitted under this Agreement to install, or cause to be installed, Shared Facilities or Replacement Components and will exercise such Party's rights and obligations under the contractor and vendor warranties with respect to the Shared Facilities. Upon the reasonable request of the Co-Tenants, and subject to their direction and control, Shared Facilities Manager will assist such Co-Tenants with the exercise of such rights. Shared Facilities Manager will (a) monitor and report to the Co-Tenants concerning the remaining terms of any warranties on Shared Facilities; (b) perform such inspections as are reasonable to ensure that any final warranty work is not required prior to the expiration of any such warranty, and (c) subject to the direction

and control of the Co-Tenants, prepare and prosecute warranty claims on behalf of the Co-Tenants, if reasonably necessary to enforce any such warranties. Subject to the reasonable direction and control of the Co-Tenants, Shared Facilities Manager will have primary responsibility for administering the prosecution of the warranty claims requirements under this Section 2.5(f) on behalf of the Co- Tenants. All reasonable expenses incurred by Shared Facilities Manager in pursuing such warranty claims will be allocated to each Co-Tenant in accordance with its Proportionate Share.

2.5 Installation of Additional Facilities.

(a) Approval of Additional Facilities. To the extent that any additional facilities, improvements, modifications, or upgrades of facilities that relate to the Shared Facilities or operation thereof, are required by any Co-Tenant, or would materially benefit one or more Projects ("Additional Facilities"), such Co-Tenant may give written notice to the other Parties of such requirement, with a reasonably detailed explanation of why such Additional Facilities are needed and a report of an independent engineer reasonably acceptable to the other Co-Tenants confirming that such Additional Facilities will not adversely affect the operation, performance, reliability and maintenance costs of the Shared Facilities or of any Project (except as may have been agreed by the Co-Tenant owning such Project). The party proposing such Additional Facilities shall bear the cost of the independent engineer's report.

(1) No Additional Facilities shall be installed if such installation can reasonably be expected to (i) result in an Emergency, (ii) violate the terms of this Agreement, the Projects' Interconnection Agreements or any Power Purchase Agreement for a Project, or (iii) adversely affect the performance or reliability of any Project (except as may have been agreed by the Co-Tenant owning such Project) or the reliability or Operation and Maintenance Costs of the Shared Facilities.

(2) Each Co-Tenant receiving such notice and independent engineer's report shall have thirty (30) days after receiving such notice and report to determine (i) if such Additional Facilities could reasonably be expected to adversely affect the performance or reliability of any Project (except as may have been agreed by the Co-Tenant owning such Project) or the reliability or Operation and Maintenance Costs of the Shared Facilities, and (ii) if such Additional Facilities are also needed for its Project and to notify all other Co-Tenants in writing of its election to participate or not to participate in the acquisition, installation and/or construction of such Additional Facilities. A Co-Tenant's failure to notify the other Co-Tenants in writing of its election to participate within such thirty (30) day period will be deemed an election to reject and not participate in the addition of the proposed Additional Facilities.

(3) No Party shall install any Additional Facilities unless the Co-Tenants approve such proposed Additional Facilities.

(4) Approved Additional Facilities shall become Shared Facilities and the construction of such Additional Facilities shall be subject to Sections 2.4(a) through (f) and Section 2.5 and shall apply to the operation of such Additional Facilities. To the extent that not all of the Co-Tenants elect to participate in such Additional Facilities, each participating Co-Tenant's Proportionate Share with respect to such Additional Facilities that become Shared Facilities only shall be determined on the basis of the relative interests of the Co-Tenants that have elected to participate in such Additional Facilities.

(b) Disapproved Additional Facilities. If any proposed Additional Facilities are not approved pursuant to the provisions above, then nothing herein shall prevent a Co-Tenant from installing such facilities in its own name, provided that such installation would not violate the terms of this Agreement. If

at any time construction or operation of such facilities has or would (i) result in an Emergency, (ii) violate the terms of this Agreement, an Interconnection Agreement or any power purchase agreement for a Project, or (iii) adversely affect the performance or reliability of any Project (except as may have been agreed by the Party owning such Project) or the reliability or Operation and Maintenance Costs of the Shared Facilities, the Co-Tenant that installed the facilities shall cease operating the facilities until such problem is remedied. The other Parties shall not be liable for the construction, installation, operation, maintenance, or repair of such facilities, but shall also not be entitled to any Shared Facilities Services with respect to such facilities.

(c) Amendments to Agreement. Upon acquisition of the Additional Facilities pursuant to this Section 2.6, Shared Facilities Manager shall prepare amendments to this Agreement to reflect the addition of the Additional Facilities as Shared Facilities and each Party's Proportionate Share of such new Shared Facilities, which shall be submitted to and signed by the Parties as provided in Section 15.2 below and filed with FERC for acceptance.

(d) Requirements for Construction. Any Additional Facilities and any Co-Tenant (or its agents or contractors) installing Additional Facilities shall (i) not unreasonably interfere with the use or access by the other Parties of the Shared Facilities and, to the extent there is any interference, minimize the extent of such interference, (ii) to the extent commercially reasonable, schedule during an off-peak and/or low generation down-time period any required disconnection of the Shared Facilities to conduct construction activities in order to minimize the impact on the Projects of the other Parties, (iii) provide at least sixty (60) days prior written notice of commencement of such construction activities together with a reasonably detailed description and specifications for the Additional Facilities, including any planned outages, and the durations thereof, of the Shared Facilities that would result in a disconnection of a Project, (iv) minimize the duration of any planned outage, and (v) make all commercially reasonable changes in the construction plans or timing of construction requested in writing by another Party. The Co-Tenant or Co-Tenants that have elected to participate in the Additional Facilities shall be responsible for obtaining and complying with any necessary permits and other governmental approvals, including FERC approvals in form and substance reasonably acceptable to the non-participating Co-Tenants. If the construction plans for an Additional Facility include any planned outages of the Shared Facilities and another Party objects, the installation of the proposed Additional Facilities shall not proceed unless and until such Dispute is resolved in accordance with this Agreement; provided further that the Co-Tenant or Co-Tenants that have elected to participate in the Additional Facilities shall indemnify and hold harmless Shared Facilities Manager and the non-participating Co-Tenants from all claims and damages, including third party claims, property and revenue losses incurred, as a result of such construction activities or related down-time.

ARTICLE 3
CONSTRUCTION EASEMENT; ACCESS, NONINTERFERENCE; WAIVER OF PETITION

3.1 Temporary Construction Easement. Effective as of the Effective Date, each Co-Tenant, to the fullest extent within its right, power and authority, hereby grants to each Constructing Co-Tenant, during the period of construction of an Additional Facility by such Constructing Co-Tenant, a temporary and non-exclusive access and construction sub-easement on, over, under and across the components of the Shared Facilities that comprise real property only to the extent reasonably necessary for such Constructing Co-Tenant to construct and install the Additional Facility and any Separate Facilities of such Constructing Co-Tenant, and to interconnect with, access, modify and utilize any Shared Facilities to deliver energy over such Shared Facilities (collectively, the "Temporary Construction Easement") consistent with such Co-Tenant's Shared Facilities Use Rights, which Temporary Construction Easement will expire fourteen (14) days after the Commercial Operation Date of such Co-Tenant's Project. The grantee of any such Temporary Construction Easement agrees to comply in full with the requirements of any underlying easement or other agreement, covenant, condition, or restriction applicable to the property upon which such Temporary

Construction Easement is granted. Additionally, the Constructing Co-Tenant agrees to fully reimburse the non-Constructing Co-Tenant in the event the non-Constructing Co-Tenant's operations are disrupted or curtailed in any way by the Constructing Co-Tenant's construction of an Additional Facility and/or Separate Facilities and any subsequent interconnection by the Constructing Co-Tenant with the Shared Facilities. The Shared Facilities Manager shall invoice the Constructing Co-Tenant for any such costs incurred by the non-Constructing Co-Tenant and the Constructing Co-Tenant agrees to pay such invoice within five (5) Business Days or the non- Constructing Tenant may draw down upon any Letter of Credit or other security then in place by the Constructing Tenant to cover the reimbursement of such costs.

3.2 Access to the Shared Facilities or Separate Facilities. Subject to the terms and conditions of this Agreement (and subject to third-party real estate interest limitations on a Co- Tenant hereunder, if any), each Co-Tenant and its contractors and designees will have (i) unrestricted temporary access to the Shared Facilities (it being understood that the day-to-day operation of the Shared Facilities will be performed solely by Shared Facilities Manager), and (ii) reasonable access to the Separate Facilities of each other Co-Tenant, in each case solely for purposes of verifying compliance with the requirements of this Agreement. Each Co-Tenant and its contractors and designees will also have unrestricted temporary access to the Shared Facilities for purposes of the construction, repair, operation and maintenance of each Co-Tenant's respective Separate Facilities. Notwithstanding the preceding sentence, except in the event of an Emergency, each Co-Tenant will give Shared Facilities Manager Representative at least two Business Days' prior notice of the proposed entry by the Co-Tenant or its contractors, designees or Secured Parties upon the Shared Facilities and at least five (5) days prior notice of the proposed entry by the Co-Tenant or its contractors, designees or Secured Parties upon the Separate Facilities of another Co-Tenant (which notice may be by telephone, e-mail, or any other recognized electronic means in addition to any other methods of notice authorized herein), and each Co-Tenant will follow, and cause its contractors, designees and Secured Parties to follow, all written safety and security procedures adopted by Shared Facilities Manager and communicated to the Parties. Notwithstanding the foregoing, in the event of an Emergency, a Co-Tenant will not be required to provide prior notice of any such entry onto the Separate Facilities of another Co-Tenant but will give notice of such entry onto the other Co-Tenant's Separate Facilities as soon as reasonably practicable thereafter.

3.3 No Waste or Nuisance; No Interference.

(a) Each Co-Tenant's use of any Shared Facilities (to the extent such Co-Tenant has a right to use the same hereunder) or of such Co-Tenant's Separate Facilities will, to the fullest extent commercially reasonable and subject to Good Utility Practice, (i) minimize any interference with the use and enjoyment by the Co-Tenants of their rights in and to the Shared Facilities, and (ii) except in the event of an Emergency, (A) schedule during an off-peak or low production period any required curtailment or disconnection of the Shared Facilities or Separate Facilities to conduct maintenance and repair activities in order to minimize the impact on the Projects of the Co-Tenants, and (B) provide prior written notice (and to the extent reasonably practicable, not less than thirty (30) days prior written notice) to the Co-Tenants of commencement of such maintenance and repair activities together with a reasonably detailed description thereof, including dates and times of such maintenance and repair activities, and any curtailment or disconnection. Reimbursement to the affected Co-Tenant for losses sustained due to curtailment or disruption by a Constructing Co-Tenant shall be governed by Section 6.4(c)(2).

(e) Each Co-Tenant will have the right to transmit electrical power from its respective Project through the Shared Facilities in accordance with this Agreement and in an amount not exceeding its Permitted Capacity and to otherwise utilize the Shared Facilities in accordance with this Agreement in connection with the generation and transmission of electricity from its Project. Notwithstanding anything contained in this Agreement to the contrary, no Co-Tenant will be required to reduce its Permitted Capacity or, except as otherwise expressly provided in this Agreement, to interrupt or reduce deliveries of electrical

power over the Shared Facilities or disconnect from the Shared Facilities in order to operate at its Permitted Capacity.

3.4 Grants of Easements for Project Interconnection or for Construction, Operation and Maintenance of Separate Facilities. Each Co-Tenant will, to the extent permitted by such Co-Tenant's easements, grant nonexclusive easements for the benefit of another Co-Tenant, upon request of such other Co-Tenant, if and to the extent that such other Co-Tenant reasonably requires the grant of such easements for purposes of interconnecting such other Co-Tenant's Project or Separate Facilities with the Shared Facilities, or for purposes of constructing, operating and maintaining such other Co-Tenant's Separate Facilities, including for purposes of access (including utilities access) and for purposes of locating and using subterranean or overhead transmission lines, as applicable; provided, that such nonexclusive easements will not permit any grantee thereof to interfere in any material respect with the construction, operation or economic value of the Shared Facilities or the real property encumbered by such nonexclusive easements.

ARTICLE 4
ALLOCATION AND PAYMENT OF EXPENSES

4.1 Maintenance and Repair of Separate Facilities. Each Co-Tenant will be solely responsible for and will pay all expenses and liability relating to use, maintenance, repair, and inspection of its Separate Facilities (the "Separate O&M Expenses").

4.2 Operation and Maintenance of the Shared Facilities.

(a) Shared O&M Expenses. Each Co-Tenant shall be responsible for and shall pay its Proportionate Share of the expenses and liabilities relating to the Operation and Maintenance of the Shared Facilities. Exhibit E hereto sets forth examples of categories of Shared O&M Expenses, but it is not intended to be an exhaustive or exclusive list of Shared O&M Expenses or categories. Each Co-Tenant's share of Shared O&M Expenses shall be equal to its Proportionate Share.

(b) Security for Shared O&M Expenses. No less than thirty (30) days prior to the estimated Substantial Completion of Bethel's Buy In Process, each Co-Tenant shall provide an irrevocable standby Letter of Credit from a U.S. issuer in an amount equal to its estimated Proportionate Share of the Shared O&M Expenses for the first calendar year after commencement of construction of the potential modifications needed to integrate Bethel's inputs into the Shared Facility Assets. Concurrently with the approval of each Shared Facilities O&M Budget, each Co-Tenant shall provide a replacement Letter of Credit in an amount equal to its Proportionate Share of Shared O&M Expenses contained in Exhibit E. Shared Facilities Manager may draw upon the Letter of Credit for any Shared O&M Expenses not paid when due. In addition, Shared Facilities Manager may draw upon the Letter of Credit for unpaid obligations of the Co-Tenant associated with such Co-Tenant's withdrawal from this Agreement. The foregoing notwithstanding, a Co-Tenant shall not be required to provide a Letter of Credit under this Section 4.2(b) if (i) such Co-Tenant has an investment grade credit rating (or its obligations are guaranteed by an entity with an investment grade credit rating) on its senior unsecured debt rating that is equivalent to, or better than, BBB- as determined by Standard & Poor's or Baa3 as determined by Moody's (or if either one or both of such ratings are not available, equivalent ratings from alternate rating sources that are reasonably acceptable to the Shared Facilities Manager and the other Co-Tenant), or (ii) such obligation is waived by the other Co-Tenants, in their sole discretion, which waiver the other Co-Tenants may revoke at any time.

4.3 Invoicing, Late Payments.

(a) Shared Facilities Manager shall be responsible for invoicing the Co-Tenants for their Proportionate Share of the Shared O&M Expenses strictly on a monthly basis, invoicing which shall

be payable within thirty (30) days after receipt of an invoice, with backup documentation, from Shared Facilities Manager setting forth the amount that is due. If a Co-Tenant disputes the purported amount contained in a given invoice, it shall pay the undisputed amount when due. If the Co-Tenant and the Shared Facilities Manager are not able to resolve the dispute within 30 days, then such Co-Tenant and the Shared Facilities Manager shall resolve the dispute in accordance with Article 14. All sums not paid by a Co-Tenant when due shall thereafter, to the extent not satisfied by a draw on the Letter of Credit, bear interest at the Default Interest Rate. Each Co-Tenant shall have the right to audit, and receive supporting documentation for, any expenses or other amounts required to be paid by Co-Tenant hereunder.

(b) In addition to the reports under Section 6.6, within thirty (30) days after the end of each calendar year, Shared Facilities Manager shall provide the Co-Tenants an annual statement of all actual Shared O&M Expenses during the previous calendar year, all payments on account of Shared O&M Expenses by each Co-Tenant, and a reconciliation of the amounts paid by each such Co-Tenant against such Co-Tenant's Proportionate Share of the actual Shared O&M Expenses during such calendar year. If any Co-Tenant's share of such Shared O&M Expenses exceeds the amounts paid by such Co-Tenant, such Co-Tenant shall pay the amount of such difference to Shared Facilities Manager as part of the next monthly invoice. If any Co-Tenant's Proportionate Share of such Shared O&M Expenses is less than the amounts paid by such Co- Tenant, Shared Facilities Manager shall credit the amount of such overpayment by such Co- Tenant against future invoiced amounts from Shared Facilities Manager until such credit is exhausted.

4.4 Property Taxes and Assessments. Shared Facilities Manager shall allocate all property taxes attributable to the Shared Facilities to the Co-Tenants in proportion to their respective Proportionate Shares; provided that any property taxes attributable to Additional Facilities in which one or more of the Co-Tenants are not participating, such taxes shall be allocated among the Participating Co-Tenants in accordance with Section 4.2 as Shared O&M Expense.

4.5 Shared Facilities O&M Budget.

(a) Consistent with the requirements of Section 7.1, upon Substantial Completion of Bethel's Buy In Process and no later than sixty (60) days prior to the beginning of the following calendar year and each subsequent calendar year thereafter during the term hereof, Shared Facilities Manager shall prepare and submit to the Parties a proposed budget for Operation and Maintenance of the Shared Premises and Shared Facilities for the following calendar year, or the portions of the calendar year remaining after Substantial Completion of the Shared Facilities (each, a "Shared Facilities O&M Budget"), which budget shall include the estimated cost of all anticipated Shared O&M Expenses during the following year; provided that, such Shared Facilities O&M Budget shall not include the cost of construction of the Shared Facilities or any Additional Facilities, which costs shall be governed by the provisions of Section 2.4 and Section 2.6, as applicable. The Shared Facilities O&M Budget shall set forth the respective amounts allocated to the Co-Tenants in accordance with Exhibit E hereto. When approved pursuant to subparagraph (b) below, the Shared Facilities O&M Budget shall be the "Approved Shared Facilities O&M Budget" for such year. Should the Shared Facilities Manager fail to provide the Parties with the aforementioned budget, any Co-Tenant shall give the Shared Facilities Manager written notice of the failure, which will give the Shared Facilities Manager 30 days to cure or rectify the failure, during which the Co-Tenants will have the opportunity to object to any of the charges in accordance with the procedure laid out previously.

(b) The Shared Facilities O&M Budget shall be subject to the reasonable approval of the Co-Tenants; provided, however, that the portion of the Shared Facilities O&M Budget reflecting the cost and expenses to be paid pursuant to this Agreement and any successor thereto are deemed approved Shared O&M Expenses hereunder. The Co-Tenants shall give their approval or disapproval of the Shared Facilities O&M Budget no later than thirty (30) days after receipt thereof from Shared Facilities Manager. If any Co-Tenant objects to all or any portion of the proposed Shared Facilities O&M Budget, such

objecting Co-Tenant shall furnish the other Parties in writing with detailed reasons for such objections and shall immediately begin discussions with the other Parties in an effort to reach a mutually agreeable Shared Facilities O&M Budget, provided, however, if a proposed Shared Facilities O&M Budget is approved consistent with Section 6.2, the Shared Facilities O&M Budget will be the Approved Shared Facilities O&M Budget for the following calendar year. If a proposed Shared Facilities O&M Budget is not approved consistent with the requirements of Section 6.2, the Approved Shared Facilities O&M Budget for the previous calendar year (or the last Approved Shared Facilities O&M Budget if the Shared Facilities O&M Budget for the prior year was not approved) as adjusted by the Inflation Adjustment Factor shall apply; provided that any single extraordinary expense in excess of twenty-five percent (25%) of the last Approved Shared Facilities O&M Budget shall not be incurred without the prior approval of each Co-Tenant, not to be unreasonably withheld, conditioned or delayed.

4.6 Other Expenses Caused By Co-Tenants. Notwithstanding the provisions of this Agreement, any costs, claims, loss or other liability to third parties arising from the actions or inactions of a Co-Tenant in violation or breach of the covenants herein or the provisions of any Interconnection Agreement or a Power Purchase Agreement shall be the responsibility of such Co- Tenant to the extent not covered by the policies of insurance required under Article 8 below, provided that such Party shall pay all deductibles due under such policies with respect thereto.

4.7 Rights of Other Co-Tenants with Respect to Non-Payment. If any Co-Tenant (a "Non-Paying Co-Tenant") fails to timely make any required payment of amounts due under Article 4, Shared Facilities Manager will provide written notice to the other Co-Tenants within ten (10) days after such payment becomes past due, and any non-defaulting Co-Tenant may (but will not be obligated to) make such payment on behalf of such Non-Paying Co-Tenant, in which event the amount so paid will be immediately due and payable from the Non-Paying Co-Tenant to such other Co-Tenant(s), together with interest from the date paid at the Default Interest Rate, and the non- defaulting Co-Tenant (the "Paying Co-Tenant") who made such payment will have a claim against the Non-Paying Co-Tenant for such amounts owed (the "Reimbursement Obligation").

4.8 Liens. No Party shall, directly or indirectly, create, incur or permit to exist any lien on the Shared Facilities as a whole, including but not limited to (a) any lien for unpaid taxes, except those in respect of taxes not yet due and payable or (ii) that are being contested in good faith by appropriate proceedings, or (b) any mechanic's or materialmen's lien other than those arising in the ordinary course of business, either (i) for amounts not yet due or (ii) for amounts being contested in good faith by appropriate proceedings, in each case of (a) and (b) so long as such proceeding shall not involve any substantial danger of the sale, forfeiture or loss of any part of the Shared Facilities, including the posting of any bond that is required by applicable law to avoid such sale, forfeiture or loss while such claims are being contested and/or to cause such lien to be removed from title to the Shared Facilities, and, to the extent such lien has not been removed from title to such properties, the lienholders' proceedings are stayed. If any lien not permitted under the previous sentence attaches to any of the Shared Facilities, or if a Party receives notice of any such lien, the Party whose actual or alleged act or omission resulted in such lien shall cause such lien to be released and removed of record within fifteen (15) days of such attachment or notice. Failure of a Party to remove such lien as required under this Section 4.8 shall entitle each other Party to cause such lien to be removed and the costs thereof shall be promptly reimbursed by the Party responsible hereunder for removal of such lien.

ARTICLE 5
OTHER RIGHTS AND OBLIGATIONS OF THE PARTIES

5.1 Maximum Capacity of Projects. The Maximum Capacity means, in respect of any Project, the maximum capacity of each Project, as identified and described in the respective Project's

Interconnection Agreement, and summarized in Exhibit G, which Maximum Capacity may be changed only in accordance with the terms of the Project's Interconnection Agreement. Each Co-Tenant shall construct its Project with a nameplate capacity of at least the Maximum Capacity for such Project as set forth on Exhibit G (at any time, the "Permitted Capacity").

In the event that a given Project's production exceeds nameplate capacity (an "Exceeding Project"), and upon notice and demand for payment (demand which shall be accompanied by supporting documentation) by a non-exceeding Co-Tenant, the Exceeding Project shall proceed to immediately pay consequential damages to the non-exceeding Co-Tenants for lost compensation. Any such damage arising out of, or in connection with, overproduction shall be covered by the exceeding Project.

Should an Exceeding Project receive one such aforementioned notice and fail to cure within a period of fifteen (15) calendar days to allow the Project to come down, the non-exceeding Co-Tenant shall be permitted to bring a declaratory action to stop overproduction.

5.2 Maintenance and Repair of Projects. Each Co-Tenant shall, at its sole cost and expense, maintain in good working order and repair at all times each part of its Project which connects with or may affect the Shared Facilities.

5.3 Standard of Performance. Subject to the limitations or restrictions set forth in this Agreement, each Co-Tenant and Shared Facilities Manager shall perform its respective obligations hereunder (i) in accordance with this Agreement, all Governmental Requirements, Good Utility Practice, the Interconnection Agreements and any applicable requirement of NERC or PJM, and (ii) in a manner that is (A) non-discriminatory, and (B) attempts to maximize the delivery of energy from the Projects at a reasonable cost. In addition, Shared Facilities Manager will perform its obligations hereunder in compliance with the requirements of the Interconnection Agreements to which each Co-Tenant is a party, provided that such Co-Tenant has delivered to Shared Facilities Manager a copy of such Interconnection Agreement.

5.4 Co-Tenant Representatives. On or promptly after the Effective Date, each Co- Tenant shall by written notice to the other Parties designate an individual representative and alternate (the "Co-Tenant Representative") whose instructions, requests, and decisions will be binding upon such Party in all matters concerning this Agreement, except that the Co-Tenant Representative shall not have the authority to amend this Agreement. Each Co-Tenant shall have the right to change such Co-Tenant Representative at any time and from time to time by written notice to the other Parties and Shared Facilities Manager.

5.5 No Warranties. No Co-Tenant makes any warranty, express or implied with respect to the Shared Facilities, the Additional Facilities, or Qualified Replacement Components. THE FOREGOING EXCLUSION OF ALL WARRANTIES BY EACH PARTY INCLUDES IMPLIED WARRANTIES OF SUITABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

5.6 Withdrawal of Project. Subject to the provisions of this Section 5.6, if a Co-Tenant determines that it will cease operation of or otherwise abandon its Project or do not require any Shared Facilities hereunder, such Co-Tenant shall have the right to withdraw from this Agreement, provided written notice thereof is given to the other Parties. Should the Project looking to withdraw be the initial Shared Facilities Manager, Bethel or another Co-Tenant shall step into the role of Shared Facilities Manager. Any withdrawing Project shall be exclusively responsible for any disconnection costs and for any costs associated with keeping the Shared Facilities operational for the remaining Projects following the withdrawing Project's disconnection. Nothing in the preceding clause shall be interpretated as creating a responsibility for ongoing maintenance after the withdrawing Project has successfully disconnected.

5.7 No Waste or Nuisance. Subject to the reimbursement provisions of Section 2.5 above, to the extent that a Party has the authority under this Agreement to prevent such actions or inactions, no Party will use or permit the use of the Shared Facilities or Shared Facilities Services in any manner that would create waste or nuisance, or that would increase the rate, or jeopardize the issuance or maintenance, of any insurance policy relating to the Shared Facilities or any Project, nor otherwise conduct or cause to be conducted operations on its Property which would have similar effects on, or otherwise damage or interfere with, the Shared Facilities or any other Project. The Parties will at all times while conducting their respective operations use commercially reasonable efforts to minimize the impact of such operations and activities upon the other Parties.

5.8 No Public Access. The Parties agree that, unless so ordered by a Governmental Authority, there will be no general public access to the Shared Facilities. The Parties shall undertake to cooperate in enforcing such requirement for limiting access to the Shared Facilities, including establishing and enforcing procedures for safety and security.

5.9 Substantial Completion. Upon Substantial Completion of any Shared Facilities or Additional Facilities, each Party with an obligation to own an interest in the Shared Facilities or Additional Facilities shall execute such documents as are necessary or desirable to confirm the transfer and conveyance of such facilities and the premises necessary thereto as described in this Agreement.

5.10 Changes in Proportionate Shares. The Proportionate Shares shall be modified from time to time as necessary to reflect the addition of Additional Facilities as Shared Facilities in accordance with Section 1.5. Any changes in the Shared Facilities and the Proportionate Shares shall be evidenced by an amendment to the affected Exhibits to this Agreement, to be prepared and executed by the Parties.

5.11 Competing Ventures. Any Party may engage in or possess an interest in other business ventures of any nature and description, independently or with others, including but not limited to the ownership, financing, leasing, management, syndication, investment, brokerage and development of real property, and no Party shall have any right by virtue of this Agreement in and to such independent ventures or to the income or profits derived therefrom.

5.12 Addition of New Party. The addition of any New Party under this Agreement shall be done in accordance with the provisions of Article 9 below. Upon the joinder of the New Party in this Agreement as a Party hereto, the applicable exhibits of this Agreement shall be modified, and new exhibits will be added as necessary, to identify the New Party and, if appropriate, to revise the Co-Tenants' Proportionate Shares. Concurrently with such joinder of a New Party in the Agreement, Shared Facilities Manager shall cause an amendment to the Memorandum to memorialize the addition of such New Party.

5.13 FERC Approvals.

5.13.1 The Parties shall cooperate in the filing of this Agreement with FERC pursuant to Section 205 of the FPA, such filing to be made by the Shared Facilities Manager. The Shared Facilities Manager shall file the Agreement no later than one (1) day prior to the Election Date for Bethel. Once this Agreement has been filed with FERC by the Shared Facilities Manager and no less than one (1) day prior to its Election Date, Bethel shall file a certificate of concurrence and tariff record with FERC pursuant to Section 205 of the FPA. Any Co-Tenant admitted thereafter shall file a certificate of concurrence and tariff record with FERC pursuant to Section 205 of the FPA no less than one (1) day prior to the date on which the parties agree it will acquire its undivided interest in the Shared Facilities ("Subsequent Election Date").

5.13.2 The Parties acknowledge and agree that: (a) this Agreement will be publicly available through its filing with FERC under Section 205 of the FPA; (b) any subsequent amendments to

this Agreement that, pursuant to Section 205 of the FPA and FERC precedent thereunder, are required to be filed at FERC, must be accepted by FERC, and the effectiveness of such amendments will be contingent on such FERC acceptance; (c) changes in ownership contemplated by this Agreement may be subject to prior FERC approval pursuant to Section 203 of the FPA; and (d) disconnections or terminations contemplated by this Agreement may require prior FERC approval under the FPA. Prior to any amendment to the Agreement that is required to be filed at FERC, the Parties will cooperate in the preparation of a filing by Shared Facilities Manager acceptable to all Parties to seek acceptance by FERC of the amended Agreement and Shared Facilities Manager will file the amended Agreement for acceptance by FERC no later than one (1) day prior to the effective date of the amended Agreement. Each of the Parties agrees that it will not oppose acceptance of the Agreement or any amended Agreement by FERC and that it will reasonably cooperate to address any issues raised by FERC in connection with the filing for acceptance of the Agreement or such amended Agreement. Subject to the terms and conditions set forth herein, the Parties agree to execute and deliver all documents reasonably necessary for this Agreement to comply with FERC requirements.

5.13.3 Absent the prior agreement in writing by all Parties, no Party may seek, nor may it support any third party in seeking, to prospectively or retroactively revise the terms or conditions of this Agreement through application or complaint to FERC pursuant to the provisions of Section 205, 206 or 306 of the Federal Power Act, or any other provisions of the FPA.

5.13.4 In the event that FERC determines that the Parties' activities under this Agreement require any of the Parties to comply, without waiver, with FERC's regulations at 18 C.F.R. § 35.28 and 18 C.F.R. Parts 37 and 358, or that NERC or its delegate requires a Party to register with the NERC compliance registry as a transmission Shared Facilities Manager or operator, the Parties agree to cooperate in good faith to take such actions as may reasonably be undertaken by them to attempt to reverse or limit the effect of the determination.

5.13.5 Any cost imposed resulting from a FERC determination that Parties' activities require the Parties to comply with all or any portion of FERC's regulations at 18 C.F.R. § 35.28 and 18 C.F.R. Parts 37 and 358, or with respect to any NERC requirements imposed on Shared Facilities Manager, shall be considered a Shared O&M Expense. Each Co-Tenant shall reimburse its Co-Tenant for its Proportionate Share of such costs and notwithstanding anything in this Agreement to the contrary such costs shall be deemed automatically added to any then current Approved Shared Facilities O&M Agreement or deemed Approved Shared Facilities O&M Budget.

ARTICLE 6
OPERATION AND MAINTENANCE OF THE SHARED PREMISES AND THE SHARED FACILITIES

6.1 In General. Shared Facilities Manager shall hold and manage Shared Facilities in accordance with this Agreement.

6.2 Specific Authority. Without limiting the authority of Shared Facilities Manager pursuant to Section 6.1, but subject to the limitations of authority of Shared Facilities Manager in Section 6.3 below, Shared Facilities Manager shall have the power, without further consent or approval of the Parties:

(a) To negotiate, enter into, execute, acknowledge or amend agreements for the Operation and Maintenance of the Shared Facilities (as permitted by this Agreement) on behalf of the Co-Tenants, subject in all cases to the provisions of this Agreement, and provided that (i) no such actions adversely affect the rights or privileges of the Parties except with respect to incurring additional expenses for the accounts of the Parties that are within the Approved Shared Facilities O&M Budget and (ii) Shared

Facilities Manager shall provide each Party with copies of any such agreement promptly upon execution thereof;

(b) To employ from time to time, at the expense of the Parties but subject to an Approved Shared Facilities O&M Agreement, persons, firms, or corporations to perform Operations and Maintenance, including entering into an O&M Agreement;

(c) To pay and collect amounts due in connection with the Shared Facilities, and to maintain one or more bank accounts wherein funds received by Shared Facilities Manager in connection with its duties hereunder shall be maintained;

(d) To expend monies necessary for Operations and Maintenance in accordance with Shared Facilities O&M Expenses;

(e) To commit to the expenditure of or spend such amounts for and on behalf of the Co-Tenants as are reasonably necessary to expedite Repairs to the Shared Premises and Shared Facilities due to an Emergency up to and including Two Hundred Fifty-Thousand ($250,000.00) Dollars in the aggregate (including the costs of installation and expediting fees), provided that Shared Facilities Manager gives concurrent notice by facsimile or electronic mail to the Co-Tenants regarding the nature and amount of the expenditure as soon as reasonably practicable after the estimated amount of the expenditure is known by Shared Facilities Manager, but in any event no later than the time Shared Facilities Manager commits to the expenditure (any failure by Bethel to pay its proportionate share of Repairs arising out of an Emergency shall entitle Shared Facilities Manager to draw upon the irrevocable standby Letter of Credit pursuant to Section 4.2);

(f) To negotiate with, and represent the Parties' interests before any Governmental Authority regarding property valuation and real property taxes (if any) related to the Shared Facilities; and

(g) To sell electric capacity, energy and ancillary services related to any Project owned by the Shared Facilities Manager.

6.3 Limitation on Authority. Shared Facilities Manager shall not, without the approval of each of the Co-Tenants:

(a) Amend, modify, or waive the terms of this Agreement;

(b) Create or cause to be created any lien or encumbrance on the Shared Facilities, other than a Permitted Encumbrance;

(c) Perform or omit to perform any act which would cause any person reasonably to believe that Shared Facilities Manager is authorized to bind the Co-Tenants, except as expressly permitted under this Agreement;

(d) Sell, assign, mortgage, encumber, convey, or otherwise transfer all or any portion of any Shared Facilities or any of the components thereof, other than Ordinary Course Sales;

(e) Borrow funds on behalf of the Co-Tenants, other than (i) in the ordinary course of business, or (ii) as expressly permitted by this Agreement;

(f) Agree to any restrictions or limitations on the Shared Facilities that do not exist as of the Effective Date;

(g) Take any action to voluntarily and permanently remove the Shared Facility Assets or Shared Facilities from service;

(h) Take any action which could reasonably be expected to have an adverse effect on the ability of any Co-Tenant to use or access the Shared Facility Assets or Shared Facilities; except as required or permitted under this Agreement;

(i) Incur expenses except in accordance with this Agreement and/or the Approved Shared Facilities O&M Budget in any calendar year except as provided in this Agreement;

(j) Enter into any commitments, contracts or other agreements requiring expenditures in excess of Fifty Thousand Dollars ($50,000.00) or with a duration of more than one (1) year except for (i) permitted expenditures in the case of an Emergency or as contemplated by the Approved Shared Facilities O&M Budget, without the consent of a Majority in Interest of the Parties, (ii) expenditures under the EPC Contract or any approved amendment thereto or (iii) expenditures under any approved Other Construction Contract or approved amendment thereto; or

(k) Except as permitted under Sections 8.8 and 8.9, procure insurance coverage that is less than the coverage required under Article 8.

6.4 Curtailment of Delivery.

(a) Shared Facilities Manager may, in accordance with this Section 6.4, direct the Co-Tenants to interrupt or reduce deliveries of electrical power through the Shared Facilities (i) when necessary in order for the Operation and Maintenance of the Shared Facilities on a pro rata basis based upon Proportionate Share, except when such pro rata allocation would be in violation of the applicable Curtailment instruction; (ii) if Shared Facilities Manager determines, in its reasonable discretion, that interruption or reduction is necessary due to an Emergency; or (iii) to ensure compliance with a directive of the Transmission Provider or PJM pursuant to rights under each Project's respective Interconnection Agreement. Shared Facilities Manager will use commercially reasonable efforts to give the Co- Tenants as much advance notice as is reasonably possible of interruptions, reductions, or curtailments under clauses (ii) and (iii).

(b) With respect to any interruption or reduction of deliveries of electrical power pursuant to clauses (i) or (ii) of Section 6.4 (a), Shared Facilities Manger shall limit the length of any such interruption or curtailment to the minimum extent and minimum time strictly necessary to correct the problem. Any interruption or curtailment made pursuant to clause (i) of Section 6.4(a) shall be made to the extent commercially reasonable during periods of low or no solar generation or low energy prices.

(c) Notwithstanding the other provisions of this Section 6.4, To the extent that the need for any interruption or reduction can be attributed to a particular Co-Tenant's Project or portions of its Project or the failure of such Project to comply with the order to curtail or a default by such Co-Tenant under this Agreement, each Project's Interconnection Agreement or an applicable Power Purchase Agreement, or to the extent such Co-Tenant's Project is the cause of an Emergency, or causes interference as described in Section 3.4(a), then all such curtailment shall be allocated to such Co-Tenant and such Co-Tenant will be responsible for all costs, liabilities, and damages resulting from such curtailment (subject to the limitations in this Agreement) and Shared Facilities Manager shall, to the extent possible, limit such interruption or reduction to such Project or such portions of the Project, as the case may be.

(d) Each Co-Tenant shall promptly effect such interruption in, or reduction of, delivery as Shared Facilities Manager shall direct pursuant to this Section 6.4. In the event notice is impracticable

or a Co-Tenant fails to promptly comply therewith, Shared Facilities Manager may affect the same by direct action.

6.5 Disconnection of Shared Facilities. Shared Facilities Manager shall have the power and authority to disconnect the Project of a Co-Tenant from the Shared Facilities (a) pursuant to Sections 10.3 or 10.4 upon liquidation and removal of the Shared Facilities, (b) as provided in Article 11 upon certain defaults hereunder, (c) if necessary, consistent with Good Utility Practice for the Operation and Maintenance of any portion of the Shared Facilities, (d) if Shared Facilities Manager determines, in its good faith discretion, that disconnection is necessary in the event of an Emergency or to otherwise prevent damage or injury to persons or property, including to the other Projects, the Interconnection Facilities or the property of the Transmission Provider or as otherwise needed to prevent or mitigate technical issues affecting the Shared Facilities, provided that Shared Facilities Manager will use commercially reasonable efforts to give the Co-Tenants as much advance notice as is reasonably possible under the circumstances, consistent with responding to the Emergency or preventing damage or injury to persons or property, or (e) at the direction of the Transmission Provider or PJM pursuant to rights under each Project's Interconnection Agreement. Unless Shared Facilities Manager has in its good faith determined that it is unable to do so because an imminent threat of injury or death to persons, damage to property exists, Shared Facilities Manager shall provide notice to the relevant Co-Tenants prior to or concurrently with disconnecting its Project from the Shared Facilities or as soon thereafter as is reasonably practical. In the event Shared Facilities Manager determines that any such disconnection is necessary, the Co- Tenants shall provide such plant operational and control data to Shared Facilities Manager promptly upon request as may be necessary to implement such disconnection.

6.6 Books and Records; Reporting Requirements.

(a) Maintenance of Records. Shared Facilities Manager shall maintain documents, books and records prepare in connection with, or for the benefit of, the Shared Facilities in sufficient detail to verify amounts incurred by the Co-Tenants and/or due and payable hereunder for a period of not less than five (5) years after the end of the calendar month to which they relate or such longer period as may be required by applicable law, and all such books and records shall be available for inspection and/or copying by each Party or its authorized representative at the cost and expense of such Party and at reasonable times during regular business hours, upon reasonable notice to Shared Facilities Manager. Each Co-Tenant shall reimburse the other Co-Tenants for its Proportionate Share of the costs incurred by Shared Facilities Manager in performing its obligations pursuant to this Section 6.6(a), and notwithstanding anything in Section 4.5(b) to the contrary such costs shall be deemed automatically added to any then current Approved Shared Facilities O&M Budget or deemed Approved Shared Facilities O&M Budget.

(b) Provision of Records. Shared Facilities Manager shall, from time to time, provide written reports to the Co-Tenants sufficient to keep the Co-Tenants reasonably apprised as to significant matters concerning the maintenance and repair of the Shared Facilities, including such matters related thereto as may have a material impact on the operation, maintenance, and repair of each Co-Tenant's Project. Each Co-Tenant shall reimburse Shared Facilities Manager for its Proportionate Share of the costs incurred by Shared Facilities Manager in performing its obligations pursuant to this Section 6.6(b), and notwithstanding anything in this Agreement to the contrary such costs shall be deemed automatically added to any then current Approved Shared Facilities O&M Budget or deemed Approved Shared Facilities O&M Budget.

(c) Each Co-Tenant shall have the right to audit and make copies of Shared Facilities Manager's books and records for the Shared Facilities, including with respect to construction costs for the Shared Facilities and Shared O&M Expenses, during normal business hours and upon reasonable advance notice to Shared Facilities Manager.

ARTICLE 7
SHARED FACILITIES MANAGER

7.1 In General.

(a) Shared Facilities Manager will take any actions authorized pursuant to this Agreement with respect to the Shared Facilities, as well as any actions to implement this Agreement, in accordance with the terms and conditions of this Agreement. Except as expressly stated herein, all decisions with respect to the Separate Facilities of a Co-Tenant will be made by such Co-Tenant. The Co-Tenants will not interfere in the management of the Shared Facilities by Shared Facilities Manager in accordance with this Agreement except for such temporary interruptions that are permitted pursuant to the explicit terms contained in this Agreement.

(b) On or promptly after the Operative Date, the Co-Tenants will establish a committee (the "Shared Facilities Managers Committee") that will have authority to make all decisions that are vested in the Co-Tenants hereunder. Such decisions will in each instance be made consistent with Good Utility Practice and in a manner that, in the aggregate, reasonably serves the interests of each Co-Tenant in a non-discriminatory manner. Each Co-Tenant will be entitled to appoint one (1) member to the Shared Facilities Managers Committee. Each member of the Shared Facilities Managers Committee will have equal voting shares with respect to all decisions; provided however, that in the instance of an impasse/voting deadlock, Bethel shall have the deciding vote. Any decision, approval or other action of Shared Facilities Managers Committee will, except as otherwise provided in this Agreement, require the approval of the Shared Facilities Managers Committee consistent with the provisions in this Section. Each member of the Shared Facilities Managers Committee will have the right to cast such vote with respect to any decision, approval or other action to be made by the Shared Facilities Managers Committee pursuant to this Agreement, provided, however, that upon the occurrence and during the continuation of any Co-Tenant event of default not cured by such defaulting Co-Tenant within the applicable cure period, the member representing the Co-Tenant with respect to which the event of default has occurred will not be entitled to vote on the matter in question, and decisions, approvals and actions to be made by the Shared Facilities Managers Committee may be made by the members representing the other Co- Tenants. In addition, the member representing a Non-Paying Co-Tenant will not be entitled to vote with respect to any decision, approval, or other action to be made by the Shared Facilities Managers Committee. If a Shared Facilities Managers Committee member does not vote either in favor of or against any matter subject to a decision, approval, or other action of the Shared Facilities Managers Committee pursuant to this Agreement, such member will be deemed to have voted against the matter. Notwithstanding anything to the contrary in this Agreement, any removal or replacement of Shared Facilities Manager without cause will always require the unanimous consent of the members of the Shared Facilities Managers Committee.

7.2 Shared Facilities Manager Representative. On or promptly after the Effective Date, Shared Facilities Manager will, by written notice to the Co-Tenants, designate an individual representative (the "Shared Facilities Manager Representative") whose instructions, requests, and decisions will be binding upon Shared Facilities Manager in all matters concerning this Agreement. Shared Facilities Manager will have the right to change the Shared Facilities Manager Representative at any time and from time to time effective upon written notice to all of the Co- Tenants.

7.3 Indemnification of Shared Facilities Manager. Each Co-Tenant, severally on a pro rata basis based on its Proportionate Share, shall defend, indemnify and hold harmless Shared Facilities Manager and its employees and agents, from any claim, loss, liability or damage incurred by reason of any act performed or omitted to be performed by it in good faith in performing its obligations under this Agreement, including without limitation, Operation and Maintenance of the Shared Facilities (other than acts or omissions constituting negligence, fraud, willful misconduct or breach of this Agreement by Shared

Facilities Manager), including reasonable attorneys' fees incurred by it in connection with the defense of any action based on any such alleged act or omission. Shared Facilities Manager shall specifically be indemnified by the Co-Tenants and held harmless from any and all actions taken by Shared Facilities Manager in its reasonable judgment, in good faith, or in reasonable reliance on advice of Shared Facilities Manger's attorneys or accountants, and shall be reimbursed by the Co-Tenants for costs related to claims or litigation which arise in connection with the Shared Facilities, or this Agreement (other than claims or litigation resulting from Shared Facilities Manager's acts or omissions constituting negligence, fraud, willful misconduct or breach of this Agreement by Shared Facilities Manager). **THE FOREGOING INDEMNITY IS EXPRESSLY INTENDED TO INCLUDE, AND DOES INCLUDE, ANY CLAIMS IN CONNECTION WITH ANY OF THE INDEMNIFIED MATTERS DESCRIBED IN THIS SECTION 7.3, (BUT NOT ACTS OR OMISSIONS CONSTITUTING NEGLIGENCE, FRAUD, WILLFUL MISCONDUCT OR BREACH OF THIS AGREEMENT BY SHARED FACILITIES MANAGER).**

7.4 Liability. Shared Facilities Manager shall not be liable, responsible or accountable in damages or otherwise to any Co-Tenant or Secured Party for any act performed in good faith by Shared Facilities Manager in the discharge of its duties hereunder as Shared Facilities Manager, including damages arising out of the disconnection of, or the election not to disconnect, a Co- Tenant's Project from the Shared Facilities, unless such acts or omissions constitute negligence, fraud, willful misconduct or breach of this Agreement by Shared Facilities Manager. Shared Facilities Manager will be discharged and released from all liability of Shared Facilities Manager accruing or arising under this Agreement on and after the date on which Shared Facilities Manager ceases to serve as Shared Facilities Manager; provided, however, that no removal or resignation of Shared Facilities Manager will relieve Shared Facilities Manager of any liability accruing or arising prior to the date on which Shared Facilities Manager ceases to serve as Shared Facilities Manager.

7.5 Limitation of Liability.

(a) In no event shall the liability of Shared Facility Manager under this Agreement (other than liability arising out of acts or omissions constituting negligence, fraud, willful misconduct, or breach of this Agreement by Shared Facilities Manager) exceed, in any calendar year during the term hereof, the amount of actual insurance recoveries.

(b) In no event, whether based on contract, indemnity, warranty, tort (including negligence) or otherwise, shall Shared Facilities Manager or its respective subcontractors and suppliers be liable for special, incidental, exemplary, indirect or consequential damages, including without limitation loss of profits or revenue, cost of capital, cost of purchased power, or claims of customers of any Co-Tenant for such damages; provided, however, this Section 7.5 shall not be construed as a limitation or restriction on the amount or applicability of any insurance policies or coverages held by or otherwise required to be procured and obtained by the Parties under the terms of this Agreement.

7.6 Resignation of Shared Facilities Manager. Shared Facilities Manager will have the right to resign for convenience, without any liability for such resignation, upon ninety (90) days prior written notice to the Co-Tenants and their respective Secured Parties, subject to the condition that Shared Facilities Manager must resign as Shared Facilities Manager effective as of the same date. The Co-Tenants will appoint a successor Shared Facilities Manager within such ninety (90) day period and Shared Facilities Manager will, in good faith, continue to perform its duties and obligations as Shared Facilities Manager until such time as a successor Shared Facilities Manager is appointed hereunder. If the Co-Tenants fail to agree upon a replacement Shared Facilities Manager within such ninety (90) day period, the Co-Tenants will submit such dispute for resolution pursuant to the Technical Dispute resolution procedures set forth in Section 14.2.1. During such ninety (90) day period, Shared Facilities Manager will cooperate with the Co-

Tenants in the transition of the performance of Shared Facilities Manager's obligations to the Co-Tenants or to a successor Shared Facilities Manager, as the case may be. During any such time that Shared Facilities Manager is obligated pursuant to this Section 7.6 to continue to perform its obligations hereunder, Shared Facilities Manager will remain liable for the performance of such obligations in accordance with this Agreement as if no notice of resignation had been delivered. Notwithstanding anything to the contrary in this Article 6.7, in the event that Pitt resigns as Shared Facilities Manager pursuant to this Section 7.6 or subject to assignment of its interests in the Shared Facilities under Article 8, Bethel shall, unless it notifies Pitt to the contrary, and without any further actions required, replace Pitt as the Shared Facilities Manager.

ARTICLE 8
INSURANCE

8.1 Casualty Insurance. Unless the Parties otherwise agree and subject in any event to Sections 8.9 and 8.10 below, Shared Facilities Manager shall arrange for "all risk" property insurance during construction and operations for the Shared Facilities and the cost thereof shall be shared by the Co-Tenants; provided that each Party, at its discretion, may insure for its own business interruption losses. The "all risk" property insurance shall be in an amount sufficient to rebuild and replace the Shared Facilities in the event of a casualty loss thereof or damage thereto, including applicable sub-limits. The Parties shall, and shall use commercially reasonable efforts to cause their Secured Parties to, cooperate and endorse all loss proceeds checks or waive their requirement to be a loss payee and take all reasonable actions to ensure loss proceeds are processed promptly and in accordance with the intent of this Agreement. Any property insurance procured by Shared Facilities Manager shall be primary as to any other insurance of the Parties and such policy shall waive the right of subrogation against the Parties. Any property insurance procured by a Co- Tenant in lieu of insurance procured and maintained by Shared Facilities Manager pursuant to this Section 8.1 shall be primary as to any other insurance of the Parties and such policy shall waive the right of subrogation against the Parties.

8.2 Builder's All-Risk Insurance/All Risk Property Insurance. Any Party constructing or installing any Shared Facilities or Additional Facilities shall, during such construction or installation, maintain or cause to be maintained builder's all-risk insurance in an amount sufficient to replace any part of the Shared Facilities or Additional Facilities that may be affected by the construction. Such policies shall name each of the Parties and their Secured Parties as additional insureds and shall provide for thirty (30) days (ten (10) days in the case of non-payment of premiums) prior written notice before cancellation or modification. Once operational, all risk property insurance, consistent with industry standards, shall be procured to the extent available on commercially reasonable terms.

8.3 Liability Insurance. Shared Facilities Manager shall maintain liability insurance, including general liability coverage, covering the Shared Facilities, and each Co-Tenant shall maintain liability insurance covering its Project for any activities on the site of its Project. Each Party shall obtain and maintain comprehensive general liability insurance covering liability for bodily injury and death, property damage to third parties and damage to property of third parties in the care, custody and control of any Party and/or their respective employees in connection with operations at the Shared Facilities. Such coverage shall have a minimum limit of not less than Twenty-One Million Dollars ($21,000,000) per occurrence and Twenty-One Million Dollars ($21,000,000) annual aggregate for bodily injury and property damage, provided that such coverage (i) may be provided as part of a blanket policy covering other properties and may be provided by a combination of primary and excess policies, (ii) may be provided through a combination of primary and excess (umbrella) liability insurance policies; (iii) shall comply with any statutory obligation imposed by workers compensation or occupational disease laws, (iv) shall contain a blanket broad form contractual endorsement and severability of interest clause, and (v) shall designate the Parties, the Secured Parties, and their officers, directors, employees and agents as additional insureds. If a policy described above is on a "claims made" basis, the retroactive date of the policy shall be the Effective

Date. Furthermore, if a policy is on a "claims made" basis, such coverage shall survive the termination of this Agreement until the expiration of the maximum statutory period of limitations in the State of North Carolina for actions based on contract or in tort. If coverage is on an "occurrence" basis, insurance on an occurrence basis shall be maintained for the term of this Agreement.

8.4 Workers Compensation. The Parties shall each obtain and maintain minimum coverage to comply with any statutory obligation imposed by workers compensation or occupational disease laws to the extent the Party uses its employees to perform duties under this Agreement. In the event the Party retains a subcontractor to perform any of such duties, it shall require such Person to comply with the requirements of this Section 8.4.

8.5 Automobile Liability. The Parties shall each also obtain and maintain automobile liability insurance in the amounts they maintain for their other operations covering bodily injury and property damage, for hired, owned and non-owned vehicles to the extent their operations under this Agreement contemplate use of hired, owned and non-owned vehicles.

8.6 Casualty Event. In the event of a casualty that affects any of the Shared Facilities, all insurance proceeds with respect to the Shared Facilities shall be applied to reconstruction of the affected Shared Facilities. If there is uninsured loss or insurance proceeds are inadequate, the Parties shall contribute additional amounts based on their Proportionate Shares; provided that additional amounts due with respect to any claims arising from the gross negligence or willful misconduct of a Party shall be first fully allocated to the account of such Party and then any balance not arising from the gross negligence or willful misconduct of such Party being contributed by the Parties based on their Proportionate Shares. In the event of any liability claim relating to any of the Shared Facilities, to the extent such claim is not covered by the insurance required pursuant to this Article 8, the Parties shall be responsible for such claim based on their Proportionate Shares; provided that additional amounts due with respect to any claims arising from the gross negligence or willful misconduct of a Party shall be first fully allocated to the account of such Party and then any balance not arising from the gross negligence or willful misconduct of such Party being contributed by the Parties based on their Proportionate Shares.

8.7 Form and Content of Insurance. All policies and binders with respect to insurance provided pursuant to this Article 8 shall be as follows:

(a) Form of Policies. All insurance provided for hereunder shall be placed on forms reasonably acceptable to the Parties and the Secured Parties.

(b) Insurance Companies. All insurance required hereunder shall be with insurers with an A.M. Best rating of A minus or better or with insurers otherwise deemed acceptable to the Parties, and the Secured Parties.

(c) Severability. All liability insurance shall contain a severability of interest provision providing that, except with respect to the total limits of liability, the insurance shall apply to each insured or additional insured in the same manner as if separate policies had been issued to each.

(d) Non-Recourse. All insurance shall provide that there will be no recourse against the additional insureds for the payment of premiums or commissions or (if such policies provide for the payment thereof) additional premiums or assessments.

8.8 Additional Requirements.

(a) Waiver of Subrogation. To the extent allowed by law, all insurance maintained by the Parties shall provide for the waiver of any right of subrogation by the insurers thereunder against the Parties and their Secured Parties and their officers, directors, employees, agents and representatives, and any right of the insurers to any setoff or counterclaim or any other deduction, whether by attachment or otherwise, in respect of any liability of any such person insured under such policy.

(b) Non-Vitiation. To the extent obtainable on commercially reasonable terms, all insurance maintained by the Parties shall provide for the waiver of any right of the insurers to terminate, repudiate, rescind or avoid this insurance as against any insured or any agent of any insured on the grounds that the risk or claim was not adequately disclosed, or that it was in any way misrepresented, or increased, or that any term, condition or warranty was breached, or on the ground of negligence, unless deliberate or fraudulent non-disclosure or misrepresentation or breach by that insured is established in relation thereto.

(c) Notice of Cancellation. To the extent obtainable on commercially reasonable terms, all insurance shall provide that it may not be canceled or materially changed without giving the Parties and Secured Parties at least thirty (30) days prior written notification thereof, except in cases of non-payment of premium for which ten (10) days prior written notice shall be provided. If insurance that so provides is not obtainable on commercially reasonable terms, such notice shall be given to such parties by the relevant Party.

(d) Certificates; Proof of Loss. Prior to any construction activities on the site of a Project by a Party, such Party shall furnish certificates of insurance to the other Parties evidencing the insurance required of such Party pursuant to this Agreement. The Party maintaining each policy hereunder shall make all proofs of loss under each such policy, and shall take all other action reasonably required to ensure collection from insurers for any loss under any such policy, except that the other Party shall cooperate and assist in the preparation of such proofs of loss and take such other actions on behalf of the Parties as may be requested by the Parties.

(e) Payment of Deductibles and Self-Insured Retention Amounts. Each Co- Tenant shall be responsible for deductibles or self-insured retention under such Co-Tenant's insurance policies. The Co-Tenants shall reimburse Shared Facilities Manager for any deductibles or self-insured retentions under policies obtained by Shared Facilities Manager pursuant to this Agreement as a Shared O&M Expense.

(f) Subcontractor Insurance. Any Party performing work on the Shared Facilities shall require all contractors and subcontractors to carry commercial general liability insurance, automobile liability insurance and employer's liability insurance in the amount of at least One Million Dollars ($1,000,000) each and workers compensation insurance as required by law, and shall furnish Shared Facilities Manager with certificates of such insurance, prior to entry on the Shared Facilities and during the time in which they are engaged in performing any services.

(g) Notification. The Parties agree to advise the other Parties as soon as practicable in writing of any notice of claim in excess of $50,000 to which insurance pursuant to this Article 8 applies.

(h) Failure To Procure. Should Shared Facilities Manager fail to provide or maintain any of the insurance policies required of it with respect to the Shared Facilities, the Co- Tenants shall have the right to provide and/or maintain such coverage at after a reasonable time to cure has passed. Any cost incurred by a Co-Tenant in so doing shall be reimbursed to such Co-Tenant, but such costs shall be considered Shared O&M Expenses hereunder.

(i) Allocation of Costs. All premiums for insurance obtained by Shared Facilities Manager shall be considered Shared O&M Expenses for purposes of this Agreement.

8.9 Limitation on Insurance Requirements.

(a) Notwithstanding anything in this Article 8 to the contrary, if insurance meeting the requirements set forth herein is not available to Shared Facilities Manager on commercially reasonable terms, then Shared Facilities Manager shall obtain such insurance on terms in accordance with the requirements of this Article 8 to the extent, if any, such insurance is available on commercially reasonably terms, as certified by the Shared Facilities Manager to the Parties. Any Co-Tenant shall have the right, at its sole cost and expense, to obtain insurance with respect to such Co-Tenant's Proportionate Share for its own account and/or for the benefit of its Secured Party to the extent Shared Facilities Manager cannot obtain such insurance.

(b) Insurance obtained by Shared Facilities Manager or a Co-Tenant pursuant to the Interconnection Agreement or Power Purchase Agreement may, if it meets the minimum requirement of this Article 8 satisfy a Party's insurance obligations under this Agreement.

ARTICLE 9
ASSIGNMENTS AND RIGHT TO ENCUMBER

9.1 Assignment by Parties. No Party shall assign, sell, dispose of, give, or otherwise transfer, directly or indirectly (collectively "assign" or "assignment") its rights and interests under this Agreement, whether voluntarily, by operation of law, at a judicial sale or non-judicial sale or otherwise, to any person, except with the consent of the other Parties or as provided in this Agreement. If the procedures provided in Section 9.2 are complied with, the assigning Party shall be released from any further obligations hereunder arising from and after the effective date of such assignment, and such assignee shall become a Party under this Agreement. Notwithstanding the foregoing, (a) the sale of ownership interests in any Co-Tenant (or any of its constituent members, partners or upstream parents) in connection with any sale, merger, reorganization or tax equity financing that does not involve an assignment of this Agreement, (b) any assignment by a Co- Tenant of its rights under this Agreement to the entity into which or with which such Co-Tenant may be merged or consolidated and which succeeds to such Co-Tenant's ownership interest, or (c) any assignment by a Co-Tenant of all of its rights under this Agreement to any Qualified Transferee to which such Co-Tenant transfers all or substantially all of its Project and its ownership interest in Shared Facilities Manager, shall each be expressly permitted hereunder without the consent of the Other Parties; provided that any such assignee, transferee or successor entity shall comply with the requirements of Section 9.2. Any attempted assignment of any interest in the Shared Facilities or this Agreement made other than in accordance with this Section 9.1, either voluntarily or by operation of law, will be void and of no force or effect whatsoever.

9.2 Procedures. No Party shall be bound by any assignment, no assignment shall be valid, and no assignee of any Party's rights under this Agreement shall become a Party unless all Parties consent to the assignment if required by Section 9.1; (ii) the assignee will own and operate the Project of the assigning Party; (iii) the assignee agrees in writing, in form and substance reasonably satisfactory to the other Parties, to assume all of the present and future obligations of the assigning Party under this Agreement and to be bound by the terms of this Agreement in the place and stead of the assigning Party, and (iv) a counterpart of the instrument of assignment, executed by the Parties thereto, is delivered to the other Parties.

9.3 Right to Encumber.

(a) Amendment of Agreement in Connection with Co-Tenant Financing. The Parties acknowledges that a Co-Tenant may finance all or part of its costs in connection with the transactions contemplated by this Agreement. In the event that a Co-Tenant does enter into such financing, the Parties acknowledge and agree that certain aspects of the transactions contemplated hereby may need to be modified in certain respects to accommodate the reasonable requirements of any lender with respect to such financing. The Parties hereby agree to cooperate in good faith and to use commercially reasonable efforts to assist a Co-Tenant to make or to obtain any modification of this Agreement or the transactions contemplated hereby reasonably requested by a Co-Tenant to allow the Co-Tenant to obtain such financing upon commercially reasonable terms, including obtaining consents to the assignment for security purposes of a Co- Tenant's Proportionate Share interest in the Shared Facilities reasonably requested by such Co-Tenant's lender, provided that the Parties will not be required to cooperate with a Co-Tenant to implement any modification which would (i) relieve such Co-Tenant of any of its obligations under this Agreement or the transactions contemplated hereby, (ii) decrease the economic benefits or increase the costs to any of the other Parties of the transactions contemplated hereby or by any Power Purchase Agreement, or (iii) create any additional economic or legal risks to any of the other Parties or any of their respective Affiliates. The financing Co-Tenant will be responsible for the reasonable attorney's fees and other out-of-pocket costs incurred by the other Parties in providing such cooperation and efforts under this Section 9.3.

(b) Right to Encumber. So long as such actions do not violate, result in breach of or cause the loss or termination of an Interconnection Agreement or a Power Purchase Agreement each Party specifically agrees that (i) any Co-Tenant may at any time pledge, collaterally assign, encumber, or grant a security interest in the entirety of its rights under this Agreement to any Secured Party concurrently with pledging, collaterally assigning, encumbering or granting a security interest in such Co-Tenant's Project to such Secured Party. Each Co- Tenant also agrees that it will, at any time and from time to time during the term of this Agreement, within twenty (20) days after receipt of a written request by another Co-Tenant, execute and deliver to the other Co-Tenant and that Co-Tenant's Secured Party, as designated in such request, such estoppel certificates and consents as may be reasonably requested by a Co- Tenant or that Co-Tenant's Secured Parties confirming, among other things, (i) the Co-Tenant's right to the Shared Facilities Services, (ii) that there are no known Co-Tenant defaults under this Agreement, (iii) the Shared Facilities capital costs paid to date.

(c) Pledge, Collateral Assignment or Encumbrance. Should a Co-Tenant pledge, collaterally assign or encumber its rights under this Agreement as provided in Section 9.3(b) above, the Parties hereto expressly agree between themselves and for the benefit of any Secured Party that (i) no Party shall amend or attempt to amend this Agreement unless the consent of all the Secured Parties is first obtained, (ii) upon the occurrence of a default by a Co- Tenant hereunder, the non-defaulting Party declaring the default shall also provide written notice to the defaulting Party's Secured Parties of such default (and accept their cure of such default), (iii) each such Secured Party shall have the same period after receipt of a notice of default to cure, or cause to be cured, the default described therein, as is given to the defaulting Party, plus, in each instance, any additional cure periods provided under the Security Documents, not to exceed (a) thirty (30) days in the event of any monetary default; and (b) sixty (60) days in the event of any non-monetary default; provided, however, that such sixty (60)-day period shall be extended for the time reasonably required by the Secured Party to complete such cure, so long as the Secured Party is diligently pursuing such cure, and (iv) in case of the bankruptcy, insolvency or appointment of a receiver in bankruptcy for a Co-Tenant (the "Insolvent Party"), if this Agreement is terminated with respect to the Insolvent Party or rejected in such proceeding, the other Parties (the "Solvent Parties") shall upon written request of the first priority Secured Party of the Insolvent Party, within thirty (30) days after the Secured Party obtains possession or control of the assets of the Insolvent Party, accept such Secured Party, or its designee or assignee, as a Party to this Agreement or enter into a new shared facilities agreement with respect to the Shared Facilities with such Secured Party, or its designee or assignee, within twenty (20) days after the receipt of such request. Such new Shared Facilities agreement shall be effective as of the date of

the termination of this Agreement by reason of default by the Insolvent Party or upon the date of rejection of this Agreement by the Insolvent Party in its bankruptcy proceeding, on the same terms, covenants, conditions, and agreements as contained in this Agreement. Upon the acceptance of the Secured Party, or its designee or assignee, as a Party hereunder, or upon execution of any such new Shared Facilities agreement, the Secured Parties, or their designees or assignees, of the Insolvent Party shall (A) pay the Solvent Parties any amounts which are due the Solvent Parties from the Insolvent Party under the terms of this Agreement, and (B) agree in writing to perform or cause to be performed all of the other covenants and agreements set forth in this Agreement to be performed by the Insolvent Party to the extent that the Insolvent Party failed to perform the same prior to the execution and delivery of the new Shared Facilities agreement. A Secured Party shall only be liable under this Agreement only to the extent of its interest in the Insolvent Party's Project and other assets.

(d) Rights of Secured Parties Subordinate to Agreement. Notwithstanding any other provisions of this Section 9.3, the rights of any Secured Party in and to the rights of a Co- Tenant in this Agreement will at all times be subject and subordinate to this Agreement, and all rights and interests in a Co-Tenant's rights to the Shared Facilities acquired through foreclosure of a Secured Party's lien and security interests shall be acquired subject to the terms and conditions of this Agreement.

(e) Estoppel Certificates. Promptly following receipt of a written request from a Secured Party, each Party shall deliver to the requesting Secured Party estoppel certificates certifying (a) whether this Agreement has been supplemented, amended, assigned, or subleased and, if so, the substance and manner thereof, (b) the validity and force and effect of this Agreement, (c) the existence of any default under this Agreement, (d) the commencement and expiration dates of this Agreement, (e) the rights of the Secured Party under this Agreement, and (f) any other matters as may be reasonably requested by the Secured Party.

9.4 Expenses. All reasonable expenses, including reasonable attorneys' fees, incurred by the Parties in connection with (a) the assignment or proposed assignment of a Party's rights under this Agreement, or (b) the actual or proposed pledge, collateral assignment, encumbrance, or grant of a security interest in a Party's rights under this Agreement to a Secured Party, shall be paid by the assigning/borrowing Party to the respective Parties upon request therefor.

9.5 FERC Approval. Notwithstanding anything in this Article 8 to the contrary, if FERC approval is required for a transfer of a Party's interest hereunder, no Party may transfer its interests in this Agreement unless and until such Party has obtained any necessary approvals from the FERC to effectuate any changes in this Agreement to reflect such transfer and the changes in the parties to this Agreement, to the extent required by FERC.

9.6 Further Assurances. In the event of an assignment or transfer in part by a Party pursuant to Section 9.1 above, the Parties shall, at the reasonable request and expense of the assigning Party, execute and deliver a separate agreement with such assignee together with any necessary amendment to this Agreement, such that this Agreement, as amended, and such separate agreement shall cumulatively allocate the respective rights of the assigning Party and the assignee following such assignment; provided that in no event shall such amendment or separate agreement increase any obligation of any of the other Parties or otherwise adversely impact such Parties rights in and to the Shared Facilities under this Agreement, without the express consent of such Party thereto.

ARTICLE 10
TERM AND TERMINATION

10.1 Term and Termination. The term of this Agreement shall commence as of the Effective Date and, following the Election Date or any Subsequent Election Date, shall be subject to FERC acceptance for filing. This Agreement will terminate, subject to obtaining any necessary prior FERC approvals for such termination, upon the mutual agreement of all of the Parties, with the consent of the then- existing Secured Parties, if applicable. Upon such termination, the Parties shall execute and record a notice of such termination with a reference to the Memorandum, as it may have been amended.

10.2 Surrender of Interests. Any Co-Tenant may elect to assign its rights hereunder to one or more of the other Co-Tenants, but only with the consent of the Co-Tenant or Companies to whom such rights are to be assigned, and, thereupon, to cease to have any right, title or interest in this Agreement, and the Shared Facilities; provided that (A) the Surrendering Party executes and delivers all instruments of transfer as may be necessary or appropriate to effect (and that do effect) the assignment of its rights hereunder to Co-Tenant or Co-Tenants to whom such rights are to be assigned and which are reasonably satisfactory to, the remaining Parties, (B) such assignment is accompanied by an assignment by the Surrendering Party of all rights under this Agreement, (C) the Surrendering Party is not then in default of its obligations under this Agreement or the Co- Tenant or Co-Tenants to which such rights are being assigned agreed to cure such defaults, and (D) rights under this Agreement may only be assigned with the written consent of each Secured Party that holds a security interest in such rights and a release of such Secured Party's security interest being provided by such Secured Party. The Surrendering Party shall remain fully responsible for, and shall pay its Proportionate Share of, all Shared O&M Expenses and other obligations and liabilities hereunder through the effective date of its assignment. In addition, the Surrendering Party and its assignee Co-Tenants shall be responsible for obtaining any FERC approval required for the transfer and all costs associated with obtaining such rights.

10.3 Abandonment or Decommissioning of a Project.

10.3.1 In addition to the obligations set forth in Section 9.2, and subject to the provisions of Section 5.6, in the event a Surrendering Party desires to decommission and/or abandon its Project, the Surrendering Party shall, upon notice to the other Parties of its intent to decommission and/or abandon its Project be responsible for the removal of any Shared Facilities no longer required by the remaining Parties due to the decommissioning and/or abandonment of the Surrendering Party's Project, and upon the failure of the Surrendering Party to remove or release same, Shared Facilities Manager may remove or release same on behalf of such Surrendering Party and shall charge the Surrendering Party all costs incurred to accomplish such removal or release, plus ten percent (10%) of such costs for the services of Shared Facilities Manager in procuring and supervising such work. In addition, the Surrendering Party shall be responsible for its Proportionate Share (as of the date notice of intent to abandon and/or decommission its Project is given to the other Parties) of (A) in lieu of the Surrendering Party's obligations to pay and post security for Shared O&M Expenses under Section 5.2(b), the net present value of the estimated Shared O&M Expenses for a period of thirty-five (35) years after the Substantial Completion of the initial Shared Facilities, (B) the net present value of the estimated costs and expenses of the removal of the Shared Facilities and any Governmental Authority requirements (the "Demolition Expenses"), and (C) a fee of ten percent (10%) of the Demolition Expenses for the services of Shared Facilities Manager in procuring and supervising such work (all such amounts being collectively referred to herein as, the "Withdrawal Costs"). Shared Facilities Manager shall administer the calculation, collection, and distribution of the Withdrawal Costs, as follows: Shared Facilities Manager shall calculate the Withdrawal Costs and shall provide written notice of same to the Surrendering Party within forty-five (45) days after Shared Facilities Manager has received notice of the Surrendering Party's intent to abandon its Project. Shared Facilities Manager may engage a third-party consultant to assist in the calculation of the Withdrawal Costs, in which case, such consulting fees shall be paid by the Surrendering Party

10.3.2 The Surrendering Party shall, within thirty (30) days of the receipt of the written notice of the Withdrawal Costs, pay the Withdrawal Costs to Shared Facilities Manager. The Withdrawal Costs shall be maintained by Shared Facilities Manager in a reserve account and used by Shared Facilities Manager for the payment of Shared O&M Expenses (to the extent such amounts were collected from the Surrendering Party as provided above) and for removal of Shared Facilities when same becomes necessary. Upon payment in full of the Withdrawal Costs, the Surrendering Party will be released from all other obligations and liabilities hereunder for the payment of costs of construction of Shared Facilities, including Additional Facilities, Shared O&M Expenses and costs for repair, restoration, removal and/or demolition of any Shared Facilities.

10.3.3 In the event that another Person, whether a third party or an Affiliate of a Co-Tenant subsequently acquires or begins using the rights under this Agreement that were relinquished by the Surrendering Party, and assumes the obligations of the Surrendering Party (to the extent arising from and after the time it acquires or begins using such rights), including the requirement to post security, Shared Facilities Manager shall, through an assessment of the current Co-Tenants in their Proportionate Shares, within thirty (30) days of such event, refund to the Surrendering Party that portion of the Withdrawal Costs previously paid by the Surrendering Party that relate to periods from and after the date such other Person acquired or began using the rights relinquished by the Surrendering Party, including any payments on account of Shared O&M Expenses and/or Demolition Expenses.

10.3.4 Any dispute in regard to the amount of the Withdrawal Costs shall be submitted to dispute resolution pursuant to the terms of Article 13.

Any failure to pay the Withdrawal Costs shall constitute a default of the Surrendering Party hereunder and such Surrendering Party shall forfeit all of its rights hereunder and shall immediately cease and desist from the use of the Shared Facilities. In addition, Shared Facilities Manager may draw upon any outstanding financial security provided by the withdrawing Co- Tenant for any Withdrawal Costs not paid.

10.4 Distribution on Termination of this Agreement. In the event that the Co-Tenants decide to decommission all of the Projects and to proceed with the removal of the Shared Facilities, Shared Facilities Manager shall take account of the Shared Facilities and any other assets or liabilities related thereto, and after obtaining any necessary FERC approvals, shall proceed with the liquidation thereof. The assets shall be liquidated under the supervision of Shared Facilities Manager as promptly as is consistent with obtaining a reasonable value therefor, and the proceeds therefrom, together with any assets distributed in-kind, shall be applied and distributed as follows:

10.4.1 To the payment of debts and liabilities of the Parties to third parties in connection with the Shared Facilities which are then due and the expenses of liquidation (including expenses incurred by Shared Facilities Manager) on a pro-rata and *pari passu* basis, based upon each Co-Tenant's Proportionate Share as of the date of liquidation.

10.4.2 To the setting up of any reserves which are reasonably necessary for any contingent or unforeseen liabilities or obligations or debts not yet payable by the Parties in connection with the Shared Facilities, including any reserves to pay costs associated with the decommissioning and removal of the Shared Facilities, provided that any Party may elect to Dispute, and to submit to arbitration, the amount determined by Shared Facilities Manager for any such reserves pursuant to Article 13 below.

10.4.3 Any sum remaining shall be distributed on a *pro-rata* basis, based upon each Co-Tenant's Proportionate Share as of the date of final termination of this Agreement.

10.4.4 At the request of and subject to the direction and control of the Co-Tenants and obtaining any necessary FERC approval for such disconnection, Shared Facilities Manager shall have the right to disconnect the Shared Facilities from the Interconnection Facilities and the Projects, in order to liquidate the Co-Tenants' joint assets.

10.5 Valuation and Distribution of Non-Cash Distributions. To the extent that non-cash consideration is distributed in kind as permitted herein, the fair market value of such assets shall first be determined by an independent valuation expert selected by the Parties, including separate valuations for each of the Shared Facilities, and the distribution of assets shall be made in accordance with such valuation.

ARTICLE 11
DEFAULT AND REMEDIES

11.1 Events of Default. A Party shall be in default under this Agreement if such Party:

(a) Fails to pay when due any amounts required to be paid by such Co-Tenant under the terms of this Agreement and such failure to pay is not cured within fifteen (15) days following written notice from Shared Facilities Manager or another Project to whom such amount is owed specifying the amount to be paid;

(b) Fails to provide or maintain any financial security required by this Agreement and such failure to pay is not cured within fifteen (15) days following written notice from Shared Facilities Manager or another Co-Tenant of such failure;

(c) Breaches or causes the breach of an Interconnection Agreement, and such defaulting Party fails to cure such breach by the time that is twenty (20) days less than the specified cure period under the Interconnection Agreement. Each of the Co-Tenants agrees to provide a copy of any notice of default received by them to the other Co-Tenants and their Secured Parties under this Agreement within twenty-four (24) hours of receiving such notice of default, regardless of the Co-Tenant that is alleged to be in default in the notice;

(d) Fails to cure any other failure to perform any obligation under this Agreement within thirty (30) days following written notice from any other Co-Tenant specifying the nature of the failure to perform, provided that if the default is not reasonably capable of being cured within thirty (30) days, then the default shall be deemed cured if the defaulting Party commences, diligently pursues, and completes action that remedies the default within ninety (90) days of receipt of such notice;

(e) Makes an assignment for the benefit of creditors, files a petition in bankruptcy, voluntarily takes advantage of any bankruptcy or insolvency laws or is otherwise adjudicated bankrupt or judicially insolvent, in each case, immediately upon such occurrence or, if a petition or an answer is filed proposing the adjudication of such Co-Tenant as bankrupt, when such Co-Tenant shall consent to the filing thereof or sixty (60) days after the filing thereof unless the same shall have been discharged, opposed, or denied prior thereto; or

(f) Has any substantial part of such Co-Tenant's property subjected to any levy, seizure, assignment, or sale for or by any creditor or Governmental Authority that materially affects that the other Co-Tenants' rights under this Agreement or Shared Facilities Manager's ability to perform its obligations under this Agreement.

Notwithstanding anything herein to the contrary, the foregoing notice of default shall not be effective, and the period of time within which the defaulting Co-Tenant may cure the noticed default shall not commence

to run, unless and until a copy of said notice of default is provided to any Secured Party in accordance with Section 9.3(c) and the non-defaulting Co-Tenants shall accept curative performance from any such Secured Party in accordance with Section 9.3(c).

11.2 Remedies.

(a) Default by a Co-Tenant. In the event of a default by a Co-Tenant, the non-defaulting Co-Tenant's, or Shared Facilities Manager on behalf of itself or the other Co-Tenants, shall have the following remedies, exercisable only after due inquiry that a default has occurred and is continuing:

(5) Draw upon any financial security provided by the defaulting Party;

(6) In their sole and absolute discretion, to cure the default of the defaulting Party by making or tendering the required payment or performance, and permitting the defaulting Party's Project to continue to have the use of the Shared Facilities Services, provided that any such amounts paid by the non-defaulting Parties, including all reasonable attorneys' fees and costs, shall be treated as a loan to the defaulting Party, which loan shall accrue interest until repaid in full at the Default Interest Rate;

(7) To disconnect the defaulting Co-Tenant's Project, provided, that (A) Shared Facilities Manager shall have in good faith determined that bringing an action for money damages and/or for specific performance will not provide an adequate or timely remedy for such default, and (B) the non-defaulting Co-Tenant shall have consented in writing to such disconnection; provided, however that the defaulting Co-Tenant shall be permitted to reconnect promptly when and if the default is cured, and in the case of any such reconnection, the non-defaulting Co-Tenant shall have been compensated in full for any and all damage incurred by them as a result of such event of default;

(8) To bring an action to specifically enforce the provisions of this Agreement;

(9) To bring an action for money damages or other appropriate relief; or

(10) To exercise any other rights and remedies which the non-defaulting Parties might have at law or in equity, other than termination of this Agreement.

(b) Default by Shared Facilities Manager. In the event of a default by Shared Facilities Manager, a non-defaulting Co-Tenant shall have the following remedies, exercisable only after due inquiry that a default has occurred and is continuing:

(11) To removed Shared Facilities Manager for cause pursuant to the procedures set forth in this Agreement;

(12) In its sole and absolute discretion, to cure Shared Facilities Manager's event of default by making or tendering the required payment or performance; provided that any such reasonable amounts paid by the non-defaulting Party, including all reasonable attorneys' fees and costs, will be treated as a loan to Shared Facilities Manager, which loan will accrue interest until repaid in full at the Default Interest Rate;

(13) To bring an action to specifically enforce the provisions of this Agreement; and

(14) To exercise any and all other rights and remedies which any one or more of the Parties might otherwise have at law or in equity.

(c) All of the foregoing remedies are cumulative and non-exclusive, and the exercise of any one remedy at any one time shall not constitute the waiver of any other remedy at a later or different time.

11.3 Waiver of Right to Partition or Distribution. Each Party acknowledges and agrees that it would be prejudicial to the interests of the Parties under this Agreement if any Party were to seek partition or any other type of division of the Shared Facilities or any other shared rights, assets or properties, or to file an action for such partition or division, or to seek to have or have Shared Facilities Manager distribute any interests in the Shared Facilities or any other shared rights, assets or properties to any of the Co-Tenants. Therefore, in consideration of such fact and for other good and valuable consideration, each of the Parties hereby waives and relinquishes any and all rights that it may have to seek a partition or any other type of division of, or distribution by Shared Facilities Manager of any rights or interests in the Shared Facilities or any other shared rights, assets or properties that are subject to this Agreement.

ARTICLE 12
REPRESENTATIONS AND WARRANTIES

12.1 Representations and Warranties of Parties. Each Party represents and warrants for the benefit of the other Parties, that:

(a) It is a limited liability company or corporation (as the case may be), duly organized and existing in good standing under the laws of the state of its formation, qualified to do business in the State of North Carolina, and has the requisite power and authority to enter into this Agreement.

(b) This Agreement has been duly authorized and constitutes the legal, valid, and binding obligation of it, enforceable against it in accordance with its terms; and the execution and delivery of this Agreement and performance of its obligations hereunder will not require the approval of any Governmental Authority and will not contravene, conflict with, or result in the breach or violation of any document to which it is bound or in any law, rule, or regulation.

(c) It possesses all requisite power and authority to perform this Agreement and to carry out the transactions contemplated herein.

(d) No suit, action, or arbitration, or legal, administrative, or other proceeding is pending or, to its knowledge, threatened against it that would affect the validity or enforceability of this Agreement or the ability of it to fulfill its obligations and commitments hereunder.

ARTICLE 13
INDEMNITY

13.1 Indemnity.

13.1.1 Indemnity by the Co-Tenants. Each Co-Tenant shall fully indemnify, save harmless and defend the other Parties (including Shared Facilities Manager), their Secured Parties, each of their contractors and subcontractors, each of their subsidiaries and Affiliates, and the directors, officers, shareholders, members, managers, agents, employees, successors and permitted assigns of each of them (the "Mutual Indemnified Parties"), (i) for any reasonably foreseeable liability arising out of its respective acts or omissions in regard to its respective performance obligations under any Interconnection Agreement

and (ii) from and against any and all liability arising from third party claims, suits, losses, costs, damages, injuries, liabilities, demands, penalties, interest and causes of action, including without limitation reasonable attorney's fees (collectively, the "Damages"), arising in connection with the Shared Facilities Services, the Shared Facilities or otherwise resulting from, or related to this Agreement, including without limitation any damage to or destruction of property of, or death of or bodily injury to, any Person (whether they are employees of the Mutual Indemnified Parties or any contractor or subcontractor, or are persons unaffiliated with the Shared Facilities) to the extent the Damages are caused by the negligence or willful misconduct of or breach of this Agreement by such Co-Tenant, and if the claim or cause of action has arisen (i) prior to the termination, expiration or completion of this Agreement or with respect to a Surrendering Party, prior to the effective date of its surrender or within three (3) years thereafter. It is expressly agreed that where the Mutual Indemnified Parties are contributorily negligent, such contributory negligence will not preclude recovery under the preceding sentence, but the foregoing indemnity will not include Damages to the extent caused by such contributory negligence. The Parties' aforesaid indemnity is for the exclusive benefit of the Mutual Indemnified Parties and in no event shall inure to the benefit of any other party.

13.1.2 By Shared Facilities Manager. As set forth in Article 6 and to the fullest extent permitted by law, Shared Facilities Manager hereby agrees to indemnify, defend and hold harmless each Co-Tenant and its shareholders, partners, members, principals, Affiliates, directors, officers, employees, agents, representatives, and advisers (i) for any reasonably foreseeable liability arising out of its respective acts or omissions in regard to its respective performance obligations under any Interconnection Agreement and (ii) from and against any and all Losses to the extent caused by, resulting from or arising out of Shared Facilities Manager's negligence, bad faith, recklessness or willful misconduct or beach of this Agreement. Shared Facilities Manager further agrees to indemnify, defend, and hold harmless each Co-Tenant from and against any and all Liens filed in connection with the performance of the Shared Facilities Manager's services under this Agreement unless such Lien results from the non-payment for services or equipment by a Co-Tenant or is otherwise permitted hereunder.

13.1.3 Indemnity Notice. The Party seeking indemnity is hereinafter referred to as the "Indemnitee" and the Party against whom indemnity is sought is hereinafter referred to as the "Indemnitor." An Indemnitee shall, promptly upon receipt of notice of the commencement of any legal action or of any claims against such Indemnitee in respect of which indemnification will be sought, notify Indemnitor in writing thereof. In case any such claim or legal action shall be made or brought against an Indemnitee and such Indemnitee shall notify Indemnitor thereof, Indemnitor may, or if so requested by such Indemnitee shall, assume the defense thereof, with a reservation of rights, with counsel reasonably satisfactory to such Indemnitee, and after notice from Indemnitor to such Indemnitee of an election to assume the defense thereof and approval by the Indemnitee of such counsel, will not be liable to such Indemnitee under this Article 12 for any legal fees and expenses subsequently incurred by such Indemnitee in connection with the defense thereof. No Indemnitee shall settle any indemnified claim over which Indemnitor has not been afforded the opportunity to assume the defense without Indemnitor's approval, which approval shall not be unreasonably withheld. Indemnitor shall control the settlement of all claims over which it has assumed the defense; provided, however, that Indemnitor shall not conclude any settlement which requires any action or forbearance from action by Indemnitee or any of its Affiliates without the prior approval of Indemnitee. The Indemnitee shall provide reasonable assistance to Indemnitor at Indemnitor's expense in connection with such legal action or claim. If Indemnitor shall not have employed counsel to conduct the defense of any such claim or action within a reasonable time after notice of assertion of such claim or of commencement of such action, legal and other expenses, including the expenses of separate counsel, incurred by such Indemnitee shall be borne by Indemnitor. In all cases the Indemnitee shall have the right to participate in and be represented by counsel of its own choice and at its own expense in any such legal action or with respect to any claim and the Indemnitee shall have the right to be represented by separate counsel at the expense of the Indemnitor if the named parties to such action include both such Indemnitee

and the Indemnitor and the claims or defenses which Indemnitee chooses to assert are conflicting or inconsistent with the claims or defenses that Indemnitor chooses to assert.

13.2 Employees. None of the Parties nor any of their directors, officers, employees, agents, Affiliates, or representatives, nor any independent subcontractors engaged by any of them in connection with the performance of this Agreement, shall be deemed an employee of any other Party. None of the Parties shall bring any claim against any other Party or any of their directors, officers, Affiliates, agents, representatives, employees, or independent subcontractors with respect to any liability for compensation under an applicable statute or any applicable governmental rule for worker's compensation, if applicable, and/or employer's liability claims of employees.

13.3 Net Amount. In the event that any Indemnitor is obligated to indemnify and hold any Indemnitee harmless under this Article 12, the amount owing to the Indemnitee shall be the amount of such Indemnitee's actual out-of-pocket loss, net of any insurance proceeds received by such Indemnitee or any payments received by such Indemnitee on account of the matters indemnified from another source.

13.4 Ability of Co-Tenant to Remedy. Each Co-Tenant will have the right to correct, remedy, mitigate, or otherwise cure any omission, failure, breach or default by another Co-Tenant, Shared Facilities Manager, that would negatively impact Co-Tenant's obligations under any Power Purchase Agreement or under any Interconnection Agreement.

ARTICLE 14
DISPUTE RESOLUTION

14.1 Disputes. In the event a dispute arises between or among the Parties regarding the application or interpretation of any provision of this Agreement ("Dispute"), the aggrieved Party shall promptly notify the other Party, with copies to the other Parties, of the Dispute in writing. If the Parties shall have failed to resolve the Dispute within fifteen (15) days after delivery of such written notice, each Party shall, within three (3) days of receipt of a written demand from the other Party to do so, direct its Party Representative to confer in good faith with the other Party Representatives within five (5) working days(s) to resolve the Dispute. Should the Parties be unable to resolve the dispute to their mutual satisfaction within seven (7) days, each Party shall have the right to pursue the resolution of such dispute in accordance with the provisions of Section 14.2.

14.2 Dispute Resolution.

14.2.1 Technical Disputes.

(a) Any Dispute which is mutually agreed by the Parties (each acting in its sole discretion) to involve engineering, construction or technical matters as the sole or primary area of disagreement between the Parties shall be deemed to be a "Technical Dispute" (each, a "Technical Dispute") and shall be resolved in accordance with the procedures specified in this Section 14.2.1; provided that any Dispute which is specifically designated in this Agreement as a "Technical Dispute" intended for reference to the Independent Engineer shall be deemed to be subject to this Section 14.2.1 as a Technical Dispute.

(b) Any Technical Dispute shall first be subject to the provisions of Section 14.1 above, and if the Technical Dispute is not resolved by the Parties pursuant thereto, any Party (the "Disputing Party") may refer the Technical Dispute for resolution to the Independent Engineer by written notice delivered to the other Party or Parties and the Independent Engineer stating the general nature of the Technical Dispute, (ii) stating the amount or extent of such Technical Dispute and (iii) attaching supporting

data for such Technical Dispute. The opposing Party or Parties (the "Opposing Party") shall submit any response to the Disputing Party and the Independent Engineer within ten (10) Business Days after receipt of the Disputing Party's last submittal (unless the Independent Engineer allows additional time or the Parties otherwise agree), and the Disputing Party shall submit any reply thereto within three (3) Business Days of receipt thereof (unless the Independent Engineer allows additional time or the Parties otherwise agree). Each Party's submission shall be in the form of written statements of position by such Party, and each Party shall have the opportunity to respond to the written statements of the other Party and to any requests for statements or information by the Independent Engineer; provided, however, that other than as provided in the immediately preceding sentence, all such submissions by a Party shall be made within three (3) Business Days of receipt of the submission or request to which it responds, and, notwithstanding any provision herein to the contrary, any unresolved disputed items shall be determined by the Independent Engineer within five (5) Business Days of receipt by the Independent Engineer of the Parties' latest submissions of information. Upon the request of all Parties, the Independent Engineer shall meet jointly with the Parties or their representatives with respect to any such Technical Dispute during such five (5) Business Day period. If the Independent Engineer does not render a formal decision in writing within the time stated in this Section 14.2.1(b), the Parties shall have ten (10) Business Days (or such longer time as the Parties shall mutually agree in writing) from the time the Independent Engineer's decision was due to initiate legal proceedings as set forth in Section 14.2.2.

(c) The decision of the Independent Engineer shall not be final and binding. With respect to such Technical Disputes, if any Party is dissatisfied with the decision of the Independent Engineer, such Party may initiate legal proceedings as set forth in Section 14.2.2; provided, however, that the written decision of the Independent Engineer shall be admissible in evidence in any such arbitration.

(d) When functioning as an arbitrator under this Section 14.2.1, the Independent Engineer shall not show partiality to any Party and shall provide his or her decision in the form of a written, reasoned opinion. The Independent Engineer shall not be personally liable to any Party in connection with any interpretation or decision rendered in good faith in such capacity. All costs of the Independent Engineer shall be borne by the Party whose position in the Dispute is not supported by the decision of the Independent Engineer unless the decision of the Independent Engineer does not clearly support one Party's position, in which event such costs shall be borne by the Parties involved in such Dispute in their Proportionate Shares.

14.2.2 Other Disputes. With respect to Disputes other than Technical Disputes, in the event the Parties are unable to resolve such Disputes pursuant to Section 14.1, any Party make exercise any of its rights and remedies provided by law or in equity, except as expressly limited by this Agreement.

ARTICLE 15
GENERAL PROVISIONS

15.1 Notices. Any notice required or authorized to be given hereunder or any other communications between the Parties shall be in writing (unless otherwise provided) and shall be served personally or by reputable express courier service to the relevant Party at the address stated below or at any other address notified by that Party to the other as its address for service. Any notice so given personally shall be deemed to have been served on delivery, as evidenced by a receipt acknowledging personal service. Any notice given by express courier service shall be deemed to have been served upon the date of delivery to the address of the recipient, as demonstrated by the receipt of the express courier company certifying delivery to showing the correct address of the addressee. Any notice delivered after 5:00 p.m. at the delivery location and any notice delivered on a day that is not a Business Day at the delivery location shall not be deemed delivered under the next Business Day.

The Parties' addresses for service are as follows, although each Party may change its

address for service by written notice to the other Parties given as provided in this Section 15.1:

If to Bethel:

Bethel NC HWY 11 Solar, LLC
6750 NC Highway 30 E
Bethel, NC 27812
Email: Kenny@sunenergy1.com
Attention: Kenny Habul, Manager

With a copy to: SunEnergy1, LLC
595 Summer Street
Stamford, CT 06901
Email: legal@sunenergy1.com
Attention: Legal Department

If to Pitt:

Pitt Solar, LLC
200 Liberty Street
Floor 14
New York, NY 10281
Attention: General Counsel
Telephone: (646) 992-2400
Email: Legal.department.na@brookfieldrenewable.com

If to Shared Facilities Manager:

Pitt Solar, LLC
200 Liberty Street
Floor 14
New York, NY 10281
Attention: General Counsel
Telephone: (646) 992-2400
Email: Legal.department.na@brookfieldrenewable.com

15.2 Entire Agreement; Amendment. This Agreement constitutes the entire agreement between the Parties hereto regarding the subject matter contained herein. Except as expressly provided otherwise in this Agreement, this Agreement may only be amended, modified, and changed by an instrument in writing signed by all of the Parties.

15.3 Construction. Each Party has reviewed and discussed this Agreement with counsel and agrees that this Agreement shall be construed by applying any rule of construction providing for interpretation against the drafting Party. The language in all parts of this Agreement shall be in all cases construed simply according to its fair meaning and not strictly for or against any of the Parties hereto.

15.4 Agreement in Counterparts. This Agreement may be executed in multiple counterparts, each and all of which shall be deemed an original Agreement, and all of which shall constitute one Agreement to be effective as of the day and year first above written. For purposes of recording this Agreement, the signature page and the acknowledgement pages pertaining thereto may be detached from a

counterpart, when executed, and attached to another counterpart, which other counterpart may thereafter be recorded as this Agreement.

15.5 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of (a) the State of New York in all respects other with respect only to the real property that is governed by this Agreement, without giving effect to any choice of law rules thereof which may permit or require the application of the laws of another jurisdiction (other than New York General Obligations Law Section 5-1401), and (b) the State of North Carolina with respect only to the real property that is governed by this Agreement. The Parties hereby irrevocably submit to the jurisdiction of the courts of the State of New York in the county of New York or of the United States of America in the Southern District of New York and hereby waive, to the fullest extent permitted by law, any objection that they may now or hereafter have to the laying of venue in any such action or proceeding in any such court. IN ADDITION, EACH PARTY HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAWS, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT. Each Party (a) certifies that no representative, agent or attorney of the other Party has represented, expressly or otherwise, that the other Party would not, in the event of litigation, seek to enforce the foregoing waiver and (b) acknowledges that it and the other Party have been induced to enter into this Agreement by, among other things, the mutual waivers in this.

15.6 Additional Documents; Cooperation. Each Party, upon the request of another Party, agrees to perform any further acts and execute and deliver any documents which may be reasonably necessary to carry out the provisions of this Agreement, including but not limited to, providing, acknowledgement before a Notary Public of any signature heretofore or hereafter made by a Party. In addition, the Parties shall fully support and cooperate with each other in the conduct of their respective obligations hereunder and shall provide such information reasonably requested by any other Party, to the extent the provision of such information does not violate this Agreement; provided, that no Party shall have such an obligation to support, cooperate or provide information to the extent such support, cooperation or provision could be reasonably likely to adversely affect any of such Party's Project. In addition, each Party shall support the activities of the other Parties with respect to their respective Projects (the "Project Activities"), including the maintenance and operation of the Shared Facilities and in otherwise giving effect to the purpose and intent of this Agreement, and including, any Party's efforts to obtain from any Governmental Authority or any other person or entity any environmental impact review, permit entitlement, approval, authorization of other rights necessary or convenient in connection with their Project Activities; and the other Parties shall, without demanding additional consideration therefore, execute, and, if appropriate, cause to be acknowledged and recorded, any map, application, document or instrument that is reasonably requested by a Party in connection therewith, and shall return the same (as executed) to the Party within ten (10) Business Days after the Party's receipt thereof. Without limiting the generality of the foregoing, in connection with any application by a Party for a governmental permit, approval, authorization, entitlement or other consent, the Party agrees (a) if requested by such Party to support such application by filing a letter with the appropriate Governmental Authority in a form satisfactory to the Party and by testifying publicly and lobbying the appropriate Governmental Authority in favor thereof, (b) to support the Party's position in regard to any requirement or condition of such permit, approval, authorization, entitlement or consent, including, without limitation, in regard to bonding or security requirements or amount, mitigation environmental impacts or monitoring, and (c) not to oppose, in any way, whether directly or indirectly, any such application or approval at any administrative, judicial, legislative or other level; provided, however, a Party shall not be held to be in violation of this Section 15.6 to the extent such Party or its Affiliates (i) is developing, or acquires, owns or operates, any other project wherever located and of whatever nature, (ii) has shared or provided information regarding its Project, Property or rights and obligations hereunder with a third party who subsequent to such sharing of such information engages in actions which may be construed as attempts to oppose, impede or restrict another Party's Project, or (iii) objects to the development of a

Project if, in the good faith judgment of such Party, the development of such Project adversely impacts or could adversely impact such objecting Party's Project. No Party shall be required to incur material cost or liability in providing cooperation to another Party in connection with such Party's Project. Each Party shall reasonably cooperate with, and assist each other in, the sharing of information and documentation related to each Party's Project, and rights and obligations hereunder as the same concern or relate to obtaining or complying with Governmental Requirements, Project permits, environmental impact statements, reports, assessments, and reviews, including but not be limited to all vesting documents, leases, easements, surveys, data, reports, studies, information, evaluations, assessments, interconnection facility designs and the like, which were prepared (or will be prepared) in connection with each Party's Project, and rights and obligations hereunder, whether or not required by Governmental Authorities in connection with the development, construction, siting, maintenance or operation of each Party's Project or any of the Shared Facilities. Provision of any materials by one Party to another shall be without representation or warranty and no Party shall be required to provide: (i) any materials in violation of any law or obligations such Party may have to maintain the confidentiality of any such materials; or (ii) any material or information which constitutes attorney/client communication or attorney work product.

15.7 Validity. Should any portion of this Agreement be declared invalid and unenforceable, then such portion shall be deemed to be severable from this Agreement and shall not affect the remainder hereof; and the Parties shall negotiate in good faith to replace such invalid and unenforceable provision.

15.8 Limitation. Any provisions of this Agreement relating to contributions and payment of other obligations, expenses and liabilities are intended solely for the benefit of the Parties, and no benefit is intended hereby for any third party, nor shall any third party have the right to enforce the provisions of this Agreement, except as otherwise provided herein. **IN NO EVENT**, **WHETHER BASED ON CONTRACT**, **INDEMNITY**, **STRICT LIABILITY**, **WARRANTY, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, SHALL ANY PARTY BE LIABLE FOR SPECIAL, INCIDENTAL, EXEMPLARY, INDIRECT, OR CONSEQUENTIAL DAMAGES INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS OR REVENUE, COST OF CAPITAL, COST OF PURCHASED POWER, OR CLAIMS OF CUSTOMERS OF ANY OTHER PARTY FOR SUCH DAMAGES; PROVIDED, HOWEVER, THIS SECTION 15.8 SHALL NOT BE CONSTRUED AS A LIMITATION OR RESTRICTION ON THE AMOUNT OR APPLICABILITY OF ANY INSURANCE POLICIES OR COVERAGES HELD BY OR OTHERWISE REQUIRED TO BE PROCURED AND OBTAINED BY THE PARTIES UNDER THE TERMS OF THIS AGREEMENT, NOR SHALL THE FOREGOING LIMITATION ON SPECIAL, INCIDENTAL, EXEMPLARY, INDIRECT, OR CONSEQUENTIAL DAMAGES OPERATE TO PRECLUDE RECOVERY BY ANY PARTY FOR ANY DAMAGES SPECIFICALLY IDENTIFIED IN THIS AGREEMENT AS RECOVERABLE, WHETHER BY INDEMNITY OR OTHERWISE.**

15.9 No Assurance of Project. Nothing contained in this Agreement is intended or shall be construed to require any Co-Tenant to proceed with or develop its Project, and accordingly, the obligations of each Co-Tenant hereunder are subject in all respects to such Co-Tenant's sole determination as to whether to so proceed or develop its Project, subject however to the terms and conditions of this Agreement if such Co-Tenant does not proceed with or abandons its Project or Property. Each Co-Tenant is solely responsible for determining all capacity and other requirements for any improvements, including all infrastructure improvements, within and outside of its Property necessary to service its Project, as well as the design and installation requirements necessary for any such improvements. Each Co-Tenant has made or will make such independent investigations as it deems necessary or appropriate concerning the presence or adequacy of all infrastructure improvements and other improvements on, near, or concerning its Property, as well as any physical conditions of or affecting any improvements constructed by or on its behalf with respect to its Project. No matters listed or referred to in this Section 15.9, whether or not known or discoverable or hereafter discovered, shall affect any Party's obligations under this Agreement, nor shall

give rise to any right of damages, rescission, or any other claim against any other Party under this Agreement.

15.10 Survival of Agreement. In the event that this Agreement is terminated with respect to any Party for any reason or is the subject of a rejection of this Agreement by a trustee or debtor- in-possession in any bankruptcy or insolvency proceeding with respect to such Party (a "Terminated Party"), then (i) this Agreement shall continue in full force and effect with respect to the remaining Parties, (ii) all provisions of this Agreement shall be automatically modified to reflect the fact that the Terminated Party is no longer a Party to this Agreement and (iii) each remaining Party's Proportionate Share shall be adjusted accordingly, including with respect to the Shared Facilities.

15.11 Confidentiality. Without limiting the terms of any separate confidentiality agreement by and between any of the Parties, each Party agrees that it will keep confidential all information related to the other Parties' Projects and the Shared Facilities and information provided pursuant to Section 15.6 received from any other Party ("Confidential Information"), except as required by law or legal process. The Confidential Information may be disclosed to the directors, officers, employees, agents, attorneys, auditors and consultants of a Party and its affiliates (collectively, "Confidentiality Representatives"), but only if such Confidentiality Representatives need to know the Confidential Information in connection with the subject matter of this Agreement and have agreed in writing or are bound to keep such Confidential Information confidential. Each Party agrees that (i) its Confidentiality Representatives will be informed by such Party of the confidential nature of the Confidential Information and the requirement that it not be used other than in connection with this Agreement, and (ii) in any event, each Party will be responsible for any breach of this Agreement by any of its Confidentiality Representatives. Notwithstanding the foregoing, the following will not constitute Confidential Information for purposes of this Agreement: (i) information which is or becomes generally available to the public, other than as a result of a disclosure or other act by a Party or its Confidentiality Representatives in violation of this Agreement, (ii) information which have been already known to a Party on a non-confidential basis prior to being furnished to such Party by another Party, or information which has been independently developed by a Party or its Confidentiality Representatives without reliance upon the Confidential Information, and (iii) information which becomes available to a Party or its Confidentiality Representatives on a non-confidential basis from a source other than another Party or a Confidentiality Representative of another Party, if such source, to the Party's or its Confidentiality Representatives' knowledge, was not subject to any prohibition against transmitting the information to the Party or its Confidentiality Representatives. Notwithstanding the foregoing, either Party may disclose Confidential Information to (i) the County of Pitt, North Carolina to the extent such disclosure is required under any franchise or permit granted to a Party by such County concerning any Shared Facilities, (ii) to the power purchasers under any Power Purchase Agreement to the extent such disclosure is required thereunder, (iii) to such Party's Secured Parties, and (iv) to current and prospective lenders, investors or purchasers that have agreed in writing or are bound to keep such Confidential Information confidential.

15.12 Waiver. The failure of any Party at any time to require performance by any other Party of any provision hereof shall not affect in any way the full right to require such performance at any time thereafter, nor shall the waiver by any Party of any breach of any provision hereof be held or deemed to be a waiver of the provision itself.

15.13 Titles. The titles to the sections of this Agreement are for convenience only, are not a part of this Agreement, and shall have no effect upon the construction or interpretation of any provision of this Agreement.

15.14 No Third-Party Beneficiary. Except for the indemnities in Article 12 and those provisions hereof which are for the benefit of Secured Parties (which Secured Parties and their respective successors

and assigns are hereby expressly made third party beneficiaries hereof to the extent of their respective rights hereunder), the Parties do not intend to confer any benefit hereunder on any person, firm or corporation other than the Parties hereto.

15.15 Exhibits and Recitals. All attached appendices, exhibits and schedules to which reference is made herein are hereby incorporated by this reference. The Recitals to this Agreement are acknowledged and agreed to by all the Parties hereto, and accepted as true, constituting the intent of the Parties, and are incorporated herein by reference.

15.16 Force Majeure. Except for failure to pay monies required to be paid hereunder when due and payable, no Party shall be liable or deemed to be in default hereunder for any delay or failure in performance under this Agreement resulting from any act or condition beyond the reasonable control of such Party and which is not the result of the negligence, willful misconduct or breach of this Agreement by such Party, whether or not similar to the matters or conditions herein specifically enumerated, including: (i) acts of God or the elements (including fire, earthquake, explosion, flood, epidemic or any other casualty or accident); (ii) strikes, lock outs or other labor disputes (unless such strike, lock out or other labor dispute is directed solely against such Party); delays in transportation; and (iv) war, terrorism, sabotage, civil strife or other violence.

15.17 Memorandum. Concurrently with execution hereof, the Parties shall execute and deliver a Memorandum of this Agreement substantially in the form of the attached Exhibit H (the "Memorandum"), which Memorandum shall be recorded promptly in the official records of Pitt County, North Carolina. If any provision of this Agreement requires an amendment to the Memorandum after the date that it is first executed, any such amendments to the Memorandum also shall be recorded promptly in the official records of Pitt County, North Carolina, and each Party to this Agreement shall execute such amendment when requested.

15.18 Time. Time is of the essence with respect to the Parties payment obligations and step in rights under this Agreement.

15.19 Rules of Interpretation.

(a) Unless the context otherwise requires, the capitalized terms used in this Agreement shall have the meaning set forth in Exhibit A

(b) The singular shall include the plural, and the masculine shall include the feminine and neuter, as the context requires.

(c) The terms "includes" or "including" means "including, but not limited to."

(d) Any term not defined in Exhibit A or elsewhere in this Agreement that is used in this Agreement, shall have its plain meaning in common English usage provided that words and abbreviations having well-known meaning in the United States solar power industry shall have those meanings.

(e) Reference to an agreement, contract or documents shall include any subsequent amendments to such agreement, contract or documents unless otherwise stated herein. Reference to a Party includes that Party's permitted successors and permitted assigns.

(f) Reference to a Governmental Authority shall include an entity succeeding to its functions.

[SIGNATURES ON NEXT PAGES]

IN WITNESS WHEREOF, the Parties have executed this Shared Facilities Agreement effective as of the Effective Date.

PITT SOLAR, LLC

By:_____

Name: Stephen Gallagher

Title: Authorized Signatory

BETHEL NC HWY 11 SOLAR, LLC

By:_____

Name:

Title:

IN WITNESS WHEREOF, the Parties have executed this Shared Facilities Agreement effective as of the Effective Date.

PITT SOLAR, LLC

By:_____

Name:

Title:

BETHEL NC HWY 11 SOLAR, LLC

By:_____

Name: Kenny Charles Edward Habul

Title: Manager

Attachments

Exhibit A	Definitions
Exhibit B	Description of Shared Facilities
Exhibit C	Description of Separate Facilities
Exhibit D	One-Line Diagram of Shared Facilities
Exhibit E	Proportionate Shares of Parties
Exhibit F	Description of Shared O&M Expenses
Exhibit G	Maximum Capacity of Projects
Exhibit H	Memorandum of Shared Facilities Agreement
Exhibit I	[RESERVED]
Exhibit J	Form of Letter of Credit

EXHIBIT A

DEFINITIONS

"Additional Facilities" shall have the meaning set forth in Section 2.6(a).

"Affiliate" means, when used with reference to a specified Person, any other Person that directly, or indirectly through one or more intermediaries, Controls, is Controlled by or is under common Control with the specified Person.

"Agreement" shall mean the Shared Facilities Agreement to which this Appendix A is attached.

"Approved Shared Facilities O&M Budget" shall have the meaning set forth in Section 4.5.

"Business Day" or "Business Days" means (i) every day other than a Saturday or Sunday or a day that is a legal holiday in North Carolina on which banks are not required by law to be open for business, and (ii) for purposes of Section 15.1 a day that is a legal holiday on which banks are not required by law to be open for business in the state where a notice is delivered.

"Bethel" shall have the meaning set forth in the first paragraph of this Agreement.

"Commercial Operation Date" with respect to each Project means the date that such Project achieves commercial operation under the applicable agreements of the Party that owns the Project.

"Confidential Information" shall have the meaning set forth in Section 15.11.

"Confidentiality Representatives" shall have the meaning set forth in Section 15.11.

"Control," "Controlled by," and "under common Control with," with respect to any Person means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities or member or partnership interests, by contract or otherwise.

"Constructing Co-Tenant" has the meaning set forth in Section 2.4(g).

"Co-Tenant" has the meaning set forth in the Recitals.

"Co-Tenant Representative" shall have the meaning set forth in Section 5.4.

"Damages" shall have the meaning set forth in Section 13.1.1.

"Default Interest Rate" shall mean the lesser of (i) Prime Rate plus 400 basis points, or (ii) the maximum rate allowed by law.

"Demolition Expenses" shall have the meaning set forth in Section 10.3.

"Dispute" shall have the meaning set forth in Section 14.1.

"Disputing Party" shall have the meaning set forth in Section 14.2.1(b).

"Effective Date" shall have the meaning set forth in the first paragraph of this Agreement.

"Emergency" shall mean the occurrence, in the reasonable judgment of Shared Facilities Manager or another Party that requires immediate action and which constitutes a serious actual or potential hazard to the safety of Persons or property, may materially interfere with the safe, economical, or environmentally sound operation of the Shared Facilities, or would violate Governmental Requirements.

"EPC Contract" has the meaning set forth in Section 2.4(a).

"FERC" shall mean the Federal Energy Regulatory Commission.

"FPA" means the Federal Power Act.

"GDPIPD" means the implicit price deflator for the gross domestic product as computed and published by the U.S. Department of Commerce. The figures to be used in this adjustment shall be those presented in the "Gross Domestic Product: Third Quarter 'Final' Press Release" typically released in December of each calendar year by the United States Department of Commerce, Bureau of Economic Analysis. No subsequent revisions released by the United States Department of Commerce to those figures will be considered to affect or adjust the Inflation Adjustment Factor.

"Good Utility Practice" means those practices, methods and acts that would be implemented and followed by a prudent operator of solar-powered electrical generating facilities and similar to the Shared Facilities and the Projects in the United States, including with respect to the design, siting, construction and operation of generator tie-line facilities and other associated interconnection facilities of a type and size and having geographical and climatic attributes similar to the Gen Tie- line Assets and other Shared Facilities, which practices, methods and acts, in the exercise of prudent and responsible professional judgment in the light of the facts known at the time the decision was made, could reasonably have been expected to accomplish the desired result consistent with good business practices, reliability and safety. In determining which practices, methods and acts constitute Good Utility Practice, due regard shall be given to, among other things, manufacturers' warranties, contractual obligations, the requirements or guidance of Governmental Authorities, Governmental Requirements, the requirements of insurers, but in no event shall Good Utility Practice be interpreted to require any practice, method or act that violates Governmental Requirements.

"Governmental Authority" and "Governmental Authorities" shall mean the government of any federal, state, municipal, or other political subdivision in which the Shared Facilities are located, and any other government or political subdivision thereof exercising jurisdiction over (i) the Shared Facilities, , or (ii) any Party; in each case including all agencies and instrumentalities of such governments and political subdivisions.

"Governmental Requirements" shall mean all laws, ordinances, statutes, codes, rules, regulations, orders, and decrees of any Governmental Authority, including all authorizations, consents, approvals, registrations, exemptions, permits, and licenses with or from any Governmental Authority, applicable to (i) the Shared Facilities, (ii) or (ii) any Party.

"Indemnitee" shall have the meaning set forth in Section 13.2.

"Indemnitor" shall have the meaning set forth in Section 13.2.

"Independent Engineer" shall mean a mutually acceptable qualified third-party engineer used to resolve Technical Disputes by the Parties.

"Inflation Adjustment Factor" shall mean a fraction, the numerator of which is the GDPIPD for the prior calendar year and the denominator of which is the GDPIPD for the next prior calendar year; provided that

such fraction shall be converted to decimal format to be carried to five (5) decimal places.

"Insolvent Party" shall have the meaning set forth in Section 9.3(c).

"Interconnection Agreement" means, in the case of each Co-Tenant, any transmission interconnection agreement to which such Co-Tenant or any Affiliate of such Co-Tenant is a party with respect to such Co-Tenant's Projects.

"Interconnection Customer's Interconnection Facilities" shall have the meaning defined in the Interconnection Agreement.

"Interconnection Facilities" shall mean the "Interconnection Facilities" described in the Interconnection Agreement.

"Interconnection Point" shall mean the point designated by the Interconnection Agreement for the interconnection of the applicable Transmission Provider with the Shared Facilities used for delivering electricity to the Transmission Provider.

"Letter of Credit" means an irrevocable standby letter of credit, substantially in the form of Exhibit J, provided by a Co-Tenant, issued by a "well capitalized" financial institution with a senior unsecured debt rating equivalent to A-/A3 or better as determined by at least two (2) rating agencies, one of which must be either Standard & Poor's or Moody's (or if either one or both are not available, equivalent ratings from alternate rating sources acceptable to Shared Facilities Manager). In addition, if such senior unsecured debt rating of the issuing financial institution is exactly equivalent to A-/A3, the issuer must not be on negative credit watch by a rating agency. For purposes of this definition, "well capitalized" means that the financial institution shall, on a consolidated basis (i) maintain a total risk-based capital ratio of ten percent (10%) or greater as defined in Appendix A of Regulation Y ("Appendix A") of the Board of Governors of the Federal Reserve System ("Board"); (ii) maintain a Tier 1 risk based capital ratio of six percent (6%) or greater as defined in Appendix A; and (iii) must not be subject to any written agreement, order, capital directive, or prompt corrective action directive issued by the Board to meet and maintain a specific capital level for any capital measure, or be subject to any cease and desist order or memorandum of understanding. Any United States branch of a financial institution meeting the criteria described above shall be acceptable for purposes of issuance of the Letter of Credit.

"Maximum Capacity" shall initially mean the aggregate amount, in MW, of the nominal rated generation capacity of a Party's Project shown on Exhibit G attached hereto, which Maximum Capacity is not subject to adjustment except as expressly permitted pursuant to Section 5.1 hereof. Prior to the Substantial Completion of a Party's Project, the Maximum Capacity shall be the Proposed Capacity of such Project. Upon the Substantial Completion of a Party's Project, the Maximum Capacity shall be the actual aggregate nominal rated generation capacity of the Project, as substantially completed on such date to the extent such aggregate capacity does not exceed the Permitted Capacity for such Project; provided, however; that any unused capacity of such Party shall continue to be Permitted Capacity of such Party.

"Memorandum" shall have the meaning set forth in Section 15.17.

"Mutual Indemnified Parties" shall have the meaning set forth in Section 13.1.

"MWAC" shall mean megawatt alternating current.

"New Party" shall have the meaning set forth in Section 2.4(e).

"NERC" means the North American Electric Reliability Corporation.

"Non-Paying Co-Tenant" shall have the meaning set forth in Section 4.7.

"Operation and Maintenance" has the meaning described in the Recitals.

"Opposing Party" shall have the meaning set forth in Section 14.2.1(b).

"Ordinary Course Sales" means any sale, assignment, lease, license or other transfer of any assets or related group of assets that involves or consists of: (i) sales of electric capacity, energy and ancillary services, (ii) the transfer of an asset that is worn out, obsolete, or no longer necessary or useful for the operation of the Shared Facilities, or (iii) sales or transfers of assets related to the Shared Facilities or other assets in the ordinary course of business with an aggregate fair market value for each sale or series of related sales of less than Fifty Thousand Dollars ($50,000) or any assets that are material to the operation of the Shared Facilities.

"Other Construction Contract" shall mean construction contracts (other than the EPC Contract) entered into by Shared Facilities Manager related to Additional Facilities or Operation and Maintenance of the Shared Facilities.

"Paying Co-Tenant" shall have the meaning set forth in Section 4.7.

"Party" and "Parties" shall have the meanings set forth in the preamble to this Agreement.

"Permitted Capacity" shall have the meaning set forth in Section 5.1.

"Permitted Encumbrance" means (i) encumbrances for inchoate mechanics' and materialmen's liens for construction in progress and workmen's, repairmen's, warehousemen's and carriers' liens, other than, arising in the ordinary course of business that in each case are either (A) for amounts not due or (B) being contested in good faith through appropriate proceedings which do not involve any material risk of foreclosure of such encumbrance or loss of the affected property, (ii) encumbrances for taxes either not yet payable or being contested in good faith through appropriate proceedings and for which adequate reserves have been established, (iii) trade contracts or other obligations of a like nature incurred in the ordinary course of business of Shared Facilities Manager, (iv) obligations or duties to any governmental authority arising in the ordinary course of business, (v) easements, rights-of-way, restrictions, reservations and other similar encumbrances and exceptions to title to real property existing or incurred in the ordinary course of business that, in the aggregate do not in any case materially detract from the value of the property subject thereto or materially interfere with the ordinary conduct of the business of Shared Facilities Manager, taken as a whole, (vi) encumbrances arising out of judgments or awards so long as an appeal or proceeding for review is being contested in good faith by appropriate proceedings and for the payment of which adequate reserves, bonds or other security have been provided or are fully covered by insurance and (vii) all other encumbrances and exceptions that are incurred in the ordinary course of business of Shared Facilities Manager, are not incurred for borrowed money and do not exceed five hundred thousand dollars ($500,000) in the aggregate.

"Person" means an individual, corporation, limited liability company, voluntary association, joint stock company, business trust, partnership, agency, Governmental Authority, or other entity.

"Pitt" shall have the meaning set forth in the first paragraph of this Agreement.

"PJM" means PJM Interconnection, L.L.C.

"Power Purchase Agreement" shall mean each power purchase agreement entered into by a Co- Tenant in connection with the delivery and sale of electric energy from its respective Project.

"Prime Rate" shall mean the rate published in *The Wall Street Journal* as the "Prime Rate" from time to time (or, if more than one such rate is published, the arithmetic mean of such rates), in either case determined as of the date the obligation to pay interest arises, but in no event more than the maximum rate permitted by applicable law. If such "Prime Rate" is no longer published by *The Wall Street Journal*, the Shared Facilities Manager shall propose to the Co-Tenants a replacement method of determining the Prime Rate.

"Project" or "Projects" shall have the meaning set forth in Recital B of this Agreement.

"Project Activities" shall have the meaning set forth in Section 15.7.

"Property" or "Properties" shall have the meaning set forth in Recitals A and B of this Agreement.

"Proportionate Share" shall mean, for each Co-Tenant, the percentage set forth on Exhibit E; provided, however, that if less than all of the Co-Tenants are participating in the expense or other matter in question, each Co-Tenant's Proportionate Share shall be based on its pro rata portion of the aggregate Proportionate Shares of all participating Co-Tenants.

"Proposed Repairs" shall have the meaning set forth in Section 2.5(c).

"Qualified Replacement Component" shall mean a replacement component that is (i) new and (ii) has a design life that is at least equivalent to the design life of the original component of the Shared Facilities that are to be replaced, and (iii) the installation thereof would comply with Good Utility Practice.

"Qualified Transferee" shall mean a Person that in the reasonable determination of Shared Facilities Manager (i) is qualified to perform the duties and obligations of the assigning Party under this Agreement, including that the assignee has adequate financial resources (taking into account the fact that such assignee may be a special purpose vehicle whose sole asset may be the assigning Party's Project) and technical and operating experience in the field of solar generation (either itself or through its Affiliates, such as through a parent guarantee or otherwise, or through contracts with third parties) to operate the assigning Party's Project and to perform the duties and obligations of the assigning Party under this Agreement, and (ii) (a) has reasonably equivalent creditworthiness and credit facilities and experience as the assigning Party and the assigning Party's guarantor as of the Effective Date, or (b) if no guaranty was provided by the assigning Party, then the proposed assignee or its guarantor has an investment grade credit rating (or its obligations guaranteed by an entity with an investment grade credit rating) on its senior unsecured debt rating that is equivalent to, or better than, BBB- as determined by Standard & Poor's or Baa3 as determined by Moody's (or if either one or both of such ratings are not available, equivalent ratings from alternate rating sources that are reasonably acceptable to the Shared Facilities Manager).

"Reimbursement Obligation" shall have the meaning set forth in Section 4.7.

"Repairs" shall have the meaning set forth in Section 2.5(c).

"Repairs Notice" shall have the meaning set forth in Section 2.5(c).

"Secured Party" shall mean, with respect to any Party, the agent or lead bank or lending institution under a loan, credit agreement or other financing, or the trustee under an indenture, or the power purchaser under a Power Purchase Agreement, entered into with such Party or other entity, to the extent the payment or

performance to such parties under such agreements are secured by Security Documents, or any other party acknowledged by the Parties as a Secured Party in writing.

"Security Documents" shall mean any security documents executed between a Secured Party and one or more Parties or other entities in which a Party's rights in the Shared Premises or the Shared Facilities secure the payment of any indebtedness owed or performance due to such Secured Party.

"Separate Facilities" shall mean each Co-Tenant's procurement, installation, and construction, at its sole cost and expense, certain electric and communications facilities for the transmission of electricity and for interconnection with and communications along and within the Shared Facilities, to be owned individually by such Co-Tenant.

"Separate O&M Expenses" shall have the meaning set forth in Section 4.1(a).

"Shared Assets" shall mean and include all supporting structures and improvements necessary or incidental thereto including associated support towers, foundations, footings and concrete pads, poles, cross-arms, guy lines and anchors, other support structures, internal bracing structures, vaults, cabinets, conduit, fiber optic and other cables, conductors, insulators, circuit breakers, current transformers, voltage transformers, conduits, trench, static mast, disconnect switches, line arrestors, revenue meters, relay/metering/protection panels, substation dead-end structures, bus and bus supports, fittings, ground wires, ground grid materials, overhead lines and the like, for the transfer and collection of electrical energy from the Projects, together with such other facilities, structures, fixtures, appurtenances, accessories, appliances, machinery, materials and equipment, and all permits, approvals, designs, replacement parts and inventory and easement and other use or access rights, in each case, in connection with, or necessary or convenient to, the construction, operation, ownership, repair and maintenance of any of the Shared Assets.

"Shared Facilities" shall have the meaning set forth in the Recitals of this Agreement and shall include any Additional Facilities added to the Shared Facilities pursuant to Section 2.6(a).

"Shared Facilities Exhibits" shall have the meaning given in Section 2.4(a).

"Shared Facilities Manager" shall have the meaning given in the Recitals of this Agreement.

"Shared Facilities O&M Budget" shall have the meaning given in Section 4.5.

"Shared Facilities Services" means the use of the Shared Facilities by Shared Facilities Manager for purposes of providing the services described in this Agreement to each Co-Tenant on, over, and across the Shared Facilities in accordance with such Co-Tenant's Permitted Capacity, including the interconnection of such Co-Tenant's Project into the Shared Facilities and the use of the Shared Facilities on behalf of such Co-Tenant to transmit, in accordance with such Project Shared Facilities Manager's Permitted Capacity, electricity generated by or on behalf of a Co-Tenant (or by such Co-Tenant's successors, assigns or Affiliates) from the Projects through the Shared Facilities to the Interconnection Point, and to deliver electricity from a provider of back-up or maintenance power to the Projects, all on the terms and subject to the conditions of this Agreement.

"Shared Facilities Use Rights" means with respect to each Co-Tenant, such Co-Tenant's rights to use the Shared Facilities in accordance with such Co-Tenant's Permitted Capacity, including the right to interconnect into and use the Shared Facilities to transmit such Co-Tenant's Permitted Capacity.

"Shared O&M Expenses" shall have the meaning set forth in Section 4.2(a).

"Solvent Party" shall have the meaning set forth in Section 9.3(c).

"Substantial Completion" shall mean (i) for a Project that all of its energy generation systems and related facilities have been installed and tested, all systems have been completed, that the Project is ready for continuous operation and delivery of electrical power to the grid in accordance with Governmental Requirements and such Project's Interconnection Agreement, if any, and (ii) for the Shared Facilities or any Additional Facilities that all interconnection facilities and related facilities have been installed and tested, all systems have been completed, that the Shared Facilities or the Additional Facilities, as the case may be, are ready for continuous operation and delivery of electrical power to the grid in accordance with Governmental Requirements.

"Surrendering Party" shall mean a Party surrendering its rights and interests under this Agreement and/or abandoning and decommissioning its Project.

"Technical Dispute" shall have the meaning set forth in Section 14.2.1.

"Terminated Party" shall have the meaning set forth in Section 15.10.

"Temporary Construction Easement" shall have the meaning set forth in Section 3.1.

"Transmission Provider" means Virginia Electric and Power Company.

"Withdrawal Costs" shall have the meaning set forth in Section 10.3.

EXHIBIT B

DESCRIPTION OF SHARED FACILITIES

The major electrical interconnection equipment covered by this Shared Facilities Agreement includes:

- One (1) 230kV 3 Phase Conductor from the POI to Pitt's Collector Substation
- One (1) 230kV Isolation Switch
- One (1) main power transformer and associated connection equipment/structures
- One (1) Pitt Collector Substation Control Building with metering, Protection Relays and SCADA

The shared services include the project collection substation, which is a 230kV to 34.5kV facility designed to interconnect two solar power plants to the transmission grid. The substation features a single main power transformer supporting both solar projects. The primary revenue metering, owned and operated by Dominion, is located at their 230kV switching station, while backup revenue metering is installed within the project substation at the 230kV level for redundancy. The site's Power Plant Controller (PPC) monitors the output of both solar arrays and manages them based on the conditions at the 230kV bus to ensure compliance with interconnection requirements.

The main power transformer steps the voltage down to 34.5kV, where the solar facilities connect via dedicated switchgear. Each of the two solar facilities will have dedicated 34.5kV breakers, with an anticipated configuration of three (3) breakers for Pitt and two to three (2-3) breakers for Pitt Uprate. The 34.5kV breakers are connected to the 34.5kV main bus, which feeds into the main power transformer. Additionally, the substation includes a control enclosure which houses protective relays, SCADA equipment, the PPC, and other systems required to support safe and reliable operation while adhering to industry standards for grid stability and protection.

This Exhibit B shall updated in accordance with Section 2.2.4 upon election by Bethel to acquire its undivided interest in the Shared Facilities.

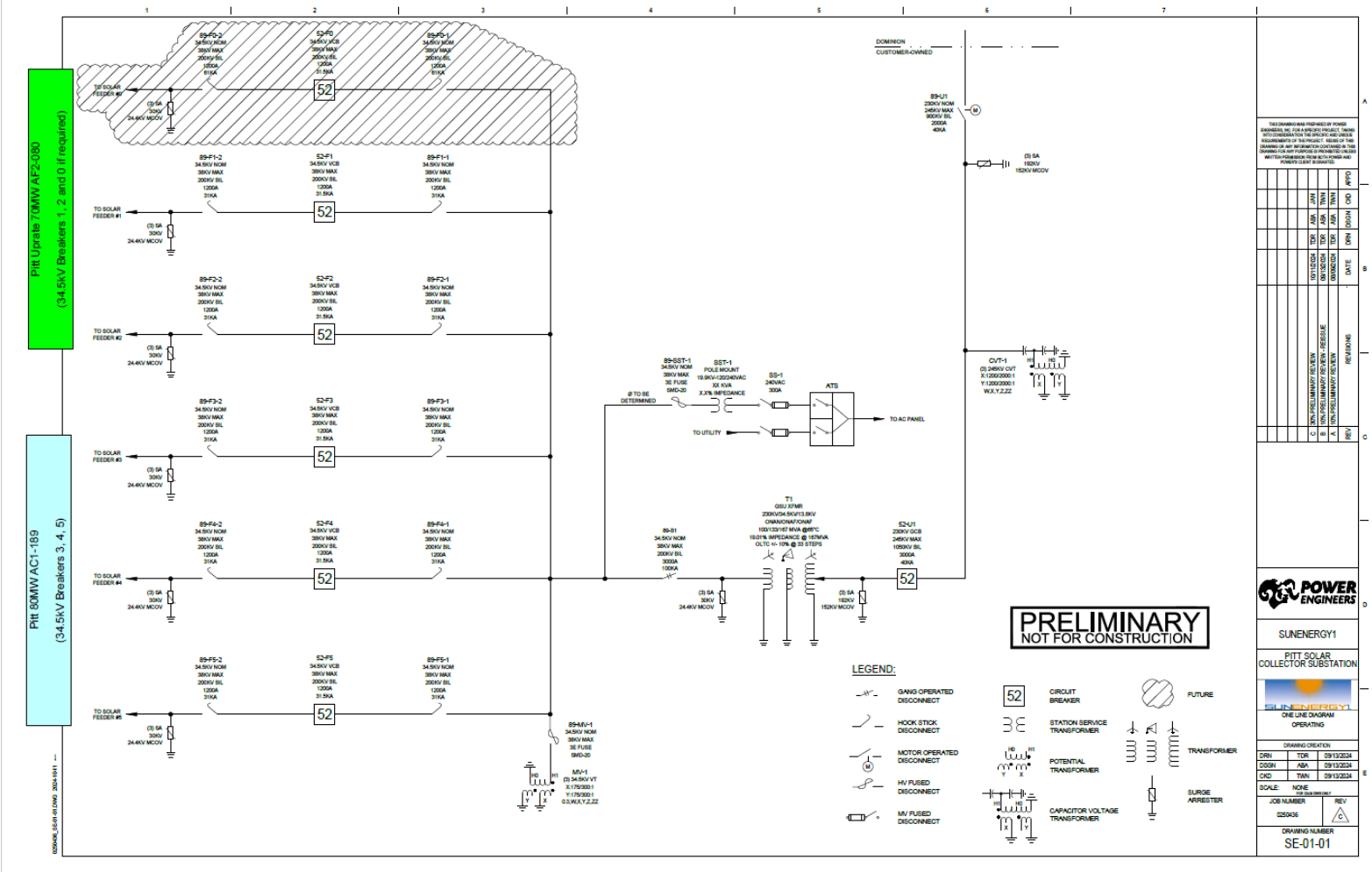
EXHIBIT C

DESCRIPTION OF SEPARATE FACILITIES

To be updated subject to final design.

EXHIBIT D

ONE-LINE DIAGRAM OF SHARED FACILITIES



This Exhibit D shall updated in accordance with Section 2.2.4 upon election by Bethel to acquire its undivided interest in the Shared Facilities.

EXHIBIT E

PROPORTIONATE SHARES OF PARTIES

Project	Proportionate Share
Bethel	46.66%
Pitt	53.34%

EXHIBIT F

ILLUSTRATIVE DESCRIPTION OF SHARED O&M EXPENSES AND CATEGORIES

Shared O&M expenses shall include, but not be limited to, the costs and expenses in the following categories:

1. Operate and maintain Shared Facilities

2. Operate Shared Facilities in accordance with the applicable Interconnection Agreements and Power Purchase Agreements

3. Schedule outages

4. Document and resolve damage, including preparation of root cause analyses

5. Perform remote monitoring and remotely respond to diagnose and Shared Facilities problems

6. Dispatch resources to resolve emergencies and issues that cannot be resolved remotely.

7. Remove debris

8. Maintain, inspect, and test safety equipment

9. Maintain and test switches, disconnections, wiring connections

10. Maintain a grounds management plan including but not limited to erosion control, vegetation control and dust control

11. Maintain active equipment inventory, including records related to warranty claims

12. Maintain spare parts quantities, install spare parts

13. Maintain site roadways, grading, landscaping, drainage, including but in no way limited to, the site access roadway to the Pitt collector station

14. Maintain site security, perform remote security monitoring, control access

15. Administer and enforce all warranties

16. Maintain all records and documentation included but not limited to equipment testing schedule, results, date, tester, etc.… as required for regulatory compliance.

17. Produce standard monthly O&M reports and special reports as required under the Agreement

18. Communicate equipment to PV generation sites, all other appropriate parties as requested.

EXHIBIT G

MAXIMUM CAPACITY OF PROJECTS

Project	Maximum Capacity
Bethel Project	70 MW
Pitt Project	80 MW
Total (All Projects)	150 MW

EXHIBIT H

Recording Requested By And When Recorded Return To:

[Name] [Address] [Address] [Attention:]

MEMORANDUM OF SHARED FACILITIES AGREEMENT

THIS MEMORANDUM OF SHARED FACILITIES AGREEMENT ("Memorandum") is made and entered into as thisday of_____, 2022, by and between BETHEL NC HWY 11 SOLAR, LLC a North Carolina limited liability company ("Bethel") and PITT SOLAR, LLC, a North Carolina limited liability company ("Pitt"). Bethel and Pitt are collectively referred to herein as the "Co-Tenants" and individually as a "Co-Tenant". The Co-Tenants are collectively referred to herein as the "Parties" and individually as a "Party."

RECITALS

A. Bethel holds or anticipates holding certain real property options, leaseholds, rights-of-way and/or fee interests in all or a portion of that certain land located in Pitt County, North Carolina (the "Bethel Property"), on which it intends to develop a 70 MW_{AC} solar energy generation project and certain related interconnection facilities (the "Bethel Project")

B. Pitt holds or anticipates holding certain real property options, leaseholds, rights- of-way and/or fee interests in all or a portion of that certain land located in Pitt County, North Carolina (the "Pitt Property"), on which it intends to develop a 80 MW_{AC} solar energy generation project and certain related interconnection facilities (the "Pitt Project"). The Pitt Project and the Bethel Project are collectively referred to herein as the "Projects.".

C. Pitt has caused or anticipates causing to be constructed on Pitt Property the collector substation and other equipment and facilities described in Exhibit B, for the contemplated common use by the Projects (collectively, the "Shared Assets").

D. Pitt will (i) develop, design and construct and Shared Facilities Manager will (ii) operate, maintain, repair, replace, and decommission certain shared facilities (the "Shared Facilities") for the exclusive benefit, operation and use of the Projects in accordance with that certain Shared Facilities Effective Dated as of the date hereof by and among the Parties (the "Shared Facilities Agreement").

E. Pursuant to the Shared Facilities Agreement, the Parties have provided for: (i) the sharing of the use of such Shared Facilities necessary or convenient to each Co-Tenant's ownership, development, and operation of its respective Project; and (ii) sharing of the costs incurred pursuant to the development, design, construction and Operation and Maintenance of the Shared Facilities.

F. By executing and recording this Memorandum, the Parties intend to provide constructive notice of the Shared Facilities Agreement, which will bind and benefit the Properties, and the Shared Facilities as provided in the Shared Facilities Agreement.

NOW, THEREFORE, for good and valuable consideration, the Parties agree as follows:

1. Declaration of Intention. Shared Facilities Manager shall hold the Shared Facilities, but shall exercise such rights for the exclusive benefit of the Co-Tenants. Shared Facilities Manager shall hold and use the Shared Facilities solely for purposes of performing the Shared Facilities Services (as defined in the Shared Facilities Agreement).

2. Waiver of Right to Partition or Distribution. Each Party acknowledges and agrees that it would be prejudicial to the interests of the Parties under the Shared Facilities Agreement if any Party were to seek partition or any other type of division of the Shared Facilities or any other shared rights, assets or properties, or to file an action for such partition or division, or to seek to have or have Shared Facilities Manager distribute any interests in the Shared Facilities or any other shared rights, assets or properties to any of the Co-Tenants. Therefore, in consideration of such fact and for other good and valuable consideration, each of the Parties hereby waives and relinquishes any and all rights that it may have to seek a partition or any other type of division of, or distribution by Shared Facilities Manager of any rights or interests in the Shared Facilities or any other shared rights, assets or properties that are subject to the Shared Facilities Agreement.

3. Incorporation; Conflicts. The terms and conditions of the Shared Facilities Agreement are incorporated herein by reference. In the event of any conflict between the provisions of the Shared Facilities Agreement and the provisions of this Memorandum, the Shared Facilities Agreement shall control.

[The next page is the signature page.]

IN WITNESS WHEREOF, the Parties have executed this Co-Tenancy and Shared Facilities Agreement effective as of the Effective Date.

[ATTACH NOTARIAL ACKNOWLEDGMENTS]

EXHIBIT I

[RESERVED]

EXHIBIT J

FORM OF LETTER OF CREDIT

[NAME OF BANK]

IRREVOCABLE STANDBY LETTER OF CREDIT NO.

Issue Date: _____ Applicant:

Beneficiary: _____ Pitt Solar, LLC

[c/o Dominion Resources Services, Inc. 120 Tredegar Street
Richmond, Virginia 23219 ATTN: Treasury Department]

Letter of Credit Amount: US$ Expiration Date: _____ Ladies and Gentlemen:

By order of_____("Applicant"), we hereby issue in favor of the above-named beneficiary (the "Beneficiary") our irrevocable standby letter of credit No. _____("Letter of Credit"), for the account of Applicant, for drawings up to but not to exceed the aggregate sum of U.S. $__(_____ _____dollars) ("Letter of Credit Amount"). This

Letter of Credit is available with [Bank] by sight, at our offices located at the address stated below, effective immediately, and it will expire at our close of business on the expiration date specified above (the "Expiration Date").

The Expiration Date of this Letter of Credit will be automatically extended without amendment for a period of one (1) year from the Expiration Date, or any future Expiration Date, unless at least sixty (60) days prior to the then current Expiration Date we send notice to Beneficiary by overnight courier at Beneficiary's address shown above, that we elect not to extend the Expiration Date of this Letter of Credit for any such additional period. If the Letter of Credit is not extended beyond the then current Expiration Date, Beneficiary shall have the right, on or prior to the then current Expiration Date, to draw the entire remaining Letter of Credit Amount by presenting a signed and dated sight draft in the form of Exhibit A hereto, referencing this Letter of Credit No.____.

Funds under this Letter of Credit are available to the Beneficiary against presentation of

Beneficiary's signed and dated sight draft in the form of Exhibit A hereto, referencing this Letter of Credit No. _____ and stating the amount of the demand.

Special Conditions:

1. Partial and multiple drawings under this Letter of Credit are allowed up to the stated amount;

2. All banking charges associated with this Letter of Credit are for the account of the Applicant; and

3. This Letter of Credit is not transferable.

We engage with you that drafts drawn under and in compliance with the terms of this Letter of Credit will

be duly honored upon presentation, during business hours on a banking day on or before the Expiration Date (or after the Expiration Date if there is an interruption of business as provided below), at our offices at [Bank Address].

All demands for payment shall be made by presentation of originals or copies of documents, or by electronic transmission of documents to _____, Attention: Letter of Credit Department. If presentation is made by facsimile or other electronic transmission, you may contact us at _____ to confirm our receipt of the transmission. Your failure to seek such a telephone confirmation does not affect our obligation to honor such presentation.

If a demand for payment is made under this Letter of Credit No. _____at or prior to 11:00 a.m. New York City time on a banking day, payment shall be made to Beneficiary of the amount demanded on the second banking day after such demand for payment. If a demand for payment is made under this Letter of Credit No after 11:00 a.m. New York City time on a banking day, payment shall be made to Beneficiary of the amount demanded on the third banking day immediately following the date of such demand for payment.

Except as stated herein, this Letter of Credit is not subject to any condition or qualification. It is our individual obligation, which is not contingent upon reimbursement and is not affected by any agreement, document, or instrument between us and the Applicant or between the Beneficiary and the Applicant or any other party.

Except as otherwise specifically stated herein, this Letter of Credit is subject to and governed by the International Standby Practices, International Chamber of Commerce Publication No. 590 (the "ISP 98"). This Letter of Credit shall be deemed to be a contract made under the law of the State of New York and shall, as to matters not governed by ISP 98, be governed by and construed in accordance with the law of such State without regard to any conflicts of law provisions.

For telephone assistance regarding this Letter of Credit, please contact us at _____.

Very truly yours, [Bank]

By:_____ Name: _____ Title: _____

EXHIBIT A

to LETTER OF CREDIT

SIGHT DRAFT

TO [BANK]

AMOUNT: $_____ DATE: _____

AT SIGHT OF THIS DEMAND PAY TO THE ORDER OF [BENEFICIARY] THE

AMOUNT OF_____U.S. $ _____(_____U.S. DOLLARS) TO WHICH BENEFICIARY IS ENTITLED PURSUANT TO THAT CERTAIN SHARED FACILITIES AGREEMENT BETWEEN BENEFICIARY AND APPLICANT, DATED AS OF _____.

DRAWN [BANK], NEW YORK BRANCH LETTER OF CREDIT NO. _____.

REMIT FUNDS AS FOLLOWS:

[INSERT PAYMENT INSTRUCTIONS]

[BENEFICIARY]

BY:_____ NAME

Exhibit 3

From: Gray, Jeffrey, M <Jeffrey.Gray@pjm.com>
Sent: Wednesday, December 17, 2025 3:20 PM
To: Whittle, Elizabeth; beatriz.rosa@sunenergy1.com
Cc: Larry Ostema; Holt, Christopher
Subject: RE: AF2-080 - Inquiry Regarding Transfer Process

Hi, Elizabeth.

The FERC-jurisdictional shared facilities agreement (SFA) just covers the terms by which the two owners will jointly use the directed radial Interconnection Facilities to access the Point of Interconnection (POI) on the undirected FERC-jurisdictional Transmission System or network, where the FERC-jurisdictional revenue/settlement meter and commercial pricing node for the Generating Facility/jointly owned unit (JOU) are located. An SFA generally does not also function as a joint ownership agreement for the JOU, which in the network model is a single node at the radial end of the Interconnection Facilities. Presumably, the two owners have, or will have, a joint ownership agreement that, among other things, vests control over the single Generating Facility in the single Interconnection Customer under the single Generation Interconnection Agreement (GIA). Those "back office" commercial arrangements between the joint owners have little or nothing to do with PJM, which is a front-office GIA counterparty to the single Interconnection Customer with respect to the provision of Interconnection Service for the single Generating Facility at the POI. PJM is not involved in the private commercial dealings between the joint owners of a Generating Facility.

AC1-189 was assigned, and then uprated with AF2-080 to reflect a 150 MW Generating Facility injecting at the POI. Therefore, with respect to Interconnection Service, the AF2-080 uprate portion of the single JOU cannot be separated from the AC1-189 base portion, under the Tariff or otherwise (e.g., the network science). A single Generating Facility, even a JOU, must be under the control of a single Interconnection Customer receiving Interconnection Service at the POI in compliance with GIA/ISA, section 3.0, which in this instance is Pitt Solar. The joint ownership agreement should cover the various details whereby the joint owners vest control over the Generating Facility in Pitt Solar. Alternatively, the joint owners could explore establishing a special purpose interconnection entity (SPE) LLC as the Interconnection Customer, with membership interests owned by the joint owners, in which case the SPE LLC membership agreement could serve as the joint ownership agreement, with the SPE controlling the Generating Facility.

I'm happy to join a call, but any discussions that touch on these joint ownership and structuring issues should include Brookfield representatives. I understand that Brookfield has authorized PJM to speak with SE1, but the boundaries of that authorization are unclear, and I think it would be best to have both joint owners involved in further discussions. I'll leave the coordination to you.

My schedule today and tomorrow is full, but I'm available on Friday and early next week. Chris may join, but his schedule is always jammed. When you've checked with Brookfield and have a proposed day and time, please let us know and we'll try to accommodate.

Thanks,

Jeff

Jeffrey M. Gray
Counsel
608-628-3800

From: Whittle, Elizabeth <EWhittle@nixonpeabody.com>
Sent: Wednesday, December 17, 2025 12:53 PM
To: Gray, Jeffrey, M <Jeffrey.Gray@pjm.com>; beatriz.rosa@sunenergy1.com
Cc: Larry Ostema <larry.ostema@sunenergy1.com>; Holt, Christopher <Christopher.Holt@pjm.com>
Subject: RE: AF2-080 - Inquiry Regarding Transfer Process

Hi Jeff – only AC1-189 was actually assigned (see attached). We have a shared facilities agreement with Pitt Solar (see attached). We understand the position that PJM is tendering one GIA to Pitt Solar at the POI. The tariff permits the assignment of a New Service Request and, as we read the tariff, it must be done prior to execution of the GIA, which must occur by Jan. 9. The tariff doesn't make a distinction in type of New Service Request.

I have a call until from 3:30-5 (eastern) today, am open from 9-12 tomorrow and am open from 9-11 and after 2:00 on Friday.

Elizabeth

Elizabeth W. Whittle
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From: Gray, Jeffrey, M <Jeffrey.Gray@pjm.com>
Sent: Thursday, December 11, 2025 1:58 PM
To: beatriz.rosa@sunenergy1.com
Cc: Whittle, Elizabeth <EWhittle@nixonpeabody.com>; Larry Ostema <larry.ostema@sunenergy1.com>; Holt,

Christopher <Christopher.Holt@pjm.com>
Subject: FW: AF2-080 - Inquiry Regarding Transfer Process

[EXTERNAL E-MAIL]
Be Aware of Links and Attachments

Beatriz:

Chris forwarded this to me. We should discuss, because I'm not following. The AC1-189 (base) and AF2-080 (uprate) queue positions are combined, so all assets must be under the control of the one Interconnection Customer for the one AC1-189/AF2-080 Generating Facility. The Interconnection Customer is Pitt Solar, LLC, under the upstream control of Brookfield.

Later, if Brookfield wants to assign the AC1-189/AF2-080 GIA from Pitt Solar, LLC to Bethel NC Hwy 11 Solar, LLC, or perhaps to a special-purpose interconnection entity to help manage a joint ownership structure, then we can address that. However, for now, any joint ownership complications between Brookfield and SE1 do not impact PJM's activities and should not be visible to us.

Please feel free to give me a call. If we'll be discussing joint ownership issues, let's be sure to include Brookfield representatives.

Thanks,

Jeff

Jeffrey M. Gray
Counsel
608-628-3800

From: Beatriz Rosa <beatriz.rosa@sunenergy1.com>
Sent: Thursday, December 11, 2025 10:33 AM
To: Holt, Christopher <Christopher.Holt@pjm.com>
Cc: Whittle, Elizabeth <EWhittle@nixonpeabody.com>; Larry Ostema <larry.ostema@sunenergy1.com>
Subject: AF2-080 - Inquiry Regarding Transfer Process

Chris,

As a follow up to Elizabeth's email below, can you please confirm that the below process is the proper process to transfer Queue No. AF2-080 from Pitt Solar, LLC to Bethel NC Hwy 11 Solar, LLC?

1. Parties sign an Assignment Agreement assigning **only AF2-080** [Note: NOT ASSIGNING AC1-189]
2. Parties submit form No. 514772 (attached) to PJM to provide notice of assignment/transfer of AF2-080
3. PJM acknowledges transfer of AF2-080

Thanks in advance.

Best,
Beatriz

Beatriz Rosa | Corporate Counsel
M: (310) 498-4518
595 Summer St., Stamford CT 06901
www.sunenergy1.com

From: Whittle, Elizabeth <EWhittle@nixonpeabody.com>
Date: Thursday, December 11, 2025 at 9:44 AM
To: Holt, Christopher <Christopher.Holt@pjm.com>, Lai, Erin <Erin.Lai@pjm.com>
Cc: Winther, Caroline E <Caroline.Winther@pjm.com>, Gray, Jeffrey, M <Jeffrey.Gray@pjm.com>, Bielak, Donnie <Donnie.Bielak@pjm.com>, Reffner, Brent <Brent.Reffner@pjm.com>, Militello, Nikki <Nikki.Militello@pjm.com>, Beatriz Rosa <beatriz.rosa@sunenergy1.com>, Larry Ostema <larry.ostema@sunenergy1.com>
Subject: RE: ADR Conference - SunEnergy1, LLC

Chris – SunEnergy1 is disappointed with this decision. As permitted by Section 301A.6, Pitt Solar seeks to transfer the AF2-080 to Bethel NC Hwy 11 Solar, LLC. To be most efficient, the parties want to make sure we submit the proper form and ensure that PJM acts promptly on the request.

If this is the correct form, does PJM require a copy of the assignment and assumption agreement between Pitt Solar and Bethel?

Thank you.

Elizabeth

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Exhibit 4

From: Stephenson, Joshua <Joshua.Stephenson@pjm.com>
Sent: Wednesday, July 30, 2025 1:59 PM
To: Dirk Corn <dirk.corn@sunenergy1.com>; Fernando Blanco <fernando.blanco@sunenergy1.com>
Cc: Seeley, Dylan <Dylan.Seeley@pjm.com>; Thompson, Jonathan <Jonathan.Thompson@pjm.com>
Subject: RE: AG1-106 GIA

Hi Dirk, Fernando,

We are actively drafting the TC1 Final Agreements and the name issue below appears to be unresolved. Per the one line you provided with your application, AG1-106 is an uprate to AB1-132 and shares a main power transformer. AC1-086 has its own main power transformer and shares Interconnection Facilities with AB1-132.

Per FERC Order No, 807, two or more facilities may share Interconnection Facilities for the purpose of accessing the Transmission System. Project Developer Interconnection Facilities and Transmission Owner Interconnection Facilities combined extend from the high side of the Main Power Transformer to the Point of Interconnection. The low side of the transformer is therefore not apart of the Interconnection Facilities and may not be shared across agreements. This is why AC1-086 qualifies for Shared Interconnection Facilities with AB1-132, but AG1-106 does not.

As JT outlined, we will issue one superseding agreement covering both AB1-132 and AG1-106. To proceed you will either need to change the Project Developer name for AG1-106 to match AB1-132 or create a Special Purpose Entity (SPE) which will be responsible for both facilities. The GIA will be issued in the name of this SPE.

Please let us know which option you plan to pursue as soon as possible so we can continue drafting the agreement.

Thank you,
Josh

From: Thompson, Jonathan
Sent: Wednesday, June 04, 2025 11:19 AM
To: 'Dirk Corn' <dirk.corn@sunenergy1.com>; Charles Brock <charles.brock@sunenergy1.com>
Cc: Larry Ostema <larry.ostema@sunenergy1.com>; Fernando Blanco <fernando.blanco@sunenergy1.com>; Charles Brock <charles.brock@sunenergy1.com>
Subject: RE: AG1-106 GIA

We cannot draft a separate GIA as outlined below with the shared MPT. It is a show stopper from our perspective.

-JT

From: Dirk Corn <dirk.corn@sunenergy1.com>
Sent: Wednesday, June 04, 2025 10:45 AM
To: Thompson, Jonathan <Jonathan.Thompson@pjm.com>; Charles Brock <charles.brock@sunenergy1.com>
Cc: Larry Ostema <larry.ostema@sunenergy1.com>; Fernando Blanco <fernando.blanco@sunenergy1.com>; Charles Brock <charles.brock@sunenergy1.com>
Subject: RE: AG1-106 GIA

Jonathan –

Thanks for the email.

SunEnergy 1 does not want to combine AB1-132 and AG1-106.

AG1-106 is a separate project.

AG1-106 will be financed separately and will owned by a separate LLC.

While, as designed, AG1-106 will share the same MPT, that should not be dispositive of ownership of the project and the status of AG1-106 as a stand-alone entity.

First, AB1-132, AC1-086 and AG1-106 will be parties to a shared facilities agreement. The Manager under that agreement will be the interface with PJM in the ordinary course. Second, if PJM requires, AB1-132 can retain ownership of the MPT and AG1-106 can have contractual access to and use of the MPT.

Finally, AG1-106 can utilize a configuration similar to that used by AC1-086.

Please confirm your agreement that AB1-132 and AG1-106 will remain separate projects with separate GIAs. If a call would be helpful to answer any questions, we are available at PJM's convenience.

Thanks,

SUNENERGY1
LEADERS IN COMMERCIAL SOLAR
Dirk Corn | **Vice President, Construction and Substation**
C: (704) 650-7564
595 Summer Street
Stamford, Ct. 06901
dirk.corn@sunenergy1.com

From: Thompson, Jonathan <Jonathan.Thompson@pjm.com>
Sent: Wednesday, May 28, 2025 4:42 PM

To: Charles Brock <charles.brock@sunenergy1.com>
Cc: Dirk Corn <dirk.corn@sunenergy1.com>
Subject: AG1-106 GIA

All-

I'm working on getting our TC1 Phase 3 GIAs in order and want to touch base on AG1-106. This is an expansion of AB1-132 and AC1-086. Those two projects have separate ISA's and shared facilities language. Looking at the project as it was submitted to be studied in QP, this is sharing a MPT with AB1-132. I will draft up AG1-106 as an uprate that will supersede AB1-132's ISA. Due to sharing the MPT these projects cannot be under separate GIAs. However, in order to get both under the same GIA, the project developers for both will need to be the same. The easiest path would be for AG1-106 to change its project developer name to match AB1-132 (Oak Lessee, LLC). To do this, I'd need you all to fill out and submit this form to PJM:

https://www.pjm.com/-/media/DotCom/planning/rtep-dev/expan-plan-process/transfer-letter-combined-buyer-seller-cycle.doc

Let me know of any questions. Thanks all.

Jonathan Thompson
Sr. Lead Engineer, Interconnection Projects

Updated Cell: 610-291-0929 | Jonathan.Thompson@pjm.com
PJM Interconnection | 2750 Monroe Blvd. | Audubon, PA 19403

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing Complaint and Request for Fast Track Processing via e-mail on PJM Interconnection, L.L.C.

Dated in this 8th day of January, 2026.

/s/ Maxwell K Multer
Maxwell K Multer