

June 21, 2024

VIA ELECTRONIC FILING

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Re: Amendments to the Consolidated Transmission Owners Agreement
Docket No. ER24-2336-000

Dear Acting Secretary Reese:

Pursuant to section 8.5.1 of the Consolidated Transmission Owners Agreement¹ (“CTOA”) by and among the PJM Transmission Owners² (“Transmission Owners”) and PJM Interconnection, L.L.C. (“PJM”), section 205 of the Federal Power Act (“FPA”),³ and section 35.13 of the Federal Energy Regulatory Commission’s (“Commission’s”) Rules and Regulations,⁴ the Transmission Owners respectfully submit for filing amendments to the CTOA (“CTOA Amendments” or “Amendments”).⁵ The CTOA Amendments have been approved by the Transmission Owners Agreement-Administrative Committee (“TOA-AC”) in accordance with the requirements of section 8.5.1 of the CTOA.⁶ In addition, PJM, as a counterparty to CTOA Articles 2, 4, 5, 6, and 7 and Attachment B, has authorized the Transmission Owners to state that the PJM Board of

¹ CTOA Rate Schedule No. 42 (on file with the Commission).

² Capitalized terms not defined herein shall have the meaning set forth in the PJM Tariff, Operating Agreement or CTOA, as applicable. Capitalized terms defined herein are included in the Glossary.

³ 16 U.S.C. § 824d(c) (2018).

⁴ 18 C.F.R. § 35.13 (2023).

⁵ Pursuant to Order No. 714, this filing is submitted by PJM on behalf of the Transmission Owners as part of an XML filing package that conforms with the Commission’s regulations. PJM has agreed to make all filings on behalf of the Transmission Owners pursuant to its responsibility to maintain PJM governing documents. Thus, the Transmission Owners have requested PJM to submit the CTOA Amendments in the eTariff system.

⁶ Pursuant to CTOA section 8.5.1(a), the TOA-AC approved these proposed CTOA amendments on June 13, 2024.

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Managers (“PJM Board”) has agreed to the changes to those sections and any changes to or the addition of any definitions relevant to those provisions.

Contemporaneously with this filing, for the purpose of implementing the CTOA Amendments, PJM is filing, pursuant to section 205 of the FPA, proposed amendments to the PJM Open Access Transmission Tariff (“PJM Tariff”), including several provisions approved by the TOA-AC (“PJM Tariff Filing”), and, pursuant to section 206 of the FPA, a complaint (“PJM Complaint” and collectively, with the PJM Tariff Filing, “PJM Filings”) seeking conforming amendments to the Amended and Restated Operating Agreement of PJM Interconnection, L.L.C. (“Operating Agreement”) to remove provisions rendered duplicative or unnecessary by the PJM Tariff amendments. The PJM Filings are being submitted with the mutual understanding that they reflect the parties’ agreement to the CTOA Amendments as a whole and, without acceptance of those amendments that include the Transmission Owners’ agreement to grant PJM with Tariff filing rights, PJM does not have the legal authority to effectuate the changes contained in the PJM Filings. The Transmission Owners request that the Commission accept the CTOA Amendments for filing without hearing, modification, or condition effective September 20, 2024.

The CTOA Amendments are primarily directed at transferring to PJM the responsibility to prepare the PJM Regional Transmission Expansion Plan (“RTEP”) pursuant to the PJM Tariff rather than the Operating Agreement. This will provide PJM with the same authority held by other Regional Transmission Organizations (“RTOs”) with similar planning requirements. The CTOA Amendments will provide PJM with the ability to independently propose to the Commission changes to the Regional Transmission Expansion Planning Protocol (“Planning Protocol”) under section 205 of the FPA and will avoid the potential for delay or denial of authorization that arises when such changes are subject to the existing structures in place under the Operating Agreement. They also contain related changes that serve and support PJM’s exercise of section 205 rights to propose Planning Protocol changes. Accordingly, Commission acceptance of the CTOA Amendments is a prerequisite to PJM’s preparation of the RTEP pursuant to the PJM Tariff rather than the Operating Agreement.

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GLOSSARY

<i>1996 Guidance Order</i>	<i>Atl. City Elec. Co.</i> , 77 FERC ¶ 61,148, at 61,578 (1996)
1997 TOA	The Transmission Owners Agreement submitted with the Supporting Companies' Revised Proposal
<i>Atlantic City I</i>	<i>Atl. City Elec. Co. v. FERC</i> , 295 F.3d 1 (D.C. Cir. 2002).
<i>Atlantic City II</i>	<i>Atl. City Elec. Co. v. FERC</i> , 329 F.3d 856 (D.C. Cir. 2003).
Atlantic City Settlement	Settlement of the <i>Atlantic City</i> litigation in 2003
Atlantic City Settlement Order	<i>Pennsylvania-New Jersey-Maryland Interconnection</i> , 105 FERC ¶ 61,294 (2003).
Commission	Federal Energy Regulatory Commission
CTOA	Consolidated Transmission Owners Agreement
CTOA Amendments	Amendments to the CTOA submitted by the Transmission Owners
CTOA Designated Parties	Non-incumbents designated to construct RTEP projects who would be made parties to the CTOA at the time of their designation pursuant to sections 3,1 and 3.1.1 of the CTOA Amendments
DEA	Designated Entity Agreement
Dispute Party	A party to a dispute under CTOA (as amended), Attachment B, Dispute Resolution Procedures
FPA	Federal Power Act
ISO	Independent System Operator
MISO	Midcontinent Indep. Sys. Operator, Inc.
NERC	North American Electric Reliability Corporation
NIETC	National Interest Electric Transmission Corridor
Operating Agreement	Amended and Restated Operating Agreement of PJM Interconnection, L.L.C.

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Order No. 1920	<i>Bldg. for the Future Through Elec. Reg'l Transmission Planning & Cost Allocation</i> , Order No. 1920, 187 FERC ¶ 61,068 (2024)
PECO's Proposal	<i>In re Pennsylvania-New Jersey-Maryland Interconnection Restructuring</i> , PECO's Open Market Plan for restructuring the Pennsylvania-New Jersey-Maryland Interconnection, Docket No. ER96-2668-000 et al. (filed Aug. 8, 1996)
PJM	PJM Interconnection, L.L.C.
PJM Board	PJM Board of Managers
PJM Complaint	PJM filing under FPA section 206 contemporaneous with this filing
PJM Filings	PJM Tariff Filing and PJM Complaint, together
<i>PJM ISO Order</i>	<i>Pennsylvania-New Jersey-Maryland Interconnection</i> , 81 FERC ¶ 61,257 (1997)
PJM Tariff	PJM Open Access Transmission Tariff
PJM Tariff Filing	PJM filing under FPA section 205 contemporaneous with this filing
Planning Protocol	Regional Transmission Expansion Planning Protocol
Protected Provisions	CTOA Articles 2,4, 5, 6 and 7 and Attachment B setting forth the Rights and commitments of PJM and the Transmission Owners
Reliability Assurance Agreement	Reliability Assurance Agreement Among Load Serving Entities in the PJM Region
ROFR	Right of first refusal
RTEP	PJM Regional Transmission Expansion Plan
RTO	Regional Transmission Organization
SATA	Storage as a Transmission Asset
Shah Declaration	Exhibit C, the sworn declaration of Mr. Pulin Shah, Director Transmission Strategy and Contracts at Exelon Corporation

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Supporting Companies' Proposal	<i>Pennsylvania-New Jersey-Maryland Interconnection, Restructuring of the Pennsylvania-New Jersey-Maryland Interconnection, Docket Nos. EC96-28-000, EL96-69-000, ER96-2516-000</i>
Supporting Companies' Revised Proposal	<i>Atl. City Elec. Co., Transmission Owners Agreement dated as of June 2, 1997, as amended, First Revised Rate Schedule FERC No. 29, Docket Nos. EC97-38-000 et al. (filed June 2, 1997)</i>
Tariff Terms and Conditions	Terms and Conditions of the PJM Tariff
TMEPs	Targeted Market Efficiency Projects
TOA-AC	Transmission Owners Agreement-Administrative Committee
Transmission Owners	Transmission Owner parties to CTOA

I. INTRODUCTION AND EXECUTIVE SUMMARY

The CTOA is the foundational contract with PJM by which the Transmission Owners turn over control of their assets to PJM for specified purposes, enabling PJM to exist as an independent RTO and perform its functions. The CTOA Amendments proposed here support and enhance PJM's independence and flexibility to plan the Transmission System in the PJM Region to address system needs and ensure reliability.

The Planning Protocol is currently located at Schedule 6 of the Operating Agreement, meaning that before any changes may be proposed to the Commission pursuant to FPA section 205 they must be approved by a vote of the PJM Members Committee to amend the Operating Agreement,⁷ rather than solely by the independent board of PJM, the public utility responsible for conducting transmission planning.⁸ This situation, an artifact of PJM's transition to an independent entity, prevents PJM from proposing to the Commission in a timely manner necessary and useful reforms to the way it plans regional transmission projects. The Transmission Owners collectively have transferred to PJM control of more than \$70 billion of their assets⁹ and share with PJM the responsibility to maintain a reliable and secure electric grid in the PJM Region. PJM's ability to ensure future reliability and affordability for customers would be greatly enhanced with section 205 rights over the Planning Protocol.

The CTOA Amendments give PJM the independence and flexibility it needs, and that the Commission intended, to plan the Transmission System to maintain reliability and address future system challenges. This delegation to PJM of section 205 rights over the Planning Protocol aligns the allocation of planning filing rights with the allocation of other PJM Tariff filing rights and the transfer of other specified rights that has been in place for two decades. It also ensures that PJM is on a comparable footing with other RTOs. This update is a straightforward and rational proposal that the Commission should readily conclude is just and reasonable.

As described in the sworn declaration of Mr. Pulin Shah, Director Transmission Strategy and Contracts at Exelon Corporation ("Shah Declaration"), the inability of PJM to independently propose to the Commission changes to the Planning Protocol has severely limited PJM's ability to solve system needs through regional planning as multiple proposals to address those needs have

⁷ Operating Agreement, §§ 8.4, 18.6(a).

⁸ The PJM Members Committee is not a FERC-jurisdictional public utility and thus does not have rights to file tariff changes under section 205 of the FPA.

⁹ The compiled net book values of the Transmission Facilities of the Transmission Owners as of December 31, 2022 is \$77.125 billion. This figure is compiled from the stated net book values in the Transmission Owners' filed FERC Form No. 1's or 1F's or, if a Transmission Owner does not file a Form 1 or 1F, a certification from its independent auditor submitted to the TOA-AC. See CTOA, § 1.31. It does not include the net book value of "Zero Revenue Requirement" Transmission Owners. *Id.* § 1.32. The compilation of net book value as of December 31, 2023, which is likely to show even higher values, is scheduled to be completed in July 2024.

languished or died under the stakeholder process. Providing PJM with section 205 filing rights to propose changes to the Planning Protocol will enhance PJM's independence in transmission planning and the reliable and resilient operation of the transmission system. The Amendments will provide greater certainty to all entities, including the Transmission Owners and other transmission developers, so that RTEP projects, particularly regional transmission projects, can be more promptly and efficiently sited and built. This comes at a particularly critical time given the transmission needs of the ongoing energy transition.

The proposed CTOA Amendments include various provisions that will protect, support and enhance PJM's exercise of section 205 rights over the Planning Protocol and improve the ability of PJM and the Transmission Owners to carry out their respective responsibilities under the CTOA. The package of amendments represents a balanced proposal carefully negotiated between PJM senior staff and the Transmission Owners. Then, after considerable deliberation, the CTOA Amendments were agreed to as an integrated whole through votes of the PJM Board and the TOA-AC.

The Stakeholder Process and PJM Transmission Planning

PJM's stakeholder process, which culminates in PJM Members Committee votes, has been widely acknowledged as an often fractious, difficult and time-consuming exercise. Intended to promote collaboration and compromise, it has in practice instead led to stasis, with many self-interested parties effectively exercising veto power over critical issues.¹⁰ The proposed CTOA Amendments, while permitting PJM to move forward with reforms that it believes should be brought before the Commission, will not mean the end of existing collaboration and coordination processes among PJM, the Transmission Owners, stakeholders, and states. The CTOA Amendments expressly recognize PJM's continued use of its existing stakeholder processes to consider and develop proposed changes to the terms and conditions of the PJM Tariff ("Tariff Terms and Conditions"), including changes to the Planning Protocol.¹¹ PJM's obligations under the PJM Tariff and the CTOA to consult with the PJM Members before filing changes to the Tariff Terms and Conditions are unchanged.¹² The Transmission Owners, who are also giving up their own right to vote in the PJM Members Committee on changes to the Planning Protocol, believe this will lead to a more ordered process, permitting important issues to be resolved at the Commission, rather than being left to perish in the stakeholder process.

The proposed CTOA Amendments do not increase the power or influence of the Transmission Owners over PJM planning. Once the Planning Protocol is made part of the PJM

¹⁰ Specific examples of such stasis, and their negative ramifications, are described in the Shah Declaration.

¹¹ CTOA (as amended), § 7.5.1(v).

¹² PJM Tariff, § 9.2; CTOA, § 7.5.1(ii) ("PJM shall consult with the Transmission Owners and PJM Members Committee beginning not less than seven (7) days in advance of any such Section 205 filing[.]"). When added to the PJM Tariff, the Planning Protocol will become a Tariff Term and Condition.

Tariff, PJM will have the “exclusive and unilateral right to make section 205 filings,”¹³ similar to the authority PJM currently has with respect to Tariff Terms and Conditions of service under the PJM Tariff, including the administration and planning of resource interconnection.¹⁴ PJM alone, after consulting with stakeholders and the approval of the PJM Board, would decide whether to make a section 205 filing to change the Planning Protocol. The revisions simply ensure that a minority of stakeholders cannot prevent PJM from presenting important changes to the Commission for consideration and acceptance under section 205. However, all stakeholders will retain their rights to fully participate in any proceeding before the Commission initiated by a PJM section 205 filing or to bring section 206 complaints.

The CTOA Amendments do not propose any change to the current Planning Protocol provisions. If the CTOA Amendments and PJM’s proposed PJM Tariff revisions are accepted by the Commission, PJM will continue to plan the PJM Transmission System in the same manner as it currently does. Changes to the Planning Protocol would not occur until a subsequent Tariff change proposed by PJM under section 205, after consultation with stakeholders, and accepted by the Commission. In order to ensure planning continuity in case the CTOA Amendments are accepted earlier than PJM’s proposed Tariff and the Operating Agreement changes proposed in the PJM Complaint, the CTOA Amendments require unbroken and uninterrupted planning in accordance with the existing provisions Operating Agreement, Schedule 6.¹⁵

The Planning Protocol was located in the Operating Agreement in an effort to satisfy the Commission’s requirement that the newly created PJM Independent System Operator (“ISO”) exercise its planning responsibilities independent of the Transmission Owners. While the subsequent settlement of the *Atlantic City* litigation providing PJM with the “exclusive and unilateral” right to file changes to Tariff Terms and Conditions confirmed PJM’s independence, it made no change to the location of the Planning Protocol. This approach was reasonably workable at first, but as PJM’s membership expanded, transmission planning became more complex and important technological innovations emerged, it became increasingly difficult to muster the necessary support among stakeholders to propose changes to the Planning Protocol. Not only has this requirement delayed important initiatives in planning transmission, but it also now threatens PJM’s ability to address the impending critical challenges the PJM Region Transmission System is facing as a result of rapid load growth, climate change and the rapid transformation of PJM’s energy resource base. Given PJM’s existing PJM Tariff filing rights over Tariff Terms and Conditions, the obvious solution was an agreement between the Transmission Owners and PJM to

¹³ Since the settlement of the *Atlantic City* litigation in 2003 (“*Atlantic City Settlement*”), PJM has had the exclusive and unilateral right to make section 205 filings with respect to Tariff Terms and Conditions, and that right may not be changed absent a showing that it is contrary to the public interest. See Settlement Agreement, Docket No. OA97-261-006 *et al.* (filed Oct. 3, 2003), as modified Modification of Settlement Agreement, Docket No. OA97-261-009 *et al.*, §§ 3.2, 4.2(B); 4.3, 4.5 (filed Jan. 20, 2004 and corrected Jan. 23, 2004). See also PJM Tariff, §§ 9.2(a), 9.4; CTOA, § 7.5.1.

¹⁴ PJM Tariff, Parts IV, VI-IX.

¹⁵ CTOA (as amended), § 9.23.

amend the CTOA to transfer PJM's responsibility to plan the PJM Transmission System from the Operating Agreement to the PJM Tariff.

CTOA Reforms and Improvements

The negotiated CTOA Amendments also include several important clarifications and updates to reflect planning challenges that have developed since the CTOA was first agreed to in 2006. To clarify that the rights and responsibilities transferred to PJM by the Transmission Owners reside in PJM as an independent public utility, the CTOA Amendments specify that the Transmission Owners' counterparty to the CTOA is the PJM Board and the Office of the Interconnection acting under the supervision of the PJM Board, as distinguished from the PJM Members or PJM Members Committee.

In addition, since the CTOA originated before the Order No. 1000 reforms, language has been added to recognize PJM's authority to designate non-incumbents to construct RTEP projects and to put such designated non-incumbents (referred to as "CTOA Designated Parties") on the same footing as Transmission Owners with respect to responsibilities to PJM under the CTOA. No change in the current requirement to execute a Designated Entity Agreement ("DEA") or the contents of the *pro forma* DEA is proposed in this filing.

The CTOA Amendments reflect the more recent addition of PJM Tariff, Attachment M-3, governing Transmission Owners project planning, and recognize Transmission Owner rights recently confirmed by the D.C. Circuit Court of Appeals. They also ensure that there will always be consultation and documentation where a PJM planned project and a Transmission Owner planned local project overlap. These provisions do not supplant existing PJM Tariff and/or PJM Manual provisions, conflict with the requirements of Order No. 1920,¹⁶ or affect PJM's ability to move forward with any regional project selected in the RTEP, even where the Transmission Owner has determined that it must proceed with its local project.

The CTOA Amendments add important provisions protecting PJM and the Transmission Owners where there is a dispute regarding whether a proposed section 205 filing would violate the CTOA. Modeled after provisions of the PJM Tariff and CTOA already accepted by the Commission to resolve filing rights disputes, these provisions will allow any such disputes to be resolved efficiently while preserving the Commission's ability to decide the dispute if necessary. The new dispute resolution provisions also provide a mediation process to resolve other types of disputes between and among the Transmission Owners and PJM.

Experience under the CTOA has led the Transmission Owners and PJM to agree to several proposed provisions improving and clarifying their relationship that is the foundation of PJM itself. The Transmission Owners and PJM have agreed that a committee of the PJM Board will meet annually with the TOA-AC to discuss the "State of the Agreement." This non-decisional meeting

¹⁶ *Bldg. for the Future Through Elec. Reg'l Transmission Planning & Cost Allocation*, Order No. 1920, 187 FERC ¶ 61,068 (2024) ("Order No. 1920").

will provide an opportunity to review performance under the CTOA and explore how the parties can improve CTOA processes. The proposed Amendments also recognize the importance of PJM assistance and counsel to the Transmission Owners in the exercise of the Transmission Owners' section 205 rights to adopt joint rates and transmission rate design, explicitly articulate PJM's reliability obligation, and recognize that a withdrawing Transmission Owner can remain a PJM Member and continue to participate in PJM markets.

Finally, the CTOA Amendments emphasize the critical importance of the rights and commitments set forth in the CTOA by confirming the parties' intent that the provisions setting forth the negotiated rights and commitments of PJM and the Transmission Owners ("Protected Provisions") be accorded the highest form of protection for contractual undertakings under the FPA.¹⁷ Given the huge investment by Transmission Owners in PJM and the critically important responsibility they have ceded to PJM, the stability of their relationship as embodied in the CTOA must continue to be protected. The Commission has already recognized the importance of such contractual rights and protections in approving the *Atlantic City Settlement*.¹⁸ Even apart from that precedent, the provisions governing the mutual rights and commitments of the Transmission Owners and PJM warrant the highest form of protection. Such protection is not precluded by the Commission's prior orders on the CTOA under Order No. 1000, and even if such protection did not fall within Commission and court precedent, it would be appropriate for the Commission to apply public interest protection to the Protected Provisions as a matter of discretion.

In sum, the CTOA Amendments further the task begun over a quarter century ago by establishing PJM as a fully independent Transmission Provider. PJM's right to file for changes to the Planning Protocol is a missing piece. The CTOA Amendments propose to provide that piece and make important improvements and clarifications to the agreed-upon partnership between PJM and the Transmission Owners that will enhance the safety, reliability and responsiveness of the PJM Transmission System for years to come.

¹⁷ The Protected Provisions are Articles 2, 4, 5, 6, and 7 and Attachment B.

¹⁸ *Pennsylvania-New Jersey-Maryland Interconnection*, 105 FERC ¶ 61,294, at PP 30-33 (2003) ("*Atlantic City Settlement Order*"), ([R]evisions to the parties' voluntary agreement" as to the allocation of filing rights between the Transmission Owners and PJM and related provisions were a "reasonable allocation" based on a "voluntary, compromise agreement" that protected "the interests of market participants."), *appeal dismissed sub nom. Old Dominion Elec. Coop. v. FERC*, 171 F. App'x 862 (D.C. Cir. 2005).

II. BACKGROUND

A. Relevant Governing Documents

1. The Consolidated Transmission Owners Agreement

The CTOA is the foundational agreement between PJM and the Transmission Owners on file with the Commission and accepted under section 205 of the FPA.¹⁹ The CTOA provides for the transfer of certain Transmission Owner functions to PJM and gives PJM specified responsibilities related to planning and operation of the PJM Transmission System and administration of the PJM Tariff. Only parties to the CTOA can propose to amend the CTOA under section 205.²⁰

PJM's responsibility to plan expansions and enhancements to the PJM Transmission System derives from responsibilities transferred to it from the Transmission Owners under the CTOA.²¹ The CTOA provides the terms under which the Transmission Owners transfer to PJM and PJM agrees to accept the responsibility to operate the RTO. Thus, PJM directs the operation of the Transmission Owners' Transmission Facilities consistent with the reliable and safe operation of those facilities,²² prepares the RTEP,²³ and designates entities to construct projects included in the RTEP.²⁴ The CTOA commits the Transmission Owners, *inter alia*, to: (1) construct new Transmission Facilities when so designated by PJM under its planning authority,²⁵ (2) interconnect new customers,²⁶ (3) coordinate outages and maintenance,²⁷ (4) follow emergency instructions,²⁸ (5) comply with data, information, and metering requirements and update and verify

¹⁹ The CTOA Protected Provisions constitute an arms-length negotiated agreement exclusively between PJM and the Transmission Owners. *See, infra*, Section IV.F. Other portions of the CTOA were only negotiated by the Transmission Owners and govern their participation in the TOA-AC and the exclusive rights they retained. *See, e.g.*, CTOA, Article 8.

²⁰ CTOA, § 8.5.1(a).

²¹ *See, e.g., id.*, § 4.1.

²² *Id.*, §§ 4.1.2, 6.3.1.

²³ *Id.*, §§ 4.1.4, 6.3.3, 6.3.4.

²⁴ *Id.*, § 4.2.1.

²⁵ *Id.*, § 4.2.

²⁶ *Id.*, § 4.3.

²⁷ *Id.*, §§ 4.4, 4.8.

²⁸ *Id.*, § 4.7.

transmission ratings,²⁹ and, (6) critically, to operate and maintain their facilities according to reliability principles and requirements, PJM practices, and Good Utility Practice.³⁰

Responsibilities and functions not unambiguously transferred to PJM under the CTOA remain with the Transmission Owners.³¹ Each Transmission Owner continues to own and physically operate its transmission facilities,³² retain its right to plan transmission facilities where such authority has not been transferred to PJM,³³ develop and file rates for use of its own transmission facilities,³⁴ and, collectively, under the CTOA, develop and file joint rates and the PJM Regional Rate Design.³⁵ Where the Transmission Owners retained section 205 rights that are exercised collectively – such as in filing joint rates, rate design, and other PJM Tariff changes that affect them generally³⁶ – the CTOA sets out the process through which the Transmission Owners exercise those retained rights.³⁷

2. The PJM Operating Agreement and the Planning Protocol

The Operating Agreement sets out the organization and management structure of PJM. Pursuant to the Operating Agreement, an independent board selected by the Members, *i.e.*, the PJM Board, supervises and oversees the Office of the Interconnection in carrying out the functions of PJM.³⁸ The Operating Agreement also sets out the procedures to develop changes to that agreement and, pursuant to section 205 of the FPA, file those changes with the Commission.

²⁹ *Id.*, §§ 4.9, 4.11.

³⁰ *Id.*, § 4.5.

³¹ *Id.*, §§ 5.4, 5.6; *see Am. Muni. Power, Inc. v. FERC*, 86 F.4th 922, 927 (D.C. Cir. 2023) (“PJM’s authority to oversee and operate the electrical grid is limited to that granted to it by transmission owners in the [CTOA].”).

³² CTOA, § 5.2.

³³ *See PJM Interconnection, L.L.C.*, 173 FERC ¶ 61,225, at P 18 (2020), *aff’d sub nom. Am. Mun. Power, Inc.*, 86 F.4th 922; CTOA, § 5.2 (retaining the right to “retire” and “build” their Transmission Facilities).

³⁴ CTOA, § 7.1.

³⁵ *Id.*, §§ 7.2, 7.3.

³⁶ *See, e.g., PJM Interconnection, L.L.C.*, 172 FERC ¶ 61,136, at PP 81-87 (2020) (finding Transmission Owners’ filing to amend Attachment M-3 to the PJM Tariff is within the filing rights reserved by the Transmission Owners), *aff’d sub nom. Am. Mun. Power, Inc.* 86 F.4th 922.

³⁷ *See* CTOA, § 8.5.1.

³⁸ For instance, Section 10.4 (xviii) to the Operating Agreement provides that the Office of the Interconnection shall “[p]erform those functions and undertake those responsibilities transferred to it under the [CTOA].”

The Planning Protocol is currently Schedule 6 to the Operating Agreement and “govern[s] the process by which the Members shall rely upon the Office of the Interconnection to prepare a plan for the enhancement and expansion of the Transmission Facilities.”³⁹ The Office of the Interconnection, acting under the supervision and oversight of the PJM Board, administers the Planning Protocol.

A change to the Operating Agreement under section 205, including any proposed change to the Planning Protocol, requires approval by the Members Committee.⁴⁰ Members vote in one of five sectors: Generation Owners, Other Suppliers, Transmission Owners, Electric Distributors and End-Use Customers. Each Sector is assigned a numerical vote totaling 1.0, divided by the proportion of the Members in that Sector voting for or against a proposal.⁴¹ Two-thirds of the Sector vote, or 3.335 out of 5.0, in the Members Committee is required to approve a change in the Operating Agreement or any of its schedules – including the Planning Protocol – before the change may be filed with the Commission under section 205 of the FPA.⁴²

3. The PJM Open Access Transmission Tariff

The PJM Tariff governs transmission service within the PJM Region. The allocation of PJM Tariff section 205 filing rights between PJM and the Transmission Owners is set out in the CTOA, Article 7 and PJM Tariff, Part I, section 9. The Transmission Owners have section 205 filing rights with respect to transmission rate design, cost recovery, and other matters. PJM has filing rights over Tariff Terms and Conditions, including such items as the terms of transmission service, interconnection, and other functions not involving the section 205 filing rights retained by the Transmission Owners. As described in section II.B *infra*, the allocation of filing rights over the PJM Tariff was decided two decades ago in the *Atlantic City Settlement*.⁴³

³⁹ Operating Agreement, Sched. 6, § 1.1.

⁴⁰ *Id.*, § 18.6(a).

⁴¹ *Id.*, § 8.4(b).

⁴² *Id.*, §§ 8.4(c); 18.6(a). Changes to the Planning Protocol are considered by the Markets and Reliability Committee before coming before the Members Committee. Operating Agreement, § 8.6.1(b). Endorsement by the Markets and Reliability Committee also requires approval by two-thirds of the Sector vote. Operating Agreement, § 8.4(c).

⁴³ PJM Tariff, § 9.2(a) covers matters that are not reserved to the Transmission Owners’ filing rights in PJM Tariff, §§ 9.1 and the CTOA, §§ 7.1-7.3, consistent with the *Atlantic City Settlement*. The *Atlantic City Settlement Order* explained that, under the Settlement Agreement, “PJM would have the exclusive right to make Section 205 filings, subject to the obligation to consult with the Transmission Owners and the PJM Members Committee, regarding: (1) the Terms and Conditions of the PJM OATT; and (ii) the recovery of the RTOs own costs.” *Atlantic City Settlement Order*, 105 FERC ¶ 61,294 at P 11.

When added to the PJM Tariff, the Planning Protocol will become a Tariff Term and Condition that PJM may propose to change under section 205, after meeting consultation requirements with the Transmission Owners and the Members Committee.

B. The *Atlantic City* Litigation and Settlement and the Creation of the CTOA

Transmission owner agreements have existed within the PJM footprint in one form or another for nearly thirty years. In 1996 and 1997, in response to Order No. 888,⁴⁴ the public utilities that then constituted PJM proposed to the Commission that PJM become an ISO, open membership beyond its utility members, and elect an independent governing board.⁴⁵ That proposal resulted in the first Transmission Owners Agreement (“1997 TOA”),⁴⁶ which provided for the Office of the Interconnection to prepare the RTEP and for the Transmission Owners to provide PJM with information, cooperate in the preparation of the plan, and build the projects PJM included in the RTEP.⁴⁷

Under the 1997 TOA, the Transmission Owners retained filing rights over the entirety of the PJM Tariff, although the PJM Board could veto proposed PJM Tariff changes in certain limited circumstances. However, in the *PJM ISO Order*, the Commission required the Transmission Owners to cede their section 205 rights over the PJM Tariff to PJM.⁴⁸ The Transmission Owners appealed this requirement to the D.C. Circuit, which reversed the Commission in *Atlantic City v.*

⁴⁴ *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Servs. by Pub. Utils.; Recovery of Stranded Costs by Pub. Utils. & Transmitting Utils.*, Order No. 888, FERC Stats. & Regs. ¶ 31,036 (1996), *aff’d in relevant part sub nom. Transmission Access Policy Study Grp. v. FERC*, 225 F.3d 667 (D.C. Cir. 2000), *aff’d sub nom. New York v. FERC*, 535 U.S. 1 (2002).

⁴⁵ *Atl. City Elec. Co.*, 77 FERC ¶ 61,148, at 61,578 (1996) (“1996 Guidance Order”); *Pennsylvania-New Jersey-Maryland Interconnection*, 81 FERC ¶ 61,257, at 62,275 (1997) (“*PJM ISO Order*”), *vacated in part, Atl. City Elec. Co. v. FERC*, 295 F.3d 1 (D.C. Cir. 2002).

⁴⁶ *Atl. City Elec. Co.*, Transmission Owners Agreement dated as of June 2, 1997, as amended, First Revised Rate Schedule FERC No. 29, Docket Nos. EC97-38-000 *et al.* (filed June 2, 1997) (“Supporting Companies’ Revised Proposal”). As discussed in Section II.C *infra*, the Commission considered two competing transmission owner proposals in the November 1997 Order and accepted the Supporting Companies’ Revised Proposal, which included the 1997 TOA to govern the Transmission Facilities within PJM.

⁴⁷ 1997 TOA, §§ 2.3.7, 4.1; *PJM ISO Order*, 81 FERC at 62,236 (“The Owners Agreement provides that owners of transmission facilities in the PJM Control Area have agreed . . . to transfer to the ISO the responsibility for administration of the PJM Transmission Tariff and regional transmission planning and operations.”). The 1997 TOA also created an Administrative Committee of transmission owners that could make recommendations to PJM, but that committee was “expressly denied the ability to exercise any control over the functions and responsibilities transferred to the ISO.” *PJM ISO Order*, 81 FERC at 62,236.

⁴⁸ *PJM ISO Order* at 62,279 (requiring elimination of provision in the Owners Agreement allowing owners to “unilaterally file to make changes in rate design, terms or conditions of jurisdictional services”).

FERC,⁴⁹ holding that under the FPA, the Commission could not force the Transmission Owners to give up their section 205 rights as a condition of joining an ISO.⁵⁰

On remand from *Atlantic City*, PJM and the Transmission Owners entered into a settlement under which each would exercise “exclusive and unilateral” filing rights over certain PJM Tariff responsibilities.⁵¹ The Transmission Owners retained section 205 filing rights with respect to transmission rate design, cost recovery, and other Transmission Owner retained rights, and transferred to PJM section 205 filing rights with respect to Tariff Terms and Conditions. By providing PJM with the exclusive and unilateral filing rights over Tariff Terms and Conditions, the settlement secured PJM’s independence to carry out its delegated responsibilities, thus addressing the concerns expressed by the Commission in the *PJM ISO Order*. To underscore the settling parties’ intent that each should act independently⁵² within their retained or delegated roles, the settlement included a *Mobile-Sierra* clause to provide certainty for both PJM and Transmission Owners.⁵³ Neither PJM nor the Transmission Owners could seek to unilaterally amend the CTOA or PJM Tariff provisions governing the exercise of their respective rights and commitments absent a showing that such change is required by the public interest.⁵⁴

⁴⁹ 295 F.3d at 10-11 (“*Atlantic City I*”), petition to enforce mandate granted, *Atlantic City Elec. Co. v. FERC*, 329 F.3d 856 (D.C. Cir. 2003) (“*Atlantic City II*”).

⁵⁰ *Atlantic City I*, 295 F.3d at 11.

⁵¹ The Commission accepted the *Atlantic City* Settlement without further modification effective October 6, 2003. *Pennsylvania-New Jersey-Maryland Interconnection*, 108 FERC ¶ 61,033 (2004). See also PJM Tariff §§ 9.1 - 9.2 (setting out the filing rights of each of Transmission Owners and PJM).

⁵² See Settlement Explanatory Statement at 4: “[P]ermit PJM to perform its required functions independently in a manner that PJM has determined is acceptable. . . . PJM has determined that that the Settlement Agreement preserves PJM’s ability to provide non-discriminatory transmission service and administer the PJM markets in an independent manner.”

⁵³ *Atlantic City* Settlement, §§ 4.4-4.5. Settlement Agreement, Docket No. OA97-261-006 *et al.*, at 19. The *Atlantic City* Settlement provided that the following provision be added to the PJM Tariff:

9.4 Mobile Sierra:

Sections 9.1 through 9.4 of this Tariff shall be subject to change solely by written amendment executed by PJM and the Transmission Owners, with the Transmission Owners acting by vote in accordance with Section 6.5.1 of the [CTOA]. It is the intent of this Section 9.4 that the FERC’s right to change Sections 9.1 through 9.4 shall be limited to the maximum extent permissible by law and that any such change shall be in accordance with the *Mobile-Sierra* public interest standard applicable to fixed rate agreements.

Id. at 18.

⁵⁴ As Commissioner Clements recently observed, “[a]s the Majority Order states, ‘PJM cannot make a unilateral FPA section 205 filing to amend the CTOA to alter the delegation of rights and responsibilities between the PJM Transmission Owners and PJM.’” *PJM Interconnection, L.L.C.*, 176

After the Commission approved PJM as an ISO and, later, as an RTO, PJM expanded to include additional Transmission Owners. With each expansion, a new TOA was executed with PJM as a party.⁵⁵ At the Commission's urging, in 2006 the Transmission Owners and PJM consolidated the three outstanding TOAs into the CTOA with PJM as a party "for the purpose of establishing the [respective] rights and commitments of the [Transmission Owners] and PJM identified therein."⁵⁶ The CTOA has been largely unchanged since then.

C. The Location of the Planning Protocol

Since PJM's formation as an ISO in 1997, the Planning Protocol has been located at Schedule 6 of the Operating Agreement. This was the result of the Commission's discussion in the *1996 Guidance Order* on the two competing proposals to convert PJM into an ISO: one that sought to include the Planning Protocol as a schedule to the proposed TOA, and to make planning subject to approval by a transmission owner advisory board;⁵⁷ and one that sought to make the Planning Protocol an attachment to the Tariff ("PECO's Proposal").⁵⁸

In the *1996 Guidance Order*, the Commission found that the Supporting Companies' Proposal was inconsistent with ISO Principle No. 4 ("An ISO should have the primary responsibility in ensuring short-term reliability of grid operations.").⁵⁹ Specifically, it did not

FERC ¶ 61,053 at P 16 n.158 (2021) (Clements, Comm'r, concurring) (citing Majority Order at P 31). The converse is also true: The Transmission Owners cannot make a unilateral FPA section 205 filing to amend the CTOA to alter the delegation of rights and responsibilities between the Transmission Owners and PJM.

⁵⁵ On July 12, 2001, the Commission authorized the expansion of PJM to include "PJM West," which included the Transmission Facilities owned and operated by Allegheny Power, and accepted the West Transmission Owners Agreement dated as of March 15, 2001, Rate Schedule FERC No. 33 ("PJM West TOA"). *PJM Interconnection, L.L.C.*, 96 FERC ¶ 61,060 (2001). Commonwealth Edison, AEP and Dayton Power & Light subsequently joined PJM as parties to the PJM West TOA. *Alliance Companies*, 100 FERC ¶ 61,137 (2002); *see also Am. Elec. Power Serv. Corp.*, 103 FERC ¶ 61,008 (2003). On October 5, 2004, the Commission authorized the expansion of PJM to include the Transmission Facilities of Dominion Virginia Power and accepted the PJM South Transmission Owner Agreement, dated May 11, 2004, Rate Schedule FERC No. 39 ("PJM South TOA"). *PJM Interconnection, L.L.C.*, 109 FERC ¶ 61,012 (2004). As PJM was not yet an independent separate entity at the time of the creation of the 1997 TOA, it was not a party.

⁵⁶ CTOA, Preamble; *PJM Interconnection, L.L.C.*, 114 FERC ¶ 61,283 (2006).

⁵⁷ *Pennsylvania-New Jersey-Maryland Interconnection*, Restructuring of the Pennsylvania-New Jersey-Maryland Interconnection, Transmittal Letter, Docket Nos. EC96-28-000, EL96-69-000, ER96-2516-000, at Attachment VI (filed July 24, 1996) (proposing a RTEP Protocol as Schedule 2 to the TOA) ("Supporting Companies' Proposal").

⁵⁸ *In re Pennsylvania-New Jersey-Maryland Interconnection Restructuring*, PECO's Open Market Plan for restructuring the Pennsylvania-New Jersey-Maryland Interconnection, Docket No. ER96-2668-000 *et al.* (filed Aug. 8, 1996).

⁵⁹ *1996 Guidance Order* at 61,577.

provide PJM with sufficient independence because it would have required transmission planning to be approved by an advisory committee under the TOA.⁶⁰ While the Commission initially agreed that PECO's Proposal to include the Planning Protocol in the Tariff was an appropriate means to provide PJM with necessary independence, it had other concerns with PECO's Proposal.⁶¹

In response to the *1996 Guidance Order*, the Supporting Companies submitted a revised proposal that retained transmission owner control over the PJM Tariff – including section 205 filing rights – with only limited PJM Board veto rights.⁶² Because the Supporting Companies proposed to retain section 205 filing rights with respect to the PJM Tariff, the Supporting Companies' Revised Proposal did not include the Planning Protocol in the PJM Tariff as proposed by PECO. Instead, to comply with the *1996 Guidance Order* regarding PJM's independence to conduct planning, the Supporting Companies made the Planning Protocol a schedule to the Operating Agreement, which the transmission owners did not control. The Supporting Companies assured the Commission that:

The Operating Agreement establishes an ISO with responsibility for system operations, administration of the PJM Tariff, and regional transmission planning. No stakeholder or industry segment has the ability to control the ISO's functions or to prevent the ISO from acting. . . . In addition, for those few matters that come before the members for action, the voting rights continue to be structured so that no one industry segment can either force or block action.⁶³

The Commission adopted the Supporting Companies' Revised Proposal subject to certain modifications, finding that the Planning Protocol as proposed was reasonable.⁶⁴

The Planning Protocol was located in a schedule to the Operating Agreement to satisfy the Commission's guidance regarding PJM's independence and to address the Commission's concern that proposed alternatives would not provide PJM with primary responsibility for transmission planning. Since that time, it has become clear that making the Planning Protocol a schedule to the Operating Agreement has not addressed the concern the Commission expressed in 1996 in the *Guidance Order* and that stakeholders and/or industry segments have, in fact, been able "to prevent

⁶⁰ *Id.* at 61,577-78.

⁶¹ Under the PECO Proposal, the executive board of MAAC, the then-governing regional reliability entity would review the PJM expansion plan. *Atl. City Elec. Co.*, 77 FERC ¶ 61,148, at 61,578 (1996).

⁶² Supporting Companies' Revised Proposal, Docket No. EC97-38-000 *et al.*, Transmission Owners Agreement, §§ 5.1.2, 5.2.1.

⁶³ Supporting Companies' Revised Proposal Transmittal Letter at 3.

⁶⁴ *PJM ISO Order* at 62,275. In that order, the Commission stripped the Transmission Owners of their filing rights to propose changes to the PJM Tariff, a decision that was reversed in *Atlantic City I* by the U.S. Court of Appeals for the District of Columbia Circuit.

[PJM] from acting.”⁶⁵ Moreover, as shown below,⁶⁶ many, not “few matters,” come before the PJM Members for action. As a result, PJM’s ability to propose important changes to the way it conducts regional planning has been stymied. However, in light of the *Atlantic City Settlement* giving PJM section 205 rights over Tariff Terms and Conditions, a better alternative than that proposed by the Supporting Companies exists – moving the Planning Protocol to the PJM Tariff.

III. THE CTOA AMENDMENTS

The central focus of the CTOA Amendments is to provide PJM with section 205 filing rights over the Planning Protocol. In reaching agreement on the necessary changes to the CTOA to provide PJM with these rights, PJM and the Transmission Owners examined their respective contractual rights and commitments based on nearly 20 years of experience under the existing CTOA and developed reforms and clarifications to address the issues that they will face going forward. The CTOA Amendments also clarify further the division of responsibilities between PJM and the Transmission Owners, and the exercise of other responsibilities previously transferred to PJM by the Transmission Owners pursuant to the CTOA. In addition, the Transmission Owners propose several useful clarifying amendments that remove the potential for uncertainty.

To describe the proposed changes, this transmittal letter divides the changes into three categories: (a) changes to provide PJM with section 205 filing rights with respect to the Planning Protocol and provisions related to that transfer and that support PJM planning responsibilities, (b) changes to clarify the relationship between Transmission Owners and PJM, including clarification and confirmation of existing rights and commitments, and (c) conforming edits and non-substantive cleanup changes. Each category is introduced below. However, the CTOA Amendments are part of an integrated whole, negotiated and agreed to by PJM and the Transmission Owners as necessary to provide PJM with section 205 filing rights over the Planning Process and to ensure PJM can properly and efficiently execute this authority.

A. Amendments Related to PJM’s Section 205 Filing Rights over the Planning Protocol

1. Amendments Incorporating the Planning Protocol in the PJM Tariff

The CTOA Amendments incorporate the Planning Protocol into the PJM Tariff by modifying the transfer to PJM of the responsibility to prepare the RTEP. Under existing section 4.1.4, PJM prepares the RTEP “in accordance with the Operating Agreement.”⁶⁷ Under the CTOA Amendments, the Transmission Owners transfer the responsibility to prepare the RTEP “in accordance with and subject to . . . The Regional Transmission Expansion Planning Protocol that

⁶⁵ Supporting Companies’ Revised Proposal Transmittal Letter at 3.

⁶⁶ *Infra*, section IV.B.

⁶⁷ CTOA, §§ 4.1.4, 6.3.4.

will be set forth exclusively in the PJM Tariff, Schedule 19[.]”⁶⁸ This change is also reflected in modified definitions of two terms, “Regional Transmission Expansion Planning Protocol” and “Regional Transmission Expansion Plan.”⁶⁹

Section 6.3.3 is also amended to refer to the PJM Tariff⁷⁰ and includes a new subsection providing that PJM will develop and file changes to the Planning Protocol consistent with the CTOA, applicable reliability principles, guidelines, and standards of the Applicable Regional Reliability Council and North American Electric Reliability Council (“NERC”), the PJM Manuals, and Good Utility Practice.⁷¹

Finally, a new section 7.5.1(v) to the CTOA, confirms that nothing in the CTOA is to be construed to prevent or is intended to prevent PJM from utilizing its existing governance processes set out in the Operating Agreement and the PJM Manuals to develop or revise Tariff Terms and Conditions to be set forth in the PJM Tariff and, with respect to those proposed changes, to consult with PJM Members and others.⁷²

2. Amendments Supporting and Protecting PJM’s Planning Protocol Authorities and Other Section 205 Rights

Several proposed CTOA Amendments are designed to clarify and protect the transfer of responsibilities and commitments of PJM and the Transmission Owners. The bilateral character of the CTOA is reflected in a new section governing modifications to certain provisions of the agreement. Section 9.16.3 confirms the intent of the Transmission Owners and PJM to ensure that the key provisions embodying their respective rights and commitments to each other, including PJM Planning Protocol section 205 rights,⁷³ may be amended only if the Transmission Owners, acting pursuant to the CTOA’s voting provisions, and PJM both consent or if such a provision is shown to harm the public interest.

New definitions of “PJM,” “PJM Board,” and “Office of the Interconnection”⁷⁴ and new section 2.2 clarify that the independent PJM Board and the Office of the Interconnection, acting under the supervision of the PJM Board, are the counterparties to the PJM Transmission Owners

⁶⁸ PJM is proposing to add the Planning Protocol to the PJM Tariff as Schedule 19.

⁶⁹ In order to limit the CTOA’s reliance on external agreements and documents for definitions, a number of definitions have been replaced with direct definitions rather than references to the PJM Tariff or Operating Agreement, including the definition of Regional Transmission Expansion Plan.

⁷⁰ CTOA (as amended), § 6.3.3(i).

⁷¹ *Id.*, § 6.3.3(ii).

⁷² *Id.*, § 7.5.1(v).

⁷³ CTOA, Articles 2, 4, 5, 6 and 7 and Attachment (“Attach.”) B.

⁷⁴ CTOA (as amended), Article 1 (defining PJM Board and Office of the Interconnection).

under the CTOA with respect to rights and responsibilities transferred under the CTOA or commitments made under the CTOA. PJM, as embodied in the PJM Board and staff, is the “public utility” under the FPA and is thus the only appropriate counterparty to the Transmission Owners in terms of transferred rights and commitments under the FPA.⁷⁵

New section 7.9 prohibits both the Transmissions Owners and PJM from making a section 205 filing that would contravene the CTOA. This provision is directed at situations in which either the Transmission Owners or PJM assert that a proposed section 205 filing would contravene the CTOA, but there is no dispute regarding which party would have the right to make the section 205 filing if it did not contravene the CTOA. Disputes under section 7.9 are resolved under CTOA, Attachment B, Section B.⁷⁶ After an expedited period to resolve the dispute among the disputing parties,⁷⁷ any dispute is referred to the Neutral Party who has been designated under section 7.6 to make a decision binding upon the parties.⁷⁸ However, nothing under sections 7.6, 7.9, Attachment B or the entirety of the CTOA, affects the right of a losing party or any interested person to file a complaint with the Commission under FPA, section 206.⁷⁹

All other disputes are resolved through mediation under the procedures set forth in proposed CTOA, Attachment B, Section C.⁸⁰ With this change, all disputes under the CTOA will be covered by the dispute resolution procedures within the CTOA, instead of requiring disputes specific to the CTOA to rely on a process set out in the Operating Agreement, which would be

⁷⁵ *Id.*, § 2.2. PJM Members, acting individually or through the Members Committee, are not counterparties to the CTOA. Rather they are comparable to the shareholders in a transmission owning corporation. In addition, PJM was added to section 9.2, the “No Third-party Beneficiaries” section. The CTOA Amendments also clarify that PJM has the “exclusive” right to seek enforcement of the obligations of any Transmission Owner under the CTOA. *See id.*, § 6.2.

⁷⁶ Section 9.19 is proposed to be amended to include a reference to Attachment B. *See id.*, § 9.19. Existing section 7.6 (along with PJM Tariff, § 9.3) that originated in the *Atlantic City Settlement* establishes an expedited process to resolve disputes regarding whether PJM or the Transmission Owners have the right to make a section 205 filing. Attachment B, section B adopts the process approved by the Commission for resolving filing rights disputes under section 7.6.

⁷⁷ *Id.*, Attach. B, § A. Attachment B provides for PJM and the disputing party (“Dispute Party”) to engage in good-faith negotiations to resolve a dispute involving a matter governed by the CTOA. It establishes a three-step process to address, and attempt to resolve, disputes. The first step begins with officer-level representative meetings, the second step escalates discussions to senior officers and the PJM President, and the third step provides for meeting with the PJM Board.

⁷⁸ In order to expedite the resolution of disputes referred to the Neutral Party, the Neutral Party has been pre-selected.

⁷⁹ *Id.*, Attach. B, § B.

⁸⁰ Attachment B also includes a confidentiality provision similar to the settlement privilege or Rule 602 of the Commission’s procedural rules. 18 C.F.R. § 385.602.

subject to change by parties other than the parties to the CTOA. The goal of these changes is to establish a framework to resolve any disputes between the CTOA parties, including PJM.

3. Amendments Facilitating the PJM Planning Process

Although they do not change the substance of the Planning Protocol, the CTOA Amendments propose several provisions to facilitate the PJM planning process by supporting communications and coordination and by removing the distinction between non-incumbents and Transmission Owners where RTEP projects are subject to proposal windows.⁸¹

New sections 4.1.4(b)(ii) and 6.3.4(b)(ii) codify a coordination process in the CTOA to address potential overlaps involving RTEP projects and Transmission Owners-planned projects.⁸² If the need behind a Transmission Facility planned by a Transmission Owner could be addressed by a Transmission Facility proposed to be included in the RTEP, PJM will consult with the Transmission Owner and the Transmission Owner will be required to document any decision to proceed with its project to address local needs. The new sections do not supplant, and are consistent with, the more detailed processes set out in the existing PJM Tariff and PJM Manual provisions.⁸³

The CTOA Amendments also update the CTOA to incorporate Order No. 1000 principles. First, the CTOA Amendments add a new type of CTOA Party, a “CTOA Designated Party,” which is an entity that is not an existing Transmission Owner but has been designated by PJM to construct an RTEP Project.⁸⁴ During the time that this non-incumbent holds CTOA Designated Party status, it will be subject to the rights, commitments, and undertakings of a Transmission Owner to the extent that those provisions are applicable, putting it on equal footing with incumbent Transmission Owners.⁸⁵ Once the assigned RTEP Project is in service, the CTOA Designated Party automatically becomes a Transmission Owner and a full Party to the CTOA.⁸⁶ If the CTOA Designated Party’s does not complete its RTEP Project because it is canceled or its designation is

⁸¹ See Operating Agreement, Sched. 6, §1.5.8(c).

⁸² CTOA (as amended), §§ 4.1.4(b)(ii), 6.3.4(b)(ii). An overlap occurs when a transmission project that PJM has identified in the RTEP process has the potential to resolve a local need identified by a Transmission Owner.

⁸³ PJM Tariff, Attach. M-3, § (d)(2); PJM Manual 14B, § 1.4.2.2.

⁸⁴ When designated, the CTOA Designated Party will be required to sign the CTOA.

⁸⁵ CTOA (as amended), § 3.1.1. A CTOA Designated Party shall not be entitled to cast a vote under sections 8.5.1 or 8.5.2 or be counted for a quorum under section 8.4.3. *Id.*

⁸⁶ *Id.*, §§ 3.1, Article 1 (defining Transmission Owners and Transmission Facilities).

withdrawn or revoked, it loses its status as a CTOA Designated Party and does not become a Transmission Owner.⁸⁷

Second, to bring the CTOA in line with the existing processes under Order No. 1000, the CTOA Amendments provide explicit delegation to PJM to exercise its responsibility to designate entities that are not Parties to the CTOA to construct RTEP Projects.⁸⁸

Finally, two new sections in the CTOA Amendments address claims resolved by the Commission and the D.C. Circuit. First, new section 4.1.4(b)(i) clarifies that the specific responsibility to plan certain transmission enhancements and expansions transferred to PJM under section 4.1.4(a) does not extend to all Transmission Facilities subject to PJM's operational direction under section 4.1.2.⁸⁹ Second, the addition of the word "replace" to section 5.2, like section 4.1.4(b)(i), codifies the Commission's decision, as affirmed by the D.C. Circuit, that the Transmission Owners retained the right to replace their facilities.⁹⁰

B. Amendments Recognizing the Relationship of the Transmission Owners and PJM

Since PJM became an ISO, the Transmission Owners have shared with PJM responsibility to maintain a safe and reliable transmission system, *i.e.*, "to keep the lights on," for which the Transmission Owners are answerable to their customers and state regulators. Several proposed changes to the CTOA clarify and memorialize practices essential to the relationship between PJM and the Transmission Owners.

The Transmission Owners' section 205 filing rights include the sections of the PJM Tariff regarding rates and rate design. However, the Transmission Owners rely on PJM for administration of these sections (and for the entire Tariff). The CTOA Amendments recognize the necessity of PJM's assistance to the Transmission Owners in developing proposed changes under PJM Tariff, Section 9.1 and CTOA, Section 7.3.⁹¹ Also, because a proposed PJM Tariff change always requires initiating proceedings before the Commission, communications regarding a

⁸⁷ *Id.*, § 3.1.1.

⁸⁸ *Id.*, §§ 6.3.3; 4.2.1.

⁸⁹ See *PJM Interconnection, L.L.C.*, Answer of the Joint Stakeholders to the Mot. of Indicated Trans. Owners for Summ. Rejection, Docket No. ER20-2308-000, at 23-25 (filed Aug. 4, 2020); *PJM Interconnection, L.L.C.*, LSP Transmission Holdings II, LLC & Cent. Trans., LLC Comments in Support of Stakeholder Approved Section 205 Filing, Docket No. ER20-2308-000, at 39-41 (filed July 23, 2020).

⁹⁰ *Am. Mun. Power, Inc.*, 86 F.4th at 932 ("Consistent with its reasoning in *Monongahela Power Co.*, [164 FERC ¶ 61,217 (2018)] the Commission reasonably concluded that all § 205 filings have not been ceded to PJM, and without an unambiguous ceding of filing rights to PJM, the transmission owners still retained them.").

⁹¹ CTOA (as amended), § 6.3.10.

proposed change are made in anticipation of litigation. As follows, section 7.3.1 is amended to recognize the common interest among PJM and the Transmission Owners, and in those circumstances, will operate to protect confidentiality and attorney-client privilege among the Transmission Owners and PJM to the extent permissible under law.⁹² However, recognizing that the Transmission Owners' interests may not always align with PJM on an issue, the CTOA Amendments explicitly preserve PJM's right to take positions adverse to the Transmission Owners before state and federal administrative bodies and the courts.⁹³

If the Commission changes its RTO regulations, the proposed amendment to section 6.3.5 recognizes that notwithstanding PJM's responsibility to maintain its status as a RTO, it nonetheless is concurrently responsible to "[m]aintain the safe and reliable operation of the PJM Region."⁹⁴ This change ensures that there would be no break in service or reliability while PJM and/or the Transmission Owners address any changes to PJM's governing documents necessary for PJM to continue to qualify as an RTO under those revised regulations.

The CTOA Amendments also clarify that should a Transmission Owner decide to withdraw from the CTOA by withdrawing its Transmission Facilities from the RTO so that it is no longer a Transmission Owner, such withdrawal will not automatically terminate its membership under the Operating Agreement and the Reliability Assurance Agreement Among Load Serving Entities in the PJM Region ("Reliability Assurance Agreement"), permitting the withdrawing Transmission Owner to continue to participate in PJM-administered markets.⁹⁵

Finally, the CTOA Amendments establish a non-decisional annual "State of the Agreement" meeting between the Transmission Owners and the PJM Board committee directly responsible for planning and grid security.⁹⁶ The meeting provides the opportunity for the Transmission Owners and the PJM Board members most directly concerned with Transmission System planning and security to improve communication and have a candid and open discussion regarding how the respective parties are carrying out their responsibilities under the CTOA. The issues to be discussed in the meeting could include transmission function information, CEII and other highly confidential information concerning PJM's bulk power facilities.⁹⁷ Therefore, the meeting will not be open to all PJM stakeholders – regardless of whether they are PJM Members or non-PJM Members – and will be limited only to Transmission Owners and the PJM Board and

⁹² *Id.*, § 7.3.1.

⁹³ *Id.*, § 6.3.10.

⁹⁴ *Id.*, § 6.3.1. The amendments to this section recognize that in carrying out its responsibilities, PJM must abide by applicable laws and regulations, such as 18 CFR § 35.34 (RTOs).

⁹⁵ *Id.*, § 3.2.

⁹⁶ *Id.*, § 2.3 (setting out annual meeting and notice requirements).

⁹⁷ Standards of Conduct for Transmission Providers. 18 C.F.R., Pt. 358 (2024) or CEII information., 18 C.F.R. § 388.113(c) (2024). The TOA-AC has long held closed meetings with PJM staff for the same reason.

staff. While the meeting will be useful in identifying issues that should be addressed, no decisions will be made, or actions taken at such meetings⁹⁸ and the meeting agenda and minutes will be posted on the PJM website and made publicly available.

C. Amendments to Make Non-Substantive Cleanup and Conforming Changes

1. Amendments to Eliminate References to the Operating Agreement

The CTOA Amendments remove several references to Operating Agreement terms. Removal of references to the Operating Agreement is appropriate because the references are no longer necessary once the Commission accepts the proposed revisions set forth in the PJM Tariff Filing and PJM Complaint.⁹⁹

2. Amendment to Prevent TOA-AC Proxy Voting

The CTOA is amended to prevent proxy voting at TOA-AC meetings by prohibiting a party to the CTOA to designate an unaffiliated representative or substitute for the purpose of casting votes in the TOA-AC.¹⁰⁰ This reflects a reasonable expectation that a party to the CTOA will actively engage and participate in the TOA-AC, exercising its voting powers independently. The CTOA permits in-person and virtual attendance at noticed TOA-AC meetings,¹⁰¹ thus a requirement that each Transmission Owner cast its own vote is not an unreasonable burden. Voting rules in other PJM committees are unaffected by this change.

3. Technical Amendments, New Definitions and Transition Provisions

The CTOA Amendments include several non-substantive amendments. Section numbers in Article 1, Definitions, are removed to conform to PJM's standard style in its foundational documents. New section numbers and descriptive headings are added to sections that previously had no numbers and no headings. Several definitions are modified to provide greater precision and clarity. For example, the term "Zone" is changed to "PJM Zone" and now refers specifically

⁹⁸ See *Pub. Serv. Comm'n of W. Va. v. PJM Interconnection, L.L.C.*, 186 FERC ¶ 61,163 (2024) at PP 79-82 ("The Liaison Committee, however, does not make decisions.").

⁹⁹ See, e.g., *Monongahela Power Co.*, 162 FERC ¶ 61,129, at P 105 (2018) ("Further, in order to ensure clarity as to the provisions governing the planning of Supplemental Projects, we will require PJM to make clarifying edits to the PJM Operating Agreement to remove redundant or inconsistent provisions."). However, the CTOA Amendments do not change the references to external standards such as those adopted by the NERC. See CTOA (as amended), §§ 4.5, 6.3.1.

¹⁰⁰ CTOA (as amended), § 8.5.

¹⁰¹ CTOA, § 8.4.2.

to transmission zones defined in Attachment J to the PJM Tariff. Obsolete definitions are removed.¹⁰²

Section 9.20 is deleted because it is an unnecessary artifact of the consolidation of the three TOAs. This section provided added protection to Transmission Owners against forced changes to their reliability council participation. However, existing section 8.5.4 requiring Transmission Owner agreement to change a reliability council provides adequate protection to individual Transmission Owners.

A new section 9.23 is added to account for the possibility that Commission approval of the PJM Tariff provisions governing PJM transmission planning does not become effective at the same time as the effective date of the CTOA Amendments.¹⁰³ In that case, section 9.23 specifies that PJM shall continue to prepare the RTEP in accordance with the existing Schedule 6 of the Operating Agreement without interruption until the proposed PJM Tariff Planning Protocol and related provisions become effective. This ensures no interruption, confusion, or delay in PJM planning activities during the course of the Commission's consideration of the CTOA Amendments and the related PJM Filings and the transition to planning under the PJM Tariff.

Finally, as initially filed under Order No. 714, each CTOA section was a separate record.¹⁰⁴ The CTOA has been reorganized such that each Article is a separate tariff record, rather than each section. For example, all of the sections governing meetings and actions of the TOA-AC are now in one tariff record and can more easily be reviewed.¹⁰⁵

IV. THE CTOA AMENDMENTS ARE JUST AND REASONABLE

The FPA unambiguously provides that the authority to plan transmission expansions and enhancements is an inherent right of a regulated public utility.¹⁰⁶ In the CTOA, the Transmission

¹⁰² The CTOA Amendments clarify that when PJM proposes a change to Tariff Terms and Conditions under Section 7.5.1, its obligation to consult with the Transmission Owners is discharged by consulting with the TOA-AC.

¹⁰³ PJM and the Transmission Owners are requesting that the PJM Tariff and Operating Agreement changes do become effective on the same date.

¹⁰⁴ *PJM Interconnection, L.L.C.*, Order No. 714 Baseline Electronic Tariffs, Docket No. ER10-2710-000 (filed Sept. 17, 2010).

¹⁰⁵ An exception are the subsections of section 4.11 pertaining to transmission line ratings. This section has been replaced, but will not become effective until related PJM Tariff provisions become effective. *PJM Interconnection, L.L.C.*, Letter Order, Docket No. ER23-2964-000 (issued Nov. 22, 2023) (accepting for filing amendments to Section 4.11 of the CTOA and related definitions, effective July 12, 2025). At that time, the subsection of Section 4.11 will be rolled into the Article 4 tariff record.

¹⁰⁶ *Am. Mun. Power, Inc.*, 86 F.4th at 927; *Atlantic City I*, 295 F.3d at 10.

Owners voluntarily agree with PJM to transfer specific planning responsibility to PJM.¹⁰⁷ Under the CTOA Amendments, the Transmission Owners and PJM voluntarily agree to change the nature of that responsibility, specifically that it be conducted under a schedule to the PJM Tariff, rather than a schedule to the Operating Agreement. Following Commission acceptance of the CTOA Amendments, PJM will plan the Transmission System “in accordance with and subject to . . . [the Planning Protocol] that will be set forth exclusively in PJM Tariff, Schedule 19[,]” which will become a Tariff Term and Condition subject to PJM’s exclusive and unilateral section 205 filing rights.¹⁰⁸ In addition, the CTOA Amendments include those amendments that PJM and the PJM Transmission Owners agree are necessary to facilitate the PJM planning process and clarify the contractual relationship between the parties to ensure that PJM can properly execute these newly transferred rights. Finally, the CTOA Amendments make conforming edits and non-substantive cleanup changes necessitated by the substantive revisions proposed herein and the passage of time. As discussed below, these changes, each of which is part of an integrated whole, are just and reasonable.

A. The Governing Standard

Although a principal purpose of the CTOA Amendments is to improve PJM’s transmission planning process, the question before the Commission is not whether the proposal might contain alternative provisions that others might desire, even if those alternatives might themselves be just and reasonable.¹⁰⁹ This is particularly so in this case where the amendments are based on the Transmission Owners’ contractual agreement with PJM to voluntarily transfer to PJM rights to

¹⁰⁷ *Atlantic City I*, 295 F.3d at 10 (“Of course, utilities may choose to voluntarily give up, by contract, some of their rate filing freedom under Section 205.”); *Am. Mun. Power, Inc.*, 86 F.4th at 927 (“PJM’s authority to oversee and operate the electrical grid is limited to that granted to it by transmission owners in the [CTOA].”).

¹⁰⁸ CTOA (as amended), §§ 4.1.4(a)(i); 6.3.4(a)(i). The amendments to the PJM Tariff and the Operating Agreement moving the Planning Protocol to the PJM Tariff and making related necessary changes to the PJM Tariff and Operating Agreement are being filed by PJM pursuant to FPA sections 205 and 206. However, those filings require Commission acceptance of CTOA Amendments authorizing those changes to be effective.

¹⁰⁹ *Cities of Bethany, Bushnell, Cairo, Carmi, Casey, Flora, Greenup, Marshall, Metropolis, Newton, Rantoul, & Roodhouse, Ill. v. FERC*, 727 F.2d 1131, 1136 (D.C. Cir. 1984). See also *ISO New England Inc.*, 114 FERC ¶ 61,315, at P 33 & n.35 (2005) (first citing *Pub. Serv. Co. of N.M. v. FERC*, 832 F.2d 1201, 1211 (10th Cir. 1987), and then citing *Cities of Bethany*, 727 F.2d at 1136)); *Oxy USA, Inc. v. FERC*, 64 F.3d 679, 692 (D.C. Cir. 1995) (citing *Cities of Bethany*, 727 F.2d at 1136). Cf. *S. Cal. Edison Co.*, 73 FERC ¶ 61,219, at 61,608 n.73 (1995) (“Having found the Plan to be just and reasonable, there is no need to consider in any detail the alternative plans proposed by the Joint Protesters.” (citing *Cities of Bethany*, 727 F.2d at 1136)).

plan the Transmission System that would otherwise be included in their own tariffs under the Transmission Owners' inherent FPA section 205 filing rights.¹¹⁰

Notably, the CTOA itself was negotiated in the wake of the *Atlantic City* litigation in which the court affirmed the Transmission Owners' FPA and contractual rights, and the *Atlantic City* Settlement, in which the Transmission Owners transferred to PJM section 205 rights to file Tariff Terms and Conditions. Thus, the Commission is not writing on a blank slate; it is determining whether modifications to a voluntary agreement are just and reasonable under the FPA. The Commission recognized this when it approved the *Atlantic City* Settlement, concluding that "revisions to the parties' voluntary agreement" as to the allocation of filing rights between the Transmission Owners and PJM and related provisions were a "reasonable allocation" based on a "voluntary, compromise agreement" that protected "the interests of market participants."¹¹¹ Nothing requires the Transmission Owners to cede their statutory rights under section 205.¹¹² The Transmission Owners are likewise not required to alter the agreement to transfer filing rights as proposed in the CTOA Amendments, but can do so voluntarily. The Commission should find the CTOA Amendments to be just and reasonable – just as it accepted the CTOA itself when it was proposed.¹¹³

B. Transferring Section 205 Filing Rights to PJM So That It May Propose Planning Protocol Changes to the Commission Is Just and Reasonable.

The CTOA Amendments transfer to PJM the responsibility to prepare the RTEP pursuant to the PJM Tariff rather than the Operating Agreement. This does not change the Planning Protocol itself; rather, it gives PJM the ability to propose to the Commission revisions to the Planning Protocol under section 205 of the FPA and allows it to avoid possibly being delayed or denied the authorization to do so when such filings are subject to a Members Committee vote under the existing Operating Agreement structure.¹¹⁴ As noted above, the location of the Planning Protocol in the Operating Agreement was intended to address the Commission's requirement that PJM have independence in transmission planning. But it has, in fact, prevented PJM from proposing, and thus the Commission from considering, necessary and important changes to the rules and processes under which PJM plans the Transmission System to address current and future

¹¹⁰ *Atlantic City I*, 295 F.3d at 9. "Section 205 of the FPA gives a utility the right to file rates and terms for services rendered with its assets." *Id.* (citation omitted).

¹¹¹ *Atlantic City Settlement Order*, 105 FERC ¶ 61,294 at PP 30-33.

¹¹² *See Atlantic City II*, 329 F.3d at 858 (citing *Atlantic City I*, 295 F.3d at 9, 15).

¹¹³ *PJM Interconnection, L.L.C.*, 114 FERC ¶ 61,283 at P 10 (The CTOA "will be beneficial to all market participants to the extent it provides a single articulation of the parties' respective rights and obligations.").

¹¹⁴ Currently, to propose changes to the Planning Protocol under section 205, PJM must obtain an affirmative two-thirds vote of the Members Committee, Operating Agreement, §§ 8.4(c), 8.6.1(e), 18.6(a), after the issue is considered and a recommendation is voted upon by the Markets and Reliability Committee. *See supra*, II.A.2.

challenges under section 205. And, given that the *Atlantic City* Settlement provided that PJM would have “exclusive and unilateral rights” to file under section 205 changes in Tariff Terms and Conditions, there is another way to ensure PJM’s independence – move the Planning Protocol to the PJM Tariff as a Tariff Term and Condition. That is what the CTOA Amendments do.

Comparable RTOs have the right to make section 205 filings to propose changes in the rules by which they conduct their transmission planning. PJM does not. If accepted by the Commission, PJM, like the Southwest Power Pool and the Midcontinent Independent System Operator (a frequent interregional transfer partner of PJM), will have the right to propose to the Commission improvements and enhancements in the way it plans transmission.¹¹⁵ PJM should not be required demonstrate under section 206 that the existing Planning Protocol is unjust and unreasonable in order to propose such improvements and enhancements.

Giving PJM independent section 205 rights over transmission planning will also allow the Commission to consider proposed planning reforms that PJM independently believes have merit, even when those proposals are opposed by members or member coalitions, including the Transmission Owners.¹¹⁶ As discussed below and in detail in the Shah Declaration, PJM repeatedly has been unable to present to the Commission beneficial and needed changes to the planning process to address current and upcoming challenges and advances in technology. Simply put, too much is dying in the stakeholder process without ever reaching the Commission. The CTOA Amendments will fix this problem.

¹¹⁵ See, e.g., Southwest Power Pool, Inc., OATT, Sixth Revised Vol. No. 1, Attach. O - Transmission Planning Process (setting forth SPP’s transmission planning process as an Attachment to the SPP Tariff); SPP Membership Agreement, § 2.1.1(h) (With respect to Operation and Planning, “SPP shall propose and file with FERC pursuant to Section 205 of the Federal Power Act modifications to the OATT and make any other necessary filings subject to approval by the Board of Directors.”); Midcontinent Indep. Sys. Operator, Inc., Open Access Transmission, Energy & Operating Reserve Mkts. Tariff, Attach. FF – Transmission Expansion Planning Protocol (setting forth MISO’s Transmission Planning Protocol as an Attachment to the MISO Tariff); Agreement of the Trans. Facilities Owners to Organize the Midcontinent Indep. Sys. Operator, Inc., App. K, § L (“MISO shall have the full and exclusive right to submit filings under FPA section 205 with regard to its Tariff and related documents.”).

¹¹⁶ Under the Operating Agreement voting rules, the lack of participation and the practice of proxy voting, small minority coalitions of PJM Members can easily block reforms. In an extreme case, a proposal can be supported by (a) PJM staff, (b) the PJM Board, (c) all PJM Transmission Owners, (d) all PJM states, and (e) a majority (but not supermajority) of PJM Members, yet still fail because a handful of Members constituting a majority of their respective sectors cast votes against the proposal. See Operating Agreement, §§ 8.3.3, 8.4. This is simply an untenable situation.

1. PJM’s Lack of Section 205 Rights Over the Planning Protocol Has Prevented the Commission from Considering Important Improvements to the PJM Planning Process Simply Because They Lack Supermajority Support of PJM Stakeholders.

Over the past several years, the Planning Protocol has grown more complex as the Commission has added tasks and requirements to RTO transmission planning. Despite its status as an RTO, PJM does not have the ability to modify the Planning Protocol under section 205 because it is part of the Operating Agreement, not the PJM Tariff. As noted above, changes to the Operating Agreement require approval of the Members Committee. PJM currently has over 1,000 members, including affiliates of members. However, members affiliated with other Members cast only a single vote in the Members Committee and Markets and Reliability Committee.¹¹⁷ Thus, about 500 members are qualified to vote, but in practice significantly fewer members, typically 80-120 members, exercise their voting rights individually and many members vote by proxy or through coalitions.¹¹⁸ The lack of participation and frequent proxy voting have too frequently permitted various coalitions of members to block PJM from proposing changes to the Planning Protocol under section 205.¹¹⁹

As described in the Shah Declaration, PJM’s lack of section 205 filing rights over the Planning Protocol has had significant consequences for the PJM Region. In particular, important and innovative proposals to modernize the transmission planning process and improve reliability have been prevented from being presented to the Commission for its consideration.¹²⁰

¹¹⁷ *Id.*, § 8.1.2.

¹¹⁸ See, e.g., PJM, *PJM Members Committee: Supplemental Voting Results* (May 6, 2024) <https://www.pjm.com/-/media/committees-groups/committees/mc/2024/20240506-annual/mc-voting-results---item-08---proposed-oa-and-tariff-revisions-effectuating-the-transfer-of-the-regional-transmission-expansion-planning-protocol.ashx>. (The recorded vote by the Members Committee on the PJM Board’s request for the Members Committee to approve the PJM Tariff and Operating Agreement changes to implement PJM section 205 filing rights over the Planning Protocol). Of PJM’s 506 members with separate votes, only 98 participated in the vote, with the 79 “no” votes constituting less than 16 percent of the total membership. The 79 no votes were cast in significant part by a handful of proxy holders. Among the “yes” votes are public utilities responsible for serving more than 90 percent of PJM’s end use customers.

¹¹⁹ Shah Declaration (“Decl.”) ¶ 9 and Attach. A at 6. The analysis in Attachment A to the Shah Declaration shows that in four of the five PJM Members Committee sectors the number of unique individuals casting votes constitutes less than 20 percent of the eligible votes in the sector and in one of those sectors, the Other Suppliers Sector, the figure is less than 10 percent. Attach. A. at p. 6.

¹²⁰ Shah Decl. ¶ 10.

For example, proposals to permit and enhance PJM's use of Storage as a Transmission Asset ("SATA")¹²¹ in transmission planning – which the Commission,¹²² and U.S. Department of Energy¹²³ believe can be viable alternatives to building transmission lines to address transmission needs – have been impeded by the PJM stakeholder process.¹²⁴ PJM has also been blocked from filing under section 205 Planning Protocol provisions that would address the creation of new facilities subject to Reliability Standard CIP-014-2, which sets forth requirements applicable to the most critical Bulk-Power System facilities.¹²⁵ In this case, the Markets and Reliability Committee declined to consider a proposal that had received overwhelming support from the Planning Committee.¹²⁶ PJM's proposals to plan Targeted Market Efficiency Projects ("TMEPs"), low-cost, fast construction projects that make lower cost energy available to customers, also died in the Markets and Reliability Committee.¹²⁷

Proposals that could address important challenges PJM is facing in a timely manner could similarly be frustrated by the PJM stakeholder process. PJM's ability to take advantage of National Interest Electric Transmission Corridor ("NIETC") opportunities¹²⁸ to increase interregional transfer capabilities, which the Commission has identified as an important part of long-term planning,¹²⁹ may also be frustrated by PJM stakeholder control over changes to the Planning

¹²¹ SATA refers to the use of electric storage facilities to address transmission-related needs, including maintaining system reliability, improving operational performance and market efficiency, or accommodating public policy requirements as defined by state or federal agencies. *Id.*, ¶ 11.

¹²² See *Utilization of Elec. Storage Res. for Multiple Servs. When Receiving Cost-Based Rate Recovery*, 158 FERC ¶ 61,051, at P 9 (2017); *ISO New England Inc.*, 185 FERC ¶ 61,044 at PP 2-7, 26 (2023).

¹²³ Jeremy B. Twitchell *et al.*, *Enabling Principles for Dual Participation by Energy Storage as a Trans. & Mkt. Asset*, U.S. DOE (Feb. 1, 2022),

¹²⁴ For example, although a Special Planning Committee endorsed a draft version of SATA language for the Planning Protocol in December, 2020, in February, 2021 the Markets and Reliability Committee voted to defer endorsement of Operating Agreement, Schedule 6 language that would have authorized SATA. Shah Decl. ¶¶ 13-14.

¹²⁵ PJM Tariff, Attachment M-4 establishes procedures for addressing CIP-014-02 facilities identified as of September 30, 2018, but does not address new ones. PJM Tariff, Attach., § (b)(1).

¹²⁶ Shah Decl. ¶¶ 15-20.

¹²⁷ *Id.*, ¶¶ 21-25. While PJM has the ability to propose changes to the Planning Protocol under FPA section 206, PJM has reasonably been reluctant to file a complaint over the objections of stakeholders against its own Operating Agreement schedule given the more demanding demonstration required under FPA section 206.

¹²⁸ *Id.*, ¶¶ 28-31.

¹²⁹ Order No. 1920 at PP 1751-1758.

Protocol. For example, PJM may need to coordinate with MISO under their Joint Operating Agreement, however doing so may require changes to the Planning Protocol.¹³⁰

Nearly three decades ago, two assurances were made to the Commission in the Supporting Companies' Revised Proposal that placed planning authority in the Operating Agreement rather than the Tariff: (1) that stakeholders would not be able to prevent PJM from acting, and (2) that only a "few matters" would come before the Members for action.¹³¹ Over time, both have proven to be untrue. Instead, as shown here and in the Shah Declaration, the stakeholder process under the Operating Agreement has impeded work to modernize the planning process so it can address the significant challenges facing PJM. As a result, the Commission has not been able to consider useful and important PJM proposals to improve the planning process.

2. PJM's Lack of Independent Section 205 Rights Over the Planning Protocol Will Hamper PJM's Efforts to Address the Critical Challenges Facing the Region.

Section 205 rights to propose changes to the Planning Protocol are now more important than ever given the critical challenges currently facing PJM. PJM must plan the PJM Transmission System to address the impacts of extreme weather, dramatic increases in load, generator retirements, and the transformational shifts in the portfolio of energy and capacity resources serving the region.¹³² Unless the Planning Protocol is placed in the PJM Tariff, PJM's ability to meet these challenges will continue to be hampered by its lack of independent section 205 authority over the Planning Protocol.

PJM has begun addressing future planning challenges through its Long-Term Regional Planning Transmission Task Force. Compliance with the recently issued Order No. 1920 will require numerous additions and changes to the Planning Protocol.¹³³ The Transmission Owners urge the Commission to recognize that PJM needs the flexibility and the ability to exercise independent section 205 rights over the Planning Protocol to address issues associated with the Order No. 1920 reforms and to keep long-term planning on track.¹³⁴

¹³⁰ Shah Decl. ¶¶ 32-33.

¹³¹ *Supra*, n.46.

¹³² Order No. 1920 at P 90.

¹³³ *See, e.g.*, Order No. 1920 at PP 269, 301, 719-721 (requiring transmission providers to use and measure a set of seven required benefits to evaluate long-term regional transmission facilities); *id.* PP 344, 409-413 (requiring transmission providers in each transmission planning region to incorporate seven specific categories of factors in the development of long-term scenarios). The Commission has clarified that these changes must be included in tariffs rather than the PJM Manuals. *Id.* P 918.

¹³⁴ Providing PJM with the ability to exercise section 205 rights to make changes to the Planning Protocol eliminates the type of rule-of-reason disputes that could delay implementation of necessary

Providing PJM with the independence to file changes to the Planning Protocol under section 205 will allow PJM to propose to the Commission the changes that it determines are necessary to timely address these important challenges to the transmission grid, without the delays and risks inherent in the need to obtain approval under the Operating Agreement. If the status quo remains, PJM runs the risk of not being able to address the challenges that it will face in the imminent future. Providing PJM with filing authority will also ensure that PJM, and not any stakeholder sector(s) or coalition(s), including the Transmission Owners, will control how transmission planning in PJM evolves to address these challenges.

It is entirely just and reasonable to place the Planning Protocol in the PJM Tariff, where PJM has exclusive and unilateral section 205 filing rights with respect to Tariff Terms and Conditions, and where other transmission service provisions reside. The PJM Tariff provides terms of service, including transmission service and rules governing load and new generation interconnection to the PJM Transmission System. PJM must plan for those interconnections and given the ongoing transition to new sources of energy, reforms to the interconnection process¹³⁵ and the huge size of the PJM interconnection queue, the planning for interconnection has become an increasingly important part of PJM transmission planning process. It makes sense to give PJM the tools to better integrate planning for expansion and enhancement with the planning for interconnection.¹³⁶ In the end, both must be integrated into a single regional plan, the RTEP. PJM's lack of section 205 rights regarding the Planning Protocol impedes PJM's ability to effectively integrate the two processes and is inconsistent with its section 205 rights over the planning to accommodate interconnections.

The current arrangements, where planning authority resides in the Operating Agreement, has led to repeated inefficiencies in PJM's planning efforts. For example, PJM had to file a section 206 complaint to align the DEA requirements with its needs and reduce unwarranted and costly administrative burdens on itself because of some Members' opposition to making the necessary reforms through section 205.¹³⁷ The issue remains pending at the Commission and continues to encumber the planning process.

C. The CTOA Amendments to Support and Protect PJM's Planning Protocol Authorities and Other Section 205 Rights Are Just and Reasonable.

Several related CTOA Amendments clarify and protect the transfer of responsibilities and commitments of PJM and the Transmission Owners. These amendments are intended to provide

planning changes. *See, e.g., Hecate Energy Green Cnty. 3 LLC v. FERC*, 72 F.4th 1307, 1311-1312 (D.C. Cir. 2023) (citing *City of Cleveland*, 773 F.2d 1368, 1376 (D.C. Cir. 1985)).

¹³⁵ *See generally, PJM Interconnection, L.L.C.*, Order Nos. 2023 & 2023-A Compliance Filing of PJM Interconnection, L.L.C., Docket No. ER24-2045 (filed May 16, 2024).

¹³⁶ Order No. 1920 at PP 103-111, 135, 409, 419, 467-473.

¹³⁷ *PJM Interconnection, L.L.C.*, Section 206 Filing to Resolve Ambiguous Use of Designated Entity, Docket No. EL22-85-000 (filed Aug. 26, 2022).

PJM with greater independence and certainty in the exercise of its responsibilities, including specifically when preparing the RTEP and proposing to the Commission changes to the Planning Protocol pursuant to section 205.

1. The CTOA Amendments Clarify that Transferred Rights and Responsibilities and PJM’s Commitments Reside Solely with the PJM Board and the Office of the Interconnection.

The CTOA Amendments make clear that the responsibilities the CTOA transfers to PJM are to be exercised by the independent PJM Board and the Office of the Interconnection subject to the supervision and oversight of the PJM Board.¹³⁸ Such transfers of rights, responsibilities or commitments are to PJM exclusively and not to any third-party, including the PJM Members Committee. While it has always been the case that the PJM Board acts independently and in accordance with its contractual obligations, some interests believe that stakeholders can direct how PJM carries out its responsibilities through votes of the PJM Members Committee.¹³⁹ PJM’s planning should not be vulnerable to repeated interference by interests that seek “undue influence over the operation of the PJM Region,” in violation of Operating Agreement.¹⁴⁰ New section 2.2 clarifies that planning rights and responsibilities have been transferred exclusively to the independent PJM Board. In this vein, the CTOA Amendments also clarify that PJM along with the Transmission Owners are the exclusive beneficiaries protected by the “No Third-party Beneficiary” clause.¹⁴¹

2. The CTOA Amendments Conform to the Order No. 1000 Framework.

PJM designates incumbents and non-incumbents to construct RTEP Projects, however there is no clear delegation to PJM in the CTOA regarding its authority to authorize construction of expansions and enhancements to the PJM Transmission System that is consistent with Order No. 1000. The CTOA Amendments add a new designation, “CTOA Designated Party” and in

¹³⁸ CTOA (as amended), § 2.2.

¹³⁹ *PJM Interconnection, L.L.C.*, End of Life Joint Stakeholder Proposal, Docket No. ER20-2308 (filed July 2, 2020); *PJM Interconnection, L.L.C.*, Comments of PJM Interconnection, L.L.C., Docket No. ER20-2308-000, at 2-4, 17-18 (filed July 2, 2020) (explaining that PJM disagreed with the stakeholder proposal approved by the Members Committee because the proposal was inconsistent with, or contrary to, PJM’s role as an independent RTO). The Commission ultimately rejected the proposed amendments. *PJM Interconnection, L.L.C.*, 173 FERC ¶ 61,242 (2020), *aff’d sub nom. Am. Mun. Power, Inc.*, 86 F.4th 922.

¹⁴⁰ Operating Agreement, Section 7.7 sets out the “Duties and Responsibilities of the PJM Board,” including, as its “primary responsibility” to ensure the PJM’s officers and staff perform their duties and responsibilities “in a manner consistent with . . . the principle that a Member or groups of Members shall not have undue influence of the operation of the PJM Region.” Operating Agreement, § 7.7(i)(C).

¹⁴¹ CTOA (as amended), § 9.2. The CTOA Amendments also clarify that PJM has the “exclusive right to seek enforcement of the obligations of any [Transmission Owner] under . . . th[e] Agreement.” *See id.*, § 6.2.

section 6.3.3(iv), a grant of authority to PJM to designate non-incumbent developers to construct RTEP projects. These changes conform the CTOA for the first time with the Order No. 1000 framework. Also, moving the Planning Protocol to the PJM Tariff will permit PJM to use section 205 to update the DEA requirements to better implement the true needs of the RTO.

The requirement to enter into a DEA arises from PJM's need for a document committing a non-incumbent RTEP designee to the same responsibilities that the PJM Transmission Owners assume through the CTOA. However, the Commission ruled that the requirements the DEA placed on non-incumbents exceeded those placed on the Transmission Owners under the CTOA.¹⁴² The temporary fix has been an awkward process where Order No. 1000 designations to Transmission Owners must proceed through both the CTOA and the DEA.¹⁴³ The more efficient and straightforward solution, which the CTOA Amendments adopt, is to put non-incumbent designees on the same footing with respect to obligations to PJM as Parties to the CTOA.

Nothing in the CTOA Amendments eliminates PJM's ability to require a DEA if either a non-incumbent or a Transmission Owner is designated to construct an RTEP Project. No changes to the existing *pro forma* DEA are proposed in this filing.¹⁴⁴ Rather, going forward, PJM will be able to use its Planning Protocol section 205 filing rights to thoughtfully evolve the DEA requirement and the DEA itself while ensuring its conformity with the CTOA and treating incumbent and non-incumbent Transmission Owners equally. Section 205 filing rights would give PJM the flexibility, if it so chooses, to improve the DEA process to shorten the time and decrease the administrative cost of getting RTEP projects built and to clarify when a DEA is required from Transmission Owners and non-incumbent transmission developers on a non-discriminatory basis. However, nothing will change now and all future changes will be subject to stakeholder input and the Commission's review under section 205.

3. The CTOA Amendments Recognize the Transmission Owners' Planning Responsibilities under PJM Tariff, Attachment M-3.

Since the provisions transferring planning responsibility to PJM were included in the CTOA, additional planning responsibilities and procedures were added through PJM Tariff,

¹⁴² *PJM Interconnection, L.L.C.*, 164 FERC ¶ 61,021, at P 33 (2018) ("We find that the terms and conditions of the [CTOA] are less stringent than those of the [DEA] . . .").

¹⁴³ For example, most recent DEAs signed by Transmission Owners contain an attachment that specifically states that several provisions of the *pro forma* DEA designed to require actions or agreements by a non-incumbent do not apply to the signing Transmission Owner which already has taken those actions or entered into those agreements by virtue of the fact that it is a Transmission Owner and a signatory to the CTOA. *See, e.g., PJM Interconnection, L.L.C.*, PPL Elec. Utils. Corp. (PJM RTEP Project b3737.45); New Jersey SAA Trans. Upgrades; Serv. Agreement No. 7062, Docket No. ER23-2864, at Attach. A, Sched. E of Serv. Agreement No. 7062 (filed Sept. 15, 2023).

¹⁴⁴ The *pro forma* DEA is set out in PJM Tariff, Attach. KK.

Attachment M-3. The CTOA Amendments contain clarifications as to PJM's exercise of its planning responsibility in relationship to Attachment M-3.

New section 4.1.4(b)(i) clarifies that the Transmission Owners' transfer to PJM responsibility to direct the operation of the Transmission Owners' Transmission Facilities under section 4.1.2 is distinct from the transfer of responsibility to plan enhancements and expansions of those facilities, which is governed under section 4.1.4(a). This provision addresses erroneous claims made in litigation over the recent amendments to Attachment M-3.¹⁴⁵ The addition of the word "replace" to section 5.2, like section 4.1.4(b)(i), merely incorporates now-settled law that the Transmission Owners retained the right to replace their facilities.¹⁴⁶ These provisions enhance coordination and consultation processes and are fully consistent with the law.

New section 4.1.4(b)(ii), and the parallel provision section 6.3.4(b)(ii), are intended to assure that going forward there will be adequate coordination between PJM and a PJM Transmission Owner proposing a local project where PJM determines that a RTEP Project may also address the local need. Nothing in these provisions affects PJM's ability to proceed with the RTEP project. The obligation to consult with the PJM Transmission Owner where an RTEP project would more efficiently and cost-effectively also address the need for which the Transmission Owner has proposed a project will assure that the Transmission Owner has sufficient information to determine whether its proposed project remains necessary. If the Transmission Owner decides to proceed with its local project, section 4.1.4(b)(ii) obligates it to document its decision. These CTOA coordination provisions do not replace existing Attachment M-3, the PJM Manual 14B processes or any additional requirements set forth in those provisions. Nor does it preclude PJM from adding additional PJM Manual procedures or requirements comparable to those in Manual 14B, if new situations arise not covered by that manual to which section 4.1.4(b)(ii) applies. Rather, section 4.1.4(b)(ii) will facilitate the annual planning process by ensuring that coordination will continue as the Planning Protocols and other PJM Tariff provisions evolve over time.¹⁴⁷ Finally, the change will have no impact on the Order No. 1920 right-sizing requirements that will be addressed in the 1920 compliance process.

¹⁴⁵ See *supra*, n.89.

¹⁴⁶ *Am. Mun. Power, Inc.*, 86 F.4th 922 at 932.

¹⁴⁷ Neither Attachment M-3, section (d)(2) nor Manual 14B, although subject to discussion among PJM and the Transmission Owners and a thorough stakeholder process, obligated the initiating party (the Transmission Owners in the case of Attachment M-3 or PJM with respect to Manual 14B) to file or promulgate those provisions. Section 4.1.4(b)(ii) would require PJM and the Transmission Owners to ensure that the consultation and documentation requirement will continue.

D. The CTOA Amendments Bilateral Dispute Resolution Procedures Are Just and Reasonable.

With one exception, the CTOA currently relies on the Operating Agreement's dispute resolution process.¹⁴⁸ Given that the CTOA is a bilateral agreement between the Transmission Owners and PJM, it is appropriate for those parties to specify how they resolve disputes under their agreement, rather than referencing the Operating Agreement, which can be modified by third parties. Adding a dispute resolution provision to the CTOA enhances the independence of PJM and the Transmission Owners to determine how to seek to resolve disputes between them.¹⁴⁹

New section 7.9 prohibits both the Transmission Owners and PJM from making section 205 filings that contravene the CTOA without the consent of their contractual counterparty, with the Transmission Owners acting collectively under the CTOA to provide such consent to a PJM filing.¹⁵⁰ Section 7.9 reinforces the contractual obligations of the Transmission Owners and PJM and protects them against demands by third parties to make section 205 filings proposing changes that the Transmission Owners or PJM, respectively, have determined contravene the CTOA. Such prohibitions are an inherent right of contractual parties, and confusion on that point by others has led to significant disruptions to the planning process, and unnecessary time and costs incurred at PJM, before the Commission, and in the courts.¹⁵¹

To address disputes that may arise under section 7.9 and other disputes that may arise under the CTOA, the parties have added Dispute Resolution Procedures in a new Attachment B. Under Attachment B, disputes regarding whether a filing contravenes the CTOA are resolved in the same manner as filing rights disputes under section 7.6¹⁵² – if the parties cannot resolve the dispute among themselves it is referred to the Neutral Party for a resolution binding on the parties. However, the Commission is not bound by the Neutral Party's decision on the dispute if a

¹⁴⁸ The one exception is section 7.6 of the CTOA addressing "a dispute [that] arises as to which Party has section 205 rights to make such filing," *i.e.*, a filing rights dispute.

¹⁴⁹ Commercial contracts establishing a long-term relationship between counterparties typically contain their own mechanisms for resolving disputes under the contract or by reference to generally accepted neutral external processes, such as the rules of the American Arbitration Association. It would be unusual to rely on dispute resolution process that can be altered by parties that could have an interest in the outcome, such as PJM Members, many of which are customers of PJM and the Transmission Owners or suppliers of energy and capacity to the PJM Region.

¹⁵⁰ CTOA (as amended), § 7.9.

¹⁵¹ *PJM Interconnection, L.L.C.*, 172 FERC ¶ 61,136 at PP 81-87 (finding Transmission Owners' filing to amend Attachment M-3 to the PJM Tariff is within the filing rights reserved by the Transmission Owners); *PJM Interconnection, L.L.C.*, 173 FERC ¶ 61,242 at P 51 (finding that Transmission Owners retain the right to maintain their transmission facilities and generally reserve all rights not specifically granted to PJM).

¹⁵² *See supra*, section III.A.2.

complaint is filed.¹⁵³ In approving the *Atlantic City Settlement*, the Commission determined that Tariff, section 9.3, is just and reasonable.¹⁵⁴ Attachment B, section B adopts the same procedure, which supports a finding that the procedure to resolve disputes under section 7.9 is just and reasonable as well.

Disputes that do not involve proposed section 205 filings by either the Transmission Owners or PJM are subject to non-binding mediation under the new Dispute Resolution Procedures.¹⁵⁵

Neither section 7.9 nor Attachment B affects PJM's ability to continue to independently exercise its own judgment to interpret the terms of the CTOA. If PJM's views prevail in a dispute under section 7.9, PJM is free to make the section 205 filing, as are the Transmission Owners, if they prevail when PJM is the objecting party. Regardless of which party prevails on the issue, the party that did not prevail always has the option of seeking a Commission resolution of the dispute pursuant to FPA, section 206.¹⁵⁶

E. The CTOA Amendments Facilitate the PJM-Transmission Owner Cooperation and Coordination in Providing Open Access Transmission Service in the PJM Region and Clarify the Status of CTOA Signatories.

While PJM independence is a critical principle embodied in the CTOA, there is no question that Transmission Owner and PJM cooperation is essential to PJM fulfilling its responsibility to provide open access transmission service. The Transmission Owners provide the Transmission Facilities over which that service is provided; PJM is entrusted with the responsibility to direct the operation of those facilities. The CTOA Amendments add several provisions that will facilitate and enhance the ability of PJM and the Transmission Owners to discharge their responsibilities.

¹⁵³ CTOA (as amended), Attach. B, § B.

¹⁵⁴ *Atlantic City Settlement Order*, 105 FERC ¶ 61,294 at P 34 (accepting the settling parties' modification of the settlement providing for review of the Neutral Party's decision upon complaint to the Commission). As noted above, the PJM Tariff, § 9.3/CTOA, § 7.6 process, like other provisions of the *Atlantic City Settlement*, is subject to the *Mobile-Sierra* clause.

¹⁵⁵ CTOA (as amended), Attach. B, § C.

¹⁵⁶ Moreover, nothing in Section 7.9 or Attachment B prevents stakeholders from seeking changes to the CTOA through a section 206 complaint. Section 7.9 and Attachment B protect the contractual rights of the Transmission Owners and PJM, while protecting the interests of stakeholders.

1. The CTOA Amendments Memorialize the Necessary Assistance PJM Provides to the Transmission Owners in Exercising Their Cost Recovery and Rate Design Section 205 Rights.

Although the Transmission Owners have retained certain PJM Tariff section 205 filing rights with respect to cost recovery and rate design,¹⁵⁷ they are dependent on PJM as tariff administrator to assist them in exercising their responsibilities. In addition to advising the Transmission Owners on proposed cost recovery and rate design changes, the PJM staff is in a good position to know what issues exist that the Transmission Owners may need to address through tariff changes and must administer any changes in tariff cost recovery and rate design.¹⁵⁸ The addition of section 6.3.10 and the amendment to section 7.3.1 recognize that this assistance is essential and should only be withheld when PJM or the Transmission Owners have concluded that a clear conflict exists between their positions.

The CTOA also recognizes that since any PJM Tariff change filing by definition involves initiating litigation before an administrative agency, as long as the PJM's interests do not diverge for those of the collective Transmission Owners via the TOA-AC, there is a common interest that warrants protection under standard legal common interest principles. Importantly, however, the CTOA fully preserves PJM's right to be adverse to the Transmission Owners, in which case they would no longer have a common interest and would be treated accordingly. Notwithstanding sections 6.3.10 and 7.3.1, any change to the PJM Tariff proposed by the Transmission Owners may not be approved and filed with the Commission until there has been a 30-day notice of consultation with the PJM Members Committee and the proposed PJM Tariff change has been discussed and approved at an open meeting of the TOA-AC.¹⁵⁹

2. The Annual State of the Agreement Meeting Will Help PJM and the Transmission Owners Fulfill and Improve Their Performance Under the CTOA.

Inclusion of an annual "State of the Agreement" meeting,¹⁶⁰ is typical of contracts governing long-term relationships and will support PJM's and the Transmission Owners' efforts to carry out their respective responsibilities under the CTOA, including PJM's exercise of section 205 rights over the Planning Protocol. This non-decisional meeting is not with the whole PJM Board, but only with its Reliability and Security Committee – the Board members that focus on PJM's transmission responsibilities. The meeting is open to all Transmission Owners, but not to all PJM Members or stakeholders that are not PJM Members, because it could involve discussion

¹⁵⁷ PJM Tariff, § 9.1; CTOA, § 7.3.

¹⁵⁸ The PJM Board, in deciding to propose changes to Tariff Terms and Conditions, similarly relies on the advice of the expert PJM staff.

¹⁵⁹ CTOA, §§ 7.3.2, 8.4.4.

¹⁶⁰ CTOA (as amended), § 2.3.

of restricted transmission function information subject to FERC's standards of conduct¹⁶¹ or CEII information, the confidentiality of which is necessary for the protection of national security.¹⁶² However, an agenda and minutes will be published by PJM. Also, no actions can be taken or decisions made at the State of Agreement meeting. Its purpose is solely discussion and education.¹⁶³

This provision will provide a valuable opportunity for the parties to the CTOA to engage in a frank exchange of views regarding how the implementation of their agreement affects the planning and operation of the country's largest transmission system. The Transmission Owners have primary responsibility for "keeping the lights on." They are answerable to their states and their customers, whom they are obligated to serve. They have voluntarily shared certain elements of that responsibility with PJM pursuant to the CTOA. It is just and reasonable for the Transmission Owners and the Reliability and Security Committee to confer annually as to how they are carrying out their respective responsibilities and how they can do a better job.

3. The CTOA Amendments Clarify Certain PJM Responsibilities Under the CTOA.

The CTOA Amendments include changes that explicitly recognize that PJM is responsible to "[m]aintain the safe and reliable operation of the PJM Region"¹⁶⁴ Currently, section 6.3.1 only specifies that PJM should "direct" the operation of the Transmission Owners' Transmission Facilities and coordinate their maintenance. While the obligation to maintain safe and reliable operation was presumed, the growing importance of maintaining reliability warrant making this responsibility explicit.

The CTOA Amendments also revise the language of section 6.3.5 regarding PJM's responsibility to maintain its status as an RTO.¹⁶⁵ The amendments recognize that PJM is also responsible for maintaining essential functions transferred to it under the CTOA. Without this change, should Commission-modifications to RTO regulatory requirements raise doubts as to whether PJM would continue to qualify as an RTO, questions could be raised as to PJM's authority to continue to perform its functions until it came into compliance with those new regulatory requirements.¹⁶⁶ This change assures that there would be no break in service or reliability while

¹⁶¹ 18 C.F.R §§ 358.5-358.8.

¹⁶² 18 C.F.R § 388.113.

¹⁶³ *Pub. Serv. Comm'n of W. Va.*, 186 FERC ¶ 61,163 at PP 79, 85 (rejecting challenges to the exclusion of non-PJM Members from meetings of the PJM Liaison Committee with the PJM Board).

¹⁶⁴ CTOA (as amended), § 6.3.1. The amendments to this section recognize that in carrying out its responsibilities, PJM must abide by applicable laws and regulations, such as 18 CFR 35.34 (RTOs).

¹⁶⁵ *Id.*, § 6.3.5.

¹⁶⁶ *Id.*, §§ 3.5, 6.

PJM and the Transmission Owners address the provisions of the CTOA in light of the changes in regulations governing RTOs.

4. The CTOA Amendments Clarify the Status of Signatories to the CTOA in the Event of a Party's Withdrawal.

The CTOA Amendments clarify that should a Transmission Owner decide to withdraw from the CTOA, *i.e.*, withdraw its Transmission Facilities from the RTO so that it is no longer a Transmission Owner as that term is defined by the CTOA, such withdrawal will not automatically terminate its PJM membership pursuant to the Operating Agreement or the Reliability Assurance Agreement. Accordingly, such withdrawal from the CTOA, in and of itself, would have no impact on its participation in the PJM-administered markets.¹⁶⁷ This change recognizes that the CTOA is limited to the relationship of public utilities to PJM acting as Transmission Owners, but does not extend to other roles that a public utility may perform, such as the buying and selling of energy and capacity in the PJM Markets.

F. The CTOA Amendment to Protect the Rights and Commitments of PJM and the Transmission Owners Is Just and Reasonable.

1. Section 9.16.3 Protects and Stabilizes Important Transmission Planning Issues.

New section 9.16.3 of the CTOA Amendments embodies the intent of the Transmission Owners and PJM to ensure that a limited set of key provisions, the Protected Provisions, that set out their respective rights and commitments to each other¹⁶⁸ may be amended only if the Transmission Owners and PJM both consent, or if such a provision is shown to harm the public interest under the *Mobile-Sierra* application of the just and reasonable standard.¹⁶⁹ This would include the transfer to PJM of the exclusive and unilateral right to file changes to the Planning Protocol. Notably, nothing in section 9.16.3 precludes PJM from seeking a change to the CTOA under section 206.¹⁷⁰

The Protected Provisions undergird the contractual basis on which the Transmission Owners have committed to PJM control over more than \$70 billion of their assets to help preserve an affordable and reliable grid – as well as PJM's acceptance of that important responsibility. Along with relinquishing control over billions of dollars of transmission infrastructure, the Transmission Owners commit to PJM to expand their facilities as PJM directs. And PJM, along with operating the grid, takes on significant requirements as an independent public utility in its own right to keep the lights on, plan the expansion of the grid to maintain reliability and comply

¹⁶⁷ *Id.*, § 3.2.

¹⁶⁸ CTOA, Articles 2, 4, 5, 6 and 7 and Attach. B.

¹⁶⁹ CTOA (as amended), § 9.16.3.

¹⁷⁰ *Id.*, § 9.16.3.

with numerous Commission, NERC, and other requirements. Neither the Transmission Owners nor PJM can afford to take lightly their rights, their responsibilities, and obligations to each other. In short, much is at stake.

Accordingly, the provisions assigning those rights and responsibilities should receive *Mobile-Sierra* protection.¹⁷¹ Given the gravity of this undertaking, PJM and the Transmission Owners must have assurance that the Protected Provisions will not be changed over their objection unless required by the public interest.

When agreeing to a contract of such importance, such as the CTOA, sophisticated parties seek stability. *Mobile-Sierra* protection provides that stability.¹⁷² It protects PJM against the Transmission Owners attempting to unilaterally revoke authority over key issues like transmission planning and similarly protects the Transmission Owners if PJM were to seek to enlarge the commitments of the Transmission Owners beyond those made voluntarily in the CTOA. The highest level of contractual protection available under the FPA is all the more essential here because, as explained above, vesting PJM with the ability to file changes to the Planning Protocol under section 205 is vital to ensuring PJM's independence.¹⁷³ Failing to protect this transfer of rights would imperil PJM's exercise of its regional planning responsibilities.

PJM's planning decisions have already been subject to repeated court challenges, which, though unsuccessful, have added significant costs and uncertainty across the system. Weakening the protections for the contractual provisions that underlie PJM's authority, would undermine PJM's independence and effectiveness at the very time it needs to be strengthened. Appropriately, these contractual protections are limited to a discrete set of provisions addressing the commitments and rights of PJM and the Transmission Owners, respectively, including transferring the filing rights for regional planning to PJM as negotiated and agreed to by the Transmission Owners and PJM.¹⁷⁴ This limitation helps ensure that the protections provide regulatory certainty by focusing on preserving and protecting PJM's and Transmission Owners' key rights and responsibilities without imposing unnecessary limitations on future changes to other parts of the CTOA.

¹⁷¹ *United Gas Pipe Line Co. v. Mobile Gas Serv. Corp.*, 350 U.S. 332 (1956); *FPC v. Sierra Pac. Power Co.*, 350 U.S. 348 (1956) (together, "*Mobile-Sierra*").

¹⁷² *NRG Power Mktg., LLC v. Me. Pub. Utils. Comm'n*, 558 U.S. 165, 169 (2010) ("The 'venerable *Mobile-Sierra* doctrine' rests on 'the stabilizing force of contracts.'" (quoting *Morgan Stanley Cap. Grp. Inc. v. Pub. Util. Dist. No. 1 of Snohomish Cnty.*, 554 U.S. 527, 548 (2008))).

¹⁷³ See *supra*, section IV.B.2.

¹⁷⁴ CTOA (as amended), § 9.16.3 (limiting protections to Articles 2, 4, 5, 6 and 7 and Attach. B).

2. In Approving the *Atlantic City* Settlement, the Commission Determined that the Allocation of Rights and Responsibilities Between PJM and the Transmission Owners Is Entitled to *Mobile-Sierra* Protection.

In approving the *Atlantic City* Settlement, the Commission has already recognized the importance of *Mobile-Sierra* protection against “revisions to the parties’ voluntary agreement” as to the allocation of filing rights between the Transmission Owners and PJM and related provisions.¹⁷⁵ The Commission found that the parties proposed “a reasonable allocation of section 205 filing rights as between PJM and the PJM [Transmission Owners], consistent with our recognition in our prior orders.”¹⁷⁶ The allocation of rights, the Commission explained, “recognizes th[e] duality of interests by granting both PJM’s [Transmission Owners] and PJM specified filing rights.”¹⁷⁷ Further, as the Commission found, the agreement to this allocation “constitute[d] a voluntary, compromise agreement” that also ensured “the interests of market participants are protected.”¹⁷⁸

Under this reasoning, the Commission’s recognition of *Mobile-Sierra* protection to the allocation of rights and responsibilities carried forward to the relevant provisions of the CTOA that the Commission approved in 2006¹⁷⁹ and which are reflected in section 9.16.3 of the CTOA Amendments. The CTOA Amendments that address the allocation of filing rights and other rights and commitments once accepted by the Commission should similarly be subject to the same *Mobile-Sierra* protection consistent with the Commission decision to accept the *Atlantic City* Settlement.¹⁸⁰ The allocation of filing rights in the CTOA Amendments and the provisions integral to that allocation, in fact bring the CTOA further in line with the Commission’s original goal of ensuring PJM’s independent authority over transmission planning.

A finding that *Mobile-Sierra* protection does not apply to the Protected Provisions would be an illogical and injurious deviation from this prior precedent. The logic of the *Atlantic City*

¹⁷⁵ *Atlantic City Settlement Order*, 105 FERC ¶ 61,294 at P 33. The related provisions cover dispute resolution.

¹⁷⁶ *Id.* P 30.

¹⁷⁷ *Id.* P 31.

¹⁷⁸ *Id.* P 32.

¹⁷⁹ *PJM Interconnection, L.L.C.*, 114 FERC ¶ 61,283 at P 10 (finding the CTOA “largely tracks” the three cancelled TOAs).

¹⁸⁰ If the CTOA Amendments and PJM’s filing adding the Planning Protocol to the PJM Tariff are accepted by the Commission, the Planning Protocol will become a Tariff Term and Condition subject to the allocation of filing rights protected by the *Atlantic City* Settlement. However, the Planning Protocol itself is not subject to *Mobile-Sierra* protection. What is protected is PJM’s filing rights to file changes to the Planning Protocol, not the language of the Planning Protocol itself or the RTEP adopted pursuant to the Planning Protocol.

Settlement Order controls the question of *Mobile-Sierra* protection for these amendments to the CTOA just as it did for the CTOA to begin with. The Protected Provisions continue to embody a reasonable and appropriate allocation of filing rights and related provisions integral to that allocation.

3. Even Apart from the *Atlantic City Settlement Order* Precedent, the Protected Provisions Qualify for *Mobile-Sierra* Protection as a Matter of Law.

The CTOA resulted from arm's-length negotiations between and among the Transmission Owners and PJM. PJM signed the CTOA as a party "for the purpose of establishing the rights and commitments of PJM."¹⁸¹ The Operating Agreement similarly recognizes that the CTOA represents a contractual commitment between the Transmission Owners and PJM.¹⁸² In entering into the CTOA and in agreeing to the CTOA Amendments, PJM negotiated at arms-length, as a sophisticated and experienced counterparty with great expertise in transmission system operations, exercising its independent judgment regarding what it needed to carry out its responsibilities. This is confirmed by several provisions of the CTOA Amendments, which make clear that the independent PJM Board and the Office of the Interconnection, acting under the supervision of the PJM Board, are the CTOA counterparties to the Transmission Owners.¹⁸³ Further, under the Operating Agreement, PJM is to act in accordance with "the principle that a Member or group of Members shall not have undue influence."¹⁸⁴ This principle applies, of course, to PJM Members that are Transmission Owners.

Even apart from the *Atlantic City* precedent, the Protected Provisions should nonetheless be accorded *Mobile-Sierra* protection under well-established principles. *Mobile-Sierra* protects contract provisions resulting from arm's-length negotiations.¹⁸⁵ These provisions fall squarely within that category. First, they are individualized terms uniquely crafted to PJM in a unique contract that required PJM's agreement to amend.¹⁸⁶ They constitute an exercise of individual Transmission Owner's solely held rights and the decision to assign certain of those rights to PJM under the terms negotiated with PJM.¹⁸⁷ They are not take-it-or-leave-it terms set "unilaterally by

¹⁸¹ CTOA, Preamble.

¹⁸² Operating Agreement, § 3.3(d) ("As a party to the Consolidated Transmission Owners Agreement, [PJM] has acquired the right to use the transmission capacity of the transmission system that is required to provide service under the PJM Tariff and the authorization to resell transmission service using such capacity on the transmission system.")

¹⁸³ CTOA (as amended), § 2.2.

¹⁸⁴ Operating Agreement, § 7.7(i).

¹⁸⁵ *Morgan Stanley Cap. Grp. Inc.*, 554 U.S. at 554; *NRG Power Mktg., LLC*, 558 U.S. at 174-75.

¹⁸⁶ *See supra*, pp. 1-2.

¹⁸⁷ *Pub. Util. Dist. No. 1 of Snohomish Cnty., Wa. v. FERC*, 272 F.3d 607, 614-16 (D.C. Cir. 2001); *Atlantic City I*, 295 F.3d at 10-11.

tariff” and generally applicable to a broad set of customers.¹⁸⁸ They are bilaterally negotiated individualized terms between PJM and the Transmission Owners alone.

Second, the provisions result from arm’s-length negotiations between the Transmission Owners and PJM, acting independently.¹⁸⁹ As explained above, PJM operates independently of its Members, and the final submission of the CTOA Amendments was subject to a PJM Board vote after careful inquiry and consideration.¹⁹⁰ The CTOA Amendments were also subject to a TOA-AC vote.¹⁹¹ Each Transmission Owner made an individual, independent decision to join PJM and enter into the CTOA.¹⁹² Conversely, the Protected Provisions do not embody coordinated action based on a common, non-adversarial interest to exclude competitors.¹⁹³ PJM acted in its own interest consistent with its obligations as an RTO to maintain reliability and plan transmission expansion in the PJM Region in negotiating the terms governing its acceptance of its rights and responsibilities.

The *Mobile-Sierra* protection here is also reasonably limited. It is nondiscriminatory and non-exclusionary. It does not affect Transmission Owner membership or change non-incumbent RTEP designations.¹⁹⁴ Both would remain open in the same manner they are currently (before the

¹⁸⁸ *Morgan Stanley Cap. Grp. Inc.*, 554 U.S. at 556.

¹⁸⁹ *See NRG Power Mktg., LLC*, 558 U.S. at 174-75.

¹⁹⁰ The PJM Board received numerous communications from stakeholders, including the Organization of PJM States. These communications can be found at <https://www.pjm.com/about-pjm/who-we-are/pjm-board/public-disclosures> (last visited June 20, 2024). In addition, most PJM Board members were present when the CTOA Amendments were discussed during open meetings of the Members Committee, TOA-AC and the Public Interest and Environmental Organization User Group during PJM’s annual meeting, May 6-8, 2024. *See PJM, 2024 PJM Annual Meeting Agenda*, May 6-8, 2024, <https://www.pjm.com/-/media/pjm-annualmeeting/postings/2024/2024-annual-meeting-agenda.ashx> (last visited June 20, 2024).

¹⁹¹ Because of the nature of the Transmission Owner commitments which must be consistent and uniform, the Transmission Owners by necessity negotiate with PJM collectively reaching agreement, on their part, through the approved voting provisions of the CTOA. CTOA, § 8.5. This fact does not render the commitments between the Transmission Owners and PJM any less an arm-length bilateral agreement within the meaning of *Mobile-Sierra*. The Commission itself urged the Transmission Owners to consolidate what at the time were three separate transmission owners’ agreements. *PJM Interconnection, L.L.C.*, 109 FERC ¶ 61,012 at P 63 (“[W]e are not convinced that separate agreements . . . are either necessary or appropriate. Specifically, we are concerned that the proliferation of these agreements (now and in the future) could result in confusion and/or an inefficient use of resources on the part of both the market participants and the Commission, as the interplay between these agreements may become an issue in a given case.”).

¹⁹² *Atlantic City I*, 295 F.3d at 11-13; CTOA, § 3.2.

¹⁹³ *PJM Interconnection, L.L.C.*, 142 FERC ¶ 61,214 at PP 186-190 (2013), *subsequent history omitted*; *see infra*, section IV.F.4.

¹⁹⁴ CTOA (as amended), §§ 3.1, 3.1.1, 4.2.1, 6.3.3(iv).

CTOA Amendments). The *Mobile-Sierra* protection also does not affect important, preexisting third-party rights. For example, nonparties and parties retain statutory rights under the FPA to challenge the CTOA under section 206 as unjust and unreasonable under *Mobile-Sierra*.¹⁹⁵ The Commission retains its authority to regulate RTOs/ISOs, and the Transmission Owners and PJM will remain able to implement that regulation.¹⁹⁶

4. *Mobile-Sierra* Protection Is Consistent with Prior PJM Orders.

The requested *Mobile-Sierra* protection is consistent with the Commission's decisions approving PJM and the Transmission Owners' compliance with Order No. 1000.¹⁹⁷ In those decisions, the Commission addressed filings from PJM and the Transmission Owners on transmission planning and cost allocation. The Commission also confronted the question of whether the *Mobile-Sierra* protection applied – but limited its analysis to rights of first refusal (“ROFR”) provisions in the CTOA.¹⁹⁸ In that context, the Commission explained, the “CTOA cannot be classified in its entirety as containing contract rates or tariff rates.”¹⁹⁹ Accordingly, while the ROFR provisions “lack[ed] the characteristics that justify the *Mobile-Sierra* presumption,” the Commission recognized that “provisions of the CTOA not at issue in [that] proceeding may have those characteristics.”²⁰⁰

The Commission found that the ROFR provisions raised competition concerns and therefore were not entitled to *Mobile-Sierra* protection and its analysis turned on concerns about anticompetitive conduct. For example, the Commission found that the ROFR provisions were provisions of general applicability because they applied to and restricted potential competitors.²⁰¹ The Commission found that provisions resulted not from arms'-length bargaining but from common interests in protection from competition.²⁰² While the Transmission Owners disagreed with that characterization of ROFR provisions, the Commission's findings on those provisions do

¹⁹⁵ *Morgan Stanley Cap. Grp. Inc.*, 554 U.S. at 554; *NRG Power Mktg., LLC*, 558 U.S. at 174-75.

¹⁹⁶ See, e.g., *PJM Interconnection, L.L.C.*, Amendments to the PJM Consol. Trans. Owners Agreement for Implementation of Order No. 881, Transmittal Letter, Docket No. ER23-2964-000 (filed Sept. 29, 2023) (submitting revisions to the CTOA addressing *Managing Transmission Line Ratings*, Order No. 881, 177 FERC ¶ 61,179 (2021), *subsequent history omitted*).

¹⁹⁷ *PJM Interconnection, L.L.C.*, 142 FERC ¶ 61,214 at P 30. See also *Transmission Planning & Cost Allocation by Transmission Owning & Operating Pub. Utils.*, Order No. 1000, FERC Stats. & Regs. ¶ 31,323 (2011), *subsequent history omitted*.

¹⁹⁸ *PJM Interconnection, L.L.C.*, 142 FERC ¶ 61,214 at P 185.

¹⁹⁹ *Id.* (emphasis added).

²⁰⁰ *Id.*

²⁰¹ *Id.* P 186.

²⁰² *Id.* P 189.

not, in any event, apply to the provisions related to the assignment of filing rights over transmission planning and the other assignments of rights and commitments in the CTOA Amendments.

To the extent, however, that the Commission may believe that the protection requested here diverges from its ROFR holdings, or dicta in the compliance orders, the Commission should forthrightly acknowledge that the issue presented by the instant filing is very different and that an analysis of the relevant CTOA provisions supports *Mobile-Sierra* protection here.

5. The Commission Should in Any Event Exercise Its Discretion to Find *Mobile-Sierra* Protection if It Finds It Is Not Required to Do So by Precedent.

Whether or not the Protected Provisions receive *Mobile-Sierra* protection as a matter of law, the Commission has discretion to apply that standard.²⁰³ The Commission, if it chooses, need not address the question of applicability as a matter of law if it applies the protection as an exercise of its discretion.

The Commission has broadly stated that it can opt to apply *Mobile-Sierra* protection “if considerations relevant to what is ‘just and reasonable’ make that approach appropriate,” and that such an exercise of discretion “is grounded solidly in public policy, as well as law.”²⁰⁴ *Mobile-Sierra* protection is appropriate here, especially considering public policy implications. In *Devon Power LLC*, the Commission exercised its discretion to apply *Mobile-Sierra* to the settlement agreement establishing ISO-NE’s forward capacity market and a transition mechanism.²⁰⁵ The Commission explained that stability was important in that context because “the forward-looking nature of the Forward Capacity Market will provide appropriate signals to investors when new infrastructure resources are necessary with sufficient lead time to allow that infrastructure to be put into place before reliability is sacrificed.”²⁰⁶ This reason applies equally to the proposed changes here. Finding that *Mobile-Sierra* protection should apply to the Protected Provisions will have an impact on the transmission investment which is just as essential to system reliability and often more costly. Such protection will not only also secure PJM’s ability to engage in long-term planning to meet the critical challenges it faces, it will also instill confidence in those that must build, interconnect with and rely on the PJM Transmission System, creating a favorable climate for the increased investment that will be necessary to meet those challenges. As in *Devon Power LLC*, the need for stability warrants protection of the PJM’s and the Transmission Owners’ right and commitments, including PJM’s section 205 rights to file changes to the Planning Protocol.

²⁰³ *ISO New England Inc.*, 143 FERC ¶ 61,150, at P 163 (2013).

²⁰⁴ *Devon Power LLC*, 134 FERC ¶ 61,208, at PP 16, 23 (2011), *aff’d sub nom. New England Power Generators Ass’n v. FERC*, 707 F.3d 364 (D.C. Cir. 2013).

²⁰⁵ 137 FERC ¶ 61,073, at PP 9, 38 (2011).

²⁰⁶ *Id.* PP 33, 37-38.

As to public policy considerations, the Commission should also exercise its discretion in favor of *Mobile-Sierra* protection because that best reflects Congress' and the Commission's objective of promoting RTO membership²⁰⁷ and the Commission's objective of reforming long-term regional transmission planning.²⁰⁸ Providing *Mobile-Sierra* protection to the Protected Provisions – and the attendant contractual stability – could encourage RTO membership and with it, consumer and reliability benefits.²⁰⁹ This is especially true given that the CTOA reflects the agreement by which the Transmission Owners transfer to PJM control of billions of dollars of assets in exchange for that non-affiliated entity's commitment in relevant part to meet the Transmission Owners' obligation to maintain reliability.²¹⁰ Transferring control of such a large portion of an enterprise's capital assets to a non-affiliated entity is atypical, and the provisions governing that transfer must therefore be preserved absent a change necessary to preserve the public interest.²¹¹

The reasons, set out above, that the protected provisions qualify for *Mobile-Sierra* as a matter of law also each support the Commission exercising its discretion to apply *Mobile-Sierra*. For instance, as noted above,²¹² PJM has engaged in the negotiation of these provisions with the Transmission Owners as a sophisticated counterparty with great expertise in transmission system operations, and its decision to agree to the balance of rights and responsibilities in these provisions supports their protection. Indeed, these provisions work to enhance PJM independence – promoting just and reasonable long-term planning of needed regional transmission.

²⁰⁷ FPA Section 219(c), 16 U.S.C. § 824s(c) (requiring Commission to issue rule incentivizing transmission organization membership); *see, e.g., Reg'l Tran. Orgs.*, Order No. 2000, FERC Stats. & Regs. ¶ 31,089 (1999), *subsequent history omitted*.

²⁰⁸ *See* Order No. 1920 at PP 85-89.

²⁰⁹ *See Devon Power LLC*, 137 FERC ¶ 61,073 at P 37.

²¹⁰ *PJM Interconnection, L.L.C.*, Notice of Cancellation of Trans. Owners Agreement, Docket No. ER06-487-000, at 4-5 (filed Jan. 17, 2006) ("PJM's rights and commitments provided in the [CTOA] are in consideration of the Parties' commitments to PJM.").

²¹¹ No corporation responsible to its shareholders, state regulators, and its customers to ensure safe, adequate and proper service would turn over a major portion of its assets to an independent entity to operate or commit to spend billions of dollars to expand those assets if so directed by that entity without strong contractual protections. And no organization charged with the weighty responsibilities of operating and maintaining the reliability of society's most critical infrastructure, as is PJM, would commit itself to do so without the same strong contractual protections from the entities providing that infrastructure.

²¹² *See supra*, section IV.F.3.

G. The CTOA Amendments Propose No Material Change in PJM’s Planning Responsibility, Its Authority to Include Proposed Transmission Projects in the RTEP or Cost Allocation.

The CTOA Amendments propose no changes to the substantive provisions of the Planning Protocol. To ensure planning continuity in case the CTOA Amendments are accepted earlier than the proposed Tariff, Schedule 19, the CTOA Amendments include section 9.23 to require unbroken and uninterrupted planning in accordance with the Operating Agreement until the conforming Tariff provisions are accepted by the Commission. Only after that occurs will PJM be able to propose changes in the Planning Protocol under section 205.

While the *Atlantic City* Settlement and the CTOA Amendments would provide *Mobile-Sierra* protection to the provision to PJM of section 205 filing rights to propose changes the Planning Protocol, the Planning Protocol or any RTEP adopted pursuant to the Planning Protocol would receive no such protection. Interested persons, including state regulators, PJM Members and developers of transmission or generation seeking to require a change to the Planning Protocol would be required to meet the standard section 206 burdens,²¹³ not the heightened public interest burden under *Mobile-Sierra*.

The CTOA Amendments have no effect on PJM’s ability to designate non-incumbent transmission developers to construct, own or finance RTEP Projects. While non-incumbent developers will become CTOA Designated Parties once they are designated in the RTEP,²¹⁴ PJM’s authority to designate non-incumbent developers and the process by which it does so²¹⁵ are not affected.²¹⁶

Nothing in the CTOA Amendments, or the provisions of the CTOA that are not being revised, changes PJM’s ability to order the construction of an RTEP project where it may overlap with a Transmission Owner-proposed Supplemental Project or Asset Management Project. There is no language in the CTOA Amendments that could be construed as providing a Transmission Owner with a “veto” over a project PJM identifies as necessary to address a reliability violation or an economic need, and assertions otherwise are wrong. The Transmission Owners cannot stop a RTEP-designated project or replace it with a Supplemental Project or Asset Management Project.

The proposed addition of the word, “replace” to CTOA, section 5.2 does not expand the Transmission Owners’ ability to replace their aging Transmission Facilities. This language reflects

²¹³ See, e.g., *Verso Corp. v. FERC*, 898 F.3d 1, 8 (D.C. Cir. 2018); *Pub. Serv. Elec. & Gas Co. v. FERC*, 989 F.3d 10, 13 (D.C. Cir. 2021).

²¹⁴ CTOA (as amended), §§ 3.1, 3.1.1.

²¹⁵ Operating Agreement, Sched. 6, § 1.5.8.

²¹⁶ The delegation to PJM to designate non-incumbents to construct RTEP Projects is confirmed by proposed section 6.3.3(iv).

the decision of the D.C. Circuit in the recent litigation over the Attachment M-3 and the competing stakeholder proposal.²¹⁷ Transmission Owners must continue to comply with the Attachment M-3 stakeholder process and the specific procedures governing end-of-life planning, including PJM's ability to determine if a Planning Protocol need and a Transmission Owner replacement need can be addressed by a single more efficient or cost effective project.²¹⁸ The Commission's acceptance of the Attachment M-3 amendments and the D.C. Circuit's affirmance of that decision, also affirmed the process the Transmission Owners must comply with to plan replacement facilities.

Nothing in the CTOA Amendments conflicts with or is otherwise inconsistent with Order No. 1920. In fact, giving PJM section 205 filing rights over the Planning Protocol will facilitate its compliance with Order No. 1920's various requirements for the consideration and selection of long-term regional transmission projects. Order No. 1920 also imposes compliance obligations on the Transmission Owners regarding transmission cost allocation and local planning, responsibilities they retain under the *Atlantic City Settlement* and existing provisions of the CTOA. However, the Commission specifically recognized that Order No. 1920 does not propose any change to transmission owner retained rights under the FPA.²¹⁹

Nothing in the CTOA Amendments will affect the existing methods of allocating the costs of RTEP Projects. The three categories of projects under Order No. 1000 planning, with their separate methods of allocating cost responsibility, including the State Agreement Approach,²²⁰ are not affected by the CTOA Amendments. While the procedures for planning these projects will be set forth in the PJM Tariff, any proposal to change those procedures will be subject to PJM's stakeholder process. Finally, contrary to assertions, the CTOA Amendments give the Transmission Owners no greater power to propose changes in the Planning Protocol than they have today. In fact, the Transmission Owners, like all other stakeholders, will have less power over the Planning Protocol, since they will no longer be able to vote to prevent PJM from filing Planning Protocol changes under FPA section 205. PJM will have the "exclusive and unilateral" right to file changes in the Planning Protocol under section 205 since the Planning Protocol will become a Tariff Term and Condition.

The CTOA Amendments are a carefully negotiated integrated, package of reforms that address the collective experience of PJM and the Transmission Owners under the existing CTOA and its predecessor agreements for more than a quarter century. As in all complex negotiated agreements, both PJM and the Transmission Owners made compromises, but concluded that the overall balance of the negotiated provisions achieved a valuable result. Accordingly, individual provisions are not severable without upsetting that balance and requiring the parties to reevaluate the overall value of the proposed amendments.

²¹⁷ *Am. Mun. Power, Inc.*, 86 F.4th at 932.

²¹⁸ PJM Tariff, Attach. M-3, §§ (c), (d)(1), (d)(2).

²¹⁹ Order No. 1920 at P 1363 (citation omitted).

²²⁰ See Operating Agreement. Sched. 6, § 1.5.9; PJM Tariff, Sched. 12, § (b)(xii)(B).

V. EFFECTIVE DATE AND REQUEST

The Transmission Owners request that the Commission accept the CTOA Amendments for filing without hearing, modification, or condition effective September 20, 2024.²²¹ Contemporaneously with this filing PJM is filing, pursuant to section 205 of the FPA, proposed amendments to the PJM Tariff, including several provisions approved by the TOA-AC, which would implement new sections 4.1.4(a)(i), 6.3.3(i), 6.3.3(ii) and 6.3.4(a)(i) and, pursuant to section 206 of the FPA, a complaint seeking conforming amendments to the Operating Agreement to remove provisions rendered duplicative or unnecessary by the PJM Tariff amendments. The PJM Filings are being submitted with the mutual understanding that they reflect the parties' agreement to the CTOA Amendments as a whole, and without acceptance of those amendments that include the Transmission Owners' agreement to grant PJM with Tariff filing rights, PJM does not have the legal authority to effectuate the changes contained in the PJM Filings. As discussed herein, the CTOA Amendments, in part, would transfer to PJM the responsibility to prepare the RTEP pursuant to the PJM Tariff instead of the Operating Agreement. Accordingly, Commission acceptance of the CTOA Amendments is a pre-requisite to PJM's authority and responsibility to prepare the RTEP pursuant to the PJM Tariff.

VI. CORRESPONDENCE AND COMMUNICATIONS

Correspondence and communications with respect to this filing should be sent to the following individuals:

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²²¹ The requested effective date is at least sixty (60) days from the date of this filing. *See* 16 U.S.C. § 824d(d); 18 C.F.R. § 35.3.

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Corporation on behalf of the PJM
Transmission Owners*

VII. ADDITIONAL INFORMATION REQUIRED BY REGULATION 35.13(B)

A. Documents Submitted with this Filing.

Along with this transmittal letter, the Transmission Owners submit the following exhibits with this filing:

1. Exhibit A – CTOA (marked CTOA reflecting the CTOA Amendments proposed herein)²²²
2. Exhibit B – CTOA (clean)²²³
3. Exhibit C – Declaration of Pulin Shah
4. Exhibit D – Table of Proposed Amendments to the Consolidated Transmission Owners Agreement

²²² Exhibits A and B include the currently effective version of section 4.11. The revisions to section 4.11 that the Commission has accepted are not yet effective. *E. Ky. Power Coop., Inc.*, Letter Order, Docket No. ER23-2964-000 (issued Nov. 22, 2023).

²²³ The portions of Exhibits A and B of this filing that contain CTOA, Attachment A reflect the most recently accepted and effective language from Docket Nos. ER24-1621-000 accepted effective May 26, 2024 and ER24-1996-000 accepted effective July 10, 2024, and are being filed in clean format, since the Transmission Owners are not proposing any new revisions to CTOA, Attachment A in this filing.

B. Service

On behalf of the Transmission Owners, PJM has served a copy of this filing on all Members and on all state utility regulatory commissions in the PJM Region by posting this filing electronically. In accordance with the Commission's regulations,²²⁴ PJM will post a copy of this filing to the FERC filings section of its internet site, located at the following link: <https://www.pjm.com/library/filing-order>, with a specific link to the newly-filed document, and will send an email on the same date as this filing to all PJM Members and all state utility regulatory commissions in the PJM Region,²²⁵ alerting them that this filing has been made by PJM and is available by following such link. If the document is not immediately available by using the referenced link, the document will be available through the referenced link within 24 hours of the filing. Also, a copy of this filing will be available on the Commission's eLibrary website located at the following link: <http://www.ferc.gov/docs-filing/elibrary.asp>, in accordance with the Commission's regulations and Order No. 714.

C. Description of and Reason for Rate Change

A detailed description of the rate change is included in section IV, above.

D. Agreement Required for Rate Change

The CTOA Amendments have been authorized pursuant to a vote of the TOA-AC pursuant to CTOA § 8.5.1. In addition, PJM has agreed to the changes to Articles 2, 4, 5, 6, and 7 and Attachment B and any definitions relevant to those sections.²²⁶

E. Request for Waivers

The information submitted with this filing substantially complies with the requirements of Part 35 of the Commission's rules and regulations applicable to filings of this type. To the extent necessary, the Transmission Owners request waiver of the requirement to submit the cost-of-service data required by 18 C.F.R. § 35.13. Further, the Transmission Owners request a waiver of any applicable requirement of Part 35 for which a waiver is not specifically requested, if necessary, in order to permit this filing to become effective as proposed.

²²⁴ 18 C.F.R. §§ 35.2(e), 385.2010(f)(3).

²²⁵ PJM already maintains, updates, and regularly uses e-mail lists for all PJM Members and affected state commissions.

²²⁶ See *supra*, pp. 1-2.

Debbie-Anne A. Reese, Acting Secretary

June 21, 2024

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VIII. CONCLUSION

The Transmission Owners request that the Commission accept the CTOA Amendments for filing without hearing, modification, or condition effective September 20, 2024.

Respectfully submitted,

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*Counsel for PPL Electric Utilities Corporation
on behalf of the PJM Transmission Owners*

June 21, 2024

²²⁷ Admitted to the DC Bar under DC App. R. 46-A (Emergency Examination Waiver) and practice is supervised by one or more DC Bar members.

Exhibit A
Redlined CTOA

CONSOLIDATED TRANSMISSION OWNERS AGREEMENT
RATE SCHEDULE FERC No. 42

CONSOLIDATED TRANSMISSION OWNERS AGREEMENT

This CONSOLIDATED TRANSMISSION OWNERS AGREEMENT (“Agreement”) dated as of the 15th day of December 2005, is made by and among the Transmission Owners (hereinafter referred to collectively as “Parties” and individually as a “Party”). In addition, this Agreement is made by and between the Parties and PJM Interconnection, L.L.C. (hereinafter referred to as “PJM”) solely for the purpose of establishing the respective rights and commitments of the Parties and PJM identified herein.

WITNESSETH:

WHEREAS, each Party, in the exercise of its rights under the Federal Power Act, 16 U.S.C § 824 et seq., voluntarily and independently enters into this Agreement;

WHEREAS, on the date of initial execution of this Agreement, all then existing Parties had, pursuant to three separate Transmission Owner(s) agreements, previously agreed to transfer functional control of their Transmission Facilities to PJM;

WHEREAS, the Parties, acting pursuant to the three separate Transmission Owner(s) agreements, have agreed to consolidate the three separate Transmission Owner(s) agreements into this Agreement for the purposes established herein; and

WHEREAS, PJM’s rights and commitments provided herein are in consideration of the Parties’ commitments to PJM as set forth herein.

NOW THEREFORE, in consideration of the foregoing and the mutual covenants and promises made herein, the Parties and PJM agree as follows:

ARTICLE 1 – DEFINITIONS

Unless the context otherwise specifies or requires, capitalized terms used herein shall have the respective meanings assigned herein for all purposes of this Agreement (such definitions to be equally applicable to both the singular and the plural forms of the terms defined). Unless otherwise specified, all references herein to Articles or Sections are to Articles or Sections of this Agreement. As used in this Agreement:

~~1.1~~ Administrative Committee

Administrative Committee shall mean that committee, consisting of representatives of each Party to this Agreement, established pursuant to Article 8 of this Agreement.

~~1.2~~ Affiliate or Affiliation

Affiliate or Affiliation shall mean any two or more entities, one of which Controls the other or that are under common Control.

~~1.3~~ Agreement

Agreement shall mean this ~~Amended and Restated~~Consolidated Transmission Owners Agreement, as it may be amended from time to time.

~~1.4~~ Applicable Regional Reliability Council

Applicable Regional Reliability Council shall mean the reliability council under Section 202 of the Federal Power Act, the rules and procedures of which, pursuant to written agreement, each Party has agreed to be bound, or the regional entity under Section 215(e)(4) of the Federal Power Act, the rules and procedures of which, pursuant to an order of the FERC, a Party is required to follow.

~~1.4A~~ Attachment H

Attachment H shall refer collectively to the Attachments to the PJM Tariff with the prefix “H-“ that set forth, among other things, the Annual Transmission Rates for Network Integration Transmission Service in the PJM Zones.

1.5 Control

Control shall mean the possession, directly or indirectly, of the power to direct the management or policies of any entity. Ownership of publicly-traded equity securities of another entity shall not result in Control or Affiliation for purposes of this Agreement if: (i) the securities are held as an investment, (ii) the holder owns (in its name or via intermediaries) less than ten (10) percent of the outstanding securities or the entity, (iii) the holder does not have representation on the entity's board of directors (or equivalent managing entity) or vice versa, and (iv) the holder does not in fact exercise influence over day-to-day management decisions. Unless the contrary is demonstrated to the satisfaction of the Administrative Committee, Control shall be presumed to arise from the ownership of or the power to vote, directly or indirectly, ten (10) percent or more of the voting securities of such entity.

1.6 Control Area

Control Area shall mean an electric power system or combination of electric power systems bounded by interconnection metering and telemetry to which a common automatic generation control scheme is applied in order to: (i) match, at all times, the power output of the generators within the electric power system(s) and energy purchased from entities outside the electric power system(s), with the load within the electric power system(s); (ii) maintain scheduled interchange with other Control Areas, within the limits of Good Utility Practice; (iii) maintain the frequency of the electric power system(s) within reasonable limits in accordance with Good Utility Practice and the criteria of NERC and the Applicable Regional Reliability Council of NERC; (iv) maintain power flows on transmission facilities within appropriate limits to preserve reliability; and (v) provide sufficient generating capacity to maintain operating reserves in accordance with Good Utility Practice.

1.7 CTOA Designated Party

CTOA Designated Party shall mean an entity that is not a Party to this Agreement that has been designated to construct and own or finance enhancements or expansions applicable to the PJM Region specified in the Regional Transmission Expansion Plan.

Effective Date

Effective Date shall mean such date that FERC permits this Agreement to go into effect.

1.8 Electric Distributor

~~Electric Distributor shall mean an entity that owns or leases with rights equivalent to ownership electric distribution facilities that are used to provide electric distribution service to electric load within the PJM Region.~~

1.9 FERC

FERC shall mean the Federal Energy Regulatory Commission, or any successor federal agency or commission exercising jurisdiction over this Agreement.

~~1.10~~ Good Utility Practice

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

~~1.11~~ Individual Vote

Individual Vote shall mean the single vote accorded to each Party that is not in default and is otherwise authorized to vote in accordance with the terms of this Agreement; provided, however, that Parties that are Affiliates shall have a single Individual Vote; and further provided, however, that two or more Parties that are not Affiliates shall have a single Individual Vote if neither such Party owns Transmission Facilities subject to this Agreement other than Transmission Facilities which such Parties own jointly.

~~1.12~~ Interconnection Customer

Interconnection Customer shall have the meaning defined in the PJM Tariff.

~~1.13~~ Joint Transmission Rate

Joint Transmission Rate shall mean a transmission rate that applies to: (i) all ~~Transmission~~PJM Zones collectively; (ii) transactions that enter or exit the PJM Region; or (iii) one or more ~~Transmission~~PJM Zones other than the PJM Zone(s) of the Transmission Owner(s) filing such rate.

~~1.14~~ NERC

NERC shall mean the North American Electric Reliability Council or any successor thereto, including the Electric Reliability Organization certified by FERC pursuant to Section 215(c) of the Federal Power Act.

~~1.14A~~ Neutral Party

Neutral Party shall have the meaning defined in the PJM Tariff.

Office of the Interconnection

Office of the Interconnection shall mean the employees and agents of PJM Interconnection, L.L.C. subject to the supervision and oversight of the PJM Board.

~~1.15~~ Open Access Same-Time Information System (OASIS)

Open Access Same-Time Information System (OASIS) shall have the meaning defined in the PJM Tariff.

~~1.16~~ Operating Agreement

Operating Agreement shall mean that certain ~~agreement,~~ Amended and Restated Operating Agreement of PJM Interconnection, L.L.C., dated April 1, 1997 and as amended and restated June 2, 1997, including all Schedules, Exhibits, Appendices, addenda or supplements thereto, and as amended from time to time thereafter, among the members of PJM—, on file with FERC.

PJM

For purposes of this Agreement, PJM shall mean PJM Interconnection, L.L.C., including the Office of the Interconnection as defined herein.

PJM Board

PJM Board shall mean the Board of Managers of PJM Interconnection, L.L.C.

~~1.17~~ PJM Region

PJM Region shall ~~have the meaning defined mean the aggregate of the PJM Zones within PJM as set forth~~ in the PJM Tariff—, Attachment J.

~~1.18~~ PJM Regional Rate Design

PJM Regional Rate Design shall mean a Rate Design that applies, in accordance with its terms, to all PJM Zones in the PJM Region.

~~1.19~~ PJM Manuals

PJM Manuals shall have the meaning defined in the PJM Tariff.

~~1.20~~ PJM Open Access Transmission Tariff or PJM Tariff

PJM Open Access Transmission Tariff or PJM Tariff shall mean ~~the tariff for transmission service within the that certain PJM Region, as in effect from time to time~~ Open Access Transmission Tariff, including any schedules, appendices, or exhibits attached thereto—, on file with FERC and as amended from time to time thereafter.

PJM Zone

A PJM Zone shall mean a transmission zone as shown in PJM Tariff, Attachment J.

1.21 Rate Design

Rate Design shall mean the design of the rates to recover a Transmission Owner's revenue requirement with respect to its Transmission Facilities or other amounts as authorized by FERC, including without limitation applicable incentives and a reasonable return.

1.22 Regional Transmission Expansion Plan

Regional Transmission Expansion Plan shall ~~have mean the meaning defined in the PJM Tariff. plan prepared by the Office of the Interconnection pursuant to the~~ Regional Transmission Expansion Planning Protocol for the enhancement and expansion of the Transmission Facilities comprising the Transmission System in order to meet the demands for firm transmission service in the PJM Region.

1.23 ~~Regional Transmission Expansion Planning Protocol~~

Regional Transmission Expansion Planning Protocol shall mean PJM Tariff, Schedule 6 of the Operating Agreement ~~19~~, or any successor thereto.

1.24 Required Transmission Enhancements

Required Transmission Enhancements shall have the meaning defined in the PJM Tariff.

1.25 Regional Transmission Organization (RTO)

Regional Transmission Organization (RTO) shall mean an organization in effect during the term of this Agreement and approved by FERC as an RTO ~~—, as that term is defined in the applicable FERC regulations.~~

1.26 Transmission Customer

Transmission Customer shall have the meaning defined in the PJM Tariff.

1.27 Transmission Facilities

Transmission Facilities shall mean those facilities that: (i) are within the PJM Region; (ii) meet the definition of transmission facilities pursuant to FERC's Uniform System of Accounts or have been classified as transmission facilities in a ruling by FERC addressing such facilities; and (iii) have been demonstrated to the satisfaction of PJM to be integrated with the Transmission System of the PJM Region and integrated into the planning and operation of ~~such the PJM Region~~ to serve the power and transmission customers within such region, regardless of whether the facilities are ~~listed in the PJM Designated Facilities List contained in the PJM Manual of Transmission Operations or successor thereto. included in the transmission facilities list maintained by PJM.~~

1.28 Transmission Owners

Transmission Owners shall mean those entities that own or lease (with rights equivalent to ownership) Transmission Facilities. For purposes of this Agreement only, a Transmission Owner who is a generation and transmission cooperative (in addition to being the Transmission Owner for its own Transmission Facilities) shall also be the Transmission Owner for the Transmission Facilities of its cooperative members, with all rights and obligations specified under this agreement with regard to such Transmission Facilities, provided, however, that (a) it has been affirmatively granted in writing binding authority by such cooperative members to assume such rights and obligations, (b) that it affirmatively represents and warrants in writing to the other Parties and PJM that it has authority to act for and on behalf of such members, and (c) that any such cooperative member shall not be a Transmission Owner. ~~The Transmission Owners are listed in Attachment A.~~

1.29 Transmission Planned Outage

Transmission Planned Outage shall mean any transmission outage scheduled in advance for a pre-determined duration and which meets the notification requirements for such outages specified in the ~~Operating Agreement or the~~ PJM Manuals.

1.30 Transmission System

Transmission System shall ~~have mean~~ the ~~meaning given~~ Transmission Facilities of the Parties in the PJM ~~Tariff~~ Region.

1.31 Weighted Votes

Weighted Votes shall mean the number of votes accorded to each Party, which shall be equal to the net book value, as determined in accordance with FERC's Uniform System of Accounts, of each Party's Transmission Facilities (expressed in dollars and divided by one million (1,000,000)), as determined on April 1 of each year on the basis of the net book value as of the prior December 31; provided, however, the Weighted Votes of all Parties shall be adjusted in a proportional manner as agreed to by the Administrative Committee so that no Party (together with its Affiliates) shall have more than twenty-four and nine-tenths percent (24.9%) of the sum of the Weighted Votes. The net book value of each Party's Transmission Facilities shall be determined based on current data filed with FERC in Form No. 1 or 1F or any successor thereto, unless a Party does not file a Form 1 or 1F in which case, the net book value of a Party's Transmission Facilities shall be determined based on a certification from the Party's independent auditor submitted to the Administrative Committee by April 1 of each year under oath by an officer of such Party without any claim of confidentiality. Such certification shall state specific values for electric transmission plant in service, accumulated depreciation, and the net book value of Transmission Facilities.

~~1.32~~ Zero Revenue Requirement Party

Zero Revenue Requirement Party means a Party that is a Transmission Owner solely by virtue of Transmission Facilities used to provide transmission services within the PJM Region under the PJM Tariff for which it does not have a cost-of-service rate for such services set forth in PJM Tariff, Schedules 7 and 8 and PJM Tariff, Attachment H-~~of the PJM Tariff~~.

~~1.33~~ Zone

~~Zone shall have the meaning defined in the PJM Tariff.~~

ARTICLE 2 – PURPOSES AND OBJECTIVES OF THIS AGREEMENT

2.1 Purposes and Objectives

The Parties have entered into this Agreement to: (i) facilitate the coordination of planning and operation of their respective Transmission Facilities within the PJM Region; (ii) transfer certain planning and operating responsibilities to PJM; (iii) provide for regional transmission service pursuant to the PJM Tariff and subject to administration by PJM; and (iv) establish certain rights and obligations that will apply exclusively to the Parties and PJM.

2.2 Exercise of PJM's Responsibilities and Commitments

PJM's responsibilities and commitments under this Agreement shall be exercised exclusively and unilaterally by the PJM Board or by the PJM Office of the Interconnection subject to the supervision and oversight of the PJM Board, in the same manner as it acts to file to make changes in or relating to the terms and conditions of the PJM Tariff.

2.3 Annual Meeting to Discuss the State of the Agreement

The Administrative Committee and the Reliability and Security Committee of the PJM Board or such other relevant committee or members of the PJM Board as the PJM Board designates shall meet annually to discuss the state of the Agreement in achieving the purposes and objectives thereof. Such meeting shall be closed to persons or entities other than personnel of the Parties and PJM as provided in Section 8.4.4. Notice of and the agenda for such meeting shall be distributed to the Parties and PJM not later than ten (10) days prior to the meeting and shall state the time, place and manner of such meeting. Minutes of the meeting shall be timely posted following approval of such minutes by the Administrative Committee and the Reliability and Security Committee, respectively.

ARTICLE 3 – PARTICIPATION IN THIS AGREEMENT

3.1 Parties.

It is the intent of the Parties and PJM that this Agreement serve as the sole Transmission Owners Agreement for all Transmission Facilities in PJM. Further, it is the agreement of the Parties and PJM that any entity that: (i) owns, or, in the case of leased facilities, has rights equivalent to ownership in, Transmission Facilities; (ii) has in place all equipment and facilities necessary for safe and reliable operation of such Transmission Facilities as part of the PJM Region; and (iii) has committed to transfer functional control of its Transmission Facilities to PJM shall become a Party to this Agreement. In addition, a CTOA Designated Party shall also become a Party to this Agreement as specified in Section 3.1.1. Any disputes regarding whether an entity has satisfied the requirements for becoming a Party in this Section 3.1 shall be ~~resolved by PJM,~~ subject to the dispute resolution procedures set out in ~~the Operating~~this Agreement.

Prior to this Agreement becoming effective as to any such entity, each of the following events shall have occurred:

- i. The Operating Agreement is in full force and effect.
- ii. The Operating Agreement has been executed by the entity.
- iii. This Agreement has been executed by the entity.
- iv. All required regulatory approvals have been obtained.

The Parties to this Agreement are listed in Attachment A.

3.1.1 Status of CTOA Designated Parties.

A CTOA Designated Party shall be subject to the rights, commitments and undertakings of a Party to this Agreement to the extent applicable. If (i) all enhancements or expansions a CTOA Designated Party has been designated to construct and own or finance have been cancelled or removed from the Regional Transmission Expansion Plan; or (ii) all of a CTOA Designated Party's designations have been withdrawn or revoked for any reason, it shall be terminated as a CTOA Designated Party to this Agreement and no longer subject to the rights, commitments and undertakings of a Party. A CTOA Designated Party shall not be entitled to cast a vote under Sections 8.5.1 or 8.5.2 or be counted for a quorum under Section 8.4.3. Once any enhancement or expansion a CTOA Designated Party has been designated to construct and own or finance meets the definition of Transmission Facilities under this Agreement, it shall become a Party with all the rights, commitments and undertakings applicable to Parties.

3.2 Withdrawal From This Agreement.

Any Party may withdraw from this Agreement upon ninety (90) days advance written notice to PJM and the other Parties; provided that such withdrawal shall not be effective until the withdrawing Party has: (i) if its Transmission Facilities do not comprise an entire Control Area, satisfied all applicable standards of NERC and the Applicable Regional Reliability Council for operating a Control Area or being included within an existing Control Area; (ii) put in place alternative arrangements for satisfaction of the FERC's requirements with respect to comparable transmission services; and (iii) made a filing with the FERC under Section 205 of the Federal Power Act to withdraw from this Agreement, and such filing has been approved, accepted without suspension, or if suspended, the suspension period has expired before the FERC has issued an order on the merits of the filing. Notwithstanding the forgoing, a Zero Revenue Requirement Party may withdraw from this Agreement in the particular circumstance of permanent removal of its owned Transmission Facilities from service, provided that such Party has: ~~(a)~~ provided written notice to PJM and the parties to the Operating Agreement at least twelve months in advance of the intended date of retirement of its owned Transmission Facilities, and (b) complied with all reasonable requirements of PJM for restoration, to the maximum extent reasonably attainable, of the PJM Transmission System to the same configuration and operational capability that existed prior to such Party's installation of its owned Transmission Facilities. Withdrawal from this Agreement shall not terminate a Party's membership pursuant to the Operating Agreement or the Reliability Assurance Agreement or its participation in PJM other than with respect to the functions transferred to PJM under this Agreement.

3.3 Transfers or Assignments.

A Party that transfers or assigns its ownership of, or its rights equivalent to ownership in, Transmission Facilities shall require the transferee or assignee to assume all rights and obligations under this Agreement and to become a Party to this Agreement.

3.4 Obligations After Withdrawal, Transfer, or Assignment.

Any Party that withdraws from, transfers, or assigns this Agreement in accordance with Sections 3.2 or 3.3 hereof, shall remain liable for any and all obligations under this Agreement that such Party incurred, that were incurred on behalf such Party, or that arose hereunder prior to the date upon which such Party's withdrawal, transfer, or assignment became effective. Withdrawal from, transfer, or assignment of this Agreement shall not relieve such Party of any of its indemnification or liability obligations pursuant to Article 9 hereof for any events occurring prior to the time that its withdrawal from this Agreement became effective.

3.5 Cessation of Effectiveness.

Subject to provisions of this Agreement providing for survival and Section 3.4, this Agreement shall cease to be effective with respect to any function PJM provides under, or in connection with, this Agreement in the event that PJM ceases to be approved by ~~the~~ FERC to ~~provide such function as an RTO~~ perform the responsibilities transferred to PJM by this Agreement or in the event that all Transmission Owners have withdrawn from this Agreement under Section 3.2.

, or the Parties have voted to terminate this Agreement pursuant to Section 9.3.

ARTICLE 4 – PARTIES’ COMMITMENTS

Each Party agrees to the following commitments and undertakings:

4.1 Rights and Responsibilities Transferred to PJM.

4.1.1 Transmission Service.

Each ~~party~~Party shall authorize PJM to provide transmission service over its Transmission Facilities in the PJM Region under the PJM Tariff.

4.1.2 Directing the Operation of Transmission Facilities.

Each Party shall transfer to PJM, pursuant to this Agreement and in accordance with the ~~Operating Agreement~~PJM Tariff, the responsibility to direct the operation of its Transmission Facilities provided that such transfer is not intended to require any change in the physical operations or control over Transmission Facilities.

4.1.3 PJM Tariff.

Each Party shall transfer to PJM, pursuant to this Agreement ~~and in accordance with the Operating Agreement~~, responsibility for administering the PJM Tariff.

~~4.1.4 Planning Information.~~

4.1.4 Preparation of the Regional Transmission Expansion Plan.

(a) Each ~~party~~Party shall transfer to PJM, pursuant to this Agreement ~~and in accordance with~~, the ~~Operating Agreement~~, the ~~exclusive~~ responsibility to prepare a Regional Transmission Expansion Plan ~~and to provide for the expansion and enhancement of the Parties’ Transmission Facilities in the PJM Region in accordance with and subject to:~~

(i) The Regional Transmission Expansion Planning Protocol that will be set forth exclusively in PJM Tariff, Schedule 19;

(ii) PJM Tariff, Attachment M-3; and

(iii) This Agreement.

(b) (i) The planning of a Party’s Transmission Facilities not transferred to PJM pursuant to Section 4.1.4(a) is reserved to the Party, notwithstanding that the Party has transferred to PJM the responsibility to direct the operation of such Transmission Facilities pursuant to Section 4.1.2.

(ii) Where Transmission Facilities planned by a Party may overlap with Transmission Facilities proposed to be included in the Regional Transmission Expansion Plan such that the Transmission Facilities proposed to be included in the Regional Transmission Expansion Plan would more efficiently or cost effectively address the need for which the Party's Transmission Facilities are planned, PJM shall consult with the Party to determine if the need for which the Party's Transmission Facilities are planned will be addressed. If the Party determines that such need will not be addressed and that it must continue to plan the Party's Transmission Facilities, it shall document to PJM and the relevant PJM transmission planning committee the rationale supporting its determination.

(c) Each Party shall provide information reasonably requested by PJM to prepare the Regional Transmission Expansion Plan and shall otherwise cooperate with PJM in such preparation.

4.1.5 Operations Support.

As required by this Agreement, the PJM Tariff, ~~the Operating Agreement~~, the PJM Manuals, or as otherwise reasonably requested by PJM, each Party will provide to PJM necessary data, information and related technical support consistent with enabling PJM to monitor and analyze system conditions so that PJM may affirmatively determine that PJM is in compliance with NERC standards.

4.2 Obligation to Build.

4.2.1 Construction Designation

Subject to: (i) the requirements of applicable law, government regulations and approvals, including, without limitation, requirements to obtain any necessary state or local siting, construction and operating permits; (ii) the availability of required financing; (iii) the ability to acquire necessary right-of-way; (iv) the right to recover, pursuant to appropriate financial arrangements and tariffs or contracts, all reasonably incurred costs, plus a reasonable return on investment; and (v) other conditions or exceptions set forth in the Regional Transmission Expansion Planning Protocol, Parties designated as the appropriate entities to construct and own or finance enhancements or expansions applicable to the PJM Region specified in the Regional Transmission Expansion Plan or required to expand or modify Transmission Facilities pursuant to the PJM Tariff shall construct and own or finance such facilities or enter into appropriate contracts to fulfill such obligations. Any designation to construct and own or finance enhancements or expansions applicable to the PJM Region specified in the Regional Transmission Expansion Plan or requirement to expand or modify Transmission Facilities pursuant to the PJM Tariff shall be made pursuant to this Section 4.2.1, including the designation of an entity that is not a Party to this Agreement.

4.2.2 Acknowledgement of Construction Designation.

Within ninety (90) days of receiving notification from PJM pursuant to Section 1.6 of the Regional Transmission Expansion Planning Protocol, that the PJM Board has approved a Regional Transmission Expansion Plan designating a Party to construct and own or finance specified enhancements or expansions applicable to the PJM Region, such Party shall provide to PJM and the Administrative Committee: (1) an acknowledgement of such designation or the reasons why the Party disagrees with such designation or any aspect thereof, and (2) a proposed preliminary schedule for such enhancements or expansions.

4.2.3

4.2.3 Construction Obligations of Zero Revenue Requirements Party

A Zero Revenue Requirement Party shall not be required to participate in the construction and ownership or financing of enhancements or expansions described in Section 4.2.1 except to the extent that such enhancements or expansions involve the expansion or modification of that Party's Transmission Facilities. A Zero Revenue Requirement Party shall construct and own or finance all expansions and modifications of its own Transmission Facilities or enter into appropriate contracts to fulfill such obligation, and no other Party shall be required to participate in the construction and ownership or financing of such expansion or modification. A Zero Revenue Requirement Party shall continue to be reimbursed by an individual Interconnection Customer directly or indirectly for costs of expansion and modification the responsibility for which was directly assigned to that Interconnection Customer pursuant to the PJM Tariff, and such Zero Revenue Requirement Party shall be obligated to provide the Interconnection Customer whatever credits the Interconnection Customer may be entitled to receive under the PJM Tariff in return for such reimbursement.

4.3 Interconnection and Transmission Customers.

Unless otherwise specified in agreements, or tariffs on file at FERC and in effect, each Party shall install and construct Transmission Facilities required for interconnection of an Interconnection Customer or Transmission Customer in accordance with the PJM Tariff.

4.4 Permanently Taking Facilities Out of Service.

Prior to permanently taking out of service any of its Transmission Facilities within the PJM Region, the Party owning such Transmission Facilities shall provide PJM with reasonable advance notice.

4.5 Operation and Maintenance.

Each Party shall operate and maintain its Transmission Facilities in accordance with: (i) the terms of this Agreement; (ii) applicable reliability principles, guidelines, and standards of the Applicable Regional Reliability Council and NERC; (iii) the PJM Manuals; (iv) the direction of PJM consistent with this Agreement; and (v) Good Utility Practice. Consistent with the provisions of this Section 4.5, the Parties shall conform to PJM's operating instructions as they apply to such Party's Transmission Facilities. The Parties will continue to direct the operation and maintenance of Transmission Facilities that are not listed in the transmission facilities list maintained by PJM-Designated Facilities List contained in the PJM Manual on Transmission Operations, or any successor thereto, and each Party will physically operate and maintain all Transmission ~~facilities~~Facilities that it owns.

4.6 Interconnection Facilities.

Interconnections between the Parties' electric systems and between a Party's system and systems of entities not a Party to this Agreement shall be kept in place and shall be maintained in good operating condition in accordance with Good Utility Practice and principles, guidelines and standards of the Applicable Regional Reliability Council and NERC unless the interconnected parties determine, in accordance with Good Utility Practice and principles, guidelines and standards of the Applicable Regional Reliability Council and NERC, that any such interconnection should be modified or abandoned; provided, however, that nothing herein shall prohibit any Party from disconnecting its electrical systems from the facilities of any other entity, if such Party reasonably determines that disconnection is required for safety or reliability reasons.

4.7 Actions in Emergency.

Each Party shall follow PJM's operating instructions during an emergency; provided, however, that a Party may at any time take or decline to take any action(s) that it deems necessary to prevent injury to persons or loss of human life or prevent damage to property.

4.8 Maintenance Schedules.

The Parties shall coordinate with other Parties and with the owners of generation facilities within the PJM Region the maintenance of their Transmission Facilities, and the scheduling of a Transmission Planned Outage, taking into account transmission and generation outage schedules established by PJM and the PJM Manuals, and in accordance with the following planned outage scheduling procedures:

4.8.1

Each Party shall use reasonable efforts to submit Transmission Planned Outage schedules one year in advance but by no later than the first of the month six months in advance of the requested start date for all outages that are expected to exceed five (5) working days duration, with regular (at least monthly) updates as new information becomes available.

4.8.2

If notice of a Transmission Planned Outage is not provided in accordance with the requirements in Section 4.8.1 above, and if such outage is determined by PJM to have the potential to cause significant system impacts, including but not limited to reliability impacts and transmission system congestion, then the PJM may require the Party to implement an alternative outage schedule to reduce or avoid such impacts. PJM may, however, if requested by the Transmission Owner, dispatch generation or reductions in demand in order to avoid implementing an alternative outage schedule for its Transmission Facilities to extent consistent with its obligations under this Agreement, ~~the PJM Operating Agreement~~ or PJM Tariff and provided PJM determines that such dispatch would not adversely affect reliability in the PJM Region or otherwise not be in accordance with Good Utility Practices. A Transmission Owner that makes such a dispatch request pursuant to this section shall be responsible for all generation and other costs resulting from its request that would not have been incurred had PJM implemented an alternative outage schedule to reduce or avoid reliability and congestion impacts. PJM may, at the Transmission Owner's consent, directly assign to the Transmission Owner all generation and other costs resulting from PJM's dispatch of generation or reductions in demand arising from outages associated with ~~RTEP~~Regional Transmission Expansion Plan upgrades not submitted consistent with the timelines set forth in this Agreement; ~~and the PJM Tariff and the PJM Operating Agreement and~~ where such outage is required to meet the reliability-based in-service date of the ~~RTEP~~Regional Transmission Expansion Plan upgrade project.

4.8.3

Each Party shall submit notice of all Transmission Planned Outage to PJM by the first day of the month preceding the month the outage will commence, with updates as new information becomes available.

4.8.4

If notice of a Transmission Planned Outage is not provided by the first day of the month preceding the month the outage will commence, and if such outage is determined by PJM to have the potential to cause significant system impacts, including but not limited to reliability impacts and transmission system congestion, then PJM may require the Party to implement an alternative outage schedule to reduce or avoid such impacts. PJM shall perform this analysis and notify the affected Party in a timely manner if it will require rescheduling of the outage. PJM may, however, if requested by the Transmission Owner, dispatch generation or reductions in demand in order to avoid implementing an alternative outage schedule for its Transmission Facilities to extent consistent with its obligations under this Agreement, ~~the PJM Operating Agreement~~ or PJM Tariff and provided PJM determines that such dispatch would not adversely affect reliability in the PJM Region or otherwise not be in accordance with Good Utility Practices. A Transmission Owner that makes such a dispatch request pursuant to this section shall be responsible for all generation and other costs resulting from its request that would not have been incurred had PJM implemented an alternative outage schedule to reduce or avoid reliability and congestion impacts. PJM may, at the Transmission Owner's consent, directly assign to the Transmission Owner all generation and other costs resulting from PJM's dispatch of generation or reductions in demand arising from outages associated with RTEP Regional Transmission Expansion Plan upgrades not submitted consistent with the timelines set forth in this Agreement, the PJM Tariff and ~~the PJM Operating Agreement and~~ where such outage is required to meet the reliability-based in-service date of the RTEP Regional Transmission Expansion Plan upgrade project.

4.8.5

PJM reserves the right to approve, deny, or reschedule any outage deemed necessary to ensure reliable system operations on a case by case basis regardless of duration or date of submission.

4.8.6

PJM shall post notice of Transmission Planned Outages on OASIS upon receipt of such notice from the affected Party; provided, however, that PJM shall not post on OASIS notice of any component of such outage to the extent such component shall directly reveal a generator outage. In such cases, the affected Party, in addition to providing notice to PJM as required above, concurrently shall inform the affected generation owner of such outage, limiting such communication to that necessary to describe the outage and to coordinate with the generation owner on matters of safety to persons, facilities, and equipment. The affected Party shall not notify any other market participant of such outage and shall arrange any other necessary coordination through PJM. If PJM determines that transmission maintenance schedules proposed by one or more Parties would significantly affect the efficient and reliable operation of the PJM Region, PJM may establish alternative schedules, but such alternative schedules shall minimize the economic impact on the Party or Parties whose maintenance schedules PJM proposes to modify. Except as otherwise provided in this Agreement, the Parties shall comply with all maintenance schedules established by PJM.

4.9 Data, Information and Metering.

The Parties shall comply with the data, information and metering requirements established by PJM, as reflected in the PJM Manuals including but not limited to posting notices as required by Section 4.8.

4.10 Connections with Non-Parties.

No Party shall permit its Transmission Facilities or distribution facilities to be connected with the facilities of any entity which is not a Party without an interconnection agreement that contains provisions for the safe and reliable operation of each interconnection in accordance with Good Utility Practice, and principles, guidelines and standards of the Applicable Regional Reliability Council and NERC or comparable requirements of an applicable retail tariff or agreement approved by appropriate regulatory authority. Subject to applicable regulatory requirements, any dispute regarding the adequacy of such agreements shall be resolved by PJM, subject to the dispute resolution provisions of ~~the Operating~~this Agreement.

4.11 Transmission Facility Ratings.

All Parties shall regularly update and verify Transmission Facility ratings, subject to review and approval by PJM, in accordance with the following procedures and the procedures in the PJM Manuals:

4.11.1

Each Party shall verify to the Operations Planning Department (or successor Department) of PJM all of its Transmission Facility ratings two months prior to the beginning of the summer season (i.e., on April 1) and two months prior to the beginning of the winter season (i.e., on October 1) each calendar year, and shall provide detailed data justifying such transmission facility ratings when directed by PJM.

4.11.2

In addition to the seasonal verification of all ratings, each Party shall submit to the Operations Planning Department (or successor Department) of PJM updates to its Transmission Facility ratings as soon as such Party is aware of any changes. Such Party shall provide PJM with detailed data justifying all such Transmission Facility ratings changes.

4.11.3

All Parties shall submit to the Operations Planning Department (or successor Department) of PJM formal documentation of any criteria for changing Transmission Facility ratings under specific conditions, including: the detailed conditions under which such procedures will apply, detailed explanations of such criteria, and detailed calculations justifying such pre-established changes to facility ratings. Such criteria must be updated twice each year consistent with the provisions of this section.

4.11.4

PJM shall maintain a database of all Transmission Facility ratings, and shall review, and may modify or reject, any submitted change to such ratings or any submitted procedure for pre-established changes to such ratings. PJM shall provide notice no later than thirty (30) days after receiving a request for a proposed rating change of the acceptance, denial, or deferral of such change, including a written explanation of the basis for denying or deferring such change if the change is denied or deferred. Any dispute between a Party and PJM concerning Transmission Facility ratings shall be resolved in accordance with Section 9.19 and Attachment B of this Agreement; provided, however, that the rating level determined by PJM shall govern and be effective during the pendency of any such dispute.

ARTICLE 5 – PARTIES’ RETAINED RIGHTS

Notwithstanding any other provision of this Agreement, each Party shall retain all of the rights set forth in this Article 5; provided, however, that such rights shall be exercised in a manner consistent with a Party’s obligations under the Federal Power Act and the FERC’s rules and regulations thereunder.

5.1 Procedures.

Each Party shall have the right to adopt and implement procedures it deems necessary to protect its electric facilities from physical damage or to prevent injury or damage to persons or property.

5.2 Facility Rights.

Each Party shall have the right to build, finance, own, acquire, sell, dispose, retire, replace, merge or otherwise transfer or convey all or any part of its assets, including any Transmission Facilities, such right to include, but not be limited to the right, individually or collectively, to terminate the relationship with PJM in accordance with Section 3.2 or in connection with the transfer to or creation of another entity (including a joint venture or an ITC pursuant to Attachment U to the PJM Tariff) of the right to own and/or operate its Transmission Facilities. PJM shall not challenge any such sale, disposition, retirement, merger, or other action under this Section 5.2 on the basis that they are a signatory to this Agreement.

5.3 Actions to Fulfill Obligations.

Each Party shall have the right to take whatever actions it deems necessary to fulfill its obligations under local, state or federal law.

5.4 Federal Power Act Rights.

Except as otherwise provided in this Agreement, each Party retains its rights pursuant to the Federal Power Act and the FERC’s rules and regulations thereunder.

5.5 Enforcement of Obligations.

5.5.1

Each Party shall have the right to seek enforcement of the obligations of any Party or of PJM under this Agreement subject to the terms and conditions of ~~the Operating Agreement~~ FERC regulations and the PJM Tariff.

5.5.2

The Parties to this Agreement shall have the exclusive right to seek enforcement of the obligations of PJM to the Parties as set forth in Article 6 of this Agreement.

5.6 Reservation of Rights.

Rights not specifically transferred by the Parties to PJM pursuant to this Agreement or any other agreement are expressly reserved by the Parties.

ARTICLE 6 – PJM’s RIGHTS AND COMMITMENTS

6.1 Condition to Acceptance of Functional Control.

PJM shall condition the transfer of functional control over an entity’s Transmission Facilities to PJM on such entity becoming a Party to this Agreement.

6.2 Rights of PJM under this Agreement.

PJM shall have the exclusive right to seek enforcement of the obligations of any Party to PJM under Article 6 of this Agreement.

6.3 Obligations of PJM under this Agreement.

PJM shall:

6.3.1

~~Direct~~Maintain the safe and reliable operation of the PJM Region and direct the operation and coordinate the maintenance of the Transmission Facilities of the Parties in accordance with: (i) the ~~Operating Agreement~~; (ii) ~~the~~ PJM Tariff; ~~(iii)~~ Good Utility Practice; (iii) applicable laws and regulations and (iv) NERC and Applicable Regional Reliability Council operation and planning standards, principles and guidelines.

6.3.2

Administer the PJM Tariff and provide service thereunder in the PJM Region.

6.3.3

~~Administer~~(i) Maintain and administer the Regional Transmission Expansion Planning Protocol ~~and as a Schedule to the PJM Tariff~~;

(ii) Develop and file pursuant to Section 7.5.1 of this Agreement changes to the Regional Transmission Expansion Planning Protocol consistent with (i) the terms of this Agreement; (ii) applicable reliability principles, guidelines, and standards of the Applicable Regional Reliability Council and NERC; (iii) the PJM Manuals; and (iv) Good Utility Practice;

(iii) provide related timely reports to the Administrative Committee consistent with ~~the Operating~~this Agreement and the PJM Tariff; ~~and~~

(iv) Designate entities to construct and own or finance enhancements or expansions applicable to the PJM Region specified in the Regional Transmission Expansion Plan or require entities to expand or modify Transmission Facilities in accordance with the PJM Tariff, pursuant Section 4.2.1, including entities that are not Parties to this Agreement.

6.3.4

(a) Conduct its planning for the expansion and enhancement of ~~transmission facilities~~ Transmission Facilities based on a planning horizon of at least ten years, or such longer period as may be ~~otherwise~~ required ~~by the PJM Tariff or Operating Agreement, including under~~ the Regional Transmission Expansion Planning Protocol, PJM Tariff, Schedule 19 and prepare a Regional Transmission Expansion Plan to provide for the expansion and enhancement of the Parties' Transmission Facilities to address one or more of the following planning criteria:

(i) The Regional Transmission Expansion Planning Protocol that will be set forth exclusively in PJM Tariff, Schedule 19;

(ii) PJM Tariff, Attachment M-3; and

(iii) This Agreement.

(b) (i) The planning of a Party's Transmission Facilities not transferred to PJM pursuant to Section 4.1.4(a) is reserved to the Party, notwithstanding that the Party has transferred to PJM the responsibility to direct the operation of such Transmission Facilities pursuant to Section 4.1.2.

(ii) Where Transmission Facilities planned by a Party may overlap with Transmission Facilities proposed to be included in the Regional Transmission Expansion Plan such that the Transmission Facilities proposed to be included in the Regional Transmission Expansion Plan would more efficiently or cost effectively address the need for which the Party's Transmission Facilities are planned, PJM shall consult with the Party to determine if the need for which the Party's Transmission Facilities are planned will be addressed. If the Party determines that such need will not be addressed and that it must continue to plan the Party's Transmission Facilities, it shall document to PJM and the relevant PJM transmission planning committee the rationale supporting its determination.

6.3.5

Maintain its status as an RTO, consistent with its obligations under this Agreement.

6.3.6

Collect and pay to each Party all amounts due to such Party as a Transmission Owner under the PJM Tariff and to distribute such amounts in accordance with the PJM Tariff and this Agreement.

6.3.7

Work cooperatively with Transmission Owner(s) desiring to create a new or reformed transmission-owning entity in accordance with Section 5.2 and other applicable provisions of this Agreement.

6.3.8

Participate in scheduled meetings of the Administrative Committee and furnish appropriate information and reports to keep the Parties regularly informed as to matters arising under this Agreement- and the PJM Tariff. At the request of a Party, participate in conversations as to the matters arising under this Agreement.

6.3.9

Consult with committees jointly established by the Parties and PJM with respect to matters arising under this Agreement.

6.3.10

Assist the Parties in developing changes to the PJM Tariff under Section 9.1 of the PJM Tariff and Section 7.3 of this Agreement consistent with the confidentiality provisions of Section 7.3 of this Agreement, including PJM's right to take positions adverse to the Parties before federal and state judicial and administrative bodies.

6.3.11

Not delegate or transfer any of its obligations under this Agreement.

ARTICLE 7 – CHANGES TO RATE DESIGN AND TARIFF TERMS AND CONDITIONS; DISTRIBUTION OF REVENUES

7.1 Individual Transmission Owner Rates.

Notwithstanding any other provision of this Agreement, each Party expressly and individually reserves unto itself the following rights:

7.1.1

Each Party shall have the exclusive right to file unilaterally at any time pursuant to Section 205 of the Federal Power Act to establish or change the transmission revenue requirement for services provided under the PJM Tariff with respect to its Transmission Facilities (regardless of whether such revenue requirement is used to support rates and charges for delivery within its PJM Zone or outside its PJM Zone). This right includes, but is not limited to, the right to file a transmission revenue requirement, or a revenue requirement that is based on incentive or performance-based factors.

7.1.2

~~[Reserved for Future Use]~~

7.1.3

Each Party shall have the exclusive right to file unilaterally, at any time pursuant to Section 205 of the Federal Power Act, to change rates and charges for transmission and ancillary services (including, without limitation, incentive rates, and rates and charges for new services) for delivery within its PJM Zone, which rates and charges are based solely on the costs of the Transmission Facilities of such Party.

7.1.4

A filing that is otherwise consistent with this Section 7.1 which changes the rate applicable within a PJM Zone and which also applies to transactions that enter that PJM Zone from outside the PJM Region shall not require approval under Section 8.5.1.

7.2 PJM Regional Rate Design and Joint Transmission Rates.

7.2.1

Section 205 filings to change the PJM Regional Rate Design or file for Joint Transmission Rates may only be made by the Parties, acting collectively, pursuant to a filing approved in accordance with Section 8.5.1 of this Agreement. The Parties, acting individually, shall have no authority to make any filings under Section 205 of the Federal Power Act either to change or which would be inconsistent with the PJM Regional Rate Design or Joint Transmission Rates.

7.2.2

Nothing in this Agreement is intended to authorize the PJM Transmission Owners to file pursuant to Section 205 of the Federal Power Act, as part of a filing to change the PJM Regional Rate Design, Joint Transmission Rates, or otherwise, proposed changes to those rates and charges for which an individual Party has reserved filing rights under Section 7.1 without the express consent of such Party, unless such change is required to be consistent with a Joint Transmission Rate or PJM Regional Rate Design adopted pursuant to Sections 7.2.1 and 7.3.

7.3 Filing of Transmission Rates and Rate Design Under Section 205.

7.3.1

The Transmission Owners shall have the exclusive and unilateral rights to file pursuant to Section 205 of the Federal Power Act and the FERC's rules and regulations thereunder for any changes in or relating to the establishment and recovery of the Transmission Owners' transmission revenue requirements or the PJM Regional Rate Design, and such filing rights shall also encompass any provisions of the PJM Tariff governing the recovery of transmission-related costs incurred by the Transmission Owners. Nothing herein is intended to limit or change the right of individual Transmission Owners as specified under Sections 7.1 and 7.3. Except as provided in Section 7.1.1, the Transmission Owners may only file under Section 205 to change the PJM Regional Rate Design pursuant to a filing approved in accordance with Section 8.5.1. Discussions among the Transmission Owners and PJM specific to (i) the development of changes to be filed by the Transmission Owners pursuant to Section 205 in or relating to transmission rates or the PJM Regional Rate Design, or (ii) administration of the PJM Tariff provisions subject to this section may be designated as confidential and may include discussions protected by attorney-client privilege, attorney work-product doctrine or other privileges to the extent the Transmission Owners and PJM share a common interest privilege in the rates, terms and conditions to be applied pursuant to the PJM Tariff and the Transmission Owners require assistance from PJM in developing changes to transmission rates or the PJM Regional Rate Design.

7.3.2

If the Transmission Owners agree upon a change referred to in Section 7.2.1 by vote in accordance with Section 8.5.1, the Transmission Owners shall make such filing jointly pursuant to Section 205 of the Federal Power Act. For purposes of administrative convenience, at the request of the Transmission Owners, PJM may, but shall not be required to, make the Section 205 filings with the FERC on behalf of the Transmission Owners; provided that any such filing by PJM shall be deemed for all purposes under the Federal Power Act to be a filing of the Transmission Owners. The Transmission Owners shall consult with PJM and the PJM Members Committee beginning no less than thirty(30) days prior to any Section 205 filing hereunder, but neither PJM (except as provided for in Section 7.6) nor the PJM Members Committee shall have any rights to veto or delay the Transmission Owners' Section 205 filing hereunder; provided that the Transmission Owners may file with less than a full 30 day advance consultation in circumstances where imminent harm to system reliability or imminent severe economic harm to electric consumers requires a prompt Section 205 filing; provided further that the Transmission Owners shall provide as much advance notice and consultation with PJM and the PJM Members Committee as is practicable in such circumstances and no such filing shall be made with less than 24 hours' advance notice.

7.3.3

Nothing in this Section 7.3 is intended to limit the rights of any Party or other person to oppose such a Section 205 filing pursuant to Section 206 or any other applicable provision of the Federal Power Act, or to limit the right of any Party or other person to make filings under Section 206 of the Federal Power Act.

7.3.4

The following provisions of the PJM Tariff and any successors thereto shall be within the Transmission Owners' exclusive and unilateral rights to make Section 205 filings: (i) Section 34; (ii) Schedule 1A; (iii) Schedule 7 (except as to transmission congestion charges under Attachment K to the PJM Tariff or any successor thereto); (iv) Schedule 8 (except as to transmission congestion charges under Attachment K to the PJM Tariff or any successor thereto); (v) Schedule 11; (vi) Schedule 12; (vii) Attachment H-A; (viii) Attachment J; and (ix) Attachment R; provided, however, that if a filing pursuant to Section 205 is required to effect a change in any of the forgoing provisions of the PJM Tariff, solely by reason of a filing by an individual PJM Transmission Owner pursuant to Section 7.3.5, PJM may make such a filing if: (a) five business days prior to making such filing, PJM provides the PJM Transmission Owners with each proposed change including an explanation thereof; and (b) no PJM Transmission Owner notifies PJM that it objects to PJM making such filing.

7.3.5

Consistent with Section 7.3.1, the following provisions of the PJM Tariff and any successors thereto shall be within the exclusive and unilateral rights to make Section 205 filings of the individual Transmission Owner to which the provisions apply: (i) Attachment H (other than Attachment H-A) (except as to transmission congestion charges under Attachment K to the PJM Tariff or any successor thereto); (ii) Attachment M-1 (First Energy); (iii) Attachment M-2 (First Energy); (iv) Procedures for Load Determination (PSE&G); (v) Procedures for Determination of Peak Load Contributions and Hourly Load Obligations for Retail Customers (Atlantic City); and (vi) Procedures for Determination of Peak Load Contributions and Hourly Load Obligations for Retail Customers (Delmarva).

7.3.6

The listing of provisions in Sections 7.3.4 and 7.3.5 above is not exclusive, and failure to specify a provision of the PJM Tariff in this Section 7.3 shall not be deemed to be an admission or agreement by the Transmission Owners that such provision or any change thereto does not relate to the establishment and recovery of the Transmission Owners' transmission revenue requirements or the PJM Regional Rate Design or Joint Transmission Rates, or encompass any provisions of the PJM Tariff governing the recovery of transmission-related costs incurred by the Transmission Owners. The Transmission Owners reserve their rights to assert that other provisions of the PJM OATT should be included within their Section 205 rights, and PJM reserves its rights to contest such assertions.

7.3.7

The Transmission Owners' Section 205 rights shall include the unilateral right to file for incentive and performance based rates that affect or relate to transmission revenue requirements, transmission rate design, or any performance or incentive rates in which the incentives to the Transmission Owners may be measured by savings or efficiencies in the power or ancillary services markets resulting from the construction, operation or maintenance of Transmission Facilities. Nothing in this Agreement is intended to limit PJM's right to make Section 205 filings to establish incentive or performance based rates applicable to market participants, provided that PJM must obtain the prior approval of the Transmission Owners (pursuant to Section 8.5.1 of this Agreement) for any portion of such a filing that reasonably could be expected to affect the establishment and recovery of the Transmission Owners' transmission revenue requirements, transmission rate design or the recovery of transmission-related costs by the Transmission Owners.

7.4 Transmission Rate PJM Zone Size.

For purposes of developing rates for service under the PJM Tariff, transmission rate PJM Zones smaller than those shown in Attachment J to the PJM Tariff, or subzones of those PJM Zones, shall not be permitted within the current boundaries of the PJM Region; provided, however, that additional PJM Zones may be established if the current boundaries of the PJM Region is expanded to accommodate new Parties to this Agreement.

7.5 Changes in Terms and Conditions.

The Parties may propose to revise any of the non-rate terms and conditions of the PJM Tariff in a manner consistent with requirements of FERC. Any such proposal shall be submitted to PJM for ~~action pursuant to~~ consideration under the processes PJM uses to the Operating Agreement. develop non-rate terms and conditions.

7.5.1 Filing of Changes in Terms and Conditions Under Section 205.

(i) PJM shall have the exclusive and unilateral rights to file pursuant to Section 205 of the Federal Power Act and the FERC's rules and regulations thereunder to make changes in or relating to the terms and conditions of the PJM Tariff (including but not limited to provisions relating to creditworthiness, billing, and defaults) as well as all charges for recovery of PJM costs. PJM shall not have any Section 205 filing rights with respect to the subject matters described in Sections 7.1 and 7.2 of this Agreement. PJM shall not have any Section 205 filing rights with respect to the provisions of the PJM Tariff listed in Sections 7.3.4 and 7.3.5 of this Agreement.

(ii) PJM shall consult with the Transmission Owners, through the Administrative Committee, and the PJM Members Committee beginning not less than seven (7) days in advance of any such Section 205 filing, but neither the Transmission Owners (except as provided for in Section 7.6) nor the PJM Members Committee shall have any right to veto or delay any such Section 205 filing. PJM may file with less than a full seven (7) day advance consultation in circumstances where imminent harm to system reliability or imminent severe economic harm to electric consumers requires a prompt Section 205 filing; provided that PJM shall provide as much advance notice and consultation with the Transmission Owners, through the Administrative Committee, and the PJM Members Committee as is practicable in such circumstances, and no such emergency filing shall be made with less than 24 hours advance notice.

(iii) Nothing herein is intended to limit the rights of any Party or other person to oppose such a Section 205 filing pursuant to Section 206 or any other applicable provision of the Federal Power Act or to limit the right of any Party or other person to make filings under Section 206 of the Federal Power Act.

(iv) To the extent that PJM desires to add a provision to the PJM Tariff, or to change an existing provision thereof, in accordance with PJM's rights under Section 7.5.1 (i), the Transmission Owners shall have unilateral and exclusive rights to make Section 205 filings with respect to any matters covered by such new or changed provisions relating to the establishment and recovery of the Transmission Owners' transmission revenue requirements, the PJM Regional Rate Design or Joint Transmission Rates, or any provisions governing the recovery of transmission-related costs incurred by the Transmission Owners. Prior to making any Section 205 filing covered by Section 7.5.1 (i) ~~that~~ ⊕ that also relates to or affects the establishment and recovery of the Transmission Owners' transmission revenue requirements and the PJM Regional Rate Design or Joint Transmission Rates, or any provisions governing the recovery of transmission-related costs incurred by the Transmission Owners, PJM shall provide no less than 45 days notice to the Transmission Owners of the intended filing in sufficient detail to provide them a reasonable opportunity to include appropriate provisions in the PJM Tariff governing these subjects, either through a Section 205 filing by the Transmission Owners or approval by the Transmission Owners of the PJM proposal pursuant to Section 8.5.1.

(v) Nothing in this Agreement is intended to prevent PJM from utilizing processes under the Operating Agreement and the PJM Manuals to develop or revise terms and conditions to be set forth in the PJM Tariff and to consult with PJM Members and others with respect thereto.

7.5.2 Filing of Changes in Rate Design, Terms and Conditions Under Section 206.

Any Party or any group of Parties shall have the right to submit a proposal to the FERC to change the Rate Design and the non-rate terms and conditions of the PJM Tariff pursuant to Section 206 of the Federal Power Act. Nothing herein is intended to limit the rights of PJM, any Party, or other person to oppose proposed changes to the terms and conditions filed by PJM, a Party, or group of Parties.

7.6 Disputes Regarding Exclusive Filing Rights.

If at the time that a proposal to change or amend any part of the PJM Tariff, or to add any new provision, is submitted to PJM or the Transmission Owners for consultation pursuant to Sections 7.3.2 or 7.5.1(ii), of this Agreement, a dispute arises as to which Party has Section 205 rights to make such filing, the following procedures shall apply:

7.6.1

The Administrative Committee and PJM shall meet promptly prior to the filing in order to resolve the dispute. Such resolution may include a joint Section 205 filing by the Transmission Owners and PJM.

7.6.2

If the Transmission Owners propose to make the Section 205 filing, they shall defer such filing beyond the 30-day notice and consultation period provided for in Section 7.3.2 for up to 10 additional days at the request of PJM to allow the dispute to be resolved.

7.6.3

If PJM proposes to make the Section 205 filing, it shall defer any filing beyond the 7 day notice and consultation period provided for in Section 7.5.1 (ii) for up to 10 additional days to allow the dispute to be resolved;

7.6.4

In order to resolve a dispute, the agreement of the Transmission Owners must be obtained by vote in accordance with Section 8.5.1 of this Agreement;

7.6.5

If the Parties are unable to reach agreement among themselves, the matter shall be presented to and resolved by a Neutral Party chosen as follows and, except as provided in this Section 7.6.5, such resolution shall be binding on the Parties: The Chairman of the Administrative Committee (or his/her designee) and an executive of PJM chosen by the President shall choose the Neutral Party and shall have authority to enter into an agreement that will make the Neutral Party available on a prompt basis to resolve disputes hereunder. PJM and the Transmission Owners shall share in the cost of any Neutral Party on an equal basis. The Chairman of the Administrative Committee (or his/her designee) and an executive of PJM chosen by the President may replace the Neutral Party at any time they mutually deem such action to be appropriate or necessary. The decision of the Neutral Party as to which Parties have Section 205 rights hereunder shall be made within the period provided for consultation between the Transmission Owners and PJM as set forth in Sections 7.6.2 or 7.6.3, as applicable. Interested parties (including the Parties) may file a complaint seeking review by the FERC of the Neutral Party's decision, and the FERC's authority to interpret which Parties have Section 205 rights shall not be limited by the Neutral Party's decision as it relates to these disputes.

7.6.6

Nothing in this Section 7.6 is intended to limit the Parties' rights to make filings subject to this dispute resolution provision pursuant to Section 206 of the Federal Power Act prior to resolution of such dispute.

7.7 PJM Cooperation

Notwithstanding the allocation of filing rights under this Agreement, PJM shall cooperate with the filing of a revenue requirement or changes thereto of a Party not subject to the jurisdiction of FERC under Part II of the Federal Power Act.

7.8 Distribution of Revenues.

Transmission revenues received from network or firm point-to-point transmission service to load within the PJM Region will be distributed to the Transmission Owners on a revenue requirements basis to the Parties with transmission revenue requirements for the PJM Zone in which the load is located; transmission revenues from other network or firm point-to-point transmission service will be distributed to all Parties to this Agreement on a transmission revenue requirements ratio share basis; and transmission revenues from non-firm point-to-point transmission service will be distributed in accordance with the PJM Tariff. Any other revenues owed to the Transmission Owners shall be distributed on a transmission revenue requirements ratio share basis unless otherwise specified in the PJM Tariff. The above notwithstanding, no revenues shall be distributed to any Party that is a Zero Revenue Requirement Party.

7.9 Filings Contravening the Agreement.

Neither the Parties nor PJM shall make any filing under Section 205 of the Federal Power Act that contravenes Articles 2, 4, 5, 6, 7 or Attachment B of the Agreement or seeks to modify the terms of said Articles, unless PJM consents to such filing by the Parties or the Parties, acting through a vote pursuant to Section 8.5.1, consent to such filing by PJM. If either PJM or the Parties seek to revise or modify the PJM Tariff, including the Regional Transmission Expansion Planning Protocol, under Federal Power Act Section 205, and PJM or a Party believes that such revisions or modifications contravene any part of Articles 2, 4, 5, 6 or 7 or Attachment B of the Agreement, PJM and such Party or Parties shall follow the dispute resolution procedures set forth in Section 9.19.

ARTICLE 8 – THE ADMINISTRATIVE COMMITTEE

8.1 Duties and Responsibilities.

The Administrative Committee shall have the authority to propose policies and recommendations to PJM as to any matters relating to the Parties' Transmission Facilities; provided, however, that PJM shall not be required to adopt such policies or recommendations and that the Administrative Committee shall not exercise any control over functions and responsibilities transferred exclusively to PJM pursuant to this Agreement, the PJM Tariff or the Operating Agreement. The Administrative Committee shall also have the authority to establish such committees, subcommittees, task forces, working groups or other bodies as it shall deem appropriate and the responsibility to undertake any other action delegated to it pursuant to this Agreement. The Administrative Committee shall determine the Affiliate status of Parties for purposes of Individual or Weighted Votes.

8.2 Representatives.

Each Party shall appoint one or more representatives and alternate representative(s) to serve as a member of the Administrative Committee with authority to act for that Party with respect to actions taken or decisions made by the Administrative Committee. The representative(s) shall be an officer or agent of the Party, having binding decision-making authority with respect to the transmission affairs of the Party. Each representative shall be a member of the Administrative Committee; provided, however, that each Party's alternate shall serve as a member of the Administrative Committee during any absence of that Party's representative.

8.2.1 Initial Representatives.

Unless a Party appoints a different representative and alternate, the representatives and alternates of the Parties appointed under the Transmission Owners agreements in effect on the day prior to the effective date of this Agreement shall be the initial representatives and alternates under this Agreement. Subsequent to the Effective Date of this Agreement, an entity that becomes a Party pursuant to Section 3.1 hereof shall appoint its representative(s) and alternate(s) and provide written notice to the other Parties within thirty (30) days after becoming a Party.

8.2.2 Change of or Substitution for a Representative or Alternate.

A Party may at any time upon providing written notice to the other Parties designate a replacement representative or alternate. Any member of the Administrative Committee, by providing written notice to the Chair of the Administrative Committee, may designate a substitute to act for him or her with respect to any matter specified in such written notice.

8.3 Officers.

At the initial meeting of the Administrative Committee, a Chair and Vice Chair shall be elected from among the Parties' representatives on the Administrative Committee. The term of office for the Chair and Vice Chair shall be one year, or until succession to each office occurs as provided herein. Except as provided in Section 8.3.1, at each annual meeting, the Vice Chair shall succeed to the office of the Chair, and a new Vice Chair shall be elected.

8.3.1 Vacancies.

If the office of the Chair becomes vacant for any reason, the Vice Chair shall succeed to the office of the Chair and a new Vice Chair shall be elected at the next regular or special meeting; provided that following such vacancy of the Chair, the succeeding Chair and Vice Chair shall serve until the second annual meeting following such succession or election. If the office of the Vice Chair becomes vacant for any reason, a new Vice Chair shall be elected at the next regular or special meeting and shall serve out the term of the Vice Chair whose office became vacant.

8.3.2 Duties of the Officers.

The Chair, the Vice Chair, or their representatives, shall: call and preside at meetings of the Administrative Committee; cause minutes of each meeting to be taken and maintained; cause notices of meetings to be distributed; and carry out such other responsibilities as the Administrative Committee shall assign ~~or as may be specified in the Operating Agreement.~~ The Vice Chair shall preside at meetings of the Administrative Committee if the Chair is absent for any reason, and shall otherwise act for the Chair at the Chair's request.

8.4 Meetings.

The Administrative Committee shall hold meetings no less frequently than once each calendar quarter. One of such regular meetings shall be designated as the annual meeting, at which officers shall be elected. The matters to be addressed at all meetings shall be specified in the agenda provided in the notice distributed pursuant to Section 8.4.1 hereof; provided, however, that action may be taken on a matter not described in such agenda, if approved by the Parties pursuant to a vote under Section 8.5.1.

8.4.1 Notice of Meetings.

Notice of a meeting shall be distributed to the representatives not later than ten (10) days prior to the meeting, provided, however, that meetings may be called on shorter notice at the discretion of the Chair as the Chair shall deem necessary to deal with an emergency or to meet a deadline for action. The notice shall state the time and place of such meeting, and shall include an agenda sufficient to notify the representatives of the substance of the matters to be considered at the meeting. In addition, notice of all meetings shall be provided over the PJM website at the same time as it is provided to the representatives.

8.4.2 Attendance.

Regular or special meetings may be conducted in person or by telephone or other means as authorized by the Administrative Committee. The attendance in person or by telephone or other means of a representative, alternate or duly-designated substitute representative shall be required for purposes of determining a quorum and for the exercise of Individual Votes or Weighted Votes.

8.4.3 Quorum.

To constitute a quorum with respect to any matter upon which a vote is taken, as of the date of any regular or special meeting, such meeting must be attended by either (i) representatives, alternates, or duly-designated substitute representatives whose Individual Votes constitute more than fifty percent (50%) of the total Individual Votes of Parties entitled to vote on such matter, and whose Weighted Votes constitute more than fifty percent (50%) of the total Weighted Votes of Parties entitled to vote on such matter, or (ii) representatives, alternates, or duly-designated substitute representatives whose Weighted Votes constitute at least ninety five percent (95%) of Parties entitled to vote on such matter. With respect to actions specified in Section 8.5.3, the Individual Votes of Zero Revenue Requirement Parties shall not be counted for purposes of determining the presence of a quorum.

8.4.4 Open Meetings.

Except as provided in this section, all meetings of the Administrative Committee shall be open to entities that are signatories to the Operating Agreement and to personnel of PJM, and all matters subject to Section 8.5.1 upon which the representatives vote shall be open to such entities and to such personnel. Meetings of the Administrative Committee shall be closed to persons or entities other than personnel of PJM if, in the determination of the Chair, doing so is required to comply with FERC's Standards of Conduct For Transmission Providers, Critical Energy Infrastructure Information, or Section 9.15, or shall be closed to all persons or entities other than personnel or representatives of the Parties in order to preserve the attorney-client, attorney work product or other privileges of the Parties or of the Administrative Committee.

8.4.5 Cost of Meetings.

Each Party shall be solely responsible for all costs incurred for its representative or alternate to attend any meeting. The Parties shall share the costs incurred by the host of any meeting of the Administrative Committee in the following manner. Fifty percent (50%) of such meeting cost shall be allocated in proportion to the Parties' Individual Votes and the remaining fifty percent (50%) of such meeting cost shall be allocated in proportion to the Parties' Weighted Votes. PJM shall accumulate costs and bill the Parties quarterly.

8.5 Manner of Acting.

Subject to the limitations of Section 9.7.1(a), any action taken by the Administrative Committee shall require a combination of the concurrence of the representatives' Individual Votes of the representatives of those Parties entitled to vote on such matters and Weighted Votes as specified in this Section 8.5. Except for Parties that are Affiliates, no representative, alternate or duly-designated substitute of a Party may be a representative, alternate or duly-designated substitute of any other Party.

8.5.1 Action by Two-thirds Majority.

The following actions of the Administrative Committee shall require the concurrence of: (i) representatives whose combined Individual Votes equal or exceed two-thirds of the total Individual Votes of Parties entitled to vote and cast at a meeting, provided, however, the vote shall not fail if voted against by representatives of Parties entitled to vote whose combined Weighted Votes do not exceed five percent (5%) of the total Weighted Votes cast; and (ii) representatives of Parties whose combined Weighted Votes equal or exceed two-thirds of the total Weighted Votes cast at a meeting, provided, however, that if the vote receives the concurrence of representatives whose combined Weighted Votes exceed one-half of the total Weighted Votes cast, the vote shall not fail if voted against by fewer than three Parties entitled to vote:

(a) Amendment ~~or termination of all or any portion~~ of this Agreement, including any schedules, appendices, or attachments hereto, or termination of this Agreement pursuant to Section 9.3, provided that the text of any amendment or notice of proposed termination shall be distributed by overnight courier, facsimile or other reliable electronic means at least thirty (30) days prior to the meeting at which such amendment is to be considered, and provided further that any amendment shall be submitted to FERC for filing and, in accordance with Section 9.3, any termination shall not become effective until it shall have been ~~approved by FERC or~~ accepted without suspension or hearing;

(b) Development of comments and recommendations for the Regional Transmission Expansion Plan;

(c) Termination of a Party in accordance with the provisions of Section 9.7 hereof;

(d) Approval of an assignment of this Agreement pursuant to Section 9.5 hereof; and

(e) Approval of changes in or relating to Joint Transmission Rate or the PJM Regional Rate Design, or any provisions governing the recovery of transmission-related costs incurred by the Transmission Owners.

8.5.2 Action by Simple Majority.

Action by the Administrative Committee on any matter other than those specified in Section 8.5.1 shall require: (i) the presence of a quorum at the time of the vote; and (ii) the concurrence of: (a) representatives' whose combined Individual Votes exceed one-half of the total Individual Votes cast at a meeting, however, the vote shall not fail if voted against by representatives of Parties entitled to vote whose combined Weighted Votes do not exceed five percent (5%) of the total Weighted Votes cast; and (b) representatives' whose combined Weighted Votes exceed one-half of the total Weighted Votes cast at a meeting.

8.5.3 Zero Revenue Requirements Party Voting Rights

Anything contained herein to the contrary notwithstanding, a Zero Revenue Requirement Party shall not be entitled to vote on any matter described in Article 7, any matter described in Section 8.5.1 (e) or any amendment to this Agreement that would amend this Section 8.5.

8.5.4 Changing a Party's Regional Reliability Council

Anything contained herein to the contrary notwithstanding, no vote to amend the definition of Applicable Regional Reliability Council, the application of such definition in within this Agreement, or to change the Applicable Regional Reliability Council of a Party shall pass without the affirmative vote of the representative of each Party whose Applicable Regional Reliability Council would be revised or changed as a result of such amendment.

ARTICLE 9 – OTHER MATTERS

9.1 Relationship of the Parties.

This Agreement shall not be interpreted or construed to create any association, joint venture, or partnership between or among the Parties or to impose any partnership obligation liability upon any Party. Except as explicitly provided in Section 8.1 hereof or with respect to the actions of the Administrative Committee, neither PJM nor any Party shall have the right, power or authority under this Agreement to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, any other Party or PJM.

9.2 No Third-party Beneficiaries.

This Agreement is intended to be solely for the benefit of the Parties and PJM and their respective successors and permitted assigns and is not intended to and shall not confer any rights or benefits on any third party (other than successors and permitted assigns) not a signatory hereto.

9.3 Term and Termination.

This Agreement shall be effective as of the Effective Date and shall continue in effect thereafter unless and until terminated by: (i) a vote of the Administrative Committee as of a specified date at least six (6) months after the date of such vote; or (ii) the termination of the Operating Agreement, unless the Administrative Committee decides not to terminate this Agreement or to terminate it at a later date. Termination may become effective only upon FERC's ~~approval or~~ acceptance without suspension or hearing.

9.4 Winding Up.

Any provision of this Agreement that, expressly or by implication, comes into or remains in force following termination or expiration of this Agreement shall survive such termination or expiration. Such surviving provisions shall include, but not be limited to: (i) those provisions necessary to permit the orderly conclusion or continuation, pursuant to another agreement, of transactions entered into prior to the decision to terminate this Agreement; (ii) those provisions necessary to conduct final billing, collection, and accounting with respect to all matters arising hereunder; and (iii) the indemnification provisions as applicable to periods prior to such termination or expiration.

9.5 Successors and Assigns.

This Agreement shall inure to the benefit of and be binding upon the Parties hereto, their respective successors and assigns permitted herein, but shall not be assignable by any Party without the approval of the Administrative Committee, except: (i) as to a successor in the operation of a Party's Transmission Facilities by reason of a merger, consolidation, reorganization, sale, spin-off, or foreclosure, as a result of which substantially all such Transmission Facilities are acquired by such a successor, and such successor becomes a Party to this Agreement; or (ii) as an assignment of rights under this Agreement for financing purposes.

9.6 Force Majeure.

No Party shall be liable to any other Party for damages or otherwise be in breach of this Agreement to the extent and during the period such Party's performance is prevented by any cause or causes beyond such Party's control and without such Party's fault or negligence, including but not limited to any act, omission, or circumstance occasioned by or in consequence of any act of God, labor disturbance, act of the public enemy, war, insurrection, riot, fire, storm or flood, explosion, breakage or accident to machinery or equipment, or curtailment, order, regulation or restriction imposed by governmental, military or lawfully established civilian authorities; provided, however, that any such foregoing event shall not excuse any payment obligation. Upon the occurrence of an event considered by a Party to constitute a force majeure event, such Party shall use due diligence to endeavor to continue to perform its obligations as far as reasonably practicable and to remedy the event, provided that no Party shall be required by this provision to settle any strike or labor dispute.

9.7 Default and Waiver

9.7.1 Default.

Any Party that fails to meet its financial or other obligations to another Party or to PJM under this Agreement shall be deemed to be in breach of this Agreement. If the Administrative Committee concludes, upon the report of PJM or complaint of any Party that another Party is in breach, the Administrative Committee shall so notify such Party and inform all other Parties. The notified Party may remedy such breach by: (i) paying all amounts assertedly due, along with interest on such amounts calculated in accordance with the methodology specified for interest on refunds in FERC's regulations at 18 C.F.R. § 35.19a(a)(2)(iii); and (ii) presenting evidence satisfactory to the Administrative Committee that it has taken appropriate measures to meet any other obligation of which it was deemed to be in breach; provided, however, that any such payment or presentation may be subject to a reservation of rights, if any, to a final determination of the obligations of the Party pursuant to the dispute resolution provisions in ~~the Operating~~this Agreement. If, by the thirtieth (30th) day following receipt of the foregoing notice, a Party has not remedied the breach, then such Party shall be in default, and in addition to any other remedies then available:

(a) Any representative of the defaulting Party on the Administrative Committee, or any other committee, subcommittee, working group or task force established pursuant to this Agreement, shall not be entitled to vote for so long as the default shall continue to exist.

(b) If the default is the Party's second default within a period of twenty-four months, or is a default that imperils the safety or reliability of the PJM Region, the Administrative Committee may vote to terminate the Party's status as a Party to this Agreement. A terminated Party shall comply with all obligations applicable to a Party withdrawing from this Agreement.

9.7.2 No Implied Waivers.

The failure of a Party or of the Administrative Committee to insist upon or enforce strict performance of any of the provisions of this Agreement shall not be construed as a waiver or relinquishment to any extent of such entity's right to assert or rely upon any such provisions, rights and remedies in that or any other instance; rather, the same shall be and remain in full force and effect.

9.8 Indemnification.

9.8.1

Each Party agrees to indemnify and hold harmless each of the other Parties, its officers, directors, employees or agents (not including PJM and the PJM Board) for all actions, claims, demands, costs, damages and liabilities asserted by a third party against the Party seeking indemnification and arising out of or relating to any of the Transmission Facilities or other assets that are the subject of this Agreement of the Party from which indemnification is sought, or an act or failure to act in accordance with this Agreement by such Party, except: (i) to the extent that such liabilities result from the negligence or willful misconduct of the Party seeking indemnification; and (ii) that each Party shall be responsible for all claims of its own employees, agents and servants growing out of any workmen's compensation law.

9.8.2

The amount of any indemnity payment arising hereunder shall be reduced (including, without limitation, retroactively) by any insurance proceeds or other amounts actually recovered by the Party seeking indemnification in respect of the indemnified action, claim, demand, costs, damage or liability. If any Party shall have received an indemnity payment for an action, claim, demand, cost, damage or liability and shall subsequently actually receive insurance proceeds or other amounts for such action, claim, demand, cost, damage or liability, then such Party shall pay to the Party that made such indemnity payment the lesser of the amount of such insurance proceeds or other amounts actually received and retained or the net amount of the indemnity payments actually received previously.

9.9 Limitations on Liability.

No Party shall be liable to any other Party for any claim for indirect, incidental, special or consequential damage or loss of the other Party, including, but not limited to, loss of profits or revenues, cost of capital of financing, loss of goodwill and cost of replacement power arising from such Party's carrying out, or failing to carry out, any obligations contemplated by this Agreement except to the extent the damages are direct damages that result from the gross negligence or intentional misconduct of such party; provided, however, that nothing herein shall be deemed to reduce or limit the obligation of any Party with respect to the claims of persons or entities not a Party to this Agreement. To the extent that any Party has a claim against any other Party, the amount of any judgement or arbitration award on such claim entered in favor of such Party shall be limited to the value of that Party's assets. The Parties may not seek to enforce claims against the directors, managers, members, shareholders, officers, or employees of any other Party who shall have no personal liability for obligations of such Party by reason of their status as directors, managers, members, shareholders, officers or employees.

9.10 PJM's Liability.

The liability of PJM, its Board, officers, employees, and agents shall be governed by the applicable provisions of the PJM Tariff and Operating Agreement.

9.11 Governing Law.

This Agreement shall be interpreted, construed and governed by the laws of the state of Delaware exclusive of the conflicts of laws provisions.

9.12 Notice.

Except as otherwise expressly provided herein, notices required hereunder shall be in writing and shall be sent to a Party by overnight courier, hand delivery, telecopier or other reliable electronic means to the representative on the Administrative Committee of such Party at the address for such Party previously provided by such Party to the other Parties or as otherwise directed by the Administrative Committee. Any such notice so sent shall be deemed to have been given: (i) upon delivery if given by overnight couriers or hand delivery; or (ii) upon confirmation if given by telecopier or other reliable electronic means.

9.13 Counterparts.

This Agreement may be executed in any number of counterparts, each of which shall be an original but all of which together will constitute one instrument, binding upon all Parties hereto, notwithstanding that all such Parties may not have executed the same counterpart.

9.14 Representations and Warranties.

Each Party represents and warrants to the other Parties that, as of the date it becomes a Party.

9.14.1

The Party is duly organized, validly existing and in good standing under the laws of the jurisdiction where organized;

9.14.2

The execution and delivery by the Party of this Agreement and the performance of its obligations hereunder have been duly and validly authorized by all requisite action on the part of the Party and do not conflict with any applicable law or with any other agreement binding upon the Party. The Agreement has been duly executed and delivered by the Party, and this Agreement constitutes the legal, valid and binding obligation of the Party enforceable against it in accordance with its terms except insofar as the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization, fraudulent conveyance, moratorium or other similar laws affecting the enforcement of creditor's rights generally and by general principles of equity regardless of whether such principles are considered in a proceeding at law or in equity; and

9.14.3

There are no actions at law, suits in equity, proceedings or claims pending or, to the knowledge of the Party, threatened against the Party before or by any federal, state, foreign or local court, tribunal or governmental agency or authority that might materially delay, prevent or hinder the performance by the Party of its obligations hereunder.

9.15 Confidentiality

9.15.1 Party Access.

No Party shall have a right hereunder to receive or review any documents, data or other information of another Party, including documents, data or other information provided to PJM, to the extent such documents, data or information have been designated as confidential pursuant to the procedures adopted by PJM or to the extent that they have been designated as confidential by such other Party; provided, however, a Party may receive and review any composite documents, data and other information that may be developed based on such confidential documents, data or information if the composite does not disclose any individual Party's confidential data or information.

9.15.2 Maintenance of Confidential Information.

In the course of performing functions under this Agreement, the Parties may from time to time receive from each other or from PJM information that a Party or PJM may designate as confidential, or which is subject to FERC's Standards of Conduct for Transmission Providers, or Critical Energy Infrastructure Information, as amended from time to time. The Parties **and PJM** shall treat such information as confidential in accordance with a nondisclosure agreement adopted by the Administrative Committee. Information subject to FERC's Standards of Conduct for Transmission Providers or Critical Energy Infrastructure Information shall not be disclosed or shared except as permitted thereby. The Parties and PJM may enter into agreements to protect and maintain the attorney-client, attorney-work product or other privileges on matters in which they share a common interest.

9.16 Severability~~and~~, Renegotiation and Modification

9.16.1 Severability.

Each provision of this Agreement shall be considered severable and if for any reason any provision is determined by a court or regulatory authority of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this Agreement shall continue in full force and effect and shall in no way be affected, impaired or invalidated, and such invalid, void or unenforceable provision shall be replaced with valid and enforceable provision or provisions which otherwise give effect to the original intent of the invalid, void or unenforceable provision.

9.16.2 Renegotiation.

If any provision of this Agreement is held by a court or regulatory authority of competent jurisdiction to be invalid, void or unenforceable, or if the Agreement is modified or conditioned by a regulatory authority exercising jurisdiction over this Agreement, the Parties shall endeavor in good faith to negotiate such amendment or amendments to this Agreement as will restore the relative benefits and obligations of the Parties under this Agreement immediately prior to such holding, modification or condition. If after 60 days such negotiations are unsuccessful the Parties may exercise their withdrawal or termination rights under this Agreement.

9.16.3 Modification.

Articles 2, 4, 5, 6 and 7 and Attachment B of this Agreement (i) contain individualized terms or conditions that were negotiated at arm's length between and among PJM and the Parties acting independently of each other; (ii) do not constitute rates, terms, or conditions that are generally applicable; (iii) constitute a contract between and among PJM and the Parties; (iv) are subject to change solely by written amendment agreed upon by PJM and the Parties, with the Parties acting by vote in accordance with Section 8.5.1 of this Agreement, and filed with and accepted by FERC; and (v) shall not be subject to change through a unilateral filing with FERC by either PJM or the Parties except by a showing that the affected provision seriously harms the public interest.

9.17 Insurance.

Each Party shall obtain and maintain in force such insurance as is consistent with Good Utility Practice.

9.18 Headings.

The article and section headings used in this Agreement are for convenience only and shall not affect the construction or interpretation of any of the provisions of this Agreement.

9.19 Disputes Between a Party and PJM.

To the extent any dispute arises between one or more Parties and PJM regarding any issue covered by this Agreement, ~~at the Party and initiation of any of the Parties or PJM resolution of the dispute~~ shall follow the ~~dispute resolution~~ procedures set forth in ~~the dispute resolution procedures provided as Schedule 5 section 7.6 above or Attachment B to the Operating this Agreement, as invoked.~~

9.20 Reserved Changes to Applicable Regional Reliability Council.

~~Notwithstanding anything in this Agreement, the Parties agree and acknowledge that any Party that files a request or complaint with FERC pursuant to Section 206 of the Federal Power Act to amend the definition of Applicable Regional Reliability Council or the application of such definition within this Agreement, or to change the Applicable Regional Reliability Council of a Party agrees that such request or complaint shall be submitted pursuant to the "public interest" standard of Section 206, as set forth in United Gas Pipe Line Co. v. Mobile Gas Services Corp., 350 U.S. 332 (1956) and Federal Power Commission v. Sierra Pacific Power Co., 350 U.S. 348 (1956), provided, however, such Mobile-Sierra "public interest" standard shall not apply to FERC ordered changes pursuant to Section 206 of~~

~~the Federal Power Act to amend the definition of Applicable Regional Reliability Council or the application of such definition within this Agreement, or to change the Applicable Regional Reliability Council of a Party.~~

9.21 Prior Agreements Superseded.

As of the Effective Date of this Agreement, the Transmission Owners Agreement dated as of June 2, 1997, as amended, the West Transmission Owners Agreement dated as of March 13, 2001, as amended and restated December 2, 2002, and the PJM South Transmission Owner Agreement dated May 11, 2004 shall be superseded in accordance with the terms of this Agreement.

9.22 Relationship to Superseded Agreements.

Upon the Effective Date of this Agreement, each Party shall maintain its rights and remain liable for any and all obligations under: (i) the Transmission Owners Agreement dated as of June 2, 1997, as amended; (ii) the West Transmission Owners Agreement dated as of March 13, 2001, as amended and restated December 2, 2002; or (iii) the PJM South Transmission Owner Agreement dated May 11, 2004 (collectively “the Superseded Agreements”) applicable to such Party that arose under a Superseded Agreement with respect to such Party prior to the Effective Date of this Agreement. Neither the effectiveness of this Agreement nor the termination of the Superseded Agreements shall relieve the Parties of any of their indemnification or liability obligations contained in the Superseded Agreements for any events occurring prior to the Effective Date of this Agreement.

9.23 Transition of the Regional Transmission Expansion Planning Protocol to a Schedule under the PJM Tariff.

Until the effective date of PJM Tariff provisions accepted by FERC providing that PJM shall prepare the Regional Transmission Expansion Plan in accordance with a Schedule to the PJM Tariff, PJM shall continue to prepare the Regional Transmission Expansion Plan in accordance with Schedule 6 of the PJM Operating Agreement without interruption.

ATTACHMENT A
TO THE CONSOLIDATED
TRANSMISSION OWNERS AGREEMENT

Monongahela Power Company and The Potomac Edison Company, doing business as Allegheny Power

American Electric Power Service Corporation on behalf of its affiliate companies: AEP Appalachian Transmission Company, Inc.; AEP Indiana Michigan Transmission Company, Inc.; AEP Kentucky Transmission Company, Inc.; AEP Ohio Transmission Company, Inc.; AEP West Virginia Transmission Company, Inc.; Appalachian Power Company; Indiana Michigan Power Company; Kentucky Power Company; Kingsport Power Company; Ohio Power Company and Wheeling Power Company

Commonwealth Edison Company and Commonwealth Edison Company of Indiana, Inc.

Dayton Power and Light Company

Virginia Electric and Power Company (Dominion Virginia Power)

Public Service Electric and Gas Company

PECO Energy Company

PPL Electric Utilities Corporation

Baltimore Gas and Electric Company

Jersey Central Power & Light Company

Potomac Electric Power Company

Atlantic City Electric Company

Delmarva Power & Light Company

UGI Utilities, Inc.

Allegheny Electric Cooperative, Inc.

Essential Power Rock Springs, LLC

Old Dominion Electric Cooperative

Rockland Electric Company

Duquesne Light Company

Neptune Regional Transmission System, LLC

Trans-Allegheny Interstate Line Company

Linden VFT, LLC

American Transmission Systems, Incorporated

City of Cleveland, Department of Public Utilities, Division of Cleveland Public Power

Duke Energy Ohio, Inc.

Duke Energy Kentucky, Inc.

City of Hamilton, OH

Hudson Transmission Partners, LLC

East Kentucky Power Cooperative, Inc.

Mid-Atlantic Interstate Transmission, LLC

Southern Maryland Electric Cooperative, Inc.

Ohio Valley Electric Corporation

AMP Transmission, LLC

Transource West Virginia, LLC

Silver Run Electric, LLC

NextEra Energy Transmission MidAtlantic Indiana, Inc.

Wabash Valley Power Association, Inc.

Keystone Appalachian Transmission Company

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

PJM Interconnection, L.L.C.

By: _____

Name: Phillip G. Harris

Title: President and CEO

Date: December 15, 2005

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

Monongahela Power Company and The Potomac Edison Company, doing business as Allegheny Power

By: _____

Name: Olenger L. Pannell

Title: Vice President

Date: January 1, 2024

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

American Electric Power Service Corporation on behalf of its affiliate companies:
AEP Appalachian Transmission Company, Inc.; AEP Indiana Michigan Transmission Company, Inc.; AEP Kentucky Transmission Company, Inc.; AEP Ohio Transmission Company, Inc.; AEP West Virginia Transmission Company, Inc.; Appalachian Power Company; Indiana Michigan Power Company; Kentucky Power Company; Kingsport Power Company; Ohio Power Company and Wheeling Power Company

By: _____
Name: Lisa M. Barton
Title: Executive Vice President - AEP Transmission
Date: October 13, 2015

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

Exelon Corporation on behalf of its subsidiaries
Commonwealth Edison Company and Commonwealth Edison
Company of Indiana, Inc.

By: _____

Name: Susan Ivey

Title: Vice President, Transmission Operations and Planning, Exelon Corporation

Date: December 15, 2005

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

The Dayton Power and Light Company

By: _____

Name: Patricia K. Swanke

Title: Vice President - Operations

Date: December 15, 2005

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

Virginia Electric and Power Company (Dominion Virginia Power)

By: _____

Name: Gary L. Sypolt

Title: President – Dominion Transmission

Date: December 15, 2005

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

Public Service Electric and Gas Company

By: _____

Name: Ralph LaRossa

Title: Vice President - Electric Delivery

Date: December 15, 2005

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

Exelon Corporation on behalf of its subsidiary
PECO Energy Company

By: _____

Name: Susan Ivey

Title: Vice President, Transmission Operations and Planning, Exelon Corporation

Date: December 15, 2005

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

PPL Electric Utilities Corporation

By: _____

Name: John F. Sipics

Title: President

Date: December 15, 2005

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

Baltimore Gas and Electric Company

By: _____

Name: Mark P. Huston

Title: Vice President, Electric Transmission and Distribution

Date: December 15, 2005

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

Jersey Central Power & Light Company

By: _____

Name: Stanley F. Szwed

Title: Vice President – Energy Delivery Policy
First Energy Service Company

Date: December 15, 2005

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

Potomac Electric Power Company

By: _____

Name: David M. Valazquez

Title: Vice President, Pepco Holdings, Inc.

Date: December 15, 2005

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

Atlantic City Electric Company

By: _____

Name: David M. Valazquez

Title: Vice President, Pepco Holdings, Inc.

Date: December 15, 2005

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

Delmarva Power & Light Company

By: _____

Name: David M. Valazquez

Title: Vice President, Pepco Holdings, Inc.

Date: December 15, 2005

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

UGI Utilities, Inc.

By: _____

Name: Richard E. Gill

Title: Assistant Secretary - Electric Transmission

Date: December 15, 2005

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

Essential Power Rock Springs, LLC

By: _____

Name: Jason Solimini

Title: Vice President Finance, Controller and Treasurer

Date: September 26, 2019

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

Old Dominion Electric Cooperative

By: _____

Name:

Title:

Date: December 15, 2005

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

Rockland Electric Company

By: _____

Name:

Title:

Date: December 15, 2005

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

Duquesne Light Company

By: _____

Name:

Title:

Date: December 15, 2005

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

Allegheny Electric Cooperative, Inc.

By: _____

Name: Richard W. Osborne

Title: Vice President Power Supply & Engineering

Date: December 15, 2005

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

Neptune Regional Transmission System, LLC

By: _____

Name: Edward M. Stern

Title: CEO

Date: March 7, 2007

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

Trans-Allegheny Interstate Line Company

By: _____

Name: James R. Haney

Title: Vice President

Date: November 8, 2007

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

Linden VFT, LLC

By: _____

Name: Andrew J. Keleman

Title: Authorized Representative

Date: April 1, 2009

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

American Transmission Systems, Incorporated

By: _____

Name: Richard R. Grigg

Title: President

Date: December 17, 2009

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

City of Cleveland, Department of Public Utilities
Division of Cleveland Public Power

By: _____

Name: Barry A. Withers

Title: Director

Date: March 22, 2011

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

Duke Energy Ohio, Inc.

By: _____

Name: Julia S. Janson

Title: President

Date: September 27, 2011

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

Duke Energy Kentucky, Inc.

By: _____

Name: Julia S. Janson

Title: President

Date: September 27, 2011

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

City of Hamilton, OH

By: _____

Name: Joshua A. Smith

Title: City Manager

Date: February 29, 2012

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

Hudson Transmission Partners, L.L.C.

By: _____

Name: Jeffrey T. Wood

Title: Senior Vice President

Date: February 8, 2013

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

East Kentucky Power Cooperative, Inc.

By: _____

Name: Anthony S. Campbell

Title: President & CEO

Date: March 26, 2013

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

Mid-Atlantic Interstate Transmission, LLC

By: _____

Name: Richard A. Ziegler

Title: Director, FERC & RTO Technical Support

Date: October 14, 2016

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

Southern Maryland Electric Cooperative, Inc.

By: _____

Name: Austin J. Slater, Jr.

Title: President & CEO

Date: October 19, 2016

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

Ohio Valley Electric Corporation, Inc.

By: _____

Name: Justin J. Cooper

Title: Secretary, Treasurer, and Chief Financial Officer

Date: November 28, 2018

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

AMP Transmission, LLC

By: _____

Name: Pamala M. Sullivan

Title: President

Date: October 9, 2018

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

Transource West Virginia, LLC

By: _____

Name: Antonio P. Smyth

Title: President

Date: February 19, 2019

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

Silver Run Electric, LLC

By: _____

Name: Paul G. Thessen

Title: President

Date: February 27, 2020

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

NextEra Energy Transmission MidAtlantic Indiana, Inc.

By: _____

Name: Michael Sheehan

Title: Vice President

Date: May 7, 2020

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

Wabash Valley Power Association, Inc.

By: _____

Name: Jay Bartlett

Title: Chief Executive Officer

Date: 10/25/19

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

Keystone Appalachian Transmission Company

By: _____

Name: Olenger L. Pannell

Title: Vice President

Date: January 1, 2024

ATTACHMENT B
TO THE CONSOLIDATED TRANSMISSION
OWNERS AGREEMENT
DISPUTE RESOLUTION PROCEDURES

A. Sequential Process for Resolving Disputes

The Parties and PJM shall undertake good-faith negotiations to resolve any dispute as to a matter governed by this Agreement consistent with the following sequential process:

- i. Each Party to a dispute (“Dispute Party”) and PJM shall designate an executive with authority to resolve the matter in dispute (“Designated Executive”) to participate in such discussions. The Designated Executives shall promptly meet and engage in discussions to resolve the matter in dispute.
- ii. To the extent such dispute is not resolved pursuant to (i), each Dispute Party shall designate the President of the Dispute Party (as set forth in Attachment A to this Agreement) or other comparable senior executive (“Senior Designated Executive”) to meet with the President of PJM to participate in such discussions to resolve the matter in dispute. The Senior Designated Executive(s) and President of PJM shall promptly meet and engage in discussions to resolve the matter in dispute.
- iii. To the extent such dispute is not resolved pursuant to (ii), the dispute may be escalated to the PJM Board at the request of a Dispute Party. The Senior Designated Executive of the relevant Dispute Party may meet with the PJM Board to present the dispute in an attempt to resolve the matter.
- iv. Any dispute that has not been resolved through good faith negotiation pursuant to the process set forth in (i), (ii) and (iii) above may be subject to non-binding mediation prior to the initiation of regulatory, judicial, or other dispute resolution proceedings as may be appropriate as provided by this Dispute Resolution Procedure.

B. Disputes Involving Proposed Section 205 Filings Under Section 7.9.

In the event the Parties or PJM have a dispute regarding a Federal Power Act section 205 filing under Section 7.9 of this Agreement, and the dispute resolution procedures set forth in this Attachment B are invoked, the Parties or PJM shall have the right to invoke expedited Dispute Resolution Procedures as follows:

- i. The Party or Parties and PJM shall meet promptly prior to the filing in order to resolve the dispute.
- ii. If the Transmission Owners propose to make the Section 205 filing, they shall defer such filing beyond the 30-day notice and consultation period provided for in Section 7.3.2 for up to 10 additional days at the request of PJM to allow the dispute to be resolved.
- iii. If PJM proposes to make the Section 205 filing, it shall defer any filing beyond the 7-day notice and consultation period provided for in Section 7.5.1(ii) for up to 10 additional days to allow the dispute to be resolved.
- iv. If PJM disputes a Section 205 filing that the Transmission Owners propose to make, in order to resolve a dispute in a manner that requires the Transmission Owners to withdraw or alter the proposed Section 205 filing, the agreement of the Transmission Owners must be obtained by vote in accordance with Section 8.5.1 of this Agreement.
- v. If the Party or Parties and PJM are unable to reach agreement among themselves, the matter shall be presented to and resolved by a Neutral Party chosen pursuant to Section 7.6.5. Except as provided herein, such resolution shall be binding on the Party or Parties and PJM. Interested parties (including the Parties and PJM) may file a complaint seeking review by the FERC of the Neutral Party's decision, and the FERC's authority to interpret whether the proposed filing contravenes the Agreement shall not be limited by the Neutral Party's decision as it relates to these disputes.
- vi. Nothing in this Attachment B is intended to limit the Parties' and PJM's rights to make filings subject to this dispute resolution provision pursuant to Section 206 of the Federal Power Act prior to resolution of such dispute.

C. Other Disputes.

"Alternate Dispute Resolution Coordinator" shall mean the individual designated by the Parties and PJM. If at any time the position of Alternate Dispute Resolution Coordinator shall become vacant, the Parties and PJM shall promptly designate a replacement.

Initiation. If a dispute that is subject to the mediation procedures specified herein has not been resolved through good-faith negotiation, a party to the dispute shall notify the Alternate Dispute Resolution Coordinator in writing of the existence and nature of the dispute prior to commencing any other form of proceeding for resolution of the dispute. The Alternate Dispute Resolution Coordinator shall have ten calendar days from the date it first receives notification of the existence of a dispute from any of the parties to the dispute in which to distribute to the parties a list of mediators.

Selection of Mediator. The Alternate Dispute Resolution Coordinator shall distribute to the parties to the dispute by electronic means a list containing the names of seven mediators with mediation experience, or with technical or business experience in the electric power industry, or both, as it shall deem appropriate to the dispute. The Alternate Dispute Resolution Coordinator may draw from the lists of mediators maintained by the established dispute resolution committee of an Applicable Regional Entity, as the Alternate Dispute Resolution Coordinator shall deem appropriate. The Alternate Dispute Resolution Coordinator shall distribute the names of all qualified mediators on the Alternate Dispute Resolution Coordinator's list. The persons on the proposed list of mediators shall have no official, financial, or personal conflict of interest with respect to the issues in controversy, unless the interest is fully disclosed in writing to all parties to the dispute in the mediation process and such parties waive in writing any objection to the interest. The parties shall then alternate in striking names from the list with the last name on the list becoming the mediator. The determination of which party shall have the first strike off the list shall be determined by lot. The parties shall have ten calendar days to complete the mediator selection process, unless the time is extended by mutual agreement.

Advisory Mediator. If the Alternate Dispute Resolution Coordinator deems it appropriate, it shall distribute two lists, one containing the names of seven mediators with mediation experience (or a list containing the names of all current mediators in the event of a dispute involving the Office of the Interconnection), and one containing the names of seven mediators with technical or business experience in the electric power industry. In connection with circulating the foregoing lists, the Alternate Dispute Resolution Coordinator shall specify one of the lists as containing the proposed mediators, and the other as a list of proposed advisors to assist the mediator in resolving the dispute. The parties to the dispute shall then utilize the alternative strike procedure set forth above until one name remains on each list, with the last named persons serving as the mediator and advisor.

Mediation Process. The parties to the dispute shall attempt in good faith to resolve their dispute in accordance with procedures and a timetable established by the mediator. In furtherance of the mediation efforts, the mediator may:

- a. Require the parties to the dispute to meet for face-to-face discussions, with or without the mediator;
- b. Act as an intermediary between the parties to the dispute;
- c. Require the parties to the dispute to submit written statements of issues and positions;
- d. If requested by the parties to the dispute at any time in the mediation process, provide a written recommendation on resolution of the dispute including, if requested, the assessment by the mediator of the merits of the principal positions being advanced by each of the parties to the dispute; and

e. Adopt, when appropriate, the Center for Public Resources Model ADR Procedures for the Mediation of Business Disputes (as revised from time to time) to the extent such procedures are not inconsistent with any rule, standard, or procedure adopted by the Parties and PJM, or with any provision of this Agreement.

Mediator's Assessment. If a resolution of the dispute is not reached by the thirtieth day after the appointment of the mediator or such later date as may be agreed to by the parties to the dispute, if not previously requested to do so the mediator shall promptly provide the parties to the dispute with a written, confidential, non-binding recommendation on resolution of the dispute, including the assessment by the mediator of the merits of the principal positions being advanced by each of the parties to the dispute. The recommendation may incorporate or append, if and as the mediator may deem appropriate, any recommendations or any assessment of the positions of the parties to the dispute by the advisor, if any. Upon request, the mediator shall provide any additional recommendations or assessments the mediator shall deem appropriate. At a time and place specified by the mediator after delivery of the foregoing recommendation, the parties to the dispute shall meet in a good faith attempt to resolve the dispute in light of the recommendation of the mediator. Each party to the dispute shall be represented at the meeting by a person with authority to settle the dispute, along with such other persons as each party to the dispute shall deem appropriate. If the parties to the dispute are unable to resolve the dispute at or in connection with this meeting, then any party to the dispute may commence such arbitral, judicial, regulatory or other proceedings as may be appropriate as provided in this Dispute Resolution Procedure.

D. Dispute Resolution Privilege.

In accordance with FERC's policy favoring the use of alternative dispute resolution procedures, any statements made by any Dispute Party or PJM in the dispute resolution process set forth in this Attachment B: (i) shall have no further force or effect, (ii) shall not be admissible for any purpose, in any subsequent arbitral, administrative, judicial, or other proceeding and (iii) shall be protected from discovery and otherwise confidential. Dispute resolution communications, including any determination by the mediator, shall not be admissible in accordance with Rule 606 of FERC's Rules of Practice and Procedure, Federal Rules of Evidence, and any other applicable law. All other applicable privileges available to any Dispute Party and PJM through dispute resolution and settlement discussions are also preserved. Such privileged and confidential communications may also be protected by the attorney-client privilege, the attorney-work product doctrine, and the common legal interest doctrine.

Exhibit B
Clean CTOA

CONSOLIDATED TRANSMISSION OWNERS AGREEMENT
RATE SCHEDULE FERC No. 42

**CONSOLIDATED
TRANSMISSION OWNERS AGREEMENT**

This CONSOLIDATED TRANSMISSION OWNERS AGREEMENT (“Agreement”) dated as of the 15th day of December 2005, is made by and among the Transmission Owners (hereinafter referred to collectively as “Parties” and individually as a “Party”). In addition, this Agreement is made by and between the Parties and PJM Interconnection, L.L.C. (hereinafter referred to as “PJM”) solely for the purpose of establishing the respective rights and commitments of the Parties and PJM identified herein.

WITNESSETH:

WHEREAS, each Party, in the exercise of its rights under the Federal Power Act, 16 U.S.C § 824 *et seq.*, voluntarily and independently enters into this Agreement;

WHEREAS, on the date of initial execution of this Agreement, all then existing Parties had, pursuant to three separate Transmission Owner(s) agreements, previously agreed to transfer functional control of their Transmission Facilities to PJM;

WHEREAS, the Parties, acting pursuant to the three separate Transmission Owner(s) agreements, have agreed to consolidate the three separate Transmission Owner(s) agreements into this Agreement for the purposes established herein; and

WHEREAS, PJM’s rights and commitments provided herein are in consideration of the Parties’ commitments to PJM as set forth herein.

NOW THEREFORE, in consideration of the foregoing and the mutual covenants and promises made herein, the Parties and PJM agree as follows:

ARTICLE 1 – DEFINITIONS

Unless the context otherwise specifies or requires, capitalized terms used herein shall have the respective meanings assigned herein for all purposes of this Agreement (such definitions to be equally applicable to both the singular and the plural forms of the terms defined). Unless otherwise specified, all references herein to Articles or Sections are to Articles or Sections of this Agreement. As used in this Agreement:

Administrative Committee

Administrative Committee shall mean that committee, consisting of representatives of each Party to this Agreement, established pursuant to Article 8 of this Agreement.

Affiliate or Affiliation

Affiliate or Affiliation shall mean any two or more entities, one of which Controls the other or that are under common Control.

Agreement

Agreement shall mean this Consolidated Transmission Owners Agreement, as it may be amended from time to time.

Applicable Regional Reliability Council

Applicable Regional Reliability Council shall mean the reliability council under Section 202 of the Federal Power Act, the rules and procedures of which, pursuant to written agreement, each Party has agreed to be bound, or the regional entity under Section 215(e)(4) of the Federal Power Act, the rules and procedures of which, pursuant to an order of the FERC, a Party is required to follow.

Attachment H

Attachment H shall refer collectively to the Attachments to the PJM Tariff with the prefix “H-“ that set forth, among other things, the Annual Transmission Rates for Network Integration Transmission Service in the PJM Zones.

Control

Control shall mean the possession, directly or indirectly, of the power to direct the management or policies of any entity. Ownership of publicly-traded equity securities of another entity shall not result in Control or Affiliation for purposes of this Agreement if: (i) the securities are held as an investment, (ii) the holder owns (in its name or via intermediaries) less than ten (10) percent of the outstanding securities of the entity, (iii) the holder does not have representation on the entity's board of directors (or equivalent managing entity) or vice versa, and (iv) the holder does not in fact exercise influence over day-to-day management decisions. Unless the contrary is demonstrated to the satisfaction of the Administrative Committee, Control shall be presumed to arise from the ownership of or the power to vote, directly or indirectly, ten (10) percent or more of the voting securities of such entity.

Control Area

Control Area shall mean an electric power system or combination of electric power systems bounded by interconnection metering and telemetry to which a common automatic generation control scheme is applied in order to: (i) match, at all times, the power output of the generators within the electric power system(s) and energy purchased from entities outside the electric power system(s), with the load within the electric power system(s); (ii) maintain scheduled interchange with other Control Areas, within the limits of Good Utility Practice; (iii) maintain the frequency of the electric power system(s) within reasonable limits in accordance with Good Utility Practice and the criteria of NERC and the Applicable Regional Reliability Council of NERC; (iv) maintain power flows on transmission facilities within appropriate limits to preserve reliability; and (v) provide sufficient generating capacity to maintain operating reserves in accordance with Good Utility Practice.

CTOA Designated Party

CTOA Designated Party shall mean an entity that is not a Party to this Agreement that has been designated to construct and own or finance enhancements or expansions applicable to the PJM Region specified in the Regional Transmission Expansion Plan.

Effective Date

Effective Date shall mean such date that FERC permits this Agreement to go into effect.

FERC

FERC shall mean the Federal Energy Regulatory Commission, or any successor federal agency or commission exercising jurisdiction over this Agreement.

Good Utility Practice

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

Individual Vote

Individual Vote shall mean the single vote accorded to each Party that is not in default and is otherwise authorized to vote in accordance with the terms of this Agreement; provided, however, that Parties that are Affiliates shall have a single Individual Vote; and further provided, however, that two or more Parties that are not Affiliates shall have a single Individual Vote if neither such Party owns Transmission Facilities subject to this Agreement other than Transmission Facilities which such Parties own jointly.

Interconnection Customer

Interconnection Customer shall have the meaning defined in the PJM Tariff.

Joint Transmission Rate

Joint Transmission Rate shall mean a transmission rate that applies to: (i) all PJM Zones collectively; (ii) transactions that enter or exit the PJM Region; or (iii) one or more PJM Zones other than the PJM Zone(s) of the Transmission Owner(s) filing such rate.

NERC

NERC shall mean the North American Electric Reliability Council or any successor thereto, including the Electric Reliability Organization certified by FERC pursuant to Section 215(c) of the Federal Power Act.

Neutral Party

Neutral Party shall have the meaning defined in the PJM Tariff.

Office of the Interconnection

Office of the Interconnection shall mean the employees and agents of PJM Interconnection, L.L.C. subject to the supervision and oversight of the PJM Board.

Open Access Same-Time Information System (OASIS)

Open Access Same-Time Information System (OASIS) shall have the meaning defined in the PJM Tariff.

Operating Agreement

Operating Agreement shall mean that certain Amended and Restated Operating Agreement of PJM Interconnection, L.L.C., dated April 1, 1997 and as amended and restated June 2, 1997, including all Schedules, Exhibits, Appendices, addenda or supplements thereto, and as amended from time to time thereafter, among the members of PJM, on file with FERC.

PJM

For purposes of this Agreement, PJM shall mean PJM Interconnection, L.L.C., including the Office of the Interconnection as defined herein.

PJM Board

PJM Board shall mean the Board of Managers of PJM Interconnection, L.L.C.

PJM Region

PJM Region shall mean the aggregate of the PJM Zones within PJM as set forth in the PJM Tariff, Attachment J.

PJM Regional Rate Design

PJM Regional Rate Design shall mean a Rate Design that applies, in accordance with its terms, to all PJM Zones in the PJM Region.

PJM Manuals

PJM Manuals shall have the meaning defined in the PJM Tariff.

PJM Open Access Transmission Tariff or PJM Tariff

PJM Open Access Transmission Tariff or PJM Tariff shall mean that certain PJM Open Access Transmission Tariff, including any schedules, appendices or exhibits attached thereto, on file with FERC and as amended from time to time thereafter.

PJM Zone

A PJM Zone shall mean a transmission zone as shown in PJM Tariff, Attachment J.

Rate Design

Rate Design shall mean the design of the rates to recover a Transmission Owner's revenue requirement with respect to its Transmission Facilities or other amounts as authorized by FERC, including without limitation applicable incentives and a reasonable return.

Regional Transmission Expansion Plan

Regional Transmission Expansion Plan shall mean the plan prepared by the Office of the Interconnection pursuant to the Regional Transmission Expansion Planning Protocol for the enhancement and expansion of the Transmission Facilities comprising the Transmission System in order to meet the demands for firm transmission service in the PJM Region. Regional Transmission Expansion Planning Protocol

Regional Transmission Expansion Planning Protocol shall mean PJM Tariff, Schedule 19, or any successor thereto.

Required Transmission Enhancements

Required Transmission Enhancements shall have the meaning defined in the PJM Tariff.

Regional Transmission Organization (RTO)

Regional Transmission Organization (RTO) shall mean an organization in effect during the term of this Agreement and approved by FERC as an RTO, as that term is defined in the applicable FERC regulations.

Transmission Customer

Transmission Customer shall have the meaning defined in the PJM Tariff.

Transmission Facilities

Transmission Facilities shall mean those facilities that: (i) are within the PJM Region; (ii) meet the definition of transmission facilities pursuant to FERC's Uniform System of Accounts or have been classified as transmission facilities in a ruling by FERC addressing such facilities; and (iii) have been demonstrated to the satisfaction of PJM to be integrated with the Transmission System of the PJM Region and integrated into the planning and operation of the PJM Region to serve the power and transmission customers within such region, regardless of whether the facilities are included in the transmission facilities list maintained by PJM.

Transmission Owners

Transmission Owners shall mean those entities that own or lease (with rights equivalent to ownership) Transmission Facilities. For purposes of this Agreement only, a Transmission Owner who is a generation and transmission cooperative (in addition to being the Transmission Owner for its own Transmission Facilities) shall also be the Transmission Owner for the Transmission Facilities of its cooperative members, with all rights and obligations specified under this agreement with regard to such Transmission Facilities, provided, however, that (a) it has been affirmatively granted in writing binding authority by such cooperative members to assume such rights and obligations, (b) that it affirmatively represents and warrants in writing to the other Parties and PJM that it has authority to act for and on behalf of such members, and (c) that any such cooperative member shall not be a Transmission Owner.

Transmission Planned Outage

Transmission Planned Outage shall mean any transmission outage scheduled in advance for a pre-determined duration and which meets the notification requirements for such outages specified in the PJM Manuals.

Transmission System

Transmission System shall mean the Transmission Facilities of the Parties in the PJM Region.

Weighted Votes

Weighted Votes shall mean the number of votes accorded to each Party, which shall be equal to the net book value, as determined in accordance with FERC's Uniform System of Accounts, of each Party's Transmission Facilities (expressed in dollars and divided by one million (1,000,000)), as determined on April 1 of each year on the basis of the net book value as of the prior December 31; provided, however, the Weighted Votes of all Parties shall be adjusted in a proportional manner as agreed to by the Administrative Committee so that no Party (together with its Affiliates) shall have more than twenty-four and nine-tenths percent (24.9%) of the sum of the Weighted Votes. The net book value of each Party's Transmission Facilities shall be determined based on current data filed with FERC in Form No. 1 or 1F or any successor thereto, unless a Party does not file a Form 1 or 1F in which case, the net book value of a Party's Transmission Facilities shall be determined based on a certification from the Party's independent auditor submitted to the Administrative Committee by April 1 of each year under oath by an officer of such Party without any claim of confidentiality. Such certification shall state specific values for electric transmission plant in service, accumulated depreciation, and the net book value of Transmission Facilities.

Zero Revenue Requirement Party

Zero Revenue Requirement Party means a Party that is a Transmission Owner solely by virtue of Transmission Facilities used to provide transmission services within the PJM Region under the PJM Tariff for which it does not have a cost-of-service rate for such services set forth in PJM Tariff, Schedules 7 and 8 and PJM Tariff, Attachment H

ARTICLE 2 – PURPOSES AND OBJECTIVES OF THIS AGREEMENT

2.1 Purposes and Objectives

The Parties have entered into this Agreement to: (i) facilitate the coordination of planning and operation of their respective Transmission Facilities within the PJM Region; (ii) transfer certain planning and operating responsibilities to PJM; (iii) provide for regional transmission service pursuant to the PJM Tariff and subject to administration by PJM; and (iv) establish certain rights and obligations that will apply exclusively to the Parties and PJM.

2.2 Exercise of PJM's Responsibilities and Commitments

PJM's responsibilities and commitments under this Agreement shall be exercised exclusively and unilaterally by the PJM Board or by the PJM Office of the Interconnection subject to the supervision and oversight of the PJM Board, in the same manner as it acts to file to make changes in or relating to the terms and conditions of the PJM Tariff.

2.3 Annual Meeting to Discuss the State of the Agreement

The Administrative Committee and the Reliability and Security Committee of the PJM Board or such other relevant committee or members of the PJM Board as the PJM Board designates shall meet annually to discuss the state of the Agreement in achieving the purposes and objectives thereof. Such meeting shall be closed to persons or entities other than personnel of the Parties and PJM as provided in Section 8.4.4. Notice of and the agenda for such meeting shall be distributed to the Parties and PJM not later than ten (10) days prior to the meeting and shall state the time, place and manner of such meeting. Minutes of the meeting shall be timely posted following approval of such minutes by the Administrative Committee and the Reliability and Security Committee, respectively.

ARTICLE 3 – PARTICIPATION IN THIS AGREEMENT

3.1 Parties.

It is the intent of the Parties and PJM that this Agreement serve as the sole Transmission Owners Agreement for all Transmission Facilities in PJM. Further, it is the agreement of the Parties and PJM that any entity that: (i) owns, or, in the case of leased facilities, has rights equivalent to ownership in, Transmission Facilities; (ii) has in place all equipment and facilities necessary for safe and reliable operation of such Transmission Facilities as part of the PJM Region; and (iii) has committed to transfer functional control of its Transmission Facilities to PJM shall become a Party to this Agreement. In addition, a CTOA Designated Party shall also become a Party to this Agreement as specified in Section 3.1.1. Any disputes regarding whether an entity has satisfied the requirements for becoming a Party in this Section 3.1 shall be subject to the dispute resolution procedures set out in this Agreement.

Prior to this Agreement becoming effective as to any such entity, each of the following events shall have occurred:

- i. The Operating Agreement is in full force and effect.
- ii. The Operating Agreement has been executed by the entity.
- iii. This Agreement has been executed by the entity.
- iv. All required regulatory approvals have been obtained.

The Parties to this Agreement are listed in Attachment A.

3.1.1 Status of CTOA Designated Parties.

A CTOA Designated Party shall be subject to the rights, commitments and undertakings of a Party to this Agreement to the extent applicable. If (i) all enhancements or expansions a CTOA Designated Party has been designated to construct and own or finance have been cancelled or removed from the Regional Transmission Expansion Plan; or (ii) all of a CTOA Designated Party's designations have been withdrawn or revoked for any reason, it shall be terminated as a CTOA Designated Party to this Agreement and no longer subject to the rights, commitments and undertakings of a Party. A CTOA Designated Party shall not be entitled to cast a vote under Sections 8.5.1 or 8.5.2 or be counted for a quorum under Section 8.4.3. Once any enhancement or expansion a CTOA Designated Party has been designated to construct and own or finance meets the definition of Transmission Facilities under this Agreement, it shall become a Party with all the rights, commitments and undertakings applicable to Parties.

3.2 Withdrawal From This Agreement.

Any Party may withdraw from this Agreement upon ninety (90) days advance written notice to PJM and the other Parties; provided that such withdrawal shall not be effective until the withdrawing Party has: (i) if its Transmission Facilities do not comprise an entire Control Area, satisfied all applicable standards of NERC and the Applicable Regional Reliability Council for operating a Control Area or being included within an existing Control Area; (ii) put in place alternative arrangements for satisfaction of the FERC's requirements with respect to comparable transmission services; and (iii) made a filing with the FERC under Section 205 of the Federal Power Act to withdraw from this Agreement, and such filing has been approved, accepted without suspension, or if suspended, the suspension period has expired before the FERC has issued an order on the merits of the filing. Notwithstanding the forgoing, a Zero Revenue Requirement Party may withdraw from this Agreement in the particular circumstance of permanent removal of its owned Transmission Facilities from service, provided that such Party has: (a) provided written notice to PJM and the parties to the Operating Agreement at least twelve months in advance of the intended date of retirement of its owned Transmission Facilities, and (b) complied with all reasonable requirements of PJM for restoration, to the maximum extent reasonably attainable, of the PJM Transmission System to the same configuration and operational capability that existed prior to such Party's installation of its owned Transmission Facilities. Withdrawal from this Agreement shall not terminate a Party's membership pursuant to the Operating Agreement or the Reliability Assurance Agreement or its participation in PJM other than with respect to the functions transferred to PJM under this Agreement.

3.3 Transfers or Assignments.

A Party that transfers or assigns its ownership of, or its rights equivalent to ownership in, Transmission Facilities shall require the transferee or assignee to assume all rights and obligations under this Agreement and to become a Party to this Agreement.

3.4 Obligations After Withdrawal, Transfer, or Assignment.

Any Party that withdraws from, transfers, or assigns this Agreement in accordance with Sections 3.2 or 3.3 hereof, shall remain liable for any and all obligations under this Agreement that such Party incurred, that were incurred on behalf such Party, or that arose hereunder prior to the date upon which such Party's withdrawal, transfer, or assignment became effective. Withdrawal from, transfer, or assignment of this Agreement shall not relieve such Party of any of its indemnification or liability obligations pursuant to Article 9 hereof for any events occurring prior to the time that its withdrawal from this Agreement became effective.

3.5 Cessation of Effectiveness.

Subject to provisions of this Agreement providing for survival and Section 3.4, this Agreement shall cease to be effective with respect to any function PJM provides under, or in connection with, this Agreement in the event that PJM ceases to be approved by FERC to perform the responsibilities transferred to PJM by this Agreement or in the event that all Transmission Owners have withdrawn from this Agreement under Section 3.2, or the Parties have voted to terminate this Agreement pursuant to Section 9.3.

ARTICLE 4 – PARTIES’ COMMITMENTS

Each Party agrees to the following commitments and undertakings:

4.1 Rights and Responsibilities Transferred to PJM.

4.1.1 Transmission Service.

Each Party shall authorize PJM to provide transmission service over its Transmission Facilities in the PJM Region under the PJM Tariff.

4.1.2 Directing the Operation of Transmission Facilities.

Each Party shall transfer to PJM, pursuant to this Agreement and in accordance with the PJM Tariff, the responsibility to direct the operation of its Transmission Facilities provided that such transfer is not intended to require any change in the physical operations or control over Transmission Facilities.

4.1.3 PJM Tariff.

Each Party shall transfer to PJM, pursuant to this Agreement, responsibility for administering the PJM Tariff.

4.1.4 Preparation of the Regional Transmission Expansion Plan.

(a) Each Party shall transfer to PJM, pursuant to this Agreement, the exclusive responsibility to prepare a Regional Transmission Expansion Plan to provide for the expansion and enhancement of the Parties’ Transmission Facilities in the PJM Region in accordance with and subject to:

(i) The Regional Transmission Expansion Planning Protocol that will be set forth exclusively in PJM Tariff, Schedule 19;

(ii) PJM Tariff, Attachment M-3; and

(iii) This Agreement.

(b) (i) The planning of a Party’s Transmission Facilities not transferred to PJM pursuant to Section 4.1.4(a) is reserved to the Party, notwithstanding that the Party has transferred to PJM the responsibility to direct the operation of such Transmission Facilities pursuant to Section 4.1.2.

(ii) Where Transmission Facilities planned by a Party may overlap with Transmission Facilities proposed to be included in the Regional Transmission Expansion Plan such that the Transmission Facilities proposed to be included in the Regional Transmission Expansion Plan would more efficiently or cost effectively address the need for which the Party's Transmission Facilities are planned, PJM shall consult with the Party to determine if the need for which the Party's Transmission Facilities are planned will be addressed. If the Party determines that such need will not be addressed and that it must continue to plan the Party's Transmission Facilities, it shall document to PJM and the relevant PJM transmission planning committee the rationale supporting its determination.

(c) Each Party shall provide information reasonably requested by PJM to prepare the Regional Transmission Expansion Plan and shall otherwise cooperate with PJM in such preparation.

4.1.5 Operations Support.

As required by this Agreement, the PJM Tariff, the PJM Manuals, or as otherwise reasonably requested by PJM, each Party will provide to PJM necessary data, information and related technical support consistent with enabling PJM to monitor and analyze system conditions so that PJM may affirmatively determine that PJM is in compliance with NERC standards.

4.2 Obligation to Build.

4.2.1 Construction Designation

Subject to: (i) the requirements of applicable law, government regulations and approvals, including, without limitation, requirements to obtain any necessary state or local siting, construction and operating permits; (ii) the availability of required financing; (iii) the ability to acquire necessary right-of-way; (iv) the right to recover, pursuant to appropriate financial arrangements and tariffs or contracts, all reasonably incurred costs, plus a reasonable return on investment; and (v) other conditions or exceptions set forth in the Regional Transmission Expansion Planning Protocol, Parties designated as the appropriate entities to construct and own or finance enhancements or expansions applicable to the PJM Region specified in the Regional Transmission Expansion Plan or required to expand or modify Transmission Facilities pursuant to the PJM Tariff shall construct and own or finance such facilities or enter into appropriate contracts to fulfill such obligations. Any designation to construct and own or finance enhancements or expansions applicable to the PJM Region specified in the Regional Transmission Expansion Plan or requirement to expand or modify Transmission Facilities pursuant to the PJM Tariff shall be made pursuant to this Section 4.2.1, including the designation of an entity that is not a Party to this Agreement.

4.2.2 Acknowledgement of Construction Designation.

Within ninety (90) days of receiving notification from PJM pursuant to Section 1.6 of the Regional Transmission Expansion Planning Protocol, that the PJM Board has approved a Regional Transmission Expansion Plan designating a Party to construct and own or finance specified enhancements or expansions applicable to the PJM Region, such Party shall provide to PJM and the Administrative Committee: (1) an acknowledgement of such designation or the reasons why the Party disagrees with such designation or any aspect thereof, and (2) a proposed preliminary schedule for such enhancements or expansions.

4.2.3 Construction Obligations of Zero Revenue Requirements Party

A Zero Revenue Requirement Party shall not be required to participate in the construction and ownership or financing of enhancements or expansions described in Section 4.2.1 except to the extent that such enhancements or expansions involve the expansion or modification of that Party's Transmission Facilities. A Zero Revenue Requirement Party shall construct and own or finance all expansions and modifications of its own Transmission Facilities or enter into appropriate contracts to fulfill such obligation, and no other Party shall be required to participate in the construction and ownership or financing of such expansion or modification. A Zero Revenue Requirement Party shall continue to be reimbursed by an individual Interconnection Customer directly or indirectly for costs of expansion and modification the responsibility for which was directly assigned to that Interconnection Customer pursuant to the PJM Tariff, and such Zero Revenue Requirement Party shall be obligated to provide the Interconnection Customer whatever credits the Interconnection Customer may be entitled to receive under the PJM Tariff in return for such reimbursement.

4.3 Interconnection and Transmission Customers.

Unless otherwise specified in agreements, or tariffs on file at FERC and in effect, each Party shall install and construct Transmission Facilities required for interconnection of an Interconnection Customer or Transmission Customer in accordance with the PJM Tariff.

4.4 Permanently Taking Facilities Out of Service.

Prior to permanently taking out of service any of its Transmission Facilities within the PJM Region, the Party owning such Transmission Facilities shall provide PJM with reasonable advance notice.

4.5 Operation and Maintenance.

Each Party shall operate and maintain its Transmission Facilities in accordance with: (i) the terms of this Agreement; (ii) applicable reliability principles, guidelines, and standards of the Applicable Regional Reliability Council and NERC; (iii) the PJM Manuals; (iv) the direction of PJM consistent with this Agreement; and (v) Good Utility Practice. Consistent with the provisions of this Section 4.5, the Parties shall conform to PJM's operating instructions as they apply to such Party's Transmission Facilities. The Parties will continue to direct the operation and maintenance of Transmission Facilities that are not listed in the transmission facilities list maintained by PJM, or any successor thereto, and each Party will physically operate and maintain all Transmission Facilities that it owns.

4.6 Interconnection Facilities.

Interconnections between the Parties' electric systems and between a Party's system and systems of entities not a Party to this Agreement shall be kept in place and shall be maintained in good operating condition in accordance with Good Utility Practice and principles, guidelines and standards of the Applicable Regional Reliability Council and NERC unless the interconnected parties determine, in accordance with Good Utility Practice and principles, guidelines and standards of the Applicable Regional Reliability Council and NERC, that any such interconnection should be modified or abandoned; provided, however, that nothing herein shall prohibit any Party from disconnecting its electrical systems from the facilities of any other entity, if such Party reasonably determines that disconnection is required for safety or reliability reasons.

4.7 Actions in Emergency.

Each Party shall follow PJM's operating instructions during an emergency; provided, however, that a Party may at any time take or decline to take any action(s) that it deems necessary to prevent injury to persons or loss of human life or prevent damage to property.

4.8 Maintenance Schedules.

The Parties shall coordinate with other Parties and with the owners of generation facilities within the PJM Region the maintenance of their Transmission Facilities, and the scheduling of a Transmission Planned Outage, taking into account transmission and generation outage schedules established by PJM and the PJM Manuals, and in accordance with the following planned outage scheduling procedures:

4.8.1

Each Party shall use reasonable efforts to submit Transmission Planned Outage schedules one year in advance but by no later than the first of the month six months in advance of the requested start date for all outages that are expected to exceed five (5) working days duration, with regular (at least monthly) updates as new information becomes available.

4.8.2

If notice of a Transmission Planned Outage is not provided in accordance with the requirements in Section 4.8.1 above, and if such outage is determined by PJM to have the potential to cause significant system impacts, including but not limited to reliability impacts and transmission system congestion, then the PJM may require the Party to implement an alternative outage schedule to reduce or avoid such impacts. PJM may, however, if requested by the Transmission Owner, dispatch generation or reductions in demand in order to avoid implementing an alternative outage schedule for its Transmission Facilities to extent consistent with its obligations under this Agreement, or PJM Tariff and provided PJM determines that such dispatch would not adversely affect reliability in the PJM Region or otherwise not be in accordance with Good Utility Practices. A Transmission Owner that makes such a dispatch request pursuant to this section shall be responsible for all generation and other costs resulting from its request that would not have been incurred had PJM implemented an alternative outage schedule to reduce or avoid reliability and congestion impacts. PJM may, at the Transmission Owner's consent, directly assign to the Transmission Owner all generation and other costs resulting from PJM's dispatch of generation or reductions in demand arising from outages associated with Regional Transmission Expansion Plan upgrades not submitted consistent with the timelines set forth in this Agreement and the PJM Tariff and where such outage is required to meet the reliability-based in-service date of the Regional Transmission Expansion Plan upgrade project.

4.8.3

Each Party shall submit notice of all Transmission Planned Outage to PJM by the first day of the month preceding the month the outage will commence, with updates as new information becomes available.

4.8.4

If notice of a Transmission Planned Outage is not provided by the first day of the month preceding the month the outage will commence, and if such outage is determined by PJM to have the potential to cause significant system impacts, including but not limited to reliability impacts and transmission system congestion, then PJM may require the Party to implement an alternative outage schedule to reduce or avoid such impacts. PJM shall perform this analysis and notify the affected Party in a timely manner if it will require rescheduling of the outage. PJM may, however, if requested by the Transmission Owner, dispatch generation or reductions in demand in order to avoid implementing an alternative outage schedule for its Transmission Facilities to extent consistent with its obligations under this Agreement or PJM Tariff and provided PJM determines that such dispatch would not adversely affect reliability in the PJM Region or otherwise not be in accordance with Good Utility Practices. A Transmission Owner that makes such a dispatch request pursuant to this section shall be responsible for all generation and other costs resulting from its request that would not have been incurred had PJM implemented an alternative outage schedule to reduce or avoid reliability and congestion impacts. PJM may, at the Transmission Owner's consent, directly assign to the Transmission Owner all generation and other costs resulting from PJM's dispatch of generation or reductions in demand arising from outages associated with Regional Transmission Expansion Plan upgrades not submitted consistent with the timelines set forth in this Agreement, the PJM Tariff and where such outage is required to meet the reliability-based in-service date of the Regional Transmission Expansion Plan upgrade project.

4.8.5

PJM reserves the right to approve, deny, or reschedule any outage deemed necessary to ensure reliable system operations on a case by case basis regardless of duration or date of submission.

4.8.6

PJM shall post notice of Transmission Planned Outages on OASIS upon receipt of such notice from the affected Party; provided, however, that PJM shall not post on OASIS notice of any component of such outage to the extent such component shall directly reveal a generator outage. In such cases, the affected Party, in addition to providing notice to PJM as required above, concurrently shall inform the affected generation owner of such outage, limiting such communication to that necessary to describe the outage and to coordinate with the generation owner on matters of safety to persons, facilities, and equipment. The affected Party shall not notify any other market participant of such outage and shall arrange any other necessary coordination through PJM. If PJM determines that transmission maintenance schedules proposed by one or more Parties would significantly affect the efficient and reliable operation of the PJM Region, PJM may establish alternative schedules, but such alternative schedules shall minimize the economic impact on the Party or Parties whose maintenance schedules PJM proposes to modify. Except as otherwise provided in this Agreement, the Parties shall comply with all maintenance schedules established by PJM.

4.9 Data, Information and Metering.

The Parties shall comply with the data, information and metering requirements established by PJM, as reflected in the PJM Manuals including but not limited to posting notices as required by Section 4.8.

4.10 Connections with Non-Parties.

No Party shall permit its Transmission Facilities or distribution facilities to be connected with the facilities of any entity which is not a Party without an interconnection agreement that contains provisions for the safe and reliable operation of each interconnection in accordance with Good Utility Practice, and principles, guidelines and standards of the Applicable Regional Reliability Council and NERC or comparable requirements of an applicable retail tariff or agreement approved by appropriate regulatory authority. Subject to applicable regulatory requirements, any dispute regarding the adequacy of such agreements shall be resolved by PJM, subject to the dispute resolution provisions of this Agreement.

4.11 Transmission Facility Ratings.

All Parties shall regularly update and verify Transmission Facility ratings, subject to review and approval by PJM, in accordance with the following procedures and the procedures in the PJM Manuals:

4.11.1

Each Party shall verify to the Operations Planning Department (or successor Department) of PJM all of its Transmission Facility ratings two months prior to the beginning of the summer season (i.e., on April 1) and two months prior to the beginning of the winter season (i.e., on October 1) each calendar year, and shall provide detailed data justifying such transmission facility ratings when directed by PJM.

4.11.2

In addition to the seasonal verification of all ratings, each Party shall submit to the Operations Planning Department (or successor Department) of PJM updates to its Transmission Facility ratings as soon as such Party is aware of any changes. Such Party shall provide PJM with detailed data justifying all such Transmission Facility ratings changes.

4.11.3

All Parties shall submit to the Operations Planning Department (or successor Department) of PJM formal documentation of any criteria for changing Transmission Facility ratings under specific conditions, including: the detailed conditions under which such procedures will apply, detailed explanations of such criteria, and detailed calculations justifying such pre-established changes to facility ratings. Such criteria must be updated twice each year consistent with the provisions of this section.

4.11.4

PJM shall maintain a database of all Transmission Facility ratings, and shall review, and may modify or reject, any submitted change to such ratings or any submitted procedure for pre-established changes to such ratings. PJM shall provide notice no later than thirty (30) days after receiving a request for a proposed rating change of the acceptance, denial, or deferral of such change, including a written explanation of the basis for denying or deferring such change if the change is denied or deferred. Any dispute between a Party and PJM concerning Transmission Facility ratings shall be resolved in accordance with Section 9.19 and Attachment B of this Agreement; provided, however, that the rating level determined by PJM shall govern and be effective during the pendency of any such dispute.

ARTICLE 5 – PARTIES’ RETAINED RIGHTS

Notwithstanding any other provision of this Agreement, each Party shall retain all of the rights set forth in this Article 5; provided, however, that such rights shall be exercised in a manner consistent with a Party’s obligations under the Federal Power Act and the FERC’s rules and regulations thereunder.

5.1 Procedures.

Each Party shall have the right to adopt and implement procedures it deems necessary to protect its electric facilities from physical damage or to prevent injury or damage to persons or property.

5.2 Facility Rights.

Each Party shall have the right to build, finance, own, acquire, sell, dispose, retire, replace, merge or otherwise transfer or convey all or any part of its assets, including any Transmission Facilities, such right to include, but not be limited to the right, individually or collectively, to terminate the relationship with PJM in accordance with Section 3.2 or in connection with the transfer to or creation of another entity (including a joint venture or an ITC pursuant to Attachment U to the PJM Tariff) of the right to own and/or operate its Transmission Facilities. PJM shall not challenge any such sale, disposition, retirement, merger, or other action under this Section 5.2 on the basis that they are a signatory to this Agreement.

5.3 Actions to Fulfill Obligations.

Each Party shall have the right to take whatever actions it deems necessary to fulfill its obligations under local, state or federal law.

5.4 Federal Power Act Rights.

Except as otherwise provided in this Agreement, each Party retains its rights pursuant to the Federal Power Act and the FERC’s rules and regulations thereunder.

5.5 Enforcement of Obligations.

5.5.1

Each Party shall have the right to seek enforcement of the obligations of any Party or of PJM under this Agreement subject to the terms and conditions of FERC regulations and the PJM Tariff.

5.5.2

The Parties to this Agreement shall have the exclusive right to seek enforcement of the obligations of PJM to the Parties as set forth in Article 6 of this Agreement.

5.6 Reservation of Rights.

Rights not specifically transferred by the Parties to PJM pursuant to this Agreement or any other agreement are expressly reserved by the Parties.

ARTICLE 6 – PJM’s RIGHTS AND COMMITMENTS

6.1 Condition to Acceptance of Functional Control.

PJM shall condition the transfer of functional control over an entity’s Transmission Facilities to PJM on such entity becoming a Party to this Agreement.

6.2 Rights of PJM under this Agreement.

PJM shall have the exclusive right to seek enforcement of the obligations of any Party to PJM under Article 6 of this Agreement.

6.3 Obligations of PJM under this Agreement.

PJM shall:

6.3.1

Maintain the safe and reliable operation of the PJM Region and direct the operation and coordinate the maintenance of the Transmission Facilities of the Parties in accordance with: (i) the PJM Tariff; (ii) Good Utility Practice; (iii) applicable laws and regulations and (iv) NERC and Applicable Regional Reliability Council operation and planning standards, principles and guidelines.

6.3.2

Administer the PJM Tariff and provide service thereunder in the PJM Region.

6.3.3

(i) Maintain and administer the Regional Transmission Expansion Planning Protocol as a Schedule to the PJM Tariff;

(ii) Develop and file pursuant to Section 7.5.1 of this Agreement changes to the Regional Transmission Expansion Planning Protocol consistent with (i) the terms of this Agreement; (ii) applicable reliability principles, guidelines, and standards of the Applicable Regional Reliability Council and NERC; (iii) the PJM Manuals; and (iv) Good Utility Practice;

(iii) provide reports to the Administrative Committee consistent with this Agreement and the PJM Tariff; and

(iv) Designate entities to construct and own or finance enhancements or expansions applicable to the PJM Region specified in the Regional Transmission Expansion Plan or require entities to expand or modify Transmission Facilities in accordance with the PJM Tariff, pursuant Section 4.2.1, including entities that are not Parties to this Agreement.

6.3.4

(a) Conduct its planning for the expansion and enhancement of Transmission Facilities based on a planning horizon of at least ten years, or such longer period as may be otherwise required under the Regional Transmission Expansion Planning Protocol, PJM Tariff, Schedule 19 and prepare a Regional Transmission Expansion Plan to provide for the expansion and enhancement of the Parties' Transmission Facilities to address one or more of the following planning criteria:

(i) The Regional Transmission Expansion Planning Protocol that will be set forth exclusively in PJM Tariff, Schedule 19;

(ii) PJM Tariff, Attachment M-3; and

(iii) This Agreement.

(b) (i) The planning of a Party's Transmission Facilities not transferred to PJM pursuant to Section 4.1.4(a) is reserved to the Party, notwithstanding that the Party has transferred to PJM the responsibility to direct the operation of such Transmission Facilities pursuant to Section 4.1.2.

(ii) Where Transmission Facilities planned by a Party may overlap with Transmission Facilities proposed to be included in the Regional Transmission Expansion Plan such that the Transmission Facilities proposed to be included in the Regional Transmission Expansion Plan would more efficiently or cost effectively address the need for which the Party's Transmission Facilities are planned, PJM shall consult with the Party to determine if the need for which the Party's Transmission Facilities are planned will be addressed. If the Party determines that such need will not be addressed and that it must continue to plan the Party's Transmission Facilities, it shall document to PJM and the relevant PJM transmission planning committee the rationale supporting its determination.

6.3.5

Maintain its status as an RTO, consistent with its obligations under this Agreement.

6.3.6

Collect and pay to each Party all amounts due to such Party as a Transmission Owner under the PJM Tariff and to distribute such amounts in accordance with the PJM Tariff and this Agreement.

6.3.7

Work cooperatively with Transmission Owner(s) desiring to create a new or reformed transmission-owning entity in accordance with Section 5.2 and other applicable provisions of this Agreement.

6.3.8

Participate in scheduled meetings of the Administrative Committee and furnish appropriate information and reports to keep the Parties regularly informed as to matters arising under this Agreement and the PJM Tariff. At the request of a Party, participate in conversations as to the matters arising under this Agreement.

6.3.9

Consult with committees jointly established by the Parties and PJM with respect to matters arising under this Agreement.

6.3.10

Assist the Parties in developing changes to the PJM Tariff under Section 9.1 of the PJM Tariff and Section 7.3 of this Agreement consistent with the confidentiality provisions of Section 7.3 of this Agreement, including PJM's right to take positions adverse to the Parties before federal and state judicial and administrative bodies.

6.3.11

Not delegate or transfer any of its obligations under this Agreement.

ARTICLE 7 – CHANGES TO RATE DESIGN AND TARIFF TERMS AND CONDITIONS; DISTRIBUTION OF REVENUES

7.1 Individual Transmission Owner Rates.

Notwithstanding any other provision of this Agreement, each Party expressly and individually reserves unto itself the following rights:

7.1.1

Each Party shall have the exclusive right to file unilaterally at any time pursuant to Section 205 of the Federal Power Act to establish or change the transmission revenue requirement for services provided under the PJM Tariff with respect to its Transmission Facilities (regardless of whether such revenue requirement is used to support rates and charges for delivery within its PJM Zone or outside its PJM Zone). This right includes, but is not limited to, the right to file a transmission revenue requirement, or a revenue requirement that is based on incentive or performance-based factors.

7.1.2

[Reserved]

7.1.3

Each Party shall have the exclusive right to file unilaterally, at any time pursuant to Section 205 of the Federal Power Act, to change rates and charges for transmission and ancillary services (including, without limitation, incentive rates, and rates and charges for new services) for delivery within its PJM Zone, which rates and charges are based solely on the costs of the Transmission Facilities of such Party.

7.1.4

A filing that is otherwise consistent with this Section 7.1 which changes the rate applicable within a PJM Zone and which also applies to transactions that enter that PJM Zone from outside the PJM Region shall not require approval under Section 8.5.1.

7.2 PJM Regional Rate Design and Joint Transmission Rates.

7.2.1

Section 205 filings to change the PJM Regional Rate Design or file for Joint Transmission Rates may only be made by the Parties, acting collectively, pursuant to a filing approved in accordance with Section 8.5.1 of this Agreement. The Parties, acting individually, shall have no authority to make any filings under Section 205 of the Federal Power Act either to change or which would be inconsistent with the PJM Regional Rate Design or Joint Transmission Rates.

7.2.2

Nothing in this Agreement is intended to authorize the PJM Transmission Owners to file pursuant to Section 205 of the Federal Power Act, as part of a filing to change the PJM Regional Rate Design, Joint Transmission Rates, or otherwise, proposed changes to those rates and charges for which an individual Party has reserved filing rights under Section 7.1 without the express consent of such Party, unless such change is required to be consistent with a Joint Transmission Rate or PJM Regional Rate Design adopted pursuant to Sections 7.2.1 and 7.3.

7.3 Filing of Transmission Rates and Rate Design Under Section 205.

7.3.1

The Transmission Owners shall have the exclusive and unilateral rights to file pursuant to Section 205 of the Federal Power Act and the FERC's rules and regulations thereunder for any changes in or relating to the establishment and recovery of the Transmission Owners' transmission revenue requirements or the PJM Regional Rate Design, and such filing rights shall also encompass any provisions of the PJM Tariff governing the recovery of transmission-related costs incurred by the Transmission Owners. Nothing herein is intended to limit or change the right of individual Transmission Owners as specified under Sections 7.1 and 7.3. Except as provided in Section 7.1.1, the Transmission Owners may only file under Section 205 to change the PJM Regional Rate Design pursuant to a filing approved in accordance with Section 8.5.1. Discussions among the Transmission Owners and PJM specific to (i) the development of changes to be filed by the Transmission Owners pursuant to Section 205 in or relating to transmission rates or the PJM Regional Rate Design, or (ii) administration of the PJM Tariff provisions subject to this section may be designated as confidential and may include discussions protected by attorney-client privilege, attorney work-product doctrine or other privileges to the extent the Transmission Owners and PJM share a common interest privilege in the rates, terms and conditions to be applied pursuant to the PJM Tariff and the Transmission Owners require assistance from PJM in developing changes to transmission rates or the PJM Regional Rate Design.

7.3.2

If the Transmission Owners agree upon a change referred to in Section 7.2.1 by vote in accordance with Section 8.5.1, the Transmission Owners shall make such filing jointly pursuant to Section 205 of the Federal Power Act. For purposes of administrative convenience, at the request of the Transmission Owners, PJM may, but shall not be required to, make the Section 205 filings with the FERC on behalf of the Transmission Owners; provided that any such filing by PJM shall be deemed for all purposes under the Federal Power Act to be a filing of the Transmission Owners. The Transmission Owners shall consult with PJM and the PJM Members Committee beginning no less than thirty(30) days prior to any Section 205 filing hereunder, but neither PJM (except as provided for in Section 7.6) nor the PJM Members Committee shall have any rights to veto or delay the Transmission Owners' Section 205 filing hereunder; provided that the Transmission Owners may file with less than a full 30 day advance consultation in circumstances where imminent harm to system reliability or imminent severe economic harm to electric consumers requires a prompt Section 205 filing; provided further that the Transmission Owners shall provide as much advance notice and consultation with PJM and the PJM Members Committee as is practicable in such circumstances and no such filing shall be made with less than 24 hours' advance notice.

7.3.3

Nothing in this Section 7.3 is intended to limit the rights of any Party or other person to oppose such a Section 205 filing pursuant to Section 206 or any other applicable provision of the Federal Power Act, or to limit the right of any Party or other person to make filings under Section 206 of the Federal Power Act.

7.3.4

The following provisions of the PJM Tariff and any successors thereto shall be within the Transmission Owners' exclusive and unilateral rights to make Section 205 filings: (i) Section 34; (ii) Schedule 1A; (iii) Schedule 7 (except as to transmission congestion charges under Attachment K to the PJM Tariff or any successor thereto); (iv) Schedule 8 (except as to transmission congestion charges under Attachment K to the PJM Tariff or any successor thereto); (v) Schedule 11; (vi) Schedule 12; (vii) Attachment H-A; (viii) Attachment J; and (ix) Attachment R; provided, however, that if a filing pursuant to Section 205 is required to effect a change in any of the forgoing provisions of the PJM Tariff, solely by reason of a filing by an individual PJM Transmission Owner pursuant to Section 7.3.5, PJM may make such a filing if: (a) five business days prior to making such filing, PJM provides the PJM Transmission Owners with each proposed change including an explanation thereof; and (b) no PJM Transmission Owner notifies PJM that it objects to PJM making such filing.

7.3.5

Consistent with Section 7.3.1, the following provisions of the PJM Tariff and any successors thereto shall be within the exclusive and unilateral rights to make Section 205 filings of the individual Transmission Owner to which the provisions apply: (i) Attachment H (other than Attachment H-A) (except as to transmission congestion charges under Attachment K to the PJM Tariff or any successor thereto); (ii) Attachment M-1 (First Energy); (iii) Attachment M-2 (First Energy); (iv) Procedures for Load Determination (PSE&G); (v) Procedures for Determination of Peak Load Contributions and Hourly Load Obligations for Retail Customers (Atlantic City); and (vi) Procedures for Determination of Peak Load Contributions and Hourly Load Obligations for Retail Customers (Delmarva).

7.3.6

The listing of provisions in Sections 7.3.4 and 7.3.5 above is not exclusive, and failure to specify a provision of the PJM Tariff in this Section 7.3 shall not be deemed to be an admission or agreement by the Transmission Owners that such provision or any change thereto does not relate to the establishment and recovery of the Transmission Owners' transmission revenue requirements or the PJM Regional Rate Design or Joint Transmission Rates, or encompass any provisions of the PJM Tariff governing the recovery of transmission-related costs incurred by the Transmission Owners. The Transmission Owners reserve their rights to assert that other provisions of the PJM OATT should be included within their Section 205 rights, and PJM reserves its rights to contest such assertions.

7.3.7

The Transmission Owners' Section 205 rights shall include the unilateral right to file for incentive and performance based rates that affect or relate to transmission revenue requirements, transmission rate design, or any performance or incentive rates in which the incentives to the Transmission Owners may be measured by savings or efficiencies in the power or ancillary services markets resulting from the construction, operation or maintenance of Transmission Facilities. Nothing in this Agreement is intended to limit PJM's right to make Section 205 filings to establish incentive or performance based rates applicable to market participants, provided that PJM must obtain the prior approval of the Transmission Owners (pursuant to Section 8.5.1 of this Agreement) for any portion of such a filing that reasonably could be expected to affect the establishment and recovery of the Transmission Owners' transmission revenue requirements, transmission rate design or the recovery of transmission-related costs by the Transmission Owners.

7.4 Transmission Rate PJM Zone Size.

For purposes of developing rates for service under the PJM Tariff, transmission rate PJM Zones smaller than those shown in Attachment J to the PJM Tariff, or subzones of those PJM Zones, shall not be permitted within the current boundaries of the PJM Region; provided, however, that additional PJM Zones may be established if the current boundaries of the PJM Region is expanded to accommodate new Parties to this Agreement.

7.5 Changes in Terms and Conditions.

The Parties may propose to revise any of the non-rate terms and conditions of the PJM Tariff in a manner consistent with requirements of FERC. Any such proposal shall be submitted to PJM for consideration under the processes PJM uses to develop non-rate terms and conditions.

7.5.1 Filing of Changes in Terms and Conditions Under Section 205.

(i) PJM shall have the exclusive and unilateral rights to file pursuant to Section 205 of the Federal Power Act and the FERC's rules and regulations thereunder to make changes in or relating to the terms and conditions of the PJM Tariff (including but not limited to provisions relating to creditworthiness, billing, and defaults) as well as all charges for recovery of PJM costs. PJM shall not have any Section 205 filing rights with respect to the subject matters described in Sections 7.1 and 7.2 of this Agreement. PJM shall not have any Section 205 filing rights with respect to the provisions of the PJM Tariff listed in Sections 7.3.4 and 7.3.5 of this Agreement.

(ii) PJM shall consult with the Transmission Owners, through the Administrative Committee, and the PJM Members Committee beginning not less than seven (7) days in advance of any such Section 205 filing, but neither the Transmission Owners (except as provided for in Section 7.6) nor the PJM Members Committee shall have any right to veto or delay any such Section 205 filing. PJM may file with less than a full seven (7) day advance consultation in circumstances where imminent harm to system reliability or imminent severe economic harm to electric consumers requires a prompt Section 205 filing; provided that PJM shall provide as much advance notice and consultation with the Transmission Owners, through the Administrative Committee, and the PJM Members Committee as is practicable in such circumstances, and no such emergency filing shall be made with less than 24 hours advance notice.

(iii) Nothing herein is intended to limit the rights of any Party or other person to oppose such a Section 205 filing pursuant to Section 206 or any other applicable provision of the Federal Power Act or to limit the right of any Party or other person to make filings under Section 206 of the Federal Power Act.

(iv) To the extent that PJM desires to add a provision to the PJM Tariff, or to change an existing provision thereof, in accordance with PJM's rights under Section 7.5.1 (i), the Transmission Owners shall have unilateral and exclusive rights to make Section 205 filings with respect to any matters covered by such new or changed provisions relating to the establishment and recovery of the Transmission Owners' transmission revenue requirements, the PJM Regional Rate Design or Joint Transmission Rates, or any provisions governing the recovery of transmission-related costs incurred by the Transmission Owners. Prior to making any Section 205 filing covered by Section 7.5.1 that also relates to or affects the establishment and recovery of the Transmission Owners' transmission revenue requirements and the PJM Regional Rate Design or Joint Transmission Rates, or any provisions governing the recovery of transmission-related costs incurred by the Transmission Owners, PJM shall provide no less than 45 days notice to the Transmission Owners of the intended filing in sufficient detail to provide them a reasonable opportunity to include appropriate provisions in the PJM Tariff governing these subjects, either through a Section 205 filing by the Transmission Owners or approval by the Transmission Owners of the PJM proposal pursuant to Section 8.5.1.

(v) Nothing in this Agreement is intended to prevent PJM from utilizing processes under the Operating Agreement and the PJM Manuals to develop or revise terms and conditions to be set forth in the PJM Tariff and to consult with PJM Members and others with respect thereto.

7.5.2 Filing of Changes in Rate Design, Terms and Conditions Under Section 206.

Any Party or any group of Parties shall have the right to submit a proposal to the FERC to change the Rate Design and the non-rate terms and conditions of the PJM Tariff pursuant to Section 206 of the Federal Power Act. Nothing herein is intended to limit the rights of PJM, any Party, or other person to oppose proposed changes to the terms and conditions filed by PJM, a Party, or group of Parties.

7.6 Disputes Regarding Exclusive Filing Rights.

If at the time that a proposal to change or amend any part of the PJM Tariff, or to add any new provision, is submitted to PJM or the Transmission Owners for consultation pursuant to Sections 7.3.2 or 7.5.1(ii) of this Agreement, a dispute arises as to which Party has Section 205 rights to make such filing, the following procedures shall apply:

7.6.1

The Administrative Committee and PJM shall meet promptly prior to the filing in order to resolve the dispute. Such resolution may include a joint Section 205 filing by the Transmission Owners and PJM.

7.6.2

If the Transmission Owners propose to make the Section 205 filing, they shall defer such filing beyond the 30-day notice and consultation period provided for in Section 7.3.2 for up to 10 additional days at the request of PJM to allow the dispute to be resolved.

7.6.3

If PJM proposes to make the Section 205 filing, it shall defer any filing beyond the 7 day notice and consultation period provided for in Section 7.5.1 (ii) for up to 10 additional days to allow the dispute to be resolved;

7.6.4

In order to resolve a dispute, the agreement of the Transmission Owners must be obtained by vote in accordance with Section 8.5.1 of this Agreement;

7.6.5

If the Parties are unable to reach agreement among themselves, the matter shall be presented to and resolved by a Neutral Party chosen as follows and, except as provided in this Section 7.6.5, such resolution shall be binding on the Parties: The Chairman of the Administrative Committee (or his/her designee) and an executive of PJM chosen by the President shall choose the Neutral Party and shall have authority to enter into an agreement that will make the Neutral Party available on a prompt basis to resolve disputes hereunder. PJM and the Transmission Owners shall share in the cost of any Neutral Party on an equal basis. The Chairman of the Administrative Committee (or his/her designee) and an executive of PJM chosen by the President may replace the Neutral Party at any time they mutually deem such action to be appropriate or necessary. The decision of the Neutral Party as to which Parties have Section 205 rights hereunder shall be made within the period provided for consultation between the Transmission Owners and PJM as set forth in Sections 7.6.2 or 7.6.3, as applicable. Interested parties (including the Parties) may file a complaint seeking review by the FERC of the Neutral Party's decision, and the FERC's authority to interpret which Parties have Section 205 rights shall not be limited by the Neutral Party's decision as it relates to these disputes.

7.6.6

Nothing in this Section 7.6 is intended to limit the Parties' rights to make filings subject to this dispute resolution provision pursuant to Section 206 of the Federal Power Act prior to resolution of such dispute.

7.7 PJM Cooperation

Notwithstanding the allocation of filing rights under this Agreement, PJM shall cooperate with the filing of a revenue requirement or changes thereto of a Party not subject to the jurisdiction of FERC under Part II of the Federal Power Act.

7.8 Distribution of Revenues.

Transmission revenues received from network or firm point-to-point transmission service to load within the PJM Region will be distributed to the Transmission Owners on a revenue requirements basis to the Parties with transmission revenue requirements for the PJM Zone in which the load is located; transmission revenues from other network or firm point-to-point transmission service will be distributed to all Parties to this Agreement on a transmission revenue requirements ratio share basis; and transmission revenues from non-firm point-to-point transmission service will be distributed in accordance with the PJM Tariff. Any other revenues owed to the Transmission Owners shall be distributed on a transmission revenue requirements ratio share basis unless otherwise specified in the PJM Tariff. The above notwithstanding, no revenues shall be distributed to any Party that is a Zero Revenue Requirement Party.

7.9 Filings Contravening the Agreement.

Neither the Parties nor PJM shall make any filing under Section 205 of the Federal Power Act that contravenes Articles 2, 4, 5, 6, 7 or Attachment B of the Agreement or seeks to modify the terms of said Articles, unless PJM consents to such filing by the Parties or the Parties, acting through a vote pursuant to Section 8.5.1, consent to such filing by PJM. If either PJM or the Parties seek to revise or modify the PJM Tariff, including the Regional Transmission Expansion Planning Protocol, under Federal Power Act Section 205, and PJM or a Party believes that such revisions or modifications contravene any part of Articles 2, 4, 5, 6 or 7 or Attachment B of the Agreement, PJM and such Party or Parties shall follow the dispute resolution procedures set forth in Section 9.19.

ARTICLE 8 – THE ADMINISTRATIVE COMMITTEE

8.1 Duties and Responsibilities.

The Administrative Committee shall have the authority to propose policies and recommendations to PJM as to any matters relating to the Parties' Transmission Facilities; provided, however, that PJM shall not be required to adopt such policies or recommendations and that the Administrative Committee shall not exercise any control over functions and responsibilities transferred exclusively to PJM pursuant to this Agreement, the PJM Tariff or the Operating Agreement. The Administrative Committee shall also have the authority to establish such committees, subcommittees, task forces, working groups or other bodies as it shall deem appropriate and the responsibility to undertake any other action delegated to it pursuant to this Agreement. The Administrative Committee shall determine the Affiliate status of Parties for purposes of Individual or Weighted Votes.

8.2 Representatives.

Each Party shall appoint one or more representatives and alternate representative(s) to serve as a member of the Administrative Committee with authority to act for that Party with respect to actions taken or decisions made by the Administrative Committee. The representative(s) shall be an officer or agent of the Party, having binding decision-making authority with respect to the transmission affairs of the Party. Each representative shall be a member of the Administrative Committee; provided, however, that each Party's alternate shall serve as a member of the Administrative Committee during any absence of that Party's representative.

8.2.1 Initial Representatives.

Unless a Party appoints a different representative and alternate, the representatives and alternates of the Parties appointed under the Transmission Owners agreements in effect on the day prior to the effective date of this Agreement shall be the initial representatives and alternates under this Agreement. Subsequent to the Effective Date of this Agreement, an entity that becomes a Party pursuant to Section 3.1 hereof shall appoint its representative(s) and alternate(s) and provide written notice to the other Parties within thirty (30) days after becoming a Party.

8.2.2 Change of or Substitution for a Representative or Alternate.

A Party may at any time upon providing written notice to the other Parties designate a replacement representative or alternate. Any member of the Administrative Committee, by providing written notice to the Chair of the Administrative Committee, may designate a substitute to act for him or her with respect to any matter specified in such written notice.

8.3 Officers.

At the initial meeting of the Administrative Committee, a Chair and Vice Chair shall be elected from among the Parties' representatives on the Administrative Committee. The term of office for the Chair and Vice Chair shall be one year, or until succession to each office occurs as provided herein. Except as provided in Section 8.3.1, at each annual meeting, the Vice Chair shall succeed to the office of the Chair, and a new Vice Chair shall be elected.

8.3.1 Vacancies.

If the office of the Chair becomes vacant for any reason, the Vice Chair shall succeed to the office of the Chair and a new Vice Chair shall be elected at the next regular or special meeting; provided that following such vacancy of the Chair, the succeeding Chair and Vice Chair shall serve until the second annual meeting following such succession or election. If the office of the Vice Chair becomes vacant for any reason, a new Vice Chair shall be elected at the next regular or special meeting and shall serve out the term of the Vice Chair whose office became vacant.

8.3.2 Duties of the Officers.

The Chair, the Vice Chair, or their representatives, shall: call and preside at meetings of the Administrative Committee; cause minutes of each meeting to be taken and maintained; cause notices of meetings to be distributed; and carry out such other responsibilities as the Administrative Committee shall assign. The Vice Chair shall preside at meetings of the Administrative Committee if the Chair is absent for any reason, and shall otherwise act for the Chair at the Chair's request.

8.4 Meetings.

The Administrative Committee shall hold meetings no less frequently than once each calendar quarter. One of such regular meetings shall be designated as the annual meeting, at which officers shall be elected. The matters to be addressed at all meetings shall be specified in the agenda provided in the notice distributed pursuant to Section 8.4.1 hereof; provided, however, that action may be taken on a matter not described in such agenda, if approved by the Parties pursuant to a vote under Section 8.5.1.

8.4.1 Notice of Meetings.

Notice of a meeting shall be distributed to the representatives not later than ten (10) days prior to the meeting, provided, however, that meetings may be called on shorter notice at the discretion of the Chair as the Chair shall deem necessary to deal with an emergency or to meet a deadline for action. The notice shall state the time and place of such meeting, and shall include an agenda sufficient to notify the representatives of the substance of the matters to be considered at the meeting. In addition, notice of all meetings shall be provided over the PJM website at the same time as it is provided to the representatives.

8.4.2 Attendance.

Regular or special meetings may be conducted in person or by telephone or other means as authorized by the Administrative Committee. The attendance in person or by telephone or other means of a representative, alternate or duly-designated substitute representative shall be required for purposes of determining a quorum and for the exercise of Individual Votes or Weighted Votes.

8.4.3 Quorum.

To constitute a quorum with respect to any matter upon which a vote is taken, as of the date of any regular or special meeting, such meeting must be attended by either (i) representatives, alternates, or duly-designated substitute representatives whose Individual Votes constitute more than fifty percent (50%) of the total Individual Votes of Parties entitled to vote on such matter, and whose Weighted Votes constitute more than fifty percent (50%) of the total Weighted Votes of Parties entitled to vote on such matter, or (ii) representatives, alternates, or duly-designated substitute representatives whose Weighted Votes constitute at least ninety five percent (95%) of Parties entitled to vote on such matter. With respect to actions specified in Section 8.5.3, the Individual Votes of Zero Revenue Requirement Parties shall not be counted for purposes of determining the presence of a quorum.

8.4.4 Open Meetings.

Except as provided in this section, all meetings of the Administrative Committee shall be open to entities that are signatories to the Operating Agreement and to personnel of PJM, and all matters subject to Section 8.5.1 upon which the representatives vote shall be open to such entities and to such personnel. Meetings of the Administrative Committee shall be closed to persons or entities other than personnel of PJM if, in the determination of the Chair, doing so is required to comply with FERC's Standards of Conduct For Transmission Providers, Critical Energy Infrastructure Information, or Section 9.15, or shall be closed to all persons or entities other than personnel or representatives of the Parties in order to preserve the attorney-client, attorney work product or other privileges of the Parties or of the Administrative Committee.

8.4.5 Cost of Meetings.

Each Party shall be solely responsible for all costs incurred for its representative or alternate to attend any meeting. The Parties shall share the costs incurred by the host of any meeting of the Administrative Committee in the following manner. Fifty percent (50%) of such meeting cost shall be allocated in proportion to the Parties' Individual Votes and the remaining fifty percent (50%) of such meeting cost shall be allocated in proportion to the Parties' Weighted Votes. PJM shall accumulate costs and bill the Parties quarterly.

8.5 Manner of Acting.

Subject to the limitations of Section 9.7.1(a), any action taken by the Administrative Committee shall require a combination of the concurrence of the representatives' Individual Votes of the representatives of those Parties entitled to vote on such matters and Weighted Votes as specified in this Section 8.5. Except for Parties that are Affiliates, no representative, alternate or duly-designated substitute of a Party may be a representative, alternate or duly-designated substitute of any other Party.

8.5.1 Action by Two-thirds Majority.

The following actions of the Administrative Committee shall require the concurrence of: (i) representatives whose combined Individual Votes equal or exceed two-thirds of the total Individual Votes of Parties entitled to vote and cast at a meeting, provided, however, the vote shall not fail if voted against by representatives of Parties entitled to vote whose combined Weighted Votes do not exceed five percent (5%) of the total Weighted Votes cast; and (ii) representatives of Parties whose combined Weighted Votes equal or exceed two-thirds of the total Weighted Votes cast at a meeting, provided, however, that if the vote receives the concurrence of representatives whose combined Weighted Votes exceed one-half of the total Weighted Votes cast, the vote shall not fail if voted against by fewer than three Parties entitled to vote:

(a) Amendment of this Agreement, including any schedules, appendices, or attachments hereto, or termination of this Agreement pursuant to Section 9.3, provided that the text of any amendment or notice of proposed termination shall be distributed by overnight courier, facsimile or other reliable electronic means at least thirty (30) days prior to the meeting at which such amendment is to be considered, and provided further that any amendment shall be submitted to FERC for filing and, in accordance with Section 9.3, any termination shall not become effective until it shall have been accepted without suspension or hearing;

(b) Development of comments and recommendations for the Regional Transmission Expansion Plan;

(c) Termination of a Party in accordance with the provisions of Section 9.7 hereof;

(d) Approval of an assignment of this Agreement pursuant to Section 9.5 hereof;
and

(e) Approval of changes in or relating to Joint Transmission Rate or the PJM Regional Rate Design, or any provisions governing the recovery of transmission-related costs incurred by the Transmission Owners.

8.5.2 Action by Simple Majority.

Action by the Administrative Committee on any matter other than those specified in Section 8.5.1 shall require: (i) the presence of a quorum at the time of the vote; and (ii) the concurrence of: (a) representatives' whose combined Individual Votes exceed one-half of the total Individual Votes cast at a meeting, however, the vote shall not fail if voted against by representatives of Parties entitled to vote whose combined Weighted Votes do not exceed five percent (5%) of the total Weighted Votes cast; and (b) representatives' whose combined Weighted Votes exceed one-half of the total Weighted Votes cast at a meeting.

8.5.3 Zero Revenue Requirements Party Voting Rights

Anything contained herein to the contrary notwithstanding, a Zero Revenue Requirement Party shall not be entitled to vote on any matter described in Article 7, any matter described in Section 8.5.1 (e) or any amendment to this Agreement that would amend this Section 8.5.

8.5.4 Changing a Party's Regional Reliability Council

Anything contained herein to the contrary notwithstanding, no vote to amend the definition of Applicable Regional Reliability Council, the application of such definition in within this Agreement, or to change the Applicable Regional Reliability Council of a Party shall pass without the affirmative vote of the representative of each Party whose Applicable Regional Reliability Council would be revised or changed as a result of such amendment.

ARTICLE 9 – OTHER MATTERS

9.1 Relationship of the Parties.

This Agreement shall not be interpreted or construed to create any association, joint venture, or partnership between or among the Parties or to impose any partnership obligation liability upon any Party. Except as explicitly provided in Section 8.1 hereof or with respect to the actions of the Administrative Committee, neither PJM nor any Party shall have the right, power or authority under this Agreement to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, any other Party or PJM.

9.2 No Third-party Beneficiaries.

This Agreement is intended to be solely for the benefit of the Parties and PJM and their respective successors and permitted assigns and is not intended to and shall not confer any rights or benefits on any third party (other than successors and permitted assigns) not a signatory hereto.

9.3 Term and Termination.

This Agreement shall be effective as of the Effective Date and shall continue in effect thereafter unless and until terminated by: (i) a vote of the Administrative Committee as of a specified date at least six (6) months after the date of such vote; or (ii) the termination of the Operating Agreement, unless the Administrative Committee decides not to terminate this Agreement or to terminate it at a later date. Termination may become effective only upon FERC's acceptance without suspension or hearing.

9.4 Winding Up.

Any provision of this Agreement that, expressly or by implication, comes into or remains in force following termination or expiration of this Agreement shall survive such termination or expiration. Such surviving provisions shall include, but not be limited to: (i) those provisions necessary to permit the orderly conclusion or continuation, pursuant to another agreement, of transactions entered into prior to the decision to terminate this Agreement; (ii) those provisions necessary to conduct final billing, collection, and accounting with respect to all matters arising hereunder; and (iii) the indemnification provisions as applicable to periods prior to such termination or expiration.

9.5 Successors and Assigns.

This Agreement shall inure to the benefit of and be binding upon the Parties hereto, their respective successors and assigns permitted herein, but shall not be assignable by any Party without the approval of the Administrative Committee, except: (i) as to a successor in the operation of a Party's Transmission Facilities by reason of a merger, consolidation, reorganization, sale, spin-off, or foreclosure, as a result of which substantially all such Transmission Facilities are acquired by such a successor, and such successor becomes a Party to this Agreement; or (ii) as an assignment of rights under this Agreement for financing purposes.

9.6 Force Majeure.

No Party shall be liable to any other Party for damages or otherwise be in breach of this Agreement to the extent and during the period such Party's performance is prevented by any cause or causes beyond such Party's control and without such Party's fault or negligence, including but not limited to any act, omission, or circumstance occasioned by or in consequence of any act of God, labor disturbance, act of the public enemy, war, insurrection, riot, fire, storm or flood, explosion, breakage or accident to machinery or equipment, or curtailment, order, regulation or restriction imposed by governmental, military or lawfully established civilian authorities; provided, however, that any such foregoing event shall not excuse any payment obligation. Upon the occurrence of an event considered by a Party to constitute a force majeure event, such Party shall use due diligence to endeavor to continue to perform its obligations as far as reasonably practicable and to remedy the event, provided that no Party shall be required by this provision to settle any strike or labor dispute.

9.7 Default and Waiver

9.7.1 Default.

Any Party that fails to meet its financial or other obligations to another Party or to PJM under this Agreement shall be deemed to be in breach of this Agreement. If the Administrative Committee concludes, upon the report of PJM or complaint of any Party that another Party is in breach, the Administrative Committee shall so notify such Party and inform all other Parties. The notified Party may remedy such breach by: (i) paying all amounts assertedly due, along with interest on such amounts calculated in accordance with the methodology specified for interest on refunds in FERC's regulations at 18 C.F.R. § 35.19a(a)(2)(iii); and (ii) presenting evidence satisfactory to the Administrative Committee that it has taken appropriate measures to meet any other obligation of which it was deemed to be in breach; provided, however, that any such payment or presentation may be subject to a reservation of rights, if any, to a final determination of the obligations of the Party pursuant to the dispute resolution provisions in this Agreement. If, by the thirtieth (30th) day following receipt of the foregoing notice, a Party has not remedied the breach, then such Party shall be in default, and in addition to any other remedies then available:

(a) Any representative of the defaulting Party on the Administrative Committee, or any other committee, subcommittee, working group or task force established pursuant to this Agreement, shall not be entitled to vote for so long as the default shall continue to exist.

(b) If the default is the Party's second default within a period of twenty-four months, or is a default that imperils the safety or reliability of the PJM Region, the Administrative Committee may vote to terminate the Party's status as a Party to this Agreement. A terminated Party shall comply with all obligations applicable to a Party withdrawing from this Agreement.

9.7.2 No Implied Waivers.

The failure of a Party or of the Administrative Committee to insist upon or enforce strict performance of any of the provisions of this Agreement shall not be construed as a waiver or relinquishment to any extent of such entity's right to assert or rely upon any such provisions, rights and remedies in that or any other instance; rather, the same shall be and remain in full force and effect.

9.8 Indemnification.

9.8.1

Each Party agrees to indemnify and hold harmless each of the other Parties, its officers, directors, employees or agents (not including PJM and the PJM Board) for all actions, claims, demands, costs, damages and liabilities asserted by a third party against the Party seeking indemnification and arising out of or relating to any of the Transmission Facilities or other assets that are the subject of this Agreement of the Party from which indemnification is sought, or an act or failure to act in accordance with this Agreement by such Party, except: (i) to the extent that such liabilities result from the negligence or willful misconduct of the Party seeking indemnification; and (ii) that each Party shall be responsible for all claims of its own employees, agents and servants growing out of any workmen's compensation law.

9.8.2

The amount of any indemnity payment arising hereunder shall be reduced (including, without limitation, retroactively) by any insurance proceeds or other amounts actually recovered by the Party seeking indemnification in respect of the indemnified action, claim, demand, costs, damage or liability. If any Party shall have received an indemnity payment for an action, claim, demand, cost, damage or liability and shall subsequently actually receive insurance proceeds or other amounts for such action, claim, demand, cost, damage or liability, then such Party shall pay to the Party that made such indemnity payment the lesser of the amount of such insurance proceeds or other amounts actually received and retained or the net amount of the indemnity payments actually received previously.

9.9 Limitations on Liability.

No Party shall be liable to any other Party for any claim for indirect, incidental, special or consequential damage or loss of the other Party, including, but not limited to, loss of profits or revenues, cost of capital of financing, loss of goodwill and cost of replacement power arising from such Party's carrying out, or failing to carry out, any obligations contemplated by this Agreement except to the extent the damages are direct damages that result from the gross negligence or intentional misconduct of such party; provided, however, that nothing herein shall be deemed to reduce or limit the obligation of any Party with respect to the claims of persons or entities not a Party to this Agreement. To the extent that any Party has a claim against any other Party, the amount of any judgement or arbitration award on such claim entered in favor of such Party shall be limited to the value of that Party's assets. The Parties may not seek to enforce claims against the directors, managers, members, shareholders, officers, or employees of any other Party who shall have no personal liability for obligations of such Party by reason of their status as directors, managers, members, shareholders, officers or employees.

9.10 PJM's Liability.

The liability of PJM, its Board, officers, employees, and agents shall be governed by the applicable provisions of the PJM Tariff and Operating Agreement.

9.11 Governing Law.

This Agreement shall be interpreted, construed and governed by the laws of the state of Delaware exclusive of the conflicts of laws provisions.

9.12 Notice.

Except as otherwise expressly provided herein, notices required hereunder shall be in writing and shall be sent to a Party by overnight courier, hand delivery, telecopier or other reliable electronic means to the representative on the Administrative Committee of such Party at the address for such Party previously provided by such Party to the other Parties or as otherwise directed by the Administrative Committee. Any such notice so sent shall be deemed to have been given: (i) upon delivery if given by overnight couriers or hand delivery; or (ii) upon confirmation if given by telecopier or other reliable electronic means.

9.13 Counterparts.

This Agreement may be executed in any number of counterparts, each of which shall be an original but all of which together will constitute one instrument, binding upon all Parties hereto, notwithstanding that all such Parties may not have executed the same counterpart.

9.14 Representations and Warranties.

Each Party represents and warrants to the other Parties that, as of the date it becomes a Party.

9.14.1

The Party is duly organized, validly existing and in good standing under the laws of the jurisdiction where organized;

9.14.2

The execution and delivery by the Party of this Agreement and the performance of its obligations hereunder have been duly and validly authorized by all requisite action on the part of the Party and do not conflict with any applicable law or with any other agreement binding upon the Party. The Agreement has been duly executed and delivered by the Party, and this Agreement constitutes the legal, valid and binding obligation of the Party enforceable against it in accordance with its terms except insofar as the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization, fraudulent conveyance, moratorium or other similar laws affecting the enforcement of creditor's rights generally and by general principles of equity regardless of whether such principles are considered in a proceeding at law or in equity; and

9.14.3

There are no actions at law, suits in equity, proceedings or claims pending or, to the knowledge of the Party, threatened against the Party before or by any federal, state, foreign or local court, tribunal or governmental agency or authority that might materially delay, prevent or hinder the performance by the Party of its obligations hereunder.

9.15 Confidentiality

9.15.1 Party Access.

No Party shall have a right hereunder to receive or review any documents, data or other information of another Party, including documents, data or other information provided to PJM, to the extent such documents, data or information have been designated as confidential pursuant to the procedures adopted by PJM or to the extent that they have been designated as confidential by such other Party; provided, however, a Party may receive and review any composite documents, data and other information that may be developed based on such confidential documents, data or information if the composite does not disclose any individual Party's confidential data or information.

9.15.2 Maintenance of Confidential Information.

In the course of performing functions under this Agreement, the Parties may from time to time receive from each other or from PJM information that a Party or PJM may designate as confidential, or which is subject to FERC's Standards of Conduct for Transmission Providers, or Critical Energy Infrastructure Information, as amended from time to time. The Parties and PJM shall treat such information as confidential in accordance with a nondisclosure agreement adopted by the Administrative Committee. Information subject to FERC's Standards of Conduct for Transmission Providers or Critical Energy Infrastructure Information shall not be disclosed or shared except as permitted thereby. The Parties and PJM may enter into agreements to protect and maintain the attorney-client, attorney-work product or other privileges on matters in which they share a common interest.

9.16 Severability, Renegotiation and Modification

9.16.1 Severability.

Each provision of this Agreement shall be considered severable and if for any reason any provision is determined by a court or regulatory authority of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this Agreement shall continue in full force and effect and shall in no way be affected, impaired or invalidated, and such invalid, void or unenforceable provision shall be replaced with valid and enforceable provision or provisions which otherwise give effect to the original intent of the invalid, void or unenforceable provision.

9.16.2 Renegotiation.

If any provision of this Agreement is held by a court or regulatory authority of competent jurisdiction to be invalid, void or unenforceable, or if the Agreement is modified or conditioned by a regulatory authority exercising jurisdiction over this Agreement, the Parties shall endeavor in good faith to negotiate such amendment or amendments to this Agreement as will restore the relative benefits and obligations of the Parties under this Agreement immediately prior to such holding, modification or condition. If after 60 days such negotiations are unsuccessful the Parties may exercise their withdrawal or termination rights under this Agreement.

9.16.3 Modification.

Articles 2, 4, 5, 6 and 7 and Attachment B of this Agreement (i) contain individualized terms or conditions that were negotiated at arm's length between and among PJM and the Parties acting independently of each other; (ii) do not constitute rates, terms, or conditions that are generally applicable; (iii) constitute a contract between and among PJM and the Parties; (iv) are subject to change solely by written amendment agreed upon by PJM and the Parties, with the Parties acting by vote in accordance with Section 8.5.1 of this Agreement, and filed with and accepted by FERC; and (v) shall not be subject to change through a unilateral filing with FERC by either PJM or the Parties except by a showing that the affected provision seriously harms the public interest.

9.17 Insurance.

Each Party shall obtain and maintain in force such insurance as is consistent with Good Utility Practice.

9.18 Headings.

The article and section headings used in this Agreement are for convenience only and shall not affect the construction or interpretation of any of the provisions of this Agreement.

9.19 Disputes Between a Party and PJM.

To the extent any dispute arises between one or more Parties and PJM regarding any issue covered by this Agreement, at the initiation of any of the Parties or PJM resolution of the dispute shall follow the procedures set forth in section 7.6 above or Attachment B to this Agreement, as invoked.

9.20 Reserved 9.21 Prior Agreements Superseded.

As of the Effective Date of this Agreement, the Transmission Owners Agreement dated as of June 2, 1997, as amended, the West Transmission Owners Agreement dated as of March 13, 2001, as amended and restated December 2, 2002, and the PJM South Transmission Owner Agreement dated May 11, 2004 shall be superseded in accordance with the terms of this Agreement.

9.22 Relationship to Superseded Agreements.

Upon the Effective Date of this Agreement, each Party shall maintain its rights and remain liable for any and all obligations under: (i) the Transmission Owners Agreement dated as of June 2, 1997, as amended; (ii) the West Transmission Owners Agreement dated as of March 13, 2001, as amended and restated December 2, 2002; or (iii) the PJM South Transmission Owner Agreement dated May 11, 2004 (collectively “the Superseded Agreements”) applicable to such Party that arose under a Superseded Agreement with respect to such Party prior to the Effective Date of this Agreement. Neither the effectiveness of this Agreement nor the termination of the Superseded Agreements shall relieve the Parties of any of their indemnification or liability obligations contained in the Superseded Agreements for any events occurring prior to the Effective Date of this Agreement.

9.23 Transition of the Regional Transmission Expansion Planning Protocol to a Schedule under the PJM Tariff.

Until the effective date of PJM Tariff provisions accepted by FERC providing that PJM shall prepare the Regional Transmission Expansion Plan in accordance with a Schedule to the PJM Tariff, PJM shall continue to prepare the Regional Transmission Expansion Plan in accordance with Schedule 6 of the PJM Operating Agreement without interruption.

ATTACHMENT A
TO THE CONSOLIDATED
TRANSMISSION OWNERS AGREEMENT

Monongahela Power Company and The Potomac Edison Company, doing business as Allegheny Power

American Electric Power Service Corporation on behalf of its affiliate companies: AEP Appalachian Transmission Company, Inc.; AEP Indiana Michigan Transmission Company, Inc.; AEP Kentucky Transmission Company, Inc.; AEP Ohio Transmission Company, Inc.; AEP West Virginia Transmission Company, Inc.; Appalachian Power Company; Indiana Michigan Power Company; Kentucky Power Company; Kingsport Power Company; Ohio Power Company and Wheeling Power Company

Commonwealth Edison Company and Commonwealth Edison Company of Indiana, Inc.

Dayton Power and Light Company

Virginia Electric and Power Company (Dominion Virginia Power)

Public Service Electric and Gas Company

PECO Energy Company

PPL Electric Utilities Corporation

Baltimore Gas and Electric Company

Jersey Central Power & Light Company

Potomac Electric Power Company

Atlantic City Electric Company

Delmarva Power & Light Company

UGI Utilities, Inc.

Allegheny Electric Cooperative, Inc.

Essential Power Rock Springs, LLC

Old Dominion Electric Cooperative

Rockland Electric Company

Duquesne Light Company

Neptune Regional Transmission System, LLC

Trans-Allegheny Interstate Line Company

Linden VFT, LLC

American Transmission Systems, Incorporated

City of Cleveland, Department of Public Utilities, Division of Cleveland Public Power

Duke Energy Ohio, Inc.

Duke Energy Kentucky, Inc.

City of Hamilton, OH

Hudson Transmission Partners, LLC

East Kentucky Power Cooperative, Inc.

Mid-Atlantic Interstate Transmission, LLC

Southern Maryland Electric Cooperative, Inc.

Ohio Valley Electric Corporation

AMP Transmission, LLC

Transource West Virginia, LLC

Silver Run Electric, LLC

NextEra Energy Transmission MidAtlantic Indiana, Inc.

Wabash Valley Power Association, Inc.

Keystone Appalachian Transmission Company

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

PJM Interconnection, L.L.C.

By: _____

Name: Phillip G. Harris

Title: President and CEO

Date: December 15, 2005

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

Monongahela Power Company and The Potomac Edison Company, doing business as Allegheny Power

By: _____

Name: Olenger L. Pannell

Title: Vice President

Date: January 1, 2024

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

American Electric Power Service Corporation on behalf of its affiliate companies:
AEP Appalachian Transmission Company, Inc.; AEP Indiana Michigan Transmission Company, Inc.; AEP Kentucky Transmission Company, Inc.; AEP Ohio Transmission Company, Inc.; AEP West Virginia Transmission Company, Inc.; Appalachian Power Company; Indiana Michigan Power Company; Kentucky Power Company; Kingsport Power Company; Ohio Power Company and Wheeling Power Company

By: _____

Name: Lisa M. Barton

Title: Executive Vice President - AEP Transmission

Date: October 13, 2015

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

Exelon Corporation on behalf of its subsidiaries
Commonwealth Edison Company and Commonwealth Edison
Company of Indiana, Inc.

By: _____

Name: Susan Ivey

Title: Vice President, Transmission Operations and Planning, Exelon Corporation

Date: December 15, 2005

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

The Dayton Power and Light Company

By: _____

Name: Patricia K. Swanke

Title: Vice President - Operations

Date: December 15, 2005

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

Virginia Electric and Power Company (Dominion Virginia Power)

By: _____

Name: Gary L. Sypolt

Title: President – Dominion Transmission

Date: December 15, 2005

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

Public Service Electric and Gas Company

By: _____

Name: Ralph LaRossa

Title: Vice President - Electric Delivery

Date: December 15, 2005

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

Exelon Corporation on behalf of its subsidiary
PECO Energy Company

By: _____

Name: Susan Ivey

Title: Vice President, Transmission Operations and Planning, Exelon Corporation

Date: December 15, 2005

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

PPL Electric Utilities Corporation

By: _____

Name: John F. Sipics

Title: President

Date: December 15, 2005

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

Baltimore Gas and Electric Company

By: _____

Name: Mark P. Huston

Title: Vice President, Electric Transmission and Distribution

Date: December 15, 2005

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

Jersey Central Power & Light Company

By: _____

Name: Stanley F. Szwed

Title: Vice President – Energy Delivery Policy
First Energy Service Company

Date: December 15, 2005

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

Potomac Electric Power Company

By: _____

Name: David M. Valazquez

Title: Vice President, Pepco Holdings, Inc.

Date: December 15, 2005

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

Atlantic City Electric Company

By: _____

Name: David M. Valazquez

Title: Vice President, Pepco Holdings, Inc.

Date: December 15, 2005

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

Delmarva Power & Light Company

By: _____

Name: David M. Valazquez

Title: Vice President, Pepco Holdings, Inc.

Date: December 15, 2005

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

UGI Utilities, Inc.

By: _____

Name: Richard E. Gill

Title: Assistant Secretary - Electric Transmission

Date: December 15, 2005

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

Essential Power Rock Springs, LLC

By: _____

Name: Jason Solimini

Title: Vice President Finance, Controller and Treasurer

Date: September 26, 2019

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

Old Dominion Electric Cooperative

By: _____

Name:

Title:

Date: December 15, 2005

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

Rockland Electric Company

By: _____

Name:

Title:

Date: December 15, 2005

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

Duquesne Light Company

By: _____

Name:

Title:

Date: December 15, 2005

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

Allegheny Electric Cooperative, Inc.

By: _____

Name: Richard W. Osborne

Title: Vice President Power Supply & Engineering

Date: December 15, 2005

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

Neptune Regional Transmission System, LLC

By: _____

Name: Edward M. Stern

Title: CEO

Date: March 7, 2007

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

Trans-Allegheny Interstate Line Company

By: _____

Name: James R. Haney

Title: Vice President

Date: November 8, 2007

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

Linden VFT, LLC

By: _____

Name: Andrew J. Keleman

Title: Authorized Representative

Date: April 1, 2009

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

American Transmission Systems, Incorporated

By: _____

Name: Richard R. Grigg

Title: President

Date: December 17, 2009

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

City of Cleveland, Department of Public Utilities
Division of Cleveland Public Power

By: _____

Name: Barry A. Withers

Title: Director

Date: March 22, 2011

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

Duke Energy Ohio, Inc.

By: _____

Name: Julia S. Janson

Title: President

Date: September 27, 2011

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

Duke Energy Kentucky, Inc.

By: _____

Name: Julia S. Janson

Title: President

Date: September 27, 2011

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

City of Hamilton, OH

By: _____

Name: Joshua A. Smith

Title: City Manager

Date: February 29, 2012

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

Hudson Transmission Partners, L.L.C.

By: _____

Name: Jeffrey T. Wood

Title: Senior Vice President

Date: February 8, 2013

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

East Kentucky Power Cooperative, Inc.

By: _____

Name: Anthony S. Campbell

Title: President & CEO

Date: March 26, 2013

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

Mid-Atlantic Interstate Transmission, LLC

By: _____

Name: Richard A. Ziegler

Title: Director, FERC & RTO Technical Support

Date: October 14, 2016

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

Southern Maryland Electric Cooperative, Inc.

By: _____

Name: Austin J. Slater, Jr.

Title: President & CEO

Date: October 19, 2016

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

Ohio Valley Electric Corporation, Inc.

By: _____

Name: Justin J. Cooper

Title: Secretary, Treasurer, and Chief Financial Officer

Date: November 28, 2018

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

AMP Transmission, LLC

By: _____

Name: Pamala M. Sullivan

Title: President

Date: October 9, 2018

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

Transource West Virginia, LLC

By: _____

Name: Antonio P. Smyth

Title: President

Date: February 19, 2019

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

Silver Run Electric, LLC

By: _____

Name: Paul G. Thessen

Title: President

Date: February 27, 2020

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

NextEra Energy Transmission MidAtlantic Indiana, Inc.

By: _____

Name: Michael Sheehan

Title: Vice President

Date: May 7, 2020

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

Wabash Valley Power Association, Inc.

By: _____

Name: Jay Bartlett

Title: Chief Executive Officer

Date: 10/25/19

IN WITNESS WHEREOF, the Parties and PJM have caused this Agreement to be executed by their duly authorized representatives.

Keystone Appalachian Transmission Company

By: _____

Name: Olenger L. Pannell

Title: Vice President

Date: January 1, 2024

ATTACHMENT B
TO THE CONSOLIDATED TRANSMISSION
OWNERS AGREEMENT
DISPUTE RESOLUTION PROCEDURES

A. Sequential Process for Resolving Disputes

The Parties and PJM shall undertake good-faith negotiations to resolve any dispute as to a matter governed by this Agreement consistent with the following sequential process:

- i. Each Party to a dispute (“Dispute Party”) and PJM shall designate an executive with authority to resolve the matter in dispute (“Designated Executive”) to participate in such discussions. The Designated Executives shall promptly meet and engage in discussions to resolve the matter in dispute.
- ii. To the extent such dispute is not resolved pursuant to (i), each Dispute Party shall designate the President of the Dispute Party (as set forth in Attachment A to this Agreement) or other comparable senior executive (“Senior Designated Executive”) to meet with the President of PJM to participate in such discussions to resolve the matter in dispute. The Senior Designated Executive(s) and President of PJM shall promptly meet and engage in discussions to resolve the matter in dispute.
- iii. To the extent such dispute is not resolved pursuant to (ii), the dispute may be escalated to the PJM Board at the request of a Dispute Party. The Senior Designated Executive of the relevant Dispute Party may meet with the PJM Board to present the dispute in an attempt to resolve the matter.
- iv. Any dispute that has not been resolved through good faith negotiation pursuant to the process set forth in (i), (ii) and (iii) above may be subject to non-binding mediation prior to the initiation of regulatory, judicial, or other dispute resolution proceedings as may be appropriate as provided by this Dispute Resolution Procedure.

B. Disputes Involving Proposed Section 205 Filings Under Section 7.9.

In the event the Parties or PJM have a dispute regarding a Federal Power Act section 205 filing under Section 7.9 of this Agreement, and the dispute resolution procedures set forth in this Attachment B are invoked, the Parties or PJM shall have the right to invoke expedited Dispute Resolution Procedures as follows:

- i. The Party or Parties and PJM shall meet promptly prior to the filing in order to resolve the dispute.
- ii. If the Transmission Owners propose to make the Section 205 filing, they shall defer such filing beyond the 30-day notice and consultation period provided for in Section 7.3.2 for up to 10 additional days at the request of PJM to allow the dispute to be resolved.
- iii. If PJM proposes to make the Section 205 filing, it shall defer any filing beyond the 7-day notice and consultation period provided for in Section 7.5.1(ii) for up to 10 additional days to allow the dispute to be resolved.
- iv. If PJM disputes a Section 205 filing that the Transmission Owners propose to make, in order to resolve a dispute in a manner that requires the Transmission Owners to withdraw or alter the proposed Section 205 filing, the agreement of the Transmission Owners must be obtained by vote in accordance with Section 8.5.1 of this Agreement.
- v. If the Party or Parties and PJM are unable to reach agreement among themselves, the matter shall be presented to and resolved by a Neutral Party chosen pursuant to Section 7.6.5. Except as provided herein, such resolution shall be binding on the Party or Parties and PJM. Interested parties (including the Parties and PJM) may file a complaint seeking review by the FERC of the Neutral Party's decision, and the FERC's authority to interpret whether the proposed filing contravenes the Agreement shall not be limited by the Neutral Party's decision as it relates to these disputes.
- vi. Nothing in this Attachment B is intended to limit the Parties' and PJM's rights to make filings subject to this dispute resolution provision pursuant to Section 206 of the Federal Power Act prior to resolution of such dispute.

C. Other Disputes.

"Alternate Dispute Resolution Coordinator" shall mean the individual designated by the Parties and PJM. If at any time the position of Alternate Dispute Resolution Coordinator shall become vacant, the Parties and PJM shall promptly designate a replacement.

Initiation. If a dispute that is subject to the mediation procedures specified herein has not been resolved through good-faith negotiation, a party to the dispute shall notify the Alternate Dispute Resolution Coordinator in writing of the existence and nature of the dispute prior to commencing any other form of proceeding for resolution of the dispute. The Alternate Dispute Resolution Coordinator shall have ten calendar days from the date it first receives notification of the existence of a dispute from any of the parties to the dispute in which to distribute to the parties a list of mediators.

Selection of Mediator. The Alternate Dispute Resolution Coordinator shall distribute to the parties to the dispute by electronic means a list containing the names of seven mediators with mediation experience, or with technical or business experience in the electric power industry, or both, as it shall deem appropriate to the dispute. The Alternate Dispute Resolution Coordinator may draw from the lists of mediators maintained by the established dispute resolution committee of an Applicable Regional Entity, as the Alternate Dispute Resolution Coordinator shall deem appropriate. The Alternate Dispute Resolution Coordinator shall distribute the names of all qualified mediators on the Alternate Dispute Resolution Coordinator's list. The persons on the proposed list of mediators shall have no official, financial, or personal conflict of interest with respect to the issues in controversy, unless the interest is fully disclosed in writing to all parties to the dispute in the mediation process and such parties waive in writing any objection to the interest. The parties shall then alternate in striking names from the list with the last name on the list becoming the mediator. The determination of which party shall have the first strike off the list shall be determined by lot. The parties shall have ten calendar days to complete the mediator selection process, unless the time is extended by mutual agreement.

Advisory Mediator. If the Alternate Dispute Resolution Coordinator deems it appropriate, it shall distribute two lists, one containing the names of seven mediators with mediation experience (or a list containing the names of all current mediators in the event of a dispute involving the Office of the Interconnection), and one containing the names of seven mediators with technical or business experience in the electric power industry. In connection with circulating the foregoing lists, the Alternate Dispute Resolution Coordinator shall specify one of the lists as containing the proposed mediators, and the other as a list of proposed advisors to assist the mediator in resolving the dispute. The parties to the dispute shall then utilize the alternative strike procedure set forth above until one name remains on each list, with the last named persons serving as the mediator and advisor.

Mediation Process. The parties to the dispute shall attempt in good faith to resolve their dispute in accordance with procedures and a timetable established by the mediator. In furtherance of the mediation efforts, the mediator may:

- a. Require the parties to the dispute to meet for face-to-face discussions, with or without the mediator;
- b. Act as an intermediary between the parties to the dispute;
- c. Require the parties to the dispute to submit written statements of issues and positions;
- d. If requested by the parties to the dispute at any time in the mediation process, provide a written recommendation on resolution of the dispute including, if requested, the assessment by the mediator of the merits of the principal positions being advanced by each of the parties to the dispute; and

e. Adopt, when appropriate, the Center for Public Resources Model ADR Procedures for the Mediation of Business Disputes (as revised from time to time) to the extent such procedures are not inconsistent with any rule, standard, or procedure adopted by the Parties and PJM, or with any provision of this Agreement.

Mediator's Assessment. If a resolution of the dispute is not reached by the thirtieth day after the appointment of the mediator or such later date as may be agreed to by the parties to the dispute, if not previously requested to do so the mediator shall promptly provide the parties to the dispute with a written, confidential, non-binding recommendation on resolution of the dispute, including the assessment by the mediator of the merits of the principal positions being advanced by each of the parties to the dispute. The recommendation may incorporate or append, if and as the mediator may deem appropriate, any recommendations or any assessment of the positions of the parties to the dispute by the advisor, if any. Upon request, the mediator shall provide any additional recommendations or assessments the mediator shall deem appropriate. At a time and place specified by the mediator after delivery of the foregoing recommendation, the parties to the dispute shall meet in a good faith attempt to resolve the dispute in light of the recommendation of the mediator. Each party to the dispute shall be represented at the meeting by a person with authority to settle the dispute, along with such other persons as each party to the dispute shall deem appropriate. If the parties to the dispute are unable to resolve the dispute at or in connection with this meeting, then any party to the dispute may commence such arbitral, judicial, regulatory or other proceedings as may be appropriate as provided in this Dispute Resolution Procedure.

D. Dispute Resolution Privilege.

In accordance with FERC's policy favoring the use of alternative dispute resolution procedures, any statements made by any Dispute Party or PJM in the dispute resolution process set forth in this Attachment B: (i) shall have no further force or effect, (ii) shall not be admissible for any purpose, in any subsequent arbitral, administrative, judicial, or other proceeding and (iii) shall be protected from discovery and otherwise confidential. Dispute resolution communications, including any determination by the mediator, shall not be admissible in accordance with Rule 606 of FERC's Rules of Practice and Procedure, Federal Rules of Evidence, and any other applicable law. All other applicable privileges available to any Dispute Party and PJM through dispute resolution and settlement discussions are also preserved. Such privileged and confidential communications may also be protected by the attorney-client privilege, the attorney-work product doctrine, and the common legal interest doctrine.

Exhibit C
Declaration of Pulin Shah

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

**EXHIBIT C
DECLARATION OF PULIN SHAH**

I. INTRODUCTION

1. My name is Pulin Shah. I am the Director Transmission Strategy and Contracts at Exelon Corporation (“Exelon”). I have been in this role since 2018. My current responsibilities include leading the team responsible for all PJM Interconnection, L.L.C. (“PJM”) Generation Interconnection requests and contracts that interface with Exelon. The team I lead represents Exelon in various industry groups and organizations, including PJM, on a wide range of transmission related issues. In addition, I work with Exelon’s transmission planning teams to support corporate initiatives to ensure the reliability of the transmission system and development of new transmission in the footprint of Exelon’s six public utility operating companies. My tenure at Exelon spans over 20 years and during that time I have held various roles including managing our transmission analytics, quantitative analytics, and business analysis teams, along with leading one of our trading organization’s regional portfolios. Prior to working for Exelon, I was an engineer for PJM in the Operations Planning department.
2. I am submitting this Declaration in support of the PJM Transmission Owners’ filing to modify the Consolidated Transmission Owners Agreement (“CTOA”).¹ The proposed CTOA amendments were negotiated by the Transmission Owners and PJM to provide PJM with the authority to make changes to the Regional Transmission Expansion Planning Protocol (“Planning Protocol”) under section 205 of the Federal Power Act (“FPA”).
3. In this Declaration, I first provide an overview of the existing PJM stakeholder process for making changes to the Amended and Restated Operating Agreement of PJM Interconnection, L.L.C. (“Operating Agreement”). Because the Planning Protocol is currently housed in Schedule 6 of the Operating Agreement, any revisions to the Planning Protocol require stakeholder approval by the PJM Members Committee after consideration and votes taken at PJM’s standing committees and the PJM Markets and Reliability Committee.² Without stakeholder approval, PJM cannot make proposed

¹ All defined terms shall have the meaning set forth in the PJM Open Access Transmission Tariff or Amended and Restated Operating Agreement of PJM Interconnection, L.L.C., as applicable.

² Proposals typically are voted on and thus receive support from both the Members Committee and the Markets and Reliability Committee. However, a proposal only requires approval by the Members Committee before it can be filed with the Commission pursuant to FPA section 205. Operating Agreement, § 18.6(a).

changes to the Planning Protocol to the Federal Energy Regulatory Commission (“Commission”) under section 205 of the FPA.

4. I then present evidence that shows how the stakeholder process necessary to amend the Operating Agreement impeded reasonable and necessary transmission planning reforms from being presented to the Commission for consideration under FPA section 205, often with what appears to be a desire to protect stakeholder parochial interests.
5. The division of responsibilities in the Operating Agreement as it relates to transmission planning is something of an artifact of history. But that history has led to PJM’s inability to propose reforms to the Planning Protocol under section 205 of the FPA. This is problematic for the reasons detailed below. Other similar Regional Transmission Organizations (“RTOs”) have FPA section 205 rights over their planning processes.³ In my experience in the field of transmission planning and strategy, there is no reason why PJM, the largest RTO in North America, should not be positioned in a similar manner as other similarly situated RTOs. The changes proposed by the Transmission Owners would fix this problem.
6. Finally, I discuss how PJM would be better able to timely address important challenges to the transmission grid with the ability to propose reforms to the Planning Protocol under FPA section 205. If the status quo remains, PJM’s ability to adapt as necessary to address these imminent challenges will continue to be significantly hampered.

II. THE PJM STAKEHOLDER PROCESS TO REVISE THE OPERATING AGREEMENT

7. Under PJM rules, parties such as members, stakeholders, or PJM itself can initiate a stakeholder review for an “issue” that may lead to a change to PJM’s governing documents or manuals, including the Operating Agreement. To begin such a process, a “problem statement” and “issue charge” is developed, defining the scope, key work activities, and expected deliverables. The relevant lower-level standing committee (e.g., the Operating Committee or the Planning Committee)⁴ may consider these issues,

³ See, e.g., Southwest Power Pool, Inc., OATT, Sixth Revised Vol. No. 1, Attach. O - Transmission Planning Process (setting forth SPP’s transmission planning process as an Attachment to the SPP Tariff); SPP Membership Agreement, § 2.1.1(h) (With respect to Operation and Planning, “SPP shall propose and file with FERC pursuant to Section 205 of the Federal Power Act modifications to the OATT and make any other necessary filings subject to approval by the Board of Directors.”); Midcontinent Indep. Sys. Operator, Inc., Open Access Transmission, Energy & Operating Reserve Mkts. Tariff, Attach. FF – Transmission Expansion Planning Protocol (setting forth MISO’s Transmission Planning Protocol as an Attachment to the MISO Tariff); Agreement of the Trans. Facilities Owners to Organize the Midcontinent Indep. Sys. Operator, Inc., App. K, § L (“MISO shall have the full and exclusive right to submit filings under FPA section 205 with regard to its Tariff and related documents.”).

⁴ As described by the PJM website, “The Planning Committee (PC) ... has the responsibility to review and recommend system planning strategies and policies as well as planning and engineering designs for the PJM bulk power supply system to assure the continued ability of the member companies to operate reliably and economically in a competitive market environment. Additionally, the PC makes recommendations

vote on potential proposals, and pass proposals that have achieved requisite support by Members to the senior standing committees: the Members Committee and the Markets and Reliability Committee. Technical experts from Member companies working with PJM technical experts spend significant amounts developing solutions to reliability issues in the Operating and Planning committees.

8. Changes to the Operating Agreement are first considered by the Markets and Reliability Committee before coming before the Members Committee for approval.⁵ In these senior standing committees, members vote in one of five sectors: (1) Generation Owners, (2) Other Suppliers, (3) Transmission Owners, (4) Electric Distributors, and (5) End-Use Customers. Members can vote in favor of a solution or against a solution. Members also have the ability to abstain. Each Sector is assigned a numerical vote totaling 1.0, divided by the proportion of the Members in that Sector voting for or against a proposal.⁶ These sector-weighted votes are then added together to determine the final vote tally. A proposed amendment to the Operating Agreement must obtain a two-thirds of the Sector vote in the Members Committee, or 3.335 out of 5.0, after the issue is considered and a recommendation is voted upon by the Markets and Reliability Committee.⁷ Only after passing this threshold, may a change be filed with the Commission under section 205 of the FPA. The table below from PJM's website provides an example of this sector-weighted voting process.⁸ In this example, the vote passes because the total percentage of votes in favor (3.457%) exceeds the threshold of 3.335%.

Sector	For	Against	Abstain	% of in Favor
Electric Distributor	8	2	4	0.800%
End Use Customer	15	0	1	1.00%
Generation Owner	10	10	5	0.500%
Other Supplier	3	7	15	0.300%
Transmission Owner	12	2	0	0.857%
				Total % in Favor = 3.457%
				Threshold = 3.335%
				(equation is .667 x 5 sectors)

9. PJM currently has over 1,000 Members, but Members affiliated with other Members are only allowed to cast a single vote (*i.e.*, one total vote per company) in the Members Committee and Markets and Reliability Committee. For this reason, there are

regarding generating capacity reserve requirement and demand-side valuation factors.” <https://www.pjm.com/committees-and-groups/committees/pc> (last visited June 20, 2024).

⁵ Operating Agreement, § 8.6.1.

⁶ *Id.*, § 8.4(b).

⁷ *Id.*, §§ 8.4(c), 8.6.1, 18.6(a).

⁸ Comms. & Groups FAQ: What is sector-weighted voting? <https://learn.pjm.com/pjm-structure/member-org/committees-groups-faqs/sector-weighted-voting.aspx> (last visited June 20, 2024).

approximately 500 total Member votes that could be cast in the senior standing committees. In practice, fewer Members exercise their voting rights individually and a number of Members vote by proxy. The lack of participation and proxy voting mean that a small minority of PJM Members can, and do, effectively impede changes to the Operating Agreement and its schedules, including the Planning Protocol. Exelon recently conducted an analysis of the voting practices of the different sectors that was presented to Organization of the PJM States (“OPSI”) by Sharon Midgley in October 2022. I am including a copy of the presentation as Attachment A to this declaration.

III. EXAMPLES OF THE STAKEHOLDER PROCESS STYMYING EFFORTS TO IMPROVE PJM’S TRANSMISSION PLANNING PROCESSES

10. The examples discussed below demonstrate that PJM stakeholders use the stakeholder process to impede PJM’s ability to propose innovative, reasonable, and important transmission planning reforms to the Commission for consideration under section 205 of the FPA. The delays in implementing these important changes are done to the detriment of reliability. While PJM does have the ability to file such changes as a complaint under section 206 of the FPA without stakeholder approval, a section 206 filing carries a greater burden and puts PJM in the difficult position of having to bring a complaint against its own Operating Agreement to implement reforms.

A. Incorporating Storage as a Transmission Asset

11. Storage as a Transmission Asset (“SATA”) refers to the use of electric storage facilities to address transmission-related needs, including maintaining system reliability, improving operational performance and market efficiency, or accommodating public policy requirements as defined by state or federal agencies. As described below, PJM stakeholders have impeded PJM from moving forward on this issue, preventing PJM from leveraging this potentially valuable, flexible, and cost-saving transmission option. Meanwhile, the Commission has approved SATA projects proposed by other RTOs such as the Midcontinent Independent System Operator (“MISO”).⁹

12. In 2020, PJM began working to ensure that existing planning rules provide sufficient clarity regarding if and how SATA should be evaluated and incorporated into the PJM Planning Process. At the April 14, 2020 meeting of the Planning Committee, PJM introduced a proposal to allow PJM to include SATA in the Planning Process. The Problem Statement explained that “PJM seeks to ensure existing planning rules provide sufficient clarity regarding if and how storage as a transmission asset[] should be evaluated and incorporated into the PJM Regional Transmission Expansion Plan

⁹ *Midcontinent Indep. Sys. Operator, Inc.*, 172 FERC ¶ 61,132, at P 1 (2020).

(“RTEP”) process.”¹⁰ From June to October 2020, the Planning Committee held several special sessions on SATA.¹¹

13. In December 2020, at a meeting of the Planning Committee, PJM presented a SATA package of reforms, which included draft Planning Protocol revisions for informational purposes.¹² The Planning Committee endorsed the SATA package, and it moved to the Markets and Reliability Committee.¹³
14. In February 2021, however, the Markets and Reliability Committee voted to defer endorsement of Planning Protocol amendments to accommodate SATA in *reliability* planning and to link any progress on use of SATA in reliability planning to vetting of the *market* impacts of the technology.¹⁴ The Markets and Reliability Committee vote effectively terminated SATA efforts in PJM and no substantial progress has been made since. Given the voting process at PJM, stakeholders whose primary business interests are not reliability were able to use the process to hamper PJM’s ability to use SATA as a tool in the planning process to address reliability issues. This occurred despite the fact that use of SATA in the Planning Protocol was endorsed and fully vetted by the Planning Committee to move forward.

B. Mitigating CIP-014 Projects

15. Reforms to allow PJM to plan the system to mitigate facilities being classified as CIP-014 facilities in the future have also been stymied by the stakeholder process. The Commission approved Reliability Standard CIP-014-2 (“CIP-014”) in Order No. 802 to require additional measures to protect the most critical Bulk-Power System facilities.¹⁵ CIP-014 is meant to enhance physical security measures for the most critical Bulk-Power System facilities and thus lessen the overall vulnerability of the Bulk-Power System against physical attacks. CIP-014 established a mechanism to identify and remedy transmission facilities that, if rendered inoperable or damaged as

¹⁰ *Storage As A Transmission Asset Problem/Opportunity Statement*, PJM Interconnection, L.L.C. (2020), <https://www.pjm.com/-/media/committees-groups/committees/pc/2020/20200605-special/20200605-item-02a-storage-as-a-transmission-asset-problem-statement-clean.ashx>.

¹¹ *Issue Details: Storage as a Transmission Asset*, PJM Interconnection, L.L.C., <https://www.pjm.com/committees-and-groups/issue-tracking/issue-tracking-details.aspx?issue=%7bb435c39b-d4bb-4c3c-ada9-8efbc0e52246%7d>.

¹² *Minutes of Planning Committee*, PJM Interconnection, L.L.C. (December 1, 2020), <https://www.pjm.com/-/media/committees-groups/committees/pc/2020/20201201/20201201-minutes.ashx>.

¹³ *Id.*

¹⁴ *Summarized Voting Rep. of Mkts. & Reliability Comm.*, PJM Interconnection, L.L.C. (Feb. 24, 2021), <https://pjm.com/-/media/committees-groups/committees/mrc/2021/20210224/20210224-summarized-voting-report.ashx>.

¹⁵ *Physical Sec. Reliability Standard*, Order No. 802, 149 FERC ¶ 61,140 (2014), (approving Reliability Standard CIP-014-1); *N. Am. Elec. Reliability Corp.*, Docket No. RD15-4-000 (July 14, 2015) (delegated letter order).

a result of a physical attack, could result in instability, uncontrolled separation, or cascading outages within an interconnection. CIP-014 requires that each transmission owner protect the materials associated with CIP-014 and to keep those materials confidential given the sensitive nature of the information relevant to the CIP-014 determinations.

16. In March 2020, the Commission approved Attachment M-4 to the PJM Tariff to set forth planning procedures for a limited and defined number of Supplemental Projects designed to mitigate the risk associated with critical transmission stations and substations identified pursuant to CIP-014.¹⁶ Attachment M-4 allows for consultation with PJM and the affected state commissions regarding CIP-014 mitigation projects, while protecting the highly sensitive information about the critical facilities.
17. Attachment M-4 only applies to a defined number of CIP-014 projects. To develop a process for *avoiding* and *mitigating new* CIP-014 facilities, PJM initiated a stakeholder process after the Commission's approval of Attachment M-4.¹⁷ PJM first engaged in an extensive educational campaign. For over a year from January 2020 to March 2021, PJM hosted several special meetings to provide education, propose solutions, and review potential reforms for (among other things) mitigating CIP-014 facilities.¹⁸
18. In February 2021, a package of solutions designed to mitigate the need for new CIP-014 projects passed the Planning Committee.¹⁹ That package included proposed changes to the Operating Agreement.²⁰ In April 2021, however, the Markets and Reliability Committee remanded the Operating Agreement changes back to the Planning Committee for further consideration.²¹ The changes were deferred at the Markets and Reliability Committee and sent back to the Planning Committee for further discussions due to concerns regarding the lack of a competitive solution process for CIP-014 projects. This highlights an example where a reliability driven need addressed by PJM and the Planning Committee was impeded by stakeholders without any reliability obligations. Those stakeholders held up the necessary changes because they believed the assets should be subject to a competitive solicitation process. However, subjecting

¹⁶ *Appalachian Power Co.*, 170 FERC ¶ 61,196 (2020).

¹⁷ *Issue Charge: Critical Infrastructure Stakeholder Oversight*, PJM Interconnection, L.L.C. (2019), <https://www.pjm.com/-/media/committees-groups/committees/mrc/2020/20200917/20200917-item-02-3-ciso-issue-charge.ashx>.

¹⁸ *Issue Details: Critical Infrastructure Stakeholder Oversight*, PJM Interconnection, L.L.C. (2021), <https://www.pjm.com/committees-and-groups/issue-tracking/issue-tracking-details.aspx?Issue=%07b65ead8d9-51dd-49c1-8b7b-5e02fb8cb3c6%7d>.

¹⁹ *Minutes of Planning Comm.*, PJM Interconnection, L.L.C. (Feb. 9, 2021), <https://www.pjm.com/-/media/committees-groups/committees/pc/2021/20210209/20210209-minutes.ashx>.

²⁰ *Id.* at P 4.

²¹ *Summarized Voting Rep. of Mkts. & Reliability Comm.*, PJM Interconnection, L.L.C. (April 21, 2021), <https://pjm.com/-/media/committees-groups/committees/mrc/2021/20210421/20210421-summarized-mrc-voting-report.ashx>.

these assets to a competitive solicitation process would expose those critical assets to delay and potential public disclosure, the very thing that the Reliability Standard intended to prevent.

19. With the North American Electric Reliability Corporation (“NERC”) developing new guidance around critical assets, the need to maintain the confidentiality of the CIP-014 assets while mitigating the risk to those assets, has increased significantly. In July 2021, the Planning Committee approved an amended provision to the Operating Agreement with overwhelming support.²² No action has been taken by the Markets and Reliability Committee since then and PJM lists the initiative in its issue tracker as “on hold.”²³ Without section 205 filing rights, PJM is hampered in its ability to move forward to address CIP-014 future mitigation solutions, furthering both reliability and efficiency and, most critically, grid security without filing a complaint against its own Operating Agreement.²⁴
20. These revisions are necessary despite the Commission’s approval of Attachment M-4. As noted above, the Attachment M-4 procedures are limited to a fixed number of Supplemental Projects designed to mitigate the risk associated with critical transmission stations and substations identified pursuant to CIP-014. Moreover, the Attachment M-4 process sunsets five years after the issuance of the Commission’s order approving Attachment M-4, *i.e.*, in March 2025.²⁵ In contrast, the proposal approved by the Planning Committee would have allowed the PJM Office of the Interconnection to proactively identify, develop and select the more efficient or cost-effective solutions to address potential reliability violations stemming from the contingency loss of a critical substation in instances where Attachment M-4 is inapplicable, including beyond March 2025.

C. Implementing Regional Targeted Market Efficiency Projects

21. Targeted Market Efficiency Projects (“TMEPs”) are low-cost and fast construction interregional projects that reduce customer energy costs. Thus far, PJM has been impeded from extending this successful interregional construct to address congestion within PJM after it was rejected by stakeholders.

²² *Minutes of Planning Comm.*, PJM Interconnection, L.L.C. (July 13, 2021), <https://www.pjm.com/-/media/committees-groups/committees/pc/2021/20210713/20210713-minutes.ashx>.

²³ *Issue Details: Critical Infrastructure Stakeholder Oversight*, PJM Interconnection, L.L.C. (2021) <https://www.pjm.com/committees-and-groups/issue-tracking/issue-tracking-details.aspx?Issue=%7B65EAD8D9-51DD-49C1-8B7B-5E02FB8CB3C6%7D>.

²⁴ To address the avoidance of creating new CIP-014 facilities, PJM ultimately submitted to the Commission a revision to the RTEP allowing PJM to modify the technical specifications of a project proposal submitted through a competitive proposal window if it fails a critical substation planning analysis. The Commission approved these revisions in 2022. *PJM Interconnection, L.L.C.*, Docket No. ER22-451 (Jan. 10, 2022) (delegated letter order).

²⁵ PJM Tariff, Attach. M-4(d).

22. The PJM and MISO Joint Operating Agreement (“JOA”) includes a TMEP process to address historical interregional congestion. This process employs a look-back approach and can be effective in addressing market inefficiencies by addressing operational challenges that may not be replicated in forward-looking simulations.
23. In November 2017, PJM introduced an issue charge related to overall RTEP Market Efficiency Analysis.²⁶ Considering a regional TMEP construct was part of this issue process. The Planning Committee considered three phases of projects over the years following the introduction of the issue charge. In June 2018, TMEP was broken into three phases. The proposal identified those changes that could be made without significant disagreements and put those changes into Phase 1.²⁷ However, as the stakeholder process continued, Phase 1 and Phase 2 were pushed into Phase 3, which occurred two years later. Ultimately, instead of moving forward with targeted and specific changes proposed as part of Phase 1 and Phase 2, all of the changes were lumped into a bigger package that occurred in Phase 3.²⁸
24. In August 2020, the Markets and Reliability Committee voted down a solution package for implementing regional TMEP that included revisions to the Planning Protocol.²⁹ Opposition to this proposal was mounted by entities attempting to keep congestion from being addressed through a regional TMEP construct so more congestion would remain for competitive market-based proposals to address. Those market-based proposals would involve either generation (through capacity market) or transmission (through proposal window) solutions.
25. Regional TMEP presents yet another example of PJM stakeholders with adverse business interests blocking meaningful and cost-effective transmission planning reforms. If PJM had exclusive authority over Planning Protocol revisions, it could have proposed for Commission consideration the TMEP process through a section 205 filing and saved ratepayers from paying for years of unnecessary congestion, as has been done with interregional congestion across the PJM-MISO seam.

²⁶ *Planning Comm. Agenda*, PJM Interconnection L.L.C. (Nov. 9, 2017), <https://www.pjm.com/-/media/committees-groups/committees/pc/20171109/20171109-agenda.ashx>.

²⁷ *Mkt. Efficiency Process Enhancement Task Force*, PJM Interconnection L.L.C. (July 12, 2018), <https://www.pjm.com/-/media/committees-groups/committees/pc/20180712/20180712-item-10a-mepetf-packages-july-updated.ashx>.

²⁸ *Mkt. Efficiency Process Enhancement Task Force Phase 3*, PJM Interconnection L.L.C. (March 10, 2023), <https://www.pjm.com/-/media/committees-groups/committees/pc/2020/20200310/20200310-item-06a-mepetf-phase-3-presentation.ashx>.

²⁹ *Summarized Voting Rep. of Mkts. & Reliability Comm.*, PJM Interconnection, L.L.C. (Aug. 19, 2020), <https://pjm.com/-/media/committees-groups/committees/mrc/2020/20200820/20200820-summarized-voting-report.ashx>.

IV. EXAMPLES OF REFORMS TO THE PLANNING PROTOCOL PJM WOULD BE ABLE TO SUBMIT TO THE COMMISSION TO TIMELY ADDRESS IMPORTANT CHALLENGES TO THE TRANSMISSION GRID

A. Implementing Long-Term Regional Transmission Planning

26. While compliance with the recently issued Order No. 1920 may require stakeholder approval, implementation of Long-Term Regional Transmission Planning reforms may run into obstacles under the current process for revising the Planning Protocol. For example, once the compliance process is complete, PJM may identify further changes or enhancements necessary to allow PJM to better implement the requirements of Order No. 1920. This would require further changes to the Planning Protocols.
27. Order No. 1920 underscores that PJM, as the transmission provider required to implement Long-Term Regional Transmission Planning, needs the flexibility and the ability to make changes to the Planning Protocol to address the Order No. 1920 reforms and implementation.³⁰

B. Incorporating National Interest Electric Transmission Corridors

28. The lack of section 205 rights may also be limiting PJM's ability to take advantage of opportunities related to National Interest Electric Transmission Corridors ("NIETCs"). As noted above, PJM has been hampered in the past in its attempt to implement reliability changes in a timely manner by stakeholders' competitive market concerns.
29. A NIETC is a geographic area identified by the Department of Energy ("DOE") that has present or expected transmission capacity constraints or congestion that adversely affects consumers. A NIETC designation unlocks certain avenues of potential federal financing, including under the transmission facilitation program, 42 U.S.C. § 18713, and the transmission facility financing loan program, 42 U.S.C. § 18715. A NIETC designation also allows the Commission to issue construction permits for certain transmission facilities under section 216 of the FPA.
30. In May 2024, DOE published its preliminary list of potential NIETCs.³¹ The preliminary list includes three NIETCs areas in PJM's footprint: (1) a geographic area around the border between New York City and northern New Jersey that has the potential to facilitate interregional transmission between PJM and the New York Independent System Operator, Inc.;³² (2) a geographic area from northern Pennsylvania to the Canadian border that has the potential to facilitate interregional transmission

³⁰ *Bldg. for the Future Through Elec. Reg'l Transmission Planning & Cost Allocation*, Order No. 1920, 187 FERC ¶ 61,068, at P 237 (2024) ("Order No. 1920").

³¹ U.S. DOE, *Preliminary List of Potential Nat'l Interest Elec. Trans. Corridors* (May 8, 2024), <https://www.energy.gov/sites/default/files/2024-05/PreliminaryListPotentialNIETCsPublicRelease.pdf>.

³² *Id.* at 13.

between PJM and the Independent Electricity System Operator in Ontario, Canada;³³ and (3) parallel sections in parts of West Virginia, Pennsylvania, Maryland, and Virginia “where there is significant need for increased within-region transmission capacity in PJM to maintain and improve reliability and resilience, lower consumer costs, and meet future generation and demand growth.”³⁴

31. Depending on the specific criteria DOE and the Commission ultimately use to implement NIETC designations, the Planning Protocol may not be currently compatible with PJM having a productive role in those DOE and Commission processes or PJM projects being eligible to qualify. There may also be disconnects between the timing of DOE and Commission processes on the one hand and PJM’s Planning Protocol processes on the other. With independent authority to propose amendments to the Planning Protocol, PJM will be better equipped to revise regional planning processes to align with the DOE and Commission NIETC processes and take advantage of possible NIETC-related benefits.

C. Increasing Interregional Transfer Capabilities

32. Finally, providing PJM with the authority to revise the Planning Protocol would enable PJM to advance reasonable reforms to improve interregional transfer capabilities. Increased transfer capacity will be crucial to ensuring grid reliability to meet expected demand growth and improving resilience during extreme events.³⁵ Increased transfer capacity may also offer access to less expensive electricity for customers and, as a result, lower electricity prices in PJM. Because stakeholders with generation assets within PJM rely on the revenue created by higher prices, this latter point is one reason why some stakeholders oppose increasing transfer capability between PJM and other regions. Similar interests hampered proposed improvements to TMEPs that I discuss above.
33. PJM already participates in certain interregional planning activities with its neighbors. But while the Planning Protocol provides for interregional planning and associated projects, additional reforms are necessary to unlock additional benefits. One example that PJM may need to implement in its work with MISO, would be a revision to

³³ *Id.* at 16.

³⁴ *Id.* at 18.

³⁵ See, e.g., U.S. DOE, National Transmission Needs Study at viii-ix (Oct. 2023) (finding that “[l]arge relative growth in interregional transfer capacity [] compared with the 2020 system will be needed between . . . the Mid-Atlantic and Midwest (156%) regions by 2035 to meet moderate load and high clean energy growth future scenarios. Large interregional transfer capacity need is also found between the three interconnections to help provide electricity given the evolution of supply and demand nationwide and to maintain reliability given an increase in extreme events that stress the grid.”). https://www.energy.gov/sites/default/files/2023-12/National%20Transmission%20Needs%20Study%20-%20Final_2023.12.1.pdf (last visited June 20, 2024).

interregional planning under their joint operating agreement,³⁶ which currently resides in the Planning Protocols within the Operating Agreement. There may be projects that need to be selected and ultimately developed that span both regions through Long-Term Regional Transmission Planning processes that are not currently contemplated under the JOA, and PJM should have the authority to make needed changes to facilitate the development of such projects.

V. CONCLUSION

34. In sum, the PJM planning process has been adversely affected by PJM's inability to independently move forward needed changes to the Planning Protocol for evaluation by the Commission pursuant to FPA section 205. Such needed changes may address a variety of issues affecting transmission needs and challenges. It is reasonable and appropriate to give PJM the exclusive authority to seek approval of Planning Protocol changes.

35. This concludes my Declaration.

³⁶ Coordinated System Plan periodically developed pursuant to the Joint Operating Agreement Between the Midwest Independent Transmission System Operator, Inc. and PJM Interconnection, L.L.C. ("JOA"), <https://www.pjm.com/directory/merged-tariffs/miso-joa.pdf> (last visited June 20, 2024).

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed this 20 day of June, 2024.



Pulin Shah

Attachment A to Declaration of Pulin Shah



October 17, 2022

Perspectives on PJM Governance

Exelon Business Services Company | Sharon Midgley

Perspectives on PJM Governance

PJM Governance needs to evolve to support continued reliability and keep up with the pace of change in the industry

- The PJM stakeholder process does not support PJM's reliability mission and should be changed.
- Stakeholders struggle with reaching consensus on issues related to transmission planning and reliability (i.e. EOL, SATA, DEA, etc.). Ultimate Commission direction on NOPRs may or may not be left to the stakeholder process.
- The rules codifying the Regional Transmission Expansion Plan are erroneously included in Schedule 6 of PJM's Operating Agreement.
- The Consolidated Transmission Owners Agreement (CTOA) is the foundational contract between the PJM Transmission Owners and PJM which outlines the responsibilities transferred to PJM when it was established.
 - Because of the CTOA and the shared reliability mandate, the PJM Transmission Owners have a unique responsibility and relationship with PJM.
 - This contract must be respected, and the stakeholder process should not be used to advance items that create conflict with it.
 - When system outages occur or operating actions are required or other emergent issues arise, PJM leans on the asset owners (TOs and GOs).

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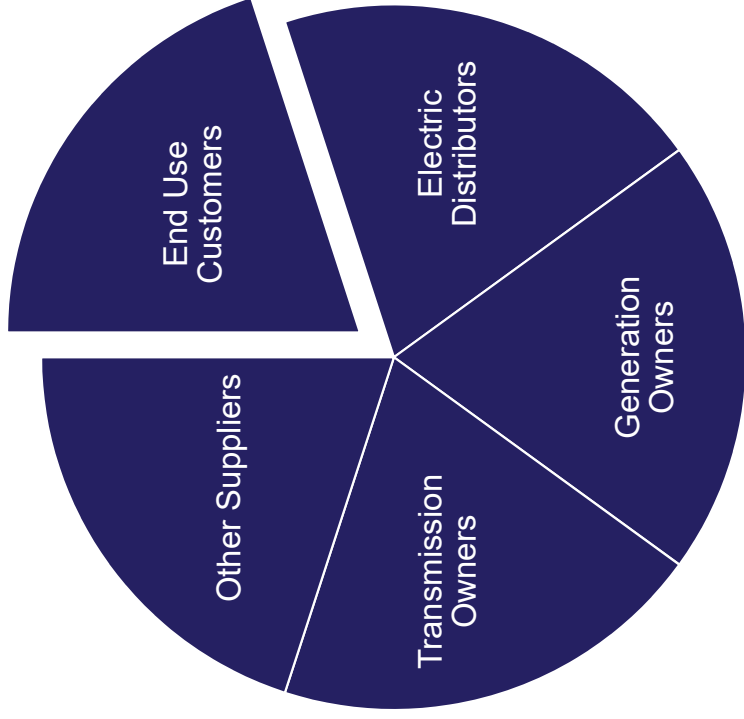
Perspectives on PJM Governance

PJM Governance needs to evolve to support continued reliability and keep up with the pace of change in the industry

- PJM's stakeholder process is based off an archaic, five sector model, which allows for a few aligned parties to control outcomes to their liking under the guise of the "membership".
- Exelon has observed a general lack of engagement from PJM members, attempts to thwart needed reliability-based enhancements, members advocating against their interests, and other troubling behaviors in the stakeholder process.
- PJM must have the ability to remain independent and take action when necessary to ensure continued reliability. Exelon supports an examination of PJM's 205 rights to ensure that they have the ability to act to support near and long-term reliability.
 - Independence is making the right decisions for reliability rather than alignment with "majority".
- A de-emphasis of the stakeholder process in PJM should be considered.
- Exelon values our relationship with PJM and our state commissioners. We'd welcome the opportunity to continue the dialogue further on these (and any other) issues.
 - Existing State/TO Coordination: Licensing, permitting projects, periodic review of transmission projects, CPCN, transmission policy issues, and physical and cyber security.

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Analysis



As of 9/29/22, there are 1,095 Members in PJM

There are 505 Members eligible to vote at senior standing committees

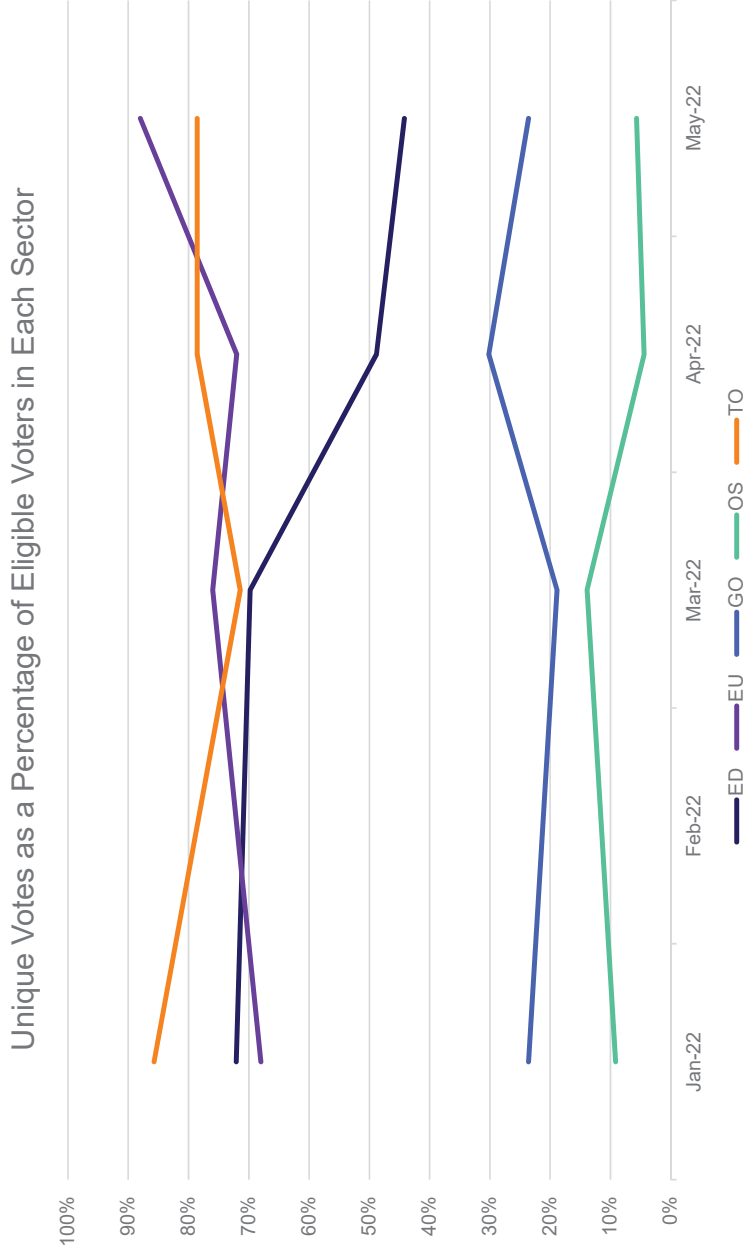
- End Use Customer: 25
- Electric Distributor: 43
- Generation Owner: 106
- Transmission Owner: 14
- Other Supplier: 317

Despite assets at risk and investment in PJM, all five sectors carry the same weight in the sector weighted vote.

- Contrast \$72B of Net Plant Value in Transmission Owner Sector to \$325M of Net Plant Value in Electric Distributor Sector

On average, there have been about 110 Members who participated in the MC in 2022.

Analysis – Participation Rates



Due to the diverse nature of the generation owner and other supplier sectors, participation rates are lower than the other sectors when unique votes are analyzed as a percentage of eligible voters in each sector.

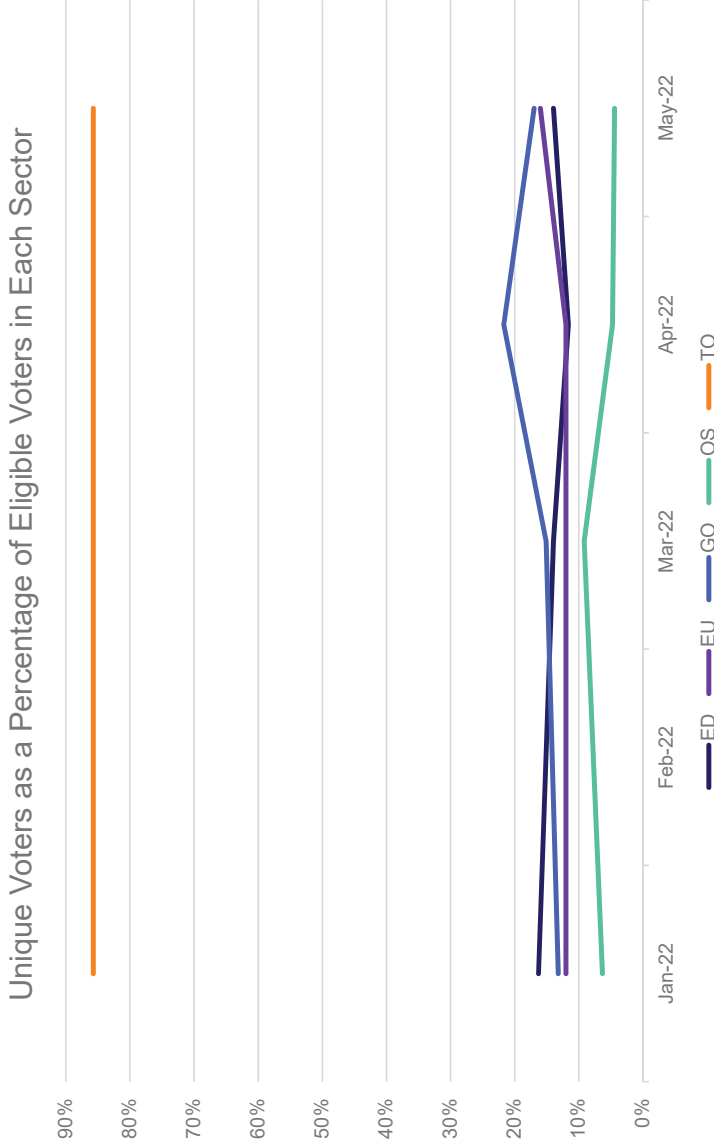
Analysis is on the first sector weighted vote taken at the Members Committee meeting.

It is possible for a single member's vote to carry the weight of the entire sector and this happened back in 2020.

Unique Votes= # Of Member Companies Casting a Vote in the Sector/Total # of Eligible Member Companies Who Were Able to Cast a Vote in the Sector

Participation rates in the stakeholder process highlight a lack of engagement across some sectors.

Analysis – Voting Concentration



For all sectors but one, there is a lack of diversity in the representatives who are casting actual votes on behalf of PJM Members.

This is due to the many Members who engage in the stakeholder process through a consultant, agent, or a coalition.

Unique Voters= # Of Unique Individuals Casting a Vote in the Sector/Total # of Eligible Member Companies Who Were Able to Cast a Vote in the Sector

Voting appears to be concentrated amongst few individuals in many sectors, raising concern with potential “stakeholder process market power”.



Thank you

Exhibit D

Table of Proposed Amendments to the Consolidated Transmission Owners Agreement

Proposed CTOA Amendment¹	Description of the Amendment
Preamble	Clarifies that the CTOA establishes respective rights and commitments of the Parties and PJM
<i>Preamble, first “WHEREAS”</i>	Reinforces the principle that each CTOA Party enters into the CTOA, thus becoming a Transmission Owner in PJM, voluntarily and independently
Art. 1 – Definitions	Removes section numbers to conform to PJM’s standard style in its foundational documents
Art. 1 – Agreement	Amends the title of the CTOA in the definition of the term “Agreement”
<i>Art. 1 – CTOA Designated Party</i>	Adds definition for a new type of CTOA Party, a “CTOA Designated Party,” which is an entity that is not an existing Transmission Owner but has been designated by PJM to construct an RTEP Project
Art. 1 – Electric Distributor	Deletes obsolete definition not used in the CTOA
Art. 1 – Good Utility Practice	Includes relevant practices required by the FPA to the definition of Good Utility Practice
Art. 1 – Joint Transmission Rate	Conforms to the CTOA definition of PJM Zone
<i>Art. 1 – Office of the Interconnection</i>	Adds definition for the Office of the Interconnection, as the entity through which PJM exercises its responsibilities under the CTOA in connection with Section 2.2
Art. 1 – Operating Agreement	Defines the PJM Operating Agreement with greater precision
Art. 1 – <i>PJM</i>	Adds definition for PJM Interconnection, L.L.C., and clarifies that the Office of the Interconnection is encompassed within the definition

¹ New provisions, definitions and amendments are italicized. Where an existing provision is proposed to be amended, only the amending language is described. The descriptions of the CTOA Amendments employ the shortened references defined in the Transmittal Letter and listed in the Glossary.

Proposed CTOA Amendment¹	Description of the Amendment
Art. 1 – <i>PJM Board</i>	Adds definition for the PJM Board in connection with Section 2.2
Art. 1 – PJM Region	Defines the PJM Region with greater precision and clarity
Art. 1 – PJM Regional Rate Design	Conforms to the CTOA definition of PJM Zone
Art. 1 – PJM Open Access Transmission Tariff or PJM Tariff	Defines the PJM Tariff with greater precision and clarity
Art. 1 – <i>PJM Zone</i>	Replaces the term “Zone” to “PJM Zone” to remove uncertainty by specifically referencing transmission zones defined in PJM Tariff, Attachment J
Art. 1 – Regional Transmission Expansion Plan	Defines the RTEP with greater precision and clarity
Art. 1 – Regional Transmission Expansion Planning Protocol	Supports the transfer to PJM of Section 205 filing rights over the Planning Protocol by defining the Planning Protocol as a schedule to the PJM Tariff
Art. 1 – Regional Transmission Organization (RTO)	Clarifies that the meaning of an “RTO” under the CTOA is the same as that term is defined in applicable FERC regulations
Art. 1 – Transmission Facilities	Removes the obsolete reference to the PJM Designated Facilities List, which no longer is maintained, and instead refers to the transmission facilities list maintained by PJM
Art. 1 – Transmission Owners	Deletes reference to list of Transmission Owners in Attachment A (The reference to Attachment A is now in Section 3.1.)
Art. 1 – Transmission Planned Outage	Deletes the reference to the Operating Agreement
Art. 1 – Transmission System	Replaces the reference to the PJM Tariff with a definition
Art. 1 – Zero Revenue Requirement Party	Conforms the term “PJM Tariff” to the standard PJM citation and reference style

Proposed CTOA Amendment¹	Description of the Amendment
Art. 1 – Zone	Deletes the term “Zone” because that term has been replaced with “PJM Zone”
Section 2.1 – Purposes and Objectives	Adds heading and section number; clarifies that certain rights and obligations apply “exclusively” to the Parties and PJM
<i>Section 2.2 – Exercise of PJM’s Responsibilities and Commitments</i>	Clarifies that transferred commitments and responsibilities to PJM, including planning, have been transferred exclusively to the PJM Board and the Office of the Interconnection
<i>Section 2.3 – Annual Meeting to Discuss the State of the Agreement</i>	Adds an annual “State of the Agreement” meeting between the Transmission Owners and the PJM Board committee directly responsible for planning and grid security and provides notice and minutes requirements for the annual meeting
Section 3.1 – Parties	Recognizes the new status of CTOA Designated Parties; moves the reference to Attachment A, the list of CTOA Parties, from the definitions
<i>Section 3.1.1 – Status of CTOA Designated Parties</i>	Sets forth the rights, obligations, and status of CTO Designated Parties
Section 3.2 – Withdrawal From this Agreement	Clarifies that withdrawal from the CTOA will not automatically terminate a Transmission Owner’s membership under the Operating Agreement and the Reliability Assurance Agreement
Section 3.5 – Cessation of Effectiveness	Clarifies that the CTOA does not terminate as long as PJM is approved to perform the responsibilities transferred to it under the CTOA
Section 4.1.1 – Transmission Service	Conforms to the CTOA’s definition of the term “Party”
Section 4.1.2 – Directing the Operation of Transmission Facilities	Substitutes the PJM Tariff as governing the transfer to PJM of the responsibility to direct the operation of each Party’s Transmission Facilities
Section 4.1.3 – PJM Tariff	Deletes the reference to the Operating Agreement as governing the transfer to PJM of the responsibility to administer the PJM Tariff

Proposed CTOA Amendment¹	Description of the Amendment
Section 4.1.4 – Preparation of the Regional Transmission Expansion Plan	Modifies the heading to better describe the amended contents of Section 4.1.4
<i>Section 4.1.4(a)</i>	Transfers to PJM exclusive responsibility to prepare the RTEP pursuant to PJM Tariff, Schedule 19; PJM Tariff, Attachment M-3; and the CTOA
<i>Section 4.1.4(b)(i)</i>	Clarifies that the responsibility to plan certain transmission enhancements and expansions transferred to PJM does not extend to all Transmission Facilities subject to PJM’s operational direction
<i>Section 4.1.4(b)(ii)</i>	Requires coordination between PJM and a PJM Transmission Owner proposing a local project where PJM determines that a RTEP Project may also address the local need and requires the Transmission Owner to document a decision to proceed with its local project
<i>Section 4.1.4(c)</i>	Clarifies that, the obligation to provide PJM with information that it reasonably requests and to cooperate with PJM in preparing the RTEP, applies to each Party
Section 4.1.5 – Operations Support	Substitutes the CTOA for the Operating Agreement as governing the obligation of each Party provide to PJM as requested certain information and technical support
Section 4.2.1 – Construction Designation	Adds a descriptive heading; provides explicit delegation to PJM to designate entities that are not Parties to the CTOA to construct RTEP Projects
Section 4.2.3 – Construction of Obligations of Zero Revenue Requirements Party	Adds new section number and descriptive heading
Section 4.5 – Operation & Maintenance	Removes the obsolete reference to the PJM Designated Facilities List, which no longer is maintained, and instead refers to the transmission facilities list maintained by PJM

Proposed CTOA Amendment¹	Description of the Amendment
Section 4.8.2	Clarifies that Transmission Owner transmission outage obligations are established by the CTOA and the PJM Tariff and conforms to the CTOA reference to the RTEP
Section 4.8.4	Clarifies that Transmission Owner transmission outage obligations are established by the CTOA and the PJM Tariff and conforms to the CTOA reference to the RTEP
Section 4.10 – Connections with Non-Parties	Changes the reference to the Operating Agreement dispute resolution provisions to those under the CTOA
Section 5.2 – Facility Rights	Adds the word “replace” to codify the Commission’s decision, as affirmed by the D.C. Circuit, that the Transmission Owners retain the right to replace their facilities
Section 5.5.1	Adds new section number; eliminates the Operating Agreement as a basis for enforcing a Party’s obligation under the CTOA and adds FERC regulations
<i>Section 5.5.2</i>	Provides that the Parties to the CTOA have the exclusive right to seek enforcement of PJM’s obligations under the CTOA
Section 6.2 – Rights of PJM under this Agreement	Clarifies that PJM has the exclusive right to seek enforcement of obligations of any Party under the CTOA
Section 6.3.1	Clarifies that PJM’s obligations include maintaining the safe and reliable operation of the PJM Region and clarifies the governing standards
<i>Section 6.3.3(i)</i>	Provides that PJM shall maintain and administer the Planning Protocol as a Schedule to the PJM Tariff
<i>Section 6.3.3(ii)</i>	Provides that PJM will develop and file changes to the Planning Protocol as a Tariff Term and Condition consistent with the CTOA, applicable reliability principles, guidelines, and standards of the Applicable Regional Reliability Council and NERC, the PJM Manuals, and Good Utility Practice
<i>Section 6.3.3 (iii)</i>	Deletes “related timely” to describe PJM’s reporting obligation to the Administrative Committee and replaces the reference to the Operating Agreement with a reference to the CTOA

Proposed CTOA Amendment¹	Description of the Amendment
<i>Section 6.3.3 (iv)</i>	Establishes PJM's commitment to designate entities to construct RTEP projects, including non-incumbents
<i>Section 6.3.4(a)</i>	Specifies PJM's commitment to prepare the RTEP pursuant to PJM Tariff, Schedule 19, PJM Tariff, Attachment M-3 and the CTOA
<i>Section 6.3.4(b)(i)</i>	Clarifies that the specific responsibility to plan certain transmission enhancements and expansions transferred to PJM does not extend to all Transmission Facilities subject to PJM's operational direction
<i>Section 6.3.4(b)(ii)</i>	Requires coordination between PJM and a PJM Transmission Owner proposing a local project where PJM determines that a RTEP Project may also address the local need and requiring the Transmission Owner to document a decision to proceed with its local project
Section 6.3.5	Ensures no break in service or reliability while PJM and/or the Transmission Owners address any changes to PJM's governing documents if the Commission changes its RTO regulations in a way that affects PJM's status as an RTO
Section 6.3.8	Adds a reference to the PJM Tariff and clarifies that PJM shall participate in conversations arising under the CTOA at the request of a Party to the CTOA
<i>Section 6.3.10</i>	Recognizes the necessity of PJM's assistance to the Transmission Owners in developing proposed changes under the PJM Tariff, Section 9.1, and CTOA, Section 7.3, and preserves PJM's right to take positions adverse to the Transmission Owners before state and federal administrative bodies and the courts
<i>Section 6.3.11</i>	Clarifies that PJM shall not delegate or transfer any of its obligations under the CTOA
Section 7.1.1	Conforms to the CTOA definition of PJM Zone
Section 7.1.2	Deletes extraneous language
Section 7.1.3	Conforms to the CTOA definition of PJM Zone
Section 7.1.4	Conforms to the CTOA definition of PJM Zone

Proposed CTOA Amendment¹	Description of the Amendment
Section 7.3.1	Recognizes that the Transmission Owners and PJM may share a common interest with respect to Transmission Owner-proposed changes to the PJM Tariff under FPA section 205 and that such common interest can be the basis to protect discussions among the Transmission Owners and PJM under the attorney-client and work-product privileges
Section 7.4 – Transmission Rate PJM Zone Size	Conforms to the CTOA definition of PJM Zone
Section 7.5 – Changes in Terms and Conditions	Establishes that the Parties may submit to PJM proposals to change Tariff Terms and Conditions under the processes used by PJM to develop changes to Tariff Terms and Conditions
Section 7.5.1(ii)	Clarifies that PJM’s obligation to consult with the Transmission Owners on proposed changes to Tariff Terms and Conditions is discharged by consulting with the Administrative Committee
Section 7.5.1(iv)	Removes limitation to Section 7.5.1(i)
<i>Section 7.5.1(v)</i>	Clarifies that nothing in the CTOA is to prevent PJM from utilizing its existing governance processes set out in the Operating Agreement and the PJM Manuals to develop or revise Tariff Terms and Conditions or to consult with PJM Members and others
Section 7.6 – Disputes Regarding Exclusive Filing Rights	Clarifies that the referenced provisions are in the CTOA
Section 7.8 – Distribution of Revenues	Conforms to the CTOA definition of PJM Zone
<i>Section 7.9 – Filings Contravening the Agreement</i>	Prohibits Transmission Owners and PJM from making a section 205 filing that would contravene the CTOA Protected Provisions
Section 8.1 – Duties and Responsibilities	Clarifies that the prohibition of the Administrative Committee exercising any control over functions and responsibilities transferred to PJM applies to those functions and responsibilities transferred exclusively to PJM

Proposed CTOA Amendment¹	Description of the Amendment
Section 8.3.2 – Duties of the Officers	Deletes the reference to the Operating Agreement as a source of responsibilities that may be assigned to the Chair and Vice Chair of the Administrative Committee
Section 8.5 – Manner of Acting	Prevents proxy voting at TOA-AC meetings
Section 8.5.1(a) – Action by Two-thirds Majority	Distinguishes the requirements for a vote to terminate CTOA from the requirements for a vote to amend the CTOA; clarifies that the requirement for effectiveness is FERC “acceptance” without suspension or hearing
Section 8.5.3 – Zero Revenue Requirements Party Voting Rights	Adds descriptive heading
Section 8.5.4 – Changing a Party’s Regional Reliability Council	Adds descriptive heading
Section 9.2 – No Third-party Beneficiaries	Clarifies that PJM along with the Transmission Owners are the exclusive beneficiaries protected by the “No Third-party Beneficiary” clause
Section 9.3 – Terms and Termination	Clarifies that termination of the CTOA would become effective upon FERC’s “acceptance” without suspension or hearing
Section 9.7.1 – Default	Substitutes reference to CTOA dispute resolution procedures for those under the Operating Agreement
Section 9.15.2 – Maintenance of Confidential Information	Recognizes that the Parties and PJM may enter into agreements to maintain attorney-client, work-product and other privileges
Section 9.16 – Severability, Renegotiation and Modification	Revises descriptive heading
<i>Section 9.16.3 – Modification</i>	Confirms <i>Mobile-Sierra</i> protection to Protected Provisions
Section 9.19 – Disputes Between a Party and PJM	Provides for dispute resolution under section 7.6 or Attachment B of the CTOA, as invoked

Proposed CTOA Amendment ¹	Description of the Amendment
Section 9.20 – Reserved	Deletes obsolete provision
<i>Section 9.23 – Transition of the Regional Transmission Expansion Planning Protocol to a Schedule under the PJM Tariff</i>	Ensures unbroken and uninterrupted planning if the CTOA Amendments are accepted before PJM’s proposed changes to the PJM Tariff and the Operating Agreement
<i>Attachment B – Dispute Resolution Procedures</i>	Adds new dispute resolutions procedures applicable to disputes under the CTOA